

**4306 LATE FEES**

- 4306.1 No late fee shall be charged to a tenant of a rental unit covered by the Act unless a valid, written lease for the tenant's rental unit explicitly states:
- (a) The grace period after the regular due date of the rent by which the rent due must be paid to avoid a late fee, in accordance with § 4306.2; and
  - (b) The maximum amount the late fee that may be charged, in accordance with § 4306.3.
- 4306.2 No late fee shall be charged to a tenant if full payment of the rent is made within five (5) days of the date on which it is due, or any longer grace period as may be provided in the lease for the rental unit.
- 4306.3 No lease shall provide for a late fee in excess of five percent (5%) of the rent that is due on a particular date.
- 4306.4 No late fee shall be charged to a tenant for the late payment or nonpayment of any portion of the rent charged for a rental unit that a rent subsidy provider, rather than the tenant, is responsible for paying.
- 4306.5 If a late fee is charged to a tenant, the housing provider shall not:
- (a) Charge the tenant interest on the late fee;
  - (b) Deduct any amount from a subsequent rent payment as payment of the late fee;
  - (c) Charge more than one late fee for a particular overdue rent payment;
  - (d) Evict the tenant on the basis of the nonpayment of the late fee; or
  - (e) Impose a late fee on a tenant for nonpayment of rent or any portion of rent that a rent subsidy provider, rather than the tenant, is responsible for paying.
- 4306.6 If a housing provider serves a tenant notice to vacate a rental unit or otherwise initiates proceedings to evict the tenant based, in whole or in part, on the nonpayment of a late fee, the late fee shall be deemed invalid, effective on the date it was charged; provided, that nothing in this subsection shall prevent a housing provider from joining an action for possession based on unpaid rent with an action on a debt based on unpaid late fees.
- 4306.7 A housing provider may deduct an allowable, unpaid late fee from the tenant's security deposit at the end of a tenancy, in accordance with § 309 of this title, if

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the housing provider, after the grace period provided by § 4306.2, issues an invoice to the tenant providing thirty (30) days for the payment of the late fee and the late fee is not received within that time.

- 4306.8 If a housing provider knowingly or willfully demands or receives a late fee in excess of the amount stated in the tenant's lease or the amount allowed by this section, or knowingly or willfully charges a late fee that is not allowed by this section, the housing provider shall be liable to the tenant for the amount by which the late fee demanded or received exceeds the allowable late fee.
- 4306.9 A housing provider's liability under § 4306.8 shall be trebled if detailed findings of fact are made that the housing provider acted in bad faith.
- 4306.10 A housing provider who is found liable under § 4306.8 shall, in addition, be subject to a civil fine of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) for each late fee unlawfully charged.
- 4306.11 For the purposes of this section, the terms "knowingly," "bad faith," and "willfully" shall have the same meaning as provided in §§ 4217.6, 4217.7, and 4217.8, respectively.
- 4306.12 This section may be enforced by the filing of a tenant petition in accordance with § 4214, by the issuance of a show cause order in accordance with § 3926, or by order of a court of competent jurisdiction, and attorney's fees may be awarded in accordance with § 3825.

SOURCE: Final Rulemaking published at 68 DCR 012634 (December 3, 2021).