

Survey of State Laws Governing Fees Associated With Late Payment of Rent

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Introduction

The survey contains both a cumulative and detailed account of the laws of each state governing late fees and penalties associated with late payment of rent involving residential tenancies. States that impose late fee maximums vary greatly on the amount and form of the limitation. The survey begins with a detailed summary categorizing the laws of each state that set forth limitations or requirements related to late fees, followed by exhibit 1 with a state-by-state listing of the relevant laws of each of the 50 states.

The survey was developed to serve as a resource for policymakers and housing advocates exploring opportunities to improve the laws in their state by having easy access to the comparable laws enacted elsewhere. It is also intended as a resource for attorneys, legal services organizations, housing counseling agencies, or others practicing in the field of landlord-tenant law or policy.

The information used in developing this survey was obtained through an exhaustive review of each state's relevant statute and court rules, as well as a thorough review of appellate court opinions interpreting a relevant statute or providing guidance in the absence of statutory directive. The survey encompasses a review of each state's laws current through December 31, 2021.

Overview

In an effort to curb excessive fees associated with the late payment of rent, many states have enacted legislation placing maximums on the amount that can be charged, along with other restrictions and limitations. Such laws recognize that landlords and tenants are not on equal footing in negotiating lease terms. In most instances, tenants are provided the lease on a

take-it-or-leave-it basis with no opportunity to negotiate any of its terms, including provisions related to late fees.¹

States that impose late fee maximums vary greatly on the amount and form of the limitation. Some states limit the late fee to a certain percentage of the rental amount, a few states impose a maximum dollar amount, and several states impose both. Rather than limiting the late fee to a certain amount, some states only require that the late fee be “reasonable.” In addition, a handful of states mandate that late fees can only accrue after a certain grace period, and some states require that any late fee policy be in writing and within the lease agreement. During the COVID-19 pandemic, some states instituted temporary moratoriums on late fees.

Type of Limitation

No Statutory Maximum

Approximately one-half of the states have no specific statute limiting the amount of late fees that can be charged.² However, many of these states have legislation or case law requiring the late fee to be *reasonable*, often requiring the late fee to be reasonably related to the damage resulting from the late payment of rent. Several states have virtually no limitation on the amount that can be charged for late fees.³ Some of these states,⁴ however, do have a general statute providing that a court may refuse to enforce terms of a rental agreement found to be *unconscionable*.⁵

Percentage Maximum

Several states have opted to cap fees based on a percentage of the monthly rent. Among the 10 states that employ this limitation, the limits range from 4 percent to 10.5 percent of the rent due, for an average of 7.7 percent. These states include:

- **Alaska:** Capped at 5 percent above the Federal Reserve discount rate, or, if no rate is specified, 10.5 percent.

¹ See Lonegrass (2013), who states that “Residential leases are overwhelmingly standard form contracts of adhesion, presented to tenants by landlords on a take-it-or-leave-it basis.” The article goes on to describe how tenants are “virtually powerless to negotiate their leases with their landlords,” and opining that “(p)erhaps the most significant source of unfairness faced by residential tenants in the United States is their lack of bargaining power relative to landlords;” and Barnhizer (2005) observes that disparities in bargaining power can arise because a transaction involves a necessity, citing housing as an example, and noting that many courts have found “tenants have no bargaining power in dealing with prospective landlords and must meekly accept whatever terms the landlord seeks to impose through standard form lease contracts.”

² Alabama, Arkansas, California, Connecticut, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Wisconsin, and Wyoming.

³ Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Massachusetts (but requires a 30-day grace period), Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, Rhode Island, South Carolina, South Dakota, Wisconsin, and Wyoming.

⁴ Alabama, Arizona, Florida, Kansas, Nebraska, North Dakota, Ohio, Rhode Island, and South Carolina.

⁵ After a diligent search, no case law could be found in these jurisdictions that would provide insight into what amount of late fee would be deemed unconscionable.

- **Delaware:** Where the rental agreement provides for a late charge, such late charge shall not exceed 5 percent of the monthly rent.
- **Hawaii:** Where the rental agreement provides for a late charge, the late charge shall not exceed 8 percent of the rent due.
- **Maine:** A landlord may not assess a penalty for the late payment of rent which exceeds 4 percent of the monthly rent.
- **Minnesota:** In no case may the late fee exceed 8 percent of the overdue rent payment.
- **Nevada:** A landlord may charge a reasonable late fee for the late payment of rent as set forth in the rental agreement, but such a late fee must not exceed 5 percent of the amount of the periodic rent.
- **New Mexico:** If the rental agreement provides for the charging of a late fee, the owner may charge the resident a late fee in an amount not to exceed 10 percent of the total rent payment.
- **Oregon:** Charge may not exceed a per day charge of more than 6 percent of the late fee permitted per rental period, or 5 percent of the periodic rent.
- **Tennessee:** Any fee charged by the landlord for the late payment of rent shall not exceed 10 percent of the amount of rent past due.
- **Virginia:** No such late charge shall exceed the lesser of 10 percent of the periodic rent or 10 percent of the remaining balance due and owed by the tenant.

Dollar Amount Maximum

Iowa is the only state to have established a pure dollar amount maximum in its residential landlord-tenant act: \$12 a day or \$60 a month if rent is \$700 or lower; \$20 a day or \$100 a month if rent is more than \$700. Arizona also imposes a dollar amount (\$5 per day), but the limitation is applicable only in tenancies involving the rental of a mobile home lot.

Combination of Percentage and Dollar Amount Maximums

Five states have enacted legislation that imposes late fee limits that combine both percentage and dollar amount maximums:

- **Colorado:** \$50 or 5 percent of remaining rent obligation, whichever is greater.
- **Maryland:** A late fee cannot exceed 5 percent of the rent. For leases with weekly rental installments, the fee cannot exceed \$3 a week.
- **New York:** \$50 or 5 percent of monthly rent, whichever is less.
- **North Carolina:** If due monthly, no more than \$15 or 5 percent of monthly rent, whichever is greater. If due weekly, \$4 or 5 percent of weekly rent, whichever is greater.
- **Utah:** Cannot exceed the greater of 10 percent of rent agreed to in rental agreement or \$75.

Reasonableness Requirement

Some states have no specified maximum that can be assessed as a late fee but instead require only that the fee is reasonable or reasonably related to the damage the landlord incurred as a result of the tenant paying late. In most of these states, the reasonableness requirement is established by courts rather than through legislation.

- **Arizona:** For residential tenancies, it is implied within its eviction statutes that late fees must be reasonable.
- **California:** Must be reasonably related to costs the landlord faces as a result of rent being late.
- **Connecticut:** Fees must bear a reasonable relationship to the actual damage that the landlord sustains, and the court may void if excessive.
- **Illinois:** Must be a reasonable forecast of damage caused by the breach.
- **Kentucky:** Must be reasonable; \$20 or 20 percent of the rental fee for each month is deemed reasonable.
- **Ohio:** Must be reasonable in proportion to the rental rate and have a rational basis supporting the imposition of the charge.
- **Oklahoma:** Must be reasonably related to actual costs incurred.
- **Pennsylvania:** Late fees must be reasonable.
- **Texas:** Must be reasonable; presumed reasonable if not more than 12 percent of the amount of rent for a dwelling located in a structure that contains no more than four units or 10 percent for a structure that contains more than four units.
- **Vermont:** Late fee allowed if reasonably related to costs incurred.
- **Washington:** Presumably must be reasonable.
- **West Virginia:** Presumably must be reasonable.

Other Limitations and Requirements

Grace Period

Some states require that before a late fee may be assessed, a certain amount of time must have lapsed beyond the date the rental payment was due. The statutorily imposed grace periods range from 3 to 30 days.

- 3 days (Nevada, Texas).
- 5 days (Delaware, Kentucky, New York, North Carolina, Oregon, Tennessee, Virginia, Washington).

- 7 days (Colorado).
- 9 days (Connecticut).
- 15 days (Maine).
- 30 days (Massachusetts).

In-Writing Requirement

Several states, even some with no stated late fee maximum, require that any late fee policy be in writing and in the lease agreement.⁶

COVID-19 Moratoriums

Due to the pandemic and the resulting widespread unemployment, several states declared a moratorium on late fees during the pandemic. Most of these moratoriums were expired as of the date of the initial publication of this survey.

- **California:** Renters who have submitted a declaration of COVID-19-related financial distress cannot be charged a late fee for the late payment of rental payments (no expiration date).
- **Colorado:** Executive order prohibited landlords and lenders from charging late fees for any rent incurred between May 1, 2020, and April 27, 2021, due to the pandemic (expired).
- **Connecticut:** Executive order 7X granted tenants an automatic 60-day grace period for April 2020 rent and made a 60-day grace period for May 2020 rent available upon request. Landlords could not charge late fees during these grace periods (expired).
- **Delaware:** Suspended late fees during COVID state of emergency in 2020. (expired)
- **Massachusetts:** Suspended late fees during COVID state of emergency in 2020 (expired).
- **Montana:** Governor suspended late fees in 2020 because of COVID-19 (expired).
- **New York:** Late fees were suspended until March 24, 2021 (expired).
- **Oregon:** No late charges on rent due between April 1, 2020, and June 30, 2021, unless that rent is still unpaid on February 28, 2022 (expired).
- **Pennsylvania:** Although the State of Pennsylvania took no action to limit the imposition of late fees during the pandemic, the Mayor of Philadelphia signed a pandemic eviction moratorium which prohibits landlords from collecting late fees or interest on unpaid rent between March 1, 2020, and September 30, 2021, from tenants who have provided a hardship certificate (expired).
- **Washington:** Suspended late fees between March 1, 2020, and June 30, 2021 (expired).

⁶ Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Minnesota, Nevada, New Mexico, North Carolina, North Dakota, Oregon, Texas, Vermont, Virginia, and Washington.

- Wisconsin:** The Department of Agriculture, Trade, and Consumer Protection adopted a temporary emergency rule due to the pandemic. During an emergency and for the 90 days following the expiration of the emergency, no landlord may charge any tenant a fee or a penalty for nonpayment of rent or late payment of rent (expired).

The following sets forth the provisions of each state’s laws governing residential rental late fees. Many state laws include maximums on how much can be charged in late fees, govern when late fees may be imposed, or require that any policy related to late fees be in writing. In some instances, the state’s laws are set forth in statute, and in others, they are established by the courts. The left column lists the state and the specific statute that imposes a maximum amount that can be charged for late payment of rent, if any. The right column sets forth the statutory authority for any other restrictions or limitations relating to late fees, relevant case law, and information on any temporarily imposed restrictions on late fees in force during the COVID-19 pandemic.

Exhibit 1

Survey of State Laws Governing Fees Associated with Late Payment of Rent (1 of 6)			
State & Statute	Statutory Maximum?	Required In Writing?	Additional Information and Limitations
Alabama	No statute	No	See Ala. Code § 35-9A-143 (providing that a court can refuse to enforce a lease term deemed unconscionable).
Alaska Alaska Stat. § 45.45.010	Yes. Max of 5% points above the Federal Reserve discount rate, or, if no precise rate is specified, 10.5%.	No	
Arizona Ariz. Rev. Stat. § 33-1414(C)	Yes, but for mobile home lot tenancies only; late fees cannot exceed \$5 a day.	Yes	Ariz. Rev. Stat. § 33-1312 (providing that a court can refuse to enforce a lease term deemed unconscionable). Ariz. Rev. Stat. § 33-1368 (implies late fee policy must be in the written rental agreement and must be reasonable). Ariz. Rev. Stat. § 33-1414(A)(4) (for mobile homes, landlords cannot charge late fees until at least 5 days after rent is due).
Arkansas	No statute		
California	No statute; but case law provides the fee must be reasonably related to costs the landlord faces as a result of rent being late.	Yes	<i>Orozco v. Casimiro</i> , 121 Cal.App.4th Supp. 7 (2004) (concluding that late fees, in the form of liquidated damages, must be reasonably related to the costs sustained). <i>Harbor Island Holdings, LLC v. Kim</i> , 107 Cal.App.4th 790 (2003) (holding that any provision for the forfeiture of money without regard to the actual damages suffered constitutes an unenforceable penalty). Cal. Civ. Code § 1942.9 (if tenant has COVID-related rental debt, landlord cannot charge late fees on that rent).

Exhibit 1

Survey of State Laws Governing Fees Associated with Late Payment of Rent (2 of 6)

State & Statute	Statutory Maximum?	Required In Writing?	Additional Information and Limitations
Colorado Colo. Rev. Stat. § 38-12-105(b)	Yes. Cannot exceed the greater of \$50 or 5% of the amount of rent past due.	Yes	<p>Colo. Rev. Stat. § 38-12-105(1)(a) (provides a landlord cannot charge a late fee until 7 days after rent is due).</p> <p>Colo. Rev. Stat. § 38-12-105(1)(c) (provides that a landlord cannot charge a late fee unless it was disclosed in the rental agreement).</p> <p>Colo. Rev. Stat. § 38-12-213 (for mobile home lots; requiring all lease terms must be in writing).</p> <p>Recently proposed legislation: https://leg.colorado.gov/bills/hb20-1141</p> <p>An executive order prohibited landlords and lenders from charging late fees for any rent incurred between May 1, 2020, and April 27, 2021, due to the pandemic. No new executive orders related to late fees have been released since then.</p>
Connecticut	No statute; but case law provides the fee must bear a reasonable relationship to actual damage landlord sustains.	Yes	<p><i>Food Studio v. Fabiola's</i>, 1998 WL 32193 (June 16, 1998) (holding a landlord may only impose late fees if the lease agreement contains terms imposing a late fee).</p> <p><i>Begin v. Reissman</i>, 1995 WL 348043 (1995) (holding late fees must bear a reasonable relationship to the actual damages the landlord sustains, and a court may void them if it finds they are excessive).</p> <p>See also Leg Research Report, at https://www.cga.ct.gov/2018/rpt/pdf/2018-R-0232.pdf (interpreting the late payment notice period in Conn. Gen. Stat. § 47a-15a, as creating a statutorily imposed grace period before a late fee may be accessed).</p> <p>Conn. Gen. Stat. § 47a-15a (a late fee cannot be charged until 9 days after it is due when rent is due monthly or 4 days for weekly tenancies).</p> <p>The state temporarily suspended late fees during the COVID state of emergency.</p> <p>https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7X.pdf</p> <p>Executive order 7X automatically granted tenants a 60-day grace period for April 2020 rent, and a 60-day grace period was available for May 2020 rent upon request. Landlords could not charge late fees during the grace period.</p>
Delaware Del. Code tit. 25, § 5501	Yes. 5% of the monthly rent.	Yes	<p>Del. Code tit. 25, § 5501 (late fee cannot be imposed until the rent is more than 5 days late; if the landlord does not have an office in the county where the rental unit is located, they must provide an additional 3 days).</p> <p>The state suspended late fees during the COVID state of emergency in the spring.</p> <p>https://governor.delaware.gov/health-soe/twenty-seventh-modification-state-of-emergency-declaration/ The state of emergency declaration and its modifications provided that no late fees could be charged or accrued during the COVID-19 state of emergency, which is still in effect.</p>
Florida	No statute	No	<p>Fla. Stat. § 83.45 (providing that a court can refuse to enforce a lease term deemed unconscionable).</p>
Georgia	No statute	Yes	
Hawaii Haw. Rev. Stat. § 521-21(f)	Yes. 8% of the amount of rent due.	Yes	
Idaho	No statute		

Exhibit 1

Survey of State Laws Governing Fees Associated with Late Payment of Rent (3 of 6)

State & Statute	Statutory Maximum?	Required In Writing?	Additional Information and Limitations
Illinois	No stated maximum; but case law indicates it must be reasonable.	Yes	<i>Collins v. Hurst</i> , 736 N.E.2d 600, 604 (2000) (in a matter unrelated to residential tenancies, the court held that “a reasonable late charge provision in a contract should be enforced”). <i>Hidden Grove Condo. Ass’n v. Crooks</i> , 744 N.E.2d 305, 307 (2001) (in a matter involving late fees imposed by a condo association, the court analyzed late fees as liquidated damages provisions and provided that a late fee may be assessed if it is a reasonable forecast of damage caused by breach and the harm is difficult to estimate).
Indiana	No statute		
Iowa Iowa Code § 562A.9	Yes. \$12 a day or \$60 a month if rent is \$700 or lower. \$20 a day or \$100 a month if rent is more than \$700.	Yes	Iowa Code § 562A.9 (implying late fees must be in the rental agreement).
Kansas	No statute		Kan. Stat. § 58-2544 (providing that a court can refuse to enforce a lease term deemed unconscionable).
Kentucky Ky. Rev. Stat. § 359.215	Yes. Must be reasonable. \$20 or 20% of the rental fee for each month is deemed reasonable.	Yes	Ky. Rev. Stat. § 359.215 (a landlord cannot charge a late fee until 5 days after rent is due).
Louisiana	No statute	Yes	See Louisiana Attorney General Guide to Louisiana Landlord and Tenant Laws, available at https://ldh.la.gov/assets/oph/Center-PHCH/Center-CH/infectious-epi/EpiManual/MoldComplaints/AGGuideToLandlordTenantLaw.pdf (opining that a late fee cannot be charged if not in the written rental agreement).
Maine Me. Rev. Stat. tit. 14, § 6028(2)	Yes. 4% of the amount due for 1 month.	Yes	Me. Rev. Stat. tit. 14, § 6028(1) (rent is not considered late unless it is 15 days past due). Me. Rev. Stat. tit. 14, § 6028(3) (must have written notice of the late fee policy at the time entered into the rental agreement).
Maryland Md. Code Real Prop. § 8-208	Yes. Cannot exceed 5% of the amount of rent due for the rental period. For leases with weekly rental installments, no more than \$3 a week or a total of no more than \$12 a month.	No	Certain counties prohibited landlords from charging late fees during the state of emergency due to COVID-19 and/or for some period after the state of emergency ended. https://www.peoples-law.org/evictions-and-failure-pay-rent-cases-covid-19-court-closure
Massachusetts	No statute	No	Mass. Gen. Laws ch. 186, § 15B (no lease or other rental agreement shall impose any interest or penalty for failure to pay rent until 30 days after such rent shall have been due). State suspended late fees during COVID state of emergency. https://www.mass.gov/doc/covid-19-landlord-tenant-guidance/download
Michigan	No statute		
Minnesota Minn. Stat. § 504B.177(a)	Yes. 8% of the overdue rent payment.	Yes	Minn. Stat. § 504B.177(a) (late fee policy must be agreed to in writing).
Mississippi	No statute		

Exhibit 1

Survey of State Laws Governing Fees Associated with Late Payment of Rent (4 of 6)

State & Statute	Statutory Maximum?	Required In Writing?	Additional Information and Limitations
Missouri	No statute		
Montana	No statute		Governor temporarily suspended late fees because of COVID-19: https://covid19.mt.gov/_docs/Evictions%20Foreclosures%20and%20Utilities.pdf
Nebraska	No statute		Neb. Rev. Stat. § 76-1412 (providing that a court can refuse to enforce a lease term deemed unconscionable).
Nevada Nev. Rev. Stat. § 118A.210	Yes. 5% of the amount of periodic rent.	Yes	Nev. Rev. Stat. § 118A.210 (a landlord cannot charge a late fee for any tenancy that is longer than week-to-week until 3 days after rent is due).
New Hampshire	No statute		
New Jersey	No statute	No	<i>Associates v. Miranda</i> , 115 N.J. 522 (1989) (holding that landlords cannot evict based on nonpayment of late fees unless agreement states late charges are to be considered part of rent).
New Mexico N.M. Stat. § 47-8-15	Yes. 10% of total rent payment for each rental period the tenant is in default.	Yes	
New York N.Y. Real Prop. Law § 238-a	Yes. \$50 or 5% of monthly rent, whichever is less.	No	N.Y. Real Prop. Law § 238-a (a landlord may not demand a late fee unless payment of rent has not been made within 5 days of the date it was due). Late fees were prohibited through March 24, 2021. https://hcr.ny.gov/covid-19-helpful-links-and-faqs
North Carolina N.C. Gen. Stat. § 42-46	Yes. If due monthly, no more than \$15 or 5% of monthly rent, whichever is greater. If due weekly, \$4 or 5% of weekly rent, whichever is greater.	Yes	N.C. Gen. Stat. § 42-46 (a landlord cannot charge a late fee until rent is 5 days late).
North Dakota	No statute	Yes	N.D. Cent. Code § 47-16-13.3 (providing that a court can refuse to enforce a lease term deemed unconscionable). See also Tenant Rights, https://attorneygeneral.nd.gov/consumer-resources/tenant-rights (stating that the rental agreement must state if there is a late fee, the amount of the fee, and when it is charged).
Ohio	No statute, but case law indicates it must be reasonable in proportion to the rental rate.		<i>Calabria v. Green</i> , 1995 Ohio App. LEXIS 3903 (September 8, 1995), Trumbull Co. App. No. 95-T-5181 (the Eleventh Appellate District Court held that while late charges of \$10.00 per day (for 38 days) was not enforceable, “an agreed upon, one-time late fee, that is reasonable in proportion to the rental rate, and that has a rational basis supporting the imposition of the charge, is proper”). Ohio Rev. Code § 5321.14 (providing that a court can refuse to enforce a lease term deemed unconscionable).
Oklahoma	No statute, but case law indicates it must be reasonably related to costs incurred.		<i>Sun Ridge Investors, Ltd. v. Parker</i> , 956 P.2d 876 (1998) (Court found that a \$5.00 per day imposed for late-payment or nonpayment of rent is a penalty, in the absence of any evidence to the contrary showing actual costs incurred by the landlord).

Exhibit 1

Survey of State Laws Governing Fees Associated with Late Payment of Rent (5 of 6)

State & Statute	Statutory Maximum?	Required In Writing?	Additional Information and Limitations
Oregon Or. Rev. Stat. § 90.260(2)	Yes. Must be reasonable and is capped based on a percentage of an amount that is dependent on the late fee option selected. See <i>statute</i> .	Yes	Or. Rev. Stat. § 90.260(1)(a) (a landlord cannot charge a late fee until rent is 5 days late). Or. Rev. Stat. § 90.260(1)(b) (late fee policy must be in writing). No late fees could be charged for rent due between April 1, 2020, and June 30, 2021, unless that rent is still unpaid on February 28, 2022. https://www.portland.gov/phb/rental-services/helpdesk/oregon-eviction-moratorium-faq#toc-can-late-fees-be-charged-on-the-past-due-rent
Pennsylvania	No statute, but case law indicates it must be reasonable.		Courts have referenced 68 Pa. Stat. § 250.301 (allowing interest on past due rent if it is equitable under the circumstances) in finding that late fees must be reasonable. See <i>Cohick v. Mazza</i> , No. CV-17-0693, 2017 WL 11656917 (Pa. Com. Pl. August 10, 2017) (holding that \$3/day was not per se unreasonable); <i>Enx Enters. V. Humphries</i> , 2017 Pa. Dist. & Cnty. Dec. LEXIS 1830 (holding that \$5/day was unreasonable). Mayor of Philadelphia suspended late fees for tenants between March 1, 2020, and September 30, 2021, who provided a hardship certificate. https://www.phila.gov/departments/fair-housing-commission/tenant-protections/covid-19-emergency-tenant-protections/#:~:text=Tenants%20who%20are%20unable%20to,or%20interest%20on%20back%20rent
Rhode Island	No statute		R.I. Gen. L. § 34-18-35 (landlord cannot serve a demand for payment of rent until it is at least 15 days in arrears, which can be interpreted to prohibit late fees from being assessed during this period). 34 R.I. Gen. Laws § 34-18-13 (providing that a court can refuse to enforce a lease term deemed unconscionable).
South Carolina	No statute		S.C. Code § 27-40-230 (providing that a court can refuse to enforce a lease term deemed unconscionable).
South Dakota	No statute		
Tennessee Tenn. Code § 66-28-201(d)	Yes. 10 % of the amount of rent past due.	No	Tenn. Code § 66-28-201(d) ("There shall be a 5-day grace period between the day the rent was due and the day a fee for the late payment of rent may be charged.")
Texas Tex. Prop. Code § 92.019	No stated maximum, but must be reasonable. Presumed reasonable if not more than 10-12% of the amount of rent, depending on the type of dwelling unit.	Yes	Tex. Prop. Code § 92.019(a)(1) (notice of the late fee must be in the written lease). Tex. Prop. Code § 92.019(a)(3) (a landlord may not charge late fees unless rent has remained unpaid for 2 full days after it was due).
Utah Utah Code § 57-22-4	Yes. Late fee cannot exceed the greater of 10% of rent agreed to in the rental agreement or \$75.	No	
Vermont	No statute, but case law indicates it must be reasonably related to damages incurred.	Yes	<i>Highgate Associates, Ltd. v. Lorna Merryfield</i> , Supreme Court Docket No. 90-032 (1991) (upholding the lower court's finding the late fees were invalid penalties, where "the amount charged has no relation to the damages the landlord would sustain if the lease agreement were breached.") (citing cases). The case offers a detailed analysis on the validity of a liquidated damages provision, such as late fees.

Exhibit 1

Survey of State Laws Governing Fees Associated with Late Payment of Rent (6 of 6)

State & Statute	Statutory Maximum?	Required In Writing?	Additional Information and Limitations
Virginia Va. Code § 55.1-1204(E)	Yes. Cannot exceed the lesser of 10% of periodic rent or 10% of the remaining balance due and owed by tenant.	Yes	Va. Code § 55.1-1204(c)(5) (can charge a late fee if rent is paid after the fifth day of any given month). Va. Code § 55.1-1204(E) (cannot charge a tenant for late payment unless it was provided for in the written rental agreement).
Washington Wash. Rev. Code § 59.18.140	No statutory maximum, but presumably, it must be reasonable (per § 59.18.140 that tenants shall comply with all reasonable obligations).	Yes	Wash. Rev. Code § 59.18.170(2) (landlord may not charge a late fee until rent is more than 5 days past due). Wash. Rev. Code § 59.18.285 (any nonrefundable fees must be stated in a written rental agreement). Wash. Rev. Code § 59.18.625 (no late fees could be charged between March 1, 2020, and the 6 months following the expiration of the eviction moratorium) (expired June 30, 2021).
West Virginia W. Va. Code § 37-6A-2(b)(1)	No statutory maximum, but presumably must be reasonable.	No	W. Va. Code § 37-6A-2(b)(1) (provides that a late fee may only be deducted from a security deposit if the charges were reasonable and specified in the rental agreement).
Wisconsin	No statute	No	ATCP 134.09(8)(a) (may not charge a late fee except as specifically provided under the rental agreement). The department of agriculture, trade, and consumer protection adopted a temporary emergency rule due to the pandemic: “During an emergency declared pursuant to Wis. Stat. s. 323.10 and for the 90 days following the expiration of the emergency, no landlord may charge any tenant a fee or a penalty for nonpayment of rent or late payment of rent.” https://www.natlawreview.com/article/wisconsin-prohibits-residential-landlords-charging-fees-and-penalties-late-rent
Wyoming	No statute		
URLTA 1972	No provision pertaining to late fees		Does not contain any specific provision on late fees, but it includes language at section 1.303, providing that a court can refuse to enforce a lease term deemed unconscionable.
URLTA 2015	No provision pertaining to late fees		Does not contain specific provisions on late fees, but it includes language at section 106 providing that a court can refuse to enforce a lease term deemed unconscionable.

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