

AN ACT

relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 13.501, Water Code, is amended by adding Subdivisions (1-a) and (9) and amending Subdivision (5) to read as follows:

(1-a) "Condominium manager" or "manager of a condominium" means a condominium unit owners' association organized under Section 82.101, Property Code, or an incorporated or unincorporated entity comprising the council of owners under Chapter 81, Property Code.

(5) "Owner" means the legal titleholder of an apartment house, manufactured home rental community, or multiple use facility and any individual, firm, or corporation expressly identified in a lease agreement as ~~[that purports to be]~~ the landlord of tenants in the apartment house, manufactured home rental community, or multiple use facility. The term does not include the manager of an apartment home unless the manager is expressly identified as the landlord in the lease agreement.

(9) "Utility costs" or "utility service costs" means

1 any amount charged to the owner by a retail public utility for water
2 or wastewater service.

3 SECTION 2. Section 13.503, Water Code, is amended by adding
4 Subsection (f) to read as follows:

5 (f) This section does not limit the authority of an owner,
6 operator, or manager of an apartment house, manufactured home
7 rental community, or multiple use facility to charge, bill for, or
8 collect rent, an assessment, an administrative fee, a fee relating
9 to the upkeep or management of chilled water, boiler, heating,
10 ventilation, air conditioning, or other building system, or any
11 other amount that is unrelated to utility costs.

12 SECTION 3. Section 13.5031, Water Code, is amended to read
13 as follows:

14 Sec. 13.5031. NONSUBMETERING RULES. (a) Notwithstanding
15 any other law, the utility commission shall adopt rules and
16 standards governing billing systems or methods used by manufactured
17 home rental community owners, apartment house owners, condominium
18 managers, or owners of other multiple use facilities for prorating
19 or allocating among tenants nonsubmetered master metered utility
20 service costs. In addition to other appropriate safeguards for the
21 tenant, those rules shall require that:

22 (1) the rental agreement contain a clear written
23 description of the method of calculation of the allocation of
24 nonsubmetered master metered utilities for the manufactured home
25 rental community, apartment house, or multiple use facility;

26 (2) the rental agreement contain a statement of the
27 average manufactured home, apartment, or multiple use facility unit

1 monthly bill for all units for any allocation of those utilities for
2 the previous calendar year;

3 (3) except as provided by this section, an owner or
4 condominium manager may not impose additional charges on a tenant
5 in excess of the actual charges imposed on the owner or condominium
6 manager for utility consumption by the manufactured home rental
7 community, apartment house, or multiple use facility;

8 (4) the owner or condominium manager shall maintain
9 adequate records regarding the utility consumption of the
10 manufactured home rental community, apartment house, or multiple
11 use facility, the charges assessed by the retail public utility,
12 and the allocation of the utility costs to the tenants;

13 (5) the owner or condominium manager shall maintain
14 all necessary records concerning utility allocations, including
15 the retail public utility's bills, and shall make the records
16 available for inspection by the tenants during normal business
17 hours; and

18 (6) the owner or condominium manager may charge a
19 tenant a fee for late payment of an allocated water bill if the
20 amount of the fee does not exceed five percent of the bill paid
21 late.

22 (b) This section does not limit the authority of an owner,
23 operator, or manager of an apartment house, manufactured home
24 rental community, or multiple use facility to charge, bill for, or
25 collect rent, an assessment, an administrative fee, a fee relating
26 to the upkeep or management of chilled water, boiler, heating,
27 ventilation, air conditioning, or other building system, or any

1 other amount that is unrelated to utility costs.

2 SECTION 4. Section 13.505, Water Code, is amended to read as
3 follows:

4 Sec. 13.505. RESTITUTION ~~[ENFORCEMENT]~~. (a) In this
5 section, "overcharge" means the amount, if any, a tenant is charged
6 for submetered or nonsubmetered master metered utility service to
7 the tenant's dwelling unit after a violation occurred relating to
8 the assessment of a portion of utility costs in excess of the amount
9 the tenant would have been charged under this subchapter.

10 (b) The utility commission has exclusive jurisdiction for
11 violations under this subchapter.

12 (c) If ~~[In addition to the enforcement provisions contained~~
13 ~~in Subchapter K, if]~~ an apartment house owner, condominium manager,
14 manufactured home rental community owner, or other multiple use
15 facility owner violates a rule of the utility commission regarding
16 utility costs, the person claiming the violation may file a
17 complaint with the utility commission. The utility commission and
18 State Office of Administrative Hearings shall establish an online
19 and telephone formal complaint and hearing system through which a
20 person may file a complaint under this subchapter and may appear
21 remotely for a hearing before the utility commission or the State
22 Office of Administrative Hearings. If the utility commission
23 determines that the owner or condominium manager overcharged a
24 complaining tenant for water or wastewater service from the retail
25 public utility, the utility commission shall require the owner or
26 condominium manager, as applicable, to repay the complaining tenant
27 the amount overcharged.

1 (d) Nothing in this section limits or impairs the utility
2 commission's enforcement authority under Subchapter K. The utility
3 commission may assess an administrative penalty under Section
4 13.4151 for a violation of this chapter or of any rule adopted under
5 this chapter [~~submetering of utility service consumed exclusively~~
6 ~~within the tenant's dwelling unit or multiple use facility unit or~~
7 ~~nonsubmetered master metered utility costs, the tenant may recover~~
8 ~~three times the amount of any overcharge, a civil penalty equal to~~
9 ~~one month's rent, reasonable attorney's fees, and court costs from~~
10 ~~the owner or condominium manager. However, an owner of an apartment~~
11 ~~house, manufactured home rental community, or other multiple use~~
12 ~~facility or condominium manager is not liable for a civil penalty if~~
13 ~~the owner or condominium manager proves the violation was a good~~
14 ~~faith, unintentional mistake].~~

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 873 passed the Senate on April 20, 2017, by the following vote: Yeas 21, Nays 10; and that the Senate concurred in House amendments on May 25, 2017, by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

I hereby certify that S.B. No. 873 passed the House, with amendments, on May 21, 2017, by the following vote: Yeas 107, Nays 30, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor