

By: Creighton

S.B. No. 873

A BILL TO BE ENTITLED

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

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

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

11 (5) "Owner" means the legal titleholder of an
12 apartment house, manufactured home rental community, or multiple
13 use facility and any individual, firm, or corporation expressly
14 identified in a lease agreement as [~~that purports to be~~] the
15 landlord of tenants in the apartment house, manufactured home
16 rental community, or multiple use facility.

17 (9) "Utility costs" or "utility service costs" means
18 any amount charged to the owner by a retail public utility for water
19 or wastewater service.

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

22 (f) 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

1 collect rent, an assessment, an administrative fee, or any other
2 amount that is unrelated to utility costs.

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

5 Sec. 13.5031. NONSUBMETERING RULES. (a) Notwithstanding
6 any other law, the utility commission shall adopt rules and
7 standards governing billing systems or methods used by manufactured
8 home rental community owners, apartment house owners, condominium
9 managers, or owners of other multiple use facilities for prorating
10 or allocating among tenants nonsubmetered master metered utility
11 service costs. In addition to other appropriate safeguards for the
12 tenant, those rules shall require that:

13 (1) the rental agreement contain a clear written
14 description of the method of calculation of the allocation of
15 nonsubmetered master metered utilities for the manufactured home
16 rental community, apartment house, or multiple use facility;

17 (2) the rental agreement contain a statement of the
18 average manufactured home, apartment, or multiple use facility unit
19 monthly bill for all units for any allocation of those utilities for
20 the previous calendar year;

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

26 (4) the owner or condominium manager shall maintain
27 adequate records regarding the utility consumption of the

1 manufactured home rental community, apartment house, or multiple
2 use facility, the charges assessed by the retail public utility,
3 and the allocation of the utility costs to the tenants;

4 (5) the owner or condominium manager shall maintain
5 all necessary records concerning utility allocations, including
6 the retail public utility's bills, and shall make the records
7 available for inspection by the tenants during normal business
8 hours; and

9 (6) the owner or condominium manager may charge a
10 tenant a fee for late payment of an allocated water bill if the
11 amount of the fee does not exceed five percent of the bill paid
12 late.

13 (b) This section does not limit the authority of an owner,
14 operator, or manager of an apartment house, manufactured home
15 rental community, or multiple use facility to charge, bill for, or
16 collect rent, an assessment, an administrative fee, or any other
17 amount that is unrelated to utility costs.

18 SECTION 4. Section 13.505, Water Code, is amended to read as
19 follows:

20 Sec. 13.505. ENFORCEMENT. (a) In this section,
21 "overcharge" means the amount, if any, a tenant is charged for
22 submetered or nonsubmetered master metered utility service to the
23 tenant's dwelling unit after a violation occurred relating to the
24 assessment of a portion of utility costs in excess of the amount the
25 tenant would have been charged under this subchapter.

26 (b) If ~~[In addition to the enforcement provisions contained~~
27 ~~in Subchapter K, if]~~ an apartment house owner, condominium manager,

1 manufactured home rental community owner, or other multiple use
2 facility owner violates a rule of the utility commission regarding
3 utility costs, the person claiming the violation may file a
4 complaint with the utility commission. If the utility commission
5 determines that the owner or condominium manager overcharged a
6 complaining tenant for water or wastewater service from the retail
7 public utility, the utility commission shall require the owner or
8 condominium manager, as applicable, to repay the complaining tenant
9 the amount overcharged.

10 (c) If the owner or condominium manager fails to comply with
11 the utility commission's order to repay the overcharge, the
12 complaining tenant may recover from the owner or condominium
13 manager in an action brought under this section [~~submetering of~~
14 ~~utility service consumed exclusively within the tenant's dwelling~~
15 ~~unit or multiple use facility unit or nonsubmetered master metered~~
16 ~~utility costs, the tenant may recover]~~ three times the amount of the
17 [any] overcharge, a civil penalty of \$100 [~~equal to one month's~~
18 ~~rent~~], reasonable attorney's fees, and court costs from the owner
19 or condominium manager. However, an owner of an apartment house,
20 manufactured home rental community, or other multiple use facility
21 or condominium manager is not liable [~~for a civil penalty~~] if the
22 owner or condominium manager proves the violation was a good faith,
23 unintentional mistake.

24 (d) A tenant must exhaust administrative remedies before
25 the tenant brings an action in district court against an apartment
26 house owner, condominium manager, manufactured home rental
27 community owner, or other multiple use facility owner who violates

1 a requirement of this subchapter or a rule of the utility commission
2 adopted under this subchapter.

3 SECTION 5. Section 13.506, Water Code, is amended by adding
4 Subsection (d) to read as follows:

5 (d) There is a rebuttable presumption that an owner of an
6 apartment house or a multiple use facility or a manager of a
7 condominium that adopted an existing program to submeter or
8 allocate water from a previous owner or manager has not committed an
9 act giving rise to a cause of action under this section.

10 SECTION 6. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2017.