

1-1 By: Creighton S.B. No. 873  
1-2 (In the Senate - Filed February 14, 2017; February 27, 2017,  
1-3 read first time and referred to Committee on Agriculture, Water &  
1-4 Rural Affairs; April 12, 2017, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 4, Nays 3;  
1-6 April 12, 2017, sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Perry	X			
1-10	Rodríguez		X		
1-11	Creighton	X			
1-12	Hall	X			
1-13	Hinojosa		X		
1-14	Kolkhorst	X			
1-15	Miles		X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 873 By: Kolkhorst

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the authority and liability of owners and managers of  
1-20 apartment houses, manufactured home rental communities,  
1-21 condominiums, and multiple use facilities in charging tenants for  
1-22 submetered and nonsubmetered master metered water and wastewater  
1-23 services.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 13.501, Water Code, is amended by adding  
1-26 Subdivisions (1-a) and (9) and amending Subdivision (5) to read as  
1-27 follows:

1-28 (1-a) "Condominium manager" or "manager of a  
1-29 condominium" means a condominium unit owners' association  
1-30 organized under Section 82.101, Property Code, or an incorporated  
1-31 or unincorporated entity comprising the council of owners under  
1-32 Chapter 81, Property Code.

1-33 (5) "Owner" means the legal titleholder of an  
1-34 apartment house, manufactured home rental community, or multiple  
1-35 use facility and any individual, firm, or corporation expressly  
1-36 identified in a lease agreement as ~~[that purports to be]~~ the  
1-37 landlord of tenants in the apartment house, manufactured home  
1-38 rental community, or multiple use facility. The term does not  
1-39 include the manager of an apartment home unless the manager is  
1-40 expressly identified as the landlord in the lease agreement.

1-41 (9) "Utility costs" or "utility service costs" means  
1-42 any amount charged to the owner by a retail public utility for water  
1-43 or wastewater service.

1-44 SECTION 2. Section 13.503, Water Code, is amended by adding  
1-45 Subsection (f) to read as follows:

1-46 (f) This section does not limit the authority of an owner,  
1-47 operator, or manager of an apartment house, manufactured home  
1-48 rental community, or multiple use facility to charge, bill for, or  
1-49 collect rent, an assessment, an administrative fee, a fee relating  
1-50 to the upkeep or management of chilled water, boiler, heating,  
1-51 ventilation, air conditioning, or other building system, or any  
1-52 other amount that is unrelated to utility costs.

1-53 SECTION 3. Section 13.5031, Water Code, is amended to read  
1-54 as follows:

1-55 Sec. 13.5031. NONSUBMETERING RULES. (a) Notwithstanding  
1-56 any other law, the utility commission shall adopt rules and  
1-57 standards governing billing systems or methods used by manufactured  
1-58 home rental community owners, apartment house owners, condominium  
1-59 managers, or owners of other multiple use facilities for prorating  
1-60 or allocating among tenants nonsubmetered master metered utility

service costs. In addition to other appropriate safeguards for the tenant, those rules shall require that:

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

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

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

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

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

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

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

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

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

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

(c) If ~~[In addition to the enforcement provisions contained in Subchapter K, if]~~ an apartment house owner, condominium manager, manufactured home rental community owner, or other multiple use facility owner violates a rule of the utility commission regarding utility costs, the person claiming the violation may file a complaint with the utility commission. If the utility commission determines that the owner or condominium manager overcharged a complaining tenant for water or wastewater service from the retail public utility, the utility commission shall require the owner or condominium manager, as applicable, to repay the complaining tenant the amount overcharged.

(d) Nothing in this section limits or impairs the utility commission's enforcement authority under Subchapter K ~~[submetering of utility service consumed exclusively within the tenant's dwelling unit or multiple use facility unit or nonsubmetered master metered utility costs, the tenant may recover three times the amount of any overcharge, a civil penalty equal to one month's rent, reasonable attorney's fees, and court costs from the owner or condominium manager. However, an owner of an apartment house, manufactured home rental community, or other multiple use facility or condominium manager is not liable for a civil penalty if the owner or condominium manager proves the violation was a good faith, unintentional mistake].~~

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