

By: Lucio
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S.B. No. 2195

A BILL TO BE ENTITLED

AN ACT

relating to metering and billing requirements for certain apartment houses, manufactured homes, and recreational vehicles.

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

SECTION 1. Section 39.554(e), Utilities Code, is amended to read as follows:

(e) An electric utility that approves an application of a distributed renewable generation owner under Subsection (b) shall provide to the owner the metering options described by Section 39.916(f) and an option to interconnect with the utility through a single meter that runs forward and backward if:

(1) the owner:

(A) intends to interconnect the distributed renewable generation at an apartment house, as defined by Section 184.001 [~~184.011~~], occupied by low-income elderly tenants that qualifies for master metering under Section 184.012(b) and the distributed renewable generation is reasonably expected to generate not less than 50 percent of the apartment house's annual electricity use; or

(B) has a qualifying facility with a design capacity of not more than 50 kilowatts; and

(2) the distributed renewable generation or qualifying facility that is the subject of the application is rated to produce an amount of electricity that is less than or equal to:

1 (A) the owner's estimated annual kilowatt hour
2 consumption for a new apartment house or qualifying facility; or

3 (B) the amount of electricity the owner consumed
4 in the year before installation of the distributed renewable
5 generation or qualifying facility.

6 SECTION 2. Section 184.001, Utilities Code, is amended to
7 read as follows:

8 Sec. 184.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

9 (1) "Apartment house" means one or more buildings
10 containing more than five dwelling units each of which is rented
11 primarily for nontransient use with rent paid at intervals of one
12 week or longer. The term includes a rented or owner-occupied
13 residential condominium.

14 (2) "Apartment house owner" means:

15 (A) the legal titleholder of an apartment house;
16 or

17 (B) an individual, firm, or corporation that
18 purports to be the landlord of a tenant of an apartment house.

19 (3) "Commission" [~~,"commission"~~] means the Public
20 Utility Commission of Texas.

21 (4) "Dwelling unit" means one or more rooms that are
22 suitable for occupancy as a residence and that contain kitchen and
23 bathroom facilities. The term includes a manufactured home. The
24 term does not include a recreational vehicle.

25 (5) "Electricity supplier" means an electric utility,
26 a retail electric provider, a municipally owned utility, as defined
27 by Section 11.003, or an electric cooperative, as defined by

1 Section 11.003, from which an apartment owner, manufactured
2 community owner, or recreational vehicle park owner purchases
3 electric energy.

4 (6) "Electric utility" has the meaning assigned by
5 Section 31.002.

6 (7) "Manufactured home" or "manufactured housing" has
7 the meaning assigned in Section 1201.003, Occupations Code.

8 (8) "Manufactured housing community" has the meaning
9 assigned to "manufactured home community" by Section 94.001,
10 Property Code.

11 (9) "Recreational vehicle" has the meaning assigned by
12 Section 522.004, Transportation Code.

13 (10) "Recreational vehicle park" has the meaning
14 assigned by Section 13.087, Water Code.

15 (11) "Retail electric provider" has the meaning
16 assigned by Section 31.002.

17 (12) "Separately metered" has the meaning assigned by
18 Section 31.002.

19 (13) "Utility company" means an electric utility or a
20 transmission and distribution utility, as defined by Section
21 31.002.

22 SECTION 3. Subchapter A, Chapter 184, Utilities Code, is
23 amended by adding Section 184.002 to read as follows:

24 Sec. 184.002. ELECTRICITY SUPPLIER; APPLICABILITY OF TITLE
25 2. Notwithstanding Title 2, a person that is not regulated by the
26 commission under that title as an electric utility or a retail
27 electric provider for another activity may not be considered to be

1 an electric utility or a retail electric provider solely because
2 the person provides electric service in accordance with this
3 chapter and commission rules adopted under this chapter.

4 SECTION 4. The heading to Subchapter B, Chapter 184,
5 Utilities Code, is amended to read as follows:

6 SUBCHAPTER B. METERING IN APARTMENTS, CONDOMINIUMS, AND
7 MANUFACTURED HOUSING COMMUNITIES [~~MOBILE HOME PARKS~~]

8 SECTION 5. Section 184.012(a), Utilities Code, is amended
9 to read as follows:

10 (a) A political subdivision may not authorize the
11 construction or occupancy of a new apartment house, including the
12 conversion of property to a condominium, unless the construction
13 plan provides for the measurement of the quantity of electricity
14 consumed by the occupants of each dwelling unit of the apartment
15 house, either by separate [~~individual~~] metering by the utility
16 company or by submetering by the owner.

17 SECTION 6. Sections 184.013(a) and (c), Utilities Code, are
18 amended to read as follows:

19 (a) The owner of an apartment house or manufactured housing
20 community [~~mobile home park~~] may submeter each dwelling unit in the
21 apartment house or manufactured housing community that is not
22 separately metered [~~mobile home park~~] to measure the quantity of
23 electricity consumed by the occupants of the dwelling unit.

24 (c) If, not more than 90 days before the date an owner,
25 operator, or manager of an apartment house or manufactured housing
26 community installs individual meters or submeters in the apartment
27 house or manufactured housing community, the owner, operator, or

1 manager increases rental rates and the increase in rental rates is
2 attributable to the increased cost of utilities, the owner,
3 operator, or manager, on installation of the meters or submeters,
4 shall:

5 (1) immediately reduce the rental rate by the amount
6 of the increase attributable to the increased cost of utilities;
7 and

8 (2) refund the amount of the increased rent:

9 (A) collected in the 90-day period preceding the
10 installation of the meters or submeters; and

11 (B) attributable to the cost of increased
12 utilities.

13 SECTION 7. Sections 184.014(a) and (b), Utilities Code, are
14 amended to read as follows:

15 (a) The commission shall adopt rules under which an owner,
16 operator, or manager of an apartment house or manufactured housing
17 community [~~mobile home park~~] for which electricity is not
18 separately [~~individually~~] metered may install submetering
19 equipment to allocate fairly the cost of the electrical consumption
20 of each dwelling unit in the apartment house or manufactured
21 housing community [~~mobile home park~~].

22 (b) In addition to other appropriate safeguards for a tenant
23 of an apartment house or manufactured housing community [~~mobile~~
24 ~~home park~~], a rule adopted under Subsection (a) must provide that:

25 (1) the apartment house owner or a manufactured
26 housing community [~~mobile home park~~] owner may not charge a tenant
27 more than the cost per kilowatt hour charged by the utility to the

1 owner; and

2 (2) the apartment house owner shall maintain adequate
3 records relating to submetering and make those records available
4 for inspection by the tenant during reasonable business hours.

5 SECTION 8. Sections [184.033](#), [184.034](#), [184.035](#), and [184.036](#),
6 Utilities Code, are amended to read as follows:

7 Sec. 184.033. METERED SALE UNDER THIS CHAPTER.

8 Notwithstanding any provision of Title 2, the metered sale of
9 electricity by a recreational vehicle park owner does not
10 constitute the provision of electric service for compensation if:

11 (1) the electricity is consumed in a recreational
12 vehicle that is located in a recreational vehicle park;

13 (2) the owner can show that the owner does not annually
14 recover from recreational vehicle occupants through metered
15 charges more than the electricity supplier [~~supplying utility~~]
16 charges the owner for electricity that is submetered, taking into
17 account fuel refunds;

18 (3) the owner establishes a fiscal year for the
19 purposes of this subchapter and maintains for at least three years
20 records of:

21 (A) bills received from the electricity supplier
22 [~~supplying utility~~];

23 (B) charges made to recreational vehicle
24 occupants; and

25 (C) consumption records for each fiscal year;

26 (4) the owner charges for electricity using a fixed
27 rate per kilowatt hour for each fiscal year computed at the

1 beginning of the fiscal year in the manner provided by Section
2 184.034; and

3 (5) the owner complies with the refund requirements of
4 Section 184.035.

5 Sec. 184.034. COMPUTATION OF CHARGES. (a) For the
6 purposes of computing the charge for electricity under Section
7 184.033(4), the recreational vehicle park owner shall divide the
8 amount charged the owner by the electricity supplier [~~supplying~~
9 ~~utility~~] for the preceding fiscal year by the total number of
10 kilowatt hours consumed by occupants visiting the park in the
11 preceding fiscal year and round the quotient to the nearest cent.

12 (b) If since or during the preceding fiscal year the rates
13 the owner pays its electricity supplier have increased [~~supplying~~
14 ~~utility increases its rates~~], the owner may recompute the preceding
15 fiscal year's charges [~~by the utility~~] using the current rates
16 [~~charged by the utility~~].

17 (c) If since or during the preceding fiscal year the rates
18 the owner pays its electricity supplier have decreased [~~supplying~~
19 ~~utility decreases its rates~~], the owner shall recompute the
20 preceding fiscal year's charges [~~by the utility~~] using the current
21 rates [~~charged by the utility~~].

22 (d) An owner may not:

23 (1) include a charge by the electricity supplier
24 [~~supplying utility~~] for electricity used in a common area or office
25 of the recreational vehicle park in computing the amounts under
26 Subsection (b) or (c); or

27 (2) recover that charge through a metered charge to a

1 recreational vehicle occupant.

2 Sec. 184.035. REFUND OF SURCHARGES. A recreational vehicle
3 park owner who determines at the end of a fiscal year that the owner
4 has collected more than the amount charged by the electricity
5 supplier [~~supplying utility~~] shall refund the excess amount to
6 occupants visiting the park in the succeeding fiscal year.

7 Sec. 184.036. UTILITY CUTOFF AT RECREATIONAL VEHICLE PARK.
8 Notwithstanding any other law, a person who operates a recreational
9 vehicle park[~~, as defined by Section 13.087, Water Code,~~] may
10 withhold electric, water, or wastewater utility services from a
11 person occupying a recreational vehicle at the park if the occupant
12 is delinquent in paying for utility services provided by the
13 operator until the occupant pays the delinquent amount.

14 SECTION 9. Chapter 184, Utilities Code, is amended by
15 adding Subchapter C-1 to read as follows:

16 SUBCHAPTER C-1. MIXED USE FACILITIES

17 Sec. 184.0401. APPLICABILITY. This subchapter applies to
18 dwelling units and recreational vehicles that:

19 (1) are not separately metered; and
20 (2) are located on a property that includes at least
21 two of the following types of housing:

- 22 (A) apartment houses;
- 23 (B) manufactured homes; and
- 24 (C) recreational vehicles.

25 Sec. 184.0402. METERING AND BILLING REQUIREMENTS. (a) A
26 submetered dwelling unit is subject to the metering and billing
27 requirements applicable to a dwelling unit under Subchapter B.

1 (b) Except as provided by Subsection (c), a submetered
2 recreational vehicle is subject to the metering and billing
3 requirements applicable to a recreational vehicle under Subchapter
4 C.

5 (c) The owner of a property that includes at least one
6 submetered recreational vehicle and at least one submetered
7 manufactured home may choose to apply the metering and billing
8 requirements applicable to a dwelling unit under Subchapter B to
9 manufactured homes and recreational vehicles on the property.

10 (d) A dwelling unit or recreational vehicle that is not
11 submetered is subject to the billing requirements of Subchapter D.

12 Sec. 184.0403. RULES. The commission shall adopt rules
13 under which an owner of a property described by Section 184.0401(2)
14 may install submetering equipment to fairly allocate the cost of
15 electric energy consumption of each dwelling unit or recreational
16 vehicle.

17 SECTION 10. Section 184.051(8), Utilities Code, is amended
18 to read as follows:

19 (8) "Utility" means an electric [~~a public, private, or~~
20 ~~member-owned~~] utility, a retail electric provider, an electric
21 cooperative, or a municipally owned utility that provides
22 electricity, water, or wastewater service to an apartment house
23 served by a master meter.

24 SECTION 11. Section 184.071(a), Utilities Code, is amended
25 to read as follows:

26 (a) A landlord who violates a commission rule relating to
27 submetering of electric utilities consumed exclusively in a

1 tenant's dwelling unit or a rule relating to the allocation of
2 central system utility costs or nonsubmetered master metered
3 electricity [~~electric utility~~] costs is liable to the tenant for:

- 4 (1) three times the amount of any overcharge;
- 5 (2) a civil penalty equal to one month's rent;
- 6 (3) reasonable attorney's fees; and
- 7 (4) court costs.

8 SECTION 12. The following provisions of the Utilities Code
9 are repealed:

- 10 (1) Section [184.011](#);
- 11 (2) Section [184.031](#); and
- 12 (3) Sections [184.051](#)(1), (2), and (5).

13 SECTION 13. This Act takes effect September 1, 2019.