



Ohio Legislative Service Commission

Bill Analysis

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H.B. 422

130th General Assembly
(As Introduced)

Reps. Foley and Blair, Stinziano, Rogers, Perales, Grossman, Gerberry, Sheehy, Bishoff, Barborak, Dovilla, Antonio, R. Hagan, Letson, Phillips

BILL SUMMARY

- Permits a landlord or manufactured home park (MHP) operator under a rental agreement to require a tenant or an MHP resident to do one of the following regarding public utility service to the residential premises:
 - Pay the landlord, MHP operator, or other entity other than a public utility;
 - Pay the public utility directly as its customer;
 - Pay the landlord or MHP operator a fixed amount included in the rent.
- Requires a landlord or MHP operator to do the following when requiring the tenant or MHP resident to pay the landlord tenant, or other entity that is not a public utility for the provision of utility services:
 - Ensure a submeter accurately measures only the utility service provided to the residential premises.
 - Charge the tenant MHP or resident not more than the actual cost of the utility service provided to that person's residence, as charged by the public utility.
 - Include in the tenant or MHP resident's utility bill the beginning and ending submeter reading for the period, the dates the submeter was read, and the rate charged for service to the tenant or resident.
 - Grant the tenant or MHP resident reasonable access to the submeter for the purpose of reading it.

- Prohibits a landlord, MHP operator, or other entity that is not a public utility from charging a tenant or MHP resident an administrative fee, late fee, or any other fee relating to the provision of, or payment for, utility service.
- Provides for recovery of double damages, injunctive relief, and reasonable attorney's fees in a cause of action brought by an affected tenant or MHP resident when the landlord, park operator, or other entity that is not a public utility violates any of the bill's provisions.

CONTENT AND OPERATION

Utility service for tenants and manufactured home park residents

The bill creates a new chapter of the Revised Code addressing the measurement and billing of public utility services to tenants and manufactured home park (MHP) residents. Under the bill, a landlord or an MHP operator who is a party to a rental agreement may require a tenant or an MHP resident, under the agreement, to do one of the following regarding the payment for the electric, gas, water, sewage disposal, heating, or cooling service supplied to the residential premises covered by the rental agreement:

- Pay the landlord, MHP operator, or other entity other than a public utility;
- Pay the public utility directly as its customer;
- Pay the landlord or MHP operator a fixed amount that is included in the rental cost.¹

Pay the landlord, MHP operator, or other nonpublic utility entity

The bill establishes four requirements when a landlord, MHP operator, or another entity that is not a public utility requires a tenant or MHP resident to pay them, rather than a public utility directly, for the provision of utility service. The landlord, MHP operator, or other entity must:

(1) Use a submeter to accurately measure only the applicable service supplied to the residential premises;

¹ R.C. 4781.56, 4975.02, and 5321.041.

(2) Charge the tenant or MHP resident no more than the actual cost of the tenant's or MHP resident's utility service for which the landlord, MHP operator, entity other than a public utility, or a company owned in whole or in part by any of these, has been charged by the public utility for the service;

(3) Include in the tenant's or MHP resident's utility bill the beginning and ending submeter reading, the dates the submeter was read, and the rate charged for service to the tenant or resident;

(4) Grant the tenant or MHP resident reasonable access to the submeter for the purpose of reading it.²

Prohibition

The bill prohibits the landlord, MHP operator, or entity other than a public utility from charging any fees, including administrative or late fees, to the tenant or MHP resident in relation to the provision of, or payment for, electric, gas, water, sewage disposal, heating, or cooling services.³

Relief available to tenant or resident

The bill gives the affected tenant or MHP resident, if a landlord, MHP operator, or an entity other than a public utility violates the bill's provisions, the right to file a lawsuit to obtain double the damages resulting from the violation, injunctive relief to prevent a recurrence of the conduct, and reasonable attorney's fees. For this purpose, "damages" means either or both of the following, depending on the fact situation:

- The total amount charged to the tenant or MHP resident for electric, gas, water, sewage disposal, heating, or cooling service for the period during which the violation occurred.
- The total amount of administrative, late, or other fees charged to the tenant or MHP resident.⁴

² R.C. 4975.03.

³ R.C. 4975.04.

⁴ R.C. 4975.05. A corrective amendment is needed to clarify that all provisions of the relief measures provided in the bill apply for tenants and MHP residents.

Definitions

For purposes of the new chapter, the bill defines the following terms:

Landlord-tenant definitions

"Landlord" means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.

"Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

For purposes of a landlord-tenant relationship:

- "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.
- "Residential premises" means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant. "Residential premises" includes a dwelling unit that is owned or operated by a college or university, but does not include various other facilities listed in the law such as prisons, jails, hospitals, orphanages, elementary and secondary boarding schools, and condominiums.

Manufactured home park definitions

"MHP operator" means the person who has responsible charge of a manufactured home park and who is licensed to operate the park.

"MHP resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others, and includes both tenants and owners.



For purposes of manufactured home parks:

- "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.
- "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident.

Utility-related definitions

"Submeter" means a device that measures the amount of utility service provided to residential premises where the MHP resident or tenant of the residential premises is not a customer of the public utility providing the measured service.⁵

"Customer" means an individual who has a contract with a public utility to receive electric, gas, water, sewage disposal, heating, or cooling service at residential premises.⁶

"Public utility" means any retail supplier of electric, gas, water, sewage disposal, heating, or cooling service, including an electric light company, gas company, natural gas company, water-works company, heating or cooling company, sewage disposal system company, municipal corporation, cooperative, provider of competitive retail electric service, or provider of competitive retail natural gas service.⁷

For purposes of the definition of public utility:

- "Cooperative" means an entity that is owned and operated exclusively by and solely for its customers to provide electric, gas, water, or sewage disposal service and includes an electric cooperative as defined in continuing law governing competitive retail electric service.⁸

⁵ R.C. 4975.01(K).

⁶ R.C. 4975.01(D).

⁷ R.C. 4975.01(H).

⁸ R.C. 4975.01(C).

- "Competitive retail electric service," "competitive retail natural gas service," "electric light company," "gas company," "natural gas company," "water-works company," "heating or cooling company," and "sewage disposal system company" have the same meanings as those terms have in the law governing public utilities.

HISTORY

ACTION

DATE

Introduced

01-30-14

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