

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 849 (Delegates Gilchrist and Niemann)
Environmental Matters

Real Property - Condominiums - Allocation of Utility Costs

This bill authorizes a council of unit owners to allocate utility costs to each unit based on usage and grant or deny utility service to each unit. The bill defines “utility” as water, electricity, gas, or oil service.

The bill takes effect October 1, 2013, and applies only to a condominium regime established on or after that date on newly developed property or by conversion of a residential rental facility.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations and finances.

Local Effect: The bill does not directly affect local governmental operations and finances.

Small Business Effect: Minimal.

Analysis

Current Law: “Energy allocation system” means a method of determining the *approximate* energy use consumed within a dwelling unit with the use of a measuring device.

“Submetering” means the installation of equipment for the purpose of determining the *actual* use of electricity or gas per residential unit or commercial rental unit.

The Public Service Commission (PSC) authorizes, by regulation, an owner, operator, or manager of an apartment house (including a condominium), office building, or shopping center with a master meter to install submeters for determining the actual use of electricity or gas per unit.

A unit may not be submetered unless all units in that building are submetered. An owner, operator, or manager of an apartment house, office building, or shopping center who installs submetering equipment may not impose any utility costs other than those that PSC authorizes and the gas or electric company actually imposes.

Approval from PSC is required before an energy allocation system may be used by the owner, operator, or manager of an apartment house to determine the amount of gas or electricity used by an individual dwelling unit, if the amount of gas or electricity is determined by means other than by actual measurement of fuel or electric power consumed by the unit. PSC may approve an energy allocation system upon a demonstration by the owner that the system results in a reasonable determination of the cost of the energy use within a dwelling unit. The owner, operator, or manager may not use the energy allocation system to bill energy costs to tenants of an individual dwelling unit without PSC approval.

Background: The Secretary of State reports that 2,544 total condominiums are registered in Maryland. The office estimates that approximately 2,000 of these registrations are active.

When a developer constructs a new apartment building, the developer must select individual electric and gas meters for each occupancy unit or a master meter arrangement, where the owner is able to bill tenants for electricity charges. A building owner who selects a master meter arrangement must determine electric and gas charges for tenants by installing *submeters* which measure *actual* energy use and are approved by PSC. However, in apartment buildings, centralized heating, ventilation, and air conditioning systems may offer greater efficiencies than having individual systems for each building occupant. As a result, PSC may authorize an *energy allocation system* to enable a building owner to bill building occupants for heating and cooling costs.

The purpose of submetering is to encourage effective conservation and efficient use of utilities by fairly allocating cost among the ultimate users within a master-metered apartment house, office building, or shopping center.

According to the U.S. Environmental Protection Agency (EPA), submetering is reported to reduce water usage by 20% to 40%. In 2003, EPA issued a memorandum detailing its policy on water submetering. Prior to 2003, any property owner, including a condominium, that installed submeters to track tenants' water usage was subject to the

federal Safe Drinking Water Act (SDWA). Under SDWA, a specified property owner that provides water to a property is responsible for providing public notification to consumers and must make “good faith” efforts to provide tenants with an annual EPA-distributed *Consumer Confidence Report*. However, with the issuance of its revised policy in 2003, EPA specified that SDWA no longer applies to a property owner who only performs the administrative act of submetering and billing.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Office of People’s Counsel, Public Service Commission, Secretary of State, U.S. Environmental Protection Agency, Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2012
mlm/kdm

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