

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 545

(Delegate Lafferty)

Environment and Transportation

Judicial Proceedings

Landlord and Tenant - Water and Wastewater Charges - Billing Systems

This bill requires a landlord to disclose to a prospective tenant the method used to charge tenants for the cost of utilities. If a landlord uses a “ratio utility billing system,” the bill requires the landlord, on written request, to provide a tenant with information to document a bill for utilities. The bill also authorizes a landlord to recover payment for past-due water and wastewater utilities as rent.

The bill applies prospectively and may not be applied or interpreted to have any effect on or application to any lease entered into before the bill’s October 1, 2016 effective date.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State operations or finances.

Local Effect: The bill is not anticipated to impact local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Landlord” means an owner of residential rental property with more than four dwelling units for rent on one parcel, or a person acting on behalf of a landlord.

Under the bill, a “ratio utility billing system” is a system for allocating one or more of the landlord’s aggregate utility charges by one of more of these methods: (1) per tenant; (2) proportionately by livable square footage; (3) per unit type; (4) per number of water fixtures; or (5) by any other method that allocates the landlord’s aggregate utility charges

among the tenants but does not measure actual per tenant usage. “Utilities” means water consumption or usage and wastewater or sewage use.

The bill does not apply to a residential rental property in a condominium or a cooperative housing corporation.

Current Law: No statute specifically requires a landlord to disclose to a prospective tenant the method used to charge tenants for the cost of utilities, requires a landlord to provide specified information about the use of a ratio utility billing system, or prohibits a landlord from recovering past-due water or wastewater bills as rent.

Section 7-303 of the Public Utilities Article, however, addresses the “submetering” of apartment and commercial buildings for electricity or natural gas. “Submetering” means the installation of equipment to determine the actual use of electricity or gas per residential unit or commercial rental unit. Based on the authority included in statute, 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 a building may not impose any utility costs other than those that PSC authorizes and the gas or electric company actually imposes.

Approval from PSC is also required before an energy allocation system (a method of determining the *approximate* energy use consumed within a dwelling unit through the use of a measuring device) 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. 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: Montgomery County regulations limit the use of ratio utility billing systems by landlords for water and sewage usage on rental properties to one of two approved formulas. The regulations also require a landlord who intends to use any other formula to first submit the plan to, and receive approval from, the Office of Landlord-Tenant Affairs.

According to the National Conference of State Legislatures, 22 states, three counties, and the District of Columbia have statutes, regulations, or rulings on utility submetering. Several states, including Alabama, Arizona, California, and Texas, have separate provisions for submetering water versus electricity. Maryland and at least two other states

(Alabama and Connecticut) require a utility commission's approval for specific components of submetering policy. Submetering policies may determine if pricing is calculated volumetrically or formulaically, while one state requires pricing to be "equitable" to customers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), National Conference of State Legislatures, Department of Legislative Services

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