Chapter 389

AN ACT
relating to the authority and liability of owners and managers of
apartment houses, manufactured home rental communities,
condominiums, and multiple use facilities in charging tenants for
submetered and nonsubmetered master metered water and wastewater
services.

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

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

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

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

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

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

(f) 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 3. Section 13.5031, Water Code, is amended to read
as follows:

Sec. 13.5031. NONSUBMETERING RULES. (a) Notwithstanding
any other law, the utility commission shall adopt rules and
standards governing billing systems or methods used by manufactured
home rental community owners, apartment house owners, condominium
managers, or owners of other multiple use facilities for prorating
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 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. The utility commission and State Office of Administrative Hearings shall establish an online and telephone formal complaint and hearing system through which a person may file a complaint under this subchapter and may appear remotely for a hearing before the utility commission or the State Office of Administrative Hearings. 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.
S.B. No. 873

(d) Nothing in this section limits or impairs the utility commission's enforcement authority under Subchapter K. The utility commission may assess an administrative penalty under Section 13.4151 for a violation of this chapter or of any rule adopted under this chapter [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].

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.
S.B. No. 873

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 873 passed the Senate on April 20, 2017, by the following vote: Yeas 21, Nays 10; and that the Senate concurred in House amendments on May 25, 2017, by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

I hereby certify that S.B. No. 873 passed the House, with amendments, on May 21, 2017, by the following vote: Yeas 107, Nays 30, three present not voting.

Chief Clerk of the House

Approved:

5-31-2017

Date

Governor
TO: Honorable Lyle Larson, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB873 by Creighton (Relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.), As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services. Based on the analysis of the Public Utility Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: UP, AO, SZ, EH
TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB873 by Creighton (Relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.), As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services. The bill would permit the Public Utility Commission (PUC) to assess administrative penalties for certain violations of the Water Code.

The PUC reports that the amount that may be collected through administrative penalties is unknown, though the agency does not expect it to be significant. Based on the analysis of the PUC, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 473 Public Utility Commission of Texas

LBB Staff: UP, AO, SZ, EH
TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs  
FROM: Ursula Parks, Director, Legislative Budget Board  

IN RE: SB873 by Creighton (relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.), Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services. Based on the analysis of the Public Utility Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas  
LBB Staff: UP, AO, SZ, EH
TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB873 by Creighton (Relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.), As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services. Based on the analysis of the Public Utility Commission, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas
LBB Staff: UP, AO, SZ, EH