

Texas Commission on Environmental Quality

The following is an excerpt from the Texas Water Code, Chapter 13, regarding *Water Rates and Services*. This statute was revised by the 78th Legislature, effective September 1, 2003. Rules adopted by the TCEQ as required by this statute can be found in Title 30 of the Texas Administrative Code, Chapter 291, *Utility Rates*, Subchapter H, *Utility Submetering and Allocation*. Questions about the rules or this statute may be directed to the TCEQ's Consumer Assistance staff at 512/239-6100.

Subchapter M. Submetering and Nonsubmetering for Apartments and Manufactured Home Rental Communities and Other Multiple Use Facilities

§13.501. DEFINITION. In this subchapter:

(1) "Apartment house" means one or more buildings containing five or more dwelling units which are occupied primarily for nontransient use, including a residential condominium whether rented or owner occupied, and having rental paid, if a dwelling unit is rented, at intervals of one month or longer.

(2) "Dwelling unit" means:

(A) one or more rooms in an apartment house or condominium, suitable for occupancy as a residence, and containing kitchen and bathroom facilities; or

(B) a manufactured home in a manufactured home rental community.

(3) "Customer" means the individual, firm, or corporation in whose name a master meter has been connected by the utility service provider.

(4) "Nonsubmetered master metered utility service" means water utility service that is master metered for the apartment house but not submetered, and wastewater utility service based on master metered water utility service.

(5) "Owner" means the legal titleholder of an apartment house, manufactured home rental community, or multiple use facility and any individual, firm, or corporation that purports to be the landlord of tenants in the apartment house, manufactured home rental community, or multiple use facility.

(6) "Tenant" means a person who is entitled to occupy a dwelling unit or multiple use facility unit to the exclusion of others and who is obligated to pay for the occupancy under a written or oral rental agreement.

(7) "Multiple use facility" means commercial or industrial parks, office complexes, marinas, and others specifically identified in commission rules with five or more units.

(8) "Manufactured home rental community" means a property on which spaces are rented for the occupancy of manufactured homes for nontransient residential use and for which rental is paid at intervals of one month or longer.

§ 13.502. SUBMETERING.

(a) An apartment house owner, manufactured home rental community owner, multiple use facility owner, or condominium manager may provide for submetering of each dwelling unit or rental unit for the measurement of the quantity of water, if any, consumed by the occupants of that unit.

(b) Except as provided by Subsections (c) and (d), a manager of a condominium or the owner of an apartment house, manufactured home rental community, or multiple use facility, on which construction begins after January 1, 2003, shall provide for the measurement of the quantity of water, if any, consumed by the occupants of each unit through the installation of:

(1) submeters, owned by the property owner or manager, for each dwelling unit or rental unit; or

(2) individual meters, owned by the retail public utility, for each dwelling unit or rental unit.

(c) An owner of an apartment house on which construction begins after January 1, 2003, and which provides government assisted or subsidized rental housing to low or very low income residents shall install a plumbing system in the apartment house that is compatible with the installation of submeters for the measurement of the quantity of water, if any, consumed by the occupants of each unit.

(d) On request by the property owner or manager, a retail public utility shall install individual meters owned by the utility in an apartment house, manufactured home rental community, multiple use facility, or condominium on which construction begins after January 1, 2003, unless the retail public utility determines that installation of meters is not feasible. If the retail public utility determines that installation of meters is not feasible, the property owner or manager shall install a plumbing system that is compatible with the installation of submeters or individual meters. A retail public utility may charge reasonable costs to install individual meters.

(e) An owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium may not change from submetered billing to allocated billing unless:

(1) the executive director approves of the change in writing after a demonstration of good cause, including meter reading or billing problems that could not feasibly be corrected or equipment failures; and

(2) the property owner meets rental agreement requirements established by the commission.

§13.503. SUBMETERING RULES.

(a) The commission shall encourage submetering of individual rental or dwelling units by master meter operators to enhance the conservation of water resources.

(b) Notwithstanding any other law, the commission shall adopt rules and standards under which an owner, operator, or manager of an apartment house, manufactured home rental community, or multiple use facility that is not individually metered for water for each rental or dwelling unit may install submetering equipment for each individual rental or dwelling unit for the purpose of fairly allocating the cost of each individual rental or dwelling unit's water consumption, including wastewater charges based on water consumption. In addition to other appropriate safeguards for the tenant, the rules shall require that, except as provided by this section, an apartment house owner, manufactured home rental community owner, multiple use facility owner, or condominium

manager may not impose on the tenant any extra charges, over and above the cost per gallon and any other applicable taxes and surcharges that are charged by the retail public utility to the owner or manager, and that the rental unit or apartment house owner or manager shall maintain adequate records regarding submetering and make the records available for inspection by the tenant during reasonable business hours. The rules shall allow an owner or manager to charge a tenant a fee for late payment of a submetered water bill if the amount of the fee does not exceed five percent of the bill paid late. All submetering equipment is subject to the rules and standards established by the commission for accuracy, testing, and record keeping of meters installed by utilities and to the meter-testing requirements of Section 13.140 of this code.

(c) In addition to the charges permitted under Subsection (b), the rules shall authorize a manufactured home rental community owner or manager to impose a service charge of not more than nine percent of the costs related to submetering allocated to each submetered rental or dwelling unit.

(d) For purposes of Subsection (c), "costs related to submetering" means water costs as well as any other applicable taxes and surcharges that are charged by the retail public utility to the manufactured home rental community owner or manager.

(e) The commission may authorize a building owner to use submetering equipment that relies on integrated radio based meter reading systems and remote registration in a building plumbing system using submeters that comply with nationally recognized plumbing standards and are as accurate as utility water meters in single application conditions.

§13.5031. NONSUBMETERING RULES. Notwithstanding any other law, the 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; and

(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.

§13.504. IMPROPER RENTAL RATE INCREASE. If, during the 90-day period preceding the installation of individual meters or submeters, an owner, operator, or manager of an apartment house, manufactured home rental community, or other multiple use facility has increased rental rates and the increase is attributable to increased costs of utilities, the owner, operator, or manager shall immediately reduce the rental rate by the amount of the increase and refund all of the increase that has previously been collected within the 90-day period.

§13.505. ENFORCEMENT. In addition to the enforcement provisions contained in Subchapter K of this chapter, if an apartment house owner, condominium manager, manufactured home rental community owner, or other multiple use facility owner violates a rule of the commission regarding 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

§ 13.506. PLUMBING FIXTURES.

(a) After January 1, 2003, before an owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium may implement a program to bill tenants for submetered or allocated water service, the owner or manager must:

(1) meet the standards prescribed by Section 372.002, Health and Safety Code, for sink or lavatory faucets, faucet aerators, and showerheads; and

(2) perform a water leak audit of each dwelling unit or rental unit and each common area and repair any leaks found.

(b) Not later than the first anniversary of the date an owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium begins to bill for submetered or allocated water service under Subsection (a), the owner or manager shall:

(1) remove any toilets that exceed a maximum flow of 3.5 gallons of water per flushing; and

(2) install 1.6-gallon toilets that meet the standards prescribed by Section 372.002, Health and Safety Code.

(c) Subsections (a) and (b) do not apply to a manufactured home rental community owner who does not own the manufactured homes located on the property of the manufactured home rental community.