

CHAPTER 537

H.B. No. 1052

An Act relating to utility service for certain apartment houses.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 32, Revised Statutes, is amended by adding Article 1446f to read as follows:

Art. 1446f. CENTRAL SYSTEM UTILITIES

Sec. 1. DEFINITIONS. In this article:

(1) "Apartment house" means a building or buildings containing two or more dwelling units that are rented primarily for nontransient use, with rental paid by intervals of one week or longer.

(2) "Central system utilities" means electricity and water consumed by and wastewater services related to central air-conditioning or heating systems and central hot water or chilled water systems in an apartment house, but does not include utilities directly consumed within dwelling units.

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

(4) "Dwelling unit" means a room or rooms suitable for occupancy as a residence containing kitchen and bathroom facilities.

(5) "Nonsubmetered master metered utility service" means electric and 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.

(6) "Owner" means the legal titleholder of an apartment house and any individual, firm, or corporation that purports to be the landlord of tenants in the apartment house.

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

(8) "Utility" means a public, private, or member-owned utility furnishing electricity, water, or wastewater service to an apartment house served by a master meter.

Sec. 2. RULES. (a) Notwithstanding any law to the contrary, the Public Utility Commission of Texas shall promulgate rules, regulations, and standards governing billing systems or methods used by apartment house owners for prorating or allocating among tenants central system utility costs or nonsubmetered master metered utility service costs. In addition to other appropriate safeguards for the tenant, these rules shall require that:

(1) the rental agreement shall contain a clear written description of the method of calculation of the allocation of central system utilities or nonsubmetered master metered utilities for the apartment house;

(2) the rental agreement shall contain a statement of the average apartment unit monthly bill for all apartment units for any allocation of such utilities for the previous calendar year;

(3) an apartment house owner may not impose additional charges on a tenant in excess of the actual charges imposed on the owner for utility consumption by the apartment house;

(4) the apartment house shall maintain adequate records regarding the utility consumption of the apartment house, the charges assessed by the utility, and the allocation of the utility costs to the tenants; and

(5) the apartment owner shall maintain all necessary records concerning utility allocations, including the utility's bills, and shall make the records available for inspection by the tenants during normal business hours.

(b) Any rule, regulation, or standard promulgated by the commission pursuant to this section shall be deemed to have been entered or adopted under the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), and for purposes of enforcement, the owners, operators, or managers of apartment houses included in this Act are subject to enforcement pursuant to Sections 71, 72, 73, 74, 75, 76, and 77 of the Public Utility Regulatory Act.

SECTION 2. Title 32, Revised Statutes, is amended by adding Article 1446g to read as follows:

Art. 1446g. If a landlord violates any Public Utility Commission of Texas rule regarding (1) submetering of utilities consumed exclusively within the tenant's dwelling unit, or (2) allocating central system utility costs or nonsubmetered master metered utility costs, the tenant may recover treble the amount of any overcharge, a civil penalty equal to one month's rent, reasonable attorney's fees, and court costs. However, the landlord shall not be liable for a civil penalty when the violation was a good faith, unintentional mistake. The landlord shall have the burden of proving the violation was a good faith, unintentional mistake.

SECTION 3. This Act applies only to utility service provided on or after the effective date of this Act. Utility service provided before the effective date of this Act is governed by the law in effect when the service was provided, and that law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 9, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 1052 on May 26, 1985, by a non-record vote; passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 29, Nays 0.

Approved: June 12, 1985

Effective: August 26, 1985