SENATE, No. 2156



STATE OF NEW JERSEY

219th LEGISLATURE



INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Permits water and sewerage service sub-metering in multi-family dwellings.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning the sub-metering of water and sewerage service in multiple dwellings, and supplementing Title 55 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the “Water and Sewerage Service Sub-Metering and Water Conservation Act.”

2. The Legislature finds and declares that the conservation of water resources is vitally important to the future of our State.

The Legislature further finds and declares that in order to enhance the conservation of water resources, it is necessary to grant specific authority to landlords of apartments, condominium associations and cooperative associations for the sub-metering of water and sewerage service provided to the occupants of these dwellings throughout the State.

The Legislature therefore determines that it is appropriate for the Department of Community Affairs, which has extensive regulatory authority over these dwellings, to adopt, in consultation with the Department of Environmental Protection and the Board of Public Utilities, rules and regulations governing the installation and use of sub-metering as a water conservation method.

3. As used in this act:

“Condominium association” shall have the same meaning as “association” as that term is defined in section 3 of P.L.1969, c.257 (C.46:8B-3).

“Cooperative association” shall have same meaning as “association” as that term is defined in section 3 of P.L.1987, c.381 (C.46:8D-3).

"Dwelling unit" means an individual residential unit consisting of an apartment, or a unit held under a condominium or cooperative association.

"Multi-family dwelling" means any building or structure or complex of buildings or structures in which three or more dwelling units, including rental apartments or dwelling units held under a condominium or cooperative association, are owned, rented or leased or offered for ownership, rental, or lease for residential purposes. “Multi-family dwelling” shall not include any hotel as that term is defined in section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-3).

"Occupant" 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 ownership or rental agreement.

"Sewerage service provider" means any public or private entity that owns or operates a sewerage system serving the public.

"Sub-metering" means the use of a metering device by a landlord, condominium association, or cooperative association that measures either:

a. Water service from a water service provider supplied to a dwelling unit based on the actual water consumption by an occupant of the dwelling unit for the purpose of charging the occupant of the dwelling unit separately for water service; or

b. Sewerage service from a sewerage service provider used by a dwelling unit based on the actual sewerage service usage by an occupant of the dwelling unit for the purpose of charging the occupant of the dwelling unit separately for sewerage service.

"Water conservation device" means, for all showers, shower stalls, shower compartments or shower baths, a low-flow showerhead which shall have a maximum flow rate not exceeding two and a half gallons of water per minute, for all faucets a maximum flow rate not exceeding two and two-tenths gallons of water per minute and for all toilets, ultra-low-flush toilets not exceeding one and six-tenths gallons of water per flush, contained within a dwelling unit.

"Water service provider" means any public or private entity that owns or operates a public water system.

4. a. Except in any public housing facility, as that term is defined in section 1 of P.L.1997, c.327 (C.2C:35-7.1), a landlord, condominium association, or cooperative association may provide for sub-metering of each dwelling unit measuring the total or partial quantity of water used by, or sewerage flowed from, the occupant of that dwelling unit. The landlord, condominium association, or cooperative association or other entity designated by the landlord, condominium association, or cooperative association, shall be responsible for reading any sub-meter and for billing occupants. Occupants may be billed for water service or sewerage service, or both, subject to the following:

(1) The sub-meter or sub-meters installed for each dwelling unit shall measure the total or partial amount of water consumed, or the sewerage service used in the dwelling unit, which amount shall be multiplied by the applicable rates for water service or sewerage service, or in accordance with those rates, as charged by the water service provider or sewerage service provider, as appropriate, providing service to the multi-family dwelling;

(2) The cumulative charges for any billing period that are billed to all occupants of a multi-family dwelling in which sub-meters have been installed hereunder shall not exceed the total water service charges or sewerage service charges for that multi-family dwelling billed for that period to the landlord, condominium association, or cooperative association by the water service provider or sewerage service provider, as appropriate. In no event shall an occupant be charged more for any billing period than the amount, based on applicable rates, attributable to that occupant’s measured total water service or sewerage service usage, or both, as appropriate, to the dwelling unit, as measured by the sub-metering device for that occupant’s dwelling unit. Occupants shall be billed on the same billing cycle as the water service provider or sewerage service provider, as appropriate, bills the landlord, condominium association, or cooperative association for water service or sewerage service;

(3) A landlord, condominium association, or cooperative association shall not charge the occupant of a dwelling unit separately for water or sewerage service usage measured by a sub-meter, or allow the occupant to be so charged, unless the sub-meter measures only water or sewerage service usage, as appropriate, that is available for the exclusive use of the particular dwelling unit and only to the area within the exclusive possession and control of the occupant of such dwelling unit and does not measure any water or sewerage service for any portion of the common areas or by any other party or dwelling unit; provided, however, that a landlord, condominium association, or cooperative association shall not charge an occupant for water or sewerage service, as appropriate, through the use of a sub-meter to the dwelling unit prior to the landlord’s, condominium association’s, or cooperative association’s installation of a fully functional water conservation device in the dwelling unit; and provided further, that the landlord, condominium association, or cooperative association shall ensure that the water conservation device is installed and functioning properly at the commencement of each subsequent tenancy in the dwelling unit;

(4) Occupants shall not be charged any administrative fee that represents the landlord’s, condominium association’s, or cooperative association's costs in administering the billing program, including services provided by a third-party vendor; and

(5) Occupants who fail to pay the sub-metered bill within the specified payment period, which shall be no less than 28 days, may be assessed a fee equal to 2.5 percent of the sub-metered bill, or $25, whichever is less, for each late payment.

b. Any landlord, condominium association, or cooperative association utilizing the authority conferred under subsection a. of this section shall disclose to each occupant in the lease or ownership agreement the use of sub-metering, and shall include a description of the billing method used and list of specified amounts charged for billing fees, late fees, or both, as applicable.

c. Every sub-meter shall be installed solely by a master plumber, as that term is defined in section 2 of P.L.1968, c.362 (C.45:14C-2), licensed in this State. Every sub-meter shall meet the accuracy standards of the American Society of Mechanical Engineers, the American National Standards Institute, the American Water Works Association, the National Institute of Standards and Technology, or the International Association of Plumbing and Mechanical Officials.

d. Bills sent to occupants shall include the following items:

(1) the sub-meter’s opening and closing measurements;

(2) a description of charges and billing method; and

(3) the identification of the person, billing company, or other entity designated to read the sub-meter and to send bills to the occupants of the dwelling unit, including a toll-free number and Internet site for occupants to use for questions regarding their bill.

e. The cost of the installation of a sub-meter or any initial setup fee or charge shall not be passed on to the occupant.

f. Water service charges or sewerage service charges relating to sub-metering shall be exempted from any local rent control ordinance governing allowable increases.

g. A landlord, condominium association, or cooperative association shall respond to any occupant’s report of a leak in a plumbing line or fixture on the occupant’s side of the sub-meter in a dwelling unit within 24 hours after receiving the occupant’s report, verbally or in writing, of the suspected leak. The leak shall be repaired within 36 hours after the landlord, condominium association, or cooperative association receives the occupant’s report of the suspected leak. If the landlord, condominium association, or cooperative association does not respond to the occupant’s report and have the suspected leak repaired as required pursuant to this subsection, the occupant shall receive a credit from the landlord, condominium association, or cooperative association in an amount that is calculated as follows: the total amount billed for water or sewerage service charges in the monthly billing cycle when the leak was reported less the lowest total amount billed for water or sewerage service charges during the three months immediately preceding the month in which the leak was reported.

h. (1) Sub-metering technology may be installed at any time during the occupancy of the dwelling unit in a multi-family dwelling. Sub-metering billing shall be permitted immediately upon the adoption of rules and regulations by the Department of Community Affairs, pursuant to section 8 of this act.

(2) Subject to the provisions of paragraph (1) of this subsection, in the case of a dwelling unit occupied by a occupant in a multi-family dwelling that is subject to rent control, sub-metering shall not commence until the renewal date of the lease, provided that statements for six billing cycles shall have been sent to the occupant by the landlord, the landlord's billing company, or other entity designated by the landlord to send bills to the occupant, without charge for six consecutive months, informing the occupant of what the occupant’s water service charges or sewerage service charges would have been had the occupant been receiving actual bills. Upon the execution of any lease renewal at which sub-metering is initiated, the landlord of each multi-family dwelling subject to rent control shall give each occupant a one-time rent reduction, pursuant to a formula adopted by the Department of Community Affairs in the rules and regulations required by section 8 of this act, for the term of that lease renewal when sub-metering is initiated, that is equal to the anticipated monthly charge for the water service charges or sewerage service charges, or both, as appropriate. After the reduction in rent required pursuant to this paragraph, the landlord shall be entitled to the normal rent increase allowed by the applicable rent control ordinance provided that the rent increase is based on the amount of the reduced rent as provided by this paragraph.

i. A landlord, condominium association, or cooperative association of a multi-family dwelling constructed prior to January 1, 1994 who uses sub-metering shall implement the following water conservation program in each sub-metered dwelling unit within two years after the date that sub-metering billing commences at the multi-family dwelling:

(1) the landlord’s, condominium association’s, or cooperative association’s property management staff shall conduct a visual inspection for leaking fixtures on the occupant’s side of the sub-meter in each dwelling unit at the multi-family dwelling that will be sub-metered; and

(2) in the case of a multi-family dwelling, all dwellings of which are apartments, the landlord shall install or have previously installed in each such dwelling unit a water conservation device.

5. A landlord, condominium association, or cooperative association who, prior to the date of enactment of this act, shall have used sub-metering and billed occupants subject to a written agreement with the occupant recognizing the landlord’s, condominium association’s, or cooperative association’s right to bill the occupant for water service charges or sewerage service charges, or both, may continue sub-metering and billing occupants provided that the landlord, condominium association, or cooperative association complies with the provisions of this act.

6. Upon receipt from the landlord, condominium association, or cooperative association of a bill for water or sewerage service that is based on sub-metered usage and within the time allowed for paying the bill, an occupant may request that a person or entity with expertise in the installation and operation of water or sewerage service sub-meters and with no financial or other relationship with the landlord, condominium association, or cooperative association, test the sub-meter for the dwelling unit leased by the occupant to determine whether the sub-meter is accurately measuring the water or sewerage service, as appropriate, being used in the dwelling unit. If the sub-meter is found to be measuring more water or sewerage service, as appropriate, than is being used in the dwelling unit, the landlord, condominium association, or cooperative association shall install a new sub-meter at the landlord’s, condominium association’s, or cooperative association’s own expense and shall also pay for the cost of the test. In addition, the person or entity conducting the test shall determine as accurately as possible the amount of water or sewerage service, as appropriate, that was improperly measured by the sub-meter in both the prior and current billing periods. The landlord, condominium association, or cooperative association shall calculate the amount the occupant was overcharged for the prior billing period and reduce the bill by that amount or, if the occupant has already paid the bill, give the occupant a credit in that amount. Upon receipt from the water service provider or sewerage service provider, as appropriate, of the bill for the current billing period, the landlord, condominium association, or cooperative association shall calculate the amount of the bill attributable to the excessive measurement by the sub-meter and reduce the bill to the occupant by that amount prior to sending it to the occupant. If the sub-meter is found to be measuring no more water or sewerage service, as appropriate, than is being used in the dwelling unit, the occupant shall pay for the cost of the test; provided, however, that if the occupant does not pay for the cost of the test, the landlord, condominium association, or cooperative association may add that cost to the next bill sent to the occupant and that cost shall be considered a part of the bill.

7. Nothing in this act shall be construed to increase or expand, change, eliminate, reduce, or otherwise limit the liabilities or obligations of any water service provider or any sewerage service provider, as appropriate, that are set forth in any law, rule, regulation, or order.

8. The Department of Community Affairs, in consultation with the Department of Environmental Protection and the Board of Public Utilities, shall adopt, within 120 days after the effective date of this act, rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B‑1 et seq.), necessary to effectuate the purposes of this act.

The rules and regulations shall: include a formula as required pursuant to subsection h. of section 4 of this act providing a rent reduction, for the term of the initial lease renewal when sub-metering is initiated, equal to the anticipated monthly charge for the water service charges or sewerage service charges, or both, as appropriate; require periodic inspections of sub-meters installed pursuant to this act to ensure that the sub-meters accurately measure the water or sewerage used in the dwelling unit; and provide a process for a occupant to appeal water service charges or sewerage service charges, or both, as appropriate, in the case of overcharges by the landlord, condominium association, or cooperative association.

9. This act shall take effect immediately.

STATEMENT

This bill permits the sub-metering of water and sewerage service in multi-family dwellings, specifically, apartments, condominiums, and cooperatives, but not in any hotel, motel, or public housing facility. The sub-metering of water usage is intended to promote water conservation.

The bill permits a landlord, condominium association, or cooperative association to provide for sub-metering of each dwelling unit for the total or partial quantity of the water used by, or sewerage flowed from, the occupants of the dwelling unit.

Occupants may be billed for water or sewerage service, or both, based on the following:

(1) The sub-meter or sub-meters installed for each dwelling unit shall measure the total or partial amount of water consumed, or the sewerage service used in the dwelling unit, which amount shall be multiplied by the applicable rates for water service or sewerage service, or in accordance with those rates, as charged by the water service provider or sewerage service provider, as appropriate, servicing the multi-family dwelling;

(2) The cumulative charges for any billing period that are billed to all occupants of a multi-family dwelling in which sub-meters have been installed hereunder shall not exceed the total water service charges or sewerage service charges for that multi-family dwelling billed for that period to the landlord, condominium association, or cooperative association by the water service provider or sewerage service provider, as appropriate. In no event is an occupant to be charged more for any billing period than the amount, based on applicable rates, attributable to that occupant’s measured total water service or sewerage service usage, or both, as appropriate, to the dwelling unit, as measured by the sub-metering device for that occupant’s dwelling unit. Occupants are to be billed on the same billing cycle as the water service provider or sewerage service provider, as appropriate, bills the landlord, condominium association, or cooperative association for water service or sewerage service;

(3) A landlord, condominium association, or cooperative association is not to charge the occupant of a dwelling unit separately for water or sewerage service usage measured by a sub-meter, or allow the occupant to be so charged, unless the sub-meter measures only water or sewerage service usage, as appropriate, that is available for the exclusive use of the particular dwelling unit and only to the area within the exclusive possession and control of the occupant of such dwelling unit and does not measure any water or sewerage service for any portion of the common areas or by any other party or dwelling unit; provided, however, that a landlord, condominium association, or cooperative association shall not charge the occupant for water or sewerage service, as appropriate, through the use of a sub-meter to the dwelling unit prior to the landlord’s, condominium association’s, or cooperative association’s installation of a fully functional water conservation device in the dwelling unit; and provided further, that the landlord, condominium association, or cooperative association shall ensure that the water conservation device is installed and functioning properly at the commencement of each subsequent occupancy in the dwelling unit;

(4) Occupants are not to be charged any administrative fee that represents the landlord’s, condominium association’s, or cooperative association's costs in administering the billing program, including services provided by a third-party vendor; and

(5) Occupants that fail to pay the sub-metered bill within the specified payment period, which is to be no less than 28 days, may be assessed a fee equal to 2.5 percent of the sub-metered bill or $25, whichever is less, for each late payment.

The bill provides that any landlord, condominium association, or cooperative association installing a sub-metering system is to disclose this information in the lease or ownership agreement to each occupant, and is to include a description of the billing method used and list of specified amounts charged for billing fees, late fees, or both, as applicable. Every sub-meter is to be installed solely by a licensed master plumber and the sub-meter is to meet the accuracy standards of the American Society of Mechanical Engineers, the American National Standards Institute, the American Water Works Association, the National Institute of Standards and Technology, or the International Association of Plumbing and Mechanical Officials.

Bills sent to occupants are to include the following items: (1) the sub-meter’s opening and closing measurements; (2) a description of the charges and billing method; and (3) the identification of the person, billing company or other designated billing entity, including a toll-free number and an Internet site for occupants to use for questions regarding their bill. The cost of the installation of the sub-meter or any setup fee or charge cannot be passed on to the occupant.

The bill requires a landlord, condominium association, or cooperative association to respond to any occupant’s report of a leak in a plumbing line or fixture on the occupant’s side of the sub-meter in a dwelling unit within 24 hours after receiving the occupant’s report, verbally or in writing, of the suspected leak. The leak is to be repaired within 36 hours after the occupant’s report of the suspected leak is received by the landlord, condominium association, or cooperative association. If the landlord, condominium association, or cooperative association does not meet these requirements, the bill provides that the occupant is to receive a credit from the landlord, condominium association, or cooperative association in an amount equal to the total amount billed for water or sewerage service charges in the monthly billing cycle when the leak was reported, less the lowest total amount billed for water or sewerage service charges during the three months immediately preceding the month in which the leak was reported.

The bill provides that all water service charges or sewerage service charges relating to sub-metering are to be exempted from any local rent control ordinance governing allowable increases.

Sub-metering technology may be installed at any time during the occupancy of the dwelling unit in a multi-family dwelling. Sub-metering billing is to be permitted immediately upon the adoption of rules and regulations by the Department of Community Affairs (DCA), except as provided in the bill.

The bill requires a landlord, condominium association, or cooperative association of a multi-family dwelling constructed prior to January 1, 1994 that uses sub-metering to implement a water conservation program in each sub-metered dwelling unit within two years after the date that sub-metering billing commences at the multi-family dwelling. The water conservation program requires that:

(1) the landlord’s, condominium association’s, or cooperative association’s property management staff conduct a visual inspection for leaking fixtures on the occupant’s side of the sub-meter in each dwelling unit at the multi-family dwelling that is to be sub-metered; and

(2) in the case of a multi-family dwelling, all dwellings of which are apartments, the landlord is to install or have previously installed in each dwelling unit a “water conservation device” as that term is defined in the bill.

The bill allows a landlord, condominium association, or cooperative association who, prior to the date of enactment of the bill into law, used sub-metering and billed occupants subject to a written agreement with the occupant that recognizes the landlord’s, condominium association’s, or cooperative association’s right to bill the occupant for water service or sewerage service, or both, to continue sub-metering and billing occupants.

The bill gives occupants the right to challenge the accuracy of the sub-meter used to measure water or sewer service to their dwelling unit.

The bill clarifies that it does not effect the provisions of any law, rule, regulation, or order concerning the liabilities or obligations of any water service provider or any sewerage service provider.

Lastly, the bill requires the DCA, in consultation with the Department of Environmental Protection and the Board of Public Utilities, to adopt, within 120 days after the effective date of the bill, rules and regulations necessary to implement the provisions of the bill.