

1-1 By: Creighton S.B. No. 873
 1-2 (In the Senate - Filed February 14, 2017; February 27, 2017,
 1-3 read first time and referred to Committee on Agriculture, Water &
 1-4 Rural Affairs; April 12, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 4, Nays 3;
 1-6 April 12, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15		X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 873 By: Kolchorst

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the authority and liability of owners and managers of
 1-20 apartment houses, manufactured home rental communities,
 1-21 condominiums, and multiple use facilities in charging tenants for
 1-22 submetered and nonsubmetered master metered water and wastewater
 1-23 services.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 13.501, Water Code, is amended by adding
 1-26 Subdivisions (1-a) and (9) and amending Subdivision (5) to read as
 1-27 follows:

1-28 (1-a) "Condominium manager" or "manager of a
 1-29 condominium" means a condominium unit owners' association
 1-30 organized under Section 82.101, Property Code, or an incorporated
 1-31 or unincorporated entity comprising the council of owners under
 1-32 Chapter 81, Property Code.

1-33 (5) "Owner" means the legal titleholder of an
 1-34 apartment house, manufactured home rental community, or multiple
 1-35 use facility and any individual, firm, or corporation expressly
 1-36 identified in a lease agreement as ~~[that purports to be]~~ the
 1-37 landlord of tenants in the apartment house, manufactured home
 1-38 rental community, or multiple use facility. The term does not
 1-39 include the manager of an apartment home unless the manager is
 1-40 expressly identified as the landlord in the lease agreement.

1-41 (9) "Utility costs" or "utility service costs" means
 1-42 any amount charged to the owner by a retail public utility for water
 1-43 or wastewater service.

1-44 SECTION 2. Section 13.503, Water Code, is amended by adding
 1-45 Subsection (f) to read as follows:

1-46 (f) This section does not limit the authority of an owner,
 1-47 operator, or manager of an apartment house, manufactured home
 1-48 rental community, or multiple use facility to charge, bill for, or
 1-49 collect rent, an assessment, an administrative fee, a fee relating
 1-50 to the upkeep or management of chilled water, boiler, heating,
 1-51 ventilation, air conditioning, or other building system, or any
 1-52 other amount that is unrelated to utility costs.

1-53 SECTION 3. Section 13.5031, Water Code, is amended to read
 1-54 as follows:

1-55 Sec. 13.5031. NONSUBMETERING RULES. (a) Notwithstanding
 1-56 any other law, the utility commission shall adopt rules and
 1-57 standards governing billing systems or methods used by manufactured
 1-58 home rental community owners, apartment house owners, condominium
 1-59 managers, or owners of other multiple use facilities for prorating
 1-60 or allocating among tenants nonsubmetered master metered utility

2-1 service costs. In addition to other appropriate safeguards for the
 2-2 tenant, those rules shall require that:

2-3 (1) the rental agreement contain a clear written
 2-4 description of the method of calculation of the allocation of
 2-5 nonsubmetered master metered utilities for the manufactured home
 2-6 rental community, apartment house, or multiple use facility;

2-7 (2) the rental agreement contain a statement of the
 2-8 average manufactured home, apartment, or multiple use facility unit
 2-9 monthly bill for all units for any allocation of those utilities for
 2-10 the previous calendar year;

2-11 (3) except as provided by this section, an owner or
 2-12 condominium manager may not impose additional charges on a tenant
 2-13 in excess of the actual charges imposed on the owner or condominium
 2-14 manager for utility consumption by the manufactured home rental
 2-15 community, apartment house, or multiple use facility;

2-16 (4) the owner or condominium manager shall maintain
 2-17 adequate records regarding the utility consumption of the
 2-18 manufactured home rental community, apartment house, or multiple
 2-19 use facility, the charges assessed by the retail public utility,
 2-20 and the allocation of the utility costs to the tenants;

2-21 (5) the owner or condominium manager shall maintain
 2-22 all necessary records concerning utility allocations, including
 2-23 the retail public utility's bills, and shall make the records
 2-24 available for inspection by the tenants during normal business
 2-25 hours; and

2-26 (6) the owner or condominium manager may charge a
 2-27 tenant a fee for late payment of an allocated water bill if the
 2-28 amount of the fee does not exceed five percent of the bill paid
 2-29 late.

2-30 (b) This section does not limit the authority of an owner,
 2-31 operator, or manager of an apartment house, manufactured home
 2-32 rental community, or multiple use facility to charge, bill for, or
 2-33 collect rent, an assessment, an administrative fee, a fee relating
 2-34 to the upkeep or management of chilled water, boiler, heating,
 2-35 ventilation, air conditioning, or other building system, or any
 2-36 other amount that is unrelated to utility costs.

2-37 SECTION 4. Section 13.505, Water Code, is amended to read as
 2-38 follows:

2-39 Sec. 13.505. RESTITUTION [~~ENFORCEMENT~~]. (a) In this
 2-40 section, "overcharge" means the amount, if any, a tenant is charged
 2-41 for submetered or nonsubmetered master metered utility service to
 2-42 the tenant's dwelling unit after a violation occurred relating to
 2-43 the assessment of a portion of utility costs in excess of the amount
 2-44 the tenant would have been charged under this subchapter.

2-45 (b) The utility commission has exclusive jurisdiction for
 2-46 violations under this subchapter.

2-47 (c) If [~~In addition to the enforcement provisions contained
 2-48 in Subchapter K, if~~] an apartment house owner, condominium manager,
 2-49 manufactured home rental community owner, or other multiple use
 2-50 facility owner violates a rule of the utility commission regarding
 2-51 utility costs, the person claiming the violation may file a
 2-52 complaint with the utility commission. If the utility commission
 2-53 determines that the owner or condominium manager overcharged a
 2-54 complaining tenant for water or wastewater service from the retail
 2-55 public utility, the utility commission shall require the owner or
 2-56 condominium manager, as applicable, to repay the complaining tenant
 2-57 the amount overcharged.

2-58 (d) Nothing in this section limits or impairs the utility
 2-59 commission's enforcement authority under Subchapter K [~~submetering
 2-60 of utility service consumed exclusively within the tenant's
 2-61 dwelling unit or multiple use facility unit or nonsubmetered master
 2-62 metered utility costs, the tenant may recover three times the
 2-63 amount of any overcharge, a civil penalty equal to one month's rent,
 2-64 reasonable attorney's fees, and court costs from the owner or
 2-65 condominium manager. However, an owner of an apartment house,
 2-66 manufactured home rental community, or other multiple use facility
 2-67 or condominium manager is not liable for a civil penalty if the
 2-68 owner or condominium manager proves the violation was a good faith,
 2-69 unintentional mistake].~~

3-1 SECTION 5. This Act takes effect immediately if it receives
3-2 a vote of two-thirds of all the members elected to each house, as
3-3 provided by Section 39, Article III, Texas Constitution. If this
3-4 Act does not receive the vote necessary for immediate effect, this
3-5 Act takes effect September 1, 2017.

3-6

* * * * *