

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 348

Senator Bacon

A BILL

To enact sections 4781.401, 5311.082, 5321.061, 1
5325.01, 5325.02, 5325.021, 5325.04, 5325.05, 2
5325.06, 5325.07, 5325.08, 5325.081, 5325.09, 3
5325.10, 5325.13, 5325.14, 5325.15, 5325.17, and 4
5325.18 of the Revised Code to regulate the 5
reselling of public utility service. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4781.401, 5311.082, 5321.061, 7
5325.01, 5325.02, 5325.021, 5325.04, 5325.05, 5325.06, 5325.07, 8
5325.08, 5325.081, 5325.09, 5325.10, 5325.13, 5325.14, 5325.15, 9
5325.17, and 5325.18 of the Revised Code be enacted to read as 10
follows: 11

Sec. 4781.401. A park operator shall comply with Chapter 12
5325. of the Revised Code. 13

Sec. 5311.082. A unit owners association shall comply with 14
Chapter 5325. of the Revised Code. 15

Sec. 5321.061. A landlord shall comply with Chapter 5325. 16
of the Revised Code. 17

Sec. 5325.01. As used in this chapter: 18

<u>(A) "Consumer" means a resident, tenant, or unit owner.</u>	19
<u>(B) "Landlord" and "tenant" have the same meanings as in section 5321.01 of the Revised Code.</u>	20 21
<u>(C) "Park operator" and "resident" have the same meanings as in section 4781.01 of the Revised Code.</u>	22 23
<u>(D) "Proprietor" means a landlord, park operator, unit owners association, or other person or entity that has an ownership interest in the property or in facilities at the property, as applicable.</u>	24 25 26 27
<u>(E) "Proprietor's agent" means any person or entity that provides public utility service or billing services related to public utility service to consumers for or on behalf of a proprietor.</u>	28 29 30 31
<u>(F) "Public utility service" includes service provided by an electric company, natural gas company, water-works company, or sewage disposal system company, but excludes a municipal corporation and cooperative.</u>	32 33 34 35
<u>(G) "Ratio utility billing system" means a method of billing a consumer by using a formula to allocate utility service charges based on factors including occupancy, square footage, or some combination of factors.</u>	36 37 38 39
<u>(H) "Unit owner" and "unit owners association" have the same meanings as in section 5311.01 of the Revised Code.</u>	40 41
<u>Sec. 5325.02. A proprietor or proprietor's agent charging rates, fees, or costs under this chapter shall measure public utility service provided to the consumer through a master meter, a master meter in conjunction with a submeter, or a public-utility-owned meter.</u>	42 43 44 45 46

Sec. 5325.021. (A) All meters operating under this chapter 47
shall meet the same accuracy and quality standards for utility 48
meters established by rule by the public utilities commission 49
under section 4905.28 of the Revised Code. 50

(B) (1) Upon the consumer's written request to the 51
proprietor, the proprietor shall test the accuracy of the 52
consumer's submeter. At the request of the consumer, the test 53
shall be conducted in the presence of the consumer or the 54
consumer's authorized representative and at a time convenient to 55
the consumer or consumer's representative desiring to observe 56
the test. 57

(2) The proprietor shall promptly inform the consumer or 58
consumer's representative of the results of the test. 59

(3) (a) A fee not to exceed fifty dollars may be charged to 60
the consumer if the submeter tests within accuracy standards. 61

(b) The fee shall be disclosed to the consumer at the time 62
of the lease, rental agreement, or association service 63
agreement. 64

Sec. 5325.04. A proprietor or proprietor's agent charging 65
consumers for public utility service shall allocate rates, fees, 66
and costs using one of the following methods: 67

(A) The actual rates, fees, and costs of consumption as 68
measured by a submeter for the public utility service provided 69
to the consumers; 70

(B) Market-based rates, fees, or charges as determined by 71
a proprietor or proprietor's agent that shall not exceed the 72
residential rates, fees, or charges collected in the immediate 73
service area from residential customers by public utilities for 74
the same type and quantity of service on an annualized basis; 75

(C) Fixed rate per unit of utility service, in which the 76
fixed rate per unit shall be set upon the commencement of the 77
lease, rental agreement, or association service agreement for 78
the term of the lease, rental agreement, or association service 79
agreement. 80

(D) Actual consumption as measured by a formula, including 81
a ratio utility billing system, for determining the cost of the 82
public utility service provided to a consumer. 83

Sec. 5325.05. (A) A proprietor or proprietor's agent 84
charging rates, fees, and costs for public utility services 85
under division (A) of section 5325.04 of the Revised Code may 86
charge one reasonable administrative fee to a consumer relating 87
to the provision of, or billing for, all public utility services 88
for which the consumer is charged under that division. 89

(B) Except for a fee imposed under division (B) (3) of 90
section 5325.021 of the Revised Code, a consumer may be charged 91
only one fee each month for all public utility services. 92

(C) The fee shall be disclosed to the consumer at the time 93
of the lease, rental agreement, or association service agreement 94
and expressed as a cost per unit of public utility service. 95

Sec. 5325.06. No proprietor or proprietor's agent charging 96
consumers for public utility services provided to common areas 97
and for commonly used equipment shall charge rates, fees, or 98
costs that exceed the actual rates, fees, or costs incurred for 99
public utility services for common areas and equipment. 100

Sec. 5325.07. A proprietor or proprietor's agent charging 101
consumers for public utility service shall bill consumers 102
monthly unless the proprietor or proprietor's agent is billed on 103
a less frequent basis by the utility. 104

Sec. 5325.08. Prior to entering into a rental agreement, association agreement, lease, or contract for public utility service, a proprietor or proprietor's agent shall provide to each prospective consumer an acknowledgment form to sign before entering into the agreement, lease, or contract that contains the following information: 105
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(A) A description of how the consumer shall be billed for public utility service; 111
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(B) Whether a charge will be allocated pursuant to section 5325.06 of the Revised Code; 113
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(C) An estimation of monthly and annual costs for the consumer based on a typical unit; 115
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(D) A clear statement that the residence is submetered, if applicable; 117
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(E) A clear statement that the consumer shall be responsible for actual rates, fees, or costs incurred for public utility services provided to common areas and for commonly used equipment in accordance with section 5325.06 of the Revised Code, if applicable. 119
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Sec. 5325.081. A consumer's bill for submetered electric service shall include all of the following information: 124
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(A) The date and reading of the submeter at the beginning and end of the period for which the bill is rendered; 126
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(B) The number of billing units metered; 128

(C) The computed rate per billing unit; 129

(D) The total payment amount due for electricity consumed; 130

(E) The name of the company supplying the public utility 131

service provided by the proprietor or proprietor's agent, along 132
with a clear and unambiguous statement that the bill is not 133
rendered by that company; 134

(F) The name and address of the consumer to whom the bill 135
is applicable; 136

(G) The name of the proprietor or proprietor's agent, 137
whichever rendered the bill, and the name or title, address, and 138
telephone number of the person or persons to be contacted in 139
case of a billing dispute. 140

Sec. 5325.09. (A) A proprietor or proprietor's agent shall 141
do the following: 142

(1) Maintain adequate records detailing all public utility 143
service measurements for which a proprietor or proprietor's 144
agent charges rates, fees, and costs pursuant to this chapter 145
and the charges for the service; 146

(2) Keep the records described in division (A)(1) of this 147
section applicable to the previous three years for a minimum of 148
three years after the termination of the lease, rental 149
agreement, association agreement, or any contract for public 150
utility service between a consumer and agent. 151

(B) Upon reasonable prior request, shall make a record 152
created under this section available for inspection by a 153
consumer during normal business hours. The consumer may inspect 154
only those records pertaining to that consumer's public utility 155
service consumption. 156

Sec. 5325.10. (A) A proprietor or proprietor's agent shall 157
be responsible for all costs related to routine operation, 158
routine repair, and routine maintenance of service lines. 159

(B) A proprietor's agent shall not be responsible for 160
repairs to service lines required as a result of a force majeure 161
event, tampering, or careless actions by a proprietor or 162
consumer. 163

Sec. 5325.13. (A) (1) A proprietor or proprietor's agent 164
may terminate public utility service for nonpayment. Such 165
termination, regardless of the type of service being terminated, 166
shall be done in accordance with all rules for terminating 167
public utility service for nonpayment established by the public 168
utilities commission as such rules are applied to electric light 169
companies or natural gas companies. 170

(2) A unit owners association may terminate public utility 171
service in accordance with this section regardless of whether 172
such authority is specifically set forth in documents required 173
by section 5311.05 or 5311.26 of the Revised Code. 174

(B) Termination of public utility service pursuant to this 175
section is not constructive eviction subject to Chapter 1923. or 176
5321. of the Revised Code. 177

Sec. 5325.14. (A) If a park operator, landlord, or 178
proprietor's agent terminates public utility service for a 179
consumer pursuant to section 5325.13 of the Revised Code, the 180
park operator or landlord waives the right to evict the consumer 181
for failure to make timely payment for public utility service 182
pursuant to Chapter 1923. of the Revised Code. 183

(B) If a park operator, landlord, or proprietor's agent 184
terminates public utility service for a consumer pursuant to 185
section 5325.13 of the Revised Code, the park operator's or 186
landlord's right to seek eviction for violations of any other 187
provision of a lease or rental agreement shall not be waived or 188

diminished. 189

Sec. 5325.15. Nothing in this chapter shall limit the 190
authority of the public utilities commission or other authority, 191
as jurisdictionally applicable, to prohibit or limit the 192
reselling of public utility service. 193

Sec. 5325.17. In addition to other remedies authorized by 194
law, the attorney general may bring a civil action to enforce 195
this chapter. The authority of the attorney general to bring an 196
action under this section shall not affect the right of a 197
consumer to pursue any remedy available under law for a failure 198
to comply with, or a violation of, this chapter. 199

Sec. 5325.18. If a proprietor or proprietor's agent fails 200
to comply with section 5325.04 or 5325.05 of the Revised Code, 201
or violates section 5325.06 of the Revised Code, the affected 202
consumer may bring a civil action to recover treble the total 203
amount of the overcharges resulting from a compliance failure or 204
violation as treble damages and reasonable attorney's fees, 205
obtain injunctive relief to prevent the recurrence of the 206
conduct, or both, within three years of the compliance failure 207
or violation. The three-year period shall begin when the 208
affected consumer discovered or reasonably should have 209
discovered the failure or violation. 210

(A) A consumer is not entitled to treble damages if the 211
proprietor or proprietor's agent refunds to the consumer the 212
amount of the overcharge by the earliest occurrence of the 213
following dates: 214

(1) Thirty days after the consumer notifies the proprietor 215
or proprietor's agent about the compliance failure or violation; 216

(2) Sixty days, if the consumer is billed monthly, or 217

ninety days, if the consumer is billed quarterly, after the 218
proprietor or proprietor's agent learns of or reasonably should 219
have learned of the compliance failure or violation, including 220
by the filing of an action described in division (A) (3) of this 221
section by any similarly situated consumer; 222

(3) Thirty days after the filing of any lawsuit by the 223
consumer relating to the compliance failure or violation. 224

(B) The consumer is not entitled to reasonable attorney's 225
fees if the proprietor or proprietor's agent refunds to the 226
consumer the amount of the overcharge by the earliest occurrence 227
of the following dates: 228

(1) Thirty days after the consumer notifies the proprietor 229
or proprietor's agent about the compliance failure or violation; 230

(2) Sixty days, if the consumer is billed monthly, or 231
ninety days, if the consumer is billed quarterly, after the 232
proprietor or proprietor's agent learns of or reasonably should 233
have learned of the compliance failure or violation, including 234
by the filing of an action by any similarly situated consumer. 235

(C) Divisions (A) and (B) of this section are not 236
applicable in either of the following cases: 237

(1) The proprietor or proprietor's agent overcharged the 238
consumer as a result of conduct that the proprietor or 239
proprietor's agent knew or reasonably should have known would 240
result in a failure to comply with section 5325.04 or 5325.05 of 241
the Revised Code or a violation of section 5325.06 of the 242
Revised Code. 243

(2) The consumer files a lawsuit to recover the amount of 244
the overcharge and at the time of the filing of the suit, the 245
amount by which the consumer was overcharged, less any amount 246

already refunded to the consumer, exceeds three hundred fifty
dollars.

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