



General Assembly

January Session, 2001

Amendment

LCO No. 7359

Offered by:

SEN. PETERS, 20th Dist.

To: Subst. Senate Bill No. 1343

File No. 164

Cal. No. 172

"AN ACT CONCERNING SUBMETERING."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (a) For the purposes of this section:

4 (1) "Customer service charge" means a fixed amount charged by a
5 water company for providing water to a building.

6 (2) "Dwelling unit" means any house or building, or portion thereof,
7 that is occupied, designed to be occupied, or is rented, leased or hired
8 out to be occupied, as a home or residence of one or more persons.

9 (3) "Landlord" means the owner, lessor or sublessor of a dwelling
10 unit, the building of which it is a part or the premises wherein a
11 customer receives water service through metered measurement.

12 (4) "Submetering" means use of a meter by a landlord who receives
13 water from a water company, which meter measures water supplied to
14 a portion of the premises for the purpose of the landlord's charging the

15 occupants of the premises separately for water usage.

16 (5) "Water company" means a water company, as defined in section
17 16-1 of the general statutes, or a municipal utility or any other
18 waterworks system owned, leased, maintained, operated, managed or
19 controlled by any unit of local government under any general statute
20 or any public or special act, which company, utility or system supplies
21 water to a landlord through metered measurement.

22 (b) No occupant of a dwelling unit may be separately charged for
23 water usage as measured through the use of submetering equipment
24 unless the landlord is in compliance with this section.

25 (c) A landlord may install or cause to be installed, at the expense of
26 such landlord, submetering equipment in the landlord's building to
27 measure the quantity of water provided for the exclusive use of each
28 dwelling unit, provided the landlord demonstrates, at such landlord's
29 expense, such equipment meets standards of accuracy and testing for
30 water company meters prescribed by the Department of Public Utility
31 Control, pursuant to section 16-259 of the general statutes.

32 (d) A landlord may not charge the occupants of a dwelling unit
33 separately for water supplied through a submeter, nor allow such
34 occupants to be so charged, unless the submeter measures only water
35 that is supplied for the exclusive use of the particular dwelling unit
36 and to an area within the exclusive possession and control of the
37 occupants of such dwelling unit and does not include any water usage
38 for any portion of the common areas or by any other party or dwelling
39 unit.

40 (e) A landlord shall determine a calculated cost per unit of water
41 consumption by dividing the total amount of any bill or invoice
42 provided to the landlord from the water company for water usage, the
43 customer service charge and taxes, but not including any interest for
44 late payment, penalty fees or other discretionary assessments or
45 charges, for all water provided to the premises through the water
46 company meter in that billing period, by the total amount of water

47 consumption for the entire premises. The total amount charged
48 separately to each submetered dwelling unit for water usage for any
49 billing period shall not exceed such calculated cost per unit of water
50 multiplied by the number of units of water delivered exclusively to the
51 particular dwelling unit. A landlord may not charge or recover, or
52 allow to be charged or recovered, any additional servicing,
53 administrative, establishment, meter-reading, meter testing, billing, or
54 submetering fee or other fee whatsoever, however denominated.

55 (f) (1) A landlord may not charge occupants separately, nor allow
56 occupants to be charged separately, for water usage resulting from
57 leakage, defective fixtures, or other conditions resulting in the wastage
58 of water, the maintenance or repair of which is the landlord's
59 responsibility pursuant to section 47a-7 of the general statutes. The
60 occupants shall be entitled to a refund of or credit from the landlord
61 against any such charges in an amount that reasonably reflects the cost
62 of such excess water usage that has improperly been charged to them,
63 except that, if the landlord does not have actual or constructive
64 knowledge of the condition leading to the increased water usage and
65 the occupant has actual knowledge of such condition but does not
66 notify the landlord within thirty days after receiving a water bill from
67 the landlord, the landlord shall not be required to make such refund
68 for water usage after such thirty-day period.

69 (2) Notwithstanding the provisions of subdivision (1) of this
70 subsection, if a landlord has actual knowledge of or has received actual
71 or constructive notice of leakage, defective fixtures, or other conditions
72 resulting in the wastage of water, the maintenance or repair of which is
73 the landlord's responsibility, and fails to remedy the conditions within
74 thirty days of such knowledge or notice, the landlord may not
75 thereafter charge occupants separately, nor allow occupants to be
76 charged separately, for any water usage, pursuant to this section,
77 except where the occupants have prevented maintenance or repair.
78 The occupant shall be entitled to a refund or credit from the landlord
79 against any such amounts that have improperly been charged to them.

80 (3) For purposes of this subsection, a landlord has constructive
81 knowledge or notice of a condition if the condition produces an
82 abnormal usage of water and such abnormal usage was known or
83 detected by the landlord or the agent or contractor of the landlord, or
84 would have been known or detected by the landlord or the agent or
85 contractor of the landlord if submeter readings had been monitored on
86 at least a monthly basis.

87 (g) Water usage separately charged to occupants pursuant to this
88 section shall be delivered by the water company to the landlord and
89 such landlord shall (1) be the consumer, as defined in section 16-1 of
90 the general statutes, (2) for billing purposes, be the customer of record,
91 (3) be responsible for payment of the water company bills, and (4) be
92 subject to any actions of the water company for nonpayment.

93 (h) In the event of nonpayment of a bill to a water company by the
94 landlord, such water company shall have all the remedies against the
95 customer of the water company available pursuant to any state statute,
96 law, rule or regulation. A landlord may not shut off or refuse water
97 service to an occupant on the basis that the occupant has not paid a
98 separately assessed submetered water usage charge. A water company
99 shall not terminate water service to the building or any part thereof,
100 but may pursue the remedy provided in section 16-262t of the general
101 statutes.

102 (i) A separately assessed charge for submetered water usage shall
103 not be deemed rent within the meaning of subsection (h) of section
104 47a-1 of the general statutes, section 47a-15 of the general statutes,
105 section 47a-15a of the general statutes, or any other provision of title
106 47a of the general statutes. No water usage bill to an occupant subject
107 to submetering may be considered overdue unless it remains unpaid
108 more than thirty-three days after it was mailed to the occupant, nor
109 may it be considered overdue for any period where the occupant is
110 disputing such bill pursuant to subsection (m) of this section.

111 (j) A landlord may neither charge occupants separately, nor allow

112 occupants to be charged separately, for submetered water usage unless
113 the occupants have signed a written lease that clearly and
114 conspicuously provides for such separate charge and that fully
115 discloses in plain language the details of the water submetering and
116 billing arrangement between the landlord and the occupant. The
117 landlord may institute any such charge only at the beginning of a new
118 leasing period and not during the term of a lease. Each bill for
119 submetered water usage shall clearly set forth all charges and all other
120 relevant information, including, but not limited to, the current and
121 immediately preceding submeter readings and the date of each such
122 reading, the amount of water consumed since the last reading, the
123 charge per unit of water, the total charge, the payment due date and
124 the method for questioning a bill.

125 (k) Prior to implementing a submetering system, a landlord shall file
126 with the Department of Public Utility Control a sworn statement of a
127 plumber licensed in this state and hired by the landlord stating that,
128 based on actual knowledge resulting from an examination and
129 inspection of the water distribution system and the testing of each
130 submeter, (1) each submeter measures water delivered exclusively to
131 each separate dwelling unit and no dwelling unit will be submetered
132 for water delivered to a common area, another dwelling unit or any
133 other area not within the exclusive possession and control of the
134 occupants of the dwelling unit; and (2) each submeter in the system
135 has been tested for accuracy by the landlord and every submeter meets
136 standards of accuracy for water company meters prescribed by the
137 department pursuant to section 16-259 of the general statutes. The
138 landlord shall provide notice by first class mail of such filing to the
139 Office of Consumer Counsel, the water company that provides service
140 to the building and, if any dwelling units that will be submetered are
141 occupied at the time of such filing, to all known adult occupants of
142 such dwelling units. The recipients of the notice may submit comments
143 on the filing to the department for up to thirty days following the date
144 of the filing. The department shall, no later than thirty days after the
145 close of the comment period, review the filing and comments for

146 compliance with the provisions of this section. The department, after
147 such review, shall notify, in writing, the landlord, the water company
148 that provides service to the building and any person or entity that has
149 submitted written comments pursuant to this subsection of the
150 determination it has made on the filing. If the department determines
151 that the filing is not in compliance with the provisions of this section, it
152 shall set forth in detail the items that are not in compliance. Upon
153 motion of the landlord or any person or entity that has submitted
154 written comments pursuant to this subsection that is aggrieved by the
155 determination made by the department, the department shall conduct
156 a contested case proceeding on such determination. The department
157 shall grant party status to the landlord and any person or entity that
158 has submitted written comments pursuant to this subsection and shall
159 give notice of the proceeding to parties to the proceeding.

160 (l) The Department of Public Utility Control shall adopt regulations,
161 in accordance with the provisions of chapter 54 of the general statutes,
162 to carry out the purposes of this section. Such regulations shall, at a
163 minimum, (1) establish procedures for instituting, maintaining and
164 terminating submetering systems, and (2) ensure that occupants
165 subject to submetering receive consumer protections against the
166 landlord that are at least as extensive as the consumer protections
167 against water companies contained in any general statute, law, rule or
168 regulation, including, but not limited to, subdivisions (1), (2) and (3) of
169 section 16-11-67, sections 16-11-69, 16-11-71, 16-11-77, 16-11-78, 16-11-
170 88 and 16-11-89 of the Regulations of Connecticut State Agencies, as
171 from time to time amended. No landlord may charge occupants
172 separately, nor allow occupants to be charged separately, for
173 submetered water usage except in compliance with all requirements
174 for submetering established by the Department of Utility Control and
175 by this section.

176 (m) Any occupant of a dwelling unit who disputes the accuracy of a
177 submetered water usage bill, the accurate functioning of a submeter or
178 the landlord's compliance with any rule, regulation, requirement or
179 order of the Department of Public Utility Control or other legal

180 authority governing the provision of water service may file a
181 complaint with the department. The department shall have the same
182 authority to order resolution of a complaint against a landlord, and the
183 landlord and the occupant shall have the same access to the same
184 procedures, including all rights of appeal, as if the complaint had been
185 filed against a water company. Any party aggrieved by the agency
186 decision may appeal from such decision in accordance with section 4-
187 183 of the general statutes. Appeals shall be privileged cases to be
188 heard by the court as soon after the return date as is practicable.

189 (n) Nothing in this section shall be construed to increase or expand
190 the relationship between the occupant of a dwelling unit that is
191 submetered and a water company, or to prevent the occupant of a
192 submetered dwelling unit from pursuing any other action or remedy
193 at law or equity that the occupant may have against the landlord, the
194 water company, or any other party.

195 (o) Nothing in this section shall be construed to increase or expand,
196 change, eliminate, reduce or otherwise limit the liabilities or
197 obligations of any water company that are set forth in any statute, law,
198 rule, regulation or order to occupants of a submetered building who
199 are receiving water provided to the building by the water company.

200 (p) Nothing in this section shall be construed to increase or expand
201 the jurisdiction of the Department of Public Utility Control with
202 respect to the regulation of any municipal water utility or any other
203 waterworks system owned, leased, maintained, operated, managed or
204 controlled by any unit of local government under any general statute
205 or any public or special act.

206 Sec. 2. Subdivision (10) of subsection (a) of section 16-1 of the
207 general statutes is repealed and the following is substituted in lieu
208 thereof:

209 (10) "Water company" includes every person owning, leasing,
210 maintaining, operating, managing or controlling any pond, lake,
211 reservoir, stream, well or distributing plant or system employed for

212 the purpose of supplying water to fifty or more consumers. A water
213 company does not include homeowners, condominium associations
214 providing water only to their members, homeowners associations
215 providing water to customers at least eighty per cent of whom are
216 members of such associations, a municipal waterworks system
217 established under chapter 102, a district, metropolitan district,
218 municipal district or special services district established under chapter
219 105, chapter 105a or any other general statute or any public or special
220 act which is authorized to supply water, or any other waterworks
221 system owned, leased, maintained, operated, managed or controlled
222 by any unit of local government under any general statute or any
223 public or special act or a landlord submetering water pursuant to
224 section 1 of this act, which water is supplied to the landlord by a water
225 company through metered measurement.

226 Sec. 3. The Department of Public Utility Control shall, in accordance
227 with the provisions of chapter 54 of the general statutes, amend
228 subdivision (5) of section 16-11-50 of the Regulations of Connecticut
229 State Agencies to exclude from the definition of "customer" any lessee
230 who is submetered by their landlord pursuant to this section."