



General Assembly

January Session, 2001

Amendment

LCO No. 7729

Offered by:

REP. GODFREY, 110th Dist.
REP. CURREY, 10th Dist.
REP. FRITZ, 90th Dist.
REP. PRELLI, 63rd Dist.
REP. POWERS, 151st Dist.

To: Subst. Senate Bill No. **1343**

File No. 164

Cal. No. 571

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING SUBMETERING."

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- 1 Strike section 1 and substitute the following in lieu thereof:
- 2 "Section 1. (NEW) (a) For the purposes of this section:
- 3 (1) "Customer service charge" means a fixed amount charged by a
- 4 water company for providing water to a building.
- 5 (2) "Dwelling unit" means any house or building, or portion thereof,
- 6 that is occupied, designed to be occupied, or is rented, leased or hired
- 7 out to be occupied, as a home or residence of one or more persons.
- 8 (3) "Landlord" means the owner, lessor or sublessor of a dwelling
- 9 unit, the building of which it is a part or the premises wherein a

10 customer receives water service through metered measurement.

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

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

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

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

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

39 (e) A landlord shall determine a calculated cost per unit of water
40 consumption by dividing the total amount of any bill or invoice

41 provided to the landlord from the water company for water usage, the
42 customer service charge and taxes, but not including any interest for
43 late payment, penalty fees or other discretionary assessments or
44 charges, for all water provided to the premises through the water
45 company meter in that billing period, by the total amount of water
46 consumption for the entire premises. The total amount charged
47 separately to each submetered dwelling unit for water usage for any
48 billing period shall not exceed such calculated cost per unit of water
49 multiplied by the number of units of water delivered exclusively to the
50 particular dwelling unit. A landlord may not charge or recover, or
51 allow to be charged or recovered, any additional servicing,
52 administrative, establishment, meter-reading, meter testing, billing, or
53 submetering fee or other fee whatsoever, however denominated.

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

68 (2) Notwithstanding the provisions of subdivision (1) of this
69 subsection, if a landlord has actual knowledge of or has received actual
70 or constructive notice of leakage, defective fixtures, or other conditions
71 resulting in the wastage of water, the maintenance or repair of which is
72 the landlord's responsibility, and fails to remedy the conditions within
73 thirty days of such knowledge or notice, the landlord may not
74 thereafter charge occupants separately, nor allow occupants to be

75 charged separately, for any water usage, pursuant to this section,
76 except where the occupants have prevented maintenance or repair.
77 The occupant shall be entitled to a refund or credit from the landlord
78 against any such amounts that have improperly been charged to them.

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

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

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

101 (i) A separately assessed charge for submetered water usage shall
102 not be deemed rent within the meaning of subsection (h) of section
103 47a-1 of the general statutes, section 47a-15 of the general statutes,
104 section 47a-15a of the general statutes, or any other provision of title
105 47a of the general statutes. No water usage bill to an occupant subject
106 to submetering may be considered overdue unless it remains unpaid

107 more than thirty-three days after it was mailed to the occupant, nor
108 may it be considered overdue for any period where the occupant is
109 disputing such bill pursuant to subsection (m) of this section.

110 (j) A landlord may neither charge occupants separately, nor allow
111 occupants to be charged separately, for submetered water usage unless
112 the occupants have signed a written lease that clearly and
113 conspicuously provides for such separate charge and that fully
114 discloses in plain language the details of the water submetering and
115 billing arrangement between the landlord and the occupant. The
116 landlord may institute any such charge only at the beginning of a new
117 leasing period and not during the term of a lease. Each bill for
118 submetered water usage shall clearly set forth all charges and all other
119 relevant information, including, but not limited to, the current and
120 immediately preceding submeter readings and the date of each such
121 reading, the amount of water consumed since the last reading, the
122 charge per unit of water, the total charge, the payment due date and
123 the method for questioning a bill.

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

141 such dwelling units. The recipients of the notice may submit comments
142 on the filing to the department for up to thirty days following the date
143 of the filing. The department shall, no later than thirty days after the
144 close of the comment period, review the filing and comments for
145 compliance with the provisions of this section. The department, after
146 such review, shall notify, in writing, the landlord, the water company
147 that provides service to the building and any person or entity that has
148 submitted written comments pursuant to this subsection of the
149 determination it has made on the filing. If the department determines
150 that the filing is not in compliance with the provisions of this section, it
151 shall set forth in detail the items that are not in compliance. Upon
152 motion of the landlord or any person or entity that has submitted
153 written comments pursuant to this subsection that is aggrieved by the
154 determination made by the department, the department shall conduct
155 a contested case proceeding on such determination. The department
156 shall grant party status to the landlord and any person or entity that
157 has submitted written comments pursuant to this subsection and shall
158 give notice of the proceeding to parties to the proceeding.

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

175 (m) Any occupant of a dwelling unit who disputes the accuracy of a
176 submetered water usage bill, the accurate functioning of a submeter or
177 the landlord's compliance with any rule, regulation, requirement or
178 order of the Department of Public Utility Control or other legal
179 authority governing the provision of water service may file a
180 complaint with the department. The department shall have the same
181 authority to order resolution of a complaint against a landlord, and the
182 landlord and the occupant shall have the same access to the same
183 procedures, including all rights of appeal, as if the complaint had been
184 filed against a water company. Any party aggrieved by the agency
185 decision may appeal from such decision in accordance with section 4-
186 183 of the general statutes.

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

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

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