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Testimony of Shirley Bergert¹ Before the Energy & Technology Committee Regarding Proposed Bill 5209

An Act Concerning the Billing of Landlords and Tenants By Electric Distribution Companies February 17, 2011

Connecticut Legal Services serves low income households in Connecticut, providing legal advice and assistance in both landlord/tenant issues and energy related matters. These are our vulnerable neighbors at greatest risk in affording and maintaining necessary utility and energy services.

Suggested action: Reject bill as proposed.

This bill appears to intend an immediate remedy for a landlord who, once caught, corrects an illegal energy metering situation in which tenants are held responsible for energy services provided to another apartment or shared areas in a building. The tenant would retain liability to a utility company for potentially thousands of dollars of service the law says the landlord should not have allowed the tenant to be charged, with no remediation for the tenant.

Current Connecticut law governing the subject matter of this bill is good, but not enforced and with very limited remediation available to tenants, leaving them vulnerable to abuses. The law:

- provides landlords are liable for the costs of electricity, gas, running and hot water and heating fuel unless these services are individually metered for the exclusive use of the tenant in that dwelling unit, meaning the meter cannot cover common areas such as halls, basements and exterior lights (CGS secs. 16-262e(c), 47a-7(a), and 47a-4(b));
- precludes tenants from waiving the protections regarding liability for energy and utility services not for the tenant's exclusive use (CGS sec. 47a-4);
- does not allow a landlord to legally receive rent if heat, running water and hot water are billed to a tenant by a supplier and these services are for more than the tenant's exclusive use (CGS sec. 47a-4a).

Under agreement with a landlord to be responsible for certain of a tenant's utility service, too often a tenant contracts with the utility company for metered energy services which, unknown to the tenant, covers far more than his/her apartment. We've seen cases where this has gone on for years. Rent is paid and accepted, and the utility or energy company holds the tenant liable for the energy or utility bill.

¹ Member of the Low Income Energy Advisory Board, Energy Conservation Management Board, Fuel Oil Conservation Board, and the Advisory Board for the Institute for Sustainable Energy.



It can take significant time for a utility to investigate a tenant customer's complaint that s/he is being held responsible for utility costs for other dwellings or areas shared with other tenants. Only the *prospective* utility bill is moved to the landlord's name after such investigation demonstrates the tenant is correct – and it is not always possible to verify if the utility investigator can't readily access wiring or gas piping. The landlord is not billed for past use even when it is apparent the meter has covered more than a single dwelling for an extended period. Rather, the utility holds the tenant liable for the back bill, which can be thousands of dollars and unaffordable for the tenant.

The complaint to the utility often comes when the tenant has exhausted other options and is in dispute with the landlord. If the tenant moves out before the utility company has either investigated or shifted the bill to the landlord's name, the utility takes no action. The situation can repeat itself endlessly with unsuspecting new tenants being billed for service in violation of Connecticut law.

It is difficult for a tenant to recover amounts from a landlord who allows them to be billed illegally for energy services for other tenants or in common areas. This would generally require filing suit, not an easy effort to undertake without an attorney. Filing suit, expert testimony to prove the dollar value for energy services provided to other dwellings or common areas, and collection efforts can be costly, so costly they may functionally preclude successful litigation. However, the tenant retains liability for the utility bill for services for which the law says they should not be responsible. This jeopardizes both the tenant's access to necessary energy services and their credit rating.

Setting up an immediate practical remedy for the landlord – allowing the landlord and utility company to put service in the tenant's name without the tenant contracting for this service – with no practical remedy for the tenant to recover payments and liability for any unpaid back bill which should have been the landlord's liability, creates a perverse incentive for landlords to allow tenants to be billed for energy services for which the landlord should have liability under the law, only taking corrective steps if caught. There is an inherent and unbalanced injustice in such an approach and the bill should therefore be rejected.