

Chapter 4553. SHARED-METERED RESIDENTIAL BUILDINGS; BILLING; TENANT PROTECTIONS.

4553.01 - Definitions

The following definitions apply for the purposes of this chapter:

- A. “Residential utility reselling” means a property owner or operator charging a Tenant an amount for Utility services that is a distinct charge, separate from the standard monthly rental charge, and that includes any of the following:
 - 1. The use of a Master meter or one or more Submeters for purposes of determining Utility service charges;
 - 2. The use of a Third-party billing agent to bill or charge the Tenant for Utility service, as well as direct billing of the Tenant by the property owner or operator for a Utility service.
- B. “Shared-metered residential building” means a residential building with multiple separate residential dwelling units where the building's Utility service is measured by fewer meters than the number of separate dwelling units in the building. Shared-metered residential buildings do not include a manufactured home park.
- C. “Submeter” means a device that:
 - 1. Is used by a property owner or by a Third-party billing agent or other agent of the property owner, and;
 - 2. Measures Utility service consumed solely within an individual residential dwelling unit in a Shared-metered residential building.
- D. “Master meter” means a device that measures the total amount of Utility service provided to one or more residential dwelling units and/or one or more common areas. “Master meter” excludes any form of submeter.
- E. “Common area” means any area in a Shared-metered residential building for which Utility service is provided that is available for use by any of the following:
 - 1. Multiple Tenants who do not cohabit;
 - 2. A person who is neither a Tenant, nor a guest of a Tenant;
 - 3. The property owner or operator.,
- F. “Utility charge” means a distinct charge billed to a Tenant for Utility service;
- G. “Utility provider” means any entity that provides Utility service as defined in this Chapter.
- H. “Utility service” means the provision of electric, natural gas, water, or sewage disposal services.
- I. “Third-party billing agent” means a person or entity, other than the property owner, that performs one or more utility management services at a Shared-metered residential building on behalf of a property owner or operator.
- J. “Non-usage charges” means the total of the charges on the utility bill from a Utility provider that represents all nonconsumption-based charges and fees, including but not limited to, fixed-meter or service charges, taxes, surcharges, and other fees.

K. "Apportion" means to divide and allocate.

L. "Tenant" means a person who is occupying a residential dwelling unit in a Shared-metered residential building under a written lease or oral tenancy, that provides for the rental of such dwelling unit and that requires the payment of money or exchange of services.

4553.02 – Residential utility reselling

Except as otherwise provided in section 4553.03, a property owner or operator can practice Residential utility reselling only under the following conditions:

A. Except as otherwise permitted in this Chapter, all rates and charges that a property owner or operator or a Third-party billing agent passes on to a Tenant shall not exceed the amounts that would be charged by the Utility provider if the Utility provider had billed the Tenant directly, except for the following fees:

1. A property owner or operator or a Third-party billing agent may impose at maximum an \$8.00 administrative fee per billing cycle.
2. Except as otherwise provided by a contract between the Tenant and the property owner, a late payment charge, no greater than the property owner or operator is billed by the Utility provider, may be imposed.

B. A property owner or operator or a Third-party billing agent may charge a Tenant an amount for Utility service that is based on a ratio or formula, such a ratio or formula may be based on the number of occupants, square footage, or other similar factors, provided that the ratio or formula does not violate section 4553.03(A)(2).

C. A property owner or operator or a Third-party billing agent may use one or more submeters to determine the cost of Utility service provided to Common areas and factor the Tenant's portion of that cost into a standard monthly Utility charge, provided payments made by the Tenant are first applied towards the payment of rent.

4553.03 – Prohibitions

A. A property owner or operator or Third-party billing agent shall not:

1. Use a ratio or formula that charges in the aggregate, for all Tenants who receive Utility service through a single Master meter, more than the total bill that the property owner or operator received for that Master meter; or
2. Remove or cause to be removed a directly metered Tenant's name from the Tenant's existing utility account until renewal of the Tenant's lease or expiration of the Tenant's lease; or
3. Charge a Tenant for Utility service consumed in areas and spaces used exclusively or primarily by the landlord or operator; or
4. Bill Tenants less frequently than the property owner or operator is billed by the Utility provider.

B. This chapter may not be waived by contract or otherwise.

C. Nothing in this chapter prevents a property owner or operator from purchasing a component of Utility service through a competitive provider at a rate that is different than the rate

for that component under the Utility provider's standard service offer, if the property owner or operator is still compliant with this chapter.

4553.04. Billing requirements for Residential utility reselling:

- A. Property owners, operators, or Third-party billing agents shall provide Tenants a written statement at the outset of each lease term and each renewal term indicating when utility bills will be issued and how bills are processed.
- B. If Utility service is Submetered, utility bills provided by property owners or operators or Third-party billing agents to Tenants must be based on actual submeter readings.
- C. Property owners or operators or Third-party billing agents shall include the following information on each Utility bill they provide:
 - 1. The current and last preceding submeter readings;
 - 2. The date of the current reading;
 - 3. The rate at which the Utility service is being billed, the amount of the service billed at the rate, and the rate at which the property owner or operator is being billed by the Utility provider for the Utility service;
 - 4. The Tenant's portion of taxes and surcharges;
 - 5. If any, the portion of any bill credit the property owner or operator received from the Utility provider that is credited to the Tenant;
 - 6. Any administrative billing charge, including charges associated with Common Areas as provided in section 4553.02;
 - 7. All non-usage charges;
 - 8. The total amount of the Tenant's bill;
 - 9. The date by which payment is due; the date after which, if the bill is not paid, a late payment charge may be imposed; and the amount of the charge, if any, as provided in sections 4553.02 and 4553.03.

4553.05. Separate billing for electricity.

- A. A property owner or operator or Third-party billing agent who bills a Tenant separately from rent for electricity service must comply with all billing requirements of section 4553.04.
- B. A property owner or operator or Third-party billing agent who submeters electricity shall, in addition to the requirements of section 4553.04:
 - 1. Only charge for the electricity used in the Tenant's unit, calculated by multiplying the kilowatt-hours used during the billing period, as measured by the submeter, by the rate charged to the landlord by the Utility provider;
 - 2. Charge a Tenant only for the Tenant's pro rata share of non-usage charges, calculated by dividing the charges the property owner or operator is billed by the Utility provider equally among the number of units in the building; and
 - 3. Deduct from a Tenant's total bill the Tenant's pro rata share of any bill credits or adjustments received by the property owner or operator on the bill from the Utility provider by dividing the credit or adjustment equally among the number of units in the building; and
 - 4. Deduct 50% for Utility service consumed in areas and spaces only accessible to the Tenant when the owner or operator is on site and or exclusively used by the Property owners or operators.

4553.06. Billing errors.

A. If a billing error occurs that has resulted in an overcharge, the property owner or operator or Third-party billing agent must, within 30 days, refund the difference between what the Tenant paid and what the Tenant would have paid but for the error.

B. If a billing error has occurred that has resulted in an undercharge, the property owner or operator or Third-party billing agent may bill the Tenant for the difference between what the Tenant paid and what the Tenant would have paid but for the billing error, for a period not exceeding six months.

C. Any undercharge must be recovered in accordance with section 4553.08.

4553.07. Payment plans.

A property owner or operator or Third-party billing agent must offer a payment plan for overdue utility bills. If the property owner or operator or Third-party billing agent and Tenant cannot agree on a mutually acceptable payment plan, the property owner or operator or Third-party billing agent must inform the Tenant of the ability to seek assistance from the Department of Development's division of housing stabilization or The Legal Aid Society of Columbus in resolving the dispute and provide the Tenant the current telephone number and email address for each.

4553.08. Undercharges.

A property owner or operator or Third-party billing agent must offer a payment plan to Tenants who have been undercharged, provided that neither the Tenant nor a member of the Tenant's household caused the undercharge. The agreement must cover a period equal to the time over which the undercharge occurred or a different period that is mutually agreeable to the Tenant and the property owner or operator or Third-party billing agent. No interest or delinquency fee may be charged as part of a payment plan under this section.

4553.09 Severability

The provisions of this Chapter shall be deemed severable; and, if any such provision shall be held unconstitutional by a court of competent jurisdiction the decision of such court shall not impair any of the remaining provisions.

4553.11 Enforcement and Penalties

A. If the Director determines that a property owner or operator or Third-party billing agent has failed to comply with the requirements of this Chapter, a Notice of Violation shall be issued in accordance with Chapter 4509. Failure to comply with the Notice of Violation by the date specified therein shall subject the property owner or operator or Third-party billing agent to penalties as set forth in Section 4553.99.

B. The Notice of Violation shall state the date on which the assessment of civil penalties shall commence.

C. Appeals. If the Director issues a Notice of Violation, the property owner, operator or Third-party billing agent who received notice may appeal to the Property Maintenance Appeals Board, pursuant to Chapter 4509.

4553.99 Civil penalty; effect of appeal.

- A. In addition to any other remedy or penalty provided in this Housing Code or the Ohio Revised Code, a property owner or operator or Third-party billing agent who fails to comply with a Notice of Violation issued pursuant to this Chapter by the date specified in the notice may incur a civil penalty of one hundred-fifty dollars (\$150.00) for each calendar day thereafter that the property owner or operator or Third-party billing agent fails to comply with the orders in the Notice of Violation.
- B. In addition to any other remedy available by law, the Director may file a civil action in the Environmental Division of the Franklin County Municipal Court seeking a court order to recover any accumulated civil penalties.
- C. Upon the property owner or operator or Third-party billing agent appealing a Notice of Violation to the Property Maintenance Appeals Board pursuant to Chapter 4509, any enforcement action seeking compliance with the ordered abatement, including the collection of civil penalties imposed pursuant to this section, shall be stayed until the Property Maintenance Appeals Board issues its decision on the appeal. Civil penalties incurred pursuant to this section shall continue to be assessed during the pendency of any appeal to the Property Maintenance Appeals Board and any subsequent court on appeal, and shall be subject to collection upon a final judgment on the appeal.