

ASSEMBLY, No. 2027

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

SYNOPSIS

Permits water and sewerage service sub-metering in multi-family dwellings.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the sub-metering of water and sewerage service
 2 in multiple dwellings, and supplementing Title 55 of the Revised
 3 Statutes.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. This act shall be known and may be cited as the “Water and
 9 Sewerage Service Sub-Metering and Water Conservation Act.”

10
 11 2. The Legislature finds and declares that the conservation of
 12 water resources is vitally important to the future of our State.

13 The Legislature further finds and declares that in order to
 14 enhance the conservation of water resources, it is necessary to grant
 15 specific authority to landlords of apartments, condominium associations
 16 and cooperative associations for the sub-metering of water and
 17 sewerage service provided to the occupants of these dwellings
 18 throughout the State.

19 The Legislature therefore determines that it is appropriate for the
 20 Department of Community Affairs, which has extensive regulatory
 21 authority over these dwellings, to adopt, in consultation with the
 22 Department of Environmental Protection and the Board of Public
 23 Utilities, rules and regulations governing the installation and use of
 24 sub-metering as a water conservation method.

25
 26 3. As used in this act:

27 “Condominium association” shall have the same meaning as
 28 “association” as that term is defined in section 3 of P.L.1969,
 29 c.257 (C.46:8B-3).

30 “Cooperative association” shall have same meaning as
 31 “association” as that term is defined in section 3 of P.L.1987,
 32 c.381 (C.46:8D-3).

33 "Dwelling unit" means an individual residential unit consisting
 34 of an apartment, or a unit held under a condominium or cooperative
 35 association.

36 "Multi-family dwelling" means any building or structure or
 37 complex of buildings or structures in which three or more dwelling
 38 units, including rental apartments or dwelling units held under a
 39 condominium or cooperative association, are owned, rented or
 40 leased or offered for ownership, rental, or lease for residential
 41 purposes. “Multi-family dwelling” shall not include any hotel as
 42 that term is defined in section 3 of the "Hotel and Multiple
 43 Dwelling Law," P.L.1967, c.76 (C.55:13A-3).

44 "Occupant" means a person who is entitled to occupy a dwelling
 45 unit to the exclusion of others and who is obligated to pay for the
 46 occupancy under a written or oral ownership or rental agreement.

47 "Sewerage service provider" means any public or private entity
 48 that owns or operates a sewerage system serving the public.

1 "Sub-metering" means the use of a metering device by a landlord,
2 condominium association, or cooperative association that measures
3 either:

4 a. Water service from a water service provider supplied to a
5 dwelling unit based on the actual water consumption by an occupant
6 of the dwelling unit for the purpose of charging the occupant of the
7 dwelling unit separately for water service; or

8 b. Sewerage service from a sewerage service provider used by
9 a dwelling unit based on the actual sewerage service usage by an
10 occupant of the dwelling unit for the purpose of charging the
11 occupant of the dwelling unit separately for sewerage service.

12 "Water conservation device" means, for all showers, shower
13 stalls, shower compartments or shower baths, a low-flow
14 showerhead which shall have a maximum flow rate not exceeding
15 two and a half gallons of water per minute, for all faucets a
16 maximum flow rate not exceeding two and two-tenths gallons of
17 water per minute and for all toilets, ultra-low-flush toilets not
18 exceeding one and six-tenths gallons of water per flush, contained
19 within a dwelling unit.

20 "Water service provider" means any public or private entity that
21 owns or operates a public water system.
22

23 4. a. Except in any public housing facility, as that term is
24 defined in section 1 of P.L.1997, c.327 (C.2C:35-7.1), a landlord,
25 condominium association, or cooperative association may provide for
26 sub-metering of each dwelling unit measuring the total or partial
27 quantity of water used by, or sewerage flowed from, the occupant of
28 that dwelling unit. The landlord, condominium association, or
29 cooperative association or other entity designated by the landlord,
30 condominium association, or cooperative association, shall be
31 responsible for reading any sub-meter and for billing occupants.
32 Occupants may be billed for water service or sewerage service, or
33 both, subject to the following:

34 (1) The sub-meter or sub-meters installed for each dwelling unit
35 shall measure the total or partial amount of water consumed, or the
36 sewerage service used in the dwelling unit, which amount shall be
37 multiplied by the applicable rates for water service or sewerage
38 service, or in accordance with those rates, as charged by the water
39 service provider or sewerage service provider, as appropriate,
40 providing service to the multi-family dwelling;

41 (2) The cumulative charges for any billing period that are billed
42 to all occupants of a multi-family dwelling in which sub-meters
43 have been installed hereunder shall not exceed the total water
44 service charges or sewerage service charges for that multi-family
45 dwelling billed for that period to the landlord, condominium
46 association, or cooperative association by the water service provider
47 or sewerage service provider, as appropriate. In no event shall an
48 occupant be charged more for any billing period than the amount,

1 based on applicable rates, attributable to that occupant's measured
2 total water service or sewerage service usage, or both, as
3 appropriate, to the dwelling unit, as measured by the sub-metering
4 device for that occupant's dwelling unit. Occupants shall be billed
5 on the same billing cycle as the water service provider or sewerage
6 service provider, as appropriate, bills the landlord, condominium
7 association, or cooperative association for water service or sewerage
8 service;

9 (3) A landlord, condominium association, or cooperative
10 association shall not charge the occupant of a dwelling unit
11 separately for water or sewerage service usage measured by a sub-
12 meter, or allow the occupant to be so charged, unless the sub-meter
13 measures only water or sewerage service usage, as appropriate, that
14 is available for the exclusive use of the particular dwelling unit and
15 only to the area within the exclusive possession and control of the
16 occupant of such dwelling unit and does not measure any water or
17 sewerage service for any portion of the common areas or by any
18 other party or dwelling unit; provided, however, that a landlord,
19 condominium association, or cooperative association shall not charge
20 an occupant for water or sewerage service, as appropriate, through
21 the use of a sub-meter to the dwelling unit prior to the landlord's,
22 condominium association's, or cooperative association's installation of
23 a fully functional water conservation device in the dwelling unit;
24 and provided further, that the landlord, condominium association, or
25 cooperative association shall ensure that the water conservation
26 device is installed and functioning properly at the commencement
27 of each subsequent tenancy in the dwelling unit;

28 (4) Occupants shall not be charged any administrative fee that
29 represents the landlord's, condominium association's, or cooperative
30 association's costs in administering the billing program, including
31 services provided by a third-party vendor; and

32 (5) Occupants who fail to pay the sub-metered bill within the
33 specified payment period, which shall be no less than 28 days, may be
34 assessed a fee equal to 2.5 percent of the sub-metered bill, or \$25,
35 whichever is less, for each late payment.

36 b. Any landlord, condominium association, or cooperative
37 association utilizing the authority conferred under subsection a. of
38 this section shall disclose to each occupant in the lease or
39 ownership agreement the use of sub-metering, and shall include a
40 description of the billing method used and list of specified amounts
41 charged for billing fees, late fees, or both, as applicable.

42 c. Every sub-meter shall be installed solely by a master
43 plumber, as that term is defined in section 2 of P.L.1968,
44 c.362 (C.45:14C-2), licensed in this State. Every sub-meter shall
45 meet the accuracy standards of the American Society of Mechanical
46 Engineers, the American National Standards Institute, the American
47 Water Works Association, the National Institute of Standards and

- 1 Technology, or the International Association of Plumbing and
2 Mechanical Officials.
- 3 d. Bills sent to occupants shall include the following items:
- 4 (1) the sub-meter's opening and closing measurements;
- 5 (2) a description of charges and billing method; and
- 6 (3) the identification of the person, billing company, or other entity
7 designated to read the sub-meter and to send bills to the occupants of the
8 dwelling unit, including a toll-free number and Internet site for
9 occupants to use for questions regarding their bill.
- 10 e. The cost of the installation of a sub-meter or any initial setup
11 fee or charge shall not be passed on to the occupant.
- 12 f. Water service charges or sewerage service charges relating
13 to sub-metering shall be exempted from any local rent control
14 ordinance governing allowable increases.
- 15 g. A landlord, condominium association, or cooperative
16 association shall respond to any occupant's report of a leak in a
17 plumbing line or fixture on the occupant's side of the sub-meter in a
18 dwelling unit within 24 hours after receiving the occupant's report,
19 verbally or in writing, of the suspected leak. The leak shall be
20 repaired within 36 hours after the landlord, condominium association,
21 or cooperative association receives the occupant's report of the
22 suspected leak. If the landlord, condominium association, or
23 cooperative association does not respond to the occupant's report and
24 have the suspected leak repaired as required pursuant to this
25 subsection, the occupant shall receive a credit from the landlord,
26 condominium association, or cooperative association in an amount that
27 is calculated as follows: the total amount billed for water or
28 sewerage service charges in the monthly billing cycle when the leak
29 was reported less the lowest total amount billed for water or
30 sewerage service charges during the three months immediately
31 preceding the month in which the leak was reported.
- 32 h. (1) Sub-metering technology may be installed at any time
33 during the occupancy of the dwelling unit in a multi-family
34 dwelling. Sub-metering billing shall be permitted immediately
35 upon the adoption of rules and regulations by the Department of
36 Community Affairs, pursuant to section 8 of this act.
- 37 (2) Subject to the provisions of paragraph (1) of this subsection,
38 in the case of a dwelling unit occupied by a occupant in a multi-
39 family dwelling that is subject to rent control, sub-metering shall
40 not commence until the renewal date of the lease, provided that
41 statements for six billing cycles shall have been sent to the occupant
42 by the landlord, the landlord's billing company, or other entity
43 designated by the landlord to send bills to the occupant, without
44 charge for six consecutive months, informing the occupant of what
45 the occupant's water service charges or sewerage service charges
46 would have been had the occupant been receiving actual bills.
47 Upon the execution of any lease renewal at which sub-metering is
48 initiated, the landlord of each multi-family dwelling subject to rent

1 control shall give each occupant a one-time rent reduction, pursuant
2 to a formula adopted by the Department of Community Affairs in
3 the rules and regulations required by section 8 of this act, for the
4 term of that lease renewal when sub-metering is initiated, that is
5 equal to the anticipated monthly charge for the water service
6 charges or sewerage service charges, or both, as appropriate. After
7 the reduction in rent required pursuant to this paragraph, the
8 landlord shall be entitled to the normal rent increase allowed by the
9 applicable rent control ordinance provided that the rent increase is
10 based on the amount of the reduced rent as provided by this
11 paragraph.

12 i. A landlord, condominium association, or cooperative
13 association of a multi-family dwelling constructed prior to January
14 1, 1994 who uses sub-metering shall implement the following water
15 conservation program in each sub-metered dwelling unit within two
16 years after the date that sub-metering billing commences at the
17 multi-family dwelling:

18 (1) the landlord's, condominium association's, or cooperative
19 association's property management staff shall conduct a visual
20 inspection for leaking fixtures on the occupant's side of the sub-
21 meter in each dwelling unit at the multi-family dwelling that will be
22 sub-metered; and

23 (2) in the case of a multi-family dwelling, all dwellings of which
24 are apartments, the landlord shall install or have previously
25 installed in each such dwelling unit a water conservation device.

26
27 5. A landlord, condominium association, or cooperative
28 association who, prior to the date of enactment of this act, shall have
29 used sub-metering and billed occupants subject to a written
30 agreement with the occupant recognizing the landlord's,
31 condominium association's, or cooperative association's right to bill
32 the occupant for water service charges or sewerage service charges,
33 or both, may continue sub-metering and billing occupants provided
34 that the landlord, condominium association, or cooperative association
35 complies with the provisions of this act.

36
37 6. Upon receipt from the landlord, condominium association, or
38 cooperative association of a bill for water or sewerage service that is
39 based on sub-metered usage and within the time allowed for paying
40 the bill, an occupant may request that a person or entity with
41 expertise in the installation and operation of water or sewerage
42 service sub-meters and with no financial or other relationship with
43 the landlord, condominium association, or cooperative association, test
44 the sub-meter for the dwelling unit leased by the occupant to
45 determine whether the sub-meter is accurately measuring the water
46 or sewerage service, as appropriate, being used in the dwelling unit.
47 If the sub-meter is found to be measuring more water or sewerage
48 service, as appropriate, than is being used in the dwelling unit, the

1 landlord, condominium association, or cooperative association shall
2 install a new sub-meter at the landlord's, condominium association's,
3 or cooperative association's own expense and shall also pay for the
4 cost of the test. In addition, the person or entity conducting the test
5 shall determine as accurately as possible the amount of water or
6 sewerage service, as appropriate, that was improperly measured by
7 the sub-meter in both the prior and current billing periods. The
8 landlord, condominium association, or cooperative association shall
9 calculate the amount the occupant was overcharged for the prior
10 billing period and reduce the bill by that amount or, if the occupant
11 has already paid the bill, give the occupant a credit in that amount.
12 Upon receipt from the water service provider or sewerage service
13 provider, as appropriate, of the bill for the current billing period, the
14 landlord, condominium association, or cooperative association shall
15 calculate the amount of the bill attributable to the excessive
16 measurement by the sub-meter and reduce the bill to the occupant
17 by that amount prior to sending it to the occupant. If the sub-meter
18 is found to be measuring no more water or sewerage service, as
19 appropriate, than is being used in the dwelling unit, the occupant
20 shall pay for the cost of the test; provided, however, that if the
21 occupant does not pay for the cost of the test, the landlord,
22 condominium association, or cooperative association may add that cost
23 to the next bill sent to the occupant and that cost shall be considered
24 a part of the bill.

25
26 7. Nothing in this act shall be construed to increase or expand,
27 change, eliminate, reduce, or otherwise limit the liabilities or
28 obligations of any water service provider or any sewerage service
29 provider, as appropriate, that are set forth in any law, rule,
30 regulation, or order.

31
32 8. The Department of Community Affairs, in consultation with
33 the Department of Environmental Protection and the Board of
34 Public Utilities, shall adopt, within 120 days after the effective date
35 of this act, rules and regulations, pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
37 effectuate the purposes of this act.

38 The rules and regulations shall: include a formula as required
39 pursuant to subsection h. of section 4 of this act providing a rent
40 reduction, for the term of the initial lease renewal when sub-
41 metering is initiated, equal to the anticipated monthly charge for the
42 water service charges or sewerage service charges, or both, as
43 appropriate; require periodic inspections of sub-meters installed
44 pursuant to this act to ensure that the sub-meters accurately measure
45 the water or sewerage used in the dwelling unit; and provide a
46 process for a occupant to appeal water service charges or sewerage
47 service charges, or both, as appropriate, in the case of overcharges
48 by the landlord, condominium association, or cooperative association.

1 9. This act shall take effect immediately.

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STATEMENT

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6 This bill permits the sub-metering of water and sewerage service
7 in multi-family dwellings, specifically, apartments, condominiums,
8 and cooperatives, but not in any hotel, motel, or public housing
9 facility. The sub-metering of water usage is intended to promote
10 water conservation.

11 The bill permits a landlord, condominium association, or
12 cooperative association to provide for sub-metering of each dwelling
13 unit for the total or partial quantity of the water used by, or
14 sewerage flowed from, the occupants of the dwelling unit.

15 Occupants may be billed for water or sewerage service, or both,
16 based on the following:

17 (1) The sub-meter or sub-meters installed for each dwelling unit
18 shall measure the total or partial amount of water consumed, or the
19 sewerage service used in the dwelling unit, which amount shall be
20 multiplied by the applicable rates for water service or sewerage
21 service, or in accordance with those rates, as charged by the water
22 service provider or sewerage service provider, as appropriate,
23 servicing the multi-family dwelling;

24 (2) The cumulative charges for any billing period that are billed
25 to all occupants of a multi-family dwelling in which sub-meters
26 have been installed hereunder shall not exceed the total water
27 service charges or sewerage service charges for that multi-family
28 dwelling billed for that period to the landlord, condominium
29 association, or cooperative association by the water service provider
30 or sewerage service provider, as appropriate. In no event is an
31 occupant to be charged more for any billing period than the amount,
32 based on applicable rates, attributable to that occupant's measured
33 total water service or sewerage service usage, or both, as
34 appropriate, to the dwelling unit, as measured by the sub-metering
35 device for that occupant's dwelling unit. Occupants are to be billed
36 on the same billing cycle as the water service provider or sewerage
37 service provider, as appropriate, bills the landlord, condominium
38 association, or cooperative association for water service or sewerage
39 service;

40 (3) A landlord, condominium association, or cooperative
41 association is not to charge the occupant of a dwelling unit
42 separately for water or sewerage service usage measured by a sub-
43 meter, or allow the occupant to be so charged, unless the sub-meter
44 measures only water or sewerage service usage, as appropriate, that
45 is available for the exclusive use of the particular dwelling unit and
46 only to the area within the exclusive possession and control of the
47 occupant of such dwelling unit and does not measure any water or
48 sewerage service for any portion of the common areas or by any

1 other party or dwelling unit; provided, however, that a landlord,
2 condominium association, or cooperative association shall not
3 charge the occupant for water or sewerage service, as appropriate,
4 through the use of a sub-meter to the dwelling unit prior to the
5 landlord's, condominium association's, or cooperative association's
6 installation of a fully functional water conservation device in the
7 dwelling unit; and provided further, that the landlord, condominium
8 association, or cooperative association shall ensure that the water
9 conservation device is installed and functioning properly at the
10 commencement of each subsequent occupancy in the dwelling unit;

11 (4) Occupants are not to be charged any administrative fee that
12 represents the landlord's, condominium association's, or cooperative
13 association's costs in administering the billing program, including
14 services provided by a third-party vendor; and

15 (5) Occupants that fail to pay the sub-metered bill within the
16 specified payment period, which is to be no less than 28 days, may be
17 assessed a fee equal to 2.5 percent of the sub-metered bill or \$25,
18 whichever is less, for each late payment.

19 The bill provides that any landlord, condominium association, or
20 cooperative association installing a sub-metering system is to
21 disclose this information in the lease or ownership agreement to
22 each occupant, and is to include a description of the billing method
23 used and list of specified amounts charged for billing fees, late fees,
24 or both, as applicable. Every sub-meter is to be installed solely by a
25 licensed master plumber and the sub-meter is to meet the accuracy
26 standards of the American Society of Mechanical Engineers, the
27 American National Standards Institute, the American Water Works
28 Association, the National Institute of Standards and Technology, or
29 the International Association of Plumbing and Mechanical Officials.

30 Bills sent to occupants are to include the following items: (1) the
31 sub-meter's opening and closing measurements; (2) a description of
32 the charges and billing method; and (3) the identification of the
33 person, billing company or other designated billing entity, including a
34 toll-free number and an Internet site for occupants to use for
35 questions regarding their bill. The cost of the installation of the
36 sub-meter or any setup fee or charge cannot be passed on to the
37 occupant.

38 The bill requires a landlord, condominium association, or
39 cooperative association to respond to any occupant's report of a
40 leak in a plumbing line or fixture on the occupant's side of the sub-
41 meter in a dwelling unit within 24 hours after receiving the
42 occupant's report, verbally or in writing, of the suspected leak. The
43 leak is to be repaired within 36 hours after the occupant's report of
44 the suspected leak is received by the landlord, condominium
45 association, or cooperative association. If the landlord,
46 condominium association, or cooperative association does not meet
47 these requirements, the bill provides that the occupant is to receive
48 a credit from the landlord, condominium association, or cooperative

1 association in an amount equal to the total amount billed for water
2 or sewerage service charges in the monthly billing cycle when the
3 leak was reported, less the lowest total amount billed for water or
4 sewerage service charges during the three months immediately
5 preceding the month in which the leak was reported.

6 The bill provides that all water service charges or sewerage
7 service charges relating to sub-metering are to be exempted from
8 any local rent control ordinance governing allowable increases.

9 Sub-metering technology may be installed at any time during the
10 occupancy of the dwelling unit in a multi-family dwelling. Sub-
11 metering billing is to be permitted immediately upon the adoption
12 of rules and regulations by the Department of Community Affairs
13 (DCA), except as provided in the bill.

14 The bill requires a landlord, condominium association, or
15 cooperative association of a multi-family dwelling constructed prior
16 to January 1, 1994 that uses sub-metering to implement a water
17 conservation program in each sub-metered dwelling unit within two
18 years after the date that sub-metering billing commences at the
19 multi-family dwelling. The water conservation program requires
20 that:

21 (1) the landlord's, condominium association's, or cooperative
22 association's property management staff conduct a visual inspection
23 for leaking fixtures on the occupant's side of the sub-meter in each
24 dwelling unit at the multi-family dwelling that is to be sub-metered;
25 and

26 (2) in the case of a multi-family dwelling, all dwellings of which
27 are apartments, the landlord is to install or have previously installed
28 in each dwelling unit a "water conservation device" as that term is
29 defined in the bill.

30 The bill allows a landlord, condominium association, or
31 cooperative association who, prior to the date of enactment of the
32 bill into law, used sub-metering and billed occupants subject to a
33 written agreement with the occupant that recognizes the landlord's,
34 condominium association's, or cooperative association's right to
35 bill the occupant for water service or sewerage service, or both, to
36 continue sub-metering and billing occupants.

37 The bill gives occupants the right to challenge the accuracy of
38 the sub-meter used to measure water or sewer service to their
39 dwelling unit.

40 The bill clarifies that it does not effect the provisions of any law,
41 rule, regulation, or order concerning the liabilities or obligations of
42 any water service provider or any sewerage service provider.

43 Lastly, the bill requires the DCA, in consultation with the
44 Department of Environmental Protection and the Board of Public
45 Utilities, to adopt, within 120 days after the effective date of the
46 bill, rules and regulations necessary to implement the provisions of
47 the bill.