

Senate Bill 157  
Senate Public Utilities Committee  
Opponent Testimony of Joe Maskovyak  
Affordable and Fair Housing Coordinator  
Coalition on Housing & Homelessness in Ohio  
June 28, 2017

Chairman Beagle, Vice Chair LaRose, Ranking Minority Member Williams, and members of the Committee.

My name is Joe Maskovyak and I work for the Coalition on Homelessness and Housing in Ohio (COHHIO), a nonprofit housing advocacy organization that works throughout the state on issues that impact affordable housing. Prior to joining COHHIO in 2014, I spent almost 30 years with Legal Aid, where my expertise focused on housing and utilities, including a variety of cases before the PUCO. COHHIO is here to offer opponent testimony on SB 157, although we understand that the sponsor has publicly stated that the current version of the bill is just a starting point for discussion. COHHIO certainly hopes that this is the case, as much revision is needed if the bill is truly intended to offer protection to consumers.

I will try to highlight some of the primary deficiencies, but in the interest of being succinct, one should not assume that this testimony covers the universe of potential problems. I believe that the primary defect, perhaps ironically, is the very thing proponent testimony emphasized as the virtue(s) of the bill: disclosure. If we just tell them what we will charge them, then the risk is on the tenant. It is as if we have completely forgotten the recession and the foreclosure crisis that spawned it. There was plenty of disclosures in mortgages and notes and addendums, etc. Not to mention the disclosures in the bond markets, where MBS's and all kinds of paper floated through the market. As you may remember, disclosure neither prevented nor solved the foreclosure crisis/recession. Likewise here, disclosure is not the panacea proponents would have you believe. Let me prompt some thoughts with a few questions:

1. Is there a font requirement?
2. Is there a placement requirement or can it be on p.9, paragraph 52? Or paragraph 152?

3. Is there a signature/initial requirement at the point of disclosure?
4. Is the tenant entitled to an advance copy of the lease and the disclosures, so there is no pressure to read and sign in the rental office?
5. Is there a remedy for underestimating the utility cost requirement?

As I am sure you guessed, the answer to all of these questions is no.

Much of the bill also contains a record-keeping requirement. What is the remedy for failure to abide by this statutory provision? I don't know. Nor does anyone else, since none is stated.

Where the bill does spell out remedies, they are time consuming and complicated. If the intent was to incentivize attorneys to represent and protect consumers as private attorney generals, this bill will not reach that objective. It is too easy to use the statute by submeter companies to deny treble damages and/or attorney fees.

Jeff Jacobsen has already provided illumination for problems associated with the attempt to provide rate caps, including the unlimited rate one is permitted if one chooses a fixed rate. COHHIO concurs with OCC on this point as well as the other objections raised in their testimony. Let me suggest a couple more. Another "rate cap" is the identification of RUBS, a formula, used to measure "actual consumption" according to the statute, which is not possible to do, nor does it state any cap one must use if applying RUBS. In addition, "reasonable" administrative fees may be added, however there is no definition of reasonable. What is reasonable? \$5/mo.? \$10/mo.? \$25/mo.? A variable fee depending on how much water or energy the tenant uses? How will we know when it is reasonable? When a court says whether it is or isn't and has no guidelines to apply.

Finally, I would like to comment on charging for common areas. Unlike HB 249, SB 157 explicitly permits charging for common areas. Yes, there is a rate cap. But that just conceals the problem. There is a water leak in the pool. No need to hurry to fix it; the tenants are paying for it. Leaving the lights on all night, leaving parking lot lights on all day; no big problem as management is passing the cost on. The bill separates responsibility for maintaining the systems from those paying for the system, who cannot fix bad circuits, leaky pools or pipes.