

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**S. B. No. 157**

**Senator Bacon**

**A BILL**

To enact sections 4781.401, 5311.082, 5321.061, 1  
5325.01, 5325.02, 5325.021, 5325.04, 5325.05, 2  
5325.06, 5325.07, 5325.08, 5325.081, 5325.09, 3  
5325.10, 5325.13, 5325.14, 5325.15, 5325.17, and 4  
5325.18 of the Revised Code to regulate the 5  
reselling of public utility service. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4781.401, 5311.082, 5321.061, 7  
5325.01, 5325.02, 5325.021, 5325.04, 5325.05, 5325.06, 5325.07, 8  
5325.08, 5325.081, 5325.09, 5325.10, 5325.13, 5325.14, 5325.15, 9  
5325.17, and 5325.18 of the Revised Code be enacted to read as 10  
follows: 11

**Sec. 4781.401.** A park operator shall comply with Chapter 12  
5325. of the Revised Code. 13

**Sec. 5311.082.** A unit owners association shall comply with 14  
Chapter 5325. of the Revised Code. 15

**Sec. 5321.061.** A landlord shall comply with Chapter 5325. 16  
of the Revised Code. 17

**Sec. 5325.01.** As used in this chapter: 18

<u>(A) "Consumer" means a resident, tenant, or unit owner.</u>	19
<u>(B) "Landlord" and "tenant" have the same meanings as in section 5321.01 of the Revised Code.</u>	20 21
<u>(C) "Park operator" and "resident" have the same meanings as in section 4781.01 of the Revised Code.</u>	22 23
<u>(D) "Proprietor" means a landlord, park operator, unit owners association, or other person or entity that has an ownership interest in the property or in facilities at the property, as applicable.</u>	24 25 26 27
<u>(E) "Proprietor's agent" means any person or entity that provides public utility service or billing services related to public utility service to consumers for or on behalf of a proprietor.</u>	28 29 30 31
<u>(F) "Public utility service" includes service provided by an electric company, natural gas company, water-works company, or sewage disposal system company, but excludes a municipal corporation and cooperative.</u>	32 33 34 35
<u>(G) "Ratio utility billing system" means a method of billing a consumer by using a formula to allocate utility service charges based on factors including occupancy, square footage, or some combination of factors.</u>	36 37 38 39
<u>(H) "Unit owner" and "unit owners association" have the same meanings as in section 5311.01 of the Revised Code.</u>	40 41
<u>Sec. 5325.02. A proprietor or proprietor's agent charging rates, fees, or costs under this chapter shall measure public utility service provided to the consumer through a master meter, a master meter in conjunction with a submeter, or a public-utility-owned meter.</u>	42 43 44 45 46

Sec. 5325.021. (A) All meters operating under this chapter 47  
shall meet the same accuracy and quality standards for utility 48  
meters established by rule by the public utilities commission 49  
under section 4905.28 of the Revised Code. 50

(B) (1) Upon the consumer's written request to the 51  
proprietor, the proprietor shall test the accuracy of the 52  
consumer's submeter. At the request of the consumer, the test 53  
shall be conducted in the presence of the consumer or the 54  
consumer's authorized representative and at a time convenient to 55  
the consumer or consumer's representative desiring to observe 56  
the test. 57

(2) The proprietor shall promptly inform the consumer or 58  
consumer's representative of the results of the test. 59

(3) (a) A fee not to exceed fifty dollars may be charged to 60  
the consumer if the submeter tests within accuracy standards. 61

(b) The fee shall be disclosed to the consumer at the time 62  
of the lease, rental agreement, or association service 63  
agreement. 64

Sec. 5325.04. A proprietor or proprietor's agent charging 65  
consumers for public utility service shall allocate rates, fees, 66  
and costs using one of the following methods: 67

(A) The actual rates, fees, and costs of consumption as 68  
measured by a submeter for the public utility service provided 69  
to the consumers; 70

(B) Market-based rates, fees, or charges as determined by 71  
a proprietor or proprietor's agent that shall not exceed the 72  
residential rates, fees, or charges collected in the immediate 73  
service area from residential customers by public utilities for 74  
the same type and quantity of service on an annualized basis; 75

(C) Fixed rate per unit of utility service, in which the 76  
fixed rate per unit shall be set upon the commencement of the 77  
lease, rental agreement, or association service agreement for 78  
the term of the lease, rental agreement, or association service 79  
agreement; 80

(D) Actual consumption as measured by a formula, including 81  
a ratio utility billing system, for determining the cost of the 82  
public utility service provided to a consumer. 83

**Sec. 5325.05.** (A) A proprietor or proprietor's agent 84  
charging rates, fees, and costs for public utility services 85  
under division (A) of section 5325.04 of the Revised Code may 86  
charge one reasonable administrative fee to a consumer relating 87  
to the provision of, or billing for, all public utility services 88  
for which the consumer is charged under that division. 89

(B) Except for a fee imposed under division (B) (3) of 90  
section 5325.021 of the Revised Code, a consumer may be charged 91  
only one fee each month for all public utility services. 92

(C) The fee shall be disclosed to the consumer at the time 93  
of the lease, rental agreement, or association service agreement 94  
and expressed as a cost per unit of public utility service. 95

**Sec. 5325.06.** No proprietor or proprietor's agent charging 96  
consumers for public utility services provided to common areas 97  
and for commonly used equipment shall charge rates, fees, or 98  
costs that exceed the actual rates, fees, or costs incurred for 99  
public utility services for common areas and equipment. 100

**Sec. 5325.07.** A proprietor or proprietor's agent charging 101  
consumers for public utility service shall bill consumers 102  
monthly unless the proprietor or proprietor's agent is billed on 103  
a less frequent basis by the utility. 104

Sec. 5325.08. Prior to entering into a rental agreement, association agreement, lease, or contract for public utility service, a proprietor or proprietor's agent shall provide to each prospective consumer an acknowledgment form to sign before entering into the agreement, lease, or contract that contains the following information: 105  
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(A) A description of how the consumer shall be billed for public utility service; 111  
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(B) Whether a charge will be allocated pursuant to section 5325.06 of the Revised Code; 113  
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(C) An estimation of monthly and annual costs for the consumer based on a typical unit; 115  
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(D) A clear statement that the residence is submetered, if applicable; 117  
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(E) A clear statement that the consumer shall be responsible for actual rates, fees, or costs incurred for public utility services provided to common areas and for commonly used equipment in accordance with section 5325.06 of the Revised Code, if applicable. 119  
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Sec. 5325.081. A consumer's bill for submetered electric service shall include all of the following information: 124  
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(A) The date and reading of the submeter at the beginning and end of the period for which the bill is rendered; 126  
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(B) The number of billing units metered; 128

(C) The computed rate per billing unit; 129

(D) The total payment amount due for electricity consumed; 130

(E) The name of the company supplying the public utility 131

service provided by the proprietor or proprietor's agent, along 132  
with a clear and unambiguous statement that the bill is not 133  
rendered by that company; 134

(F) The name and address of the consumer to whom the bill 135  
is applicable; 136

(G) The name of the proprietor or proprietor's agent, 137  
whichever rendered the bill, and the name or title, address, and 138  
telephone number of the person or persons to be contacted in 139  
case of a billing dispute. 140

**Sec. 5325.09.** (A) A proprietor or proprietor's agent shall 141  
do the following: 142

(1) Maintain adequate records detailing all public utility 143  
service measurements for which a proprietor or proprietor's 144  
agent charges rates, fees, and costs pursuant to this chapter 145  
and the charges for the service; 146

(2) Keep the records described in division (A)(1) of this 147  
section applicable to the previous three years for a minimum of 148  
three years after the termination of the lease, rental 149  
agreement, association agreement, or any contract for public 150  
utility service between a consumer and agent. 151

(B) Upon reasonable prior request, a proprietor or 152  
proprietor's agent shall make a record created under this 153  
section available for inspection by a consumer during normal 154  
business hours. The consumer may inspect only those records 155  
pertaining to that consumer's public utility service 156  
consumption. 157

**Sec. 5325.10.** (A) A proprietor or proprietor's agent shall 158  
be responsible for all costs related to routine operation, 159  
routine repair, and routine maintenance of service lines. 160

(B) A proprietor's agent shall not be responsible for 161  
repairs to service lines required as a result of a force majeure 162  
event, tampering, or careless actions by a proprietor or 163  
consumer. 164

**Sec. 5325.13.** (A) (1) A proprietor or proprietor's agent 165  
may terminate public utility service for nonpayment. Such 166  
termination, regardless of the type of service being terminated, 167  
shall be done in accordance with all rules for terminating 168  
public utility service for nonpayment established by the public 169  
utilities commission as such rules are applied to electric light 170  
companies or natural gas companies. 171

(2) A unit owners association may terminate public utility 172  
service in accordance with this section regardless of whether 173  
such authority is specifically set forth in documents required 174  
by section 5311.05 or 5311.26 of the Revised Code. 175

(B) Termination of public utility service pursuant to this 176  
section is not constructive eviction subject to Chapter 1923. or 177  
5321. of the Revised Code. 178

**Sec. 5325.14.** (A) If a park operator, landlord, or 179  
proprietor's agent terminates public utility service for a 180  
consumer pursuant to section 5325.13 of the Revised Code, the 181  
park operator or landlord waives the right to evict the consumer 182  
for failure to make timely payment for public utility service 183  
pursuant to Chapter 1923. of the Revised Code. 184

(B) If a park operator, landlord, or proprietor's agent 185  
terminates public utility service for a consumer pursuant to 186  
section 5325.13 of the Revised Code, the park operator's or 187  
landlord's right to seek eviction for violations of any other 188  
provision of a lease or rental agreement shall not be waived or 189

diminished. 190

Sec. 5325.15. Nothing in this chapter shall limit the 191  
authority of the public utilities commission or other authority, 192  
as jurisdictionally applicable, to prohibit or limit the 193  
reselling of public utility service. 194

Sec. 5325.17. In addition to other remedies authorized by 195  
law, the attorney general may bring a civil action to enforce 196  
this chapter. The authority of the attorney general to bring an 197  
action under this section shall not affect the right of a 198  
consumer to pursue any remedy available under law for a failure 199  
to comply with, or a violation of, this chapter. 200

Sec. 5325.18. If a proprietor or proprietor's agent fails 201  
to comply with section 5325.04 or 5325.05 of the Revised Code, 202  
or violates section 5325.06 of the Revised Code, the affected 203  
consumer may bring a civil action to recover treble the total 204  
amount of the overcharges resulting from a compliance failure or 205  
violation as treble damages and reasonable attorney's fees, 206  
obtain injunctive relief to prevent the recurrence of the 207  
conduct, or both, within three years of the compliance failure 208  
or violation. The three-year period shall begin when the 209  
affected consumer discovered or reasonably should have 210  
discovered the failure or violation. 211

(A) A consumer is not entitled to treble damages if the 212  
proprietor or proprietor's agent refunds to the consumer the 213  
amount of the overcharge by the earliest occurrence of the 214  
following dates: 215

(1) Thirty days after the consumer notifies the proprietor 216  
or proprietor's agent about the compliance failure or violation; 217

(2) Sixty days, if the consumer is billed monthly, or 218



ninety days, if the consumer is billed quarterly, after the 219  
proprietor or proprietor's agent learns of or reasonably should 220  
have learned of the compliance failure or violation, including 221  
by the filing of an action described in division (A) (3) of this 222  
section by any similarly situated consumer; 223

(3) Thirty days after the filing of any lawsuit by the 224  
consumer relating to the compliance failure or violation. 225

(B) The consumer is not entitled to reasonable attorney's 226  
fees if the proprietor or proprietor's agent refunds to the 227  
consumer the amount of the overcharge by the earliest occurrence 228  
of the following dates: 229

(1) Thirty days after the consumer notifies the proprietor 230  
or proprietor's agent about the compliance failure or violation; 231

(2) Sixty days, if the consumer is billed monthly, or 232  
ninety days, if the consumer is billed quarterly, after the 233  
proprietor or proprietor's agent learns of or reasonably should 234  
have learned of the compliance failure or violation, including 235  
by the filing of an action by any similarly situated consumer. 236

(C) Divisions (A) and (B) of this section are not 237  
applicable in either of the following cases: 238

(1) The proprietor or proprietor's agent overcharged the 239  
consumer as a result of conduct that the proprietor or 240  
proprietor's agent knew or reasonably should have known would 241  
result in a failure to comply with section 5325.04 or 5325.05 of 242  
the Revised Code or a violation of section 5325.06 of the 243  
Revised Code. 244

(2) The consumer files a lawsuit to recover the amount of 245  
the overcharge and at the time of the filing of the suit, the 246  
amount by which the consumer was overcharged, less any amount 247

already refunded to the consumer, exceeds three hundred fifty  
dollars.

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