

As Reported by the House Energy Committee

136th General Assembly

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Sub. H. B. No. 173

Representative Thomas, D.

Cosponsor: Representative Mathews, A.

To amend sections 4905.02 and 5321.04 and to enact
sections 4911.22, 4933.51, 4933.52, 4933.53,
4933.54, 4933.55, 4933.56, 4933.57, 4933.58,
4933.59, 4933.60, 4933.61, 4933.62, 4933.63,
4933.64, 4933.65, 4933.66, and 4933.68 of the
Revised Code regarding submetered utility
services.

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

Section 1. That sections 4905.02 and 5321.04 be amended
and sections 4911.22, 4933.51, 4933.52, 4933.53, 4933.54,
4933.55, 4933.56, 4933.57, 4933.58, 4933.59, 4933.60, 4933.61,
4933.62, 4933.63, 4933.64, 4933.65, 4933.66, and 4933.68 of the
Revised Code be enacted to read as follows:

Sec. 4905.02. (A) As used in this chapter, "public
utility" includes every corporation, company, copartnership,
person, or association, the lessees, trustees, or receivers of
the foregoing, defined in section 4905.03 of the Revised Code,
including any public utility that operates its utility not for
profit, except the following:

(1) An electric light company that operates its utility

not for profit;	20
(2) A public utility, other than a telephone company, that	21
is owned and operated exclusively by and solely for the	22
utility's customers, including any consumer or group of	23
consumers purchasing, delivering, storing, or transporting, or	24
seeking to purchase, deliver, store, or transport, natural gas	25
exclusively by and solely for the consumer's or consumers' own	26
intended use as the end user or end users and not for profit;	27
(3) A public utility that is owned or operated by any	28
municipal corporation;	29
(4) A railroad as defined in sections 4907.02 and 4907.03	30
of the Revised Code;	31
(5) Any provider, including a telephone company, with	32
respect to its provision of any of the following:	33
(a) Advanced services as defined in 47 C.F.R. 51.5;	34
(b) Broadband service, however defined or classified by	35
the federal communications commission;	36
(c) Information service as defined in the	37
"Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C.	38
153(20);	39
(d) Subject to division (A) of section 4927.03 of the	40
Revised Code, internet protocol-enabled services as defined in	41
section 4927.01 of the Revised Code;	42
(e) Subject to division (A) of section 4927.03 of the	43
Revised Code, any telecommunications service as defined in	44
section 4927.01 of the Revised Code to which both of the	45
following apply:	46

(i) The service was not commercially available on 47
September 13, 2010, the effective date of the amendment of this 48
section by S.B. 162 of the 128th general assembly. 49

(ii) The service employs technology that became available 50
for commercial use only after September 13, 2010, the effective 51
date of the amendment of this section by S.B. 162 of the 128th 52
general assembly. 53

(6) (a) A person, business, or other entity that, either on 54
its own behalf or under a contract with a property owner, 55
provides, constructs, or installs for customers submetered 56
utility service; 57

(b) As used in this division, "submetered utility service" 58
means any of the following, if provided, constructed, or 59
installed at a point after services provided by a public utility 60
are delivered to the public utility's metered points of delivery 61
at the customers' locations: 62

(i) Service or benefit from an advanced energy resource as 63
defined in section 4928.01 of the Revised Code; 64

(ii) Electric service; 65

(iii) Billing service for services described in divisions 66
(A) (6) (b) (i) and (ii) of this section; 67

(iv) Electric vehicle charging; 68

(v) Resale of electricity to a tenant's dwelling unit by a 69
landlord or the landlord's agent that is based on metered 70
consumption; 71

(vi) Resale of electricity to a condominium by a unit 72
owners association or the association's agent that is based on 73
metered consumption. 74

(7) Billing service for the resale of water service to a 75
tenant's dwelling unit by a landlord or the landlord's agent, or 76
to a condominium by a unit owners association or the 77
association's agent, that is based on metered consumption and 78
that is delivered at a point after water service is delivered to 79
the public utility's metered point of delivery for that service 80
at that location. 81

(B) (1) "Public utility" includes a for-hire motor carrier 82
even if the carrier is operated in connection with an entity 83
described in division (A) (1), (2), (4), or (5) of this section. 84

(2) Division (A) of this section shall not be construed to 85
relieve a private motor carrier, operated in connection with an 86
entity described in division (A) (1), (2), (4), or (5) of this 87
section, from compliance with either of the following: 88

(a) Chapter 4923. of the Revised Code; 89

(b) Rules governing unified carrier registration adopted 90
under section 4921.11 of the Revised Code. 91

(C) As used in this section: 92

(1) "Condominium" and "unit owners association" have the 93
same meanings as in section 5311.01 of the Revised Code. 94

(2) "Dwelling unit," "landlord," and "tenant" have the 95
same meanings as in section 5321.01 of the Revised Code. 96

Sec. 4911.22. (A) As used in this section: 97

(1) "Submetered utility service" has the same meaning as 98
in section 4905.02 of the Revised Code. 99

(2) "Tenant" has the same meaning as in section 5321.01 of 100
the Revised Code. 101

(B) The consumers' counsel shall maintain a list of 102
billing assistance programs that may be available to a tenant 103
who receives submetered utility service on the consumers' 104
counsel's web site. 105

Sec. 4933.51. As used in sections 4933.51 to 4933.68 of 106
the Revised Code: 107

(A) "Dwelling unit," "landlord," and "tenant" have the 108
same meanings as in section 5321.01 of the Revised Code. 109

(B) "Electric light company" has the same meaning as in 110
section 4905.03 of the Revised Code. 111

(C) "Electric utility" has the same meaning as in section 112
4928.01 of the Revised Code. 113

(D) "Fair market value" means a value determined by 114
considering the age, condition, price of similar assets of the 115
same age and use in the market, and recent sale prices and 116
expert appraisals. 117

(E) "Public utility" means an electric light company, 118
natural gas company, or water-works company as defined in 119
section 4905.03 of the Revised Code that is a public utility as 120
defined in section 4905.02 of the Revised Code. 121

(F) "Qualified low-income building" has the same meaning 122
as in section 175.16 of the Revised Code. 123

(G) "Submetered utility service" has the same meaning as 124
in section 4905.02 of the Revised Code. 125

(H) (1) "Submetered utility service provider" means, 126
subject to division (H) (2) of this section, a person, business, 127
or other entity that, either on its own behalf or under a 128
contract with a property owner, provides, constructs, or 129

installs for customers submetered utility service. 130

(2) In the case of resale of electricity to a tenant based 131
on metered consumption at the tenant's dwelling unit, the 132
submetered utility service provider is the master meter account 133
holder, or customer of record, with the public utility 134
delivering service to the premises, except to the extent that 135
such account holder or customer of record is a landlord who has 136
assigned responsibility for compliance with some or all of the 137
requirements of sections 4933.55 to 4933.59 of the Revised Code 138
to a third party by contract. The third party that assumed 139
responsibility for compliance with some or all of the 140
requirements of sections 4933.55 to 4933.59 of the Revised Code 141
is the submetered utility service provider to the extent that 142
the third party has assumed such responsibility. 143

Sec. 4933.52. (A) Except for reasons of safety or 144
reliability, the public utilities commission shall not adopt any 145
rule that permits a public utility to set the location of, or 146
refuse to relocate, any of its meters so that the meter's 147
location prevents either of the following: 148

(1) A submetered utility service provider from providing, 149
constructing, or installing submetered utility service at a 150
point after the public utility service is delivered to the 151
public utility's metered point of delivery at that location; 152

(2) A billing service described in division (A) (7) of 153
section 4905.02 of the Revised Code from providing the billing 154
service for water service at a point after water service is 155
delivered to the public utility's metered point of delivery for 156
that service at that location. 157

(B) Except for reasons of safety or reliability, no public 158

utility shall set the location of, or refuse to relocate, any of 159
its meters so that the meter's location prevents either of the 160
following: 161

(1) A submetered utility service provider from providing, 162
constructing, or installing submetered utility service at a 163
point after the public utility service is delivered to the 164
public utility's metered point of delivery at that location; 165

(2) A billing service described in division (A)(7) of 166
section 4905.02 of the Revised Code from providing the billing 167
service for water service at a point after water service is 168
delivered to the public utility's metered point of delivery for 169
that service at that location. 170

Sec. 4933.53. (A) Except for reasons of safety or 171
reliability, if a public utility customer requests an alteration 172
in the location, character, or metering of the customer's 173
service from a public utility where the alteration would render 174
certain personal property or equipment of the utility as no 175
longer used and useful in providing utility service to the 176
customer's real property, the utility shall offer to sell such 177
personal property or equipment to the utility customer for any 178
purpose, including for use in providing submetered utility 179
service and to ensure certainty of ownership of the personal 180
property or equipment following the change in service, if both 181
of the following are met: 182

(1) The personal property or equipment is located 183
exclusively within the boundaries of the customer's real 184
property; 185

(2) The personal property or equipment was used 186
exclusively to provide utility service to the property. 187

(B) The public utility shall price the personal property 188
or equipment offered for sale to a customer pursuant to this 189
section as the amount of the fair market value of the property 190
or equipment, as the value of such property or equipment would 191
be represented in a ratemaking proceeding before the public 192
utilities commission. 193

(C) The public utility shall record the proceeds from a 194
sale pursuant to this section as a regulatory liability. 195

Sec. 4933.54. Each electric utility shall maintain up-to- 196
date reference tools on the utility's web site, or in another 197
conspicuous and publicly accessible location, that permit 198
automatic calculation of what the electric utility would charge 199
its residential customers with a specific kilowatt-hour usage 200
during any of the most recent twelve months. 201

Sec. 4933.55. No submetered utility service provider that 202
resells electricity to a tenant based on metered consumption at 203
the tenant's dwelling unit may charge the tenant more than the 204
bill for the standard service offer and all tariffed charges and 205
riders that the electric light company, in whose certified 206
territory the dwelling unit is located, would charge its 207
residential customers for electric service. 208

Sec. 4933.56. A submetered utility service provider that 209
resells electricity to a tenant based on metered consumption at 210
the tenant's dwelling unit shall do all of the following: 211

(A) Register with the public utilities commission every 212
two years and comply with the rules adopted pursuant to section 213
4933.59 of the Revised Code. Registration under this division 214
shall include only the provider's name, business address, 215
telephone number, regulatory contact, the type of services 216

<u>offered by the provider, and evidence of the managerial,</u>	217
<u>financial, and technical capabilities to offer such services.</u>	218
<u>(B) At a minimum, comply with the requirements for the</u>	219
<u>disconnection of electric service established in sections</u>	220
<u>4933.121 to 4933.123 of the Revised Code and the rules adopted</u>	221
<u>pursuant to those sections, as applicable;</u>	222
<u>(C) Provide a separate disclosure and a report of historic</u>	223
<u>monthly usage and corresponding billed amounts for metered</u>	224
<u>electricity to each tenant's dwelling unit for the preceding</u>	225
<u>twelve months, if applicable, to its tenants solely for purposes</u>	226
<u>of compliance with the pricing requirements under section</u>	227
<u>4933.55 of the Revised Code;</u>	228
<u>(D) Disclose its process and procedures for the</u>	229
<u>disconnection of electric service to its tenants;</u>	230
<u>(E) Provide notice of the list of billing assistance</u>	231
<u>programs that is required pursuant to section 4911.22 of the</u>	232
<u>Revised Code to a tenant that receives submetered utility</u>	233
<u>service from the provider at both of the following times:</u>	234
<u>(1) Upon the tenant's request for submetered utility</u>	235
<u>service bill assistance;</u>	236
<u>(2) At least annually in the standard communication format</u>	237
<u>used by the provider or landlord to provide information to</u>	238
<u>tenants.</u>	239
<u>(F) Offer an alternative payment plan option to a tenant</u>	240
<u>that receives submetered utility service from the provider;</u>	241
<u>(G) Accept a payment from the home energy assistance</u>	242
<u>program when the account holder qualifies for the home energy</u>	243
<u>assistance program;</u>	244

<u>(H) Ensure that each bill issued by the provider for</u>	245
<u>submetered utility service complies with all of the following:</u>	246
<u>(1) Lists each charge or fee for submetered utility</u>	247
<u>service in a separate and distinct manner that allows the tenant</u>	248
<u>to understand each charge or fee;</u>	249
<u>(2) Lists each common area charge or fee, including each</u>	250
<u>common area charge or fee for central systems air conditioning,</u>	251
<u>heating, and hot water, in a separate and distinct manner that</u>	252
<u>allows the tenant to understand each common area charge or fee;</u>	253
<u>(3) Clearly states the tenant's actual or estimated</u>	254
<u>metered electricity usage in kilowatt hours, or other standard</u>	255
<u>measure, in a manner that allows the tenant to effectively use</u>	256
<u>the reference tools required by section 4933.54 of the Revised</u>	257
<u>Code.</u>	258
<u>Sec. 4933.57.</u> (A) <u>Prior to the effective date of the rules</u>	259
<u>adopted to implement section 4933.58 of the Revised Code, a</u>	260
<u>submetered utility service provider that resells electricity to</u>	261
<u>a tenant based on metered consumption at the tenant's dwelling</u>	262
<u>unit at a property or community with more than fifty dwelling</u>	263
<u>units shall file an interim compliance plan for approval with</u>	264
<u>the public utilities commission for each property or community</u>	265
<u>with more than fifty dwelling units at which submetered utility</u>	266
<u>service is provided to tenants by either of the following dates,</u>	267
<u>whichever is later:</u>	268
<u>(1) Not more than ninety days after the commission adopts</u>	269
<u>rules to implement this section;</u>	270
<u>(2) Prior to the date that the provider initiates</u>	271
<u>providing submetered utility service at the property or</u>	272
<u>community, whichever is later.</u>	273

<u>(B) The commission shall approve an interim compliance</u>	274
<u>plan filing that does all of the following:</u>	275
<u>(1) Includes the provider's name, business address,</u>	276
<u>telephone number, regulatory contact, and the type of services</u>	277
<u>offered by the provider at the community or property;</u>	278
<u>(2) Describes the methods by which the provider intends to</u>	279
<u>ensure that any bills to tenants at the property or community</u>	280
<u>comply with the pricing requirements for the resale of</u>	281
<u>electricity under section 4933.55 of the Revised Code;</u>	282
<u>(3) Describes how the provider intends to comply with the</u>	283
<u>electric service disconnection standards imposed by section</u>	284
<u>4933.56 of the Revised Code;</u>	285
<u>(4) If more than one submetered utility service provider</u>	286
<u>provides submetered utility service at a single property or</u>	287
<u>community with more than fifty dwelling units, or if more than</u>	288
<u>one party is responsible for the compliance plan items described</u>	289
<u>in this section, sets forth the responsibilities of each</u>	290
<u>provider for each of the interim compliance plan items described</u>	291
<u>in this section.</u>	292
<u>(C) The provider shall adhere to the interim compliance</u>	293
<u>plan that is approved by the commission until the plan is</u>	294
<u>terminated, unless otherwise directed by the commission.</u>	295
<u>(D) An interim compliance plan for a property or community</u>	296
<u>approved by the commission terminates upon the commission</u>	297
<u>approving a compliance plan under section 4933.58 of the Revised</u>	298
<u>Code for the same property or community. An interim compliance</u>	299
<u>plan continues until terminated pursuant to this division or</u>	300
<u>terminated by the commission.</u>	301
<u>(E) The requirement that a provider file an interim</u>	302

compliance plan under this section terminates upon the effective 303
date of rules to implement section 4933.58 of the Revised Code. 304

Sec. 4933.58. (A) A submetered utility service provider 305
that resells electricity to a tenant based on metered 306
consumption at the tenant's dwelling unit at a property or 307
community with more than fifty dwelling units shall file a 308
compliance plan for approval with the public utilities 309
commission for each property or community with more than fifty 310
dwelling units at which submetered utility service is provided 311
to tenants by either of the following dates, whichever is later: 312

(1) Not more than ninety days after the commission adopts 313
rules to implement this section; 314

(2) Prior to the date that the provider initiates 315
providing submetered utility service at the property or 316
community. 317

(B) The commission shall approve a compliance plan filing 318
that does all of the following: 319

(1) Describes the means by which the provider will ensure 320
compliance with sections 4933.56 and 4933.59 of the Revised Code 321
at the property or community, as applicable; 322

(2) Includes the provider's name, business address, 323
telephone number, regulatory contact, and the type of services 324
offered by the provider at the community or property; 325

(3) Describes the methods by which the provider intends to 326
ensure that any bills to tenants at the property or community 327
comply with the pricing requirements for the resale of 328
electricity under section 4933.55 of the Revised Code; 329

(4) Describes how the provider intends to comply with the 330

<u>electric service disconnection standards imposed by section</u>	331
<u>4933.56 of the Revised Code;</u>	332
<u>(5) Includes a copy of the language included, or to be</u>	333
<u>included, in each tenant's lease relating to submetered electric</u>	334
<u>service that complies with division (C) of this section, as</u>	335
<u>applicable, and section 5321.04 of the Revised Code;</u>	336
<u>(6) For submetered utility service provided or intended to</u>	337
<u>be provided to a qualified low-income building, discloses any</u>	338
<u>utility assistance programs available to tenants or condominium</u>	339
<u>owners of which the applicant is aware as of the date the</u>	340
<u>application is submitted;</u>	341
<u>(7) If more than one submetered utility service provider</u>	342
<u>provides submetered utility service at a single property or</u>	343
<u>community with more than fifty dwelling units, or if more than</u>	344
<u>one party is responsible for the compliance plan items described</u>	345
<u>in this section, sets forth the responsibilities of each</u>	346
<u>provider for each of the compliance plan items described in this</u>	347
<u>section;</u>	348
<u>(8) Discloses the standard communication format used by</u>	349
<u>the provider or landlord to provide information to tenants;</u>	350
<u>(9) Provide a description of the alternative payment plan</u>	351
<u>required by section 4933.56 of the Revised Code.</u>	352
<u>(C) To the extent that a landlord of a property or</u>	353
<u>community with more than fifty dwelling units is not the</u>	354
<u>submetered utility service provider, the landlord shall</u>	355
<u>separately contribute to or attest to the language included, or</u>	356
<u>to be included, in each tenant's lease relating to submetered</u>	357
<u>electric service.</u>	358
<u>(D) The provider shall adhere to the compliance plan that</u>	359

is approved by the commission, unless otherwise directed by the 360
commission. 361

(E) The compliance plan shall be updated from time to time 362
upon any material change to the information contained therein. 363

Sec. 4933.59. (A) Not later than one year after the 364
effective date of this section, the public utilities commission 365
shall adopt rules to implement sections 4933.56 and 4933.58 of 366
the Revised Code. 367

(B) The commission shall adopt rules to implement section 368
4933.57 of the Revised Code not more than one hundred eighty 369
days after the effective date of this section. 370

(C) The commission may require submetered utility service 371
providers that provide submetered utility service to residential 372
end users other than providers that resell electricity to a 373
tenant based on metered consumption at the tenant's dwelling 374
unit to register every two years and to comply with any 375
applicable registration requirements. 376

(D) Rules adopted under this section, including any 377
requirements regarding classifications, procedures, terms, and 378
conditions, shall be reasonable and shall not confer any undue 379
economic, competitive, or market advantage or preference upon 380
any electric light company, submetered utility service provider, 381
or competitive retail electric service provider. 382

(E) The commission may charge submetered utility service 383
providers a registration processing fee of not more than one 384
thousand dollars per initial and each subsequent biennial 385
registration. The commission shall use all amounts collected 386
under this division to pay costs related to the implementation 387
of sections 4933.51 to 4933.68 of the Revised Code. 388

(F) Notwithstanding any provision of section 121.95 of the 389
Revised Code to the contrary, a regulatory restriction contained 390
in rules adopted under sections 4933.51 to 4933.68 of the 391
Revised Code is not subject to sections 121.95 to 121.953 of the 392
Revised Code. 393

Sec. 4933.60. (A) The public utilities commission shall 394
approve or issue a notice of deficiency in accordance with 395
division (B) (2) of this section relating to any of the following 396
not more than thirty days after receipt from a submetered 397
utility service provider at a property or community with more 398
than fifty dwelling units: 399

(1) A registration application required under section 400
4933.56 or 4933.59 of the Revised Code; 401

(2) An interim compliance plan filing required under 402
section 4933.57 of the Revised Code; 403

(3) A compliance plan filing required under section 404
4933.58 of the Revised Code. 405

(B) (1) The commission shall approve a provider's 406
application or filing described in this section if the 407
application or filing complies with all requirements under 408
sections 4933.56 to 4933.59 of the Revised Code, as applicable. 409

(2) If a provider's application or filing described in 410
this section does not comply with some or all of the 411
requirements under sections 4933.56 to 4933.59 of the Revised 412
Code, the commission shall notify the provider by using a notice 413
of deficiency setting forth the manner of noncompliance in terms 414
sufficiently specific to permit the provider to remedy the 415
noncompliance. Upon a provider's amendment of an application or 416
filing following a notice of deficiency, the commission shall 417

approve or deny the provider's amended application or filing 418
within thirty days of receipt. 419

(C) If the commission denies a provider's amended 420
application or filing as described in this section, the 421
commission shall notify the provider of the reason for such 422
denial. 423

(D) Any application or filing described in this section 424
that is not approved or for which a notice of deficiency is not 425
submitted within ninety days is deemed approved by operation of 426
law. 427

Sec. 4933.61. Notwithstanding any provision of sections 428
4933.51 to 4933.68 of the Revised Code to the contrary, the 429
public utilities commission may temporarily modify or waive any 430
or all of the requirements of sections 4933.56, 4933.58, and 431
4933.59 of the Revised Code for a period not exceeding sixty 432
days to account for changes in technology, law, or for the 433
emergence of factors or circumstances affecting a party's 434
compliance with those sections, which factors are beyond that 435
party's control or which could not be reasonably anticipated by 436
that party. 437

Sec. 4933.62. (A) Unless waived under section 4933.61 of 438
the Revised Code, no submetered utility service provider shall 439
provide a submetered utility service to a consumer in this state 440
without first being registered with the public utilities 441
commission, to the extent registration is required under 442
sections 4933.56 and 4933.59 of the Revised Code. 443

(B) Beginning one hundred twenty days after the effective 444
date of rules adopted to implement section 4933.57 of the 445
Revised Code and terminating upon the effective date of rules to 446

implement section 4933.58 of the Revised Code, no submetered 447
utility service provider that resells electricity to a tenant 448
based on metered consumption at the tenant's dwelling unit at a 449
property or community with more than fifty dwelling units shall 450
provide a submetered utility service to a consumer in this state 451
without an approved interim compliance plan under section 452
4933.57 of the Revised Code. 453

(C) Beginning one hundred twenty days after the effective 454
date of rules adopted to implement section 4933.58 of the 455
Revised Code, unless waived under section 4933.61 of the Revised 456
Code, no submetered utility service provider that resells 457
electricity to a tenant based on metered consumption at the 458
tenant's dwelling unit at a property or community with more than 459
fifty dwelling units shall provide a submetered utility service 460
to a consumer in this state without an approved compliance plan 461
under section 4933.58 of the Revised Code. 462

Sec. 4933.63. (A) The public utilities commission shall 463
receive and use reasonable diligence to investigate any reports 464
or information regarding a possible failure to comply with, or a 465
violation of, the requirements of sections 4933.55 to 4933.59 of 466
the Revised Code. 467

(B) The commission may review any of the following in 468
response to a report or information received under this section: 469

(1) A submetered utility service provider's or landlord's 470
relevant billing practices; 471

(2) A submetered utility service provider's or landlord's 472
billing history; 473

(3) A submetered utility service provider's or landlord's 474
leases; 475

<u>(4) Any other relevant documentation and information as</u>	476
<u>the commission deems appropriate.</u>	477
<u>(C) Any portion of materials reviewed by the commission</u>	478
<u>under this section that contain personally identifiable</u>	479
<u>information, including banking or information which could be</u>	480
<u>used to commit identity theft, shall be treated as confidential.</u>	481
<u>(D) If a review is initiated under this section as a</u>	482
<u>result of a report or information from a tenant receiving</u>	483
<u>submetered utility service, the commission shall report its</u>	484
<u>conclusions and the results of the review to the tenant not more</u>	485
<u>than one hundred eighty days after receipt of the report or</u>	486
<u>information.</u>	487
<u>(E) Any submetered utility service provider that fails to</u>	488
<u>cooperate with a review under this section in good faith may, at</u>	489
<u>the commission's discretion, be determined liable for a</u>	490
<u>violation or failure to comply with sections 4933.55 to 4933.59</u>	491
<u>of the Revised Code and may be assessed any penalties under</u>	492
<u>section 4933.65 of the Revised Code.</u>	493
<u>Sec. 4933.64.</u> (A) <u>Any person, firm, or corporation, or the</u>	494
<u>public utilities commission upon its initiative, may file a</u>	495
<u>written complaint against either of the following:</u>	496
<u>(1) Any submetered utility service provider for a failure</u>	497
<u>to comply with, or a violation of, the requirements under</u>	498
<u>sections 4933.55 to 4933.59 of the Revised Code;</u>	499
<u>(2) Any landlord who is not a submetered utility service</u>	500
<u>provider for a failure to comply with division (C) of section</u>	501
<u>4933.58 of the Revised Code.</u>	502
<u>(B) If it appears that reasonable grounds for complaint</u>	503
<u>are stated after a preliminary investigation, the commission</u>	504

shall provide notice of probable noncompliance to the submetered 505
utility service provider or landlord and grant the provider or 506
landlord sixty days, or longer at the commission's discretion, 507
to cure the noncompliance. If such noncompliance is not cured 508
during the cure period, the commission may open a formal 509
investigation of the complaint. 510

(C) The commission may, after a formal investigation under 511
this section, provide reasonable notice and the opportunity for 512
a hearing to the provider or landlord subject to the 513
investigation. After such notice and opportunity for a hearing, 514
if the commission determines by a preponderance of the evidence 515
that the provider or landlord committed the violation or failure 516
to comply described in the complaint, the commission may issue 517
an order to assess any penalties described in section 4933.65 or 518
4933.66 of the Revised Code, as applicable. 519

(D) The parties to a formal investigation under this 520
section shall be entitled to be heard, represented by counsel, 521
and to have a process to enforce the attendance of witnesses. 522

(E) Nothing in this section prohibits a provider or 523
landlord from resolving any failure to comply with, or a 524
violation of, the requirements under sections 4933.55 to 4933.59 525
of the Revised Code prior to commission action. 526

Sec. 4933.65. (A) Any submetered utility service provider 527
that is found to have violated or failed to comply with the 528
requirements under sections 4933.55 to 4933.59 of the Revised 529
Code, after reasonable notice and opportunity for a hearing 530
under section 4933.64 of the Revised Code, or if division (E) of 531
section 4933.63 of the Revised Code applies, except as provided 532
in division (B) of this section, may be assessed, or have any or 533
all of the following penalties imposed, at the discretion of the 534

public utilities commission: 535

(1) A forfeiture of not more than one hundred dollars for 536
each violation or compliance failure per impacted dwelling unit. 537
For purposes of a forfeiture under division (A)(1) of this 538
section, each day that a provider violates or fails to comply 539
with sections 4933.55 to 4933.59 of the Revised Code is a 540
separate violation or compliance failure for each violation or 541
compliance failure. 542

(2) A forfeiture of ten thousand dollars if the submetered 543
utility service provider is found to have violated or failed to 544
comply with division (C) of section 4933.62 of the Revised Code. 545
A forfeiture under division (A)(2) of this section may be in 546
addition to a forfeiture under division (A)(1) of this section. 547

(3) Revocation, vacation, or nullification of the 548
provider's registration under section 4933.56 of the Revised 549
Code and issuance of an order and entry of the order in the 550
journal of the commission barring such provider from providing 551
submetered utility service in this state for not more than two 552
years. 553

(B) The commission shall grant the provider that is 554
assessed, or on whom is imposed, one or more penalties under 555
this section sixty days, or longer at the commission's 556
discretion, to cure the violation or failure to comply. If such 557
violation or failure to comply is cured during that period, the 558
provider is not subject to the penalties assessed under this 559
section. 560

(C) Forfeitures under this section shall be recovered by 561
action prosecuted in the name of the state and may be brought in 562
the court of common pleas of any county in which the provider 563

who committed the violation or failed to comply is located. The 564
action shall be commenced and prosecuted by the attorney general 565
when directed by the public utilities commission. All 566
forfeitures are cumulative, and an action for recovery of one 567
does not bar the recovery of another. Forfeitures collected 568
under this section shall be credited to the general revenue 569
fund. 570

Sec. 4933.66. (A) The public utilities commission may, 571
except as provided in division (B) of this section, enter an 572
order in the journal of the commission barring, for not more 573
than two years, the provision of submetered utility service to 574
the property or community of a landlord that is found to have 575
failed to comply with division (C) of section 4933.58 of the 576
Revised Code after reasonable notice and opportunity for a 577
hearing under section 4933.64 of the Revised Code. 578

(B) The commission shall grant the landlord assessed a 579
penalty under this section sixty days, or longer at the 580
commission's discretion, to cure the failure to comply. If such 581
failure to comply is cured during the cure period, the landlord 582
is not subject to the penalty assessed under this section. 583

Sec. 4933.68. Not later than two years after the effective 584
date of the rules adopted pursuant to division (A) of section 585
4933.59 of the Revised Code, the public utilities commission 586
shall submit a report to the general assembly that contains all 587
of the following information: 588

(A) The number of submetered utility service providers 589
registered with the commission; 590

(B) The name of each submetered utility service provider 591
registered with the commission; 592

<u>(C) The name and address of each property or community</u>	593
<u>served by a submetered utility service provider;</u>	594
<u>(D) The number of dwelling units at each property or</u>	595
<u>community served by a submetered utility service provider;</u>	596
<u>(E) The number of complaints received by the commission on</u>	597
<u>a monthly basis from residential customers regarding the</u>	598
<u>customer's submetered utility service where the commission</u>	599
<u>determined that a violation by a submetered utility service</u>	600
<u>provider occurred.</u>	601
Sec. 5321.04. (A) A landlord who is a party to a rental	602
agreement shall do all of the following:	603
(1) Comply with the requirements of all applicable	604
building, housing, health, and safety codes that materially	605
affect health and safety;	606
(2) Make all repairs and do whatever is reasonably	607
necessary to put and keep the premises in a fit and habitable	608
condition;	609
(3) Keep all common areas of the premises in a safe and	610
sanitary condition;	611
(4) Maintain in good and safe working order and condition	612
all electrical, plumbing, sanitary, heating, ventilating, and	613
air conditioning fixtures and appliances, and elevators,	614
supplied or required to be supplied by the landlord;	615
(5) When the landlord is a party to any rental agreements	616
that cover four or more dwelling units in the same structure,	617
provide and maintain appropriate receptacles for the removal of	618
ashes, garbage, rubbish, and other waste incidental to the	619
occupancy of a dwelling unit, and arrange for their removal;	620

(6) Supply running water, reasonable amounts of hot water, 621
and reasonable heat at all times, except where the building that 622
includes the dwelling unit is not required by law to be equipped 623
for that purpose, or the dwelling unit is so constructed that 624
heat or hot water is generated by an installation within the 625
exclusive control of the tenant and supplied by a direct public 626
utility connection; 627

(7) Not abuse the right of access conferred by division 628
(B) of section 5321.05 of the Revised Code; 629

(8) Except in the case of emergency or if it is 630
impracticable to do so, give the tenant reasonable notice of the 631
landlord's intent to enter and enter only at reasonable times. 632
Twenty-four hours is presumed to be a reasonable notice in the 633
absence of evidence to the contrary. 634

(9) Promptly commence an action under Chapter 1923. of the 635
Revised Code, after complying with division (C) of section 636
5321.17 of the Revised Code, to remove a tenant from particular 637
residential premises, if the tenant fails to vacate the premises 638
within three days after the giving of the notice required by 639
that division and if the landlord has actual knowledge of or has 640
reasonable cause to believe that the tenant, any person in the 641
tenant's household, or any person on the premises with the 642
consent of the tenant previously has or presently is engaged in 643
a violation as described in division (A) (6) (a) (i) of section 644
1923.02 of the Revised Code, whether or not the tenant or other 645
person has been charged with, has pleaded guilty to or been 646
convicted of, or has been determined to be a delinquent child 647
for an act that, if committed by an adult, would be a violation 648
as described in that division. Such actual knowledge or 649
reasonable cause to believe shall be determined in accordance 650

with that division. 651

(10) Comply with the rights of tenants under the 652
Servicemembers Civil Relief Act, 117 Stat. 2835, 50 U.S.C. App. 653
501; 654

(11) If the landlord, whether by itself or with the 655
assistance of a submetered utility service provider, resells or 656
permits resale of utility service to tenants, disclose the 657
nature of such utility service and all related charges or fees, 658
including any common area charges or fees, in its leases with 659
tenants, and, as applicable, comply with sections 4933.51 to 660
4933.68 of the Revised Code. 661

(B) If the landlord makes an entry in violation of 662
division (A) (8) of this section, makes a lawful entry in an 663
unreasonable manner, or makes repeated demands for entry 664
otherwise lawful that have the effect of harassing the tenant, 665
the tenant may recover actual damages resulting from the entry 666
or demands, obtain injunctive relief to prevent the recurrence 667
of the conduct, and obtain a judgment for reasonable attorney's 668
fees, or may terminate the rental agreement. 669

(C) As used in this section, "submetered utility service 670
provider" has the same meaning as in section 4933.51 of the 671
Revised Code. 672

Section 2. That existing sections 4905.02 and 5321.04 of 673
the Revised Code are hereby repealed. 674