

As Introduced

**131st General Assembly
Regular Session
2015-2016**

H. B. No. 589

Representative Duffey

A BILL

To enact sections 4941.01, 4941.03, 4941.05, 1
4941.07, 4941.08, 4941.09, 4941.11, and 4941.13 2
of the Revised Code to permit the Public 3
Utilities Commission to adopt rules governing 4
residential utility reselling. 5

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

Section 1. That sections 4941.01, 4941.03, 4941.05, 6
4941.07, 4941.08, 4941.09, 4941.11, and 4941.13 of the Revised 7
Code be enacted to read as follows: 8

Sec. 4941.01. As used in this chapter: 9

(A) "Common area" means any area for which utility service 10
is provided that is available for common use or is habitually 11
used by any of the following: 12

(1) Multiple occupants who do not cohabit; 13

(2) A person who is neither an occupant nor a guest of an 14
occupant. 15

(B) "Landlord" and "tenant" have the same meanings as in 16
section 5321.01 of the Revised Code. 17

(C) "Master meter" means a device that measures the total amount of utility service provided to one or more occupants. "Master meter" includes a master-meter system as defined in section 4905.90 of the Revised Code. "Master meter" excludes a submeter. 18
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(D) "Occupant" means a tenant, resident, or unit owner. 23

(E) "Park operator" and "resident" have the same meanings as in section 4781.01 of the Revised Code. 24
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(F) "Proprietor" means a landlord, park operator, unit owners association, or the agent of a landlord, park operator, or unit owners association. 26
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(G) (1) "Residential utility reselling" means any situation in which a proprietor charges an occupant an amount for utility service that is a distinct charge, separate from the standard monthly charge such as rent or the condominium-association fee. 29
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(2) "Residential utility reselling" includes the following: 33
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(a) Situations in which one or more submeters are used, as well as situations in which only a master meter is used; 35
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(b) Situations in which the proprietor contracts with another entity to assist with billing or charging for utility service, as well as situations in which the proprietor does not receive assistance with billing or charging for utility service. 37
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(3) "Residential utility reselling" excludes situations in which an occupant is a direct customer of a utility provider. 41
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(H) "Submeter" means a device that measures only a portion of the total amount of utility service provided to one or more occupants. 43
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(I) "Unit owner" and "unit owners association" have the same meanings as in section 5311.01 of the Revised Code. 46
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(J) "Utility charge" means the distinct charge described in division (G) (1) of this section. "Utility charge" includes any administrative fees or similar charges if those fees or charges are related to utility service. 48
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(K) "Utility provider" means all of the following: 52

(1) An electric distribution utility as defined in section 4928.01 of the Revised Code; 53
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(2) An electric light company, as defined in section 4905.03 of the Revised Code, that operates its utility not for profit, including an electric cooperative as defined in section 4928.01 of the Revised Code; 55
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(3) A municipal electric utility; 59

(4) A natural gas company, as defined in section 4929.01 of the Revised Code; 60
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(5) A water-works company, as defined in section 4905.03 of the Revised Code; 62
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(6) A sewage disposal system company, as defined in section 4905.03 of the Revised Code. 64
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(L) "Utility service" means the electric, natural-gas, water, or sewage-disposal service provided by the utility provider. 66
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Sec. 4941.03. Not later than one year after the effective date of this section, the public utilities commission may, in accordance with sections 4941.07 and 4941.08 of the Revised Code, adopt rules governing residential utility reselling. 69
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Sec. 4941.05. (A) Beginning one year after the effective 73
date of this section, no person shall practice residential 74
utility reselling in this state except in accordance with rules 75
adopted by the public utilities commission under sections 76
4941.03, 4941.07, and 4941.08 of the Revised Code. 77

(B) If the commission does not adopt rules in accordance 78
with sections 4941.03, 4941.07, and 4941.08 of the Revised Code 79
by the deadline prescribed in section 4941.03 of the Revised 80
Code, no person shall practice residential utility reselling in 81
this state. 82

Sec. 4941.07. Any rules adopted by the public utilities 83
commission under section 4941.03 of the Revised Code shall 84
include all of the following: 85

(A) A prohibition against a proprietor charging an 86
occupant a distinct charge for any utility service provided to a 87
common area; 88

(B) Except as provided in section 4941.08 of the Revised 89
Code, a prohibition against a proprietor charging a utility 90
charge that exceeds what the occupant would be charged by the 91
utility provider if both of the following had been the case: 92

(1) The occupant had been receiving utility service as a 93
direct customer of that utility provider and had been charged 94
the residential rates, fees, and costs that are charged to other 95
residential customers in the same service territory by the 96
utility provider; 97

(2) The occupant had been charged for the occupant's use 98
of utility service exclusive of common-area usage. 99

(C) Provisions for occupant protections that are the same 100
or more protective than protections that those occupants would 101

be entitled to if they were direct customers of the utility 102
provider; 103

(D) Provisions governing enforcement of the rules, 104
including penalties for violations of the rules; 105

(E) Any other rules that the commission determines are 106
appropriate. 107

Sec. 4941.08. Any rules adopted by the public utilities 108
commission under sections 4941.03 and 4941.07 of the Revised 109
Code shall allow a proprietor that practices residential utility 110
reselling to charge an occupant an amount for utility service 111
that is based on a ratio or formula. Such a ratio or formula may 112
be based on the number of occupants, square footage, or other 113
similar factors. The rules, if adopted, shall prohibit a 114
proprietor that uses a ratio or formula from charging in the 115
aggregate, for all occupants who receive utility service through 116
a single master meter, more than the total bill that the 117
proprietor received for that master meter. 118

Sec. 4941.09. Nothing in this chapter prohibits a 119
proprietor from doing either of the following: 120

(A) Using a submeter or submeters to determine the cost of 121
utility service provided to common areas and factoring that cost 122
into the the standard monthly charge such as rent or the 123
condominium-association fee; 124

(B) Factoring the costs of all utility service provided to 125
occupants, including common areas, into the standard monthly 126
charge such as rent or the condominium-association fee. 127

Sec. 4941.11. Nothing in this chapter prevents a 128
proprietor from purchasing a component of utility service 129
through a competitive provider at a rate that is different than 130

the rate for that component under the utility provider's 131
standard service offer, as long as the proprietor is still 132
compliant with the rules adopted under sections 4941.03, 133
4941.07, and 4941.08 of the Revised Code. 134

Sec. 4941.13. Nothing in this chapter limits the authority 135
of the public utilities commission, a municipality, or another 136
local jurisdiction to prohibit or limit residential utility 137
reselling. 138