

A bill for an act

relating to water and sewer; regulating water and sewer charges for manufactured home parks; repealing air admittance valve prohibition; amending Minnesota Statutes 2010, sections 103G.291, subdivision 4; 327C.01, by adding subdivisions; 327C.02, subdivision 2; 327C.04, subdivision 2, by adding subdivisions; repealing Minnesota Statutes 2010, section 326B.43, subdivision 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 103G.291, subdivision 4, is amended to read:

Subd. 4. **Conservation rate structure required.** (a) For the purposes of this section, "conservation rate structure" means a rate structure that encourages conservation and may include increasing block rates, seasonal rates, time of use rates, individualized goal rates, or excess use rates. The rate structure must consider each residential unit as an individual user in multiple-family dwellings and manufactured home parks, as that term is defined in section 327C.01, subdivision 5.

(b) To encourage conservation, a public water supplier serving more than 1,000 people in the metropolitan area, as defined in section 473.121, subdivision 2, shall use a conservation rate structure by January 1, 2010. All remaining public water suppliers serving more than 1,000 people shall use a conservation rate structure by January 1, 2013.

(c) A public water supplier without the proper measuring equipment to track the amount of water used by its users, as of July 1, 2008, is exempt from this subdivision and the conservation rate structure requirement under subdivision 3, paragraph (c).

Sec. 2. Minnesota Statutes 2010, section 327C.01, is amended by adding a subdivision to read:

Subd. 7b. **Municipality.** "Municipality" means the governing body of a county, statutory, or home rule charter city, or town or regional authority that operates facilities, as that term is defined in section 444.075, subdivision 1, paragraph (f).

Sec. 3. Minnesota Statutes 2010, section 327C.01, is amended by adding a subdivision to read:

Subd. 13. **Water measuring device.** "Water measuring device" means a water meter or submeter used to measure the water usage of a resident and to provide billing to a resident for actual water usage.

Sec. 4. Minnesota Statutes 2010, section 327C.02, subdivision 2, is amended to read:

Subd. 2. **Modification of rules.** (a) The park owner must give the resident at least 60 days' notice in writing of any rule change.

(b) A rule adopted or amended after the resident initially enters into a rental agreement may be enforced against that resident only if the new or amended rule is reasonable and is not a substantial modification of the original agreement.

(c) Any security deposit increase is a substantial modification of the rental agreement. ~~A reasonable rent increase made in compliance with section 327C.06 is~~ The following actions are not a substantial modification of the rental agreement and ~~is~~ are not considered to be a rule for purposes of section 327C.01, subdivision 8: (1) a reasonable rent increase made in compliance with section 327C.06; and (2) the imposition and collection of water, sewer, and other charges for utility service under section 327C.04.

A rule change necessitated by government action is not a substantial modification of the rental agreement. A rule change requiring all residents to maintain their homes, sheds and other appurtenances in good repair and safe condition shall not be deemed a substantial modification of a rental agreement.

(d) If a part of a resident's home, shed or other appurtenance becomes so dilapidated that repair is impractical and total replacement is necessary, the park owner may require the resident to make the replacement in conformity with a generally applicable rule adopted after the resident initially entered into a rental agreement with the park owner.

(e) In any action in which a rule change is alleged to be a substantial modification of the rental agreement, a court may consider the following factors in limitation of the criteria set forth in section 327C.01, subdivision 11:

(~~a~~) (1) any significant changes in circumstances which have occurred since the original rule was adopted and which necessitate the rule change; and

~~(b)~~ (2) any compensating benefits which the rule change will produce for the residents.

Sec. 5. Minnesota Statutes 2010, section 327C.04, subdivision 2, is amended to read:

Subd. 2. **Metering required.** A park owner who charges residents for a utility service must charge each ~~household~~ resident the same amount, unless the park owner has installed measuring devices which accurately meter each ~~household's~~ resident's use of the utility.

Sec. 6. Minnesota Statutes 2010, section 327C.04, is amended by adding a subdivision to read:

Subd. 5. **Water and sewer; separate billing.** (a) For purposes of this subdivision, "third party" means an individual, corporation, firm, company, partnership, limited liability corporation, cooperative, or association that provides water or sewer services under an agreement with a park owner, which may include but is not limited to:

(1) installation and maintenance of waterworks systems or sanitary sewer systems owned by the park owner but only if the systems are allowed by the municipality pursuant to sections 412.221, subdivision 11, and 462.357, subdivision 7;

(2) installation and maintenance of water measuring devices;

(3) measurement of water usage by each resident; and

(4) billing service.

Third party does not include a public water supplier.

(b) As provided in this subdivision, a park owner who installs a water measuring device to measure water service use, and provide for calculations of sewer use, may separately bill each resident in the park for water service, sewer service, or both. This authority applies to billing performed in conjunction with a bill received by the park owner by or on behalf of a public water supplier, and to billing for water or sewer service provided by means of a private well or private sewer or septic system.

(c) A park owner who performs separate billing of each resident for the utility service shall:

(1) bill a resident at least quarterly;

(2) maintain exclusive responsibility for the installation, maintenance, and reading of water measuring devices;

(3) comply with all applicable federal, state, and municipal requirements for private wells; and

(4) bill a resident (A) based on that resident's actual use of water, and resulting sewer usage, as identified by the water measuring device, and (B) at the rates or calculations used by the appropriate public water supplier for each utility service:

(i) if the park owner uses billing services provided by a third party, bill a resident for the actual billing amount identified by the third party for that resident; or

(ii) if the park owner provides the utility service by means of a private well or private sewer or septic system, bill a resident (A) based on that resident's actual use of water as identified by the water measuring device, and (B) at the rates permitted for utility charges under subdivision 3.

(d) A park owner may not include in a bill to a resident for utility service under this subdivision, charges for:

(1) the cost of a water measuring device;

(2) the cost of installation or maintenance of a water measuring device;

(3) the cost of billing; or

(4) any administrative, capital, or other related expenses, including but not limited to disconnection and reconnection.

(e) Notwithstanding paragraph (d), a park owner may charge for repair or replacement of a water measuring device due to a resident's negligence, intentional damage, or theft by a resident.

(f) Notwithstanding paragraph (d), if a park owner who performs separate billing of each resident for the utility service receives a bill from a public water supplier that includes one or more fixed charges, including a connection fee, as defined in section 444.075, subdivision 3, the park owner shall apportion the fixed charges equally among each resident based on the number of lots in the park that are consuming the utility service.

(g) Each resident is responsible only for the metered water and resulting sewer usage and the share of any fixed charges as provided under paragraph (f). Any difference between the aggregate metered use plus fixed charges and the total amount billed to the park owner is the exclusive responsibility of the park owner.

(h) A billing statement provided to each resident for utility service under this subdivision must identify (1) the amount of the resident's actual use of water for the billing period, (2) the rate charged to the resident, including any calculations performed, for each utility service billed, and (3) any fixed charges apportioned under paragraph (f).

(i) Nothing in this section shall be construed to limit any existing right or obligation of a municipality, including, but not limited to, the authority to:

(1) impose rates, fees, and charges on customers, as determined by the municipality or the local public utilities commission, or as authorized by ordinance or statute, including

the rate structure required under section 103G.291, subdivision 4, and fees required to obtain and comply with permits;

(2) regulate the use of private wells, waterworks, and water supply, as provided under sections 412.221, subdivision 11, and 462.357, subdivision 1; or

(3) manage and operate a waterworks, sanitary sewer, or storm sewer, as those terms are defined in section 444.075, subdivision 1.

(j) Nothing in this section permits a municipality to impose any fees or charges for privately owned infrastructure, including meter charges or line charges, in manufactured home parks as defined in section 327.14, subdivision 3, and not owned by a municipality.

Sec. 7. Minnesota Statutes 2010, section 327C.04, is amended by adding a subdivision to read:

Subd. 6. **Water and sewer; initial installation.** (a) A park owner shall provide notice to each resident two months prior to the installation of a water measuring device for use under subdivision 5.

(b) Prior to or with the initial separate bill to a resident for utility service under subdivision 5, the park owner shall:

(1) reduce the resident's monthly rent in an amount equal to the monthly average of the resident's proportional share of the total amount billed over the previous 12 months to the park owner by the appropriate public water supplier for the utility service; or

(2) waive the resident's next regularly scheduled rent increase as otherwise permitted in section 327C.06, subdivision 3, over the subsequent 12-month period.

Sec. 8. Minnesota Statutes 2010, section 327C.04, is amended by adding a subdivision to read:

Subd. 7. **Water and sewer; water measuring device.** A water measuring device used under subdivision 5 must be:

(1) certified, at the time of installation, as being in compliance with appropriate national standards produced by (i) the American Water Works Association (AWWA), (ii) the American Society of Mechanical Engineers (ASME), or (iii) the American National Standards Institute (ANSI);

(2) equipped with a manual or digital display that is readily accessible to the park owner and a resident; and

(3) installed in accordance with the plumbing code, as defined in section 326B.42, subdivision 7.

Sec. 9. Minnesota Statutes 2010, section 327C.04, is amended by adding a subdivision to read:

Subd. 8. **Disputes.** A park owner who separately bills residents for utility service shall:

(1) promptly investigate a complaint from a resident claiming a billing error or metering defect;

(2) make any adjustment required in a timely manner;

(3) if no adjustment is made, provide supporting documents or other information justifying a determination that the billing was correct;

(4) if the resident timely pays the average of the last three billing periods, refrain from taking any collection or any other adverse action against the resident for the amount of the alleged error until the park owner has complied with clauses (1), (2), and (3); and

(5) in a dispute over damage to a water metering device, investigate the cause of the damage and, if requested by the resident in writing, provide the resident with a written explanation as to the cause of the damage prior to imposing a charge for the damage to the meter.

Sec. 10. **REPEALER.**

Minnesota Statutes 2010, section 326B.43, subdivision 6, is repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.