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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 5. HIRING [1925 - 1997.270] (*Title 5 enacted 1872.*)

CHAPTER 2.5. Water Service [1954.201 - 1954.219] (*Chapter 2.5 added by Stats. 2016, Ch. 623, Sec. 2.*)

1954.201. It is the intent of the Legislature in enacting this chapter to do both of the following:

- (a) To encourage the conservation of water in multifamily residential rental buildings through means either within the landlord's or the tenant's control.
- (b) To establish that the practices involving the submetering of dwelling units for water service are just and reasonable, and include appropriate safeguards for both tenants and landlords.

(*Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.*)

1954.202. For the purposes of this chapter:

- (a) "Billing agent" means a person or entity who contracts to provide submetering services to a landlord, including billing.
- (b) "Landlord" means an owner of residential rental property. "Landlord" does not include a tenant who rents all or a portion of a dwelling unit to subtenants. "Landlord" does not include a common interest development, as defined in Section 4100 of the Civil Code.
- (c) "Property" means real property containing two or more dwelling units that is served by a single master meter.
- (d) "Ratio utility billing system" means the allocation of water and sewer costs to tenants based on the square footage, occupancy, or other physical factors of a dwelling unit.
- (e) "Rental agreement" includes a fixed-term lease.
- (f) "Renting" includes leasing, whether on a periodic or fixed-term basis.
- (g) "Submeter" means a device that measures water consumption of an individual rental unit within a multiunit residential structure or mixed-use residential and commercial structure, and that is owned and operated by the landlord of the structure or the landlord's agent. As used in this section, "multiunit residential structure" and "mixed-use residential and commercial structure" mean real property containing two or more dwelling units.
- (h) "Water service" includes any charges, whether presented for payment on local water purveyor bills, tax bills, or bills from other entities, related to water treatment, distribution, or usage, including, but not limited to, water, sewer, stormwater, and flood control.
- (i) "Water purveyor" means a water purveyor as defined in Section 512 of the Water Code.

(*Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.*)

1954.203. (a) Submeters used to separately bill tenants for water service shall satisfy each of the following requirements:

- (1) The submeter shall be inspected, tested, and verified for commercial purposes pursuant to law, including, but not limited to, Section 12500.5 of the Business and Professions Code.
- (2) The submeter shall conform to all laws regarding installation, maintenance, repair, and use, including, but not limited to, regulations established pursuant to Section 12107 of the Business and Professions Code.
- (3) The submeter shall measure only water that is supplied for the exclusive use of the particular dwelling unit, and only to an area within the exclusive possession and control of the tenant of the dwelling unit.

(4) The submeter shall be capable of being accessed and read by the tenant of the dwelling unit and read by the landlord without entering the dwelling unit. A submeter installed before January 1, 2018, may be read by the landlord after entry into the unit, in accordance with this chapter and Section 1954.

(5) The submeter shall be reinspected and recalibrated within the time limits specified in law or regulation.

(b) This section does not require a water purveyor to assume responsibility for ensuring compliance with any law or regulation governing installation, certification, maintenance, and testing of submeters and associated onsite plumbing.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.204. Before executing a rental agreement, a landlord who intends to charge a tenant separately from rent for water service in a property with submeters shall clearly disclose the following information to the tenant, in writing, in at least 10-point type, which may be incorporated into the rental agreement:

(a) That the tenant will be billed for water service separately from the rent.

(b) An estimate of the monthly bill for water service for dwelling units at the property based on either of the following:

(1) The average or median bill for water service for comparative dwelling units at the property over any three of the past six months.

(2) The amount of the bill based upon average indoor water use of a family of four of approximately 200 gallons per day, and including all other monthly charges that will be assessed. Estimates for other gallons per day may also be included. The estimate shall include a statement that the average family of four uses about 200 gallons of water each day.

(c) The due dates and payment procedures for bills for water service.

(d) A mailing address, an email address, and a toll-free telephone number or a local telephone number for the tenant to contact the landlord or billing agent with questions regarding the water service billing and the days and hours for regular telephone service at either number.

(e) That the monthly bill for water service may only include the following charges:

(1) Payment due for the amount of usage as measured by the submeter and charged at allowable rates in accordance with subdivision (a) of Section 1954.205.

(2) Payment of a portion of the fixed fee charged by the water purveyors for water service.

(3) A fee for the landlord's or billing agent's costs in accordance with paragraph (3) of subdivision (a) of Section 1954.205.

(4) Any late fee, with the amounts and times assessed, in compliance with Section 1954.213.

(f) A statement that the tenant shall notify the landlord of any leaks, drips, water fixtures that do not shut off properly, including, but not limited to, a toilet, or other problems with the water system, including, but not limited to, problems with water-saving devices, and that the landlord is required to investigate, and, if necessary, repair these problems within 21 days, otherwise, the water bill will be adjusted pursuant to law.

(g) A mailing address, an email address, and a toll-free telephone number or a local telephone number for the tenant to use to contact the landlord, or an agent of the landlord, to report any leaks, drips, water fixtures that do not shut off properly, including, but not limited to, a toilet, or other problems with the water system, including, but not limited to, problems with water-saving devices.

(h) A statement that the landlord shall provide any of the following information if asked by the tenant:

(1) The location of the submeter.

(2) The calculations used to determine a monthly bill.

(3) The date the submeter was last certified for use, and the date it is next scheduled for certification, if known.

(i) A statement that if the tenant believes that the submeter reading is inaccurate or the submeter is malfunctioning, the tenant shall first notify the landlord in writing and request an investigation. A tenant shall be provided with notice that if an alleged submeter malfunction is not resolved by the landlord, a tenant may contact the local county sealer and request that the submeter be tested. Contact information for the county sealer shall be included in the disclosure to the tenant.

(j) A statement that this disclosure is only a general overview of the laws regarding submeters and that the laws can be found at Chapter 2.5 (commencing with Section 1954.201) of Title 5 of Part 4 of Division 3 of the Civil Code, available online or at most

libraries.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.205. (a) As part of the regular bill for water service, a landlord shall only bill a tenant for the following water service:

(1) A charge for volumetric usage, which may be calculated in any the following ways:

(A) The amount shall be calculated by first determining the proportion of the tenant's usage, as shown by the submeter, to the total usage as shown by the water purveyor's billing. The dollar amount billed to the tenant for usage shall be in that same proportion to the dollar amount for usage shown by the water purveyor's billing.

(B) If the water purveyor charges for volumetric usage based on a tiered rate schedule, the landlord may calculate the charge for a tenant's volumetric usage as described in subparagraph (A) or the landlord may instead divide each tier's volume evenly among the number of dwelling units, and the rate applicable to each block shall be applied to the consumption recorded for each dwelling unit.

(C) If the water purveyor charges the property rates on a per-dwelling unit basis, the tenants may be charged at those exact per unit rates.

(2) Any recurring fixed charge for water service billed to the property by the water purveyors that, at the landlord's discretion, shall be calculated by either of the following:

(A) The tenant's proportion of the total fixed charges charged to the property. The tenant's proportion shall be based on the percentage of the tenant's volumetric water use in relation to the total volumetric water use of the entire property, as shown on the property's water bill during that period.

(B) Dividing the total fixed charges charged to the property equally among the total number of residential units and nonresidential units at the property.

(3) A billing, administrative, or other fee for the landlord's and billing agent's costs, which shall be the lesser of an amount not to exceed four dollars and seventy-five cents (\$4.75), as adjusted pursuant to this paragraph or 25 percent of the amount billed pursuant to paragraph (1). Beginning January 1, 2018, the maximum fee authorized by this paragraph may be adjusted each calendar year by the landlord, no higher than a commensurate increase in the Consumer Price Index based on a California fiscal year average for the previous fiscal year, for all urban consumers, as determined by the Department of Finance.

(4) A late charge as assessed pursuant to Section 1954.213.

(b) If a submeter reading for the beginning or end of a billing period is, in good faith, not available, the landlord shall bill the tenant according to Section 1954.212.

(c) This section does not prohibit a landlord or the landlord's billing agent from including any other lawful charges, including, but not limited to, rent, on the same bill.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.206. (a) Submeters shall be read within three days of the same point in each billing cycle.

(b) Payments shall be due at the same point in each billing cycle. A tenant may agree in writing to receive a bill electronically. A tenant may rescind authorization for electronic delivery of bills at any time. The landlord shall have 30 days to comply with any change in how a tenant requests to receive a bill. A tenant shall not be required to pay a bill electronically.

(c) A bill shall include and separately set forth the following information:

(1) The submeter reading for the beginning date and ending date of the billing cycle, the dates read, and the indicated consumption as determined by subtracting the amount of the beginning date submeter reading from the amount of the ending date submeter reading. If the unit of measure is in something other than gallons, the indicated consumption shall be expressed in gallons.

(2) The amounts charged pursuant to subdivision (a) of Section 1954.205.

(3) The rate or rates charged for the volumetric charge per unit of measure.

(4) The amount, if any, due from the previous month's bill.

(5) The amount, if any, due from bills prior to the previous month's bill.

(6) The late fee, if any, imposed on amounts specified in paragraph (4) or (5).

(7) The total amount due for the billing period.

(8) The due date for the payment.

(9) If a late fee is charged by the landlord, a statement of when the late fees would apply.

(10) The procedure to contact the landlord or billing agent with questions or concerns regarding the bill. Upon request of the tenant, the landlord or billing agent shall respond in writing to any questions or disputes from the tenant. If a billing agent is used, the name of the billing agent shall be disclosed. The tenant shall be provided a mailing address, email address, and telephone number, which shall be either a toll-free or a local number, and the time of regular telephone hours for contact regarding billing inquiries.

(11) A statement that the landlord or billing agent is not the water purveyor that includes the name of the local water purveyor providing the water service to the master meter.

(12) A mailing address, an email address, and a toll-free telephone number or a local telephone number for the tenant to use to contact the landlord, or an agent of the landlord, to report any leaks, drips, water fixtures that do not shut off properly, including, but not limited to, a toilet, or other problems with the water system, including, but not limited to, problems with water-saving devices.

(d) Notwithstanding paragraphs (4) and (5) of subdivision (c), a separate bill may be provided for past due amounts if past due amounts are not included on the current month's bill.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.207. (a) At the beginning of a tenancy, a submeter shall be read after the tenant takes possession. If the regular reading occurs less than five days prior to the tenant taking possession, that reading may be substituted to establish usage. If the submeter is manually read, the first bill may be estimated based on the rate established in subdivision (b) of Section 1954.212.

(b) For a water-service bill at the end of a tenancy, the submeter shall be read within five days, if possible. If the submeter cannot be read within five days at the end of a tenancy, the bill amount for the final month shall be based on the bill amount for the previous month.

(c) The landlord may, at his or her discretion, deduct an unpaid water service bill from the security deposit during or upon termination of a tenancy, if the last water service bill showing the amount due is attached to the documentation required by Section 1950.5.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.208. Unless it can be documented that a penalty is primarily the result of a tenant's or tenants' failure to comply with state or local water use regulations or restrictions, or both, regarding wasting of water, a landlord shall not charge, recover, or allow to be charged or recovered, fees incurred by the landlord from the water purveyors, billing agent, or any other person for any deposit, disconnection, reconnection, late payment by the landlord, or any other penalty assessed against the landlord. This section shall not prevent a landlord from charging a tenant for the tenant's late payment of any bill.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.209. The landlord shall maintain and make available in writing, at the tenant's written or electronic request, within seven days after the request, the following:

(a) The date the submeter was last inspected, tested, and verified, and the date by which it shall be reinspected, tested, and verified under law, if available. If this information is not available, the landlord shall disclose that the information is not available.

(b) The data used to calculate the tenant's bill, as follows:

(1) The most recent water bill for the property's master water meter showing the recurring fixed charge for water service billed to the property by the water purveyor, and the usage charges for the property, including any tiered amounts.

(2) Any other bills for water service, as defined in subdivision (h) of Section 1954.202, for the property.

(3) The number of dwelling units in the property used in the last billing period to calculate the tenant's water service charges.

(4) If not shown on the bill for the property, the per unit charges for volumetric water usage, including any tiered amounts.

(5) The formula used to calculate the charge for the tenant's volumetric water usage.

(c) The location of the submeter.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.210. (a) If a tenant notifies the landlord of, or the landlord otherwise becomes aware of, a leak, a drip, a water fixture that does not shut off properly, including, but not limited to, a toilet, a problem with a water-saving device, or other problem with the water system that causes constant or abnormally high water usage, or a submeter reading indicates constant or abnormal high water usage, the landlord shall have the condition investigated, and, if warranted, rectify the condition.

(b) A tenant shall not remove any water fixtures or water-saving devices that have been installed by the landlord.

(c) If the condition is rectified more than 21 days after the tenant provides notice to the landlord or the landlord otherwise becomes aware of a leak, a drip, a water fixture that does not shut off properly, including, but not limited to, a toilet, a problem with a water-saving device, or other problem with the water system that causes constant or abnormally high water usage, or a submeter reading indicates constant or abnormally high water usage, pursuant to subdivision (a), the tenant's volumetric usage for any month or months that include the period between 21 days after the initial investigation and the repair shall be deemed to be fifteen dollars (\$15) or actual usage, whichever is less. At the landlord's option, if submeter readings are available to determine the usage at a point prior to investigation and a point following repair, usage shall be deemed to be fifty cents (\$0.50) per day for those days between the two submeter readings or actual usage, whichever is less.

(d) If the condition remains unrectified for 180 days after investigation, no further volumetric usage charges may be imposed until the condition is repaired.

(e) If, in order to comply with subdivision (a), the landlord has provided notice pursuant to Section 1954, and the tenant has failed to provide access to the dwelling unit, then the charges shall not be determined pursuant to subdivisions (c) and (d).

(f) If the local water purveyor notifies the landlord of constant or abnormally high water usage at the property, the landlord shall investigate and, if possible, rectify the cause of the high water usage.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.211. The landlord may enter a dwelling unit as follows:

(a) For the purpose of installing, repairing, or replacing a submeter, or for the purpose of investigating or rectifying a condition causing constant or abnormally high water usage, as required by subdivision (a) of Section 1954.210, if the requirements of Section 1954 are met.

(b) To read a submeter, if the requirements of this chapter and Section 1954 are met. Notwithstanding paragraph (3) of subdivision (d) of Section 1954, notice shall be given only in writing.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.212. (a) If a monthly submeter reading necessary to measure volumetric usage is unavailable, and the tenant has provided access to the submeter, the tenant may be charged 75 percent of the average amount billed for volumetric usage for the last three months for which complete billing information is available. The adjustment shall be disclosed on the bill.

(b) If no complete billing information is available for the prior three months, the volumetric usage charge shall be deemed to be fifty cents (\$0.50) per day that the data is not available.

(c) If monthly submeter readings remain unavailable for more than six months, the volumetric usage charge shall be deemed to be zero for any subsequent month that the data is not available.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.213. (a) A tenant may be charged a late fee for any water service bill not paid 25 days after mailing or other transmittal of the bill. If the 25th day falls on a Saturday, Sunday, or holiday, the late fee shall not be imposed until the day after the first business day following the 25th day.

(b) (1) A late fee of up to seven dollars (\$7) may be imposed if any amount of a water service bill remains unpaid after the time described in subdivision (a). A late fee of up to ten dollars (\$10) may be imposed in each subsequent bill if any amount remains unpaid.

(2) The total late fee imposed in any 12-month period upon the amount of a bill that remains unpaid shall not exceed 10 percent of the unpaid amount, exclusive of the administrative fee imposed pursuant to paragraph (3) of subdivision (a) of Section 1954.205 and the late fee imposed pursuant to paragraph (1).

(3) If any partial payments are made, they shall be credited against the bill that has been outstanding the longest.

(c) Notwithstanding subdivision (c) of Section 1954.207, if the water bill remains unpaid for 180 days after the date upon which it is due or the amount of the unpaid water bill equals or exceeds two hundred dollars (\$200), the landlord may terminate the tenancy in accordance with Section 1161 of the Code of Civil Procedure with the service of a three-day notice to perform the conditions or covenants or quit upon the tenant.

(d) Water service charges under this chapter shall not constitute rent.

(e) The water service to a dwelling unit shall not be shut off or otherwise interfered with by the landlord for any reason, including nonpayment of a bill. Notwithstanding the foregoing, a landlord or its agent may shut off water service to a dwelling unit or the property, in order to make repairs, replacements of equipment, or perform other maintenance at the property.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.214. This chapter does not preclude or preempt an ordinance or regulation adopted prior to January 1, 2013, that regulates the approval of submeter types or the installation, maintenance, reading, billing, or testing of submeters and associated onsite plumbing.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.215. The rights or obligations established under this chapter shall not be waived. Any purported waiver is void.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.216. (a) This chapter applies to the following:

(1) All dwelling units offered for rent or rented in a building where submeters were required to be installed pursuant to a building standard adopted in accordance with Section 17922.14 of the Health and Safety Code.

(2) All dwelling units where submeters are used to charge a tenant separately for water service.

(b) Nothing in this chapter shall be construed to apply to any dwelling units other than those described in subdivision (a).

(c) Nothing in this chapter shall be construed to apply or create a public policy or requirement that favors or disfavors the use of a ratio utility billing system.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.217. A submetering system that measures only a portion of a dwelling unit's water usage, including, but not limited to, a system that measures only hot water usage, shall not be subject to this chapter if the system was first put in service before January 1, 2018.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)

1954.218. This chapter shall become operative on January 1, 2018.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Note: Delayed operative date applies to Chapter 2.5, comprising Sections 1954.201 to 1954.219.)

1954.219. Any property that is required to install individual submeters pursuant to Article 5 (commencing with Section 537) of Chapter 8 of Division 1 of the Water Code shall at all times be required to bill residents for water service pursuant to this chapter.

(Added by Stats. 2016, Ch. 623, Sec. 2. (SB 7) Effective January 1, 2017. Section operative January 1, 2018, pursuant to Sec. 1954.218.)