

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0567.01 Christopher McMichael x4775

HOUSE BILL 26-1284

HOUSE SPONSORSHIP

Phillips and Paschal,

SENATE SPONSORSHIP

(None),

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE BILLING OF UTILITY SERVICE FOR TENANT UTILITY
102 BILLS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes requirements for landlords, unit owners, and associations governing common interest communities (association) for billing a tenant for utility service. A landlord, a unit owner, or an association may individually bill a tenant using a submeter or bill a tenant through a ratio utility billing system, which is a system that allocates utility service costs among individual tenants based on a unit's square

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 AS USED IN THIS PART 16, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (1) "ASSOCIATION" OR "UNIT OWNERS' ASSOCIATION" HAS THE
4 MEANING SET FORTH IN SECTION 38-33.3-103 (3).

5 (2) "COMMON AREAS" HAS THE MEANING SET FORTH IN SECTION
6 38-12-502 (2) AND INCLUDES COMMON ELEMENTS, AS DEFINED IN SECTION
7 38-33.3-103 (5).

8 (3) "COMMON EXPENSES" HAS THE MEANING SET FORTH IN
9 SECTION 38-33.3-103 (7).

10 (4) (a) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET
11 FORTH IN SECTION 38-33.3-103 (8).

12 (b) "COMMON INTEREST COMMUNITY" INCLUDES:

13 (I) A CONDOMINIUM;

14 (II) A COOPERATIVE; OR

15 (III) A PLANNED COMMUNITY.

16 (5) "CONDOMINIUM" HAS THE MEANING SET FORTH IN SECTION
17 38-33.3-103 (9).

18 (6) "DWELLING UNIT" HAS THE MEANING SET FORTH IN SECTION
19 38-12-502 (3).

20 (7) (a) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR,
21 SUBLESSOR, SUCCESSOR IN INTEREST, OR AGENT OF THE OWNER OF A
22 RESIDENTIAL PREMISES.

23 (b) "LANDLORD" INCLUDES A UNIT OWNER OR AN ASSOCIATION
24 ACTING AS A LANDLORD WITH RESPECT TO ANY LEASED UNIT WITHIN A
25 COMMON INTEREST COMMUNITY.

26 (8) "RATIO UTILITY BILLING SYSTEM" MEANS THE ALLOCATION OF
27 UTILITY SERVICE COSTS AMONG TENANTS ACCORDING TO FACTORS SUCH

1 AS SQUARE FOOTAGE, OCCUPANCY, OR OTHER PHYSICAL CHARACTERISTICS
2 OF A TENANT'S DWELLING UNIT.

3 (9) "RENTAL AGREEMENT" HAS THE MEANING SET FORTH IN
4 SECTION 38-12-502 (7).

5 (10) "RESIDENTIAL PREMISES" MEANS A DWELLING UNIT, THE
6 STRUCTURE THAT THE UNIT IS A PART OF, AND THE COMMON AREAS.

7 (11) "SUBMETER" MEANS A DEVICE THAT MEASURES THE
8 CONSUMPTION OF UTILITY SERVICES FOR A DWELLING UNIT WITHIN A
9 RESIDENTIAL PREMISES AND IS OWNED OR OPERATED BY THE LANDLORD
10 OR LANDLORD'S AGENT, THE UNIT OWNER, OR THE ASSOCIATION.

11 (12) "TENANT" HAS THE MEANING SET FORTH IN SECTION
12 38-12-502 (9).

13 (13) "THIRD-PARTY BILLING AGENT" MEANS A PERSON, OTHER
14 THAN A LANDLORD, THAT IS ENGAGED TO PROVIDE UTILITY MANAGEMENT
15 SERVICES ON BEHALF OF THE LANDLORD, WHICH SERVICES MAY INCLUDE:

- 16 (a) INSTALLING A SUBMETER;
- 17 (b) READING A SUBMETER;
- 18 (c) CALCULATING RATIO UTILITY BILLING SYSTEMS; OR
- 19 (d) HANDLING UTILITY BILLING AND COLLECTIONS.

20 (14) "UNIT" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103
21 (30).

22 (15) "UNIT OWNER" HAS THE MEANING SET FORTH IN SECTION
23 38-33.3-103 (31).

24 (16) "UTILITY SERVICE" MEANS SERVICE PROVIDED BY A UTILITY
25 TO A RESIDENTIAL PREMISES AND INCLUDES WATER SERVICE, GAS SERVICE,
26 ELECTRICITY SERVICE, TRASH OR RECYCLING SERVICES, AND HEATING OR
27 COOLING SERVICES.

1 (17) "WATER SERVICE" MEANS UTILITY SERVICE RELATED TO
2 WATER TREATMENT, WATER DISTRIBUTION, OR WATER USAGE THAT IS
3 PROVIDED BY A UTILITY TO A RESIDENTIAL PREMISES, INCLUDING WATER,
4 SEWER, STORM WATER, AND FLOOD CONTROL SERVICES.

5 **38-12-1602. Utility service billing methods.**

6 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A
7 LANDLORD, A UNIT OWNER, AN ASSOCIATION, OR A THIRD-PARTY BILLING
8 AGENT MAY USE A RATIO UTILITY BILLING SYSTEM OR A SUBMETER TO
9 DETERMINE THE AMOUNT TO CHARGE A TENANT FOR UTILITY SERVICE TO
10 THE TENANT'S DWELLING UNIT.

11 (2) (a) A LANDLORD, A UNIT OWNER, A DEVELOPER, OR AN
12 ASSOCIATION FOR A NEWLY CONSTRUCTED RESIDENTIAL PREMISES THAT
13 APPLIES FOR INITIAL WATER SERVICE ON OR AFTER JANUARY 1, 2027,
14 SHALL INSTALL SUBMETERS FOR EACH DWELLING UNIT AT THE
15 RESIDENTIAL PREMISES.

16 (b) A LANDLORD, A UNIT OWNER, OR AN ASSOCIATION SHALL
17 MAINTAIN THE SUBMETERS INSTALLED AT THE RESIDENTIAL PREMISES AND
18 SEND A BILL TO THE TENANT OF THE DWELLING UNIT FOR WATER SERVICE
19 BASED ON THE DWELLING UNIT'S SUBMETER MEASUREMENT OF WATER
20 USAGE.

21 **38-12-1603. Submeter requirements.**

22 (1) IN ACCORDANCE WITH SECTION 38-12-1602 (2)(a), A
23 LANDLORD, A UNIT OWNER, AN ASSOCIATION, OR A THIRD-PARTY BILLING
24 AGENT SHALL BILL A TENANT FOR WATER SERVICE BASED ON THE ACTUAL
25 SUBMETER READING FOR THE SUBMETER ASSOCIATED WITH THE TENANT'S
26 DWELLING UNIT. THE TENANT'S BILL FOR WATER SERVICE MUST INCLUDE:

27 (a) THE SUBMETER READINGS FOR THE BEGINNING AND END DATES

1 OF THE BILLING CYCLE;

2 (b) THE RATE AT WHICH THE UTILITY SERVICE IS BEING PROVIDED;

3 AND

4 (c) ANY SUBMETER READINGS THAT ARE ESTIMATED.

5 (2) (a) IF A TENANT SUSPECTS THAT A SUBMETER IS
6 MALFUNCTIONING, THE TENANT SHALL NOTIFY THE LANDLORD, UNIT
7 OWNER, OR ASSOCIATION IN WRITING OF THE MALFUNCTION.

8 (b) (I) A LANDLORD, A UNIT OWNER, OR AN ASSOCIATION THAT
9 RECEIVES NOTICE OF A MALFUNCTIONING SUBMETER SHALL INVESTIGATE
10 WHETHER THE SUBMETER IS PROPERLY RECORDING THE TENANT'S UTILITY
11 SERVICE WITHIN FOURTEEN BUSINESS DAYS AFTER RECEIVING THE NOTICE.

12 (II) IF A LANDLORD, A UNIT OWNER, OR AN ASSOCIATION
13 DETERMINES THAT A SUBMETER IS INACCURATE, THE LANDLORD, UNIT
14 OWNER, OR ASSOCIATION MUST REPAIR OR REPLACE THE SUBMETER AT NO
15 COST TO THE TENANT.

16 (3) IF A SUBMETER READING CANNOT BE OBTAINED, AN ESTIMATED
17 READING FOR UTILITY SERVICE MAY BE USED FOR NO LONGER THAN SIX
18 CONSECUTIVE MONTHS, AND ANY ESTIMATE MUST BE BASED ON PRIOR
19 USAGE OF UTILITY SERVICES FOR THE DWELLING UNIT.

20 (4) FOR A UTILITY SERVICE SYSTEM THAT CALCULATES USAGE
21 WITHOUT A SUBMETER, INCLUDING VARIABLE REFRIGERANT FLOW
22 SYSTEMS, A SYSTEM-PROVIDED CONSUMPTION READING MAY BE USED FOR
23 BILLING A TENANT FOR THE UTILITY SERVICE.

24 **38-12-1604. Rental agreement requirements.**

25 (1) BEFORE EXECUTING A RENTAL AGREEMENT WITH A TENANT, A
26 LANDLORD, A UNIT OWNER, OR AN ASSOCIATION THAT INTENDS TO CHARGE
27 THE TENANT FOR UTILITY SERVICE SEPARATELY FROM RENT SHALL

1 CLEARLY DISCLOSE TO THE TENANT, IN WRITING, THE FOLLOWING:

2 (a) THAT THE TENANT WILL BE BILLED FOR UTILITY SERVICE
3 SEPARATE FROM THE TENANT'S RENTAL PAYMENT;

4 (b) ANY ADMINISTRATIVE FEE THAT WILL BE CHARGED BY THE
5 LANDLORD, WHICH FEES MUST NOT EXCEED THE AMOUNTS FOR FEES SET
6 FORTH IN SECTION 38-12-801 (3)(a)(VI);

7 (c) THE METHOD BY WHICH THE LANDLORD, UNIT OWNER, OR
8 ASSOCIATION WILL BILL THE TENANT FOR UTILITY SERVICE; AND

9 (d) THAT THE TENANT MAY REQUEST, IN WRITING, A COPY OF THE
10 INVOICE SENT TO THE LANDLORD BY A UTILITY SERVICE PROVIDER AND AN
11 EXPLANATION OR CALCULATION OF CHARGES FOR THE TENANT'S UTILITY
12 SERVICE, WHICH SHALL BE PROVIDED TO THE TENANT WITHIN FOURTEEN
13 BUSINESS DAYS AFTER THE TENANT'S REQUEST.

14 **38-12-1605. Ratio utility billing standards - monthly billing**
15 **requirements - prohibition on profits for utility service charges.**

16 (1) IF A LANDLORD, A UNIT OWNER, OR AN ASSOCIATION USES A
17 RATIO UTILITY BILLING SYSTEM TO CHARGE A TENANT FOR UTILITY
18 SERVICE, THE LANDLORD, UNIT OWNER, OR ASSOCIATION SHALL:

19 (a) DISCLOSE TO THE TENANT IN THE RENTAL AGREEMENT THAT
20 THE TENANT WILL BE CHARGED FOR UTILITY SERVICE BASED ON A RATIO
21 UTILITY BILLING SYSTEM;

22 (b) PROVIDE THE TENANT WITH THE FORMULA USED BY THE
23 LANDLORD, UNIT OWNER, OR ASSOCIATION TO CALCULATE THE TENANT'S
24 UTILITY COST AND STATE THAT FORMULA ON THE TENANT'S UTILITY BILL
25 EACH MONTH; AND

26 (c) DISCLOSE WHETHER THE RATIO UTILITY BILLING SYSTEM
27 FORMULA TAKES INTO ACCOUNT THE OCCUPANCY OF A DWELLING UNIT

1 AND HOW MANY OCCUPANTS ARE ASSOCIATED WITH THE DWELLING UNIT.

2 (2) A LANDLORD, A UNIT OWNER, OR AN ASSOCIATION THAT
3 EMPLOYS A RATIO UTILITY BILLING SYSTEM TO CHARGE A TENANT FOR
4 UTILITY SERVICE SHALL DEDUCT AT LEAST TEN PERCENT OF THE TOTAL
5 AMOUNT OF THE UTILITY BILL RECEIVED BY THE LANDLORD, UNIT OWNER,
6 OR ASSOCIATION TO ACCOUNT FOR UTILITY SERVICE TO COMMON AREAS
7 OF A RESIDENTIAL PREMISES BEFORE ALLOCATING CHARGES TO A TENANT
8 FOR THE TENANT'S DWELLING UNIT.

9 (3) A TENANT'S MONTHLY BILL FOR UTILITY SERVICE MUST ONLY
10 INCLUDE THE FOLLOWING CHARGES:

11 (a) THE AMOUNT DUE FOR THE UTILITY SERVICE PROVIDED TO THE
12 TENANT AS CALCULATED BY:

13 (I) A MEASUREMENT FROM A SUBMETER FOR THE UTILITY SERVICE;
14 OR

15 (II) A RATIO UTILITY BILLING SYSTEM;

16 (b) A FEE IN THE AMOUNT AUTHORIZED PURSUANT TO SECTION
17 38-12-801 (3)(a)(VI); AND

18 (c) IF A UNIT OWNER OR AN ASSOCIATION RECOVERS FROM THE
19 TENANT ANY PORTION OF AN ASSOCIATION ASSESSMENT THAT IS
20 ATTRIBUTABLE TO UTILITY SERVICE, AN ITEMIZED STATEMENT THAT
21 IDENTIFIES THE UTILITY SERVICE PORTION OF THE ASSESSMENT THAT IS
22 SEPARATE FROM ALL OTHER COMMON EXPENSES.

23 (4) THIS SECTION DOES NOT PROHIBIT A LANDLORD, A UNIT OWNER,
24 AN ASSOCIATION, OR A THIRD-PARTY BILLING AGENT FROM INCLUDING
25 OTHER LAWFUL CHARGES, INCLUDING RENT, ON THE SAME BILL THAT IS
26 PROVIDED TO A TENANT FOR UTILITY SERVICE.

27 **38-12-1606. Damages - attorney fees.**

1 (1) IF A LANDLORD, A UNIT OWNER, OR AN ASSOCIATION VIOLATES
2 THIS PART 16, THE AGGRIEVED TENANT MAY FILE A CIVIL ACTION IN COURT
3 AND, IF THE TENANT PREVAILS, RECOVER:

4 (a) ACTUAL DAMAGES RESULTING FROM BILLING OVERAGES THAT
5 WERE CHARGED TO THE TENANT FOR UTILITY SERVICE;

6 (b) ADDITIONAL DAMAGES IN AN AMOUNT NOT TO EXCEED
7 TWENTY-FIVE PERCENT OF THE TOTAL OVERAGE AMOUNT CHARGED TO
8 THE TENANT; AND

9 (c) ATTORNEY FEES AND COURT COSTS.

10 (2) NOTHING IN THIS PART 16 SHALL BE CONSTRUED AS
11 CLASSIFYING A LANDLORD OR THIRD-PARTY BILLING AGENT AS A PUBLIC
12 UTILITY OR COLLECTION AGENCY.

13 **38-12-1607. Prohibition on waiving tenant's rights.**

14 (1) A DECLARATION, RULE, OR PROVISION OF A RENTAL
15 AGREEMENT MAY NOT WAIVE OR DIMINISH THE PROTECTIONS OR REMEDIES
16 AVAILABLE TO A TENANT UNDER THIS PART 16.

17 (2) A DECLARATION, RULE, OR PROVISION OF A RENTAL
18 AGREEMENT THAT CONFLICTS WITH THIS PART 16 IS VOID AND
19 UNENFORCEABLE.

20 **SECTION 3. Act subject to petition - effective date -**

21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 12, 2026, if adjournment sine die is on May 13,
24 2026); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2026 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

3 (2) This act applies to conduct occurring and rental agreements
4 entered into or renewed on or after January 1, 2027.