



## California Water Submeter Requirements for Multi-Family Housing Installation, Reading, Disclosure & Billing

### I Introduction

Beginning January 1, 2018, all new multi-family construction (defined as two or more units) that apply to a water purveyor for water connection must include water submeters for each individual unit.<sup>i</sup> At the same time, if an owner has a building constructed before January 1, 2018, and he or she elects to install submeters or already has submeters, the disclosure and billing requirements in the state law must be applied when billing tenants for water.<sup>ii</sup>

Unless the local water provider or local government is operating under an ordinance or regulation requiring individual metering, the owner of the property is required to install and read the submeters, unless the water provider is requested to (by the owner) and agrees to install and read individual meters.<sup>iii</sup> A water provider is not allowed to impose any additional capacity or connection fees or charges for submeters that are installed by the owner or the owner's agent. The law does not require installation in units within property that are used only for commercial purposes.<sup>iv</sup>

All property owners who are required to install submeters at their new buildings after January 1, 2018, must, at all times, bill residents for water service.

This law does not affect ratio utility billing systems or RUBS. It does not prohibit their continued use in existing buildings.

Here is a summary of the requirements under the law.

### II Installation of Submeters

A water submeter, under California law, is defined as 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 the law, "multiunit residential structure" and "mixed-use residential and commercial structure" mean real property containing two or more dwelling units. The law does not require, however, the installation of submeters in units within properties that are used only for commercial purposes

Submeters must satisfy all of the following requirements:

- The submeter must 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.
- The submeter must 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.



- The submeter must measure only water (and all of the 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.
- The submeter must 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 (Notice of Entry Law).
- The submeter must be reinspected and recalibrated within the time limits specified in law or regulation.

The law does not require a water provider to assume responsibility for ensuring compliance with any law or regulation governing installation, certification, maintenance, and testing of submeters and associated onsite plumbing.

### III Tenant Disclosures for the Rental Agreement or Addendum

Before executing a rental agreement, a residential rental property owner who plans to charge a tenant separately from rent for water service – or a multifamily property owner who is required under state law to install water submeters and charge tenants in a newly-constructed building (which applied for water connection after January 1, 2018), for water service, must clearly disclose the following information to the tenant, in writing, in at least 10-point type. The information may be incorporated into the rental agreement or in a separate addendum:

- 1. Water Separate from Rent** – That the tenant will be billed for water service separately from the rent.
- 2. Estimate of the Water Bill** – Provide an estimate of the monthly bill for water service for dwelling units at the property based on either of the following:
  - The average or median bill for water service for comparative dwelling units at the property over any three of the past six months.
  - 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 must include a statement that the average family of four uses about 200 gallons of water each day.
- 3. Due Date** – The due dates and payment procedures for bills for water service.
- 4. Contact Information** – 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 the billing agent with questions about the water service billing and the days and hours for regular telephone service at either number.
- 5. Charges on the Bill** – That the monthly bill for water service may only include the following charges<sup>v</sup>:
  - Payment due for the amount of usage as measured by the submeter and charged at the allowable rates in accordance with subdivision (a) of Section 1954.205 (See *Billing Charges and Fees – What’s Allowed* hereafter).
  - Payment of a portion of the fixed fee charged by the water provider for water service.
  - A fee for the landlord’s or billing agent’s costs in accordance with paragraph (3) of subdivision (a) of Section 1954.205. (See *Billing Charges and Fees – What’s Allowed* hereafter).
  - Any late fee, with the amounts and times assessed, in compliance with Section 1954.213. (See *Late Fees* explained hereafter).



6. **Tenant Must Report Leaks** – A statement that the tenant must 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.
7. **Contact Information to Report Leaks** – 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.
8. **If the Tenant Asks** – A statement that the landlord must provide any of the following information if asked by the tenant:
  - The location of the submeter.
  - The calculations used to determine a monthly bill.
  - The date the submeter was last certified for use, and the date it is next scheduled for certification, if known.
9. **Inaccurate Meter** – A statement that if the tenant believes that the submeter reading is inaccurate or the submeter is malfunctioning, the tenant must first notify the landlord in writing and request an investigation. A tenant must be provided with a 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 must be included in the disclosure to the tenant.
10. **A General Statement** – 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.

## IV

### Billing Charges & Fees – What’s Allowed

As part of the regular bill for water service, a landlord may only bill a tenant for the following water service:

1. **Volumetric Usage** – A charge for volumetric usage, which may be calculated in any the following ways:
  - The amount must 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 provider’s billing. The dollar amount billed to the tenant for usage must be in that same proportion to the dollar amount for usage shown by the water provider’s billing.
  - If the water provider charges for volumetric usage based on a tiered rate schedule, the landlord may calculate the charge for a tenant’s volumetric usage as described above or the landlord may instead divide each tier’s volume evenly among the number of dwelling units, and the rate applicable to each block must be applied to the consumption recorded for each dwelling unit.
  - If the water provider charges the property rates on a per-dwelling unit basis, the tenants may be charged at those exact per unit rates.
2. **Recurring Fixed Charges** – Any recurring fixed charge for water service billed to the property by the water provider that, at the landlord’s discretion, must be calculated by either of the following:
  - The tenant’s proportion of the total fixed charges charged to the property. The tenant’s proportion must 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.

- Dividing the total fixed charges charged to the property equally among the total number of residential units and nonresidential units at the property.
3. **Administrative Fee** – A billing, administrative, or other fee for the landlord's and billing agent's costs, which must 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. 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. **Late Charge** – A late charge. See further information below.
  5. **Estimated Billing** – If a submeter reading for the beginning or end of a billing period is, in good faith, not available, the landlord must bill the tenant according to Civil Code Section 1954.212.<sup>vi</sup>
  6. **Other Lawful Charges** – 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.

## V Late Fees

1. **Late Fee After Day 25** – A landlord may charge a tenant 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 cannot be imposed until the day after the first business day following the 25th day.

2. **The Amount** – The amount and percentage of the late fee is defined as follows:

- **Seven Dollars** – 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 above. A late fee of up to ten dollars (\$10) may be imposed in each subsequent bill if any amount remains unpaid.
- **10 Percent** – The total late fee imposed in any 12-month period upon the amount of a bill that remains unpaid cannot exceed 10 percent of the unpaid amount, exclusive of the administrative fee and the late fee imposed.
- **Credits** – If any partial payments are made, they must be credited against the bill that has been outstanding the longest.

3. **Termination of Tenancy for Unpaid Water Bill** – 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.

4. **Water is Not Rent** – Water service charges under this law do not constitute rent.

5. **Can't Shut Off the Water, Unless Making Repairs** – The water service to a dwelling unit may 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 his or her 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.



## VI Reading Submeters & Billing

1. **Read within 3 Days** – Submeters must be read within three days of the same point in each billing cycle.
2. **Consistent Payment Requirements** – Payments must 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 will have 30 days to comply with any change in how a tenant requests to receive a bill. A tenant cannot be required to pay a bill electronically.
3. **What Must Be Included on the Bill** – A bill must include and separately set forth the following information:
  - a. **Submeter Reading** – 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 must be expressed in gallons.
  - b. **Amounts Charged** – The amounts charged as allowed by law (as set forth above).
  - c. **Volumetric Charge Rates** – The rate or rates charged for the volumetric charge per unit of measure.
  - d. **Previous Amounts Owed** – The amount, if any, due from the previous month's bill, and the amount, if any, due from bills prior to the previous month's bill.
  - e. **Late Fee** – The late fee, if any, imposed and when the late fee is charged and a statement of when the late fees would apply.
  - f. **Total Amount** – The total amount due for the billing period.
  - g. **Due Date** – The due date for the payment.
  - h. **Contact Information** – The procedure to contact the landlord or billing agent with questions or concerns regarding the bill. If a billing agent is used, the name of the billing agent must be disclosed. The tenant must be provided a mailing address, email address, and telephone number, which must be either a toll-free or a local number, and the time of regular telephone hours for contact regarding billing inquiries.
  - i. **Respond in Writing** – Upon request of the tenant, the landlord or billing agent must respond in writing to any questions or disputes from the tenant.
  - j. **Not the Water Provider** – A statement that the landlord or billing agent is not the water provider and must include the name of the local water provider providing the water service to the master meter.
  - k. **Contact Information to Report Leaks** – 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.
4. **Separate Billing Allowed for Past Due Amounts** – A separate bill may be provided for past due amounts if past due amounts are not included on the current month's bill.

## VII Reading the Meter – Beginning and Ending Unpaid Water Bill May be Deducted from Security Deposit

1. **Readings at the Beginning of the Tenancy** – At the beginning of a tenancy, a submeter must 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 rates as outlined above.<sup>vii</sup>

2. **Readings at the End of the Tenancy** – For a water-service bill at the end of a tenancy, the submeter must 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 must be based on the bill amount for the previous month.
3. **Security Deposit Deduction** – 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 Civil Code Section 1950.5 – Security Deposit law.

## VIII

### Pass Through of Penalties

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 may not charge, recover, or allow to be charged or recovered, fees incurred by the landlord from the water provider, 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 does not, however, prevent a landlord from charging a tenant for the tenant's late payment of any bill.

## IX

### Disclosure – At the Request of the Tenant

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

- The date the submeter was last inspected, tested, and verified, and the date by which it must be reinspected, tested, and verified under law, if available. If this information is not available, the landlord must disclose that the information is not available.
- The data used to calculate the tenant's bill, as follows:
  - 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 provider, and the usage charges for the property, including any tiered amounts.
  - Any other bills for water service, as defined in subdivision (h) of Section 1954.202, for the property.<sup>viii</sup>
  - The number of dwelling units in the property used in the last billing period to calculate the tenant's water service charges.
  - If not shown on the bill for the property, the per unit charges for volumetric water usage, including any tiered amounts.
  - The formula used to calculate the charge for the tenant's volumetric water usage.
- The location of the submeter.

## X

### Water Fixtures Maintenance & Repair

1. **Tenant Notice of a Leak** – 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 property, 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 must have the condition investigated, and, if warranted, rectify the condition.

2. **Tenant May Not Remove Fixtures** – A tenant may not remove any water fixtures or water-saving devices that have been installed by the landlord.
3. **Landlord Response to Leaks** – 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 must 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 must be deemed to be fifty cents (\$0.50) per day for those days between the two submeter readings or actual usage, whichever is less.
4. **Failure to Correct** – If the condition remains unrectified for 180 days after investigation, no further volumetric usage charges may be imposed until the condition is repaired.
5. **Tenant’s Failure to Allow Access** – If, in order to comply with the law, the landlord has provided notice pursuant to existing law (Civil Code Section 1954), and the tenant has failed to provide access to the dwelling unit, then the charges need not be determined as outlined above.
6. **Abnormal High Water Usage** – If the local water provider notifies the landlord of constant or abnormally high water usage at the property, the landlord must investigate and, if possible, rectify the cause of the high water usage.

## XI

### Landlord’s Entry into the Dwelling Units

The landlord may enter a dwelling unit as follows:

1. 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.
2. To read a submeter. The landlord must provide the tenant a written notice prior to entry.

## XII

### Ratio Utility Billing Systems

The state law specifically provides that “Nothing in this law shall be construed to apply or create a public policy or requirement that favors or disfavors the use of a ratio utility billing system.”

## XIII

### Hot Water

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, is not subject to this law if the system was first put in service before January 1, 2018. Such billing methods are not permitted for systems subject to the submeter mandate following January 1, 2018.

## XIV

### No Connection Fees Allowed

A water provider cannot impose an additional capacity or connection fee or charge for a submeter that is installed by the owner, or his or her agent.



## XV Delayed Water Submeter Installation

1. A final occupancy permit for a building cannot not be denied by a local building official if water submeters or meters have not been installed for each residential unit as required by this law if the building owner can demonstrate either of the following:
  - Water submeters have been ordered and were delayed by the manufacturer.
  - Water submeters for the building were submitted to a county sealer and are awaiting approval for use.
2. After issuance of the occupancy permit, the owner must demonstrate that the submeters are installed in the building within 120 days of approval by the county sealer.

## XVI Exempt Units

The structures in all of the following categories are exempt from this water meter installation requirements<sup>ix</sup>:

- **Low-income housing.** For purposes of this paragraph, “low-income housing” means a residential building financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, for which the rents of the occupants in lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed rents prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance, and for which not less than 90 percent of the dwelling units within the building are designated for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.
- **Housing at a place of education,** as defined in Section 202 of the California Building Standards Code (Title 24 of the California Code of Regulations).
- **Long-term health care facilities,** as defined in Section 1418 of the Health and Safety Code.
- **Time-share property,** as defined in subdivision (aa) of Section 11212 of the Business and Professions Code.
- **Residential care facilities for the elderly,** as defined in Section 1569.2 of the Health and Safety Code.

## XVII Local Ordinance Exemptions

1. **Adopted Prior to January 1, 2013** – This article does not preclude or preempt a local ordinance or regulation that regulates the approval of submeter types or the installation, maintenance, reading, billing, or testing of submeters and associated onsite plumbing if the ordinance or regulation was adopted prior to January 1, 2013.
2. **No New Local Laws After January 1, 2013** – It is the intent of the Legislature to preclude the adoption, and preempt the operation, of an ordinance or regulation adopted after January 1, 2013, that regulates the types of approved submeters, their installation, maintenance, reading, billing, and testing, and associated onsite plumbing.
3. **Water Conservation Programs Allowed** – This law does not restrict the existing authority of a water provider, city, county, city and county, or other local agency to adopt and implement a program to promote water conservation that includes the installation of water meters and submeters if the program is at least as stringent as the requirements of this article.





## XVIII Definitions

**“Billing agent”** means a person or entity who contracts to provide submetering services to a landlord, including billing.

**“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.

**“Property”** means real property containing two or more dwelling units that is served by a single master meter.

**“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.

**“Rental agreement”** includes a fixed-term lease.

**“Renting”** includes leasing, whether on a periodic or fixed-term basis.

**“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.

**“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.

**“Water purveyor”** [or **Water provider** herein] means a water purveyor as defined in Section 512 of the Water Code.

### References:

- SB 7 (Wolk) – Water Meters and Submeters – Chapter 623, Statutes 2016

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<sup>i</sup> See Cal. Water Code Section 537.1(a) (“Each water purveyor that sells, leases, rents, furnishes, or delivers water service to a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure for which an application for a water connection, or more than one connection, is submitted after January 1, 2018, shall require a measurement of the quantity of water supplied to each individual residential dwelling unit as a condition of new water service. The measurement may be by individual water meters or submeters.”)

<sup>ii</sup> California Civil Code 1954, et seq. and California Water Code Section 517, et. seq. Specifically, a submeter used to measure water supplied to an individual residential unit that is required pursuant to the Water Code must be of a type approved pursuant to Section 12500.5 of the Business and Professions Code, and must be installed and operated in compliance with regulations established pursuant to Section 12107 of the Business and Professions Code.

<sup>iii</sup>The owner of the building must install submeters that comply with all laws and regulations governing the approval of submeter types or the installation, maintenance, reading, billing, and testing of submeters, including, but not limited to, the California Plumbing Code. Installation of the submeters must be performed by one of the following:

- A contractor licensed by the Contractors’ State License Board who employs at least one journey person who has graduated from a state-approved apprenticeship program.
- A registered service agency that has registered with the Department of Food and Agriculture.

<sup>iv</sup> Health and Safety Code Section 17922.14(b).



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<sup>v</sup> Civil Code Section 1954.205 specifically provides that the law 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.

<sup>vi</sup> **Civil Code Section 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.

<sup>vii</sup> Civil Code Section 1954.212

<sup>viii</sup> Civil Code Section 1954.202 (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.

<sup>ix</sup> The California Department of Housing and Community Development (HCD) shall determine whether and under what circumstances the installation of water meters or submeters is infeasible and include in the building standards proposed in the next regularly scheduled triennial code cycle that commences January 1, 2018, the appropriate provision for exemption from this requirement. HCD may consider whether there are any issues specific to high-rise structures that would require an exemption from the requirement for the installation of water meters or submeters.

