

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 317**

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**Introduced by Assembly Member Charles Calderon**

February 9, 2011

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~~An act to amend Section 739.5 of the Public Utilities Code, relating to energy.~~ *An act to amend Section 798.21 of the Civil Code, relating to mobilehomes.*

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Charles Calderon. ~~Energy: master-meter customers.~~ *Mobilehomes.*

*Existing law, the Mobilehome Residency Law, governs tenancies in mobilehome parks, and imposes various duties on the owners of mobilehome parks and the agents and representatives authorized to act on behalf of the owners. Existing law exempts a rental agreement from any local ordinance, rule, regulation, or initiative that establishes a maximum amount that a landlord may charge a tenant for rent if a mobilehome space within a mobilehome park is not the principal residence, as defined, of the mobilehome owner. Existing law further makes those exemptions inapplicable under certain circumstances.*

*This bill would revise the conditions under which a tenancy is exempt from a local rent control ordinance, rule, regulation, or initiative, to, among other things, make the exemptions applicable when the mobilehome space is not the sole residence of the mobilehome owner. The bill would specify the evidence upon which management of a mobilehome park may rely to determine whether a residence is the mobilehome owner's sole residence, including, among others factors,*

*evidence that a mobilehome owner rents, leases, occupies, or has a present ownership interest in another place of residence.*

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, that the master-meter customer charge each user at the same rate that would be applicable if the user were receiving gas or electricity directly from the gas or electrical corporation. Existing law requires every master-meter customer receiving any rebate from a gas or electrical corporation to distribute to, or credit to the account of, each current user served by the master-meter customer that portion of the rebate that the amount of gas or electricity, or both, consumed by the user during the last billing period bears to the total amount furnished by the corporation to the master-meter customer during that period.~~

~~This bill would provide that rebates do not include ratepayer funded incentives received by the master-meter customer as a result of investments in energy generation or efficiency, including the self-generation incentive program, the California Solar Initiative, and the Solar Water Heating and Efficiency Act of 2007.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 798.21 of the Civil Code is amended to
- 2     read:
- 3     798.21. (a) Notwithstanding Section 798.17, if a mobilehome
- 4     space within a mobilehome park is not the ~~principal~~ sole residence
- 5     of the ~~homeowner and the homeowner has not rented~~ owner of the
- 6     mobilehome to another party, it shall be exempt from any
- 7     ordinance, rule, regulation, or initiative measure adopted by any
- 8     city, county, or city and county, ~~which~~ that establishes a maximum
- 9     amount that the landlord may charge a tenant for rent.
- 10    (b) Nothing in this section is ~~intended to require any homeowner~~
- 11    to disclose information concerning his or her personal finances.
- 12    ~~Nothing in this section~~ shall be construed to authorize management
- 13    to gain access to any records which would otherwise be confidential
- 14    or privileged.

1 ~~(e) For purposes of this section, a mobilehome shall be deemed~~  
2 ~~to be the principal residence of the homeowner, unless a review~~  
3 ~~of state or county records demonstrates that the homeowner is~~  
4 ~~receiving a homeowner's exemption for another property or~~  
5 ~~mobilehome in this state, or unless a review of public records~~  
6 ~~reasonably demonstrates that the principal residence of the~~  
7 ~~homeowner is out of state.~~

8 ~~(d)~~

9 ~~(c) Before modifying the rent or other terms of tenancy as a~~  
10 ~~result of a review of records, as described in subdivision (e)~~  
11 ~~evidence that a mobilehome is not the sole residence of the~~  
12 ~~mobilehome owner, the management shall notify the homeowner~~  
13 ~~mobilehome owner, in writing, of the proposed changes and provide~~  
14 ~~the homeowner with a copy of the documents upon which~~  
15 ~~management relied.~~

16 ~~(d) Evidence that a mobilehome is not the sole residence of the~~  
17 ~~mobilehome owner may include, but is not limited to, the following:~~

18 ~~(1) The mobilehome owner rents, leases, occupies, or has a~~  
19 ~~present ownership interest in another place of residence.~~

20 ~~(2) Another place of residence appears as a matter of public~~  
21 ~~record or in other evidence obtained by management.~~

22 ~~(3) Monthly statements are mailed to, or payments are made~~  
23 ~~from, a different place of residence.~~

24 ~~(4) The mobilehome owner is regularly absent from the~~  
25 ~~mobilehome space for extended periods of a week or more at a~~  
26 ~~time.~~

27 ~~(5) The mobilehome is used primarily for vacationing, storage,~~  
28 ~~or business.~~

29 ~~(6) The mobilehome has been subleased or possession of the~~  
30 ~~mobilehome has been transferred without management's approval,~~  
31 ~~as provided in Sections 798.74 and 798.75.~~

32 ~~(e) The homeowner mobilehome owner shall have 90 days from~~  
33 ~~the date the notice described in subdivision (d) is mailed to review~~  
34 ~~and respond to the notice. Management may not modify the rent~~  
35 ~~or other terms of tenancy prior to the expiration of the 90-day~~  
36 ~~period or prior to responding, in writing, to information provided~~  
37 ~~by the homeowner. Management may not modify the rent or other~~  
38 ~~terms of tenancy if the homeowner mobilehome owner provides~~  
39 ~~documentation reasonably establishing that the information~~  
40 ~~provided by management is incorrect or that the homeowner~~

1 *mobilehome owner* is not the same person identified in the  
2 documents. However, nothing in this subdivision shall be construed  
3 to authorize the homeowner to change the homeowner's exemption  
4 status of the other property or mobilehome owned by the  
5 homeowner.

6 ~~(f) This section does not apply under any of the following~~  
7 ~~conditions:~~

8 ~~(1) The homeowner is unable to rent or lease the mobilehome~~  
9 ~~because the owner or management of the mobilehome park in~~  
10 ~~which the mobilehome is located does not permit, or the rental~~  
11 ~~agreement limits or prohibits, the assignment of the mobilehome~~  
12 ~~or the subletting of the park space.~~

13 ~~(2) The mobilehome is being actively held available for sale by~~  
14 ~~the homeowner, or pursuant to a listing agreement with a real estate~~  
15 ~~broker licensed pursuant to Chapter 3 (commencing with Section~~  
16 ~~10130) of Part 1 of Division 4 of the Business and Professions~~  
17 ~~Code, or a mobilehome dealer, as defined in Section 18002.6 of~~  
18 ~~the Health and Safety Code. A homeowner, real estate broker, or~~  
19 ~~mobilehome dealer attempting to sell a mobilehome shall actively~~  
20 ~~market and advertise the mobilehome for sale in good faith to bona~~  
21 ~~fide purchasers for value in order to remain exempt pursuant to~~  
22 ~~this subdivision.~~

23 ~~(3) The legal owner has taken possession or ownership, or both,~~  
24 ~~of the mobilehome from a registered owner through either a~~  
25 ~~surrender of ownership interest by the registered owner or a~~  
26 ~~foreclosure proceeding.~~

27 ~~(f) This section shall not apply under any of the following~~  
28 ~~circumstances:~~

29 ~~(1) The mobilehome is the sole residence of the mobilehome~~  
30 ~~owner.~~

31 ~~(2) The space is subleased by the owner for a medical hardship~~  
32 ~~pursuant to Section 798.23.5.~~

33 ~~(3) Ownership of the mobilehome is transferred to an heir, joint~~  
34 ~~tenant, or personal representative pursuant to Section 798.78.~~

35 ~~(4) Management elects to apply an exemption or right set forth~~  
36 ~~in the ordinance, rule, regulation, or initiative measure that~~  
37 ~~establishes a maximum amount that a landlord may charge a tenant~~  
38 ~~for rent.~~

39 ~~(g) If management authorizes the subleasing of mobilehomes~~  
40 ~~in the park, management shall allow the mobilehome owner to~~

1 *sublease the mobilehome, or restrict the amount of rent that the*  
2 *mobilehome owner may charge. For the term of the sublease, the*  
3 *space shall be exempt from any ordinance, rule, regulation, or*  
4 *initiative measure adopted by a city, county, or city and county,*  
5 *that establishes a maximum amount of rent that a landlord may*  
6 *charge a tenant. Upon reoccupation of the space by the*  
7 *mobilehome owner after the term of the sublease has expired, the*  
8 *last rental rate charged to the mobilehome owner shall be the base*  
9 *rental rate for purposes of the ordinance, rule, regulation, or*  
10 *initiative measure.*

11 ~~SECTION 1. Section 739.5 of the Public Utilities Code is~~  
12 ~~amended to read:~~

13 ~~739.5. (a) The commission shall require that, whenever gas~~  
14 ~~or electric service, or both, is provided by a master-meter customer~~  
15 ~~to users who are tenants of a mobilehome park, apartment building,~~  
16 ~~or similar residential complex, the master-meter customer shall~~  
17 ~~charge each user of the service at the same rate that would be~~  
18 ~~applicable if the user were receiving gas or electricity, or both,~~  
19 ~~directly from the gas or electrical corporation. The commission~~  
20 ~~shall require the corporation furnishing service to the master-meter~~  
21 ~~customer to establish uniform rates for master-meter service at a~~  
22 ~~level that will provide a sufficient differential to cover the~~  
23 ~~reasonable average costs to master-meter customers of providing~~  
24 ~~submeter service, except that these costs shall not exceed the~~  
25 ~~average cost that the corporation would have incurred in providing~~  
26 ~~comparable services directly to the users of the service.~~

27 ~~(b) Every master-meter customer of a gas or electrical~~  
28 ~~corporation subject to subdivision (a) who, on or after January 1,~~  
29 ~~1978, receives any rebate from the corporation shall distribute to,~~  
30 ~~or credit to the account of, each current user served by the~~  
31 ~~master-meter customer that portion of the rebate that the amount~~  
32 ~~of gas or electricity, or both, consumed by the user during the last~~  
33 ~~billing period bears to the total amount furnished by the corporation~~  
34 ~~to the master-meter customer during that period. For purposes of~~  
35 ~~this subdivision, "rebates" do not include ratepayer funded~~  
36 ~~incentives received by the master-meter customer as a result of~~  
37 ~~investments in energy generation or efficiency, including incentives~~  
38 ~~received pursuant to the self-generation incentive program~~  
39 ~~administered pursuant to Section 379.6, the California Solar~~  
40 ~~Initiative as defined in Section 2852, and the Solar Water Heating~~

1 and Efficiency Act of 2007 (Article 2 (commencing with Section  
2 2860) of Part 2).

3 ~~(e) An electrical or gas corporation furnishing service to a~~  
4 ~~master-meter customer shall furnish to each user of the service~~  
5 ~~within a submetered system every public safety customer service~~  
6 ~~which it provides beyond the meter to its other residential~~  
7 ~~customers. The corporation shall furnish a list of those services to~~  
8 ~~the master-meter customer who shall post the list in a conspicuous~~  
9 ~~place accessible to all users. Every corporation shall provide these~~  
10 ~~public safety customer services to each user of electrical or gas~~  
11 ~~service under a submetered system without additional charge unless~~  
12 ~~the corporation has included the average cost of these services in~~  
13 ~~the rate differential provided to the master-meter customer on~~  
14 ~~January 1, 1984, in which case the commission shall deduct the~~  
15 ~~average cost of providing these public safety customer services~~  
16 ~~when approving rate differentials for master-meter customers.~~

17 ~~(d) Every master-meter customer is responsible for maintenance~~  
18 ~~and repair of its submeter facilities beyond the master-meter, and~~  
19 ~~nothing in this section requires an electrical or gas corporation to~~  
20 ~~make repairs to or perform maintenance on the submeter system.~~

21 ~~(e) Every master-meter customer shall provide an itemized~~  
22 ~~billing of charges for electricity or gas, or both, to each individual~~  
23 ~~user generally in accordance with the form and content of bills of~~  
24 ~~the corporation to its residential customers, including, but not~~  
25 ~~limited to, the opening and closing readings for the meter, and the~~  
26 ~~identification of all rates and quantities attributable to each block~~  
27 ~~in the applicable rate structure. The master-meter customer shall~~  
28 ~~also post, in a conspicuous place, the applicable prevailing~~  
29 ~~residential gas or electrical rate schedule, as published by the~~  
30 ~~corporation.~~

31 ~~(f) The commission shall require that every electrical and gas~~  
32 ~~corporation shall notify each master-meter customer of its~~  
33 ~~responsibilities to its users under this section.~~

34 ~~(g) The commission shall accept and respond to complaints~~  
35 ~~concerning the requirements of this section through the consumer~~  
36 ~~affairs branch, in addition to any other staff that the commission~~  
37 ~~deems necessary to assist the complainant. In responding to the~~  
38 ~~complaint, the commission shall consider the role that the office~~  
39 ~~of the county sealer in the complainant's county of residence may~~

1 have in helping to resolve the complaint and, where appropriate,  
2 coordinate with that office.

3 (h) ~~Notwithstanding any other provision of law or decision of~~  
4 ~~the commission, the commission shall not deny eligibility for the~~  
5 ~~California Alternative Rates for Energy (CARE) program, created~~  
6 ~~pursuant to Section 739.1, for a residential user of gas or electric~~  
7 ~~service who is a submetered resident or tenant served by a~~  
8 ~~master-meter customer on the basis that some residential units in~~  
9 ~~the master-meter customer's mobilehome park, apartment building,~~  
10 ~~or similar residential complex do not receive gas or electric service~~  
11 ~~through a submetered system.~~

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