

HOUSE No. 3293

By Mr. Dempsey of Haverhill, petition of Brian S. Dempsey for legislation to further regulate the costs imposed on tenants for heating and air conditioning. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT FURTHER REGULATING THE PROVISION OF ELECTRICITY AND OTHER SERVICES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 335 of Chapter 164 of the Acts of 1997 is
2 hereby amended by striking, in line 2, the following words
3 “installed prior to July 1, 1997.”.

1 SECTION 2. Said section 335 is hereby further amended by
2 inserting at the end thereof the following new paragraphs:—

3 A dwelling unit shall become eligible for the imposition on the
4 tenant of a charge for the cost of heat or air conditioning only
5 upon the commencement of a new tenancy in such dwelling unit
6 and only if: (1) the dwelling unit is being occupied for the first
7 time; or (2) the previous tenant vacated the dwelling unit volun-
8 tarily, or was evicted from the dwelling unit for nonpayment of
9 rent or for breach of lease or noncompliance with a rental agree-
10 ment for the dwelling unit; provided, however, that once a tenant
11 of a dwelling unit has been charged for the use of heat or air con-
12 ditioning in accordance with this section, such dwelling unit shall
13 remain eligible for the imposition of a charge for the use of heat
14 or air conditioning in all subsequent tenancies.

15 An owner may not charge the tenant of a dwelling unit sepa-
16 rately for heat or air conditioning measured by an energy moni-
17 toring system, unless the system measures only heat or air
18 conditioning that is supplied for the exclusive use of the particular
19 dwelling unit and only to an area within the exclusive possession
20 and control of the tenant of such dwelling unit and does not mea-

21 sure any heat or air conditioning usage for any portion of the
22 common areas or by any other party or dwelling unit.

23 An owner may not charge the tenant separately, nor allow
24 tenant to be charged separately, for allocated heat or air condi-
25 tioning usage unless the tenant has signed a written rental agree-
26 ment that clearly and conspicuously provides for such separate
27 charge and that fully discloses in plain language the details of the
28 energy monitoring system and billing arrangement between the
29 owner and the tenant. Each bill for separately allocated heat or air
30 conditioning usage shall clearly set forth all charges and all other
31 relevant information, including, but not limited to, the current and
32 immediately preceding monitoring system readings and the date
33 of each such reading, the amount of heat or air conditioning con-
34 sumed since the last reading, the charge per unit of heat or air con-
35 ditioning, the total charge and the payment due date.

36 An owner shall allocate the cost of heat to each individual
37 dwelling unity by measuring run time and temperature in each
38 unit to determine the quantity of heat delivered as relative to
39 BTU. The amount charged to each unit for heat usage shall than
40 be calculated by applying the local utility's rate structure to the
41 quantity of the commodity that is consumed.

42 An owner may not shut off or refuse to provide heat to a tenant
43 on the basis that the tenant has not paid a separately allocated heat
44 charge.

45 The owner shall retain an affirmative obligation to maintain in
46 good working order the heating system to each dwelling unit and
47 any component thereof, including any energy monitoring system
48 installed pursuant to this section, and to respond in a timely
49 manner to any request by the tenant for the repair of any defect or
50 malfunctioning in such heating system. In the event of any over-
51 charge by the landlord or any violation of the state sanitary code,
52 the tenant shall have all rights and remedies provided under law
53 for such overcharges or such violations including, but not limited
54 to, the rights and remedies provided under chapters 111, 186 and
55 239.

56 The department of telecommunications, utilities, and energy
57 and the department of public health shall promulgate such addi-
58 tional regulations as it determines to be necessary to implement
59 this section.