

SENATE BILL NO. 241

March 21, 2019, Introduced by Senators CHANG, GEISS, ALEXANDER, WOJNO, IRWIN, HERTEL, ANANICH, MOSS and BULLOCK and referred to the Committee on Environmental Quality.

A bill to prescribe the powers and duties of certain providers of water and sewerage service in this state; to prescribe the powers and duties of certain state officers and entities; to prohibit certain acts and practices of providers of water and sewerage service; and to provide for remedies and penalties for certain violations of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "water
2 shutoff protection act".

1 Sec. 2. As used in this act:

2 (a) "Critical care customer" means a customer who has provided
3 appropriate documentation from a physician or medical facility
4 certifying that interruption of service would be life-threatening
5 to, or pose a serious threat to the health and safety of, the
6 customer or a member of the customer's household, or that the
7 customer or a member of the customer's household has a communicable
8 disease that would present an increased risk to the health of
9 others if that individual is unable to maintain proper hygiene
10 because of interruption of water service.

11 (b) "Customer" means an individual who receives water or
12 sewerage service at a residential premises.

13 (c) "Eligible customer" means a customer whose household
14 income does not exceed 200% of the federal poverty guidelines, as
15 published by the United States Department of Health and Human
16 Services, or who meets any of the following requirements:

17 (i) Has received assistance from a state emergency relief
18 program within the past year.

19 (ii) Receives food assistance under the federal supplemental
20 nutrition assistance program administered by this state.

21 (iii) Receives medical assistance administered by this state
22 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

23 (iv) Receives any other form of federal or state public
24 assistance.

25 (d) "Heating season" means that term as defined in section 9r
26 of 1939 PA 3, MCL 460.9r.

27 (e) "Nonaffordability application" means a form that the
28 department of health and human services shall develop to trigger an
29 income eligibility review for the low-income water residential

1 affordability program and that includes the option for
2 authorization for release of the customer's information to the
3 provider.

4 (f) "Provider" means any water and sewerage system that
5 provides water or sewerage service in this state.

6 (g) "Senior citizen customer" means a customer who is 62 years
7 of age or older or who has a member of his or her household who is
8 62 years of age or older.

9 Sec. 3. (1) A provider may shut off service temporarily for
10 reasons of health or safety, in a state or national emergency, or,
11 subject to this section and section 4, if a customer has not paid a
12 delinquent account. When a provider shuts off service for reasons
13 of health or safety, the provider must leave a notice at the
14 premises.

15 (2) Subject to section 4, a provider shall not shut off
16 service because a customer has not paid a delinquent account unless
17 the provider does, at a minimum, all of the following:

18 (a) Posts a delinquency notice on the door of the premises to
19 be shut off and on the door of the customer, if the account
20 customer has a different address, not less than 60 days and not
21 more than 90 days before the date of a proposed shutoff that
22 notifies the occupant of the property of a delinquency in payments
23 and informs the occupant of any applicable payment plans or water
24 affordability programs.

25 (b) Posts a notice on the door of the premises to be shut off
26 and on the door of the customer, if the account customer has a
27 different address, not less than 10 days before the date of the
28 proposed shutoff. A provider shall maintain a record of the date
29 the notice was posted.

1 (c) At least 1 week before shutoff of service, does both of
2 the following:

3 (i) Makes a personal visit to the premises where shutoff of
4 service is proposed where direct contact is made with an adult
5 member of the customer's household notifying that individual of a
6 delinquency in payments and of any applicable payment plans or
7 water affordability programs. A provider shall maintain a record of
8 the date direct contact was made.

9 (ii) Makes a personal or automated telephone call where direct
10 contact is made with an adult member of the customer's household or
11 a message is recorded notifying that individual of a delinquency in
12 the payments and of any applicable payment plans or water
13 affordability programs. A provider shall maintain a record of the
14 date the call was made.

15 (3) All written and oral notices of shutoff under subsection
16 (2)(b) and (c) must contain, at a minimum, all of the following
17 information:

18 (a) The name and address of the customer, and the address at
19 which service is provided, if different.

20 (b) A clear and concise statement of the reason for the
21 proposed shutoff of service.

22 (c) The date on or after which the provider may shut off
23 service, unless the customer takes appropriate action, and a
24 description of the available courses of action to avoid a shutoff
25 or to restore service following a shutoff.

26 (d) Where the shutoff would be done using meters with remote
27 shutoff and restoration capacity, a statement that the
28 disconnection of service will be performed remotely and that a
29 provider representative will not return to the premises before

1 disconnection.

2 (e) A statement that, if the customer is unable to pay in
3 full, the customer has the right to enter into a payment plan that
4 is based on a percentage of household income or, if applicable, a
5 water affordability program, and that the monthly payment under a
6 payment plan must not exceed 2% of the customer's average monthly
7 household income if the customer's household income does not exceed
8 200% of the federal poverty level.

9 (f) A statement that the customer may submit a signed
10 nonaffordability application to the department of health and human
11 services and an explanation of where that form may be obtained.

12 (g) That the provider will delay shutoff for 30 days if the
13 customer submits a nonaffordability application under subdivision
14 (f).

15 (h) A statement that the provider will not shut off service if
16 a customer has entered and remains in compliance with a payment
17 plan or water affordability program.

18 (i) A statement that the customer may petition the provider in
19 accordance with the provider's rules to dispute the bill, and a
20 copy of those rules or reference to a specific webpage where those
21 rules may be found.

22 (j) A statement that the provider will not shut off service
23 pending the resolution of a dispute that is filed with the provider
24 in accordance with this section.

25 (k) A statement that the provider will not shut off service to
26 a customer if payment is made in full for service for the previous
27 billing cycle, not including any arrearage, interest, or charges
28 related to that arrearage.

29 (l) The telephone number and address of the provider where the

1 customer may make inquiry, enter into a payment plan, or petition
2 the provider in accordance with the provider's rules to dispute the
3 bill.

4 (m) A statement that during heating season the provider will
5 not shut off service.

6 (n) A statement that the provider will not shut off service if
7 a customer is a critical care customer, a senior citizen customer,
8 an individual who has dependent children under the age of 18, an
9 individual who is a quadriplegic, hemiplegic, or paraplegic or is
10 totally and permanently disabled, an infant, or a pregnant woman,
11 and the customer informs the provider and provides documentation to
12 the provider of that condition within 30 days of receiving a notice
13 under subsection (2).

14 (o) A statement that the provider may require a reasonable
15 restoration charge, not to exceed \$150.00 or the actual cost,
16 whichever is less, if the provider shuts off service for nonpayment
17 of a delinquent account.

18 (4) A provider shall delay shutoff of service to a customer
19 for 30 days if that customer submits a signed nonaffordability
20 application indicating the reasons or conditions that affect the
21 customer's ability to afford the payments. A provider shall
22 establish a policy to allow a customer to enter into a payment plan
23 if that customer claims an inability to pay that customer's bill in
24 full. A provider may establish a water affordability program for a
25 customer who claims an inability to pay in full.

26 (5) Subject to the requirements of this act, a provider may
27 shut off service to a customer on the date specified in the notice
28 of shutoff or at a reasonable time following that date. If a
29 provider does not shut off service and mails a subsequent notice,

1 then the provider shall not shut off service before the date
2 specified in the subsequent notice and following a personal visit
3 to the premises at least 1 week before the shutoff. Shutoffs must
4 occur only between the hours of 8 a.m. and 3 p.m.

5 (6) A provider shall not shut off service on a day, or a day
6 immediately preceding a day, when the services of the provider are
7 not available to the general public for the purpose of restoring
8 service. A provider shall not shut off service during the heating
9 season.

10 (7) Immediately before the shutoff of service, an employee or
11 representative of the provider who is designated to perform that
12 function may identify himself or herself to the customer or another
13 responsible individual at the premises and may announce the purpose
14 of his or her presence.

15 (8) When an employee or representative of a provider shuts off
16 service, the employee or representative shall leave a notice. The
17 notice must state that service has been shut off and contain the
18 address and telephone number of the provider where the customer may
19 arrange to have service restored.

20 (9) When a shutoff is completed using meters with remote shut-
21 off and restoration capacity, the provider is not required to
22 contact the customer on the day service is to be shut off.

23 (10) A provider shall not do any of the following:

24 (a) Shut off service because a customer has not paid for
25 concurrent service received at a separate metering point,
26 residence, or location.

27 (b) Shut off service because the customer has not paid for
28 service at a premises lawfully occupied by another person. If a
29 customer is not occupying the premises at which service is

1 delivered to the customer, a provider may shut off service in any
2 of the following circumstances where proper notice has been given:

3 (i) If the customer supplies a written, notarized statement
4 that the premises are not lawfully occupied and the premises are in
5 fact not lawfully occupied.

6 (ii) If the premises are lawfully occupied and the occupant
7 agrees, in writing, to the shutoff of service.

8 (c) Shut off service if the amount the customer has not paid
9 for service is the subject of an unresolved dispute under the
10 provider's dispute resolution process.

11 (d) Shut off service to a lawfully occupied dwelling if
12 payment has been made in full for service for the previous billing
13 cycle, not including any arrearage, interest, or charges related to
14 that arrearage.

15 (11) After a provider has shut off service, the provider shall
16 restore service upon the customer's request when the cause of the
17 shutoff has been cured or payment arrangements, including at the
18 customer's option a payment plan, have been made.

19 (12) When a provider is required to restore service at the
20 customer's meter manually, the provider shall make reasonable
21 efforts to restore service on the day the customer requests
22 restoration. Except for reasons beyond its control, the provider
23 shall restore service not later than the first working day after
24 the customer's request.

25 (13) For providers using meter technology with remote shut-off
26 and restoration capability, service must be restored no later than
27 the first working day after the customer requests restoration,
28 except in the case of documented equipment failure.

29 (14) A provider may assess the customer a reasonable charge

1 for restoring service. The charge shall not exceed \$150.00 or the
2 actual cost, whichever is less. A provider shall not charge a
3 customer a fee for a shutoff of service.

4 (15) A provider shall first apply payments received to the
5 costs incurred for services for the previous billing cycle.

6 (16) This section does not apply to a shutoff at a premises if
7 the customer provides the provider a notarized statement that the
8 premises are not lawfully occupied and the premises are in fact not
9 lawfully occupied.

10 Sec. 4. (1) A provider shall not shut off service to a
11 customer for nonpayment of a delinquent account if the customer is
12 a critical care customer, a senior citizen customer, an individual
13 who has dependent children under the age of 18, an individual who
14 is a quadriplegic, hemiplegic, or paraplegic or is totally and
15 permanently disabled, an infant, or a pregnant woman, and who has
16 provided documentation to the provider of that condition. A
17 provider shall not shut off service to a customer if a customer has
18 entered into and remains in compliance with a payment plan or water
19 affordability program.

20 (2) In addition to the notices required under section 3, if a
21 customer fails to comply with the terms and conditions of a water
22 affordability program or payment plan, a provider may shut off
23 service to a customer after giving the customer a notice, by
24 personal service or first-class mail delivered to the affected
25 premises or the customer's address, that contains, at a minimum,
26 all of the following information:

27 (a) The name and address of the customer, and the address to
28 which service is provided, if different.

29 (b) The nature of the default.

1 (c) A statement that unless the customer makes a substantial
2 payment on a past due balance within 15 days of the date of
3 mailing, the provider may shut off service.

4 (d) The date on or after which the provider may shut off
5 service, unless the customer takes appropriate action, and a
6 description of the available courses of action to avoid a shutoff
7 or to restore service following a shutoff.

8 (e) A statement that the customer may petition the provider in
9 accordance with the provider's rules to dispute the bill or the
10 alleged default, and a copy of the rules or reference to a specific
11 webpage where the rules may be found.

12 (f) A statement that the provider will not shut off service
13 pending the resolution of a dispute that is filed with the provider
14 in accordance with this section.

15 (g) The telephone number and address of the provider where the
16 customer may make inquiry, enter into a payment plan, or petition
17 the provider in accordance with the provider's rules to dispute the
18 bill.

19 (h) A statement that during the heating season the provider
20 will not shut off service.

21 (i) A statement that the provider will not shut off service if
22 the customer is a critical care customer, a senior citizen
23 customer, an individual who has dependent children under the age of
24 18, an individual who is a quadriplegic, hemiplegic, or paraplegic
25 or is totally and permanently disabled, an infant, or a pregnant
26 woman.

27 (j) A statement that the provider may require a reasonable
28 restoration charge, not to exceed \$150.00 or the actual cost,
29 whichever is less, if the provider shuts off service for nonpayment

1 of a delinquent account.

2 (3) A provider shall develop policies and procedures to delay
3 shutoff for customers who face temporary financial hardship due to
4 recent loss of a job, medical bills, or other extenuating
5 circumstances.

6 (4) This section does not apply to a shutoff at a premises if
7 the customer provides the provider a notarized statement that the
8 premises are not lawfully occupied and the premises are in fact not
9 lawfully occupied.

10 Sec. 5. The attorney general, the department of environmental
11 quality, and any customer or other lawful occupant of a premises
12 subject to this act may enforce this act by filing a civil action
13 in court. In any civil action commenced under this section, the
14 plaintiff may obtain damages, declaratory relief, and injunctive
15 relief for any violation of this act. A customer or other lawful
16 occupant that prevails in a civil action filed under this section
17 is entitled to reasonable attorney fees and costs.

18 Sec. 6. A payment plan developed by a provider must be based
19 on a percentage of household income. For customers whose household
20 income does not exceed 200% of the federal poverty level, the
21 monthly payment under a payment plan must not exceed 2% of the
22 customer's average monthly household income.

23 Sec. 7. A provider shall take reasonable steps to provide
24 equal language access to water and sewerage service and vital
25 information for customers with limited English proficiency. Equal
26 language access means the ability to receive information and to
27 participate in and benefit from water and sewerage service at a
28 level equal to English-proficient individuals.