

HOUSE BILL No. 5122

December 8, 2015, Introduced by Rep. Chang and referred to the Committee on Local Government.

A bill to prescribe the powers and duties of certain providers of water and sewerage service in this state; and to prohibit certain acts and practices of providers of water and sewerage service.

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".

3 Sec. 2. As used in this act:

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

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

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

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

5 (iv) Receives any other form of federal or state public
6 assistance.

7 (b) "Provider" means any water and sewerage system that
8 provides water or sewerage service in this state.

9 (c) "Senior citizen customer" means a utility customer who is
10 62 years of age or older and who advises the provider of his or her
11 eligibility.

12 (d) "Water affordability program" means an income-based water
13 assistance program described in section 14n of the social welfare
14 act, 1939 PA 280, MCL 400.14n.

15 Sec. 3. (1) A provider may shut off service temporarily for
16 reasons of health or safety or in a state or national emergency.
17 When a provider shuts off service for reasons of health or safety,
18 the provider shall leave a notice at the premises.

19 (2) Subject to section 4 and except as otherwise provided in
20 subsection (1), a provider shall not shut off service unless the
21 provider does both of the following:

22 (a) Posts a delinquency notice on the door of the premises to
23 be shut off and on the door of the customer, if the account
24 customer has a different address, not less than 30 days and not
25 more than 45 days before the date of a proposed shutoff that
26 notifies the occupant of the property of a delinquency in payments
27 and informs the occupant of any applicable payment plans or water

1 affordability programs.

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

7 (3) A provider shall establish a policy to allow a customer
8 the opportunity to enter into a water affordability program as
9 described in section 14n of the social welfare act, 1939 PA 280,
10 MCL 400.14n, if a customer claims an inability to pay in full.

11 (4) A notice of shutoff under subsection (2) shall contain all
12 of the following information:

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

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

17 (c) The date on or after which the provider may shut off
18 service, unless the customer takes appropriate action, and a
19 description of the available courses of action to avoid a shutoff.

20 (d) That the customer has the right to enter into a water
21 affordability program if the customer is presently unable to pay in
22 full.

23 (e) That the customer may submit a signed nonaffordability
24 affidavit indicating the reasons or conditions that affect the
25 customer's ability to afford the payments and that this would
26 initiate an income eligibility review process under section 14n of
27 the social welfare act, 1939 PA 280, MCL 400.14n.

1 (f) The telephone number and address of the provider where the
2 customer may make inquiry, enter into a payment plan, or file a
3 complaint.

4 (g) A statement that the provider will postpone the shutoff of
5 service if a household member is seriously ill, elderly, has a
6 disability, or is dependent on a life support system, and the
7 customer informs the provider and provides documentation to the
8 provider of that condition within 30 days of receiving a notice
9 under subsection (2).

10 (5) Subject to the requirements of this act, a provider may
11 shut off service to a customer on the date specified in the notice
12 of shutoff or at a reasonable time following that date. If a
13 provider does not shut off service and mails a subsequent notice,
14 then the provider shall not shut off service before the date
15 specified in the subsequent notice and following a personal visit
16 to the premises at least 1 week before the shutoff. Shutoffs shall
17 occur only between the hours of 8 a.m. and 3 p.m.

18 (6) A provider shall not shut off service on a day, or a day
19 immediately preceding a day, when the services of the provider are
20 not available to the general public for the purpose of restoring
21 service.

22 (7) For an involuntary shutoff, at least 1 week before shutoff
23 of service, the provider shall make at least 2 attempts to contact
24 the customer by 1 or more of the following methods:

25 (a) A personal visit is made to the premises where shutoff of
26 service is proposed where direct contact is made with a member of
27 the customer's household.

1 (b) A written notice is posted on the door of the premises to
2 be shut off and on the customer's door, if the account customer has
3 a different address.

4 (8) A notice of shutoff sent under subsection (2) is
5 considered as 1 attempt under subsection (7).

6 (9) The provider shall document all attempts to contact the
7 customer under subsection (7).

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

13 (11) When a provider employee shuts off service, the employee
14 shall leave a notice. The notice shall state that service has been
15 shut off and shall contain the address and telephone number of the
16 provider where the customer may arrange to have service restored.

17 (12) For an involuntary shutoff using meters with remote shut-
18 off and restoration capacity, at least 1 day before shutoff of
19 service, the provider shall make at least 2 attempts to contact the
20 customer by 1 of the methods listed in subsection (7). Any notice
21 shall state that the disconnection of service will be performed
22 remotely and that a provider representative will not return to the
23 premises before disconnection. The provider shall document all
24 attempts to contact the customer. If the provider contacts the
25 customer or other responsible individual in the customer's
26 household by telephone on the day service is to be shut off, the
27 provider shall inform the customer or other responsible individual

1 that shutoff of service is imminent and of the steps necessary to
2 avoid shutoff. Unless the customer presents evidence that
3 reasonably demonstrates that the claim is satisfied or is in
4 dispute, the customer makes payment, or the customer presents
5 evidence of a payment plan or medical condition, the employee may
6 shut off service. If the provider complies with the notice
7 requirements of this subsection, no further customer contact is
8 required on the day service is to be shut off and the provider may
9 shut off service.

10 (13) A provider shall not shut off service for any of the
11 following reasons:

12 (a) The customer has not paid for concurrent service received
13 at a separate metering point, residence, or location.

14 (b) The customer has not paid for service at a premises
15 occupied by another person. A provider may shut off service in any
16 of the following circumstances where proper notice has been given:

17 (i) If the customer supplies a written, notarized statement
18 that the premises are unoccupied.

19 (ii) If the premises are occupied and the occupant agrees, in
20 writing, to the shutoff of service.

21 (iii) If it is not feasible to provide service to the occupant
22 as a customer without a major revision of existing distribution
23 facilities.

24 (iv) If it is feasible to provide service to the occupant as a
25 customer without a major revision of existing distribution
26 facilities and the occupant refuses to put the account for future
27 services in his or her name.

1 (14) After a provider has shut off service, the provider shall
2 restore service upon the customer's request when the cause of the
3 shutoff has been cured or payment arrangements have been made.

4 (15) When a provider is required to restore service at the
5 customer's meter manually, the provider shall make reasonable
6 efforts to restore service on the day the customer requests
7 restoration. Except for reasons beyond its control, the provider
8 shall restore service not later than the first working day after
9 the customer's request.

10 (16) For providers using meter technology with remote shut-off
11 and restoration capability, service shall be restored on the first
12 working day after the customer requests restoration, except in the
13 case of documented equipment failure.

14 (17) The provider may assess the customer a reasonable charge
15 for restoring service or relocating the customer's meter.

16 Sec. 4. (1) A provider shall not shut off service to a
17 customer for nonpayment of a delinquent account if the customer is
18 a senior citizen customer, an individual facing a medical
19 emergency, an individual who has a chronic medical condition that
20 requires immediate access to water, an individual who has dependent
21 children under the age of 18, an individual with a disability, or
22 an individual who is pregnant, or is a low-income customer, and
23 that customer enters into a water affordability program under
24 section 14n of the social welfare act, 1939 PA 280, MCL 400.14n.

25 (2) If a customer fails to comply with the terms and
26 conditions of a water affordability program, a provider may shut
27 off service after giving the customer a notice, by personal service

1 or first-class mail delivered to the affected premises or the
2 customer's address, that contains all of the following information:

3 (a) The nature of the default.

4 (b) A statement that unless the customer makes the payments
5 that are past due within 10 days of the date of mailing, the
6 provider may shut off service.

7 (c) The date on or after which the provider may shut off
8 service, unless the customer takes appropriate action.

9 (d) A statement that the customer may petition the provider in
10 accordance with the provider's rules disputing the claim before the
11 date of the proposed shutoff of service.

12 (e) 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 (f) The telephone number and address of the provider where the
16 customer may make inquiry, enter into a payment plan, or file a
17 complaint.

18 (g) A statement that the provider will postpone shutoff of
19 service if a medical emergency exists at the customer's residence.

20 (h) A statement that the provider may require a reasonable
21 restoration charge if the provider shuts off service for nonpayment
22 of a delinquent account.

23 Sec. 5. Within 2 days after receiving a delinquency notice or
24 notice of shutoff, property owners shall notify all affected
25 tenants by mail about the delinquency or pending shutoff.

26 Sec. 6. A provider shall not place any mark or sign on or near
27 an individual's house indicating that the individual is delinquent

1 on payments to that provider or that the individual's water service
2 will be shut off.

3 Enacting section 1. This act does not take effect unless
4 Senate Bill No. ____ or House Bill No. 5097 (request no. 03199'15) of
5 the 98th Legislature is enacted into law.