

4605

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to prohibiting discontinuance of utility service to multiple dwellings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 33 of the public service law, as added by chapter
2 713 of the laws of 1981, is amended to read as follows:

3 S 33. Discontinuance of residential utility service to multiple dwell-
4 ings. [1. Notwithstanding any other provisions of law, no public utility
5 company or municipality shall discontinue gas, electric or steam service
6 to an entire multiple dwelling (as defined in the multiple dwelling law
7 or the multiple residence law) located anywhere in this state for
8 nonpayment of bills rendered for service unless such utility shall have
9 given fifteen days written notice of its intention so to discontinue as
10 follows:

11 (a) Such notice shall be served personally on the owner of the prem-
12 ises affected, or in lieu thereof, to the person, firm, or corporation
13 to whom or which the last preceding bill has been rendered and from whom
14 or which the utility has received payment therefor, and to the super-
15 intendent or other person in charge of the building or premises
16 affected, if it can be readily ascertained that there is such super-
17 intendent or other person in charge.

18 (b) In lieu of personal delivery to the person or persons, firm or
19 corporation specified in (a) above, such notice may be mailed in a post-
20 paid wrapper to the address of such person or persons, firm or corpo-
21 ration.

22 (c) In addition to the notice prescribed by (a) or (b) above, fifteen
23 days written notice shall be (i) posted in the public areas of such
24 multiple dwelling, (ii) mailed to the "Occupant" of each unit in that
25 multiple dwelling, (iii) mailed to the local health officer and the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 director of the social services district for the political subdivision
2 in which the multiple dwelling is located, (iv) if the multiple dwelling
3 is located in a city or a village, mailed to the mayor thereof, or if
4 there be none, to the manager, or, if the multiple dwelling is located
5 in a town, then mailed to the town supervisor, and (v) mailed to the
6 county executive of the county in which the multiple dwelling is
7 located, or if there be none, then to the chairman of such county's
8 legislative body. Notice required by (iv) and (v) of this paragraph may
9 be mailed to the persons specified therein or to their respective designees.
10 The notice required by this paragraph shall state the intended
11 date of discontinuance of service, the amount due for such service, and
12 the procedure by which any tenant or public agency may make such payment
13 and thereby avoid discontinuance of service.

14 (d) The written notice required by clauses (iii), (iv) and (v) of
15 paragraph (c) above shall be repeated not more than four days nor less
16 than two days prior to such discontinuance.

17 1-a. Whenever a notice of intention to discontinue utility service has
18 been made pursuant to the provisions of this section and obligations
19 owed the utility or municipality have been satisfied, the utility or
20 municipality shall notify, in the same manner as it gave such notice of
21 intention, the occupant of each unit that the intention to discontinue
22 utility service no longer exists.

23 2. For the purposes of this section, the department charged with
24 enforcing the multiple dwelling law shall prepare a schedule of all
25 multiple dwellings within its jurisdiction and shall provide a copy of
26 such schedule to any gas, steam or electric corporation or municipality
27 subject to the provisions of this section. Such schedule shall be
28 revised semi-annually and a revised copy provided to such corporation.
29 Every county, and every municipality to which the multiple dwelling law
30 does not apply, which county or municipality has compiled or hereafter
31 may compile a listing of all multiple dwellings within its jurisdiction
32 shall make such listing available without charge to any gas, steam or
33 electric corporation providing service in such county or municipality.

34 3. Any gas, electric or steam corporation or municipality which will-
35 fully fails to comply with the provisions of this section shall be
36 liable for a penalty of twenty-five dollars for each occupied unit of
37 the multiple dwelling for each day during which service is unlawfully
38 discontinued; provided, however, that when the only non-compliance with
39 this section is failure to mail notice to each "Occupant" as required by
40 clause (ii) of paragraph (c) of subdivision one above the penalty shall
41 be twenty-five dollars for each occupied unit of the multiple dwelling
42 to which notice was not mailed for each day during which service is
43 unlawfully discontinued. An action to recover a penalty under this
44 section may be brought by the counsel to the commission in any court of
45 competent jurisdiction in this state in the name of the people of the
46 state of New York. Any moneys recovered in such action shall be paid to
47 the state treasury to the credit of the general fund.

48 4. Any person who willfully interferes with the posting of the notice
49 specified in clause (i) of paragraph (c) of subdivision one above by any
50 gas, steam or electric corporation or municipality, willfully defaces or
51 mutilates any such notice, or willfully removes the same from the place
52 where it is posted by such company prior to the date specified therein
53 for the discontinuance of service shall be guilty of a violation and,
54 upon conviction, shall be punished by a fine not exceeding twenty-five
55 dollars.

1 5. The commission shall maintain rules and regulations for the payment
2 by tenants of utility bills for gas, electric or steam service in a
3 multiple dwelling to which this section applies where the owner of any
4 such multiple dwelling, or the person, firm or corporation to whom or
5 which the last preceding bill has been rendered or from whom or which
6 the utility or municipality has received payment therefor, has failed to
7 pay such utility bills. Such rules and regulations shall (a) provide
8 that utility service may not be discontinued to any such multiple dwell-
9 ing as long as the tenants continue to make timely payments in accord-
10 ance with established procedures; (b) include designation of an office
11 to advise tenants of the rights and procedures available pursuant to
12 such rules and regulations; (c) assure that tenants shall not be liable
13 for bills more than two months in arrears; and (d) require the commis-
14 sion upon petition of twenty-five percent of the tenants of such multi-
15 ple dwelling to meet with representatives of such tenants and the owner,
16 person, firm or corporation to whom or which the last preceding bill has
17 been rendered or from whom or which the utility has received payment
18 therefor] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PUBLIC UTILITY
19 COMPANY SHALL DISCONTINUE GAS, ELECTRIC, STEAM OR WATER SERVICE TO AN
20 ENTIRE MULTIPLE DWELLING, AS DEFINED IN THE MULTIPLE DWELLING LAW OR THE
21 MULTIPLE RESIDENCE LAW, LOCATED ANYWHERE IN THIS STATE FOR NON-PAYMENT
22 OF BILLS RENDERED FOR SERVICE. SUCH COMPANY SHALL HAVE ALL OTHER RIGHTS
23 AS IN ANY OTHER CASE WHERE MONEY IS OWING INCLUDING, BUT NOT LIMITED TO,
24 THE RIGHT TO FILE A LIEN AGAINST THE PROPERTY SO AFFECTED.

25 S 2. Section 116 of the public service law, as amended by chapter 713
26 of the laws of 1981, subdivision 5 as separately amended by chapter 511
27 of the laws of 1981, is amended to read as follows:

28 S 116. Discontinuance of water service to multiple dwellings. [1.
29 Notwithstanding any other provisions of law, no public utility company
30 shall discontinue water service to an entire multiple dwelling (as
31 defined in the multiple dwelling law or the multiple residence law)
32 located anywhere in this state for nonpayment of bills rendered for
33 service unless such utility shall have given fifteen days' written
34 notice of its intention so to discontinue as follows:

35 (a) Such notice shall be served personally on the owner of the prem-
36 ises affected, or in lieu thereof, to the person, firm, or corporation
37 to whom or which the last preceding bill has been rendered and from whom
38 or which the utility has received payment therefor, and to the super-
39 intendent or other person in charge of the building or premises
40 affected, if it can be readily ascertained that there is such super-
41 intendent or other person in charge.

42 (b) In lieu of personal delivery to the person or persons, firm or
43 corporation specified in (a) above, such notice may be mailed in a post-
44 paid wrapper to the address of such person or persons, firm or corpo-
45 ration.

46 (c) In addition to the notice prescribed by (a) or (b) above, fifteen
47 days' written notice shall be (i) posted in the public areas of such
48 multiple dwelling, (ii) mailed to the "Occupant" of each unit in that
49 multiple dwelling, (iii) mailed to the local health officer and the
50 director of the social services district for the political subdivision
51 in which the multiple dwelling is located, (iv) if the multiple dwelling
52 is located in a city or a village, mailed to the mayor thereof, or if
53 there be none, to the manager, or, if the multiple dwelling is located
54 in a town, then mailed to the town supervisor, and (v) mailed to the
55 county executive of the county in which the multiple dwelling is
56 located, or if there be none, then to the chairman of such county's

1 legislative body. Notice required by (iv) and (v) of this paragraph may
2 be mailed to the persons specified therein or to their respective desig-
3 nees. The notice required by this paragraph shall state the intended
4 date of discontinuance of service, the amount due for such service, and
5 the procedure by which any tenant or public agency may make such payment
6 and thereby avoid discontinuance of service.

7 (d) The written notice required by clauses (iii), (iv) and (v) of
8 paragraph (c) above shall be repeated not more than four days nor less
9 than two days prior to such discontinuance.

10 1-a. Whenever a notice of intention to discontinue utility service has
11 been made pursuant to the provisions of this section and obligations
12 owed the utility have been satisfied, the utility shall notify, in the
13 same manner as it gave such notice of intention, the occupant of each
14 unit that the intention to discontinue utility service no longer exists.

15 2. For the purposes of this section, the department charged with
16 enforcing the multiple dwelling law shall prepare a schedule of all
17 multiple dwellings within its jurisdiction and shall provide a copy of
18 such schedule to any water corporation subject to the provisions of this
19 section. Such schedule shall be revised semi-annually and a revised copy
20 provided to such corporation. Every county, and every municipality to
21 which the multiple dwelling law does not apply, which county or munici-
22 pality has compiled or hereafter may compile a listing of all multiple
23 dwellings within its jurisdiction shall make such listing available
24 without charge to any water corporation providing service in such county
25 or municipality.

26 3. Any water corporation which willfully fails to comply with the
27 provisions of this section shall be liable for a penalty of twenty-five
28 dollars for each occupied unit of the multiple dwelling for each day
29 during which service is unlawfully discontinued; provided, however, that
30 when the only non-compliance with this section is failure to mail notice
31 to each "Occupant" as required by clause (ii) of paragraph (c) of subdivi-
32 sion one above the penalty shall be twenty-five dollars for each occu-
33 pied unit of the multiple dwelling to which notice was not mailed for
34 each day during which service is unlawfully discontinued. An action to
35 recover a penalty under this section may be brought by the counsel to
36 the commission in any court of competent jurisdiction in this state in
37 the name of the people of the state of New York. Any monies recovered in
38 such action shall be paid to the state treasury to the credit of the
39 general fund.

40 4. Any person who willfully interferes with the posting of the notice
41 specified in clause (i) of paragraph (c) of subdivision one above by any
42 water corporation, willfully defaces or mutilates any such notice, or
43 willfully removes the same from the place where it is posted by such
44 company prior to the date specified therein for the discontinuance of
45 service shall be guilty of a violation and, upon conviction, shall be
46 punished by a fine not exceeding twenty-five dollars.

47 5. The commission shall maintain rules and regulations for the payment
48 by tenants of utility bills for water service in a multiple dwelling to
49 which this section applies where the owner of any such multiple dwell-
50 ing, or the person, firm or corporation to whom or which the last
51 preceding bill has been rendered or from whom or which the utility has
52 received payment therefore, has failed to pay such utility bills. Such
53 rules and regulations shall (i) provide that utility service may not be
54 discontinued to any such multiple dwelling as long as the tenants
55 continue to make timely payments in accordance with established proce-
56 dures; (ii) include designation of an office to advise tenants of the

1 rights and procedures available pursuant to such rules and regulations;
2 (iii) assure that tenants shall not be liable for bills more than two
3 months in arrears; and (iv) require the commission upon petition of
4 twenty-five percent of the tenants of such multiple dwelling to meet
5 with representatives of such tenants and the owner, person, firm or
6 corporation to whom or which the last preceding bill has been rendered
7 or from whom or which the utility has received payment therefore]
8 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PUBLIC UTILITY COMPANY
9 SHALL DISCONTINUE GAS, ELECTRIC, STEAM OR WATER SERVICE TO AN ENTIRE
10 MULTIPLE DWELLING, AS DEFINED IN THE MULTIPLE DWELLING LAW OR THE MULTI-
11 PLE RESIDENCE LAW, LOCATED ANYWHERE IN THIS STATE FOR NON-PAYMENT OF
12 BILLS RENDERED FOR SERVICE. SUCH COMPANY SHALL HAVE ALL OTHER RIGHTS AS
13 IN ANY OTHER CASE WHERE MONEY IS OWING INCLUDING, BUT NOT LIMITED TO,
14 THE RIGHT TO FILE A LIEN AGAINST THE PROPERTY SO AFFECTED.

15 S 3. Paragraph (a) of subdivision 5 of section 32 of the public
16 service law, as added by chapter 686 of the laws of 2002, is amended to
17 read as follows:

18 (a) In the event the service to a residential customer terminated
19 pursuant to this section [or the service to a multiple-family dwelling
20 pursuant to section thirty-three of this article] or a two-family dwell-
21 ing pursuant to section thirty-four of this article consists of the
22 provision of gas or electricity commodity only, the utility providing
23 distribution services to such customer shall suspend the provision of
24 such distribution services and the provision of any other related
25 services to such customer if:

26 (i) The utility providing distribution services to such customer is
27 notified of the termination in such manner and form as the commission
28 shall, by regulation, prescribe; which notification shall include
29 documentation sufficient to confirm that such termination was, in all
30 respects, in compliance with this article and that the conditions set
31 forth in this subdivision have been met;

32 (ii) Except in the case of a service to a multiple dwelling pursuant
33 to section thirty-three of this article, such customer was billed using
34 a billing system in which all charges for service were present on a
35 single bill;

36 (iii) Such utility providing distribution services provided such
37 services to the customer at the time of the termination;

38 (iv) The utility implementing the termination confirms that it is able
39 to and will take all actions within its control necessary to resume the
40 provision of electric or gas commodity to such customer in accordance
41 with the agreement for such service between such utility and such
42 customer, if the customer makes full payment of the amount of arrears
43 that were the basis for the termination of service;

44 (v) The utility implementing the termination has not assigned its
45 right to obtain payment of the arrears to an entity that is not a utili-
46 ty for purposes of this article; and

47 (vi) Less than one year has elapsed since such termination of commod-
48 ity service has occurred.

49 S 4. This act shall take effect immediately.