

1378

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. STAVISKY, ADAMS, DIAZ, DUANE, C. JOHNSON, ONORATO,  
PARKER, SAMPSON -- read twice and ordered printed, and when printed to  
be committed to the Committee on Energy and Telecommunications

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 ASSEM-  
BLY, 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

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

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

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

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

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

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

49 4. Any person who willfully interferes with the posting of the notice  
50 specified in clause (i) of paragraph (c) of subdivision one above by any  
51 gas, steam or electric corporation or municipality, willfully defaces or  
52 mutilates any such notice, or willfully removes the same from the place  
53 where it is posted by such company prior to the date specified therein  
54 for the discontinuance of service shall be guilty of a violation and,  
55 upon conviction, shall be punished by a fine not exceeding twenty-five  
56 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.