

5930

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. KAVANAGH, JAFFEE, COLTON, HOOPER -- Multi-Sponsored by -- M. of A. GALEF, GOTTFRIED, PHEFFER -- 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, paragraphs (c) and (d) of subdivision 1 as
3 amended by chapter 195 of the laws of 2010, is amended to read as
4 follows:
5 S 33. Discontinuance of residential utility service to multiple dwell-
6 ings. [1. Notwithstanding any other provisions of law, no public utility
7 company or municipality shall discontinue gas, electric or steam service
8 to an entire multiple dwelling (as defined in the multiple dwelling law
9 or the multiple residence law) located anywhere in this state for
10 nonpayment of bills rendered for service unless such utility shall have
11 given fifteen days written notice of its intention so to discontinue as
12 follows:
13 (a) Such notice shall be served personally on the owner of the prem-
14 ises affected, or in lieu thereof, to the person, firm, or corporation
15 to whom or which the last preceding bill has been rendered and from whom
16 or which the utility has received payment therefor, and to the super-
17 intendent or other person in charge of the building or premises
18 affected, if it can be readily ascertained that there is such super-
19 intendent or other person in charge.
20 (b) In lieu of personal delivery to the person or persons, firm or
21 corporation specified in (a) above, such notice may be mailed in a post-
22 paid wrapper to the address of such person or persons, firm or corpo-
23 ration.

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

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1 (c) In addition to the notice prescribed by paragraph (a) or (b) of
2 this subdivision, fifteen days written notice shall be (i) posted in the
3 public areas of such multiple dwelling, (ii) mailed to the "Occupant" of
4 each unit in that multiple dwelling, (iii) mailed to the local health
5 officer and the director of the social services district for the poli-
6 tical subdivision in which the multiple dwelling is located, (iv) if the
7 multiple dwelling is located in a city or a village, mailed to the mayor
8 thereof, or if there be none, to the manager, or, if the multiple dwell-
9 ing is located in a town, then mailed to the town supervisor, (v) mailed
10 to the county executive of the county in which the multiple dwelling is
11 located, or if there be none, then to the chairman of such county's
12 legislative body, and (vi) mailed to the office of the New York state
13 long term care ombudsman, if the multiple dwelling is a residential
14 health care facility as defined in subdivision three of section twenty-
15 eight hundred one of the public health law, an adult care facility as
16 defined in subdivision twenty-one of section two of the social services
17 law, or an assisted living residence as defined in subdivision one of
18 section forty-six hundred fifty-one of the public health law as added by
19 chapter two of the laws of two thousand four. Notice required by
20 subparagraphs (iv) and (v) of this paragraph may be mailed to the
21 persons specified therein or to their respective designees. The notice
22 required by this paragraph shall state the intended date of discontin-
23 uance of service, the amount due for such service, and the procedure by
24 which any tenant or public agency may make such payment and thereby
25 avoid discontinuance of service.

26 (d) The written notice required by subparagraphs (iii), (iv), (v) and
27 (vi) of paragraph (c) of this subdivision shall be repeated not more
28 than four days nor less than two days prior to such discontinuance.

29 1-a. Whenever a notice of intention to discontinue utility service has
30 been made pursuant to the provisions of this section and obligations
31 owed the utility or municipality have been satisfied, the utility or
32 municipality shall notify, in the same manner as it gave such notice of
33 intention, the occupant of each unit that the intention to discontinue
34 utility service no longer exists.

35 2. For the purposes of this section, the department charged with
36 enforcing the multiple dwelling law shall prepare a schedule of all
37 multiple dwellings within its jurisdiction and shall provide a copy of
38 such schedule to any gas, steam or electric corporation or municipality
39 subject to the provisions of this section. Such schedule shall be
40 revised semi-annually and a revised copy provided to such corporation.
41 Every county, and every municipality to which the multiple dwelling law
42 does not apply, which county or municipality has compiled or hereafter
43 may compile a listing of all multiple dwellings within its jurisdiction
44 shall make such listing available without charge to any gas, steam or
45 electric corporation providing service in such county or municipality.

46 3. Any gas, electric or steam corporation or municipality which will-
47 fully fails to comply with the provisions of this section shall be
48 liable for a penalty of twenty-five dollars for each occupied unit of
49 the multiple dwelling for each day during which service is unlawfully
50 discontinued; provided, however, that when the only non-compliance with
51 this section is failure to mail notice to each "Occupant" as required by
52 clause (ii) of paragraph (c) of subdivision one above the penalty shall
53 be twenty-five dollars for each occupied unit of the multiple dwelling
54 to which notice was not mailed for each day during which service is
55 unlawfully discontinued. An action to recover a penalty under this
56 section may be brought by the counsel to the commission in any court of

competent jurisdiction in this state in the name of the people of the state of New York. Any moneys recovered in such action shall be paid to the state treasury to the credit of the general fund.

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

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

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

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

(a) Such notice shall be served personally on the owner of the premises affected, or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered and from whom or which the utility has received payment therefor, and to the superintendent or other person in charge of the building or premises affected, if it can be readily ascertained that there is such superintendent or other person in charge.

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

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

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

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

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

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

51 4. Any person who willfully interferes with the posting of the notice
52 specified in clause (i) of paragraph (c) of subdivision one above by any
53 water corporation, willfully defaces or mutilates any such notice, or
54 willfully removes the same from the place where it is posted by such
55 company prior to the date specified therein for the discontinuance of

1 service shall be guilty of a violation and, upon conviction, shall be
2 punished by a fine not exceeding twenty-five dollars.

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

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

30 (a) In the event the service to a residential customer terminated
31 pursuant to this section [or the service to a multiple-family dwelling
32 pursuant to section thirty-three of this article] or a two-family dwell-
33 ing pursuant to section thirty-four of this article consists of the
34 provision of gas or electricity commodity only, the utility providing
35 distribution services to such customer shall suspend the provision of
36 such distribution services and the provision of any other related
37 services to such customer if:

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

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

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

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

1 (v) The utility implementing the termination has not assigned its
2 right to obtain payment of the arrears to an entity that is not a utili-
3 ty for purposes of this article; and
4 (vi) Less than one year has elapsed since such termination of commod-
5 ity service has occurred.
6 S 4. This act shall take effect immediately.