

# STATE OF NEW YORK

5524

2021-2022 Regular Sessions

## IN SENATE

March 9, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the general business law, in relation to establishing a moratorium prohibiting certain broadband terminations or disconnections during a state disaster emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 399-zzzzz to read as follows:

3 § 399-zzzzz. Prohibition of certain broadband terminations or discon-  
4 nections. 1. For the purposes of this section, the term "broadband  
5 service" shall mean a mass-market retail service that provides the capa-  
6 bility to transmit data to and receive data from all or substantially  
7 all internet endpoints, including any capabilities that are incidental  
8 to and enable the operation of the communications service, and shall  
9 include service provided by commercial mobile telephone service provid-  
10 ers, but shall not include dial-up service.

11 2. No person, business, corporation, or their agents providing or  
12 seeking to provide broadband service in New York state shall terminate  
13 or disconnect services provided over their infrastructure to a residen-  
14 tial service customer or a small business customer with twenty-five or  
15 fewer employees that is not a (i) publicly held company, or a subsidiary  
16 thereof, (ii) seasonal, short-term, or temporary customer, or (iii)  
17 customer that the broadband service provider can demonstrate has the  
18 resources to pay the bill, provided that the broadband service provider  
19 notifies the small business customer of its reasons and of the custom-  
20 er's right to contest this determination through the commission's  
21 complaint procedures, for the non-payment of an overdue charge for the  
22 duration of a state disaster emergency declared pursuant to section  
23 twenty-eight of the executive law in response to a state, national, or

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

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1 global event that is deemed to result in a significant negative and  
2 long-term impact on the state's economic future. Such persons or enti-  
3 ties shall have a duty to restore service, to the extent not already  
4 required, at the request of any residential or small business customer  
5 within forty-eight hours if such service has been terminated during the  
6 pendency of the state disaster emergency and disconnection of such  
7 service was due to non-payment of an overdue charge.

8 3. No person, business, corporation, or their agents providing or  
9 seeking to provide broadband service in New York state shall terminate  
10 or disconnect services provided over their infrastructure to a residen-  
11 tial or small business customer account because of defaulted deferred  
12 payment agreements or arrears then owed to such persons or entities when  
13 such customer has experienced a change in financial circumstances due to  
14 a state disaster emergency as set forth in subdivision two of this  
15 section. The person, business, corporation, or their agents providing or  
16 seeking to provide broadband service in New York state shall provide  
17 such residential or small business customer with the right to enter  
18 into, or restructure, a deferred payment agreement consistent with the  
19 provisions of article two of the public service law without the require-  
20 ment of a down payment, late fees, or penalties, with such prohibition  
21 on down payments, late fees, or penalties applicable to all arrears  
22 incurred during the duration of the state disaster emergency.

23 4. Every person, business, corporation, or their agents providing or  
24 seeking to provide broadband service in New York state shall provide  
25 notice to residential or small business customers in a writing to be  
26 included with a bill statement or, when appropriate, via electronic  
27 transmission the provisions of this section and shall further make  
28 reasonable efforts to contact customers who have certified a change in  
29 financial circumstances due to a state disaster emergency as set forth  
30 in subdivision two of this section for the purpose of offering such  
31 customers a deferred payment agreement consistent with the provisions of  
32 article two of the public service law.

33 5. Implementation of the provisions of this section shall not prohibit  
34 a person, business, corporation, or their agents providing or seeking to  
35 provide broadband service in New York state from recovering lost or  
36 deferred revenues after the lifting or expiration of a state disaster  
37 emergency as set forth in subdivision two of this section, pursuant to  
38 such means for recovery by means not inconsistent with any of the  
39 provisions of this section. Nothing in this section shall prohibit a  
40 person, business, corporation, or their agents providing or seeking to  
41 provide broadband service in New York state from disconnecting service  
42 at the request of a customer. Nothing in this section shall prohibit a  
43 person, business, corporation, or their agents providing or seeking to  
44 provide broadband service in New York state from disconnecting service  
45 when it is necessary to protect the health and safety of customers and  
46 the public, provided however the customer may contest the service  
47 disconnection through a process to be created by the company.

48 6. Whenever there shall be a violation of this section, an application  
49 may be made by the attorney general in the name of the people of the  
50 state of New York to a court or justice having jurisdiction by a special  
51 proceeding to issue an injunction, and upon notice to the defendant of  
52 not less than five days, to enjoin and restrain the continuance of such  
53 violation; and if it shall appear to the satisfaction of the court or  
54 justice that the defendant has, in fact, violated this section, an  
55 injunction may be issued by the court or justice, enjoining and  
56 restraining any further violations, without requiring proof that any

1 person has, in fact, been injured or damaged thereby. In any such  
2 proceeding, the court may make allowances to the attorney general as  
3 provided in paragraph six of subdivision (a) of section eighty-three  
4 hundred three of the civil practice law and rules, and direct restitu-  
5 tion. Whenever the court shall determine that a violation of this  
6 section has occurred, the court may impose a civil penalty of not more  
7 than one thousand dollars per violation. In connection with any such  
8 proposed application, the attorney general is authorized to take proof  
9 and make a determination of the relevant facts and to issue subpoenas in  
10 accordance with the civil practice law and rules.

11 § 2. This act shall take effect immediately; provided, however, that  
12 this act shall be applicable to relevant executive orders issued on or  
13 after the effective date of this act.