

STATE OF NEW YORK

6270

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. BARRETT -- read once and referred to the Committee on Corporations, Authorities and Commissions

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-zzzzzz to read as follows:

3 § 399-zzzzzz. 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
24 global event that is deemed to result in a significant negative and

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

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

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

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

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

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

proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than one thousand dollars per violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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