

# STATE OF NEW YORK

1203--A

Cal. No. 292

2023-2024 Regular Sessions

## IN SENATE

January 10, 2023

Introduced by Sens. PARKER, HINCHEY, KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 following terms shall  
5 have the following meanings:

6 (a) "broadband internet access service" shall mean a mass-market  
7 retail service that provides the capability to transmit data to and  
8 receive data from all or substantially all internet endpoints, including  
9 any capabilities that are incidental to and enable the operation of the  
10 communications service, and shall include service provided by commercial  
11 mobile telephone service providers, but shall not include dial-up inter-  
12 net service; and

13 (b) "covered telephone corporation" means a "telephone corporation" as  
14 defined in subdivision seventeen of section two of the public service  
15 law that provided telephone exchange service on or before February  
16 eighth, nineteen hundred ninety-six.

17 2. No covered telephone corporation, person, business, corporation, or  
18 their agents providing or seeking to provide broadband internet access  
19 service in New York state shall terminate or disconnect services

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

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1 provided over their infrastructure to a residential service customer or  
2 a small business customer with twenty-five or fewer employees that is  
3 not a (i) publicly held company, or a subsidiary thereof, (ii) seasonal,  
4 short-term, or temporary customer, or (iii) customer that the broadband  
5 internet access service provider can demonstrate has the resources to  
6 pay the bill, provided that the broadband service provider notifies the  
7 small business customer of its reasons and of the customer's right to  
8 contest this determination through the commission's complaint proce-  
9 dures, for the non-payment of an overdue charge for the duration of a  
10 state disaster emergency declared pursuant to section twenty-eight of  
11 the executive law in response to a state, national, or global event that  
12 is deemed to result in a significant negative and long-term impact on  
13 the state's economic future. Such persons or entities shall have a duty  
14 to restore service, to the extent not already required, at the request  
15 of any residential or small business customer within forty-eight hours  
16 if such service has been terminated during the pendency of the state  
17 disaster emergency and disconnection of such service was due to non-pay-  
18 ment of an overdue charge.

19 3. No covered telephone corporation, person, business, corporation, or  
20 their agents providing or seeking to provide broadband internet access  
21 service in New York state shall terminate or disconnect services  
22 provided over their infrastructure to a residential or small business  
23 customer account because of defaulted deferred payment agreements or  
24 arrears then owed to such persons or entities when such customer has  
25 experienced a change in financial circumstances due to a state disaster  
26 emergency as set forth in subdivision two of this section. The covered  
27 telephone corporation, person, business, corporation, or their agents  
28 providing or seeking to provide broadband internet access service in New  
29 York state shall provide such residential or small business customer  
30 with the right to enter into, or restructure, a deferred payment agree-  
31 ment consistent with the provisions of article two of the public service  
32 law without the requirement of a down payment, late fees, or penalties,  
33 with such prohibition on down payments, late fees, or penalties applica-  
34 ble to all arrears incurred during the duration of the state disaster  
35 emergency.

36 4. Every covered telephone corporation, person, business, corporation,  
37 or their agents providing or seeking to provide broadband internet  
38 access service in New York state shall provide notice to residential or  
39 small business customers in a writing to be included with a bill state-  
40 ment or, when appropriate, via electronic transmission the provisions of  
41 this section and shall further make reasonable efforts to contact  
42 customers who have certified a change in financial circumstances due to  
43 a state disaster emergency as set forth in subdivision two of this  
44 section for the purpose of offering such customers a deferred payment  
45 agreement consistent with the provisions of article two of the public  
46 service law.

47 5. Implementation of the provisions of this section shall not prohibit  
48 a covered telephone corporation, person, business, corporation, or their  
49 agents providing or seeking to provide broadband internet access service  
50 in New York state from recovering lost or deferred revenues after the  
51 lifting or expiration of a state disaster emergency as set forth in  
52 subdivision two of this section, pursuant to such means for recovery by  
53 means not inconsistent with any of the provisions of this section. Noth-  
54 ing in this section shall prohibit a covered telephone corporation,  
55 person, business, corporation, or their agents providing or seeking to  
56 provide broadband internet access service in New York state from discon-

1 necting service at the request of a customer. Nothing in this section  
2 shall prohibit a covered telephone corporation, person, business, corpo-  
3 ration, or their agents providing or seeking to provide broadband inter-  
4 net access service in New York state from disconnecting service when it  
5 is necessary to protect the health and safety of customers and the  
6 public, provided however the customer may contest the service discon-  
7 nection through a process to be created by the company.

8 6. Whenever there shall be a violation of this section, an application  
9 may be made by the attorney general in the name of the people of the  
10 state of New York to a court or justice having jurisdiction by a special  
11 proceeding to issue an injunction, and upon notice to the defendant of  
12 not less than five days, to enjoin and restrain the continuance of such  
13 violation; and if it shall appear to the satisfaction of the court or  
14 justice that the defendant has, in fact, violated this section, an  
15 injunction may be issued by the court or justice, enjoining and  
16 restraining any further violations, without requiring proof that any  
17 person has, in fact, been injured or damaged thereby. In any such  
18 proceeding, the court may make allowances to the attorney general as  
19 provided in paragraph six of subdivision (a) of section eighty-three  
20 hundred three of the civil practice law and rules, and direct restitu-  
21 tion. Whenever the court shall determine that a violation of this  
22 section has occurred, the court may impose a civil penalty of not more  
23 than one thousand dollars per violation. In connection with any such  
24 proposed application, the attorney general is authorized to take proof  
25 and make a determination of the relevant facts and to issue subpoenas in  
26 accordance with the civil practice law and rules.

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