

HOUSE BILL NO. 5090

October 04, 2023, Introduced by Reps. Aiyash, McKinney, Wilson, Hope, Edwards, Hood, Wegela, Paiz, Dievendorf, Rheingans, McFall and Young and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to prescribe the powers and duties of certain providers of retail water service in this state; to prescribe the powers and duties of certain state officers and entities; to prohibit certain acts and practices of providers of retail water service; and to provide for remedies and penalties for certain violations of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "water shutoff protection
2 act".

1 Sec. 3. As used in this act:

2 (a) "Critical care customer" means a residential customer who
3 requires, or has a household member who requires, water or
4 sanitation for home medical equipment, a life-support system, or
5 treatment or therapy to reduce a public health risk, or has a
6 communicable disease, and provides appropriate documentation to a
7 provider from a physician or medical facility that identifies the
8 medical equipment, life-support system, treatment, or therapy and
9 certifies that an interruption of service would be immediately
10 life-threatening or cause harmful health consequences.

11 (b) "Delinquency" means the measure by which a provider
12 determines a payment is late or overdue.

13 (c) "Delinquent account" means an account or bill for which
14 there is a delinquency.

15 (d) "Eligible customer" means a residential customer whose
16 household income does not exceed 200% of the federal poverty
17 guidelines, as published annually in the Federal Register by the
18 United States Department of Health and Human Services under its
19 authority to revise the poverty line under 42 USC 9902, or who
20 meets any of the following requirements:

21 (i) Has received assistance from a state emergency relief
22 program within the past year.

23 (ii) Receives food assistance under the federal supplemental
24 nutrition assistance program administered by this state.

25 (iii) Receives medical assistance administered by this state
26 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

27 (iv) Receives any other form of federal or state public
28 assistance.

29 (e) "Lawful occupant" means an individual who resides in a

1 home and who has a valid lease, rental agreement, or affidavit of
2 tenant responsibility for the water bill.

3 (f) "Program administrator" means the department, provider, or
4 third-party organization that administers a low-income water
5 residential affordability program.

6 (g) "Provider" means a community water supply that is publicly
7 or privately owned and that provides retail water service in this
8 state.

9 (h) "Residential customer" means an individual who receives,
10 or is eligible to receive, water service at the individual's
11 primary premises.

12 Sec. 5. (1) A provider may shut off service temporarily to all
13 residential customers, including critical care customers, for
14 reasons of health or safety, in a state or national emergency, or,
15 subject to this section and section 7, if a residential customer
16 has not paid a delinquent account. When a provider shuts off
17 service for reasons of health or safety, the provider must leave a
18 notice at the premises.

19 (2) Subject to section 7, a provider shall not shut off
20 service because a residential customer has not paid a delinquent
21 account unless the provider contacts the residential customer at
22 least 4 times using 2 or more of the following methods, as
23 practicable:

24 (a) Posts a delinquency notice on the door of the premises to
25 be shut off and, if the account customer has a separate mailing
26 address, mails a delinquency notice to that address not less than
27 60 days and not more than 90 days before the date of a proposed
28 shutoff, that notifies the occupant of the property of a
29 delinquency in payments and informs the occupant of any applicable

1 payment plans or low-income water residential affordability
2 programs. A provider shall maintain a record of the date the
3 delinquency notice was posted.

4 (b) Makes a personal visit to the premises where shutoff of
5 service is proposed and direct contact is made with the head of
6 household notifying that individual of a delinquency in payments
7 and of any applicable payment plans or low-income water residential
8 affordability programs. A provider shall maintain a record of the
9 date direct contact was made. A personal visit described under this
10 subdivision may be conducted by a contracted third-party
11 organization or other agent of the provider.

12 (c) Makes a personal or automated telephone call to the
13 telephone number identified on the customer account where direct
14 contact is made or a message is recorded notifying that individual
15 of a delinquency in the payments and of any applicable payment
16 plans or low-income water residential affordability programs. A
17 provider shall maintain a record of the date the call was made.

18 (d) Sends a direct text message to the telephone number
19 identified on the customer account notifying that individual of a
20 delinquency in payments and of any applicable payment plans or
21 water affordability programs. A provider shall maintain a record of
22 the date the text message was sent.

23 (e) Sends a written notice by first-class mail to the premises
24 where shutoff of service is proposed notifying the account customer
25 of a delinquency in payments and of any applicable payment plans or
26 low-income water residential affordability programs. A provider
27 shall maintain a record of the date the written notice was sent.

28 (3) At least 1 of the contacts made by the provider must be a
29 delinquency notice as provided for under subsection (2) (a).

1 (4) All written and oral notices of shutoff under subsection
2 (2) must contain, at a minimum, all of the following information:

3 (a) The address at which service is provided.

4 (b) A clear and concise statement of the reason for the
5 proposed shutoff of service.

6 (c) The date on or after which the provider may shut off
7 service, unless the residential customer takes appropriate action,
8 and a description of the available courses of action to prevent a
9 shutoff or to restore service following a shutoff.

10 (d) A statement that the provider will not shut off service if
11 a residential customer has entered and remains in compliance with a
12 payment plan or low-income water residential affordability program.

13 (e) The telephone number and address of the program
14 administrator where the residential customer may make an inquiry,
15 enter into a payment plan or low-income water residential
16 affordability program, or petition the provider in accordance with
17 the provider's rules to dispute a delinquent account.

18 (f) A statement that if the residential customer that receives
19 the notice is a tenant whose landlord is responsible for the water
20 bill, the tenant should contact the landlord and provider
21 immediately. This subdivision does not preclude a provider from
22 offering additional options for the tenant to maintain service.

23 (5) Except as otherwise provided in this subsection, a
24 provider shall delay shutoff of service to a residential customer
25 that pays at least \$10.00 per month, or another amount approved by
26 the provider, on a delinquent account and applies for enrollment in
27 a low-income water residential affordability program with the
28 provider, the department of health and human services, or a third-
29 party organization that administers a low-income water residential

1 affordability program. A provider is not required to delay shutoff
2 of service under this subsection if any of the following apply:

3 (a) The residential customer applied to a low-income water
4 residential affordability program and 10 business days have passed
5 since the program administrator determined that the residential
6 customer is not eligible.

7 (b) The residential customer applied to a low-income water
8 residential affordability program and was determined to be eligible
9 but did not enroll in the program within 10 business days.

10 (c) The residential customer paid at least \$10.00 per month
11 but did not apply to a low-income water residential affordability
12 program by submitting an application within 10 business days after
13 the date the final notice of shutoff was issued.

14 (6) Subject to the requirements of this act, a provider may
15 shut off service to a residential customer on the date specified in
16 the notice of shutoff or at a reasonable time following that date.
17 If a provider does not shut off service and mails a subsequent
18 notice, then the provider shall not shut off service before the
19 date specified in the subsequent notice. Shutoffs must occur only
20 between the hours of 8 a.m. and 3 p.m.

21 (7) A provider shall not shut off service on a day, or a day
22 immediately preceding a day, when the services of the provider are
23 not available to the general public for the purpose of restoring
24 service.

25 (8) The day before or the day of the planned shutoff of
26 service, an employee or agent of or a third-party organization
27 contracted with the provider shall call or send a text message to
28 the telephone number and send an email to the email address, if
29 provided, identified on the customer account notifying the

1 residential customer of the planned shutoff. If the provider does
2 not have a valid telephone number or email address on the customer
3 account, the provider shall make a notation and may proceed with
4 the planned shutoff.

5 (9) When an employee or representative of a provider shuts off
6 service, the employee or representative shall leave a notice. The
7 notice must state that service has been shut off and contain the
8 address and telephone number of the provider where the residential
9 customer may arrange to have service restored.

10 (10) When a shutoff is completed using meters with remote
11 shutoff and restoration capacity, the provider shall advise the
12 residential customer on how to arrange for service to be restored.

13 (11) A provider shall not do any of the following:

14 (a) Shut off service because a residential customer has not
15 paid for concurrent service received at a separate metering point,
16 residence, or location.

17 (b) Shut off service because the property owner, who is the
18 residential customer on record, has not paid for service at a
19 premises lawfully occupied by another person. If a property owner
20 is not occupying the premises at which service is delivered, a
21 provider may shut off service if proper notice has been given, and
22 the property owner supplies a written, certified statement, on a
23 form and in a manner prescribed by the provider, that the premises
24 are not lawfully occupied and the premises are in fact not lawfully
25 occupied.

26 (c) Shut off service if the amount the residential customer
27 has not paid for service is the subject of an unresolved dispute
28 under the provider's dispute resolution process.

29 (d) Shut off service to a multi-unit dwelling where at least 1

1 unit is not sub-metered and is lawfully occupied.

2 (12) After a provider has shut off service, the provider shall
3 restore service on the residential customer's request when the
4 cause of the shutoff has been cured or payment arrangements have
5 been made, including at the residential customer's option a payment
6 plan or enrollment in a low-income water residential affordability
7 program.

8 (13) When a provider is required to restore service at the
9 residential customer's meter manually, the provider shall make
10 reasonable efforts to restore service on the day the residential
11 customer requests restoration. Except for reasons beyond its
12 control, the provider shall restore service not later than the
13 first working day after the residential customer's request.

14 (14) For providers using meter technology with remote shut-off
15 and restoration capability, service must be restored no later than
16 the first working day after the residential customer requests
17 restoration, except in the case of documented equipment failure.

18 (15) A provider may assess the residential customer a
19 reasonable charge for restoring service. The charge must not exceed
20 \$150.00 or the actual cost, whichever is less. A provider shall not
21 charge a residential customer a fee for a shutoff of service.

22 (16) A provider shall first apply payments received to the
23 costs incurred for services for the oldest debt.

24 Sec. 7. (1) A provider shall not shut off service to a
25 residential customer for nonpayment of a delinquent account if the
26 residential customer is a critical care customer and provides
27 documentation to the provider demonstrating that the residential
28 customer is a critical care customer.

29 (2) A provider shall not shut off service to a residential

1 customer if a residential customer has entered into and remains in
2 compliance with a payment plan or low-income water residential
3 affordability program. A provider shall not shut off service for
4 nonpayment until the payment is delinquent for at least 120 days.

5 (3) If an eligible customer fails to comply with the terms and
6 conditions of a low-income water residential affordability program,
7 the eligible customer must be referred to a program administrator
8 for triage before a provider may shut off service to a residential
9 customer. An eligible customer referred under this subsection must
10 participate in triage to restore compliance with and prevent
11 disenrollment from the low-income water residential affordability
12 program. Within 10 business days after a residential customer is
13 referred under this subsection, the program administrator shall
14 send a letter by first-class mail to the premises that receives
15 service from the provider, and, if the residential customer has a
16 separate mailing address, to that address. The letter must state
17 all of the following information:

18 (a) The start date of noncompliance.

19 (b) The reason for noncompliance and a statement of goals to
20 engage the residential customer to ensure future compliance.

21 (c) The date for a triage meeting with the program
22 administrator, scheduled not more than 10 business days after the
23 letter was postmarked. The triage meeting described in this
24 subdivision may take place by telephone, virtually, or in person.

25 (d) A statement that an extension for a triage meeting may be
26 granted for good cause, as determined by the program administrator,
27 and if no good cause is shown, failure to attend the triage meeting
28 may result in disenrollment.

29 (e) A summary of the requirements to maintain eligibility in

1 the low-income water residential affordability program.

2 (f) A statement that the residential customer has 10 business
3 days after the triage meeting to comply with triage requirements.

4 (4) The program administrator may create a renewal agreement
5 with the department or provider to use during the triage process
6 described under subsection (3). The agreement must include all of
7 the following information:

8 (a) A statement of goals to engage the residential customer to
9 ensure future compliance, including a payment plan and schedule,
10 participation expectations, and additional household support that
11 will be provided to the residential customer following triage.

12 (b) A list of triage requirements to maintain compliance in
13 the low-income water residential affordability program, which may
14 include, but is not limited to, any of the following:

15 (i) A minimum payment.

16 (ii) A restart of the residential customer's program calendar.

17 (iii) The forgiveness of any amount owed on the delinquent
18 account.

19 (iv) Removal of any fees or charges on the delinquent account.

20 (v) A copayment credit on the delinquent account.

21 (vi) Any other options for successful outcomes available
22 through the low-income water residential affordability program.

23 (5) The program administrator shall advise a provider if a
24 residential customer fails to comply with the triage process or a
25 renewal agreement described under subsection (3) or (4), and the
26 provider may proceed with the shut-off process described in section
27 5.

28 (6) A provider may develop policies and procedures to delay
29 shutoff for residential customers who face temporary financial

1 hardship due to recent loss of a job, medical bills, or other
2 extenuating circumstances. If the provider maintains a website, the
3 provider must post its policies and procedures on the website.

4 (7) A provider shall not threaten to shut off service when the
5 provider has no intent to terminate service or when termination of
6 service is otherwise prohibited by law.

7 (8) This section does not apply to a shutoff at a premises if
8 a property owner provides the provider a notarized statement that
9 the premises are not lawfully occupied and the premises are in fact
10 not lawfully occupied.

11 Sec. 9. If the department of treasury projects that the
12 funding required to implement a low-income water residential
13 affordability program does not exist in the low-income water
14 residential affordability program fund created in section 14t of
15 the social welfare act, 1939 PA 280, MCL 400.14t, and determines
16 that adjustments must be made in accordance with section 14o(6) of
17 the social welfare act, 1939 PA 280, MCL 400.14o, the provider
18 shall not shut off service to an eligible customer that has entered
19 into and remains in compliance with a low-income water residential
20 affordability program.

21 Sec. 11. The attorney general or any residential customer or
22 other lawful occupant of a premises subject to this act may enforce
23 this act by filing a civil action in the circuit court in the
24 county where the residential customer lives or the provider does
25 business. In any civil action commenced under this section, the
26 plaintiff may obtain damages, declaratory relief, or temporary or
27 permanent injunctive relief for any violation of this act. A
28 residential customer or other lawful occupant that prevails in a
29 civil action filed under this section is entitled to reasonable

1 attorney fees and costs.

2 Sec. 13. A provider shall take reasonable steps to provide
3 equal language access to water service and vital information for
4 residential customers with limited English proficiency. As used in
5 this section, "equal language access" means the ability to receive
6 information and to participate in and benefit from water service at
7 a level equal to English-proficient individuals.

8 Enacting section 1. This act takes effect 1 year after the
9 date it is enacted into law.

10 Enacting section 2. This act does not take effect unless all
11 of the following bills of the 102nd Legislature are enacted into
12 law:

13 (a) Senate Bill No. ____ or House Bill No. 5089 (request no.
14 01778'23).

15 (b) Senate Bill No. ____ or House Bill No. 5088 (request no.
16 01852'23).