

DRAFT 2

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".

3 Sec. 3. As used in this act:

4 (a) "Critical care customer" means a residential customer who



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

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

11 (c) "Delinquent account" means an account or bill for water,
12 sewage, stormwater, or other similar services and for which there
13 is a delinquency.

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

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

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

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

26 (iv) Receives assistance under the Michigan energy assistance
27 program created in section 3 of the Michigan energy assistance act,
28 2012 PA 615, MCL 400.1233.

29 (v) Receives assistance under the special supplemental



1 nutrition program for women, infants, and children.

2 (vi) Receives supplemental security income.

3 (vii) Receives assistance under the weatherization assistance
4 program.

5 (e) "Lawful occupant" means an individual who resides in a
6 home and who has a valid lease, rental agreement, or affidavit of
7 tenant responsibility for the water bill.

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

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

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

17 (i) "Water affordability program" means the low-income water
18 residential affordability created in section 14o of the social
19 welfare act, 1939 PA 280, MCL 400.14o, or a low-income water
20 affordability program designed and implemented in accordance with
21 section 14s of the social welfare act, 1939 PA 280, MCL 400.14s.

22 Sec. 5. (1) A provider may shut off service temporarily to all
23 residential customers, including critical care customers, for
24 reasons of health or safety, in a state or national emergency, or,
25 subject to this section and section 7, if a residential customer
26 has not paid a delinquent account. When a provider shuts off
27 service for reasons of health or safety, the provider must issue a
28 notification that is consistent with the requirements of the safe
29 drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, to the



1 residential customer.

2 (2) Subject to section 7, a provider shall not shut off
3 service because a residential customer has not paid a delinquent
4 account unless the provider contacts the residential customer at
5 least 3 times using 2 or more of the following methods, as
6 practicable:

7 (a) Posts a delinquency notice on the door of the premises to
8 be shut off and, if the account customer has a separate mailing
9 address, mails a delinquency notice to that address not less than
10 60 days and not more than 90 days before the date of a proposed
11 shutoff, that notifies the occupant of the property of a
12 delinquency in payments and informs the occupant of any applicable
13 payment plans or low-income water residential affordability
14 programs. A provider shall maintain a record of the date the
15 delinquency notice was posted.

16 (b) Makes a personal visit to the premises where shutoff of
17 service is proposed and direct contact is made with the head of
18 household notifying that individual of a delinquency in payments
19 and of any applicable payment plans or low-income water residential
20 affordability programs. A provider shall maintain a record of the
21 date direct contact was made. A personal visit described under this
22 subdivision may be conducted by a contracted third-party
23 organization or other agent of the provider.

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



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

6 (e) Sends a written notice by first-class mail to the premises
7 where shutoff of service is proposed that notifies the account
8 customer of a delinquency in payments and of any applicable payment
9 plans or water affordability programs. A provider shall maintain a
10 record of the date the written notice was sent.

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

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

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

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

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

22 (d) A statement that the provider will not shut off service if
23 a residential customer has entered and remains in compliance with
24 an applicable payment plan or water affordability program.

25 (e) The telephone number and address of the program
26 administrator where the residential customer may make an inquiry,
27 enter into an applicable payment plan or water affordability
28 program, or petition the provider in accordance with the provider's
29 rules to dispute a delinquent account.



1 (f) A statement that if the residential customer that receives
2 the notice is a tenant whose lessor is responsible for the water or
3 sewage bill, the tenant may prevent shutoff if the tenant contacts
4 the provider immediately and provides documentation demonstrating
5 that the tenant is not responsible for the water or sewage bill and
6 that the tenant does not owe any delinquent rent payments. This
7 subdivision does not preclude a provider from offering additional
8 options for the tenant to maintain service.

9 (5) Except as otherwise provided in this subsection, a
10 provider shall delay shutoff of service to a residential customer
11 that pays at least \$10.00 per month, or another amount approved by
12 the provider, on a delinquent account and applies for enrollment in
13 a water affordability program with the provider, the department of
14 health and human services, or a third-party organization that
15 administers a water affordability program. A provider is not
16 required to delay shutoff of service under this subsection if any
17 of the following apply:

18 (a) The residential customer applied to a water affordability
19 program and at least 10 business days have passed since the program
20 administrator determined that the residential customer is not
21 eligible.

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

25 (c) The residential customer paid at least \$10.00 per month
26 but did not apply to a water affordability program within 10
27 business days after the date the final notice of shutoff was
28 issued.

29 (6) Subject to the requirements of this act, a provider may



1 shut off service to a residential customer on the date specified in
2 the notice of shutoff or at a reasonable time following that date.
3 If a provider does not shut off service and mails a subsequent
4 notice, then the provider shall not shut off service before the
5 date specified in the subsequent notice. Shutoffs must occur only
6 between the hours of 8 a.m. and 3 p.m.

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

11 (8) The day before or the day of the planned shutoff of
12 service, an employee or agent of or a third-party organization
13 contracted with the provider shall call or send a text message to
14 the telephone number and send an email to the email address, if
15 provided, identified on the customer account notifying the
16 residential customer of the planned shutoff. If the provider does
17 not have a valid telephone number or email address on the customer
18 account, the provider shall make a notation and may proceed with
19 the planned shutoff.

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

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

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



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

4 (b) Shut off service because the property owner, who is the
5 residential customer on record, has not paid for service at a
6 premises lawfully occupied by another person. If a property owner
7 is not occupying the premises at which service is delivered, a
8 provider may shut off service if proper notice has been given, and
9 the property owner supplies a written, certified statement, on a
10 form and in a manner prescribed by the provider, that the premises
11 are not lawfully occupied and the premises are in fact not lawfully
12 occupied.

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

16 (d) Shut off service to a multi-unit dwelling where at least 1
17 unit is not submetered and is lawfully occupied.

18 (e) Shut off service if an eligible customer receives a
19 combined bill that includes public services unrelated to water,
20 sewage, or stormwater services that is not paid in full after the
21 eligible customer receives a discount, credit, or other form of
22 credit from a low-income water residential affordability program.

23 (f) Shut off service to a residential customer who is renting
24 property from a lessor who is responsible for the water or sewage
25 bill, if the residential customer provides documentation
26 demonstrating that the lessor is responsible for the water or
27 sewage bill and that the tenant does not owe any delinquent rent
28 payments. This subdivision does not preclude a provider from taking
29 action to enforce a lien or institute an action for the collection



1 of a delinquent debt that accrued while the lessor has
2 responsibility for payment of a water or sewer bill in accordance
3 with sections 3 and 6 of 1939 PA 178, MCL 123.163 and 123.166.

4 (g) Shut off service to a residential customer for nonpayment
5 of a delinquent account if the residential customer is a critical
6 care customer and provides documentation to the provider that
7 demonstrates that the residential customer is a critical care
8 customer. The documentation must specify the time period during
9 which service must not be shut off. If the time period is expected
10 to extend for 1 year or more, the critical care customer must
11 annually provide documentation that demonstrates that the
12 individual remains a critical care customer.

13 (h) Shut off service to a residential customer if a
14 residential customer has entered into and remains in compliance
15 with an applicable payment plan or water affordability program. A
16 provider shall not shut off service for nonpayment until the
17 payment is delinquent for at least 120 days.

18 (i) Shut off service to a home for the aged licensed under
19 part 213 of the public health code, 1978 PA 368, MCL 333.21301 to
20 333.21335, or to an adult foster care facility licensed under the
21 adult foster care facility licensing act, 1979 PA 218, MCL 400.701
22 to 400.737.

23 (12) After a provider has shut off service, the provider shall
24 restore service on the residential customer's request when the
25 cause of the shutoff of service has been cured or payment
26 arrangements have been made, including at the residential
27 customer's option an applicable payment plan or enrollment in a
28 water affordability program.

29 (13) When a provider is required to restore service at the



1 residential customer's meter manually, the provider shall make
2 reasonable efforts to restore service on the day the residential
3 customer requests restoration. Except for reasons beyond the
4 provider's control, the provider shall restore service not later
5 than the first working day after the residential customer's
6 request.

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

11 (15) A provider may assess the residential customer a
12 reasonable charge for restoring service. The charge must not exceed
13 \$150.00 or the actual cost, whichever is less. A provider shall not
14 charge a residential customer a fee for a shutoff of service.

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

17 Sec. 7. (1) If an eligible customer fails to comply with the
18 terms and conditions of a water affordability program, the eligible
19 customer must be referred to a program administrator for triage
20 before a provider may shut off service to a residential customer.
21 An eligible customer referred under this subsection must
22 participate in triage to restore compliance with and prevent
23 disenrollment from the water affordability program. Not later than
24 10 business days after a residential customer is referred under
25 this subsection, the program administrator shall send a letter by
26 first-class mail to the premises that receives service from the
27 provider, and, if the residential customer has a separate mailing
28 address, to that address. The letter must state all of the
29 following information:



1 (a) The start date of noncompliance.

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

4 (c) The date for a triage meeting with the program
5 administrator, scheduled not more than 10 business days after the
6 letter was postmarked. The triage meeting described in this
7 subdivision may take place by telephone, virtually, or in person,
8 taking into consideration the residential customer's preference and
9 availability.

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

14 (e) A summary of the requirements to maintain eligibility in
15 the water affordability program.

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

18 (2) The program administrator may create a renewal agreement
19 with the department or provider to use during the triage process
20 described under subsection (1). The agreement must include all of
21 the following information:

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

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

29 (i) A minimum payment.



(ii) A restart of the residential customer's program calendar.
(iii) The forgiveness of any amount owed on the delinquent account.

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

(v) A copayment credit on the delinquent account.

(vi) Any other options for successful outcomes available through the water affordability program.

(3) The program administrator shall advise a provider if a residential customer fails to comply with the triage process or a renewal agreement described under subsection (1) or (2), and the provider may proceed with the shut-off process described in section 5.

(4) A provider may develop policies and procedures to delay shutoff for residential customers who face temporary financial hardship due to recent loss of a job, medical bills, or other extenuating circumstances. If the provider maintains a website, the provider must post its policies and procedures on the website.

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

(6) This section does not apply to a shutoff of service at a premises if a property owner provides the provider with a notarized statement that the premises are not lawfully occupied and the premises are in fact not lawfully occupied.

Sec. 9. If the department of treasury projects that the funding required to implement a water affordability program does not exist in the low-income water residential affordability program fund created in section 14t of the social welfare act, 1939 PA 280, MCL 400.14t, and determines that adjustments must be made in



1 accordance with section 14o(8) of the social welfare act, 1939 PA
2 280, MCL 400.14o, the provider shall not shut off service to an
3 eligible customer that has entered into and remains in compliance
4 with a water affordability program.

5 Sec. 11. The attorney general or any residential customer or
6 other lawful occupant of a premises subject to this act may enforce
7 this act by filing a civil action in the circuit court in the
8 county where the residential customer lives or the provider does
9 business. In any civil action commenced under this section, the
10 plaintiff may obtain damages, declaratory relief, or temporary or
11 permanent injunctive relief for a violation of this act. A
12 residential customer or other lawful occupant that prevails in a
13 civil action filed under this section is entitled to reasonable
14 attorney fees and costs.

15 Sec. 13. A provider shall take reasonable steps to provide
16 equal language access to water service and vital information for
17 residential customers with limited English proficiency. As used in
18 this section, "equal language access" means the ability to receive
19 information and to participate in and benefit from water service at
20 a level equal to English-proficient individuals.

21 Sec. 15. A political subdivision of this state shall not enact
22 or otherwise enforce a rule, regulation, code, or ordinance that is
23 not substantially similar to this act.

24 Enacting section 1. This act takes effect 2 years after the
25 date it is enacted into law.

26 Enacting section 2. This act does not take effect unless all
27 of the following bills of the 103rd Legislature are enacted into
28 law:

29 (a) Senate Bill No. ____ (request no. S00890'25) or House Bill



- 1 No. ____ (request no. H00890'25).
- 2 (b) Senate Bill No. ____ (request no. S00914'25) or House Bill
- 3 No. ____ (request no. H00914'25).

