

**SUBSTITUTE FOR
HOUSE BILL NO. 5090**

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
5 requires, or has a household member who requires, water or
6 sanitation for home medical equipment, a life-support system, or



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

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

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

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

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

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

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

24 (iv) Receives assistance under the Michigan energy assistance
25 program.

26 (v) Receives assistance under the special supplemental
27 nutrition program for women, infants, and children.

28 (vi) Receives supplemental security income.

29 (vii) Receives assistance under the weatherization assistance



1 program.

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

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

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

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

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

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

28 (a) Posts a delinquency notice on the door of the premises to
29 be shut off and, if the account customer has a separate mailing



1 address, mails a delinquency notice to that address not less than
2 60 days and not more than 90 days before the date of a proposed
3 shutoff, that notifies the occupant of the property of a
4 delinquency in payments and informs the occupant of any applicable
5 payment plans or low-income water residential affordability
6 programs. A provider shall maintain a record of the date the
7 delinquency notice was posted.

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

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

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

27 (e) Sends a written notice by first-class mail to the premises
28 where shutoff of service is proposed notifying the account customer
29 of a delinquency in payments and of any applicable payment plans or



1 low-income water residential affordability programs. A provider
2 shall maintain a record of the date the written notice was sent.

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

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

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

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

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

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

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

22 (f) A statement that if the residential customer that receives
23 the notice is a tenant whose lessor is responsible for the water or
24 sewage bill, the tenant may prevent shutoff if the tenant contacts
25 the provider immediately and provides documentation demonstrating
26 that the tenant is not responsible for the water or sewage bill and
27 that the tenant does not owe any delinquent rent payments. This
28 subdivision does not preclude a provider from offering additional
29 options for the tenant to maintain service.



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

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

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

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

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

(7) A provider shall not shut off service on a day, or a day immediately preceding a day, when the services of the provider are



1 not available to the general public for the purpose of restoring
2 service.

3 (8) The day before or the day of the planned shutoff of
4 service, an employee or agent of or a third-party organization
5 contracted with the provider shall call or send a text message to
6 the telephone number and send an email to the email address, if
7 provided, identified on the customer account notifying the
8 residential customer of the planned shutoff. If the provider does
9 not have a valid telephone number or email address on the customer
10 account, the provider shall make a notation and may proceed with
11 the planned shutoff.

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

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

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

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

24 (b) Shut off service because the property owner, who is the
25 residential customer on record, has not paid for service at a
26 premises lawfully occupied by another person. If a property owner
27 is not occupying the premises at which service is delivered, a
28 provider may shut off service if proper notice has been given, and
29 the property owner supplies a written, certified statement, on a



1 form and in a manner prescribed by the provider, that the premises
2 are not lawfully occupied and the premises are in fact not lawfully
3 occupied.

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

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

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

14 (f) Shut off service to a residential customer who is renting
15 property from a lessor who is responsible for the water or sewage
16 bill, if the residential customer provides documentation
17 demonstrating that the lessor is responsible for the water or
18 sewage bill and that the tenant does not owe any delinquent rent
19 payments. This subdivision does not preclude a provider from taking
20 action to enforce a lien or institute an action for the collection
21 of a delinquent debt that accrued while the lessor has
22 responsibility for payment of a water or sewer bill in accordance
23 with sections 3 and 6 of 1979 PA 178, MCL 123.163 and 123.166.

24 (g) Shut off service to a residential customer for nonpayment
25 of a delinquent account if the residential customer is a critical
26 care customer and provides documentation to the provider
27 demonstrating that the residential customer is a critical care
28 customer. The documentation must specify the time period during
29 which service must not be shut off. If the time period is expected



1 to extend for 1 year or more, the critical care customer must
2 annually provide documentation demonstrating that the individual
3 remains a critical care customer.

4 (h) Shut off service to a residential customer if a
5 residential customer has entered into and remains in compliance
6 with a payment plan or low-income water residential affordability
7 program. A provider shall not shut off service for nonpayment until
8 the payment is delinquent for at least 120 days.

9 (i) Shut off service to a home for the aged licensed under
10 part 213 of the public health code, 1978 PA 368, MCL 333.21301 to
11 333.21335, or to an adult foster care facility licensed under the
12 adult foster care facility licensing act, 1979 PA 218, MCL 400.701
13 to 400.737.

14 (12) After a provider has shut off service, the provider shall
15 restore service on the residential customer's request when the
16 cause of the shutoff has been cured or payment arrangements have
17 been made, including at the residential customer's option a payment
18 plan or enrollment in a low-income water residential affordability
19 program.

20 (13) When a provider is required to restore service at the
21 residential customer's meter manually, the provider shall make
22 reasonable efforts to restore service on the day the residential
23 customer requests restoration. Except for reasons beyond its
24 control, the provider shall restore service not later than the
25 first working day after the residential customer's request.

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



1 (15) A provider may assess the residential customer a
2 reasonable charge for restoring service. The charge must not exceed
3 \$150.00 or the actual cost, whichever is less. A provider shall not
4 charge a residential customer a fee for a shutoff of service.

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

7 Sec. 7. (1) If an eligible customer fails to comply with the
8 terms and conditions of a low-income water residential
9 affordability program, the eligible customer must be referred to a
10 program administrator for triage before a provider may shut off
11 service to a residential customer. An eligible customer referred
12 under this subsection must participate in triage to restore
13 compliance with and prevent disenrollment from the low-income water
14 residential affordability program. Within 10 business days after a
15 residential customer is referred under this subsection, the program
16 administrator shall send a letter by first-class mail to the
17 premises that receives service from the provider, and, if the
18 residential customer has a separate mailing address, to that
19 address. The letter must state all of the following information:

20 (a) The start date of noncompliance.

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

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

29 (d) A statement that an extension for a triage meeting may be



1 granted for good cause, as determined by the program administrator,
2 and if no good cause is shown, failure to attend the triage meeting
3 may result in disenrollment.

4 (e) A summary of the requirements to maintain eligibility in
5 the low-income water residential affordability program.

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

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

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

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

19 (i) A minimum payment.

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

21 (iii) The forgiveness of any amount owed on the delinquent
22 account.

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

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

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

27 (3) The program administrator shall advise a provider if a
28 residential customer fails to comply with the triage process or a
29 renewal agreement described under subsection (1) or (2), and the



1 provider may proceed with the shut-off process described in section
2 5.

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

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

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

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

25 Sec. 11. The attorney general or any residential customer or
26 other lawful occupant of a premises subject to this act may enforce
27 this act by filing a civil action in the circuit court in the
28 county where the residential customer lives or the provider does
29 business. In any civil action commenced under this section, the



1 plaintiff may obtain damages, declaratory relief, or temporary or
2 permanent injunctive relief for any violation of this act. A
3 residential customer or other lawful occupant that prevails in a
4 civil action filed under this section is entitled to reasonable
5 attorney fees and costs.

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

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

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

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

20 (a) Senate Bill No. 980.

21 (b) House Bill No. 5088.

22 (c) House Bill No. 5089.

