

# HOUSE BILL No. 4393

March 21, 2017, Introduced by Reps. Chang, Love, Hammoud, Pagan, Yanez, Neeley, Wittenberg, Moss, Sneller, Phelps, Geiss, Hoadley, Gay-Dagnogo, Rabhi, LaGrand and Ellison and referred to the Committee on Local Government.

A bill to prescribe the powers and duties of certain providers of water and sewerage service in this state; to prescribe the powers and duties of certain state officers and entities; to create a fund; and to prohibit certain acts and practices of providers of water and sewerage service.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

3           Sec. 2. As used in this act:

4           (a) "Eligible customer" means a customer whose household  
5 income does not exceed 200% of the federal poverty guidelines, as  
6 published by the United States Department of Health and Human  
7 Services, or who meets any of the following requirements:

8           (i) Has received assistance from a state emergency relief

1 program within the past year.

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

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

6 (iv) Receives any other form of federal or state public  
7 assistance.

8 (b) "Provider" means any water and sewerage system that  
9 provides water or sewerage service in this state.

10 (c) "Senior citizen customer" means a utility customer who is  
11 62 years of age or older and who advises the provider of his or her  
12 eligibility.

13 Sec. 3. (1) A provider may shut off service temporarily for  
14 reasons of health or safety, in a state or national emergency, or  
15 if a customer has not paid a delinquent account and the provider is  
16 able to document the customer's ability to pay. When a provider  
17 shuts off service for reasons of health or safety, the provider  
18 shall leave a notice at the premises.

19 (2) Subject to section 4 and except as otherwise provided in  
20 subsection (1), a provider shall not shut off service unless the  
21 provider does both of the following:

22 (a) Posts a delinquency notice on the door of the premises to  
23 be shut off and on the door of the customer, if the account  
24 customer has a different address, not less than 30 days and not  
25 more than 45 days before the date of a proposed shutoff that  
26 notifies the occupant of the property of a delinquency in payments  
27 and informs the occupant of any applicable payment plans or water

1 affordability programs.

2 (b) Posts a notice on the door of the premises to be shut off  
3 and on the door of the customer, if the account customer has a  
4 different address, not less than 10 days before the date of the  
5 proposed shutoff. A provider shall maintain a record of the date  
6 the notice was posted.

7 (3) A provider shall establish a policy to allow a customer to  
8 enter into a payment plan if that customer claims an inability to  
9 pay that customer's bill in full.

10 (4) A provider may establish a water affordability program for  
11 a customer who claims an inability to pay in full.

12 (5) A notice of shutoff under subsection (2) must contain all  
13 of the following information:

14 (a) The name and address of the customer, and the address at  
15 which service is provided, if different.

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 customer takes appropriate action, and a  
20 description of the available courses of action to avoid a shutoff.

21 (d) That the customer has the right to enter into a payment  
22 plan or water affordability program, if applicable, if the customer  
23 is presently unable to pay in full.

24 (e) That the customer may submit a signed nonaffordability  
25 affidavit indicating the reasons or conditions that affect the  
26 customer's ability to afford the payments.

27 (f) The telephone number and address of the provider where the

1 customer may make inquiry, enter into a payment plan, or file a  
2 complaint.

3 (g) A statement that during the time period between October 1  
4 to March 31 the provider will postpone the shutoff of service if a  
5 household member is seriously ill, elderly, has a disability, or is  
6 dependent on a life support system, and the customer informs the  
7 provider and provides documentation to the provider of that  
8 condition within 30 days of receiving a notice under subsection  
9 (2).

10 (6) Subject to the requirements of this act, a provider may  
11 shut off service to a customer on the date specified in the notice  
12 of shutoff or at a reasonable time following that date. If a  
13 provider does not shut off service and mails a subsequent notice,  
14 then the provider shall not shut off service before the date  
15 specified in the subsequent notice and following a personal visit  
16 to the premises at least 1 week before the shutoff. Shutoffs must  
17 occur only between the hours of 8 a.m. and 3 p.m.

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

22 (8) For an involuntary shutoff, at least 1 week before shutoff  
23 of service, the provider shall make at least 2 attempts to contact  
24 the customer by 1 or more of the following methods:

25 (a) A personal visit is made to the premises where shutoff of  
26 service is proposed where direct contact is made with a member of  
27 the customer's household.

1 (b) A written notice is posted on the door of the premises to  
2 be shut off and on the customer's door, if the account customer has  
3 a different address.

4 (c) A personal or automated telephone call where direct  
5 contact is made with an adult member of the household or a message  
6 is recorded.

7 (9) A notice of shutoff sent under subsection (2) is  
8 considered as 1 attempt under subsection (8).

9 (10) The provider shall document all attempts to contact the  
10 customer under subsection (8).

11 (11) Immediately before the shutoff of service, an employee of  
12 the provider who is designated to perform that function may  
13 identify himself or herself to the customer or another responsible  
14 individual at the premises and may announce the purpose of his or  
15 her presence.

16 (12) When a provider employee shuts off service, the employee  
17 shall leave a notice. The notice must state that service has been  
18 shut off and contain the address and telephone number of the  
19 provider where the customer may arrange to have service restored.

20 (13) For an involuntary shutoff using meters with remote shut-  
21 off and restoration capacity, at least 1 day before shutoff of  
22 service, the provider shall make at least 2 attempts to contact the  
23 customer by 1 of the methods listed in subsection (8). Any notice  
24 must state that the disconnection of service will be performed  
25 remotely and that a provider representative will not return to the  
26 premises before disconnection. The provider shall document all  
27 attempts to contact the customer. If the provider contacts the

1 customer or other responsible individual in the customer's  
2 household by telephone on the day service is to be shut off, the  
3 provider shall inform the customer or other responsible individual  
4 that shutoff of service is imminent and of the steps necessary to  
5 avoid shutoff. Unless the customer presents evidence that  
6 reasonably demonstrates that the claim is satisfied or is in  
7 dispute, the customer makes payment, or the customer presents  
8 evidence of a payment plan or medical condition, the employee may  
9 shut off service. If the provider complies with the notice  
10 requirements of this subsection, no further customer contact is  
11 required on the day service is to be shut off and the provider may  
12 shut off service.

13 (14) A provider shall not shut off service for any of the  
14 following reasons:

15 (a) The customer has not paid for concurrent service received  
16 at a separate metering point, residence, or location.

17 (b) The customer has not paid for service at a premises  
18 occupied by another person. A provider may shut off service in any  
19 of the following circumstances where proper notice has been given:

20 (i) If the customer supplies a written, notarized statement  
21 that the premises are unoccupied.

22 (ii) If the premises are occupied and the occupant agrees, in  
23 writing, to the shutoff of service.

24 (iii) If it is not feasible to provide service to the occupant  
25 as a customer without a major revision of existing distribution  
26 facilities.

27 (iv) If it is feasible to provide service to the occupant as a

1 customer without a major revision of existing distribution  
2 facilities and the occupant refuses to put the account for future  
3 services in his or her name.

4 (15) After a provider has shut off service, the provider shall  
5 restore service upon the customer's request when the cause of the  
6 shutoff has been cured or payment arrangements have been made.

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

13 (17) For providers using meter technology with remote shut-off  
14 and restoration capability, service must be restored on the first  
15 working day after the customer requests restoration, except in the  
16 case of documented equipment failure.

17 (18) The provider may assess the customer a reasonable charge  
18 for restoring service or relocating the customer's meter.

19 Sec. 4. (1) A provider shall not shut off service to a  
20 customer for nonpayment of a delinquent account if the customer is  
21 a senior citizen customer, an individual who has dependent children  
22 under the age of 18, an individual who is a quadriplegic,  
23 hemiplegic, or paraplegic or is totally and permanently disabled,  
24 or is a low-income residential customer who has entered into a  
25 payment plan or water affordability program.

26 (2) If a customer fails to comply with the terms and  
27 conditions of a water affordability program or payment plan, a

1 provider may shut off service after giving the customer a notice,  
2 by personal service or first-class mail delivered to the affected  
3 premises or the customer's address, that contains all of the  
4 following information:

5 (a) The nature of the default.

6 (b) A statement that unless the customer makes a substantial  
7 payment on a past due balance within 15 days of the date of  
8 mailing, the provider may shut off service.

9 (c) The date on or after which the provider may shut off  
10 service, unless the customer takes appropriate action.

11 (d) A statement that the customer may petition the provider in  
12 accordance with the provider's rules disputing the claim before the  
13 date of the proposed shutoff of service.

14 (e) A statement that the provider will not shut off service  
15 pending the resolution of a dispute that is filed with the provider  
16 in accordance with this section.

17 (f) The telephone number and address of the provider where the  
18 customer may make inquiry, enter into a payment plan, or file a  
19 complaint.

20 (g) A statement that the provider will postpone shutoff of  
21 service if a medical emergency exists at the customer's residence.

22 (h) A statement that the provider may require a reasonable  
23 restoration charge if the provider shuts off service for nonpayment  
24 of a delinquent account.

25 Sec. 5. Within 4 days after receiving a delinquency notice or  
26 notice of shutoff, property owners shall notify all affected  
27 tenants by mail about the delinquency or pending shutoff. If a

1 property owner is unable to pay water bills due to a tenant's lack  
2 of payment of rent for 3 or more months, the property owner may  
3 contact the water provider to make arrangements for a payment plan  
4 based on the tenant's payment of rent.

5       Sec. 6. (1) The low-income water assistance fund is created  
6 within the state treasury.

7       (2) The state treasurer may receive money or other assets from  
8 any source for deposit into the fund. The state treasurer shall  
9 direct the investment of the fund. The state treasurer shall credit  
10 to the fund interest and earnings from fund investments.

11       (3) Money in the fund at the close of the fiscal year remains  
12 in the fund and does not lapse to the general fund.

13       (4) The department of health and human services is the  
14 administrator of the fund for auditing purposes.

15       (5) The department of health and human services shall expend  
16 money from the fund, upon appropriation, only for 1 or more of the  
17 following purposes:

18       (a) Assisting low-income residential customers with payment of  
19 past due water bills when those customers are unable to afford  
20 their water bills.

21       (b) Assisting low-income residential customers with water  
22 conservation in their homes.

23       (6) The department of health and human services may develop  
24 rules and policies to implement the low-income water assistance  
25 fund, in consultation with providers, local governments, consumer  
26 organizations, environmental organizations, and public health  
27 experts.