

HOUSE BILL 1090

C5, N1

3lr1347
CF SB 849

By: **Delegates Barnes, Braveboy, Davis, Hucker, ~~and Olszewski~~ Olszewski, Cane, Carr, Glenn, Healey, and Niemann**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters and Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Public Utilities – Consumer Relations – Tenant Payment of Landlord Utility**
3 **Bills**

4 FOR the purpose of authorizing a certain tenant to prevent the termination of certain
5 utility service by ~~opening~~ applying for a new utility service account; ~~authorizing~~
6 ~~a certain tenant to have certain utility service restored by opening a new utility~~
7 ~~service account under certain circumstances;~~ specifying that a certain tenant
8 may not incur liability for certain charges ~~by taking certain action;~~ requiring a
9 certain utility service provider to establish a new utility service account for a
10 certain tenant under certain circumstances; authorizing a certain utility service
11 provider to require a certain tenant to pay a deposit and past due balances from
12 certain accounts before establishing a new utility service account for the tenant;
13 prohibiting a certain utility service provider from refusing or limiting ~~certain~~
14 ~~rights~~ a certain tenant's ability to establish a new utility service account, under
15 certain circumstances; ~~authorizing a certain tenant to deduct certain payments~~
16 ~~from rent due to a landlord, under certain circumstances;~~ specifying that a
17 ~~tenant's failure to make certain payments authorizes a utility service provider~~
18 ~~to terminate service under certain circumstances;~~ requiring a certain utility
19 service provider to provide certain notice to a certain tenant within a certain
20 period of time before terminating service; requiring a certain utility service
21 provider to send a certain notice to a certain tenant in addition to notices sent to
22 a landlord; ~~authorizing a certain utility service provider to include certain~~
23 ~~information relating to a landlord's past due account in a notice to a certain~~
24 ~~tenant; authorizing a certain utility service provider to charge a landlord a~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~certain fee for the cost of sending certain notices~~, requiring a certain utility
 2 service provider to include certain information on a certain notice; requiring the
 3 Public Service Commission to authorize certain cost recovery of a utility service
 4 provider's costs under this Act; authorizing a certain tenant to deduct certain
 5 payments from rent due to a landlord, under certain circumstances; prohibiting
 6 the waiver of certain rights; requiring a certain complaint for failure to pay rent
 7 to include payments made by a certain tenant on a utility bill under certain
 8 circumstances; requiring a request for a certain judgment to be reduced by
 9 payments made by a certain tenant; requiring the determination of a certain
 10 judgment to include certain payments made by a certain tenant; providing for a
 11 delayed effective date; defining certain terms; and generally relating to payment
 12 of a utility bill by a tenant.

13 BY adding to
 14 Article – Public Utilities
 15 Section 7–309
 16 Annotated Code of Maryland
 17 (2010 Replacement Volume and 2012 Supplement)

18 BY adding to
 19 Article – Real Property
 20 Section 8–212.3
 21 Annotated Code of Maryland
 22 (2010 Replacement Volume and 2012 Supplement)

23 BY repealing and reenacting, with amendments,
 24 Article – Real Property
 25 Section 8–401(b)(1)(iii) and (iv) and (c)(2)(ii) and (iii)2.D.
 26 Annotated Code of Maryland
 27 (2010 Replacement Volume and 2012 Supplement)

28 BY repealing and reenacting, without amendments,
 29 Article – Real Property
 30 Section 8–401(c)(2)(iii)1.
 31 Annotated Code of Maryland
 32 (2010 Replacement Volume and 2012 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 34 MARYLAND, That the Laws of Maryland read as follows:

35 **Article – Public Utilities**

36 **7–309.**

37 **(A) THIS SECTION DOES NOT APPLY TO ELECTRIC COOPERATIVES.**

1 **(B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
 2 **MEANINGS INDICATED.**

3 **(2) “AFFECTED DWELLING UNIT” MEANS A ~~RESIDENTIAL~~**
 4 **DWELLING UNIT, AS DEFINED IN § 7-303 OF THIS SUBTITLE, WHERE THE**
 5 **UTILITY SERVICE ~~IS:~~**

6 **(I) ~~THE SUBJECT OF THREATENED OR ACTUAL~~**
 7 **~~TERMINATION~~ IS IN THE LANDLORD’S NAME; AND**

8 **(II) IS DELIVERED THROUGH A SEPARATE SINGLE METER TO**
 9 **~~THE~~ A SINGLE DWELLING UNIT; AND**

10 **(III) DOES NOT USE A MASTER METER.**

11 **(3) “CO-OCCUPANT” MEANS TWO OR MORE ADULTS WHO OCCUPY**
 12 **THE SAME DWELLING UNIT AS THEIR PRIMARY DOMICILE OR LEGAL RESIDENCE**
 13 **WITHIN THE STATE.**

14 **(4) “LANDLORD” MEANS AN OWNER OF AN AFFECTED DWELLING**
 15 **UNIT WHO:**

16 **~~(I) IS THE CUSTOMER OF A UTILITY SERVICE PROVIDER;~~**
 17 **~~AND~~**

18 **~~(II) RENTS~~ LEASES THE AFFECTED DWELLING UNIT TO A**
 19 **TENANT.**

20 **~~(4) (5) “TENANT” MEANS AN OCCUPANT OF AN AFFECTED~~**
 21 **~~DWELLING UNIT WHO RENTS THE AFFECTED DWELLING UNIT FROM A~~**
 22 **~~LANDLORD WHO IS THE CUSTOMER OF A UTILITY SERVICE PROVIDER:~~**

23 **(I) HAS A VALID ORAL OR WRITTEN LEASE TO RESIDE IN**
 24 **THE AFFECTED DWELLING UNIT; AND**

25 **(II) IS NOT A CO-OCCUPANT WITH THE LANDLORD IN THE**
 26 **AFFECTED DWELLING UNIT.**

27 **~~(5) (6) “UTILITY SERVICE” MEANS GAS, OR ELECTRIC, OR~~**
 28 **~~WATER SERVICE PROVIDED BY A PUBLIC SERVICE COMPANY TO AN AFFECTED~~**
 29 **~~DWELLING UNIT BY A PUBLIC SERVICE COMPANY THAT IS REGULATED BY THE~~**
 30 **COMMISSION.**

1 ~~(6)~~ (7) “UTILITY SERVICE PROVIDER” MEANS A PUBLIC
2 SERVICE COMPANY THAT:

3 (I) PROVIDES GAS, ~~OR ELECTRIC, OR WATER~~ SERVICE; AND

4 (II) IS REGULATED BY THE COMMISSION.

5 ~~(B)~~ (1) ~~A TENANT MAY~~

6 (C) IF UTILITY SERVICE AT AN AFFECTED DWELLING UNIT IS SUBJECT
7 TO THE THREAT OF TERMINATION OR ACTUAL TERMINATION, A TENANT
8 RESIDING IN THE AFFECTED DWELLING UNIT:

9 ~~(A)~~ (1) ~~PREVENT THE TERMINATION OF UTILITY SERVICE~~
10 ~~AT THE AFFECTED DWELLING UNIT IN WHICH THE UTILITY SERVICE HAS BEEN~~
11 ~~BILLED TO AN ACCOUNT IN THE NAME OF THE LANDLORD BY OPENING A NEW~~
12 ~~UTILITY SERVICE ACCOUNT IN THE NAME OF THE TENANT~~ MAY APPLY FOR A
13 NEW UTILITY SERVICE ACCOUNT IN THE TENANT’S NAME; ~~OR~~ AND

14 ~~(B)~~ ~~IF THE UTILITY SERVICE HAS BEEN TERMINATED, HAVE~~
15 ~~THE UTILITY SERVICE RESTORED TO THE AFFECTED DWELLING UNIT BY~~
16 ~~OPENING A NEW UTILITY SERVICE ACCOUNT IN THE NAME OF THE TENANT.~~

17 (2) ~~IF A TENANT TAKES ACTION UNDER PARAGRAPH (1) OF THIS~~
18 ~~SUBSECTION, THE TENANT~~ MAY NOT INCUR LIABILITY FOR ~~PREVIOUS UTILITY~~
19 ~~CHARGES OR TERMINATION OR RECONNECTION~~ CHARGES DUE ON THE
20 LANDLORD’S ACCOUNT.

21 ~~(C)~~ (1) ~~IF A TENANT TAKES ACTION~~

22 (D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,
23 WHEN A TENANT APPLIES FOR A NEW UTILITY SERVICE ACCOUNT UNDER
24 SUBSECTION ~~(B)~~ (C)(1) OF THIS SECTION, A UTILITY SERVICE PROVIDER SHALL
25 ESTABLISH A NEW UTILITY SERVICE ACCOUNT FOR THE AFFECTED DWELLING
26 UNIT IN THE NAME OF THE TENANT IF THE TENANT MEETS THE REQUIREMENTS
27 OF ALL APPLICABLE LAWS, REGULATIONS, AND TARIFFS.

28 (2) A UTILITY SERVICE PROVIDER MAY, IN ACCORDANCE WITH
29 APPLICABLE LAWS, REGULATIONS, AND TARIFFS, REQUIRE A TENANT TO PAY A
30 DEPOSIT AND PAST DUE BALANCES FROM PREVIOUS ACCOUNTS IN THE
31 TENANT’S NAME BEFORE ESTABLISHING A NEW UTILITY SERVICE ACCOUNT IN
32 THE TENANT’S NAME.

1 **(3) A UTILITY SERVICE PROVIDER MAY NOT REFUSE OR**
2 **OTHERWISE LIMIT CONDITION A TENANT'S RIGHT TO PREVENT THE**
3 **TERMINATION OF UTILITY SERVICE OR TO SEEK THE RECONNECTION OF**
4 **UTILITY SERVICE BASED ON A ABILITY TO ESTABLISH A NEW UTILITY SERVICE**
5 **ACCOUNT IN THE TENANT'S NAME BECAUSE OF ARREARAGES ON THE**
6 **LANDLORD'S PAST DUE ACCOUNT OR ON ANY OTHER ACT OR OMISSION BY THE**
7 **LANDLORD.**

8 ~~**(D) A TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE**~~
9 ~~**AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER IF:**~~

10 ~~**(1) AN ORAL OR A WRITTEN LEASE FOR AN AFFECTED DWELLING**~~
11 ~~**UNIT REQUIRES THE LANDLORD TO PAY THE UTILITY BILL; AND**~~

12 ~~**(2) (I) THE TENANT PAYS ALL OR PART OF THE UTILITY BILL,**~~
13 ~~**INCLUDING PAYMENTS MADE ON A NEW UTILITY SERVICE ACCOUNT; OR**~~

14 ~~**(II) THE TENANT PAYS ANY SECURITY DEPOSIT REQUIRED**~~
15 ~~**TO OBTAIN A NEW UTILITY SERVICE ACCOUNT.**~~

16 ~~**(E) IF A TENANT FAILS TO MAKE A FUTURE PAYMENT ON A NEW UTILITY**~~
17 ~~**SERVICE ACCOUNT WHEN PAYMENT IS DUE, THE UTILITY SERVICE PROVIDER**~~
18 ~~**MAY TERMINATE SERVICE.**~~

19 ~~**(F) (1) AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE**~~
20 ~~**TO AN AFFECTED DWELLING UNIT, A UTILITY SERVICE PROVIDER SHALL**~~

21 ~~**(E) NOTWITHSTANDING ANY OTHER LAW GOVERNING THE PROTECTION**~~
22 ~~**OF CUSTOMER INFORMATION, IF THE BILLING ADDRESS FOR A UTILITY SERVICE**~~
23 ~~**ACCOUNT IS DIFFERENT FROM THE SERVICE ADDRESS FOR THE SAME UTILITY**~~
24 ~~**SERVICE ACCOUNT AND A UTILITY SERVICE PROVIDER SENDS A TERMINATION**~~
25 ~~**NOTICE TO THE BILLING ADDRESS, THE UTILITY SERVICE PROVIDER SHALL:**~~

26 ~~**(1) SEND A TERMINATION NOTICE TO THE SERVICE ADDRESS BY**~~
27 ~~**FIRST-CLASS MAIL OR POST A TERMINATION NOTICE IN A CONSPICUOUS**~~
28 ~~**LOCATION AT THE SERVICE ADDRESS AT LEAST 14 DAYS BEFORE TERMINATING**~~
29 ~~**UTILITY SERVICE TO THE AFFECTED DWELLING UNIT #:**~~

30 ~~**(I) THE MAILING ADDRESS OF THE AFFECTED DWELLING**~~
31 ~~**UNIT IS DIFFERENT FROM THE BILLING ADDRESS; OR**~~

32 ~~**(II) THE UTILITY SERVICE PROVIDER HAS REASON TO KNOW**~~
33 ~~**THAT A TENANT OCCUPIES THE PROPERTY;**~~

1 (2) ~~THE UTILITY SERVICE PROVIDER SHALL SEND THE NOTICE~~
2 ~~REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ADDITION TO ANY~~
3 ~~NOTICES SENT TO THE BILLING ADDRESS. ENSURE THAT THE NOTICE CONTAINS:~~

4 (I) THE EARLIEST DATE THAT SERVICE WILL BE
5 TERMINATED; AND

6 (II) THE TELEPHONE NUMBER THE TENANT MAY CALL TO
7 OBTAIN FURTHER INFORMATION;

8 (3) ~~THE UTILITY SERVICE PROVIDER SHALL ADDRESS THE~~
9 ~~NOTICE TO THE NAMED TENANT, IF THE UTILITY SERVICE PROVIDER KNOWS~~
10 ~~THE TENANT'S NAME, OR TO "ALL OCCUPANTS" IF THE UTILITY SERVICE~~
11 ~~PROVIDER DOES NOT KNOW THE TENANT'S NAME.; AND~~

12 (4) ~~THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN~~
13 ~~NOTICE SHALL STATE, ENCLOSE THE NOTICE IN AN ENVELOPE THAT STATES ON~~
14 ~~THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12-POINT~~
15 ~~TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS:~~
16 ~~UTILITY SHUT-OFF TERMINATION PENDING".~~

17 (5) ~~THE NOTICE SHALL STATE:~~

18 (I) ~~THE NAME OF THE CUSTOMER WHOSE SERVICE IS TO BE~~
19 ~~TERMINATED;~~

20 (II) ~~THE EARLIEST DATE THAT SERVICE WILL BE~~
21 ~~TERMINATED;~~

22 (III) ~~THE OFFICE ADDRESS AND TELEPHONE NUMBER OF A~~
23 ~~PERSON AT THE UTILITY SERVICE PROVIDER WHOM THE TENANT MAY CONTACT~~
24 ~~TO OBTAIN FURTHER INFORMATION; AND~~

25 (IV) ~~THE RIGHTS AND RESPONSIBILITIES OF A TENANT~~
26 ~~UNDER SUBSECTIONS (B) THROUGH (E) OF THIS SECTION.~~

27 (6) ~~THE NOTICE MAY INCLUDE THE AMOUNT OWED ON AND~~
28 ~~OTHER INFORMATION RELATING TO A LANDLORD'S PAST DUE ACCOUNT FOR~~
29 ~~THE AFFECTED DWELLING UNIT.~~

1 ~~(7) THE UTILITY SERVICE PROVIDER MAY CHARGE A LANDLORD A~~
 2 ~~REASONABLE FEE NOT EXCEEDING \$2 FOR EACH NOTICE SENT TO AN AFFECTED~~
 3 ~~DWELLING UNIT UNDER THIS SUBSECTION.~~

4 ~~(G) (F) IF THE MAILING BILLING ADDRESS OF THE AFFECTED~~
 5 ~~DWELLING UNIT FOR A UTILITY SERVICE ACCOUNT IS THE SAME AS THE BILLING~~
 6 ~~SERVICE ADDRESS FOR THE SAME UTILITY SERVICE ACCOUNT AND THE UTILITY~~
 7 ~~SERVICE PROVIDER HAS NO REASON TO KNOW THAT A TENANT OCCUPIES THE~~
 8 ~~PROPERTY SENDS A TERMINATION NOTICE, THE NOTICE OF TERMINATION~~
 9 ~~SHALL BE:~~

10 ~~(1) ADDRESSED TO A CUSTOMER OF RECORD "AND/OR~~
 11 ~~OCCUPANTS"; AND~~

12 ~~(2) ENCLOSED IN AN ENVELOPE, THE ADDRESS SIDE OF WHICH~~
 13 ~~SHALL HAVE A WRITTEN NOTICE STATING IN BOLD, CAPITALIZED LETTERS IN AT~~
 14 ~~LEAST 12-POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL~~
 15 ~~OCCUPANTS: UTILITY SHUT-OFF TERMINATION PENDING".~~

16 ~~(H) (G) A TENANT'S RIGHTS UNDER THIS SECTION MAY NOT BE~~
 17 ~~WAIVED IN ANY LEASE TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD~~
 18 ~~THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER IN~~
 19 ~~ACCORDANCE WITH § 8-212.3 OF THE REAL PROPERTY ARTICLE.~~

20 ~~(H) IN A RATE PROCEEDING FILED UNDER TITLE 4, SUBTITLE 2 OF THIS~~
 21 ~~ARTICLE, THE COMMISSION SHALL AUTHORIZE THE FULL AND TIMELY COST~~
 22 ~~RECOVERY OF A UTILITY SERVICE PROVIDER'S PRUDENTLY INCURRED COSTS~~
 23 ~~ARISING FROM ITS OBLIGATIONS UNDER THIS SECTION.~~

Article – Real Property

8-212.3.

26 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
 27 ~~MEANINGS INDICATED.~~

28 ~~(2) "AFFECTED DWELLING UNIT" HAS THE MEANING STATED IN §~~
 29 ~~7-309 OF THE PUBLIC UTILITIES ARTICLE.~~

30 ~~(3) "LANDLORD" HAS THE MEANING STATED IN § 7-309 OF THE~~
 31 ~~PUBLIC UTILITIES ARTICLE.~~

32 ~~(4) "TENANT" HAS THE MEANING STATED IN § 7-309 OF THE~~
 33 ~~PUBLIC UTILITIES ARTICLE.~~

1 **(5) "UTILITY SERVICE" HAS THE MEANING STATED IN § 7-309 OF**
2 **THE PUBLIC UTILITIES ARTICLE.**

3 **(6) "UTILITY SERVICE PROVIDER" HAS THE MEANING STATED IN**
4 **§ 7-309 OF THE PUBLIC UTILITIES ARTICLE.**

5 **(B) A TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE**
6 **AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER FOR UTILITY**
7 **SERVICE IF:**

8 **(1) AN ORAL OR WRITTEN LEASE FOR AN AFFECTED DWELLING**
9 **UNIT REQUIRES THE LANDLORD TO PAY THE UTILITY BILL; AND**

10 **(2) (I) THE TENANT PAYS ALL OR PART OF THE UTILITY BILL,**
11 **INCLUDING PAYMENTS MADE ON A NEW UTILITY SERVICE ACCOUNT; OR**

12 **(II) THE TENANT PAYS ANY SECURITY DEPOSIT REQUIRED**
13 **TO OBTAIN A NEW UTILITY SERVICE ACCOUNT.**

14 **(C) A TENANT'S RIGHTS UNDER THIS SECTION MAY NOT BE WAIVED IN**
15 **ANY LEASE.**

16 8-401.

17 (b) (1) Whenever any landlord shall desire to repossess any premises to
18 which the landlord is entitled under the provisions of subsection (a) of this section, the
19 landlord or the landlord's duly qualified agent or attorney shall file the landlord's
20 written complaint under oath or affirmation, in the District Court of the county
21 wherein the property is situated:

22 (iii) Stating the amount of rent and any late fees due and
23 unpaid, **LESS THE AMOUNT OF ANY UTILITY BILLS, FEES, OR SECURITY DEPOSITS**
24 **PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;**

25 (iv) Requesting to repossess the premises and, if requested by
26 the landlord, a judgment for the amount of rent due, costs, and any late fees, **LESS**
27 **THE AMOUNT OF ANY UTILITY BILLS, FEES, OR SECURITY DEPOSITS PAID BY A**
28 **TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;**

29 (c) (2) (ii) If, when the trial occurs, it appears to the satisfaction of the
30 court, that the rent, or any part of the rent and late fees are actually due and unpaid,
31 the court shall determine the amount of rent and late fees due as of the date the
32 complaint was filed **LESS THE AMOUNT OF ANY UTILITY BILLS, FEES, OR**
33 **SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC**

1 UTILITIES ARTICLE, if the trial occurs within the time specified by subsection (b)(3)
2 of this section.

3 (iii) 1. If the trial does not occur within the time specified in
4 subsection (b)(3)(i) of this section and the tenant has not become current since the
5 filing of the complaint, the court, if the complaint so requests, shall enter a judgment
6 in favor of the landlord for possession of the premises and determine the rent and late
7 fees due as of the trial date.

8 2. The determination of rent and late fees shall include
9 the following:

10 D. Credit for payments of rent and late fees [made by the
11 tenant] **AND OTHER FEES, UTILITY BILLS, OR SECURITY DEPOSITS PAID BY A**
12 **TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE** after the complaint
13 was filed.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 ~~October 1, 2013~~ January 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.