

SENATE BILL 765

C5, N1

2lr2642
CF HB 1269

By: **Senators Mathias and Middleton**

Introduced and read first time: February 3, 2012

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Public Utilities – Consumer Relations – Public Service Commission – Study~~
3 on Tenant Payment of Landlord Utility Bills

4 FOR the purpose of ~~authorizing certain tenants to prevent the termination of certain~~
5 ~~utility service by paying the amount due on a monthly bill; authorizing certain~~
6 ~~tenants to restore certain utility service by paying the amount due on a monthly~~
7 ~~bill and other applicable charges; authorizing certain tenants to pay for certain~~
8 ~~other charges; specifying that certain tenants may not incur liability by taking~~
9 ~~certain action; authorizing certain utility service providers to require certain~~
10 ~~tenants to pay for past due utility bills, subject to an exception; specifying the~~
11 ~~method by which a utility service provider may calculate charges for past due~~
12 ~~utility bills; authorizing certain tenants to deduct the amount of payments~~
13 ~~made on a landlord's utility bill from rent due to the landlord; requiring a utility~~
14 ~~service provider to provide certain tenants with copies of future utility bills~~
15 ~~under certain circumstances; specifying that a tenant's failure to make certain~~
16 ~~payments authorizes a utility service provider to terminate service under~~
17 ~~certain circumstances; requiring a utility service provider to provide certain~~
18 ~~notice to certain tenants within a certain period of time before terminating~~
19 ~~service; prohibiting the waiver of certain rights; requiring a certain complaint~~
20 ~~for failure to pay rent to account for payments made by a tenant on a utility bill~~
21 ~~under certain circumstances; defining certain terms; and generally relating to~~
22 payment of a utility bill by a tenant requiring the Public Service Commission to
23 convene a workgroup to study and make recommendations on developing a
24 mechanism to allow certain tenants to pay for utilities when a certain landlord
25 defaults; providing for the composition of the workgroup; requiring the

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 workgroup to examine certain issues in conducting a certain study; requiring
 2 the Commission to report to certain committees of the General Assembly on or
 3 before a certain date; and generally relating to a study on developing a
 4 mechanism to allow residential tenants to pay for utilities when a landlord
 5 responsible for paying the utilities defaults.

6 ~~BY adding to~~

7 ~~Article — Public Utilities~~

8 ~~Section 7-309~~

9 ~~Annotated Code of Maryland~~

10 ~~(2010 Replacement Volume and 2011 Supplement)~~

11 ~~BY repealing and reenacting, with amendments,~~

12 ~~Article — Real Property~~

13 ~~Section 8-401(b)(1)(iii) and (e)(2)(iii)2.D.~~

14 ~~Annotated Code of Maryland~~

15 ~~(2010 Replacement Volume and 2011 Supplement)~~

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

18 ~~Article — Public Utilities~~

19 ~~7-309.~~

20 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
 21 ~~MEANINGS INDICATED:~~

22 ~~(2) “AFFECTED DWELLING UNIT” MEANS A RESIDENTIAL~~
 23 ~~DWELLING UNIT, AS DEFINED IN § 7-303 OF THIS SUBTITLE, WHERE THE~~
 24 ~~UTILITY SERVICE:~~

25 ~~(I) IS THE SUBJECT OF THREATENED OR ACTUAL~~
 26 ~~TERMINATION;~~

27 ~~(II) IS DELIVERED THROUGH A SEPARATELY METERED~~
 28 ~~DWELLING UNIT; OR~~

29 ~~(III) IF THE PROPERTY RECEIVING UTILITY SERVICE~~
 30 ~~CONTAINS FOUR OR FEWER DWELLING UNITS, IS DELIVERED TO THE PROPERTY~~
 31 ~~THROUGH A MASTER METER.~~

32 ~~(3) “LANDLORD” MEANS AN OWNER OF AN AFFECTED DWELLING~~
 33 ~~UNIT WHO RENTS THE AFFECTED DWELLING UNIT TO A TENANT AND OBTAINS~~
 34 ~~UTILITY SERVICE FROM A UTILITY SERVICE PROVIDER.~~

1 ~~(4) "TENANT" MEANS AN OCCUPANT OF AN AFFECTED DWELLING~~
2 ~~UNIT WHO RENTS THE AFFECTED DWELLING UNIT FROM A LANDLORD WHO IS~~
3 ~~THE CUSTOMER OF A UTILITY SERVICE PROVIDER.~~

4 ~~(5) "UTILITY SERVICE" MEANS:~~

5 ~~(I) GAS, ELECTRIC, OR WATER SERVICE PROVIDED BY A~~
6 ~~PUBLIC SERVICE COMPANY TO AN AFFECTED DWELLING UNIT; OR~~

7 ~~(II) WATER SERVICE PROVIDED BY A COMMISSION,~~
8 ~~MUNICIPAL CORPORATION, OR OTHER GOVERNMENTAL UNIT TO AN AFFECTED~~
9 ~~DWELLING UNIT.~~

10 ~~(6) "UTILITY SERVICE PROVIDER" MEANS:~~

11 ~~(I) A PUBLIC SERVICE COMPANY THAT PROVIDES GAS,~~
12 ~~ELECTRIC, OR WATER SERVICE; OR~~

13 ~~(II) A COMMISSION, A MUNICIPAL CORPORATION, OR ANY~~
14 ~~OTHER GOVERNMENTAL UNIT THAT PROVIDES WATER SERVICE.~~

15 ~~(B) (1) A TENANT MAY:~~

16 ~~(I) PREVENT THE TERMINATION OF UTILITY SERVICE ON A~~
17 ~~UTILITY ACCOUNT BY PAYING THE AMOUNT DUE FOR THE MOST RECENT~~
18 ~~BILLING CYCLE;~~

19 ~~(II) HAVE UTILITY SERVICE RESTORED TO THE ACCOUNT BY~~
20 ~~PAYING THE AMOUNT DUE FOR THE MOST RECENT BILLING CYCLE AND THE~~
21 ~~AMOUNT OF ANY APPLICABLE TERMINATION OR RECONNECTION CHARGES;~~

22 ~~(III) PAY AN AMOUNT THAT IS NOT YET DUE FOR UTILITY~~
23 ~~SERVICE; AND~~

24 ~~(IV) PAY A CHARGE, AS CALCULATED UNDER SUBSECTION~~
25 ~~(C) OF THIS SECTION, FOR PAST DUE UTILITY BILLS.~~

26 ~~(2) A TENANT MAY NOT INCUR LIABILITY FOR PREVIOUS OR~~
27 ~~FUTURE UTILITY CHARGES DUE ON THE ACCOUNT BY TAKING AN ACTION UNDER~~
28 ~~PARAGRAPH (1) OF THIS SUBSECTION.~~

29 ~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A UTILITY~~
30 ~~SERVICE PROVIDER, IN ITS DISCRETION, MAY INCLUDE ON A BILL FOR THE~~

~~1 FOLLOWING 24 MONTHS A CHARGE FOR PAST DUE UTILITY BILLS AS
2 CALCULATED UNDER THIS SUBSECTION.~~

~~3 (2) A UTILITY SERVICE PROVIDER MAY NOT CHARGE A TENANT
4 WHO RECEIVES RENTAL ASSISTANCE FROM A PUBLIC HOUSING AUTHORITY OR
5 ANOTHER GOVERNMENTAL UNIT FOR PAST DUE UTILITY BILLS.~~

~~6 (3) A MONTHLY CHARGE FOR PAST DUE UTILITY BILLS ON THE
7 UTILITY ACCOUNT SHALL BE CALCULATED BY:~~

~~8 (I) ADDING THE AMOUNT DUE FOR THE MOST CURRENT
9 BILLING CYCLE AND THE AMOUNT OF THE SECURITY DEPOSIT PAID TO THE
10 UTILITY SERVICE PROVIDER WITH RESPECT TO THE ACCOUNT;~~

~~11 (II) SUBTRACTING THE AMOUNT OF ITEM (I) OF THIS
12 PARAGRAPH FROM THE SUM OF ALL PAST DUE UTILITY BILLS ON THE ACCOUNT;
13 AND~~

~~14 (III) DIVIDING THE AMOUNT OF ITEM (II) OF THIS
15 PARAGRAPH BY THE NUMBER OF BILLING CYCLES THAT THE UTILITY COMPANY
16 HAS IN A 24 MONTH PERIOD.~~

~~17 (D) IF AN ORAL OR A WRITTEN LEASE REQUIRES A LANDLORD TO PAY A
18 UTILITY BILL AND A TENANT PAYS A PORTION OF THE UTILITY BILL, THE
19 TENANT MAY DEDUCT THE AMOUNT OF THE PAYMENTS FROM RENT DUE TO THE
20 LANDLORD.~~

~~21 (E) (1) A UTILITY SERVICE PROVIDER THAT RECEIVES A PAYMENT
22 FROM A TENANT SHALL MAIL TO THE TENANT COPIES OF ALL FUTURE UTILITY
23 BILLS FOR UTILITY SERVICE PROVIDED WHILE THE TENANT RESIDES IN THE
24 AFFECTED DWELLING UNIT.~~

~~25 (2) IF A TENANT FAILS TO MAKE A FUTURE PAYMENT ON THE
26 LANDLORD'S ACCOUNT WHEN IT IS DUE, THE UTILITY SERVICE PROVIDER MAY
27 TERMINATE SERVICE IN ACCORDANCE WITH EXISTING LAWS AND REGULATIONS.~~

~~28 (3) (I) AT LEAST 14 DAYS BEFORE TERMINATING UTILITY
29 SERVICE TO AN AFFECTED DWELLING UNIT, A UTILITY SERVICE PROVIDER
30 SHALL SEND A NOTICE BY FIRST CLASS MAIL TO THE AFFECTED DWELLING
31 UNIT.~~

~~32 (II) THE UTILITY SERVICE PROVIDER SHALL ADDRESS THE
33 NOTICE TO THE NAMED TENANT, IF THE UTILITY SERVICE PROVIDER KNOWS~~

~~1 THE TENANT'S NAME, OR TO "ALL OCCUPANTS" IF THE UTILITY SERVICE
2 PROVIDER DOES NOT KNOW THE TENANT'S NAME.~~

~~3 (III) THE OUTSIDE OF THE ENVELOPE CONTAINING THE
4 WRITTEN NOTICE SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED
5 LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: "IMPORTANT
6 NOTICE TO TENANTS: UTILITY SHUT OFF PENDING".~~

~~7 (IV) THE NOTICE SHALL STATE:~~

~~8 1. THE NAME OF THE CUSTOMER WHOSE SERVICE IS
9 TO BE TERMINATED;~~

~~10 2. THE EARLIEST DATE WHEN SERVICE WILL BE
11 TERMINATED;~~

~~12 3. THE TOTAL AMOUNT DUE AND UNPAID FOR THE
13 UTILITY SERVICE;~~

~~14 4. THE AMOUNT DUE FOR THE MOST CURRENT
15 BILLING CYCLE;~~

~~16 5. THE OFFICE ADDRESS AND TELEPHONE NUMBER
17 OF A PERSON AT THE UTILITY SERVICE PROVIDER WHOM THE TENANT MAY
18 CONTACT TO OBTAIN FURTHER INFORMATION;~~

~~19 6. THE RIGHTS AND RESPONSIBILITIES OF A TENANT
20 UNDER SUBSECTIONS (B) AND (D) OF THIS SECTION;~~

~~21 7. THAT A UTILITY SERVICE PROVIDER IS
22 AUTHORIZED TO REQUIRE A TENANT WHO IS NOT RECEIVING RENTAL
23 ASSISTANCE FROM A PUBLIC HOUSING AUTHORITY OR ANY OTHER
24 GOVERNMENTAL UNIT TO MAKE PAYMENTS FOR PAST DUE UTILITY BILLS;~~

~~25 8. THE DOLLAR AMOUNT OF THE PAYMENT DUE FOR
26 PAST UTILITY BILLS AND THE BASIS FOR ITS CALCULATION; AND~~

~~27 9. THAT A UTILITY SERVICE PROVIDER THAT
28 RECEIVES A PAYMENT FROM A TENANT SHALL MAIL TO THE TENANT COPIES OF
29 ALL FUTURE UTILITY BILLS FOR UTILITY SERVICE PROVIDED TO THE AFFECTED
30 DWELLING UNIT.~~

~~31 (F) A TENANT'S RIGHTS UNDER THIS SECTION MAY NOT BE WAIVED IN
32 ANY LEASE.~~

~~Article — Real Property~~

~~§ 401.~~

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

~~(iii) Stating the amount of rent and any late fees due and unpaid, LESS THE AMOUNT OF ANY UTILITY BILLS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;~~

~~(e) (2) (iii) 2. The determination of rent and late fees shall include the following:~~

~~D. Credit for payments of rent [and], late fees, AND UTILITY BILLS PAID UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE made by the tenant after the complaint was filed.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Public Service Commission shall convene a workgroup to study and make recommendations on how to develop a mechanism to allow tenants in residential properties to pay for their utilities when the landlord responsible for utility payments defaults on that responsibility.

(b) The workgroup shall include:

(1) the Office of People's Counsel;

(2) the Public Justice Center;

(3) Energy Advocates;

(4) the Legal Aid Bureau;

(5) representatives from each gas and electric utility company operating in the State;

(6) representatives from private and public water utility companies and municipalities;

1 (7) representatives from a landlord association or a property owners
2 association; and

3 (8) other interested stakeholders.

4 (c) In conducting the study, the workgroup shall examine:

5 (1) how to ensure proper notice is given to an occupant of a residential
6 property when utility termination due to nonpayment is pending;

7 (2) what mechanism would be most effective in allowing a tenant to
8 pay for utility usage when a landlord defaults on the landlord's responsibility to pay;

9 (3) how to protect a utility company's rights to pursue bad debt;

10 (4) how to protect a tenant's right to pursue breach of contract
11 remedies;

12 (5) how similar efforts in other states have worked;

13 (6) how to eliminate the opportunity for fraud in the payment for
14 utility usage by a tenant when a landlord defaults on the landlord's responsibility to
15 pay; and

16 (7) any other matters the workgroup identifies as pertinent to the
17 respective interests of the tenants, utilities, and landlords.

18 (d) On or before December 1, 2012, the Public Service Commission shall
19 report its findings and recommendations to the Senate Finance Committee and the
20 House Economic Matters Committee, in accordance with § 2-1246 of the State
21 Government Article.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 ~~October~~ June 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.