

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1090 (Delegate Barnes, *et al.*)

Environmental Matters and Economic  
Matters

Finance

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**Public Utilities - Consumer Relations - Tenant Payment of Landlord Utility Bills**

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This bill authorizes the tenant of an “affected dwelling unit” to have utility service restored or to prevent termination of utility service when the landlord responsible for utility payments defaults. The bill does not apply to electric cooperatives or to service provided by water companies.

The bill takes effect January 1, 2014.

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**Fiscal Summary**

**State Effect:** None. The bill does not materially affect governmental finances.

**Local Effect:** Minimal or none.

**Small Business Effect:** Minimal or none.

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**Analysis**

**Bill Summary:** “Affected dwelling unit” means a dwelling unit where the utility service (1) is in the landlord’s name; (2) is delivered through a single meter to a single dwelling unit; and (3) does not use a master meter. “Utility service” means gas or electric service provided by a public service company that is regulated by the Public Service Commission (PSC). A “tenant” for purposes of the bill means an occupant of an affected dwelling unit who (1) has a valid oral or written lease to reside in the dwelling unit and (2) is not a co-occupant with the landlord in the dwelling unit.

If utility service at an affected dwelling unit is subject to the threat of termination or actual termination, a tenant residing in the affected dwelling unit (1) may apply for a new utility service account in the tenant's name and (2) may not incur liability for charges due on the landlord's account.

Subject to specified exceptions, when a tenant applies for a new utility service account, a utility service provider must establish a new utility service account for the affected dwelling unit in the name of the tenant if the tenant meets the requirements of all applicable laws, regulations, and tariffs. A utility service provider may, however, require a tenant to pay a deposit and past due balances from *previous* accounts in the tenant's name before establishing a *new* utility service account in the tenant's name.

A utility service provider may not refuse or otherwise condition a tenant's ability to establish a new utility service account in the tenant's name because of arrearages on the landlord's account.

The bill establishes notification requirements for termination of utility service if the service address is different from the billing address of the affected dwelling unit. The notice provided to the occupant of the affected dwelling unit must contain the earliest date that service will be terminated and the telephone number the tenant may call to obtain further information. Separate notification requirements are established if the mailing address and billing address of an affected dwelling unit are the same.

A tenant may deduct the amount of payments made to a utility service provider under the bill from the rent due to the landlord under specified conditions. A tenant's right to deduct these payments cannot be waived in any lease.

A written complaint filed by a landlord with the District Court for the repossession of any premises for failure of a tenant to pay rent must subtract the amount of any utility bills, fees, or security deposits paid by a tenant under the bill. If the District Court enters a judgment in favor of the landlord for possession of a dwelling unit, any utility bills, fees, or security deposits paid by a tenant under the bill are credited to the amount of rent and late fees owed to the landlord by the tenant.

The bill requires PSC to authorize full and timely cost recovery of a utility service provider's prudently incurred costs resulting from the bill's requirements.

## **Current Law:**

### *Termination of Service by Utility Service Providers*

PSC regulations require electric or gas companies to notify a customer at least 14 days prior to terminating service for nonpayment, except under specified conditions. Additional restrictions on terminations apply to elderly or handicapped individuals, individuals with a serious illness and life support equipment, low-income individuals, and during periods of excessively hot or cold weather. An electric or gas company may commence termination procedures only if it has made reasonable attempts to collect the past-due bills using normal collection procedures. Further, the electric or gas company must use its discretion in unusual circumstances, including a situation involving a master-metered building, and may not terminate service if it has or is presented with reasonable grounds to believe that termination will endanger human health, life, or safety.

PSC must report each year to the General Assembly on the terminations of service by electric and gas companies during the previous heating season. The report must include information in sufficient detail to indicate the effect of terminations of service on various categories of customers.

### *Landlord Repossession of Premises*

When a tenant fails to pay rent, the landlord is entitled to repossession of the premises through filing a written complaint with the District Court. The complaint must (1) describe the general terms of the property sought to be repossessed; (2) list the name of each tenant; (3) state the amount of rent and any late fees due and unpaid; and (4) request to repossess the premises, and if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees. The complaint also may contain other specified information. If the court finds in favor of the landlord, the court must order that possession of the premises be given to the landlord within four days after trial (judgment for possession). If the judgment is in favor of the landlord and the tenant fails to pay the past-due rent and late fees within specified timeframes, the landlord may apply for a “warrant of restitution,” which serves as the eviction order. The sheriff’s offices in Baltimore City and the counties are responsible for evictions.

**Background:** Chapters 573 and 574 of 2012 (SB 765/HB 1269) required PSC to convene a workgroup to study and make recommendations on developing a mechanism to allow tenants in residential properties to pay for their utilities when the landlord responsible for utility payments defaults. The workgroup was required to examine how to protect specified tenant and utility rights, proper tenant notification procedures, the most effective mechanism to allow a tenant to pay for utilities when a landlord defaults, and how similar efforts in other states have worked, among other items.

After several meetings during the 2012 interim, the workgroup submitted its final report to PSC on October 1, 2012. In the transmittal letter of the final report from PSC to the Senate Finance Committee and the House Economic Matters Committee dated November 29, 2012, it was noted that, although the workgroup developed answers to each of the seven questions presented under Chapters 573 and 574, it did not reach consensus on every issue. The workgroup also recommended that, to provide support and additional context, PSC accept comments on the report. PSC issued a notice providing an opportunity to comment on the workgroup's findings and recommendations, and the comments PSC received were attached to the workgroup's final report.

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### **Additional Information**

**Prior Introductions:** *As introduced*, SB 765/HB 1269 of 2012 contained many similar provisions to this bill. Both bills were amended to require PSC to convene a workgroup and were enacted as Chapters 573 and 574 of 2012, as discussed above.

**Cross File:** SB 849 (Senator Ramirez, *et al.*) - Finance.

**Information Source(s):** Public Service Commission, Judiciary (Administrative Office of the Courts), Office of People's Counsel, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2013  
mc/lgc Revised - House Third Reader - March 25, 2013

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