

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2856

Session of
1980

INTRODUCED BY MESSRS. DORR AND WHITE, JULY 2, 1980

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 15, 1980

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for landlord
3 ratepayers and tenants, and for notice prior to
4 discontinuance of service.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The definitions of "landlord ratepayer,"
8 "residential building" and "tenant" of section 1521, Title 66,
9 act of November 25, 1970 (P.L.707, No.230), known as the
10 Pennsylvania Consolidated Statutes, are amended and the section
11 is amended by adding a definition to read:

12 § 1521. Definitions.

13 The following words and phrases when used in this subchapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Billing month." A period of time not to exceed 35 days.

17 "Landlord ratepayer." One or more individuals or an
18 organization listed on a gas, electric, steam or water utility's

1 records as the party responsible for payment of the gas,
2 electric, steam or water service provided to one or more
3 residential units of a residential building or mobile home park
4 of which building or mobile home park the party is not the sole
5 occupant. In the event the landlord ratepayer is not party to a
6 lease between himself or itself and the tenant, the term shall
7 also include the individual or organization to whom the tenant
8 makes rental payments pursuant to an oral or written lease.

9 * * *

10 "Residential building." A building containing one or more
11 dwelling units occupied by one or more tenants. The term does
12 not include nursing homes, hotels, [and] motels or any dwelling
13 wherein the landlord ratepayer is resident and shares common
14 heating facilities with three or less tenants and shares common
15 access to all parts of such dwelling unit.

16 "Tenant." Any person or group of persons [whose]
17 contractually obligated to make rental payments to the landlord
18 ratepayer pursuant to an oral or written lease of a dwelling
19 unit in a residential building or mobile home park [is] provided
20 gas, electricity, steam or water [pursuant to a rental
21 arrangement for the dwelling unit, mobile home or plot of ground
22 within a mobile home park] as an included service under such
23 lease but who is not the ratepayer of the utility which supplied
24 the gas, electricity, steam or water.

25 Section 2. Sections 1522(a), 1523(a), 1525(b), 1526(a),
26 1527(b), (c) and (c.1), 1528, 1532 and 1533 of Title 66, are
27 amended or added to read:

28 § 1522. Applicability of subchapter.

29 (a) General rule.--This subchapter applies to public
30 utilities as defined in paragraph (1)(i) and (ii) of the

1 definition of "public utility" in section 102 (relating to
2 definitions) and to public utility service rendered by those
3 public utilities, if the premises served constitute "residential
4 buildings" as defined in section 1521 (relating to definitions).

5 * * *

6 § 1523. Notices before service to landlord discontinued.

7 (a) Nonpayment of charges.--Except when required to prevent
8 or alleviate an emergency as defined by the commission or except
9 in the case of danger to life or property, before any
10 discontinuance of service to a landlord ratepayer for nonpayment
11 of charges, a public utility shall:

12 (1) Notify the landlord ratepayer of the proposed
13 discontinuance in writing as prescribed in section 1525
14 (relating to delivery and contents of discontinuance notice
15 to landlord) at least 37 days before the date of
16 discontinuance of service.

17 (2) Notify the following agencies which serve the
18 community in which the affected premises are located, in
19 writing, [at the time of delivery of notice to the tenants of
20 the proposed discontinuance of service] at least 20 days
21 after the time of delivery of notice to the tenants of the
22 proposed discontinuance and at least ten days before
23 discontinuance of service:

24 (i) The Department of Licenses and Inspections of
25 any city of the first class.

26 (ii) The Department of Public Safety of any city of
27 the second class, second class A or third class.

28 (iii) The city or county Public Health Department
29 or, in the event that such a department does not exist,
30 the Department of Health office responsible for that

1 county.

2 (3) Notify each dwelling unit reasonably likely to be
3 occupied by an affected tenant of the proposed discontinuance
4 in writing as prescribed in section 1526 (relating to
5 delivery and contents of first discontinuance notice to
6 tenants) at least seven days after notice to the landlord
7 ratepayer pursuant to this section and at least 30 days
8 before the discontinuance of service. If within seven days of
9 receipt of the notice to the landlord issued pursuant to this
10 section the landlord ratepayer files a complaint with the
11 commission disputing the right of the utility to discontinue
12 service, the notice shall not be rendered until the complaint
13 has been adjudicated by the commission, provided the landlord
14 ratepayer shall continue to pay the undisputed portion of
15 current bills when due pending the final decision on the
16 complaint.

17 * * *

18 § 1525. Delivery and contents of discontinuance notice to
19 landlord.

20 * * *

21 (b) Service of notice.--Any one of the following procedures
22 shall constitute effective notice to the landlord under section
23 1523:

24 (1) Notice by certified mail if the utility receives a
25 return receipt signed by the landlord ratepayer or his agent.

26 (2) Notice by personal service of the landlord ratepayer
27 or his agent.

28 (3) [After unsuccessful attempts at personal delivery on
29 two separate days, notice] Notice by first class mail and
30 conspicuously posting at the landlord ratepayer's principal

1 place of business or the business address which the landlord
2 provided the utility as his address for receiving
3 communications.

4 § 1526. Delivery and contents of first discontinuance notice
5 to tenants.

6 (a) General rule.--The notice required to be given to a
7 tenant pursuant to section 1523 (relating to notices before
8 service to landlord discontinued) shall be [mailed or otherwise
9 delivered to the address of each affected tenant] sent by first
10 class mail to each affected individual dwelling unit and posted
11 in common areas and shall contain the following information:

12 (1) The date on which the notice is rendered.

13 (2) The date on or after which service will be
14 discontinued.

15 [(3) The circumstances under which service to the
16 affected tenant may be continued specifically referring to
17 the conditions set out in section 1527 (relating to right of
18 tenants to continued service).]

19 (4) [The] On each account, the bill for the [30-day]
20 billing month period preceding the notice to the tenants
21 except in the case of water and sewer service where the
22 billing period is bimonthly or quarterly, the utility shall
23 provide an estimate of costs for the previous billing month.

24 [(5) The statutory rights of a tenant to:

25 (i) Deduct the amount of any direct payment to the
26 utility from any rent payments then or thereafter due.

27 (ii) Protection against any retaliation by the
28 landlord for exercising such statutory right.

29 (iii) Recover money damages from the landlord for
30 any such retaliation.]

1 (5) The following statement of the tenant's rights: The
2 payment of your landlord's utility bill is overdue, and
3 therefore the utility service to your dwelling may be
4 terminated in 30 days. It is important that you understand
5 that you have the following rights:

6 (i) You will have a 30-day period in which you must
7 act in one of the following ways:

8 (A) Take no action and have service terminated
9 in 30 days.

10 ~~(B) Subscribe for future service individually if~~ <—
11 ~~this can be accomplished without a major revision of~~
12 ~~distribution facilities or additional right of way~~
13 ~~acquisitions.~~

14 (B) HAVE FUTURE SERVICE PROVIDED AND BILLED TO <—
15 YOU, IF THERE IS AN INDIVIDUAL METER SERVING YOUR
16 UNIT OR IF THIS CAN BE DONE BY SIMPLY INSTALLING A
17 METER WITH ONLY MINOR CHANGES IN THE PIPELINES OR
18 WIRING AND WITHOUT ACQUIRING NEW RIGHT-OF-WAYS.
19 BEFORE YOU DECIDE TO MAKE THIS CHANGE TO PUT SERVICE
20 IN YOUR OWN NAME, YOU SHOULD DISCUSS WITH THE UTILITY
21 COMPANY THE COSTS INVOLVED IN INSTALLING A NEW METER.

22 (C) Act as a group with the other tenants or
23 individually to pay the outstanding bill for the
24 prior billing month. No tenant shall be required to
25 pay a deposit or to establish credit in his or her
26 own name nor shall any tenant be responsible for any
27 debts or obligations of the landlord, or previous
28 tenant in order to obtain continued service. If you
29 live in a multiple occupancy dwelling which is served
30 by one meter, the outstanding bill contained in this

1 notice is for the total usage of all of the tenants
2 served by the meter, rather than the usage for an
3 individual dwelling.

4 (ii) If you send A payment to the utility to try to <—
5 pay this bill, but you and the other tenants are unable
6 to pay the entire amount of the bill, the service will be
7 shut off, and the utility will refund your payment.

8 (iii) You may deduct any direct payment to the
9 utility from any rent payment then or thereafter due.

10 (iv) You have the right to have the utility, upon
11 receiving any payment, notify your landlord ~~ratepayer~~ of <—
12 the amount paid by any tenant.

13 (v) The landlord may not retaliate against you BY <—
14 INCREASING YOUR RENT, BY ATTEMPTING TO EVICT YOU, OR BY
15 ANY OTHER MEANS, for exercising ~~your rights under~~ THESE <—
16 RIGHTS WHICH ARE GRANTED TO YOU BY 66 Pa.C.S. Ch. 15(B)
17 (relating to discontinuance of service to leased
18 premises).

19 (vi) If you have any questions, you may call your
20 utility or the Pennsylvania Public Utility Commission at
21 the following numbers:

22 (Insert appropriate telephone number)

23 (6) That tenants may make payment to the utility on
24 account of nonpayment of charges by the landlord ratepayer
25 only by check or money order drawn by the tenant to the order
26 of the utility.

27 [(7) A telephone number at the utility and at the
28 commission which a tenant may call for an explanation of his
29 rights.]

30 * * *

1 § 1527. Right of tenants to continued service.

2 * * *

3 (b) Payment of charges by tenants.--A public utility shall
4 not discontinue service or shall promptly resume service
5 previously discontinued if it receives from the tenants an
6 amount equal to the bill for the affected account of the
7 landlord ratepayer for the [30-day] billing month period
8 preceding the notice to the tenants. Thereafter, the utility
9 shall notify each tenant of the total amount of the bill for the
10 second and each succeeding billing month period [of 30 days or
11 less] and, if the tenants fail to make payment of any bill
12 within 30 days of the delivery of the notice to the tenants, the
13 utility may commence discontinuance [procedures] of service
14 except that no discontinuance may occur until 30 days after each
15 tenant has [received written] been furnished notice of the
16 proposed discontinuance as prescribed in section 1528 (relating
17 to delivery and contents of subsequent discontinuance notice to
18 tenants). All payments of charges by tenants to a utility on
19 account of nonpayment by the landlord ratepayer shall be made by
20 a check or money order drawn by the tenant to the order of the
21 utility.

22 (c) Disposition of payment by utility.--Upon receiving any
23 payment, the utility shall notify the landlord ratepayer who is
24 liable for the utility service of the amount or amounts paid by
25 any tenant and the amount or amounts credited to the landlord's
26 bill for each tenant pursuant to this section. [In the event
27 that the tenants fail to satisfy the requirements of this
28 section to maintain or restore service and service to the
29 affected dwelling units is discontinued, the utility shall
30 refund to each tenant the amount paid by the tenant toward the

1 bill which the tenants failed to pay either upon the request of
2 the tenant or after holding the tenant's payment during 60
3 consecutive days of discontinued service, whichever occurs
4 first.] Tenants requesting continued utility service under the
5 provisions of this section, except those individually
6 subscribing for service pursuant to subsection (d), shall not be
7 considered utility customers, but shall be considered to be
8 acting on behalf of the landlord ratepayer, who shall remain
9 liable to the utility for service provided after notice to
10 tenants. In the event the tenants fail to satisfy the
11 requirements of subsection (b) with regard to the first billing
12 month period preceding notice to the tenant, the utility shall
13 refund any such moneys received from a tenant to the tenant. Any
14 payments made by the tenants shall be applied first against the
15 bill for the billing month preceding notice to the tenants and
16 then against bills for service rendered subsequent to such bill.
17 Upon discontinuance of service to the tenants for failure to pay
18 the utility's bill for service in full FOR ANY SUBSEQUENT MONTH, <—
19 the provisions of subsection (c.1) shall apply.

20 (c.1) Refunds for overpayment by tenant in final month.--A
21 utility shall refund to a tenant any overpayment made by the
22 tenant to the utility in the final month of service when the
23 tenant signs a form provided by the utility swearing or
24 affirming that all the following facts are true:

25 (1) The tenant has not deducted the entire final payment
26 to the utility from any rental payment to the landlord.

27 (2) The entire final payment to the utility is not
28 offset by rent legally owing to the landlord at the time of
29 making the application for refund pursuant to this
30 subsection.

1 (3) The tenant has permanently departed the residential
2 building at the time of making the application.

3 * * *

4 § 1528. Delivery and contents of subsequent discontinuance
5 notice to tenants.

6 Subsequent notices required to be given to a tenant pursuant
7 to section 1527 (relating to right of tenants to continued
8 service) shall be [mailed or otherwise delivered to the address
9 of each affected tenant] sent by first class mail to each
10 affected individual dwelling unit and posted in common areas and
11 shall contain the following information:

12 (1) The date on or after which service will be
13 discontinued.

14 (2) The amount due which shall include the arrearage on
15 any earlier bill due from tenants.

16 (3) A telephone number at the utility and at the
17 commission which a tenant may call for an explanation of his
18 rights.

19 (4) The right of a tenant to file a complaint with the
20 commission to enforce any legal right that he may have under
21 this part.

22 (5) The right of a tenant to apply for a refund where
23 appropriate, pursuant to section 1527(c.1) (relating to
24 rights of tenants to continued service.

25 § 1532. Penalties.

26 (a) Failure to identify tenants.--Any landlord ratepayer who
27 fails to provide a utility with the names and addresses of
28 affected tenants pursuant to section 1524 (relating to request
29 to landlord to identify tenants) shall forfeit and pay to the
30 Commonwealth a civil penalty of not more than \$500 for each day

1 of the landlord ratepayer's failure to respond. The court [in
2 its discretion may] shall award the utility reasonable
3 attorneys' fees, filing fees and reasonable costs of suit for
4 any action against the landlord ratepayer which was necessary to
5 obtain the names and addresses of affected tenants pursuant to
6 section 1524.

7 (b) Tampering with posted notice.--Any person who removes,
8 interferes or tampers with a notice to tenants of proposed
9 discontinuance of service, posted pursuant to section 1526
10 (relating to delivery and contents of first discontinuance
11 notice to tenants) commits a summary offense and shall, upon
12 conviction, be sentenced to pay a fine not exceeding [\$25] \$300.

13 (C) DENIAL OF ACCESS TO COMMON AREAS.--ANY LANDLORD <—
14 RATEPAYER WHO WILLFULLY DENIES AN AGENT OR EMPLOYEE OF THE
15 UTILITY ACCESS TO THE COMMON AREAS OF HIS RESIDENTIAL BUILDING
16 FOR THE PURPOSE OF POSTING OR DELIVERING NOTICES TO TENANTS
17 PURSUANT TO THIS PART, SHALL BE SUBJECT TO A CIVIL PENALTY OF
18 NOT MORE THAN \$500 FOR EACH DAY THAT SUCH ACCESS IS DENIED.

19 § 1533. Petition to appoint receiver.

20 (a) Appointment of receiver.--Notwithstanding the foregoing
21 sections of this chapter, when a landlord ratepayer is two or
22 more months in arrears in his utility payments, the affected
23 utility shall have the right to petition the court of common
24 pleas of the county wherein the leased premises are located to
25 appoint a receiver to collect rent payments otherwise due the
26 landlord ratepayer directly from the tenants and to pay all
27 overdue and subsequent utility bills therefrom. The provisions
28 of this section shall not be construed to supersede any tenant
29 rights or defenses under law regarding the payment of rent. This
30 right may be exercised only in those situations that involve

1 [50] 20 or more rental units in which the units are not
2 individually metered by the utility. Upon appointment, the
3 receiver shall notify the tenants of his powers and their rights
4 under law regarding payment of rent and continued utility
5 service by first class mail, certified mail, or personal service
6 or posting each unit in the leased premises.

7 (b) Right to continued service.--The affected utility under
8 this section shall not discontinue utility service if it
9 receives payment from the receiver in the amount specified in
10 subsection (c)(2) within 60 days from the date notice to the
11 tenants of the appointment of the receiver is mailed or
12 delivered.

13 (c) Duty of receiver.--The receiver shall:

14 (1) collect all rents directly from the tenants;

15 (2) pay the utility bills equal to the amount due for
16 the [30-day] billing month period prior to the tenant
17 receiving notice of the appointment of the receiver and all
18 future bills as they become due;

19 (3) after payment of the amounts in subsection (c)(2),
20 any excess moneys shall be applied pursuant to further order
21 of court; and

22 (4) return the remainder to the landlord ratepayer, less
23 the costs of the notification made to the tenants, plus a 2%
24 administrative fee.

25 (d) Discontinuation.--The receiver shall continue to collect
26 the rents and make disbursements in the manner provided in
27 subsection (c) until the second rental period ends after all of
28 the following conditions have been met:

29 (1) the landlord ratepayer deposits in escrow with the
30 utility a sum equal to the utility charges from the two

1 highest monthly periods in the preceding 12 months; and

2 (2) the landlord ratepayer demonstrates to the
3 satisfaction of the court of common pleas that it has the
4 financial resources necessary to resume its obligations to
5 the utility and the tenants.

6 (3) The landlord ratepayer pays the undisputed portion
7 of all outstanding utility bills.

8 At such time rental payments will once again be made to the
9 landlord ratepayer. Notice of this change shall be made to the
10 tenants by the receiver by means of first class mail, certified
11 mail, or personal service, OR POSTING EACH UNIT IN THE LEASED <—
12 PREMISES which costs shall be paid by the landlord ratepayer.

13 (e) Escrow fund.--The escrow fund established under
14 subsection (d)(1) shall not be considered a prepayment of
15 utility costs and shall only be applied against outstanding
16 utility bills at the time a new receiver is appointed for a
17 subsequent failure by the landlord ratepayer to pay utility
18 bills for a two-month period. Said escrow fund shall be returned
19 to landlord ratepayer not later than 90 days nor earlier than 60
20 days, after the landlord ratepayer obtains a court order
21 releasing such funds and certifying that timely payment of
22 utility bills has been made for the immediately preceding 24
23 consecutive months.

24 (f) Interest on funds.--Any funds held in escrow by any
25 utility shall bear interest at a rate to the landlord 1% lower
26 than [the maximum rate allowed by the Federal Reserve Board to
27 be paid on regular savings accounts at commercial banks.]
28 actually received in a regular savings account at a commercial
29 bank within the court's jurisdiction and the remaining 1% shall
30 be remitted to the court for administrative costs.

1 (g) Number of receivers.--In the event more than one utility
2 company is affected by any landlord ratepayers' failure to pay
3 utility bills, the court shall appoint the same receiver to
4 function for all aggrieved utilities.

5 Section 3. This act shall take effect in 30 days.