
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1834

Session of
1977

INTRODUCED BY MESSRS. WHITE, OLIVER, RICHARDSON, CIANCIULLI,
WIGGINS, MRS. SCANLON, MRS. KELLY, MESSRS. GIAMMARCO AND
WILLIAMS, NOVEMBER 1, 1977

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, NOVEMBER 14, 1978

AN ACT

1 Providing for notice and the right to cure landlord's default to
2 avoid the termination of utility service to tenants.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the "Utility
7 Service ~~Tenants~~ TENANTS Rights Act." <—

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have, unless the context clearly indicates otherwise, the
11 meanings given to them in this section:

12 "Landlord ratepayer." One or more individuals or an
13 organization listed on a gas, electric, steam or water utility's
14 records as the party responsible for payment of the gas,
15 electric, steam or water service provided to one or more
16 residential units of a residential building or mobile home park
17 of which building or mobile home park such party is not the sole

1 occupant.

2 "Mobile home." A transportable, single-family dwelling unit
3 intended for permanent occupancy and constructed as a single
4 unit, or as two or more units designed to be joined into one
5 integral unit capable of again being separated for repeated
6 towing, which arrives at a site complete and ready for occupancy
7 except for minor and incidental unpacking and assembly
8 operations and constructed so that it may be used without a
9 permanent foundation.

10 "Mobile home park." Any site, lot, field or tract of land,
11 privately or publicly owned or operated, upon which three or
12 more mobile homes, occupied for dwelling or sleeping purposes,
13 are or are intended to be located.

14 "Municipal corporation." All cities, boroughs, towns,
15 townships, or counties of this Commonwealth, and also any public
16 corporation, authority, or body whatsoever created or organized
17 under any law of this Commonwealth.

18 "Public utility." A municipal corporation now or hereafter
19 owning or operating within its corporate boundaries equipment or
20 facilities for:

21 (1) Producing, generating, transmitting, distributing or
22 furnishing natural or artificial gas, electricity, or steam
23 for the production of light, heat, or power to or for the
24 public for compensation.

25 (2) Diverting, developing, pumping, impounding,
26 distributing, or furnishing water to or for the public for
27 compensation.

28 "Residential building." A building containing one or more
29 dwelling units occupied by one or more tenants, but excluding
30 nursing homes, hotels and motels.

1 "Tenant." Any person or group of persons whose dwelling unit
2 in a residential building or mobile home park is provided gas,
3 electricity, steam or water, pursuant to a rental arrangement
4 for such dwelling unit, mobile home or plot of ground within a
5 mobile home park, but who is not the ratepayer of the company
6 which supplied such gas, electricity, steam or water.

7 Section 3. Notices before service to landlord
8 ratepayer discontinued.

9 (a) Except when required to prevent or alleviate an
10 emergency or except in the case of danger to life or property,
11 before any discontinuance of service within the utility's
12 corporate limits, to a landlord ratepayer for nonpayment a
13 public utility shall:

14 (1) Notify the landlord ratepayer of the proposed
15 discontinuance in writing as prescribed in section 5 at least
16 37 days before the date of 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:

21 (i) the Department of Licenses and Inspections of
22 any city of the first class;

23 (ii) the Department of Public Safety of any city of
24 the second class, second class A, or third class; and

25 (iii) the city or county Public Health Department or
26 in the event that such a department does not exist, the
27 Department of Health office responsible for that county.

28 (3) Notify each residential unit reasonably likely to be
29 occupied by an affected tenant of the proposed discontinuance
30 in writing as prescribed in section 6 at least seven days

1 after notice to the landlord ratepayer pursuant to this
2 section, and at least 30 days before any such discontinuance
3 of service. However, if within seven days of receipt of the
4 notice issued pursuant to this section, the landlord
5 ratepayer files a petition with the court disputing the right
6 of the utility to discontinue service, such notice shall not
7 be rendered until such petition has been adjudicated by the
8 court of common pleas or the Commonwealth Court.

9 (b) Before any discontinuance of service by a public utility
10 to a landlord ratepayer due to a request for voluntary
11 relinquishment of service by the landlord ratepayer:

12 ~~(i)~~ (1) the landlord ratepayer shall state in a form <—
13 bearing his notarized signature that all of the affected
14 dwelling units are either unoccupied or the tenants
15 affected by the proposed discontinuance have consented in
16 writing to the proposed discontinuance, which form shall
17 conspicuously bear a notice that false statements are
18 punishable criminally;

19 ~~(ii)~~ (2) all of the tenants affected by the proposed <—
20 discontinuance shall inform the utility orally or in
21 writing of their consent to the discontinuance; or

22 ~~(iii)~~ (3) the landlord ratepayer shall provide the <—
23 utility with the names and addresses of the affected
24 tenants pursuant to section 4 and the utility shall
25 notify the community service agencies and each
26 residential unit pursuant to sections 3 and 6. Under the
27 voluntary relinquishment discontinuance procedures of
28 this subparagraph the tenants shall have all of the
29 rights provided in sections 7 through 11.

30 Section 4. Identifying tenants.

(a) Upon receiving a lawful request for the names and addresses of the affected tenants pursuant to this act, it shall be the duty of the landlord ratepayer to provide the utility with the names and addresses of every affected tenant of any building or mobile home park for which the utility is proposing to discontinue service unless within seven days of receipt of the notice, the landlord ratepayer pays the amount due the utility or makes an arrangement with the utility to pay the balance.

(b) Such information shall be provided by the landlord ratepayer:

(1) within seven days of receipt of the notice to the landlord ratepayer required by section 3; or

(2) within three days of any adjudication by a court having jurisdiction that the landlord ratepayer must provide the requested information if the landlord files a petition with the court within seven days of receipt of the notice to the landlord disputing the right of the utility to discontinue service.

(c) It shall be the duty of any public utility to pursue any appropriate legal remedy it has, necessary to obtain from the landlord ratepayer, the names and addresses of all affected tenants of a building or mobile home park for which the utility is proposing discontinuance of service to such landlord ratepayer.

Section 5. Delivery and contents of discontinuance notice to landlord ratepayer.

(a) The notice required to be given to a landlord ratepayer pursuant to section 3 shall contain the following information:

(1) the amount owed the utility by the landlord

1 ratepayer for each affected account;

2 (2) the date on or after which service will be
3 discontinued;

4 (3) the date on or after which the company will notify
5 tenants of the proposed discontinuance of service and of
6 their rights under sections 7, 9 and 10;

7 (4) the obligation of the landlord ratepayer under
8 section 4 to provide the utility with the names and addresses
9 of every affected tenant or to pay the amount due the utility
10 or make an arrangement with the utility to pay the balance
11 including a statement:

12 (i) that such list must be provided or payment or
13 arrangement must be made within seven days of receipt of
14 the notice; and

15 (ii) of the penalties and liability which the
16 landlord ratepayer may incur under section 18 by failure
17 to comply; and

18 (5) the right of the landlord ~~customer~~ RATEPAYER to stay <—
19 the notification of tenants by filing a petition with the
20 court disputing the right of the utility to discontinue
21 service.

22 (b) Any one of the following procedures shall constitute
23 effective notice to the landlord under section 3:

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 service on
29 two separate days, 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 Section 6. Delivery and contents of first discontinuance
5 notice to tenants.

6 The notice required to be given to a tenant pursuant to
7 section 3 shall be mailed or otherwise delivered to the address
8 of each affected tenant, and shall contain the following
9 information:

10 (1) the date on which the notice is rendered;

11 (2) the date on or after which service will be
12 discontinued;

13 (3) the circumstances under which service to the
14 affected tenant may be continued, specifically referring to
15 the conditions set out in section 7;

16 (4) the bill for the 30-day period preceding the notice
17 to the tenants;

18 (5) the statutory rights of a tenant to deduct the
19 amount of any direct payment to the utility from any rent
20 payments then or thereafter due; to be protected against any
21 retaliation by the landlord for exercising such statutory
22 right; to recover money damages from the landlord for any
23 such retaliation;

24 (6) that tenants may make payment to the utility on
25 account of nonpayment by the landlord ratepayer only by check
26 or money order drawn by the tenant to the order of the
27 utility; and

28 (7) a telephone number at the utility which a tenant may
29 call for an explanation of his rights.

30 The information in paragraphs (1) through (7) shall be posted

1 by the utility in those common areas of the building or mobile
2 home park where it is reasonably likely to be seen by the
3 affected tenants. Any officer or employee of the utility may at
4 any reasonable time, enter the common hallways and common areas
5 of such building for the purpose of complying with the
6 provisions of this section.

7 Section 7. Rights of tenants to continued service.

8 (a) At any time before or after service within the utility's
9 corporate limits is discontinued by a public utility on account
10 of nonpayment by the landlord ratepayer, the affected tenants
11 may apply to the utility to have service continued or resumed. A
12 public utility shall not discontinue such service or shall
13 promptly resume service previously discontinued if it receives
14 from the tenants an amount equal to the bill of the landlord
15 ratepayer for the 30-day period preceding the notice to the
16 tenants. Thereafter, such utility shall notify each tenant of
17 the total amount of the bill for the second and each succeeding
18 period of 30 days or less and if the tenants fail to make
19 payment of any such bill within 30 days of the delivery of the
20 notice to the tenants, the utility may commence discontinuance
21 procedures: Provided, That no such discontinuance may occur
22 until 30 days after each tenant has received written notice of
23 the proposed discontinuance as prescribed in section 8. All
24 payments by tenants to a utility on account of nonpayment by the
25 landlord ratepayer shall be made by a check or money order drawn
26 by the tenant to the order of the utility. Upon receiving any
27 such payment, the utility shall notify the landlord ratepayer
28 who is liable for the utility service of the amount or amounts
29 paid by any tenant and the amount or amounts credited to the
30 landlord's bill for each tenant pursuant to the provisions of

1 this section. In the event that the tenants fail to satisfy the
2 requirements of this section to maintain or restore service and
3 service to the affected dwelling units is discontinued, the
4 utility shall refund to each tenant the amount paid by such
5 tenant toward the bill which the tenants failed to pay, upon the
6 request of the tenant or after holding the tenant's payment
7 during 60 consecutive days of discontinued service, whichever
8 occurs first.

9 (b) Any tenant of a residential building or mobile home park
10 who has been notified of a proposed discontinuance of utility
11 service pursuant to section 3 shall have the right to agree to
12 subscribe for future service individually if this can be
13 accomplished without a major revision of distribution facilities
14 or additional right-of-way acquisitions.

15 Section 8. Delivery and contents of subsequent discontinuance
16 notices to tenants.

17 Subsequent notices required to be given to a tenant pursuant
18 to section 7 shall be mailed or otherwise delivered to the
19 address of each affected tenant and shall contain the following
20 information:

21 (1) the date on or after which service will be
22 discontinued;

23 (2) the amount due, which shall include the arrearage on
24 any earlier bill due from tenants;

25 (3) a telephone number at the utility which a tenant may
26 call for an explanation of his rights; and

27 (4) the right of a tenant to file a petition with the
28 court to enforce any legal right that he may have.

29 Section 9. Tenant's right to withhold rent.

30 Any tenant who has made a payment to a utility on account of

1 nonpayment by the landlord ratepayer pursuant to this act may
2 subsequently recover the amount paid to the utility either by
3 deducting said amount from any rent or payment on account of
4 taxes or operating expenses then or thereafter due from such
5 tenant to the person to whom he would otherwise pay his rent or
6 by obtaining reimbursement from the landlord ratepayer.

7 Section 10. Waiver prohibited.

8 Any waiver of the tenant's rights under section 3 through 11
9 shall be void and unenforceable.

10 Section 11. Retaliation by landlord ratepayer prohibited.

11 It shall be unlawful for any landlord ratepayer or agent or
12 employee thereof to threaten or take reprisals against a tenant
13 because the tenant exercised his rights under section 7 or 9.
14 Any landlord ratepayer, or agent or employee thereof who
15 threatens or takes such reprisals against any tenant shall be
16 liable for damages which shall be two months' rent or the actual
17 damages sustained by the tenant, whichever is greater, and the
18 costs of suit and reasonable attorney's fees. The receipt of any
19 notice of termination of tenancy, an increase in rent or of any
20 substantial alteration in the terms of tenancy within six months
21 after the tenant has acted pursuant to section 7 or 9 to avoid
22 discontinuance of utility service, shall create a rebuttable
23 presumption that such notice is a reprisal against the tenant
24 for exercising his rights under section 7 or 9. However, the
25 presumption shall not arise if the notice of termination of
26 tenancy is for nonpayment of rent not withheld under section 9
27 or lawfully withheld under any other right that the tenant may
28 have under law.

29 Section 12. Duties of the Attorney General.

30 The Attorney General shall have the power and it shall be his

1 duty to enforce this act.

2 Section 13. Assurances of voluntary compliance.

3 In the administration of this act, the Attorney General may
4 accept an assurance of voluntary compliance with respect to any
5 method, act or practice deemed to be violative of the act from
6 any person who has engaged or was about to engage in such
7 method, act or practice. Such assurance may include a
8 stipulation for voluntary payment by the alleged violator
9 providing for the restitution by the alleged violator to any
10 person in interest of money, property or other things received
11 from them in connection with the violation of this act. Any such
12 assurance shall be in writing and be filed with the court of
13 common pleas in the county in which the alleged violator
14 resides, has his principal place of business, or is doing
15 business, or the Commonwealth Court. Such assurance of voluntary
16 compliance shall not be considered an admission of violation for
17 any purpose. Matters thus closed may at any time be reopened by
18 the Attorney General for further proceedings in the public
19 interest.

20 Section 14. Restraining prohibited acts.

21 Whenever the Attorney General has reason to believe that any
22 person is using or is about to use any method, act or practice
23 declared in this act to be unlawful and that proceedings would
24 be in the public interest, he may bring an action in the name of
25 the Commonwealth against such person to restrain by temporary or
26 permanent injunction the use of such method, act or practice.
27 The action may be brought in the court of common pleas of the
28 county in which such person resides, has his principal place of
29 business, or is doing business, or may be brought in the
30 Commonwealth Court. The said courts are authorized to issue

1 temporary or permanent injunctions to restrain and prevent
2 violations of this act and such injunctions shall be issued
3 without bond.

4 Section 15. Payment of costs and restitution.

5 Whenever any court issues a permanent injunction to restrain
6 and prevent violations of this act, the court may in its
7 discretion provide for payment by defendant or defendants to the
8 Commonwealth of the court costs of the action. In addition, the
9 court may in its discretion direct that the defendant or
10 defendants restore to any person in interest any moneys or
11 property, real or personal, which may have been acquired by
12 means of any violation of this act, under terms and conditions
13 established by the court.

14 Section 16. Civil penalties; violation of injunction or
15 assurance of voluntary compliance.

16 Any person who violates the term of an injunction issued
17 under section 14 or any of the terms of an assurance of
18 voluntary compliance duly filed in court shall forfeit and pay
19 to the Commonwealth a civil penalty of not more than \$5,000 for
20 each violation. For the purposes of this section, the court
21 issuing an injunction, or in which an assurance of voluntary
22 compliance is filed shall retain jurisdiction, and the cause
23 shall be continued; and, in such cases the Attorney General,
24 acting in the name of the Commonwealth, may petition for
25 recovery of civil penalties and any other equitable relief
26 deemed needed or proper.

27 Section 17. Civil penalties; willful violations.

28 In any action brought under section 14, if the court finds
29 that a person is willfully using or has willfully used a method,
30 act or practice declared unlawful, the Attorney General, acting

1 in the name of the Commonwealth of Pennsylvania, may recover, on
2 behalf of the Commonwealth of Pennsylvania, a civil penalty not
3 exceeding \$1,000 per violation, which civil penalty shall be in
4 addition to other civil penalties which may be granted under
5 this act.

6 Section 18. Penalties for removing, interfering or tampering
7 with notices.

8 (a) Any landlord ratepayer who fails to provide a utility
9 with the names and addresses of affected tenants pursuant to
10 section 4 shall forfeit and pay to the Commonwealth a civil
11 penalty of not more than \$500 for each day of the landlord
12 ratepayer's failure to respond. The court in its discretion may
13 award the utility reasonable attorneys' fees, filing fees and
14 reasonable costs of suit for any action against the landlord
15 ratepayer which was necessary to obtain the names and addresses
16 of affected tenants pursuant to section 4.

17 (b) Any person who removes, interferes or tampers with a
18 notice to tenants of proposed discontinuance of service, posted
19 pursuant to section 6 shall be guilty of a violation of this
20 section and shall be punished by a fine not to exceed \$25.

21 Section 19. Effective date.

22 This act shall take effect immediately.