

No. 1993-54

AN ACT

HB 678

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for landlord ratepayers and tenants, for notice prior to termination of service, for penalties and for remedies; and imposing duties upon owners of rental property.

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

Section 1. The definitions of "landlord ratepayer," "residential building" and "tenant" in section 1521 of Title 66 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 1521. Definitions.

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

"Billing month." *A period of time not to exceed 35 days. The bill shall not include any previously billed service furnished during a period other than that covered by the current bill. If previously unbilled utility service is included in the current utility bill, the utility shall use an estimated bill for the 30-day period.*

"Discontinuance." *Any cancellation of the service contract at the request of the ratepayer and in accordance with section 1523(b) (relating to notices before service to landlord terminated).*

"Landlord ratepayer." *One or more individuals or an organization listed on a gas, electric, steam, sewage or water utility's records as the party responsible for payment of the gas, electric, steam, sewage or water service provided to one or more residential units of a residential building or mobile home park of which building or mobile home park the party is not the sole occupant. In the event the landlord ratepayer is not the party to a lease between the landlord ratepayer and the tenant, the term also includes the individual or organization to whom the tenant makes rental payments pursuant to a rental arrangement.*

* * *

"Residential building." *A building containing one or more dwelling units occupied by one or more tenants. The term does not include nursing homes, hotels and motels or any dwelling of which the landlord ratepayer is the only resident.*

["Tenant." *Any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water pursuant to a rental arrangement for the dwelling unit,*

mobile home or plot of ground within a mobile home park but who is not the ratepayer of the utility which supplied the gas, electricity, steam or water.]

“Tenant.” Any person or group of persons who are contractually obligated to make rental payments to the landlord ratepayer pursuant to a rental arrangement, including, but not limited to, an oral or written lease with the landlord ratepayer for a dwelling unit in a residential building or mobile home park which is provided gas, electric, steam, sewer or water as an included service under the rental agreement and who are not the ratepayers of the utility which supplied the gas, electric, steam, sewer or water service.

“Termination.” The cessation of service, whether temporary or permanent, without the consent of the ratepayer. For the purposes of this subchapter, this term shall include cessation of service at the request of the landlord ratepayer when a tenant does not agree to the cessation of service.

Section 2. Sections 1522, 1523 heading and (a), 1524, 1525, 1526, 1527(a), (b) and (c) and 1528 of Title 66 are amended to read:

§ 1522. Applicability of subchapter.

(a) General rule.—This subchapter applies to public utilities as defined in paragraph (1)(i) and (ii) of the definition of “public utility” in section 102 (relating to definitions) and to public utility service rendered by those public utilities *if the premises served constitute residential buildings as defined in section 1521 (relating to definitions)*.

(b) Municipal service beyond corporate limits.—

(1) Public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits shall be subject to the provisions of this subchapter establishing the procedures, rights, duties and remedies for the [discontinuance] *termination* of service to landlord ratepayers.

(2) Tenants and landlord ratepayers of a dwelling unit in residential buildings or mobile home parks receiving public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits shall be subject to the provisions of this subchapter establishing the procedures, rights, duties and remedies for the [discontinuance] *termination* of service, the right of the tenants to withhold rent, the prohibition of waiver and the prohibition against retaliation by the landlord ratepayer with respect to the public utility service.

§ 1523. Notices before service to landlord [discontinued] *terminated*.

(a) Nonpayment of charges.—Except when required to prevent or alleviate an emergency as defined by the commission or except in the case of danger to life or property, before any [discontinuance] *termination* of service to a landlord ratepayer for *nonaccess as defined by the commission in its rules and regulations* or nonpayment of charges, a public utility shall:

(1) Notify the landlord ratepayer of the proposed [discontinuance]

termination in writing as prescribed in section 1525 (relating to delivery and contents of [discontinuance] *termination* notice to landlord) at least 37 days before the date of [discontinuance] *termination* of service.

(2) Notify the following agencies which serve the community in which the affected premises are located[,] in writing[, **at the time of delivery of notice to the tenants of the proposed discontinuance**] **not less than ten days before the proposed termination** of service:

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

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

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

(3) Notify each dwelling unit reasonably likely to be occupied by an affected tenant of the proposed [discontinuance] *termination* in writing as prescribed in section 1526 (relating to delivery and contents of first [discontinuance] *termination* notice to tenants) at least seven days after notice to the landlord ratepayer pursuant to this section and at least 30 days before the [discontinuance] *termination* of service. If within seven days of [receipt of the notice] *delivery or mailing of the notice to the landlord* issued pursuant to this section the landlord ratepayer files a complaint with the commission disputing the right of the utility to [discontinue] *terminate* service, the notice shall not be rendered until the complaint has been adjudicated by the commission, **but the landlord ratepayer shall continue to pay the undisputed portion of current bills when due pending the final decision of the complaint.**

* * *

§ 1524. Request to landlord to identify tenants.

(a) Duty of *public utility and* landlord.—**At least 37 days before the termination of service, it is the duty of any public utility to request from the landlord ratepayer the names and addresses of the affected tenants.** Upon receiving [a lawful] *such a* request for the names and addresses of the affected tenants pursuant to this subchapter, the landlord ratepayer shall provide the utility with the names and addresses of every affected tenant of any residential building or mobile home park for which the utility is proposing to [discontinue] *terminate* service unless within seven days of [receipt] *delivery or mailing* of the notice the landlord ratepayer pays the amount due the utility or makes an arrangement with the utility to pay the balance.

(b) Time for providing information.—The information shall be provided by the landlord ratepayer:

(1) *within seven days of receipt of a request from a public utility for tenants' names under subsection (a);*

(2) *within seven days of [receipt] delivery or mailing* of the notice to

the landlord ratepayer required by section 1523 (relating to notices before service to landlord [discontinued]; or) *terminated*);

[(2)] (3) within three days of any adjudication by the commission that the landlord ratepayer must provide the requested information if the landlord files a complaint with the commission within seven days of receipt of the notice to the landlord disputing the right of the utility to [discontinue service.] *terminate service*; or

(4) *upon such terms as may be ordered by a court in an action brought by the utility under section 1532(b) (relating to penalties).*

(c) [Duty of public utility.—It shall be the duty of any public utility to pursue any appropriate legal remedy it has in order to obtain from the landlord ratepayer the names and addresses of all affected tenants of a residential building or mobile home park for which the utility is proposing discontinuance of service to the landlord ratepayer.] *Right of public utility.—In the event the public utility is unable to obtain the names and addresses of all affected tenants from the landlord ratepayer, the public utility may pursue any appropriate legal or equitable remedy it has in order to obtain from the landlord ratepayer the names and addresses of all affected tenants of a residential building or mobile home park for which the utility is proposing termination of service to the landlord ratepayer.* The commission may order the public utility to obtain the information from the landlord ratepayer.

§ 1525. Delivery and contents of [discontinuance] *termination* notice to landlord.

(a) General rule.—The notice required to be given to a landlord ratepayer pursuant to section 1523 (relating to notices before service to landlord [discontinued] *terminated*) shall contain the following information:

(1) The amount owed the utility by the landlord ratepayer for each affected account.

(2) The date on or after which service will be [discontinued] *terminated*.

(3) The date on or after which the company will notify tenants of the proposed [discontinuance] *termination* of service and of their rights under sections 1527 (relating to right of tenants to continued service), 1529 (relating to right of tenant to recover payments) and 1531 (relating to retaliation by landlord prohibited).

(4) The obligation of the landlord ratepayer under section 1524 (relating to request to landlord to identify tenants) to provide the utility with the names and addresses of every affected tenant or to pay the amount due the utility or make an arrangement with the utility to pay the balance including a statement:

(i) That the list must be provided or payment or arrangement must be made within seven days of receipt of the notice.

(ii) Of the penalties and liability which the landlord ratepayer may incur under section 1532 (relating to penalties) by failure to comply.

(5) The right of the landlord ratepayer to stay the notification of tenants by filing a complaint with the commission disputing the right of the utility to [discontinue] *terminate* service.

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

(1) Notice by certified mail if the utility receives a return receipt signed by the landlord ratepayer or [his agent] *the agent of the landlord ratepayer*.

(2) Notice by personal service of the landlord ratepayer or [his agent] *the agent of the landlord ratepayer on one business day and conspicuously posting at the landlord ratepayer's principal place of business or the business address which the landlord provided the utility as his address for receiving communications*.

(3) [After unsuccessful attempts at personal delivery on two separate days, notice] *Notice by first class mail [and conspicuously posting at the landlord ratepayer's principal place of business or the business address which the landlord provided the utility as his address for receiving communications.] to the landlord ratepayer only after an unsuccessful attempt at personal service on one business day. Notice by first class mail may occur on the same business day as the attempt at personal service.*

(4) *If the landlord ratepayer's place of business is located outside of this Commonwealth and no agent of the landlord ratepayer is located in the State, notice by certified mail and notice by first class mail to the landlord ratepayer on the same business day.*

§ 1526. Delivery and contents of first [discontinuance] *termination* notice to tenants.

(a) General rule.—The notice required to be given to a tenant pursuant to section 1523 (relating to notices before service to landlord [discontinued] *shall be mailed or otherwise delivered to the address of each affected tenant and] terminated) shall be sent by first class mail or otherwise hand-delivered to each affected tenant by name at his individual dwelling unit, or by unit number or unit designation, and shall be posted in common areas.*

(1) *In the case when a utility does not send notice by first class mail, notice shall be hand-delivered. Hand-delivery shall mean two attempts at personal service on a responsible individual residing within the dwelling unit on the same or separate days. Each attempt at personal service must be made as follows:*

(i) *One attempt shall be made between 8 a.m. and 5 p.m. on any day Monday through Friday.*

(ii) *The other attempt shall be made either between 6 p.m. and 10 p.m. on any day Monday through Friday or between 8 a.m. and 5 p.m. on a Saturday or Sunday.*

Each of these attempts must be made not less than four hours apart. If

no personal service is made on any occasion, the notice must be posted on the individual dwelling unit and inserted under the door if floor space allows.

(2) In the case where the utility cannot gain access to a residential building to comply with paragraph (1), the utility shall apply to court to obtain the names and send notice by first class mail to the affected tenant.

In order to obtain the names and addresses of the affected tenants and in conjunction with section 1524 (relating to request to landlord to identify tenants), the utility representative shall visit the affected premises within seven days of service of notice to the landlord ratepayer, under section 1525 (relating to delivery and contents of termination notice to landlord), and, by personally contacting one or more of the affected tenants, shall attempt to obtain the names of all the tenants residing in the affected premises. The notice for each affected tenant for whom a name has been obtained shall be sent by first class mail or otherwise hand-delivered to each affected tenant by name at his individual dwelling unit by address and by unit number or, if none exists, by unit designation and shall also be conspicuously posted in the common areas. The notice for each affected tenant for whom a name has not been obtained shall be hand-delivered to each individual dwelling unit by address and unit number or, if none exists, by unit designation and shall be conspicuously posted in the common areas. For the purposes of this section, the term "unit designation" means the geographic location of a dwelling unit by floor and floor area. All notices shall contain the following information:

- (1) The date on which the notice is rendered.*
- (2) The date on or after which service will be discontinued.*
- [(3) The circumstances under which service to the affected tenant may be continued specifically referring to the conditions set out in section 1527 (relating to right of tenants to continued service).]*
- (4) The bill for the 30-day period preceding the notice to the tenants.*
- (5) The statutory rights of a tenant to:*
 - (i) Deduct the amount of any direct payment to the utility from any rent payments then or thereafter due.*
 - (ii) Protection against any retaliation by the landlord for exercising such statutory right.*
 - (iii) Recover money damages from the landlord for any such retaliation.*
- (6) That tenants may make payment to the utility on account of nonpayment of charges by the landlord ratepayer only by check or money order drawn by the tenant to the order of the utility.*
- (7) A telephone number at the utility and at the commission which a tenant may call for an explanation of his rights.*
- (b) Information posted by utility.—The information in subsection (a)*

shall be posted by the utility in those common areas of the residential building or mobile home park where it is reasonably likely to be seen by the affected tenants. Any officer or employee of the utility may at any reasonable time enter the common hallways and common areas of such building for the purpose of complying with the provisions of this section.]

(3) On each account, the bill for the billing month preceding the notice to the tenants except that, in the case of water and sewer service where the billing period is bimonthly or quarterly, the utility shall provide an estimate of costs for the previous 30-day period. Estimates shall be based upon actual usage or, if actual usage is not available, by determining one-twelfth of the dwelling unit's annual usage.

(4) The following statement of the tenant's rights, the words and phrases of which appear all in capital letters to be printed in 12-point bold-faced type with the first letter printed in upper case and the letters that follow in lower case and the words and phrases which do not appear all in capital letters to be printed in ten-point type, with any letter in upper case to remain so and the rest in lower case:

IMPORTANT NOTICE TO TENANTS

WARNING: YOUR (utility company shall insert company name and type of service) MAY BE SHUT OFF ON OR AFTER (date) BECAUSE (utility shall fill in reason for termination). TO STOP THE SHUTOFF OF YOUR UTILITY SERVICE, YOU MUST DO ONE OF THE FOLLOWING THINGS:

1. You can join with the other tenants to pay the utility bill for the last 30 days preceding this notice or you can pay the total bill yourself. Either way, you do not have to pay a deposit or get credit granted in your name. You will not have to pay your landlord's other debts or the debts of prior tenants, and the utility service will remain in the name of the landlord.

2. You may deduct your payment to the utility company from your rent due now or from future rent. The utility company will tell your landlord how much you paid for that utility service.

ADDITIONAL INFORMATION

1. The bill which must be paid to continue service is \$(amount).

2. Your landlord cannot punish you if you pay the utility bill. Your landlord cannot raise your rent, cannot evict you and cannot take action against you in any other way for paying the utility bill and deducting it from rent. You have a right to recover money damages from the landlord for any damages or injury he causes you for exercising your rights as a result of this notice.

3. You have the right to dispute the accuracy of the bill and have certain other rights. If you would like further information regarding these rights, contact your utility at (utility shall fill in a phone number and address where the tenant may get further

information).

DO YOU HAVE ANY QUESTIONS?

If you have any questions about your utility service, please contact the utility company at (telephone number and address). If, after talking about your problems with the utility, you are not satisfied, then call the Pennsylvania Public Utility Commission at its toll-free number, which is 1-800-692-7380, or write the Residential Termination Unit, Bureau of Consumer Services, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17120. YOU SHOULD CALL OR WRITE BEFORE THE SHUTOFF. TO AVOID SHUTOFF, YOUR LETTER MUST BE RECEIVED BEFORE THE SHUTOFF DATE.

The words and phrases of the foregoing notice to tenants are subject to revisions due to changes in the rules, regulations and laws governing this subchapter.

(5) *That the tenant or tenants must make payment to the utility on account of nonpayment of charges by the landlord ratepayer by check or money order drawn by the tenant to the order of the utility or by cash and that the tenant must provide, upon request, reasonable identification to the utility. Reasonable identification shall include, but not be limited to, a driver's license, photo identification, medical assistance or food stamp identification or any similar document issued by any public agency which contains the name and address of the tenant.*

(b) *Uniform explanation of tenants' rights and responsibilities.—The commission shall direct the affected utilities to develop for commission approval a uniform explanation of all rights and responsibilities of tenants under this subchapter. Within 180 days of the effective date of this section, the uniform explanation of all rights and responsibilities of tenants shall be available in a suitable format for distribution by the utility company in response to requests by tenants under subsection (a).*

§ 1527. Right of tenants to continued service.

(a) *Application for continued service.—At any time before or after service is [discontinued] terminated by a public utility on account of nonpayment of charges by the landlord ratepayer, the affected tenants may apply to the utility to have service continued or resumed.*

(b) *Payment of charges by tenants.—A public utility shall not [discontinue] terminate service or shall promptly resume service previously [discontinued] terminated if it receives from the tenants an amount equal to the bill for the affected account of the landlord ratepayer for the [30-day period] billing month preceding the notice to the tenants. Thereafter, the utility shall notify each tenant of the total amount of the bill for the second and each succeeding [period of 30 days or less] billing month and, if the tenants fail to make payment of any bill within 30 days of the delivery of the notice to the tenants, the utility may commence [discontinuance procedures] termination of service, except that no [discontinuance] termination may*

occur until 30 days after each tenant has [received written] *been furnished* notice of the proposed [discontinuance] *termination* as prescribed in section 1528 (relating to delivery and contents of subsequent [discontinuance] *termination* notice to tenants). [All payments of charges by tenants to a utility on account of nonpayment by the landlord ratepayer shall be made by a check or money order drawn by the tenant to the order of the utility.] *The tenant or tenants shall make payment to the utility on account of nonpayment of charges by the landlord ratepayer by check or money order drawn by the tenant to the order of the utility or by cash. In all cases, the tenant shall provide, upon request, reasonable identification to the utility. For the purposes of this section, "reasonable identification" shall include, but not be limited to, a driver's license, photo identification, medical assistance or food stamp identification or any similar document issued by any public agency which contains the name and address of the tenant.*

(c) Disposition of payment by utility.—Upon receiving any payment, the utility shall notify the landlord ratepayer who is liable for the utility service of the amount or amounts paid by any tenant and the amount or amounts credited to the landlord's bill for each tenant pursuant to this section. [In the event that the tenants fail to satisfy the requirements of this section to maintain or restore service and service to the affected dwelling units is discontinued, the utility shall refund to each tenant the amount paid by the tenant toward the bill which the tenants failed to pay either upon the request of the tenant or after holding the tenant's payment during 60 consecutive days of discontinued service, whichever occurs first.] *Tenants requesting continued utility service under this section, except those individually subscribing for service under subsection (d), shall not be considered utility customers but shall be considered to be acting on behalf of the landlord ratepayer, who shall remain liable to the utility for service provided after notice to tenants. In the event that the tenants fail to satisfy the requirements of subsection (b) with regard to the first billing month period preceding notice to the tenant, the utility shall refund any moneys received from a tenant to that tenant. Any payments made by the tenants shall be applied first against the bill for the billing month preceding notice to the tenants and then against bills for service rendered subsequent to the bill. Upon termination of service to the tenants for failure to pay the utility bill for service in full for any subsequent month or upon voluntary discontinuance of service at the request of the tenants, the utility shall immediately refund to the tenants any amounts paid to the utility for the billing period for which payment in full was not remitted.*

* * *

§ 1528. Delivery and contents of subsequent [discontinuance] *termination* notice to tenants.

Subsequent notices required to be given to a tenant pursuant to section 1527 (relating to right of tenants to continued service) shall be [mailed or

otherwise delivered to the address of] *sent by first class mail or otherwise hand-delivered* to each affected tenant [and] *by name at his individual dwelling unit, by unit number or unit designation, and shall be posted in common areas. Whenever the utility has been unable to obtain the names and addresses of the affected tenants under section 1524 (relating to request to landlord to identify tenants) or 1526 (relating to delivery and contents of first termination notice to tenants), the utility shall hand-deliver the subsequent notice of termination to each affected tenant for whom a name has not been obtained to the tenant's individual dwelling unit by address and unit number or, if none exists, by unit designation. The notice shall also be conspicuously posted in the common areas. For the purposes of this section, the term "unit designation" means the geographic location of a dwelling unit by floor and floor areas. All notices shall contain the following information:*

- (1) The date on or after which service will be [discontinued] *terminated.*
- (2) The amount due, which shall include the arrearage on any earlier bill due from tenants.
- (3) A telephone number *and an address* at the utility and at the commission which a tenant may call for an explanation of his rights.
- (4) The right of a tenant to file a complaint with the commission to enforce any legal right that he may have under this part.

Section 3. Title 66 is amended by adding a section to read:

§ 1529.1. Duty of owners of rental property.

(a) *Notice to public utility.—It is the duty of every owner of a residential building or mobile home park which contains one or more dwelling units, not individually metered, to notify each public utility from whom utility service is received of their ownership and the fact that the premises served are used for rental purposes.*

(b) *History of account.—Upon receipt of the notice provided in this section, if the mobile home park or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto. In the case of individually metered dwelling units, unless notified to the contrary by the tenant or an authorized representative, an affected public utility shall list the account for the premises in question in the name of the owner, and the owner shall be responsible for the payment for utility services to the premises.*

(c) *Failure to give notice.—Any owner of a residential building or mobile home park failing to notify affected public utilities as required by this section shall nonetheless be responsible for payment of the utility services as if the required notice had been given.*

Section 4. Sections 1531(c), 1532 and 1533 of Title 66 are amended to read:

§ 1531. Retaliation by landlord prohibited.

* * *

(c) Presumption of retaliation.—The receipt of any notice of termination of tenancy, an increase in rent or of any substantial alteration in the terms of tenancy within six months after the tenant has acted pursuant to section 1527 or 1529 to avoid **[discontinuance] termination** of utility service shall create a rebuttable presumption that the notice is a reprisal against the tenant for exercising his rights under section 1527 or 1529. However, the presumption shall not arise if the notice of termination of tenancy is for nonpayment of rent not withheld under section 1529 or lawfully withheld under any other right that the tenant may have by law.

§ 1532. Penalties.

(a) **[Failure to identify tenants] Per diem liquidated damages.**—Any landlord ratepayer who fails to provide a utility with the names and addresses of affected tenants **[pursuant to] in accordance with** section 1524 (relating to request to landlord to identify tenants) **[shall forfeit and pay to the Commonwealth a civil penalty of not more than \$500 for each day of the landlord ratepayer's failure to respond. The court in its discretion may award the utility reasonable attorneys' fees, filing fees and reasonable costs of suit for any action against the landlord ratepayer which was necessary to obtain the names and addresses of affected tenants pursuant to section 1524.] or fails to provide reasonable access to the meter shall be deemed to have caused substantial damage to the utility by thus forcing a continuation of the existing utility service and, as a consequence, shall be required to pay, as liquidated damages to the utility, a sum of not less than \$500 but not more than \$1,000 for each day of the landlord's failure to comply, commencing with the first day of completion and exhaustion of the procedures provided under section 1524(a) and (b)(1), (2) and (3).**

(b) **Injunctive relief.**—*The utility may commence an action in equity against a landlord ratepayer to obtain injunctive relief compelling the landlord to furnish the names and addresses of affected tenants or compelling the landlord to provide access to the meter. Interference with the utility's ability to terminate service without this information shall be deemed sufficient proof of immediate, continuing and irreparable injury to sustain injunctive relief. The court shall, in addition to awarding injunctive relief, render judgment in favor of the utility for the total per diem liquidated damages recoverable under subsection (a) together with reasonable attorney fees and necessary costs of suit.*

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

(d) **Denial of access to common areas.**—*Any landlord ratepayer or an*

agent or employee who willfully denies an agent or employee of the utility access to common areas of his residential building for any lawful purpose under this title, including, but not limited to, posting or delivering notices to tenants under this subsection, shall be subject to a civil penalty of not more than \$500 for each day access is denied.

§ 1533. Petition to appoint receiver.

(a) Appointment of receiver.—Notwithstanding the foregoing sections of this chapter, when a landlord ratepayer is two or more months in arrears in his utility payments, the affected utility shall have the right to petition the court of common pleas of the county wherein the leased premises are located to appoint a receiver to collect rent payments otherwise due the landlord ratepayer directly from the tenants and to pay all overdue and subsequent utility bills therefrom. The provisions of this section shall not be construed to supersede any tenant rights or defenses under law regarding the payment of rent. This right may be exercised only in those situations that involve **[50 or more rental units in which the]** units *which* are not individually metered *by the utility*. Upon appointment, the receiver shall notify the tenants of his powers and their rights under law regarding payment of rent and continued utility service by first class mail, certified mail, **[or]** personal service *or posting notice in each unit in the leased premises*.

(b) Right to continued service.—The affected utility under this section shall not **[discontinue]** *terminate* utility service if it receives payment from the receiver in the amount specified in subsection (c)(2) within 60 days from the date notice to the tenants of the appointment of the receiver is mailed or delivered.

(c) Duty of receiver.—The receiver shall:

- (1) collect all rents directly from the tenants;
- (2) pay the utility bills equal to the amount due for the **[30-day period]** *billing month* prior to the **[tenant]** *tenants* receiving notice of the appointment of the receiver and all future bills as they become due;
- (3) after payment of the amounts in subsection (c)(2), any excess moneys shall be applied pursuant to further order of court; and
- (4) return the remainder to the landlord ratepayer, less the costs of the notification made to the tenants, plus a 2% administrative fee.

(d) **[Discontinuation]** *Termination*.—The receiver shall continue to collect the rents and make disbursements in the manner provided in subsection (c) until the second rental period **[after]** *ends after all of the following conditions have been met*:

- (1) **[the]** *The* landlord ratepayer deposits in escrow with the utility a sum equal to the utility charges from the two highest monthly periods in the preceding 12 months**;** **[and]**.
- (2) **[the]** *The* landlord ratepayer demonstrates to the satisfaction of the court of common pleas that it has the financial resources necessary to resume its obligations to the utility and the tenants.
- (3) *The landlord ratepayer pays the undisputed amount of all*

outstanding utility bills.

At such time rental payments will once again be made to the landlord ratepayer. Notice of this change shall be made to the tenants by the receiver by means of first class mail, certified mail, [or] personal service[, which costs shall] *or posting notice in each unit in the leased premises, the costs of notice* to be paid by the landlord ratepayer.

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

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

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

Section 5. This act shall take effect in 60 days.

APPROVED—The 2nd day of July, A.D. 1993.

MARK S. SINGEL
ACTING GOVERNOR