

**STATE OF MARYLAND  
OFFICE OF PEOPLE'S COUNSEL**

**Paula M. Carmody, People's Counsel**

6 St. Paul Street, Suite 2102  
Baltimore, Maryland 21202  
410-767-8150; 800-207-4055  
[www.opc.state.md.us](http://www.opc.state.md.us)

**BILL NO.:** **House Bill 1269 – Public Utilities – Consumer Relations – Tenant Payment of Landlord Utility Bills**

**COMMITTEE:** **Economic Matters**

**HEARING DATE:** **March 14, 2012**

**SPONSOR:** **Delegate Barnes, et al.**

**POSITION:** **Support with Amendments**

---

House Bill 1269 would address a problem faced by numerous tenants who are faced with loss of utility service when the owner or landlord is the utility customer and fails to pay for utility service. The bill provides a solution that permits the tenant to pay for utility service and as a result, keep the utility services on and avoid a costly and unnecessary move to another dwelling. The Office of People's Counsel (OPC) is familiar with this problem for residential households, and supports the Bill with amendments. The amendments would address OPC's concern with the Bill's requirement that a tenant make payments on the landlord's arrears, if requested by the utility, as a condition of maintaining or restoring utility service.

House Bill 1269 would authorize certain tenants to avoid termination of utility service by paying the current and future amounts due on a landlord's monthly utility bill to the "utility service provider." The utility service provider is defined to include regulated gas, electric and water companies as well as governmental units or corporations and commissions providing water service.<sup>1</sup> Prior to service termination, utility service providers would be required to provide notice to tenants, including information about making payments to the utility directly.

The Bill makes clear that these payments by a tenant on a landlord account do not create tenant liability for the landlord's utility bills. If a tenant fails to make the payments, a utility would be able to move forward with service termination; in the case of regulated utilities, such termination would proceed in accordance with Commission regulations. In cases where an oral or written lease requires the landlord to pay a utility bill, and the tenant makes the payments to avoid service termination or to obtain service restoration, the tenant is authorized to deduct these utility bill payments from its rent payments. This right to deduct payments from rent is further recognized in the Bill's proposed amendments to the Real Property Article, which would require any eviction complaint due to non-payment of rent account for any tenant payments of utility bills owed by the landlord, and credit those amounts against any rent due under the terms of the lease.

---

<sup>1</sup> The private water companies are exempt from regulation by the Public Service Commission.

OPC handles a limited number of consumer assistance cases, but our staff has encountered situations involving tenants and loss of utility service. In addition, legal services and non-profit service organizations have informed OPC staff that they encounter situations where tenants lose utility service due to the landlord's failure to pay utility bills, and must relocate because the regulated utility or other service provider (water) will not permit the tenants to put utility service in their own names. In other instances, a utility has permitted the tenant to become the customer, but only after the tenant pays the past-due bill owed by the landlord.

Furthermore, OPC has been informed of instances where tenants reside in dwelling units that have been foreclosed upon, and the owner has disappeared, or a bank or other entity has taken over the property. While laws have been enacted to protect the tenants' right to remain in the unit during the remainder of the lease,<sup>2</sup> the failure or refusal of the owner or receiver to pay utility bills can result in a de facto eviction if the utility will not transfer service to the tenant or otherwise accommodate the tenant.

Other states have addressed this problem. For example, the District of Columbia prohibits gas and electric utilities from terminating service to a master-

---

<sup>2</sup> See the federal Protecting Tenants at Foreclosure Act of 2009 (PL 111-22); and Md. Code Ann., Real Prop., § 7-105.6. The law requires the person or entity ("successor in interest") that acquires a rental property through foreclosure to honor the lease of any bona fide tenant in the property, or provide 90 day notice to vacate, whichever is longer. However, state law does not address the situation where the person fails to pay the utility bills pursuant to the lease or terminates its utility account, and the tenant is not permitted to put the utility account in her name. In that situation, the only recourse for the tenant is the filing of a Rent Escrow Petition or a complaint in the local District Court. In any event, the tenant may be without utility service for extended periods of time.

metered apartment building due to non-payment, unless the utility provides notice to the tenants and gives them an opportunity to assume prospective responsibility for utility services in their own name(s). California extends this requirement to gas, electric and water companies, and also to individually metered units in multi-family buildings. Like the District, the tenants would become the customers of the utility.

**Proposed Amendments – Omit Requirement that Tenant Pay Landlord's Past Due Bill upon Request of Utility Service Provider**

The one troublesome part of the Bill would require a tenant to make pro-rated payments over a period of 24 months on the past-due amount owed by the landlord, if the utility service provider makes this a condition of maintaining or restoring service. This would be permitted even though the tenant is not the utility customer of record and is not legally responsible for the amount due, as the Bill expressly acknowledges.

Unfortunately, if utilities are permitted to impose this obligation on tenants in these situations, one problem may be substituted for the original one. If the tenant is not the utility customer of record, the tenant is not legally responsible for the landlord's past due bills under any scenario. To require the tenant to pay the landlord's past due bills as a condition of getting access to utility service in a dwelling unit puts the tenant in a difficult situation: pay the landlord's bills and get to stay in the unit, or do not pay the bills, and be forced to move elsewhere, incurring moving, security deposit, storage and other expenses.

Other states permit tenants to pay the current and future bills or become the customer when service termination is threatened due to the landlord's failure to pay for utility service, but do not require the tenants to pay the landlord's past due bills. This is the right approach. Therefore, OPC opposes those sections of the Bill that would allow a utility service provider to require a tenant to make payments on the landlord bill over 24 months, and recommends that they be stricken, as set forth in the Attachment.

With the amendments, OPC recommends a FAVORABLE report on House Bill 1269.

## **AMENDMENTS**

1. On page 3, beginning on line 20, strike (C) (i) through page 4, line 9 ending in "period."
2. On page 5, lines 5 and 6, strike "3. The total amount due and unpaid for the utility service;"
3. On page 5, line 4, renumber "4" as "3."
4. On page 5, line 9, renumber "5" as "4."
5. On page 5, line 12, renumber "6" as "5."
6. On page 5, strike line 14 through line 19, before the word "and."