

Senate Bill No. 120

Passed the Senate September 4, 2009

Secretary of the Senate

Passed the Assembly September 1, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 1942.2 to the Civil Code, and to amend Sections 777.1, 10009, 10009.1, 12822, 12822.1, 16481, and 16481.1 of, and to amend, repeal, and add Section 777 of, the Public Utilities Code, relating to utility service.

LEGISLATIVE COUNSEL'S DIGEST

SB 120, Lowenthal. Residential: utility service.

(1) Existing law governs the obligations of tenants and landlords under a lease or tenancy.

This bill would authorize a tenant or occupant who has made a payment to a public utility or publicly owned utility to deduct the amount of the payment from the rent when due, as specified.

(2) The California Constitution establishes the Public Utilities Commission (PUC), with jurisdiction over all public utilities, including electrical, gas, heat, and water corporations, as defined. Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The existing Public Utilities Act requires every public utility to furnish and maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public. Existing law provides for the furnishing of utility services, including the furnishing of electricity, gas, heat, and water, by publicly owned utilities, including municipal corporations, municipal utility districts, and public utility districts. Publicly owned utilities are not subject to the jurisdiction and control of the PUC. A municipal corporation is subject to control by its governing bodies, while a municipal utility district and a public utility district are each subject to control by its board of directors.

Existing law provides that if an electrical, gas, heat, or water corporation furnishes individually metered residential service to residential occupants in a multiunit residential structure, mobilehome park, or permanent residential structures in a labor camp, as defined, and the owner, manager, or operator is listed by the corporation as the customer of record, the corporation is

required to make every good faith effort to inform the residential occupants, by means of a specified notice, when the account is in arrears, that service will be terminated at least 10 days prior to termination. Existing law also provides for procedures by which those residential occupants may become customers of the corporation, one option being that if one or more of the residential occupants are willing and able to assume responsibility for the entire account to the satisfaction of the corporation, the electrical, gas, heat, or water corporation is required to make service available to the residential occupants. Similar provisions exist for a publicly owned utility that furnishes individually metered residential light, heat, water, or power to residential occupants in a multiunit residential structure, mobilehome park, or permanent residential structures in a labor camp if the owner, manager, or operator is listed by the public utility or district as the customer of record.

This bill would provide that, where a landlord-tenant relationship exists, if an electrical, gas, heat, or water corporation furnishes individually metered residential service to residential occupants in a detached single-family dwelling, multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, and the owner, manager, or operator is the customer of record, the corporation is required to make every good faith effort to inform the residential occupants, by means of a specified written notice, when the account is in arrears, that service will be terminated at least 10 days prior to termination, except as specified. The bill would require that the notice be in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The bill would revise the above-described option by which residential occupants may become customers of the corporation, to provide that if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the corporation, the electrical, gas, heat, or water corporation is required to make service available to the residential occupants. The bill would enact similar provisions for a publicly owned utility that furnishes individually metered residential light, heat, water, or power to a detached single-family residence or to residential occupants in a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp.

(3) Existing law provides that if an electrical, gas, heat, or water corporation furnishes residential service to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined, and the owner, manager, or operator is listed by the corporation as the customer of record, the corporation is required to make every good faith effort to inform the residential occupants, by means of a written notice posted on the door of each residential unit at least 15 days prior to termination, when the account is in arrears, that service will be terminated on a date specified in the notice. Existing law requires that the notice be in English and, to the extent practical, in any other language that the corporation determines is the primary language spoken by a significant number of the residential occupants. Similar provisions exist for a publicly owned utility that furnishes light, heat, water, or power to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined, if the owner, manager, or operator is listed by the public utility or district as the customer of record.

This bill would require that the notice be in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(4) Existing law makes any public utility that violates the Public Utilities Act guilty of a crime.

Because certain of the provisions of this bill would be a part of the act, the bill would impose a state-mandated local program by expanding the definition of an existing crime.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1942.2 is added to the Civil Code, to read:

1942.2. A tenant who has made a payment to a utility pursuant to Section 777, 777.1, 10009, 10009.1, 12822, 12822.1, 16481, or

16481.1 of the Public Utilities Code may deduct the payment from the rent as provided in that section.

SEC. 2. Section 777 of the Public Utilities Code is amended to read:

777. (a) Whenever an electrical, gas, heat, or water corporation furnishes individually metered residential service to residential occupants in a multiunit residential structure, mobilehome park, or permanent residential structures in a labor camp, as defined in Section 17008 of the Health and Safety Code, where the owner, manager, or operator is listed by the corporation as the customer of record, the corporation shall make every good faith effort to inform the residential occupants, by means of a notice, when the account is in arrears, that service will be terminated at least 10 days prior to termination. The notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account.

(b) The corporation is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the corporation's rules and tariffs. However, if one or more of the residential occupants are willing and able to assume responsibility for the entire account to the satisfaction of the corporation, or if there is a physical means, legally available to the corporation, of selectively terminating service to those residential occupants who have not met the requirements of the corporation's rules and tariffs, the corporation shall make service available to those residential occupants who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit with the corporation, residence and proof of prompt payment of rent or other credit obligation acceptable to the corporation for that period of time is a satisfactory equivalent.

(d) Any residential occupant who becomes a customer of the corporation pursuant to this section whose periodic payments, such as rental payments, include charges for residential electrical, gas, heat, or water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the corporation for those services during the preceding payment period.

(e) This section shall remain in effect only until July 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2010, deletes or extends that date.

SEC. 2.5. Section 777 is added to the Public Utilities Code, to read:

777. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If an electrical, gas, heat, or water corporation furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the corporation shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears, that service will be terminated at least 10 days prior to termination. The written notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(c) The corporation is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the corporation's rules and tariffs. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the corporation, or if there is a physical means, legally available to the corporation, of selectively terminating service to those residential occupants who have not met the requirements of the corporation's rules and tariffs, the corporation shall make service available to those residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the corporation, residence and proof of prompt payment of rent or other credit obligation acceptable to the corporation for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the corporation pursuant to this section whose periodic payments, such as rental payments, include charges for residential electrical, gas, heat, or water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the corporation for those services during the preceding payment period.

(f) In the case of a detached single-family dwelling, the corporation may do any of the following:

(1) Give notice of termination at least seven days prior to the proposed termination, notwithstanding the notice period specified in subdivision (a).

(2) In order for the amount due on the delinquent account to be waived, require an occupant who becomes a customer to verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code.

(g) This section shall become operative on July 1, 2010.

SEC. 3. Section 777.1 of the Public Utilities Code is amended to read:

777.1. (a) If an electrical, gas, heat, or water corporation furnishes residential service to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the structure or park is listed by the corporation as the customer of record, the corporation shall make every good faith effort to inform the residential occupants, by means of a written notice posted on the door of each residential unit at least 15 days prior to termination, when the account is in arrears, that service will be terminated on a date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each residential unit, the corporation shall post two copies of the notice in each accessible common area and at each point of access to the structure or structures. The notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being

required to pay any amount which may be due on the delinquent account. The notice also shall specify, in plain language, what the residential occupants are required to do in order to prevent the termination or reestablish service; the estimated monthly cost of service; the title, address, and telephone number of a representative of the corporation who can assist the residential occupants in continuing service; and the address and telephone number of a legal services project, as defined in Section 6213 of the Business and Professions Code, which has been recommended by the local county bar association. The notice shall be in English and the languages listed in Section 1632 of the Civil Code.

(b) The corporation is not required to make service available to the residential occupants unless each residential occupant or a representative of the residential occupants agrees to the terms and conditions of service and meets the requirements of law and the corporation's rules and tariffs. However, if one or more of the residential occupants or the representative of the residential occupants are willing and able to assume responsibility for subsequent charges to the account to the satisfaction of the corporation, or if there is a physical means, legally available to the corporation, of selectively terminating service to those residential occupants who have not met the requirements of the corporation's rules and tariffs or for whom the representative of the residential occupants is not responsible, the corporation shall make service available to those residential occupants who have met those requirements or on whose behalf those requirements have been met.

(c) If prior service for a period of time or other demonstration of credit worthiness is a condition for establishing credit with the corporation, residence and proof of prompt payment of rent or other credit obligation during that period of time acceptable to the corporation is a satisfactory equivalent.

(d) Any residential occupant who becomes a customer of the corporation pursuant to this section whose periodic payments, such as rental payments, include charges for residential electrical, gas, heat, or water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the corporation for those services during the preceding payment period.

(e) If a corporation furnishes residential service subject to subdivision (a), the corporation shall not terminate that service in any of the following situations:

(1) During the pendency of an investigation by the corporation of a customer dispute or complaint.

(2) If the customer has been granted an extension of the period for payment of a bill.

(3) For an indebtedness owed by the customer to any other person or corporation or if the obligation represented by the delinquent account or other indebtedness was incurred with a person or corporation other than the electrical, gas, heat, or water corporation demanding payment therefor.

(4) If a delinquent account relates to another property owned, managed, or operated by the customer.

(5) If a public health or building officer certifies that termination would result in a significant threat to the health or safety of the residential occupants or the public.

(f) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit receiving that service is occupied, the residential occupant or the representative of the residential occupants may commence an action for the recovery of all of the following:

(1) Reasonable costs and expenses incurred by the residential occupant or the representative of the residential occupants related to restoration of service.

(2) Actual damages related to the termination of service.

(3) Reasonable attorney's fees of the residential occupants, the representative of the residential occupants, or each of them, incurred in the enforcement of this section, including, but not limited to, enforcement of a lien.

(g) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit receiving that service is occupied, the corporation may commence an action for the recovery of all of the following:

(1) Delinquent charges accruing prior to the expiration of the notice prescribed by subdivision (a).

(2) Reasonable costs incurred by the corporation related to the restoration of service.

(3) Reasonable attorney's fees of the corporation incurred in the enforcement of this section or in the collection of delinquent charges, including, but not limited to, enforcement of a lien.

If the court finds that the owner, manager, or operator has paid the amount in arrears prior to termination, the court shall allow no recovery of any charges, costs, damages, expenses, or fees under this subdivision from the owner, manager, or operator.

An abstract of any money judgment entered pursuant to subdivision (f) or (g) shall be recorded pursuant to Section 697.310 of the Code of Civil Procedure.

(h) No termination of service subject to this section may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge to the residential occupants or customer for the restoration of the service. In the event of a wrongful termination by the corporation, the corporation shall, in addition, be liable to the residential occupants or customer for actual damages resulting from the termination and for the costs of enforcement of this section, including, but not limited to, reasonable attorney's fees, if the residential occupants or the representative of the residential occupants made a good faith effort to have the service continued without interruption.

(i) The commission shall adopt rules and orders necessary to implement this section and shall liberally construe this section to accomplish its purpose of ensuring that service to residential occupants is not terminated due to nonpayment by the customer unless the corporation has made every reasonable effort to continue service to the residential occupants. The rules and orders shall include, but are not limited to, reasonable penalties for a violation of this section, guidelines for assistance to residents in the enforcement of this section, and requirements for the notice prescribed by subdivision (a), including, but not limited to, clear wording, large and boldface type, and comprehensive instructions to ensure full notice to the resident.

(j) Nothing in this section broadens or restricts any authority of a local agency that existed prior to January 1, 1989, to adopt an ordinance protecting a residential occupant from the involuntary termination of residential public utility service.

(k) This section preempts any statute or ordinance permitting punitive damages against any owner, manager, or operator on account of an involuntary termination of residential public utility service or permitting the recovery of costs associated with the formation, maintenance, and termination of a tenant’s association.

(l) For purposes of this section, “representative of the residential occupants” does not include a tenants’ association.

SEC. 4. Section 10009 of the Public Utilities Code is amended to read:

10009. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If a public utility furnishes individually metered residential light, heat, water, or power to residential occupants in a detached single-family dwelling, a multiunit residential structure, mobilehome park, or a permanent residential structure in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the public utility shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears, that service will be terminated in 10 days. The written notice shall further inform the residential occupants that they have the right to become customers of the public utility without being required to pay the amount due on the delinquent account. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(c) The public utility is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service, and meets the requirements of law and the public utility’s rules. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the public utility, or if there is a physical means, legally available to the public utility, of selectively terminating service to those residential occupants who have not met the requirements of the public utility’s rules, the public utility shall make service available to the residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the public utility, residence and proof of

prompt payment of rent or other obligation acceptable to the public utility for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the public utility pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the public utility for those services during the preceding payment period.

SEC. 5. Section 10009.1 of the Public Utilities Code is amended to read:

10009.1. (a) If a public utility furnishes light, heat, water, or power to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structures in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the structure or park is listed by the public utility as the customer of record, the public utility shall make every good faith effort to inform the residential occupants, by means of a written notice posted on the door of each residential unit at least 15 days prior to termination, when the account is in arrears, that service will be terminated on a date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each residential unit, the public utility shall post two copies of the notice in each accessible common area and at each point of access to the structure or structures. The notice shall further inform the residential occupants that they have the right to become utility customers, to whom the service will then be billed, without being required to pay the amount due on the delinquent account. The notice also shall specify, in plain language, what the residential occupants are required to do in order to prevent the termination or reestablish service; the estimated monthly cost of service; the title, address, and telephone number of a representative of the public utility who can assist the residential occupants in continuing service; and the address and telephone number of a legal services project, as defined in Section 6213 of the Business and Professions Code, which has been recommended by the local county bar association. The notice shall be in English and the languages listed in Section 1632 of the Civil Code.

(b) The public utility is not required to make service available to the residential occupants unless each residential occupant or a representative of the residential occupants agrees to the terms and conditions of service, and meets the requirements of law and the public utility's rules. However, if one or more of the residential occupants or the representative of the residential occupants are willing and able to assume responsibility for subsequent charges to the account to the satisfaction of the public utility, or if there is a physical means, legally available to the public utility, of selectively terminating service to those residential occupants who have not met the requirements of the public utility's rules or for whom the representative of the residential occupants is not responsible, the public utility shall make service available to the residential occupants who have met those requirements or on whose behalf those requirements have been met.

(c) If prior service for a period of time or other demonstration of credit worthiness is a condition for establishing credit with the public utility, residence and proof of prompt payment of rent or other credit obligation during that period of time acceptable to the public utility is a satisfactory equivalent.

(d) Any residential occupant who becomes a customer of the public utility pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the public utility for those services during the preceding payment period.

(e) If a public utility furnishes residential service subject to subdivision (a), the public utility may not terminate that service in any of the following situations:

(1) During the pendency of an investigation by the public utility of a customer dispute or complaint.

(2) If the customer has been granted an extension of the period for payment of a bill.

(3) For an indebtedness owed by the customer to any other public agency or when the obligation represented by the delinquent account or other indebtedness was incurred with any public agency other than the public utility.

(4) If a delinquent account relates to another property owned, managed, or operated by the customer.

(5) If a public health or building officer certifies that termination would result in a significant threat to the health or safety of the residential occupants or the public.

(f) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit is occupied, the residential occupant or the representative of the residential occupants may commence an action for the recovery of all of the following:

(1) Reasonable costs and expenses incurred by the residential occupant or the representative of the residential occupants related to restoration of service.

(2) Actual damages related to the termination of service.

(3) Reasonable attorney's fees of the residential occupants, the representative of the residential occupants, or each of them, incurred in the enforcement of this section, including, but not limited to, enforcement of a lien.

(g) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit receiving that service is occupied, the corporation may commence an action for the recovery of all of the following:

(1) Delinquent charges accruing prior to the expiration of the notice prescribed by subdivision (a).

(2) Reasonable costs incurred by the corporation related to the restoration of service.

(3) Reasonable attorney's fees of the corporation incurred in the enforcement of this section or in the collection of delinquent charges, including, but not limited to, enforcement of a lien.

If the court finds that the owner, manager, or operator has paid the amount in arrears prior to termination, the court shall allow no recovery of any charges, costs, damages, expenses, or fees under this subdivision from the owner, manager, or operator.

An abstract of any money judgment entered pursuant to subdivision (f) or (g) shall be recorded pursuant to Section 697.310 of the Code of Civil Procedure.

(h) No termination of service subject to this section may be effected without compliance with this section, and any service

wrongfully terminated shall be restored without charge to the residential occupants or customer for the restoration of the service. In the event of a wrongful termination by the public utility, the public utility shall, in addition, be liable to the residential occupants or customer for actual damages resulting from the termination and for the costs of enforcement of this section, including, but not limited to, reasonable attorney's fees, if the residential occupants or the representative of the residential occupants make a good faith effort to have the service continued without interruption.

(i) The public utility shall adopt rules and regulations necessary to implement this section and shall liberally construe this section to accomplish its purpose of ensuring that service to residential occupants is not terminated due to nonpayment by the customer unless the public utility has made every reasonable effort to continue service to the residential occupants. The rules and regulations shall include, but are not limited to, guidelines for assistance to actual users in the enforcement of this section and requirements for the notice prescribed by subdivision (a), including, but not limited to, clear wording, large and boldface type, and comprehensive instructions to ensure full notice to the actual user.

(j) Nothing in this section broadens or restricts any authority of a local agency that existed prior to January 1, 1989, to adopt an ordinance protecting a residential occupant from the involuntary termination of residential public utility service.

(k) This section preempts any statute or ordinance permitting punitive damages against any owner, manager, or operator on account of an involuntary termination of residential public utility service or permitting the recovery of costs associated with the formation, maintenance, and termination of a tenant's association.

(l) For purposes of this section, "representative of the residential occupants" does not include a tenants' association.

SEC. 6. Section 12822 of the Public Utilities Code is amended to read:

12822. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If a district furnishes individually metered residential light, heat, water, or power to residential occupants in a detached single-family dwelling, multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined

in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record of the service, the district shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears, that service will be terminated in 10 days. The written notice shall further inform the residential occupants that they have the right to become customers of the district without being required to pay the amount due on the delinquent account. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(c) The district is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service, and meets the requirements of the district's rules. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those residential occupants who have not met the requirements of the district's rules, the district shall make service available to the residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the district, residence and proof of prompt payment of rent or other credit obligation acceptable to the district for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

SEC. 7. Section 12822.1 of the Public Utilities Code is amended to read:

12822.1. (a) If a district furnishes residential light, heat, water, or power to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structures in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the structure or park is listed by the district as the customer of

record of the service, the district shall make every good faith effort to inform the residential occupants, by means of a written notice posted on the door of each residential unit at least 15 days prior to termination, when the account is in arrears, that service will be terminated on a date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each residential unit, the district shall post two copies of the notice in each accessible common area and at each point of access to the structure or structures. The notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, of the district without being required to pay the amount due on the delinquent account. The notice also shall specify, in plain language, what the residential occupants are required to do in order to prevent the termination or reestablish service; the estimated monthly cost of service; the title, address, and telephone number of a representative of the district who can assist the residential occupants in continuing service; and the address and telephone number of a legal services project, as defined in Section 6213 of the Business and Professions Code, which has been recommended by the local county bar association. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(b) The district is not required to make service available to the residential occupants unless each residential occupant or a representative of the residential occupants agrees to the terms and conditions of service, and meets the requirement of law and the district's rules. However, if one or more of the residential occupants or the representative of the residential occupants are willing and able to assume responsibility for subsequent charges to the account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those residential occupants who have not met the requirements of the district's rules or for whom the representative of the residential occupants is not responsible, the district shall make service available to the residential occupants who have met those requirements or on whose behalf those requirements have been met.

(c) If prior service for a period of time, or other demonstration of credit worthiness is a condition for establishing credit with the district, residence and proof of prompt payment of rent or other

credit obligation during that period of time acceptable to the district is a satisfactory equivalent.

(d) Any residential occupant who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

(e) If a district furnishes residential service subject to subdivision (a), the district may not terminate that service in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) If the customer has been granted an extension of the period for payment of a bill.

(3) For an indebtedness owed by the customer to any other public agency or when the obligation represented by the delinquent account or other indebtedness was incurred with any public agency other than the district.

(4) If a delinquent account relates to another property owned, managed, or operated by the customer.

(5) If a public health or building officer certifies that termination would result in a significant threat to the health or safety of the residential occupants or the public.

(f) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, operator, or manager, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit is occupied, the residential occupant or the representative of the residential occupants may commence an action for the recovery of all of the following:

(1) Reasonable costs and expenses incurred by the residential occupant or the representative of the residential occupants related to restoration of service.

(2) Actual damages related to the termination of service.

(3) Reasonable attorney's fees of the residential occupants, the representative of the residential occupants, or each of them, incurred in the enforcement of this section, including, but not limited to, enforcement of a lien.

(g) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit receiving that service is occupied, the corporation may commence an action for the recovery of all of the following:

(1) Delinquent charges accruing prior to the expiration of the notice prescribed by subdivision (a).

(2) Reasonable costs incurred by the corporation related to the restoration of service.

(3) Reasonable attorney's fees of the corporation incurred in the enforcement of this section or in the collection of delinquent charges, including, but not limited to, enforcement of a lien.

If the court finds that the owner, manager, or operator has paid the amount in arrears prior to termination, the court shall allow no recovery of any charges, costs, damages, expenses, or fees under this subdivision from the owner, manager, or operator.

An abstract of any money judgment entered pursuant to subdivision (f) or (g) shall be recorded pursuant to Section 697.310 of the Code of Civil Procedure.

(h) No termination of service subject to this section may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge to the residential occupants or customer for the restoration of the service. In the event of a wrongful termination by the district, the district shall, in addition, be liable to the residential occupants or customer for actual damages resulting from the termination and for the costs of enforcement of this section, including, but not limited to, reasonable attorney's fees, if the residential occupants or the representative of the residential occupants make a good faith effort to have the service continued without interruption.

(i) The district shall adopt rules and regulations necessary to implement this section and shall liberally construe this section to accomplish its purpose of ensuring that service to the residential occupants is not terminated due to nonpayment by the customer unless the district has made every reasonable effort to continue service to the residential occupants. The rules and regulations shall include, but are not limited to, guidelines for assistance to actual users in the enforcement of this section and requirements for the notice prescribed by subdivision (a), including, but not limited to,

clear wording, large and boldface type, and comprehensive instructions to ensure full notice to the actual user.

(j) Nothing in this section broadens or restricts any authority of a local agency that existed prior to January 1, 1989, to adopt an ordinance protecting a residential occupant from the involuntary termination of residential public utility service.

(k) This section preempts any statute or ordinance permitting punitive damages against any owner, manager, or operator on account of an involuntary termination of residential public utility service or permitting the recovery of costs associated with the formation, maintenance, and termination of a tenant's association.

(l) For purposes of this section, "representative of the residential occupants" does not include a tenants' association.

SEC. 8. Section 16481 of the Public Utilities Code is amended to read:

16481. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If a district furnishes individually metered residential light, heat, water, or power to residential occupants in a detached single-family dwelling, multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator is the customer of record, the district shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears, that service will be terminated in 10 days. The written notice shall further inform the residential occupants that they have the right to become customers of the district without being required to pay the amount due on the delinquent account. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(c) The district is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service, and meets the requirements of the district's rules. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those residential occupants who

have not met the requirements of the district's rules, the district shall make service available to the residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the district, residence and proof of prompt payment of rent or other credit obligation acceptable to the district for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

SEC. 9. Section 16481.1 of the Public Utilities Code is amended to read:

16481.1. (a) If a district furnishes residential light, heat, water, or power to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the structure or park is listed by the district as the customer of record, the district shall make every good faith effort to inform the residential occupants, by means of a written notice posted on the door of each residential unit at least 15 days prior to termination, when the account is in arrears, that service will be terminated on a date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each residential unit, the district shall post two copies of the notice in each common area and at each point of access to the structure or structures. The notice shall further inform the residential occupants that they have the right to become customers, to whom the service will be billed, of the district without being required to pay the amount due on the delinquent account. The notice also shall specify, in plain language, what the residential occupants are required to do in order to prevent the termination or reestablish service; the estimated monthly cost of service; the title, address, and telephone number of a representative of the district who can assist the residential occupants in continuing service; and the address and telephone number of a legal services project, as defined in Section 6213 of

the Business and Professions Code, which has been recommended by the local county bar association. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(b) The district is not required to make service available to the residential occupants unless each residential occupant or a representative of the residential occupants agrees to the terms and conditions of service, and meets the requirements of law and the district's rules. However, if one or more of the residential occupants or the representative of the residential occupants are willing and able to assume responsibility for subsequent charges to the account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those residential occupants who have not met the requirements of the district's rules or for whom the representative of the residential occupants is not responsible, the district shall make service available to the residential occupants who have met those requirements or on whose behalf those requirements have been met.

(c) If prior service for a period of time or other demonstration of credit worthiness is a condition for establishing credit with the district, residence and proof of prompt payment of rent or other credit obligation during that period of time acceptable to the district is a satisfactory equivalent.

(d) Any residential occupant who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

(e) If a district furnishes residential service subject to subdivision (a), the district may not terminate that service in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) If the customer has been granted an extension of the period for payment of a bill.

(3) For an indebtedness owed by the customer to any other public agency or when the obligation represented by the delinquent

account or other indebtedness was incurred with any public agency other than the district.

(4) If a delinquent account relates to another property owned, managed, or operated by the customer.

(5) If a public health or building officer certifies that termination would result in a significant threat to the health or safety of the residential occupants or the public.

(f) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, operator, or manager, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit is occupied, the residential occupant or the representative of the residential occupants may commence an action for the recovery of all of the following:

(1) Reasonable costs and expenses incurred by the residential occupant or the representative of the residential occupants related to restoration of service.

(2) Actual damages related to the termination of service.

(3) Reasonable attorney's fees of the residential occupants, the representative of the residential occupants, or each of them, incurred in the enforcement of this section, including, but not limited to, enforcement of a lien.

(g) Notwithstanding any other provision of law, and in addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit receiving that service is occupied, the corporation may commence an action for the recovery of all of the following:

(1) Delinquent charges accruing prior to the expiration of the notice prescribed by subdivision (a).

(2) Reasonable costs incurred by the corporation related to the restoration of service.

(3) Reasonable attorney's fees of the corporation incurred in the enforcement of this section or in the collection of delinquent charges, including, but not limited to, enforcement of a lien.

If the court finds that the owner, manager, or operator has paid the amount in arrears prior to termination, the court shall allow no recovery of any charges, costs, damages, expenses, or fees under this subdivision from the owner, manager, or operator.

An abstract of any money judgment entered pursuant to subdivision (f) or (g) shall be recorded pursuant to Section 697.310 of the Code of Civil Procedure.

(h) No termination of service subject to this section may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge to the residential occupants or customer for the restoration of the service. In the event of a wrongful termination by the district, the district shall, in addition, be liable to the residential occupants or customer for actual damages resulting from the termination and for the costs of enforcement of this section, including, but not limited to, reasonable attorney's fees, if the residential occupants or the representative of the residential occupants make a good faith effort to have the service continued without interruption.

(i) The district shall adopt rules and regulations necessary to implement this section and shall liberally construe this section to accomplish its purpose of ensuring that service to the residential occupants is not terminated due to nonpayment by the customer unless the district has made every reasonable effort to continue service to the residential occupants. The rules and regulations shall include, but are not limited to, guidelines for assistance to actual users in the enforcement of this section and requirements for the notice prescribed by subdivision (a), including, but not limited to, clear wording, large and boldface type, and comprehensive instructions to ensure full notice to the actual users.

(j) Nothing in this section broadens or restricts any authority of a local agency that existed prior to January 1, 1989, to adopt an ordinance protecting a residential occupant from the involuntary termination of residential public utility service.

(k) This section preempts any statute or ordinance permitting punitive damages against any owner, manager, or operator on account of an involuntary termination of public utility service or permitting the recovery of costs associated with the formation, maintenance, and termination of a tenant's association.

(l) For purposes of this section, "representative of the residential occupants" does not include a tenants' association.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor