

<p>California Department of Justice</p> <p>OFFICE OF THE ATTORNEY GENERAL</p> 	<h1 style="margin: 0;">Legal Alert</h1>	
<p><i>Subject:</i></p> <p>The Water Shutoff Protection Act</p>	<p><i>No.</i></p> <p>OAG-2022-04</p> <p><i>Date:</i></p> <p>October 26, 2022</p>	<p><i>Contact for information:</i></p> <p>EJ@doj.ca.gov</p>

TO: All Urban and Community Water Systems

The Office of the California Attorney General issues this legal alert to remind all water systems of the requirements of the Water Shutoff Protection Act.

In 2019, the Legislature adopted Senate Bill 998, the Water Shutoff Protection Act (the Act), Health and Safety Code Sections 116900 *et. seq.*, increasing protections for residents facing termination of water service due to non-payment.¹ In enacting these protections, the Legislature recognized that water debt and residential water shutoffs threaten human health and well-being and “have disproportionate impact on infants, children, the elderly, low-income families, communities of color, people for whom English is a second language, physically disabled persons, and persons with life-threatening medical conditions.” (Sen. Bill. 998 (2017-2018 Reg. Sess.) §1, subd. (c).)

Although covered water systems were required to comply with the Act beginning in 2020, Governor Newsom issued Executive Order N-42-20 on April 2, 2020 due to the COVID-19 emergency, which temporarily prohibited the discontinuation of residential service for non-payment of a water bill. The COVID-19 emergency moratorium on residential water shutoffs expired in January 2022. The provisions of the Water Shutoff Protection Act remain in effect.

The Act applies to each “urban and community water system,” which it defines as “a public water system that supplies water to more than 200 service connections.” (§116902, subd. (d).) The Act applies only to the discontinuation of residential water service for nonpayment. (§§116906, subd. (a); 116902, subd. (c).) The Act does not apply to terminations due to an unauthorized action by a customer. (§116926.) The Act has several new requirements for termination of water service due to nonpayment, discussed below.

Urban and community water systems should immediately cease all water shutoffs that do not comply with the Act. Water systems that have not yet adopted compliant policies and made them available to the public must do so immediately. The State Water Resources Control Board and the California Public Utilities Commission have authority to issue citations with monetary penalties to non-compliant water systems. The Attorney General and the California Public Utilities Commission can enforce the Act by seeking a temporary or permanent injunction against non-compliant water systems.

No Water Shutoffs Unless At Least 60-Days Delinquent

¹ All statutory references are to the Health and Safety Code.

- Under the Act, an urban and community water system cannot discontinue service until a payment by a customer has been delinquent for at least 60 days. (§116908, subd. (a)(1)(A).)
- If service is discontinued for nonpayment, the water system is required to provide information about how to restore residential service. (§116912.)
- The Act also prohibits water shutoffs for residents who meet certain health and financial requirements and who are willing to make alternative payments. (§116910.)
- Reconnection fees are limited by the Act for residents with income below 200 percent of the federal poverty level and those residents are entitled to a waiver of interest charges on delinquent bills once every 12 months. (§116914.)

Written Policy Required

The Act requires every urban and community water system to have a written policy on discontinuation of residential water service for nonpayment. The policy shall include all of the following:

- (1) a plan for deferred or reduced payments;
- (2) alternative payment schedules;
- (3) a formal mechanism for a customer to contest or appeal a bill; and
- (4) a telephone number for a customer to discuss options to avoid discontinuation of service due to nonpayment. (§116906, subd. (a).)

This policy shall be available on a website if the provider has one. (§116906, subd. (b).) The policy shall be available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean and any other language spoken by at least 10 percent of the people residing in the service area. (§116906, subd. (a); Civil Code, §1632.) If the water system does not have a website, the policy shall be provided to the customer upon request. (§116906, subd. (b).)

Telephone or Written Notification Requirements

The Act also addresses the notice which must be provided to the person listed on the water bill and provides notification protections for tenants, including:

- Notice must be provided to the person listed on the water bill at least 7 business days before the possible termination of service. (§116908, subd. (a)(1)(B).)
- If the customer's address is not the address of the property where water service is provided, notice must also be mailed to the property address, addressed to "Occupant."
- If the water system is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned as undeliverable, the water system is required to make a good faith effort to visit the residence and leave or make arrangements for placement in a conspicuous place a notice of imminent discontinuation for nonpayment and the system's discontinuation policy. (§116908, subd. (a)(2).)
- The notice must include the following: customer's name and address; amount of delinquency; date by which payment or arrangement for payment is required to avoid discontinuation of service; description of the process to apply for an extension of time to pay the delinquent charges; description of the procedure to petition for bill review and appeal; and description of the procedure by which the customer can request a deferred, reduced, amortized or alternative payment schedule. (§116908, subd. (a)(1)(C).)

- Tenants of individually metered residences must be notified in writing that they have the right to become customers to whom water service will be billed without having to pay any of the delinquent amounts. (§116916, subd. (b).)

If an appeal is filed by “an adult at the residence,” a covered water system cannot terminate service while the appeal is pending. (§116908, subd. (b).)

Annual Reporting

An urban and community water system (as defined in the Act) is required to report annually to the State Water Resources Control Board on water shutoffs due to inability to pay and post the information on its website if it has one.

FAQ

As an additional resource, in 2020, the State Water Resources Control Board issued [an FAQ regarding the Act](#).