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MEMORANDUM

TO: Vivian Day, Acting Director, Department of Building Inspection
Ed Harrington, General Manager, Public Utilities Commission
Dr. Mitch Katz, Director of Public Health

FROM: Dennis J. Herrera DT
City Attorney
Jesse Capin Smith 54
Chief Assistant City Attorney
Noreen Ambrose
Yvonne Mere
Deputy City Attorneys

DATE: January 16, 2009

RE: Foreclosure of Rental Housing Properties; Rights of Tenants under the
San Francisco Rent Control Ordinance to Stay in their Units, and Rights of Tenants
to Continued Utility Service

Because of the global credit and economic crisis, San Francisco has experienced an increase in foreclosures of residential property, though far fewer than in many other urban areas of the country. Various City officials and members of the public have raised questions about (1) what rights San Francisco law confers on tenants in rent-controlled buildings to stay in their units after a foreclosure and (2) what authority the City has, including any emergency powers, to ensure that tenants in master metered multi-unit residential buildings continue to receive heat, electricity and water services where their landlords fail to pay for any of those services. In this memorandum, we address those questions. *While we are providing this advice as a public memorandum, we urge members of the public, including any affected tenants, to consult with a tenant legal services organization or their own legal counsel to understand their rights based on their particular circumstances. Information about such possible resources can be found on the City Attorney's website at <http://www.sfgov.org/site/cityattorney>.*

I. SUMMARY

- Effect of Foreclosure Under San Francisco's Rent Control Ordinance. Tenants of units in a building that is subject to the San Francisco Rent Control Ordinance cannot be evicted as a result of the foreclosure of a deed of trust or mortgage ("mortgage") on the building. Neither a default by the landlord on the loan secured by the mortgage nor a subsequent foreclosure sale is cause to evict those tenants. They have the right to continue to occupy their units on the same terms and conditions of their rental agreements as existed before the default or foreclosure. The Assessor, in consultation with our Office, has prepared a letter to advise tenants of their rights and available resources. We understand that the Assessor will send the letter to tenants of rent-controlled buildings in situations where the landlord has received a notice of default from its lender. Also, the City's Rent Board already has similar information available on its website, which includes a notice that foreclosures do not affect tenants' rent control rights. (See http://www.sfgov.org/site/rentboard_page.asp?id=87350.)

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- Continuation of Water Service from the SFPUC. The San Francisco Public Utilities Commission ("SFPUC") provides water and wastewater service to residential customers in the City. It has authority to impose liens on residential property where the customer also owns that property. When an account for such service becomes delinquent, SFPUC's policy is to collect the payment through the lien process, rather than terminating service to the building. Accordingly, consistent with this policy, if the landlord of a multi-tenant residential building becomes delinquent on its account with the SFPUC for water or wastewater service, the SFPUC will place a lien on the landlord's building to collect the fees rather than shut off service. Further, SFPUC's policy allows a tenant, or representative of a tenant group, the option of establishing a new account for service, without being responsible for past delinquencies of the building owner. State law may allow a tenant who becomes a customer under those circumstances to withhold the cost of the utility service from the rental payment.
- Continuation of Utility Service from Private Utilities, such as PG&E. Pacific Gas & Electric Company ("PG&E") provides gas, heat and electric service to residential customers in the City. PG&E has a responsibility under state law to continue to provide such service to a master metered multi-unit residential building when a public health or building officer certifies that the termination would result in a significant threat to the health or safety of the residential occupants or the public. Here, the City's Director of the Department of Building Inspection ("DBI") or the Director of the Department of Public Health ("DPH") could issue an order covering master-metered multi-unit residential buildings that are subject to a notice of default on a mortgage or to possible foreclosure, based on evidence to support the required certification of a threat to health or safety. The City could deliver a copy of the order to PG&E.

Also, DBI has authority under the San Francisco Building Code to issue emergency orders to continue gas and electrical service in any building when the service is about to be discontinued due to the property owner's failure to pay. That emergency order may be issued by the DBI Director, or the Director's designee, and could cover continuation of utility payments for six months so long as there are funds in a special DBI account for such purposes. Further, if utility services are terminated, then DBI has the authority to issue orders requiring restoration of service or take other action under the Building and Housing Codes to address the threats to health or safety caused by the termination of utilities.

Finally, state law affords tenants of master metered multi-unit residential buildings to become customers of PG&E under certain circumstances where the building owner fails to pay the utility bills, without making the tenants responsible for the owner's past due bills. Further, state law may allow tenants who establish an account under those circumstances to withhold the cost of the utility service from their rental payments.

II. DISCUSSION**A. Rights of Tenants in Rent-Controlled Buildings Following Foreclosure.**

Tenants of units in a building that is subject to the San Francisco Rent Control Ordinance (i.e., a building built before June 13, 1979) cannot be evicted as a result of the foreclosure of a

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mortgage on the building following the landlord's default on the loan. Those tenants have the right to stay in their units on the same terms and conditions of their rental agreements as existed before the foreclosure.

There is a case on point. In *Gross v. Superior Court (Victoria Mews Consortium)*, 171 Cal.App.3d 265 (1985), the Court of Appeal held that the purchaser through a foreclosure sale of an apartment building located in San Francisco brought an unlawful detainer action against the tenants, who then sued to prevent the evictions. The Court of Appeal held that the tenants of the building, which was subject to the San Francisco Rent Control Ordinance, could not be evicted as a result of a foreclosure sale if they were in compliance with their lease. Specifically, the Court determined that: (1) the state statute that allowed for unlawful detainers where property has been sold through foreclosure sale did not preempt San Francisco's Rent Control Ordinance, which limited the grounds for eviction; (2) general principles of contract and real property law did not bar the City's enactment of the Rent Control Ordinance; (3) the purchaser of the property at the foreclosure sale took title subject to the restrictions on the property imposed by the Rent Control Ordinance, even though the deed of trust securing the loan predated the Rent Control Ordinance, because the Rent Control Ordinance is a legislative enactment, such as a zoning law, and is not limited by preexisting contracts; and (4) the purchaser failed to show that it had any of the specific just cause grounds for eviction set forth under the Rent Control Ordinance.

Tenants who are not in rent-controlled buildings do not have the protections against eviction afforded by the San Francisco Rent Ordinance. Whether such tenants may be evicted after foreclosure depends on their rights under state law based on the particular facts and circumstances.

B. Provision of Water Service by the SFPUC.

Tenants in residential buildings who receive water or wastewater service through the property owner's SFPUC customer account are protected from termination of such service under SFPUC current policies. SFPUC policy is to initiate a lien procedure when the owner of the property is delinquent on an account, and ultimately collect the amount due through the City's Tax Collector, if the owner does not pay the liened amount.

SFPUC staff, in consultation with this Office, is reviewing its policy regarding foreclosed property because of the risk that the lien process will not allow SFPUC to recover payment for delinquent accounts if the mortgage debt exceeds the value of the property. SFPUC is aware of other options that could avoid termination of service to the tenants in such circumstances. For example, SFPUC policy allows the tenant, or a representative of multiple tenants, to take over the customer account, without assuming the past delinquency of the owner. SFPUC's policy and practice, consistent with state law (CA Public Utilities Code §§ 10009 and 10009.1), is to post the property with a written notice before the SFPUC terminates service. That notice advises the occupants of the opportunity to apply to become a customer directly with the SFPUC, without any responsibility to pay the amount due on the landlord's delinquent account, to avoid termination of water or wastewater service.

Also, if the tenants of a master metered multi-unit building establish an account with the SFPUC under such circumstances, state law authorizes the tenants to withhold rent equal to "all

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reasonable charges paid" for those services. Section 10009.1(d) of the California Public Utilities Code specifically provides:

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.

Finally, if the Director of DBI or DPH adopts an emergency order as described in the next part of this memorandum, the SFPUC may not terminate service to the building. Section 10009.1(e)(5) of the California Public Utilities Code provides that:

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

...

(5) When 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.

C. Provision of Private Utilities.

California Public Utilities Code Section 777.1(e)(5) states that whenever a private utility provides residential service to the owner, operator or manager of a master metered multi-unit building, that service cannot be terminated "when a public health or building officer certifies that the termination would result in a significant threat to the health or safety of the residential occupants or the public." Accordingly, if the Director of DBI or the Director of DPH could make these findings based on evidence in the record, the City could place on PG&E the responsibility and cost to continue to provide gas and electric service to such multi-tenant residential buildings.

DBI also has the authority to issue emergency orders to address serious and imminent hazards. More specifically, DBI has particular statutory authority to continue gas and electrical service when it is about to be discontinued for nonpayment by the property owner. That emergency order may be issued by the Director or the Director's designee. Although it does not apply specifically to foreclosed properties, San Francisco Building Code Section 102A.20 could apply here:

102A.20 Continuance of Gas and Electricity. In the event that electricity or gas service to a building, structure, property, or portion thereof is about to be discontinued by the utility company for nonpayment of bills, the Building Official, through the issuance of an Emergency Order, may order that the utility company continue said service to protect the life, health and safety of the occupants. Said order shall be issued pursuant to the provisions of Section 102A.16 of this code and shall remain in force for six months, unless otherwise specified by the Building Official.

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The funds for the continuance of said services shall be provided from the Repair and Demolition Fund. Said costs and administrative costs incurred by the City and County of San Francisco shall be assessed against the parcel or parcels of land upon which said building, structure or property is situated. See Section 110A, Table 1A-K – Penalties, Hearings, Code Enforcement Assessments – for applicable rate.

If payment is not received from the property owner within the required time period, a Report of Costs pursuant to Section 102A.18 shall be prepared for all such costs. Submittal, confirmation, recordation and collection of the special assessment shall follow the procedures provided in Section 102A.19.

The provisions of Section 102A.20 shall only apply to buildings, structures, property, or portions thereof for which the owner, and not the tenant, is responsible for payment of said utility bills.

The DBI's emergency order authority under Section 102A.20 depends on the adequacy of available funds to pay utilities in the Repair and Demolition Fund. Whether there are sufficient funds in this account is a factual question for DBI in consultation with the Controller.

In addition to this emergency order authority, DBI has other possible enforcement authority to address the sudden cessation of utilities due to the landlord's failure to pay bills in connection with a mortgage loan default or foreclosure. For instance, the failure to provide utilities to housing units could render a building an "unsafe building" under Building Code Section 102A:

All buildings, structures, property, or parts thereof, regulated by this code that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, safety or health of the occupants or the occupants of adjacent properties or the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, or by reason of occupancy or use in violation of law or ordinance, or were erected, moved, altered, constructed or maintained in violation of law or ordinance are, for the purpose of this chapter, unsafe.

...

All such unsafe buildings, structures, property, or portions thereof, are hereby declared to be public nuisances and shall be vacated, repaired, altered or demolished as hereinafter provided.

Further, the failure to provide the above-mentioned utilities is a violation of the San Francisco Housing Code and the State Housing Law, codified in California Health and Safety Code Sections 17910 et seq. The failure to provide hot and cold running water as well as adequate heating facilities and electrical illumination violate San Francisco Housing Code Sections 1001 (4), (5), (6) and (10) and renders a dwelling unit substandard. DBI has the power to enforce, enjoin and abate conditions that render a dwelling unit substandard, including issuing emergency orders when a "condition constituting an imminent and substantial hazard to the life, health or safety of the occupants or other persons" exists at a property. (See San Francisco Building Code §102A.16.) The Housing Code penalties are up to \$1,000 per day and the State

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Housing Law provides a mechanism for recovering attorneys' fees upon a court finding that the violations substantially endangered the residents.

In particular cases, DBI may also explore using any other appropriate enforcement tools (e.g., Notices of Violation, Directors' Hearings, Orders of Abatement, Citations), including referring matters to our Office for litigation to address a property owner's failure to provide heat, electricity or water.

Finally, private utilities are subject to additional state law requirements protecting tenants from termination of utility service in multi-unit buildings served by a master meter. Similar to the law that applies to SFPUC as described above, before the utility may terminate service due to non-payment by the owner, the tenants are entitled to a notice that states: (1) the right of the tenants to become customers of the utility, without assuming any responsibility for the past due amounts owned by the owner; (2) the estimated monthly cost of service; (3) the contact information; and (4) the address of a legal services project. (CA Public Utilities Code § 771.1.) If the tenants establish a customer account with the utility, then state law further allows those tenants – as it does for similar accounts with the SFPUC – to deduct the charges from the rental payment. (CA Public Utilities Code § 771.(d).)

cc: Mayor Gavin Newsom
Members, Board of Supervisors
Phil Ting, Assessor-Recorder
Members, Public Utilities Commission
Members, Building Inspection Commission
Members, Public Health Commission
Delene Wolf, Executive Director, Rent Board
Members, Rent Board
Ben Rosenfield, Controller

Attachments:

Text of CA Public Utilities Code § 10009.1
Text of CA Public Utilities Code § 777.1

California Public Utilities Code Section 10009.1

(a) Whenever 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, where the owner, manager, or operator 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, to the extent practical, in any other language that the public utility determines is the primary language spoken by a significant number of the residential occupants.

(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) Where 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) Whenever 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) *When 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) *When a delinquent account relates to another property owned, managed, or operated by the customer.*

(5) *When 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 bold face 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.

California Public Utilities Section 777.1

(a) Whenever 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 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 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, 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.

(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) Where 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) Whenever a corporation furnishes residential service subject to subdivision (a), the corporation may 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) When 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 when 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) When a delinquent account relates to another property owned, managed, or operated by the customer.

(5) When 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.