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LRB096 18255 MJR 38358 a

1 AMENDMENT TO HOUSE BILL 6208

2 AMENDMENT NO. _____. Amend House Bill 6208, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Section 16-115C as follows:

7 (220 ILCS 5/16-115C)

8 Sec. 16-115C. Licensure of agents, brokers, and
9 consultants engaged in the procurement or sale of retail
10 electricity supply for third parties.

11 (a) The purpose of this Section is to adopt licensing and
12 code of conduct rules in a competitive retail electricity
13 market to protect Illinois consumers from unfair or deceptive
14 acts or practices and to provide persons acting as agents,
15 brokers, and consultants engaged in the procurement or sale of
16 retail electricity supply for third parties with notice of the

1 illegality of those acts or practices.

2 (a-5) All third-party sales representatives engaged in the
3 marketing of retail electricity supply must, prior to the
4 customer signing a contract, disclose that they are not
5 employed by the electric utility operating in the applicable
6 service territory.

7 (b) For purposes of this Section, "agents, brokers, and
8 consultants engaged in the procurement or sale of retail
9 electricity supply for third parties" means any person or
10 entity that attempts to procure on behalf of or sell retail
11 electric service to an electric customer in the State. "Agents,
12 brokers, and consultants engaged in the procurement or sale of
13 retail electricity supply for third parties" does not include
14 the Illinois Power Agency or any of its employees, any entity
15 licensed as an alternative retail electric supplier pursuant to
16 83 Ill. Adm. Code 451 offering retail electric service on its
17 own behalf, ~~any person acting exclusively on behalf of a single~~
18 ~~alternative retail electric supplier on condition that~~
19 ~~exclusivity is disclosed to any third party contracted in such~~
20 ~~agent capacity,~~ any person or entity representing a municipal
21 power agency, as defined in Section 11-119.1-3 of the Illinois
22 Municipal Code, or any person or entity that is attempting to
23 procure on behalf of or sell retail electric service to a third
24 party that has aggregate billing demand of all of its
25 affiliated electric service accounts in Illinois of greater
26 than 1,500 kW.

1 (c) No person or entity shall act as an agent, broker, or
2 consultant engaged in the procurement or sale of retail
3 electricity supply for third parties unless that person or
4 entity is licensed by the Commission under this Section or is
5 offering services on their own behalf under 83 Ill. Adm. Code
6 451.

7 (d) The Commission shall create requirements for licensure
8 as an agent, broker, or consultant engaged in the procurement
9 or sale of retail electricity supply for third parties, which
10 shall include all of the following criteria:

11 (1) Technical competence.

12 (2) Managerial competence.

13 (3) Financial responsibility, including the posting of
14 an appropriate performance bond.

15 (4) Annual reporting requirements.

16 (e) Any person or entity required to be licensed under this
17 Section must:

18 (1) disclose in plain language in writing to all
19 persons it solicits the price per kilowatt-hour, inclusive
20 of all fees received by the licensee, to be paid by the
21 customer ~~total anticipated remuneration to be paid to it by~~
22 ~~any third party~~ over the period of the proposed underlying
23 customer contract;

24 (2) disclose, if applicable, to all customers, prior to
25 the customer signing a contract, the fact that they will be
26 receiving compensation from the supplier;

1 (3) ~~(2)~~ not hold itself out as independent or
2 unaffiliated with any supplier, or both, or use words
3 reasonably calculated to give that impression, unless the
4 person offering service under this Section has no
5 contractual relationship with any retail electricity
6 supplier or its affiliates regarding retail electric
7 service in Illinois;

8 (4) ~~(3)~~ not utilize false, misleading, materially
9 inaccurate, defamatory, or otherwise deceptive language or
10 materials in the soliciting or providing of its services;

11 (5) ~~(4)~~ maintain copies of all marketing materials
12 disseminated to third parties for a period of not less than
13 3 years;

14 (6) ~~(5)~~ not present electricity pricing information in
15 a manner that favors one supplier over another, unless a
16 valid pricing comparison is made utilizing all relevant
17 costs and terms; and

18 (7) ~~(6)~~ comply with the requirements of Sections 2EE,
19 2FF, 2GG, and 2HH of the Consumer Fraud and Deceptive
20 Business Practices Act.

21 (f) Any person or entity licensed under this Section shall
22 file with the Commission all of the following information no
23 later than March of each year:

24 (1) A verified report detailing any and all contractual
25 relationships that it has with certified electricity
26 suppliers in the State regarding retail electric service in

1 Illinois.

2 (2) A verified report detailing the distribution of its
3 customers with the various certified electricity suppliers
4 in Illinois during the prior calendar year. A report under
5 this Section shall not be required to contain
6 customer-identifying information.

7 ~~(3) A copy of its verified financial statement.~~

8 (3) ~~(4)~~ A verified statement of any changes to the
9 original licensure qualifications and notice of continuing
10 compliance with all requirements.

11 (g) The Commission shall have jurisdiction over
12 disciplinary proceedings and complaints for violations of this
13 Section. The findings of a violation of this Section by the
14 Commission shall result in a progressive disciplinary scale.
15 For a first violation, the Commission may, in its discretion,
16 ~~shall~~ suspend the license of the person so disciplined for a
17 period of no less than one month. For a second violation within
18 a 5-year period, the Commission shall suspend the license for
19 the person so disciplined for a period of not less than 6
20 months. For a third or subsequent violation within a 5-year
21 period, the Commission shall suspend the license of the
22 disciplined person for a period of not less than 2 years.

23 (h) This Section shall not apply to a retail customer that
24 operates or manages either directly or indirectly any
25 facilities, equipment, or property used or contemplated to be
26 used to distribute electric power or energy if that retail

1 customer is a political subdivision or public institution of
2 higher education of this State, or any corporation, company,
3 limited liability company, association, joint-stock company or
4 association, firm, partnership, or individual, or their
5 lessees, trusts, or receivers appointed by any court whatsoever
6 that are owned or controlled by the political subdivision,
7 public institution of higher education, or operated by any of
8 its lessees or operating agents.

9 (Source: P.A. 95-679, eff. 10-11-07.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."