



Sen. James F. Clayborne, Jr.

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09600SB3627sam004

LRB096 18256 MJR 38824 a

1 AMENDMENT TO SENATE BILL 3627

2 AMENDMENT NO. _____. Amend Senate Bill 3627 by replacing
3 everything after the enacting clause with the following:

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

6 (220 ILCS 5/16-115C)

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

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

1 All third-party agents, brokers, and consultants engaged
2 in the marketing of retail electricity supply, including both
3 exclusive and non-exclusive agents, must disclose in writing to
4 any person they solicit that they are not employed by or
5 affiliated with the electric utility operating in that service
6 territory and that they are compensated in whole or in part on
7 a commission basis, if applicable, prior to the execution of
8 any contract. For telephonic solicitations, the disclosure
9 under this paragraph only may initially be made orally prior to
10 the customer receiving a contract for execution.

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

1 or any person or entity that is attempting to procure on behalf
2 of or sell retail electric service to a third party that has
3 aggregate billing demand of all of its affiliated electric
4 service accounts in Illinois of greater than 1,500 kW.

5 (c) No person or entity shall act as an agent, broker, or
6 consultant engaged in the procurement or sale of retail
7 electricity supply for third parties unless that person or
8 entity is licensed by the Commission under this Section or is
9 offering services on their own behalf under 83 Ill. Adm. Code
10 451.

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

15 (1) Technical competence.

16 (2) Managerial competence.

17 (3) Financial responsibility, including the posting of
18 an appropriate performance bond.

19 (4) Annual reporting requirements.

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

22 (1) disclose in plain language in writing to all
23 persons it solicits the total anticipated remuneration to
24 be paid to it by any third party over the period of the
25 proposed underlying customer contract;

26 (2) not hold itself out as independent or unaffiliated

1 with any supplier, or both, or use words reasonably
2 calculated to give that impression, unless the person
3 offering service under this Section has no contractual
4 relationship with any retail electricity supplier or its
5 affiliates regarding retail electric service in Illinois;

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

9 (4) maintain copies of all marketing materials
10 disseminated to third parties for a period of not less than
11 3 years;

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

16 (6) comply with the requirements of Sections 2EE, 2FF,
17 2GG, and 2HH of the Consumer Fraud and Deceptive Business
18 Practices Act.

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

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

26 (2) A verified report detailing the distribution of its

1 customers with the various certified electricity suppliers
2 in Illinois during the prior calendar year. A report under
3 this Section shall not be required to contain
4 customer-identifying information.

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

6 (4) A verified statement of any changes to the original
7 licensure qualifications and notice of continuing
8 compliance with all requirements.

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

21 The Commission shall display on its website a list of all
22 entities licensed under this Section, including current and
23 historical license information. Such information shall be
24 presented in a such a manner to facilitate ease of use by the
25 general public.

26 (h) This Section shall not apply to a retail customer that

1 operates or manages either directly or indirectly any
2 facilities, equipment, or property used or contemplated to be
3 used to distribute electric power or energy if that retail
4 customer is a political subdivision or public institution of
5 higher education of this State, or any corporation, company,
6 limited liability company, association, joint-stock company or
7 association, firm, partnership, or individual, or their
8 lessees, trusts, or receivers appointed by any court whatsoever
9 that are owned or controlled by the political subdivision,
10 public institution of higher education, or operated by any of
11 its lessees or operating agents.

12 (i) "Remuneration" means any payment or compensation
13 received by any person required to be licensed under this
14 Section from any source for services rendered or to be
15 rendered. "Remuneration" includes all fees payable, whether
16 directly or indirectly, to any person required to be licensed
17 under this Section. "Remuneration" does not mean gross profit.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."