



Sen. Ira I. Silverstein

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09600SB3627sam005

LRB096 18256 AMC 39108 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       (a-5) All third-party sales representatives engaged in the  
2 marketing of retail electricity supply must, prior to the  
3 customer signing a contract, disclose that they are not  
4 employed by the electric utility operating in the applicable  
5 service territory.

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

1 service accounts in Illinois of greater than 1,500 kW.

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

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

12 (1) Technical competence.

13 (2) Managerial competence.

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

16 (4) Annual reporting requirements.

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

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

25 (2) disclose, if applicable, to all customers, prior to  
26 the customer signing a contract, the fact that they will be

1           receiving compensation from the supplier;

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

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

12          (5) ~~(4)~~ maintain copies of all marketing materials  
13          disseminated to third parties for a period of not less than  
14          3 years;

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

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

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

25                  (1) A verified report detailing any and all contractual  
26          relationships that it has with certified electricity

1 suppliers in the State regarding retail electric service in  
2 Illinois.

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

8 A public redacted version of the verified report may be  
9 submitted to the Commission along with a proprietary  
10 version. The public redacted version may redact from the  
11 verified report the name or names of every certified  
12 electricity supplier contained in the report to protect  
13 against disclosure of competitively sensitive market share  
14 information. The information shall be afforded proprietary  
15 treatment for 2 years after the date of the filing of the  
16 verified report.

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

18 (3) ~~(4)~~ A verified statement of any changes to the  
19 original licensure qualifications and notice of continuing  
20 compliance with all requirements.

21 (g) The Commission shall have jurisdiction over  
22 disciplinary proceedings and complaints for violations of this  
23 Section. The findings of a violation of this Section by the  
24 Commission shall result in a progressive disciplinary scale.  
25 For a first violation, the Commission may, in its discretion,  
26 ~~shall~~ suspend the license of the person so disciplined for a

1 period of no less than one month. For a second violation within  
2 a 5-year period, the Commission shall suspend the license for  
3 the person so disciplined for a period of not less than 6  
4 months. For a third or subsequent violation within a 5-year  
5 period, the Commission shall suspend the license of the  
6 disciplined person for a period of not less than 2 years.

7 (h) This Section shall not apply to a retail customer that  
8 operates or manages either directly or indirectly any  
9 facilities, equipment, or property used or contemplated to be  
10 used to distribute electric power or energy if that retail  
11 customer is a political subdivision or public institution of  
12 higher education of this State, or any corporation, company,  
13 limited liability company, association, joint-stock company or  
14 association, firm, partnership, or individual, or their  
15 lessees, trusts, or receivers appointed by any court whatsoever  
16 that are owned or controlled by the political subdivision,  
17 public institution of higher education, or operated by any of  
18 its lessees or operating agents.

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

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