

SB1366



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1366

Introduced 2/9/2007, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115C new

Amends the Electric Service Customer Choice and Rate Relief Law of 1997 in the Public Utilities Act. Requires the licensure of an agent, broker, or consultant engaged in the procurement or sale of retail electricity supply for third parties by the Illinois Commerce Commission. Includes provisions concerning requirements for licensure, the filing of annual reports with the Commission, and penalties for violation. Effective immediately.

LRB095 10890 MJR 31171 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (220 ILCS 5/16-115C new)

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 by the Commission.

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.

17 (b) For purposes of this Section, "agents, brokers, and
18 consultants engaged in the procurement or sale of retail
19 electricity supply for third parties" means any person or
20 entity that attempts to procure on behalf of or sell retail
21 electric service to an electric customer in the State. "Agents,
22 brokers, and consultants engaged in the procurement or sale of
23 retail electricity supply for third parties" does not include

1 any entity licensed as an alternative retail electric supplier
2 pursuant to 83 Ill. Adm. Code 451 offering retail electric
3 service on its own behalf, any person acting exclusively on
4 behalf of a single alternative retail electric supplier on
5 condition that exclusivity is disclosed to any third party
6 contracted in such agent capacity, or any person or entity
7 representing a municipal power agency, as defined in Section
8 11-119.1-3 of the Illinois Municipal Code.

9 (c) No person or entity shall act as an agent, broker, or
10 consultant engaged in the procurement or sale of retail
11 electricity supply for third parties unless that person or
12 entity is licensed by the Commission under this Section or is
13 offering services on their own behalf under 83 Ill. Adm. Code
14 451.

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

19 (1) Technical competence.

20 (2) Managerial competence, including criminal
21 background checks and other indicia of honesty and
22 fair-dealing.

23 (3) Financial responsibility, including the posting of
24 an appropriate performance bond.

25 (4) Annual reporting requirements.

26 The license shall expire on April 30 of each year unless a

1 renewal order is issued by the Commission. The term of the
2 renewal shall be until the following April 30 or earlier as
3 determined by the Commission.

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

6 (1) disclose to all persons it solicits the existence
7 of any contracts with retail electric suppliers or their
8 affiliates and the nature of those contract or contracts;

9 (2) provide to all persons it solicits a list of all
10 retail electric suppliers authorized to serve that person;
11 the list shall include all contact information per the
12 then-current list of suppliers on the Commission's
13 website;

14 (3) not hold itself out as independent or unaffiliated
15 with any supplier, or both, or use words reasonably
16 calculated to give that impression, unless the person
17 offering service under this Section has no contractual
18 relationship with any retail electricity supplier or its
19 affiliates;

20 (4) not utilize false, misleading, materially
21 inaccurate, defamatory, or otherwise deceptive language or
22 materials in the soliciting or providing of its services;

23 (5) maintain copies of all marketing materials
24 disseminated to third parties for a period of not less than
25 3 years;

26 (6) not present electricity pricing information in a

1 manner that favors one supplier over another, unless a
2 valid pricing comparison is made utilizing all relevant
3 costs and terms; and

4 (7) comply with the requirements of Sections 2EE, 2FF,
5 2GG, and 2HH of the Consumer Fraud and Deceptive Practices
6 Act.

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

10 (1) A verified report detailing any and all contractual
11 relationships that it has with certified electricity
12 suppliers in the State.

13 (2) A verified report detailing the distribution of its
14 customers with the various certified electricity suppliers
15 during the prior calendar year.

16 (3) A copy of its audited financial statement.

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

20 (g) The Commission shall have exclusive jurisdiction over
21 all disciplinary proceedings and complaints for violations of
22 this Section. The findings of a violation of this Section by
23 the Commission shall result in a progressive disciplinary
24 scale. For a first violation, the Commission shall suspend the
25 license of the person so disciplined for a period of no less
26 than one month. For a second violation within a 5-year period,

1 the Commission shall suspend the license for the person so
2 disciplined for a period of not less than 6 months. For a third
3 or subsequent violation within a 5-year period, the Commission
4 shall suspend the license of the disciplined person for a
5 period of not less than 2 years.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.