



Rep. Arthur Turner

Filed: 5/1/2013

09800SB2350ham001

LRB098 10156 CEL 45246 a

1 AMENDMENT TO SENATE BILL 2350

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2350 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing  
5 Sections 16-111.7 and 19-140 as follows:

6 (220 ILCS 5/16-111.7)

7 Sec. 16-111.7. On-bill financing program; electric  
8 utilities.

9 (a) The Illinois General Assembly finds that Illinois homes  
10 and businesses have the potential to save energy through  
11 conservation and cost-effective energy efficiency measures.  
12 Programs created pursuant to this Section will allow utility  
13 customers to purchase cost-effective energy efficiency  
14 measures, including measures set forth in a  
15 Commission-approved energy efficiency and demand-response plan  
16 under Section 8-103 of this Act ~~and that are cost effective as~~

1 ~~that term is defined by that Section,~~ with no required initial  
2 upfront payment, and to pay the cost of those products and  
3 services over time on their utility bill.

4 (b) Notwithstanding any other provision of this Act, an  
5 electric utility serving more than 100,000 customers on January  
6 1, 2009 shall offer a Commission-approved on-bill financing  
7 program ("program") that allows its eligible retail customers,  
8 as that term is defined in Section 16-111.5 of this Act, who  
9 own a residential single family home, duplex, or other  
10 residential building with 4 or less units, or condominium at  
11 which the electric service is being provided (i) to borrow  
12 funds from a third party lender in order to purchase electric  
13 energy efficiency measures approved under the program for  
14 installation in such home or condominium without any required  
15 upfront payment and (ii) to pay back such funds over time  
16 through the electric utility's bill. Based upon the process  
17 described in subsection (b-5) of this Section, small commercial  
18 ~~retail customers, as that term is defined in Section 16-102 of~~  
19 ~~this Act,~~ who own the premises at which electric service is  
20 being provided may be included in such program. After receiving  
21 a request from an electric utility for approval of a proposed  
22 program and tariffs pursuant to this Section, the Commission  
23 shall render its decision within 120 days. If no decision is  
24 rendered within 120 days, then the request shall be deemed to  
25 be approved.

26 Beginning no later than December 31, 2013, an electric

1 utility subject to this subsection (b) shall also offer its  
2 program to eligible retail customers that own multifamily  
3 residential or mixed-use buildings with no more than 50  
4 residential units, provided, however, that such customers must  
5 either be a residential customer or small commercial customer  
6 and may not use the program in such a way that repayment of the  
7 cost of energy efficiency measures is made through tenants'  
8 utility bills. An electric utility may impose a per site loan  
9 limit not to exceed \$150,000. The program, and loans issued  
10 thereunder, shall only be offered to customers of the utility  
11 that meet the requirements of this Section and that also have  
12 an electric service account at the premises where the energy  
13 efficiency measures being financed shall be installed.

14 For purposes of this Section, "small commercial customer"  
15 means, for an electric utility serving more than 3,000,000  
16 retail customers, those customers having peak demand of less  
17 than 100 kilowatts, and, for an electric utility serving less  
18 than 3,000,000 retail customers, those customers having peak  
19 demand of less than 150 kilowatts; provided, however, that in  
20 the event the Commission, after the effective date of this  
21 amendatory Act of the 98th General Assembly, approves changes  
22 to a utility's tariffs that reflects new or revised demand  
23 criteria for the utility's customer rate classifications, then  
24 the utility may file a petition with the Commission to revise  
25 the applicable definition of a small commercial customer to  
26 reflect the new or revised demand criteria for the purposes of

1 this Section. After notice and hearing, the Commission shall  
2 enter an order approving, or approving with modification, the  
3 revised definition within 60 days after the utility files the  
4 petition.

5 (b-5) Within 30 days after the effective date of this  
6 amendatory Act of the 96th General Assembly, the Commission  
7 shall convene a workshop process during which interested  
8 participants may discuss issues related to the program,  
9 including program design, eligible electric energy efficiency  
10 measures, vendor qualifications, and a methodology for  
11 ensuring ongoing compliance with such qualifications,  
12 financing, sample documents such as request for proposals,  
13 contracts and agreements, dispute resolution, pre-installment  
14 and post-installment verification, and evaluation. The  
15 workshop process shall be completed within 150 days after the  
16 effective date of this amendatory Act of the 96th General  
17 Assembly.

18 (c) Not later than 60 days following completion of the  
19 workshop process described in subsection (b-5) of this Section,  
20 each electric utility subject to subsection (b) of this Section  
21 shall submit a proposed program to the Commission that contains  
22 the following components:

23 (1) A list of recommended electric energy efficiency  
24 measures that will be eligible for on-bill financing. An  
25 eligible electric energy efficiency measure ("measure")  
26 shall be a product or service for which one or more of the

1        following is true ~~defined by the following:~~

2            (A) (blank); ~~the measure would be applied to or~~  
3        ~~replace electric energy using equipment; and either~~

4            (B) the projected ~~application of the measure to~~  
5        ~~equipment and systems will have estimated electricity~~  
6        savings (determined by rates in effect at the time of  
7        purchase), ~~that~~ are sufficient to cover the costs of  
8        implementing the measures, including finance charges  
9        and any program fees not recovered pursuant to  
10       subsection (f) of this Section; ~~to assist the electric~~  
11       ~~utility in identifying or approving measures, the~~  
12       ~~utility may consult with the Department of Commerce and~~  
13       ~~Economic Opportunity, as well as with retailers,~~  
14       ~~technicians, and installers of electric energy~~  
15       ~~efficiency measures and energy auditors (collectively~~  
16       ~~"vendors"); or~~

17            (C) the product or service ~~measure~~ is included in a  
18        Commission-approved energy efficiency and  
19        demand-response plan under Section 8-103 of this Act  
20        ~~and is cost effective as that term is defined by that~~  
21        ~~Section.~~

22            (2) The electric utility shall issue a request for  
23        proposals ("RFP") to lenders for purposes of providing  
24        financing to participants to pay for approved measures. The  
25        RFP criteria shall include, but not be limited to, the  
26        interest rate, origination fees, and credit terms. The

1 utility shall select the winning bidders based on its  
2 evaluation of these criteria, with a preference for those  
3 bids containing the rates, fees, and terms most favorable  
4 to participants;

5 (3) The utility shall work with the lenders selected  
6 pursuant to the RFP process, and with vendors, to establish  
7 the terms and processes pursuant to which a participant can  
8 purchase eligible electric energy efficiency measures  
9 using the financing obtained from the lender. The vendor  
10 shall explain and offer the approved financing packaging to  
11 those customers identified in subsection (b) of this  
12 Section and shall assist customers in applying for  
13 financing. As part of the process, vendors shall also  
14 provide to participants information about any other  
15 incentives that may be available for the measures.

16 (4) The lender shall conduct credit checks or undertake  
17 other appropriate measures to limit credit risk, and shall  
18 review and approve or deny financing applications  
19 submitted by customers identified in subsection (b) of this  
20 Section. Following the lender's approval of financing and  
21 the participant's purchase of the measure or measures, the  
22 lender shall forward payment information to the electric  
23 utility, and the utility shall add as a separate line item  
24 on the participant's utility bill a charge showing the  
25 amount due under the program each month.

26 (5) A loan issued to a participant pursuant to the

1 program shall be the sole responsibility of the  
2 participant, and any dispute that may arise concerning the  
3 loan's terms, conditions, or charges shall be resolved  
4 between the participant and lender. Upon transfer of the  
5 property title for the premises at which the participant  
6 receives electric service from the utility or the  
7 participant's request to terminate service at such  
8 premises, the participant shall pay in full its electric  
9 utility bill, including all amounts due under the program,  
10 provided that this obligation may be modified as provided  
11 in subsection (g) of this Section. Amounts due under the  
12 program shall be deemed amounts owed for residential and,  
13 as appropriate, small commercial electric service.

14 (6) The electric utility shall remit payment in full to  
15 the lender each month on behalf of the participant. In the  
16 event a participant defaults on payment of its electric  
17 utility bill, the electric utility shall continue to remit  
18 all payments due under the program to the lender, and the  
19 utility shall be entitled to recover all costs related to a  
20 participant's nonpayment through the automatic adjustment  
21 clause tariff established pursuant to Section 16-111.8 of  
22 this Act. In addition, the electric utility shall retain a  
23 security interest in the measure or measures purchased  
24 under the program, and the utility retains its right to  
25 disconnect a participant that defaults on the payment of  
26 its utility bill.

1           (7) The total outstanding amount financed under the  
2           programs in this subsection and subsection (c-5) of this  
3           Section ~~program~~ shall not exceed \$2.5 million for an  
4           electric utility or electric utilities under a single  
5           holding company, provided that the electric utility or  
6           electric utilities may petition the Commission for an  
7           increase in such amount.

8           (c-5) Within 120 days after the effective date of this  
9           amendatory Act of the 98th General Assembly, each electric  
10           utility subject to the requirements of this Section shall  
11           submit an informational filing to the Commission that describes  
12           its plan for implementing the provisions of this amendatory Act  
13           of the 98th General Assembly on or before December 31, 2013.  
14           Such filing shall also describe how the electric utility shall  
15           coordinate its program with any gas utility or utilities that  
16           provide gas service to buildings within the electric utility's  
17           service territory so that it is practical and feasible for the  
18           owner of a multifamily building to make a single application to  
19           access loans for both gas and electric energy efficiency  
20           measures in any individual building.

21           (d) A program approved by the Commission shall also include  
22           the following criteria and guidelines for such program:

23           (1) guidelines for financing of measures installed  
24           under a program, including, but not limited to, RFP  
25           criteria and limits on both individual loan amounts and the  
26           duration of the loans;



1           (2) criteria and standards for identifying and  
2 approving measures;

3           (3) qualifications of vendors that will market or  
4 install measures, as well as a methodology for ensuring  
5 ongoing compliance with such qualifications;

6           (4) sample contracts and agreements necessary to  
7 implement the measures and program; and

8           (5) the types of data and information that utilities  
9 and vendors participating in the program shall collect for  
10 purposes of preparing the reports required under  
11 subsection (g) of this Section.

12           (e) The proposed program submitted by each electric utility  
13 shall be consistent with the provisions of this Section that  
14 define operational, financial and billing arrangements between  
15 and among program participants, vendors, lenders, and the  
16 electric utility.

17           (f) An electric utility shall recover all of the prudently  
18 incurred costs of offering a program approved by the Commission  
19 pursuant to this Section, including, but not limited to, all  
20 start-up and administrative costs and the costs for program  
21 evaluation. All prudently incurred costs under this Section  
22 shall be recovered from the residential and small commercial  
23 retail customer classes eligible to participate in the program  
24 through the automatic adjustment clause tariff established  
25 pursuant to Section 8-103 of this Act.

26           (g) An independent evaluation of a program shall be

1 conducted after 3 years of the program's operation. The  
2 electric utility shall retain an independent evaluator who  
3 shall evaluate the effects of the measures installed under the  
4 program and the overall operation of the program, including,  
5 but not limited to, customer eligibility criteria and whether  
6 the payment obligation for permanent electric energy  
7 efficiency measures that will continue to provide benefits of  
8 energy savings should attach to the meter location. As part of  
9 the evaluation process, the evaluator shall also solicit  
10 feedback from participants and interested stakeholders. The  
11 evaluator shall issue a report to the Commission on its  
12 findings no later than 4 years after the date on which the  
13 program commenced, and the Commission shall issue a report to  
14 the Governor and General Assembly including a summary of the  
15 information described in this Section as well as its  
16 recommendations as to whether the program should be  
17 discontinued, continued with modification or modifications or  
18 continued without modification, provided that any recommended  
19 modifications shall only apply prospectively and to measures  
20 not yet installed or financed.

21 (h) An electric utility offering a Commission-approved  
22 program pursuant to this Section shall not be required to  
23 comply with any other statute, order, rule, or regulation of  
24 this State that may relate to the offering of such program,  
25 provided that nothing in this Section is intended to limit the  
26 electric utility's obligation to comply with this Act and the

1 Commission's orders, rules, and regulations, including Part  
2 280 of Title 83 of the Illinois Administrative Code.

3 (i) The source of a utility customer's electric supply  
4 shall not disqualify a customer from participation in the  
5 utility's on-bill financing program. Customers of alternative  
6 retail electric suppliers may participate in the program under  
7 the same terms and conditions applicable to the utility's  
8 supply customers.

9 (Source: P.A. 96-33, eff. 7-10-09; 97-616, eff. 10-26-11.)

10 (220 ILCS 5/19-140)

11 Sec. 19-140. On-bill financing program; gas utilities.

12 (a) The Illinois General Assembly finds that Illinois homes  
13 and businesses have the potential to save energy through  
14 conservation and cost-effective energy efficiency measures.  
15 Programs created pursuant to this Section will allow utility  
16 customers to purchase cost-effective energy efficiency  
17 measures, including measures set forth in a  
18 Commission-approved energy efficiency plan under Section 8-104  
19 of this Act, with no required initial upfront payment, and to  
20 pay the cost of those products and services over time on their  
21 utility bill.

22 (b) Notwithstanding any other provision of this Act, a gas  
23 utility serving more than 100,000 customers on January 1, 2009  
24 shall offer a Commission-approved on-bill financing program  
25 ("program") that allows its retail customers who own a

1 residential single family home, duplex, or other residential  
2 building with 4 or less units, or condominium at which the gas  
3 service is being provided (i) to borrow funds from a third  
4 party lender in order to purchase gas energy efficiency  
5 measures approved under the program for installation in such  
6 home or condominium without any required upfront payment and  
7 (ii) to pay back such funds over time through the gas utility's  
8 bill. Based upon the process described in subsection (b-5) of  
9 this Section, small commercial ~~retail~~ customers, ~~as that term~~  
10 ~~is defined in Section 19-105 of this Act,~~ who own the premises  
11 at which gas service is being provided may be included in such  
12 program. After receiving a request from a gas utility for  
13 approval of a proposed program and tariffs pursuant to this  
14 Section, the Commission shall render its decision within 120  
15 days. If no decision is rendered within 120 days, then the  
16 request shall be deemed to be approved. Beginning no later than  
17 December 31, 2013, a gas utility subject to this subsection (b)  
18 shall also offer its program to eligible retail customers that  
19 own a multifamily residential or mixed-use building with no  
20 more than 50 residential units, provided, however, that such  
21 customer must either be a residential customer or small  
22 commercial customer and may not use the program in such a way  
23 that repayment of the cost of energy efficiency measures is  
24 made through tenants' utility bills. A gas utility may impose a  
25 per site loan limit not to exceed \$150,000. The program, and  
26 loans issued thereunder, shall only be offered to customers of

1 the utility that meet the requirements of this Section and that  
2 also have a gas service account at the premises where the  
3 energy efficiency measures being financed shall be installed.

4 For purposes of this Section, a small commercial customer  
5 for a gas utility shall be defined in that gas utility's  
6 informational filing that is made under subsection (c-5) of  
7 this Section.

8 (b-5) Within 30 days after the effective date of this  
9 amendatory Act of the 96th General Assembly, the Commission  
10 shall convene a workshop process during which interested  
11 participants may discuss issues related to the program,  
12 including program design, eligible gas energy efficiency  
13 measures, vendor qualifications, and a methodology for  
14 ensuring ongoing compliance with such qualifications,  
15 financing, sample documents such as request for proposals,  
16 contracts and agreements, dispute resolution, pre-installment  
17 and post-installment verification, and evaluation. The  
18 workshop process shall be completed within 150 days after the  
19 effective date of this amendatory Act of the 96th General  
20 Assembly.

21 (c) Not later than 60 days following completion of the  
22 workshop process described in subsection (b-5) of this Section,  
23 each gas utility subject to subsection (b) of this Section  
24 shall submit a proposed program to the Commission that contains  
25 the following components:

26 (1) A list of recommended gas energy efficiency

1 measures that will be eligible for on-bill financing. An  
2 eligible gas energy efficiency measure ("measure") shall  
3 be a product or service for which one or more of the  
4 following is true ~~defined by the following:~~

5 (A) (blank); ~~The measure would be applied to or~~  
6 ~~replace gas energy using equipment; and~~

7 (B) the projected ~~Application of the measure to~~  
8 ~~equipment and systems will have estimated~~ gas savings  
9 (determined by rates in effect at the time of  
10 purchase), ~~that~~ are sufficient to cover the costs of  
11 implementing the measures, including finance charges  
12 and any program fees not recovered pursuant to  
13 subsection (f) of this Section; or ~~. To assist the gas~~  
14 ~~utility in identifying or approving measures, the~~  
15 ~~utility may consult with the Department of Commerce and~~  
16 ~~Economic Opportunity, as well as with retailers,~~  
17 ~~technicians and installers of gas energy efficiency~~  
18 ~~measures and energy auditors (collectively "vendors").~~

19 (C) the product or service is included in a  
20 Commission-approved energy efficiency plan under  
21 Section 8-104 of this Act.

22 (2) The gas utility shall issue a request for proposals  
23 ("RFP") to lenders for purposes of providing financing to  
24 participants to pay for approved measures. The RFP criteria  
25 shall include, but not be limited to, the interest rate,  
26 origination fees, and credit terms. The utility shall

1 select the winning bidders based on its evaluation of these  
2 criteria, with a preference for those bids containing the  
3 rates, fees, and terms most favorable to participants.

4 (3) The utility shall work with the lenders selected  
5 pursuant to the RFP process, and with vendors, to establish  
6 the terms and processes pursuant to which a participant can  
7 purchase eligible gas energy efficiency measures using the  
8 financing obtained from the lender. The vendor shall  
9 explain and offer the approved financing packaging to those  
10 customers identified in subsection (b) of this Section and  
11 shall assist customers in applying for financing. As part  
12 of such process, vendors shall also provide to participants  
13 information about any other incentives that may be  
14 available for the measures.

15 (4) The lender shall conduct credit checks or undertake  
16 other appropriate measures to limit credit risk, and shall  
17 review and approve or deny financing applications  
18 submitted by customers identified in subsection (b) of this  
19 Section. Following the lender's approval of financing and  
20 the participant's purchase of the measure or measures, the  
21 lender shall forward payment information to the gas  
22 utility, and the utility shall add as a separate line item  
23 on the participant's utility bill a charge showing the  
24 amount due under the program each month.

25 (5) A loan issued to a participant pursuant to the  
26 program shall be the sole responsibility of the

1 participant, and any dispute that may arise concerning the  
2 loan's terms, conditions, or charges shall be resolved  
3 between the participant and lender. Upon transfer of the  
4 property title for the premises at which the participant  
5 receives gas service from the utility or the participant's  
6 request to terminate service at such premises, the  
7 participant shall pay in full its gas utility bill,  
8 including all amounts due under the program, provided that  
9 this obligation may be modified as provided in subsection  
10 (g) of this Section. Amounts due under the program shall be  
11 deemed amounts owed for residential and, as appropriate,  
12 small commercial gas service.

13 (6) The gas utility shall remit payment in full to the  
14 lender each month on behalf of the participant. In the  
15 event a participant defaults on payment of its gas utility  
16 bill, the gas utility shall continue to remit all payments  
17 due under the program to the lender, and the utility shall  
18 be entitled to recover all costs related to a participant's  
19 nonpayment through the automatic adjustment clause tariff  
20 established pursuant to Section 19-145 of this Act. In  
21 addition, the gas utility shall retain a security interest  
22 in the measure or measures purchased under the program, and  
23 the utility retains its right to disconnect a participant  
24 that defaults on the payment of its utility bill.

25 (7) The total outstanding amount financed under the  
26 programs in this subsection and subsection (c-5) of this



1        Section ~~program~~ shall not exceed \$2.5 million for a gas  
2        utility or gas utilities under a single holding company,  
3        provided that the gas utility or gas utilities may petition  
4        the Commission for an increase in such amount.

5        (c-5) Within 120 days after the effective date of this  
6        amendatory Act of the 98th General Assembly, each covered gas  
7        utility shall submit an informational filing to the Commission  
8        that describes its plan for implementing the provisions of this  
9        amendatory Act of the 98th General Assembly on or before  
10       December 31, 2013. A gas utility subject to this Section shall  
11       cooperate with any electric utility that provides electric  
12       service to buildings within the gas utility's service territory  
13       so that it is practical and feasible for the owner of a  
14       multifamily building to make a single application to access  
15       loans for both gas and electric energy efficiency measures in  
16       any individual building.

17        (d) A program approved by the Commission shall also include  
18        the following criteria and guidelines for such program:

19            (1) guidelines for financing of measures installed  
20            under a program, including, but not limited to, RFP  
21            criteria and limits on both individual loan amounts and the  
22            duration of the loans;

23            (2) criteria and standards for identifying and  
24            approving measures;

25            (3) qualifications of vendors that will market or  
26            install measures, as well as a methodology for ensuring

1 ongoing compliance with such qualifications;

2 (4) sample contracts and agreements necessary to  
3 implement the measures and program; and

4 (5) the types of data and information that utilities  
5 and vendors participating in the program shall collect for  
6 purposes of preparing the reports required under  
7 subsection (g) of this Section.

8 (e) The proposed program submitted by each gas utility  
9 shall be consistent with the provisions of this Section that  
10 define operational, financial, and billing arrangements  
11 between and among program participants, vendors, lenders, and  
12 the gas utility.

13 (f) A gas utility shall recover all of the prudently  
14 incurred costs of offering a program approved by the Commission  
15 pursuant to this Section, including, but not limited to, all  
16 start-up and administrative costs and the costs for program  
17 evaluation. All prudently incurred costs under this Section  
18 shall be recovered from the residential and small commercial  
19 retail customer classes eligible to participate in the program  
20 through the automatic adjustment clause tariff established  
21 pursuant to Section 8-104 of this Act.

22 (g) An independent evaluation of a program shall be  
23 conducted after 3 years of the program's operation. The gas  
24 utility shall retain an independent evaluator who shall  
25 evaluate the effects of the measures installed under the  
26 program and the overall operation of the program, including,

1 but not limited to, customer eligibility criteria and whether  
2 the payment obligation for permanent gas energy efficiency  
3 measures that will continue to provide benefits of energy  
4 savings should attach to the meter location. As part of the  
5 evaluation process, the evaluator shall also solicit feedback  
6 from participants and interested stakeholders. The evaluator  
7 shall issue a report to the Commission on its findings no later  
8 than 4 years after the date on which the program commenced, and  
9 the Commission shall issue a report to the Governor and General  
10 Assembly including a summary of the information described in  
11 this Section as well as its recommendations as to whether the  
12 program should be discontinued, continued with modification or  
13 modifications or continued without modification, provided that  
14 any recommended modifications shall only apply prospectively  
15 and to measures not yet installed or financed.

16 (h) A gas utility offering a Commission-approved program  
17 pursuant to this Section shall not be required to comply with  
18 any other statute, order, rule, or regulation of this State  
19 that may relate to the offering of such program, provided that  
20 nothing in this Section is intended to limit the gas utility's  
21 obligation to comply with this Act and the Commission's orders,  
22 rules, and regulations, including Part 280 of Title 83 of the  
23 Illinois Administrative Code.

24 (i) The source of a utility customer's gas supply shall not  
25 disqualify a customer from participation in the utility's  
26 on-bill financing program. Customers of alternative gas

1 suppliers may participate in the program under the same terms  
2 and conditions applicable to the utility's supply customers.  
3 (Source: P.A. 96-33, eff. 7-10-09.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.".