



Sen. Jacqueline Y. Collins

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09800SB2350sam003

LRB098 10156 CEL 44829 a

1 AMENDMENT TO SENATE BILL 2350

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

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

7 (220 ILCS 5/16-111.7)

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

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

1 under Section 8-103 of this Act ~~and that are cost effective as~~  
2 ~~that term is defined by that Section,~~ with no required initial  
3 upfront payment, and to pay the cost of those products and  
4 services over time on their utility bill.

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

1        Beginning no later than December 31, 2013, an electric  
2 utility subject to this subsection (b) shall also offer its  
3 program to eligible retail customers that own multifamily  
4 residential or mixed-used buildings with no more than 50  
5 residential units, provided, however, that such customers must  
6 either be a residential customer or small commercial customer  
7 and may not use the program in such a way that repayment of the  
8 cost of energy efficiency measures is made through tenants'  
9 utility bills. An electric utility may impose a per site loan  
10 limit not to exceed \$100,000. The program, and loans issued  
11 thereunder, shall only be offered to customers of the utility  
12 that meet the requirements of this Section and that also have  
13 an electric service account at the premises where the energy  
14 efficiency measures being financed shall be installed.

15        For purposes of this Section, "small commercial customer"  
16 means, for an electric utility serving more than 3,000,000  
17 retail customers, those customers having peak demand of less  
18 than 100 kilowatts, and, for an electric utility serving less  
19 than 3,000,000 retail customers, those customers having peak  
20 demand of less than 150 kilowatts.

21        (b-5) Within 30 days after the effective date of this  
22 amendatory Act of the 96th General Assembly, the Commission  
23 shall convene a workshop process during which interested  
24 participants may discuss issues related to the program,  
25 including program design, eligible electric energy efficiency  
26 measures, vendor qualifications, and a methodology for

1 ensuring ongoing compliance with such qualifications,  
2 financing, sample documents such as request for proposals,  
3 contracts and agreements, dispute resolution, pre-installment  
4 and post-installment verification, and evaluation. The  
5 workshop process shall be completed within 150 days after the  
6 effective date of this amendatory Act of the 96th General  
7 Assembly.

8 (c) Not later than 60 days following completion of the  
9 workshop process described in subsection (b-5) of this Section,  
10 each electric utility subject to subsection (b) of this Section  
11 shall submit a proposed program to the Commission that contains  
12 the following components:

13 (1) A list of recommended electric energy efficiency  
14 measures that will be eligible for on-bill financing. An  
15 eligible electric energy efficiency measure ("measure")  
16 shall be a product or service for which one or more of the  
17 following is true ~~defined by the following:~~

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

20 (B) the projected ~~application of the measure to~~  
21 ~~equipment and systems will have estimated~~ electricity  
22 savings (determined by rates in effect at the time of  
23 purchase), ~~that~~ are sufficient to cover the costs of  
24 implementing the measures, including finance charges  
25 and any program fees not recovered pursuant to  
26 subsection (f) of this Section; ~~to assist the electric~~

1 ~~utility in identifying or approving measures, the~~  
2 ~~utility may consult with the Department of Commerce and~~  
3 ~~Economic Opportunity, as well as with retailers,~~  
4 ~~technicians, and installers of electric energy~~  
5 ~~efficiency measures and energy auditors (collectively~~  
6 ~~"vendors"); or~~

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

12 (2) The electric utility shall issue a request for  
13 proposals ("RFP") to lenders for purposes of providing  
14 financing to participants to pay for approved measures. The  
15 RFP criteria shall include, but not be limited to, the  
16 interest rate, origination fees, and credit terms. The  
17 utility shall select the winning bidders based on its  
18 evaluation of these criteria, with a preference for those  
19 bids containing the rates, fees, and terms most favorable  
20 to participants;

21 (3) The utility shall work with the lenders selected  
22 pursuant to the RFP process, and with vendors, to establish  
23 the terms and processes pursuant to which a participant can  
24 purchase eligible electric energy efficiency measures  
25 using the financing obtained from the lender. The vendor  
26 shall explain and offer the approved financing packaging to

1 those customers identified in subsection (b) of this  
2 Section and shall assist customers in applying for  
3 financing. As part of the process, vendors shall also  
4 provide to participants information about any other  
5 incentives that may be available for the measures.

6 (4) The lender shall conduct credit checks or undertake  
7 other appropriate measures to limit credit risk, and shall  
8 review and approve or deny financing applications  
9 submitted by customers identified in subsection (b) of this  
10 Section. Following the lender's approval of financing and  
11 the participant's purchase of the measure or measures, the  
12 lender shall forward payment information to the electric  
13 utility, and the utility shall add as a separate line item  
14 on the participant's utility bill a charge showing the  
15 amount due under the program each month.

16 (5) A loan issued to a participant pursuant to the  
17 program shall be the sole responsibility of the  
18 participant, and any dispute that may arise concerning the  
19 loan's terms, conditions, or charges shall be resolved  
20 between the participant and lender. Upon transfer of the  
21 property title for the premises at which the participant  
22 receives electric service from the utility or the  
23 participant's request to terminate service at such  
24 premises, the participant shall pay in full its electric  
25 utility bill, including all amounts due under the program,  
26 provided that this obligation may be modified as provided

1 in subsection (g) of this Section. Amounts due under the  
2 program shall be deemed amounts owed for residential and,  
3 as appropriate, small commercial electric service.

4 (6) The electric utility shall remit payment in full to  
5 the lender each month on behalf of the participant. In the  
6 event a participant defaults on payment of its electric  
7 utility bill, the electric utility shall continue to remit  
8 all payments due under the program to the lender, and the  
9 utility shall be entitled to recover all costs related to a  
10 participant's nonpayment through the automatic adjustment  
11 clause tariff established pursuant to Section 16-111.8 of  
12 this Act. In addition, the electric utility shall retain a  
13 security interest in the measure or measures purchased  
14 under the program, and the utility retains its right to  
15 disconnect a participant that defaults on the payment of  
16 its utility bill.

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

24 (c-5) Within 120 days after the effective date of this  
25 amendatory Act of the 98th General Assembly, each electric  
26 utility subject to the requirements of this Section shall

1 submit an informational filing to the Commission that describes  
2 its plan for implementing the provisions of this amendatory Act  
3 of the 98th General Assembly on or before December 31, 2013.  
4 Such filing shall also describe how the electric utility shall  
5 coordinate its program with any gas utility or utilities that  
6 provide gas service to buildings within the electric utility's  
7 service territory so that it is practical and feasible for the  
8 owner of a multifamily building to make a single application to  
9 access loans for both gas and electric energy efficiency  
10 measures in any individual building.

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

13 (1) guidelines for financing of measures installed  
14 under a program, including, but not limited to, RFP  
15 criteria and limits on both individual loan amounts and the  
16 duration of the loans;

17 (2) criteria and standards for identifying and  
18 approving measures;

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

22 (4) sample contracts and agreements necessary to  
23 implement the measures and program; and

24 (5) the types of data and information that utilities  
25 and vendors participating in the program shall collect for  
26 purposes of preparing the reports required under



1 subsection (g) of this Section.

2 (e) The proposed program submitted by each electric utility  
3 shall be consistent with the provisions of this Section that  
4 define operational, financial and billing arrangements between  
5 and among program participants, vendors, lenders, and the  
6 electric utility.

7 (f) An electric utility shall recover all of the prudently  
8 incurred costs of offering a program approved by the Commission  
9 pursuant to this Section, including, but not limited to, all  
10 start-up and administrative costs and the costs for program  
11 evaluation. All prudently incurred costs under this Section  
12 shall be recovered from the residential and small commercial  
13 retail customer classes eligible to participate in the program  
14 through the automatic adjustment clause tariff established  
15 pursuant to Section 8-103 of this Act.

16 (g) An independent evaluation of a program shall be  
17 conducted after 3 years of the program's operation. The  
18 electric utility shall retain an independent evaluator who  
19 shall evaluate the effects of the measures installed under the  
20 program and the overall operation of the program, including,  
21 but not limited to, customer eligibility criteria ~~and whether~~  
22 ~~the payment obligation for permanent electric energy~~  
23 ~~efficiency measures that will continue to provide benefits of~~  
24 ~~energy savings should attach to the meter location.~~ As part of  
25 the evaluation process, the evaluator shall also solicit  
26 feedback from participants and interested stakeholders. The

1 evaluator shall issue a report to the Commission on its  
2 findings no later than 4 years after the date on which the  
3 program commenced, and the Commission shall issue a report to  
4 the Governor and General Assembly including a summary of the  
5 information described in this Section as well as its  
6 recommendations as to whether the program should be  
7 discontinued, continued with modification or modifications or  
8 continued without modification, provided that any recommended  
9 modifications shall only apply prospectively and to measures  
10 not yet installed or financed.

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

19 (i) The source of a utility customer's electric supply  
20 shall not disqualify a customer from participation in the  
21 utility's on-bill financing program. Customers of alternative  
22 retail electric suppliers may participate in the program under  
23 the same terms and conditions applicable to the utility's  
24 supply customers.

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

1 (220 ILCS 5/19-140)

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

3 (a) The Illinois General Assembly finds that Illinois homes  
4 and businesses have the potential to save energy through  
5 conservation and cost-effective energy efficiency measures.  
6 Programs created pursuant to this Section will allow utility  
7 customers to purchase cost-effective energy efficiency  
8 measures, including measures set forth in a  
9 Commission-approved energy efficiency and demand-response plan  
10 under Section 8-104 of this Act, with no required initial  
11 upfront payment, and to pay the cost of those products and  
12 services over time on their utility bill.

13 (b) Notwithstanding any other provision of this Act, a gas  
14 utility serving more than 100,000 customers on January 1, 2009  
15 shall offer a Commission-approved on-bill financing program  
16 ("program") that allows its retail customers who own a  
17 residential single family home, duplex, or other residential  
18 building with 4 or less units, or condominium at which the gas  
19 service is being provided (i) to borrow funds from a third  
20 party lender in order to purchase gas energy efficiency  
21 measures approved under the program for installation in such  
22 home or condominium without any required upfront payment and  
23 (ii) to pay back such funds over time through the gas utility's  
24 bill. Based upon the process described in subsection (b-5) of  
25 this Section, small commercial ~~retail~~ customers, ~~as that term~~  
26 ~~is defined in Section 19-105 of this Act,~~ who own the premises

1 at which gas service is being provided may be included in such  
2 program. After receiving a request from a gas utility for  
3 approval of a proposed program and tariffs pursuant to this  
4 Section, the Commission shall render its decision within 120  
5 days. If no decision is rendered within 120 days, then the  
6 request shall be deemed to be approved. Beginning no later than  
7 December 31, 2013, a gas utility subject to this subsection (b)  
8 shall also offer its program to eligible retail customers that  
9 own a multifamily residential or mixed-used building with no  
10 more than 50 residential units, provided, however, that such  
11 customer must either be a residential customer or small  
12 commercial customer and may not use the program in such a way  
13 that repayment of the cost of energy efficiency measures is  
14 made through tenants' utility bills. A gas utility may impose a  
15 per site loan limit not to exceed \$100,000. The program, and  
16 loans issued thereunder, shall only be offered to customers of  
17 the utility that meet the requirements of this Section and that  
18 also have a gas service account at the premises where the  
19 energy efficiency measures being financed shall be installed.

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

24 (b-5) Within 30 days after the effective date of this  
25 amendatory Act of the 96th General Assembly, the Commission  
26 shall convene a workshop process during which interested

1 participants may discuss issues related to the program,  
2 including program design, eligible gas energy efficiency  
3 measures, vendor qualifications, and a methodology for  
4 ensuring ongoing compliance with such qualifications,  
5 financing, sample documents such as request for proposals,  
6 contracts and agreements, dispute resolution, pre-installment  
7 and post-installment verification, and evaluation. The  
8 workshop process shall be completed within 150 days after the  
9 effective date of this amendatory Act of the 96th General  
10 Assembly.

11 (c) Not later than 60 days following completion of the  
12 workshop process described in subsection (b-5) of this Section,  
13 each gas utility subject to subsection (b) of this Section  
14 shall submit a proposed program to the Commission that contains  
15 the following components:

16 (1) A list of recommended gas energy efficiency  
17 measures that will be eligible for on-bill financing. An  
18 eligible gas energy efficiency measure ("measure") shall  
19 be a product or service for which one or more of the  
20 following is true ~~defined by the following:~~

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

23 (B) the projected ~~Application of the measure to~~  
24 ~~equipment and systems will have estimated~~ gas savings  
25 (determined by rates in effect at the time of  
26 purchase), ~~that~~ are sufficient to cover the costs of

1 implementing the measures, including finance charges  
2 and any program fees not recovered pursuant to  
3 subsection (f) of this Section; or ~~. To assist the gas~~  
4 ~~utility in identifying or approving measures, the~~  
5 ~~utility may consult with the Department of Commerce and~~  
6 ~~Economic Opportunity, as well as with retailers,~~  
7 ~~technicians and installers of gas energy efficiency~~  
8 ~~measures and energy auditors (collectively "vendors").~~

9 (C) the product or service is included in a  
10 Commission-approved energy efficiency and  
11 demand-response plan under Section 8-104 of this Act.

12 (2) The gas utility shall issue a request for proposals  
13 ("RFP") to lenders for purposes of providing financing to  
14 participants to pay for approved measures. The RFP criteria  
15 shall include, but not be limited to, the interest rate,  
16 origination fees, and credit terms. The utility shall  
17 select the winning bidders based on its evaluation of these  
18 criteria, with a preference for those bids containing the  
19 rates, fees, and terms most favorable to participants.

20 (3) The utility shall work with the lenders selected  
21 pursuant to the RFP process, and with vendors, to establish  
22 the terms and processes pursuant to which a participant can  
23 purchase eligible gas energy efficiency measures using the  
24 financing obtained from the lender. The vendor shall  
25 explain and offer the approved financing packaging to those  
26 customers identified in subsection (b) of this Section and

1 shall assist customers in applying for financing. As part  
2 of such process, vendors shall also provide to participants  
3 information about any other incentives that may be  
4 available for the measures.

5 (4) The lender shall conduct credit checks or undertake  
6 other appropriate measures to limit credit risk, and shall  
7 review and approve or deny financing applications  
8 submitted by customers identified in subsection (b) of this  
9 Section. Following the lender's approval of financing and  
10 the participant's purchase of the measure or measures, the  
11 lender shall forward payment information to the gas  
12 utility, and the utility shall add as a separate line item  
13 on the participant's utility bill a charge showing the  
14 amount due under the program each month.

15 (5) A loan issued to a participant pursuant to the  
16 program shall be the sole responsibility of the  
17 participant, and any dispute that may arise concerning the  
18 loan's terms, conditions, or charges shall be resolved  
19 between the participant and lender. Upon transfer of the  
20 property title for the premises at which the participant  
21 receives gas service from the utility or the participant's  
22 request to terminate service at such premises, the  
23 participant shall pay in full its gas utility bill,  
24 including all amounts due under the program, provided that  
25 this obligation may be modified as provided in subsection  
26 (g) of this Section. Amounts due under the program shall be

1 deemed amounts owed for residential and, as appropriate,  
2 small commercial gas service.

3 (6) The gas utility shall remit payment in full to the  
4 lender each month on behalf of the participant. In the  
5 event a participant defaults on payment of its gas utility  
6 bill, the gas utility shall continue to remit all payments  
7 due under the program to the lender, and the utility shall  
8 be entitled to recover all costs related to a participant's  
9 nonpayment through the automatic adjustment clause tariff  
10 established pursuant to Section 19-145 of this Act. In  
11 addition, the gas utility shall retain a security interest  
12 in the measure or measures purchased under the program to  
13 the extent those measures are not integral to the shell of  
14 the building, and the utility retains its right to  
15 disconnect a participant that defaults on the payment of  
16 its utility bill.

17 (7) The total outstanding amount financed under the  
18 programs in this subsection and subsection (c-5) of this  
19 Section ~~program~~ shall not exceed \$2.5 million for a gas  
20 utility or gas utilities under a single holding company,  
21 provided that the gas utility or gas utilities may petition  
22 the Commission for an increase in such amount.

23 (c-5) Within 120 days after the effective date of this  
24 amendatory Act of the 98th General Assembly, each covered gas  
25 utility shall submit an informational filing to the Commission  
26 that describes its plan for implementing the provisions of this



1 amendatory Act of the 98th General Assembly on or before  
2 December 31, 2013. A gas utility subject to this Section shall  
3 cooperate with any electric utility that provides electric  
4 service to buildings within the gas utility's service territory  
5 so that it is practical and feasible for the owner of a  
6 multifamily building to make a single application to access  
7 loans for both gas and electric energy efficiency measures in  
8 any individual building.

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

11 (1) guidelines for financing of measures installed  
12 under a program, including, but not limited to, RFP  
13 criteria and limits on both individual loan amounts and the  
14 duration of the loans;

15 (2) criteria and standards for identifying and  
16 approving measures;

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

20 (4) sample contracts and agreements necessary to  
21 implement the measures and program; and

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

26 (e) The proposed program submitted by each gas utility

1 shall be consistent with the provisions of this Section that  
2 define operational, financial, and billing arrangements  
3 between and among program participants, vendors, lenders, and  
4 the gas utility.

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

14 (g) An independent evaluation of a program shall be  
15 conducted after 3 years of the program's operation. The gas  
16 utility shall retain an independent evaluator who shall  
17 evaluate the effects of the measures installed under the  
18 program and the overall operation of the program, including,  
19 but not limited to, customer eligibility criteria ~~and whether~~  
20 ~~the payment obligation for permanent gas energy efficiency~~  
21 ~~measures that will continue to provide benefits of energy~~  
22 ~~savings should attach to the meter location.~~ As part of the  
23 evaluation process, the evaluator shall also solicit feedback  
24 from participants and interested stakeholders. The evaluator  
25 shall issue a report to the Commission on its findings no later  
26 than 4 years after the date on which the program commenced, and

1 the Commission shall issue a report to the Governor and General  
2 Assembly including a summary of the information described in  
3 this Section as well as its recommendations as to whether the  
4 program should be discontinued, continued with modification or  
5 modifications or continued without modification, provided that  
6 any recommended modifications shall only apply prospectively  
7 and to measures not yet installed or financed.

8 (h) A gas utility offering a Commission-approved program  
9 pursuant to this Section shall not be required to comply with  
10 any other statute, order, rule, or regulation of this State  
11 that may relate to the offering of such program, provided that  
12 nothing in this Section is intended to limit the gas utility's  
13 obligation to comply with this Act and the Commission's orders,  
14 rules, and regulations, including Part 280 of Title 83 of the  
15 Illinois Administrative Code.

16 (i) The source of a utility customer's gas supply shall not  
17 disqualify a customer from participation in the utility's  
18 on-bill financing program. Customers of alternative gas  
19 suppliers may participate in the program under the same terms  
20 and conditions applicable to the utility's supply customers.

21 (Source: P.A. 96-33, eff. 7-10-09.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."