

HOUSE BILL 1080

C5

11r0783

By: **Delegates Carr, Braveboy, Gutierrez, Kramer, B. Robinson, and Stocksdale**

Introduced and read first time: February 11, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity Suppliers – Residential Supply Contracts – Consumer Protections**

3 FOR the purpose of prohibiting automatic renewal clauses in certain residential
4 electricity supply contracts except under certain circumstances; providing that
5 an early termination fee or penalty imposed under a residential supply contract
6 must decrease in a certain manner over the contract term; prohibiting an
7 electricity supplier from refusing to provide service to a person because the
8 person previously canceled a residential supply contract; providing for the
9 application of this Act; defining a certain term; and generally relating to
10 electricity suppliers and the provision of electricity and electricity supply
11 services to residential retail electric customers.

12 BY repealing and reenacting, without amendments,
13 Article – Public Utilities
14 Section 1–101(j)
15 Annotated Code of Maryland
16 (2010 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article – Public Utilities
19 Section 7–507
20 Annotated Code of Maryland
21 (2010 Replacement Volume)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Public Utilities**

25 1–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (j) (1) “Electricity supplier” means a person:

2 (i) who sells:

3 1. electricity;

4 2. electricity supply services;

5 3. competitive billing services; or

6 4. competitive metering services; or

7 (ii) who purchases, brokers, arranges, or markets electricity or
8 electricity supply services for sale to a retail electric customer.

9 (2) “Electricity supplier” includes an electric company, an aggregator,
10 a broker, and a marketer of electricity.

11 (3) “Electricity supplier” does not include:

12 (i) the following persons who supply electricity and electricity
13 supply services solely to occupants of a building for use by the occupants:

14 1. an owner/operator who holds ownership in and
15 manages the internal distribution system serving the building; or

16 2. a lessee/operator who holds a leasehold interest in
17 and manages the internal distribution system serving the building; or

18 (ii) a person who generates on-site generated electricity.

19 7-507.

20 (a) A person, other than an electric company providing standard offer service
21 under § 7-510(c) of this subtitle or a municipal electric utility serving customers solely
22 in its distribution territory, may not engage in the business of an electricity supplier in
23 the State unless the person holds a license issued by the Commission.

24 (b) An application for an electricity supplier license shall:

25 (1) be made to the Commission in writing on a form adopted by the
26 Commission;

27 (2) be verified by oath or affirmation; and

28 (3) contain information that the Commission requires, including:

- 1 (i) proof of technical and managerial competence;
- 2 (ii) proof of compliance with all applicable requirements of the
3 Federal Energy Regulatory Commission, and any independent system operator or
4 regional or system transmission operator to be used by the licensee;
- 5 (iii) a certification of compliance with applicable federal and
6 State environmental laws and regulations that relate to the generation of electricity;
7 and
- 8 (iv) payment of the applicable licensing fee.
- 9 (c) The Commission shall, by regulation or order:
- 10 (1) require proof of financial integrity;
- 11 (2) require a licensee to post a bond or other similar instrument, if, in
12 the Commission's judgment, the bond or similar instrument is necessary to insure an
13 electricity supplier's financial integrity;
- 14 (3) require a licensee to:
- 15 (i) provide proof that it is qualified to do business in the State
16 with the Department of Assessments and Taxation; and
- 17 (ii) agree to be subject to all applicable taxes; and
- 18 (4) adopt any other requirements it finds to be in the public interest,
19 which may include different requirements for:
- 20 (i) electricity suppliers that serve only large customers; and
- 21 (ii) the different categories of electricity suppliers.
- 22 (d) A license issued under this section may not be transferred without prior
23 Commission approval.
- 24 (e) The Commission shall adopt regulations or issue orders to:
- 25 (1) protect consumers, electric companies, and electricity suppliers
26 from anticompetitive and abusive practices;
- 27 (2) require each electricity supplier to provide, in addition to the
28 requirements under § 7-505(b)(5) of this subtitle, adequate and accurate customer
29 information to enable customers to make informed choices regarding the purchase of
30 any electricity services offered by the electricity supplier;
- 31 (3) establish reasonable restrictions on telemarketing;

1 (4) establish procedures for contracting with customers;

2 (5) establish requirements and limitations relating to deposits, billing,
3 collections, and contract cancellations;

4 (6) establish provisions providing for the referral of a delinquent
5 account by an electricity supplier to the standard offer service under § 7–510(c) of this
6 subtitle; and

7 (7) establish procedures for dispute resolution.

8 **(F) (1) IN THIS SUBSECTION, “RESIDENTIAL SUPPLY CONTRACT”**
9 **MEANS AN AGREEMENT BETWEEN AN ELECTRICITY SUPPLIER AND A**
10 **RESIDENTIAL CUSTOMER TO PROVIDE ELECTRICITY OR ELECTRICITY SUPPLY**
11 **SERVICES.**

12 **(2) A RESIDENTIAL SUPPLY CONTRACT MAY NOT CONTAIN AN**
13 **AUTOMATIC RENEWAL CLAUSE UNLESS THE CUSTOMER:**

14 **(I) WAS GIVEN THE OPPORTUNITY TO REJECT THE**
15 **AUTOMATIC RENEWAL PROVISION BEFORE ENTERING INTO THE CONTRACT;**
16 **AND**

17 **(II) MAY CANCEL THE RENEWAL OF THE CONTRACT AT ANY**
18 **TIME UP TO 30 DAYS BEFORE THE DAY WHEN THE AUTOMATIC RENEWAL IS**
19 **SCHEDULED TO TAKE EFFECT.**

20 **(3) IF A RESIDENTIAL SUPPLY CONTRACT REQUIRES THE**
21 **CUSTOMER TO PAY AN EARLY TERMINATION FEE OR PENALTY ON**
22 **CANCELLATION OF THE CONTRACT, THE TERMINATION FEE OR PENALTY SHALL**
23 **DECREASE BY AN EQUAL AMOUNT EACH MONTH SO THAT THE CUSTOMER OWES**
24 **NO TERMINATION FEE OR PENALTY AT THE END OF THE CONTRACT.**

25 **(4) AN ELECTRICITY SUPPLIER MAY NOT REFUSE TO PROVIDE**
26 **SERVICE TO A PERSON BECAUSE THE PERSON PREVIOUSLY CANCELED A**
27 **RESIDENTIAL SUPPLY CONTRACT.**

28 **[(f)] (G)** In accordance with regulations or orders of the Commission,
29 electricity bills, for competitive and regulated electric services, provided to consumers
30 may provide, in addition to the requirements of § 7–505(b)(5) of this subtitle and
31 subsection (e)(2) of this section, the following information:

32 (1) the identity and phone number of the electricity supplier of the
33 service;

1 (2) sufficient information to evaluate prices and services; and

2 (3) information identifying whether the price is regulated or
3 competitive.

4 **[(g)] (H)** (1) An electricity supplier or any person or governmental unit
5 may not, without first obtaining the customer's permission:

6 (i) make any change in the electricity supplier for a customer;
7 or

8 (ii) add a new charge for a new or existing service or option.

9 (2) The Commission shall adopt regulations or issue orders
10 establishing procedures to prevent the practices prohibited under paragraph (1) of this
11 subsection.

12 **[(h)] (I)** (1) An electricity supplier may not discriminate against any
13 customer based wholly or partly on race, color, creed, national origin, or sex of an
14 applicant for service or for any arbitrary, capricious, or unfairly discriminatory reason.

15 (2) An electricity supplier may not refuse to provide service to a
16 customer except by the application of standards that are reasonably related to the
17 electricity supplier's economic and business purposes.

18 **[(i)] (J)** An electricity supplier shall be subject to all applicable federal and
19 State environmental laws and regulations.

20 **[(j)] (K)** An electricity supplier shall post on the Internet information that
21 is readily understandable about its services and rates for small commercial and
22 residential electric customers.

23 **[(k)] (L)** (1) The Commission may revoke or suspend the license of an
24 electricity supplier, impose a civil penalty or other remedy, order a refund or credit to
25 a customer, or impose a moratorium on adding or soliciting additional customers by
26 the electricity supplier, for just cause on the Commission's own investigation or on
27 complaint of the Office of People's Counsel, the Attorney General, or an affected party.

28 (2) A civil penalty may be imposed in addition to the Commission's
29 decision to revoke, suspend, or impose a moratorium.

30 (3) Just cause includes:

31 (i) intentionally providing false information to the Commission;

- 1 (ii) switching, or causing to be switched, the electricity supply
2 for a customer without first obtaining the customer's permission;
- 3 (iii) failing to provide electricity for its customers;
- 4 (iv) committing fraud or engaging in deceptive practices;
- 5 (v) failing to maintain financial integrity;
- 6 (vi) violating a Commission regulation or order;
- 7 (vii) failing to pay, collect, remit, or calculate accurately
8 applicable State or local taxes;
- 9 (viii) violating a provision of this article or any other applicable
10 consumer protection law of the State;
- 11 (ix) conviction of a felony by the licensee or principal of the
12 licensee or any crime involving fraud, theft, or deceit; and
- 13 (x) suspension or revocation of a license by any State or federal
14 authority.

15 **[(L)] (M)** (1) An electricity supplier or person selling or offering to sell
16 electricity in the State in violation of this section, after notice and an opportunity for a
17 hearing, is subject to:

- 18 (i) a civil penalty of not more than \$10,000 for the violation; or
- 19 (ii) license revocation or suspension.
- 20 (2) Each day a violation continues is a separate violation.
- 21 (3) The Commission shall determine the amount of any civil penalty
22 after considering:
- 23 (i) the number of previous violations of any provision of this
24 division;
- 25 (ii) the gravity of the current violation; and
- 26 (iii) the good faith of the electricity supplier or person charged in
27 attempting to achieve compliance after notification of the violation.

28 **[(m)] (N)** In connection with a consumer complaint or Commission
29 investigation under this section, an electricity supplier shall provide to the

1 Commission access to any accounts, books, papers, and documents which the
2 Commission considers necessary to resolve the matter at issue.

3 **[(n)] (O)** The Commission may order the electricity supplier to cease adding
4 or soliciting additional customers or to cease serving customers in the State.

5 **[(o)] (P)** The Commission shall consult with the Consumer Protection
6 Division of the Office of the Attorney General before issuing regulations designed to
7 protect consumers.

8 **[(p)] (Q)** The People's Counsel shall have the same authority in licensing,
9 complaint, and dispute resolution proceedings as it has in Title 2 of this article.

10 **[(q)] (R)** Nothing in this subtitle may be construed to affect the authority of
11 the Division of Consumer Protection in the Office of the Attorney General to enforce
12 violations of Titles 13 and 14 of the Commercial Law Article or any other applicable
13 State law or regulation in connection with the activities of electricity suppliers.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
15 construed to apply only prospectively and may not be applied or interpreted to have
16 any effect on or application to any contract entered into before the effective date of this
17 Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2011.