

AN ACT

relating to the use of credit scoring and credit history by certain telecommunications and electric service providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 17, Utilities Code, is amended by adding Sections 17.008 and 17.009 to read as follows:

Sec. 17.008. PROTECTION OF RESIDENTIAL ELECTRIC SERVICE APPLICANTS AND CUSTOMERS. (a) In this section and in Section 17.009:

(1) "Credit history":

(A) means information regarding an individual's past history of:

(i) financial responsibility;

(ii) payment habits; or

(iii) creditworthiness; and

(B) does not include an individual's outstanding balance for retail electric or telecommunications service.

(2) "Credit score" means a score, grade, or value that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), using data from a credit history in any type of model, method, or program for the purpose of grading or ranking credit report data, whether derived electronically, from an algorithm, through a computer software application model or program, or

1 through any other analogous process.

2 (3) "Utility payment data" means a measure that is  
3 derived by a consumer reporting agency, as defined under Section  
4 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section  
5 1681a(f)), from a model specifically designed to correlate to  
6 utility payment histories.

7 (b) A retail electric provider may not deny an applicant's  
8 request to become a residential electric service customer on the  
9 basis of the applicant's credit history or credit score, but may use  
10 the applicant's utility payment data until the later of January 1,  
11 2007, or the date on which the price to beat is no longer in effect  
12 in the geographic area in which the customer is located.

13 (c) Notwithstanding Subsection (b), while a retail electric  
14 provider is required to provide service to a geographic area as the  
15 affiliated retail electric provider, the provider may not deny an  
16 applicant's request to become a residential electric service  
17 customer within that geographic area on the basis of the  
18 applicant's credit history, credit score, or utility payment data.

19 (d) After the date described in Subsection (b), a retail  
20 electric provider, including an affiliated retail electric  
21 provider, may not deny an applicant's request to become a  
22 residential electric service customer on the basis of the  
23 applicant's credit history, credit score, or utility payment data  
24 but may use the applicant's electric bill payment history.

25 (e) A retail electric provider may not use a credit score, a  
26 credit history, or utility payment data as the basis for  
27 determining the price for month-to-month electric service or

1 electric service that includes a fixed price commitment of 12  
2 months or less:

- 3 (1) for an existing residential customer; or  
4 (2) in response to an applicant's request to become a  
5 residential electric service customer.

6 (f) After the date described in Subsection (b), on request  
7 by a customer or former customer in this state, a retail electric  
8 provider or electric utility shall timely provide to the customer  
9 or former customer bill payment history information with the retail  
10 electric provider or electric utility during the preceding 12-month  
11 period. Bill payment history information may be obtained by the  
12 customer or former customer once during each 12-month period  
13 without charge. If additional copies of bill payment history  
14 information are requested during a 12-month period, the electric  
15 service provider may charge the customer or former customer a  
16 reasonable fee for each copy.

17 (g) On request by a retail electric provider, another retail  
18 electric provider or electric utility shall timely verify  
19 information that purports to show a customer's service and bill  
20 payment history with the retail electric provider or electric  
21 utility.

22 (h) This section does not limit a retail electric provider's  
23 authority to require a deposit or advance payment as a condition of  
24 service.

25 (i) Notwithstanding Subsection (e), a retail electric  
26 provider may provide rewards, benefits, or credits to residential  
27 electric service customers on the basis of the customer's payment

1 history for retail electric service to that provider.

2 Sec. 17.009. PROTECTION OF RESIDENTIAL TELEPHONE SERVICE  
3 APPLICANTS AND CUSTOMERS. (a) A provider of basic local  
4 telecommunications services and nonbasic network services may not  
5 deny an applicant's request to become a residential customer on the  
6 basis of the applicant's credit history or credit score.

7 (b) A provider of basic local telecommunications services  
8 and nonbasic network services may not use a credit score or credit  
9 history as the basis for determining price for service:

10 (1) for an existing residential customer; or

11 (2) in response to an applicant's request to become a  
12 residential customer.

13 (c) This section does not limit the authority of a provider  
14 of basic local telecommunications services and nonbasic network  
15 services to require a deposit, advance payment, or credit limit as a  
16 condition of service.

17 SECTION 2. (a) The Public Utility Commission of Texas shall  
18 conduct one or more public workshops to consider the merits of both  
19 voluntary and mandatory databases that are used to determine  
20 whether a customer has a satisfactory electric bill payment  
21 history. The commission shall report its conclusions to the  
22 governor, the lieutenant governor, and the speaker of the house of  
23 representatives not later than January 15, 2007.

24 (b) This Act does not prevent or prohibit the creation or  
25 use of one or more databases to determine whether a customer has a  
26 satisfactory electric bill payment history, provided that the  
27 database, including the use of the database, is not discriminatory

H.B. No. 412

1 and does not otherwise violate the Public Utility Regulatory Act  
2 (Title 2, Utilities Code).

3 SECTION 3. This Act takes effect September 1, 2005.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 412 was passed by the House on April 22, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 412 on May 27, 2005, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 412 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor