

1-1 By: Turner, et al. (Senate Sponsor - Van de Putte) H.B. No. 412  
1-2 (In the Senate - Received from the House April 25, 2005;  
1-3 April 26, 2005, read first time and referred to Committee on  
1-4 Business and Commerce; May 20, 2005, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 6,  
1-6 Nays 0; May 20, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 412 By: Estes

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the use of credit scoring and credit history by certain  
1-11 telecommunications and electric service providers.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 17, Utilities Code, is  
1-14 amended by adding Sections 17.008, 17.009, and 17.010 to read as  
1-15 follows:

1-16 Sec. 17.008. PROTECTION OF RESIDENTIAL ELECTRIC SERVICE  
1-17 APPLICANTS AND CUSTOMERS. (a) In this section, Section 17.009, and  
1-18 Section 17.010:

1-19 (1) "Credit history":

1-20 (A) means information regarding an individual's  
1-21 past history of:

1-22 (i) financial responsibility;

1-23 (ii) payment habits; or

1-24 (iii) creditworthiness; and

1-25 (B) does not include an individual's outstanding  
1-26 balance for retail electric or telecommunications service.

1-27 (2) "Credit score" means a score, grade, or value that  
1-28 is derived by a consumer reporting agency, as defined under Section  
1-29 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section  
1-30 1681a(f)), using data from a credit history in any type of model,  
1-31 method, or program for the purpose of grading or ranking credit  
1-32 report data, whether derived electronically, from an algorithm,  
1-33 through a computer software application model or program, or  
1-34 through any other analogous process.

1-35 (3) "Electric service provider" includes:

1-36 (A) a retail electric provider;

1-37 (B) an electric utility;

1-38 (C) an electric cooperative; or

1-39 (D) a municipally owned electric utility that  
1-40 serves retail customers.

1-41 (4) "Satisfactory electric bill payment history"  
1-42 means verifiable information showing that the customer or  
1-43 applicant:

1-44 (A) has been a customer of one or more electric  
1-45 service providers in this state during the entire 12-month period  
1-46 preceding the request for electric service;

1-47 (B) is not delinquent in payment of any electric  
1-48 service account; and

1-49 (C) during the preceding 12-month period of  
1-50 service was not late in paying an electric service bill more than  
1-51 twice.

1-52 (5) "Utility payment data" means a measure that is  
1-53 derived by a consumer reporting agency, as defined under Section  
1-54 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section  
1-55 1681a(f)), from a model specifically designed to correlate to  
1-56 utility payment histories.

1-57 (b) A retail electric provider may not deny an applicant's  
1-58 request to become a residential electric service customer on the  
1-59 basis of the applicant's credit history or credit score if:

1-60 (1) the applicant provides satisfactory electric bill  
1-61 payment history as provided by Subsection (f); or

1-62 (2) the database described by Section 17.010 is being  
1-63 maintained and the database demonstrates that the applicant has a

2-1 satisfactory electric bill payment history.

2-2 (c) Notwithstanding Subsection (b), while a retail electric  
 2-3 provider is required to provide price to beat service to a  
 2-4 geographic area as the affiliated retail electric provider, the  
 2-5 provider may not deny an applicant's request to become a  
 2-6 residential electric service customer within that geographic area  
 2-7 on the basis of the applicant's credit history, credit score, or  
 2-8 retail electric service payment history, unless the applicant has  
 2-9 an outstanding balance.

2-10 (d) A retail electric provider may not use a credit score, a  
 2-11 credit history, or utility payment data as the basis for  
 2-12 determining the price for month-to-month electric service or  
 2-13 electric service that includes a fixed price commitment of 12  
 2-14 months or less:

2-15 (1) for an existing residential electric service  
 2-16 customer; or

2-17 (2) in response to an applicant's request to become a  
 2-18 residential electric service customer.

2-19 (e) If a retail electric provider is otherwise required to  
 2-20 provide to an applicant for residential electric service written  
 2-21 notice of adverse action the provider has taken based on the  
 2-22 applicant's credit score or credit history, the written notice must  
 2-23 include information on how an applicant may overcome that adverse  
 2-24 action by providing satisfactory electric bill payment history  
 2-25 under Subsection (b).

2-26 (f) On request by a customer or former customer in this  
 2-27 state, an electric service provider shall timely provide to the  
 2-28 customer or former customer bill payment history information with  
 2-29 the electric service provider during the preceding 12-month period.  
 2-30 Bill payment history information may be obtained by the customer or  
 2-31 former customer once during each 12-month period without charge.  
 2-32 If additional copies of bill payment history information are  
 2-33 requested during a 12-month period, the electric service provider  
 2-34 may charge the customer or former customer a reasonable fee for each  
 2-35 copy.

2-36 (g) On request by a retail electric provider, an electric  
 2-37 service provider shall timely verify information that purports to  
 2-38 show the service and bill payment history of a customer or former  
 2-39 customer in this state with the electric service provider.

2-40 (h) Subsections (e), (f), and (g) apply only if the database  
 2-41 described by Section 17.010 is not being maintained.

2-42 (i) This section does not limit a retail electric provider's  
 2-43 authority to require a deposit or advance payment as a condition of  
 2-44 service.

2-45 (j) Notwithstanding Subsection (d), a retail electric  
 2-46 provider may provide rewards, benefits, or credits to residential  
 2-47 electric service customers on the basis of the customer's payment  
 2-48 history for retail electric service to that provider.

2-49 (k) On notice to the office and opportunity for hearing, the  
 2-50 commission shall exempt a retail electric provider from Subsection  
 2-51 (b) if the retail electric provider demonstrates that actual  
 2-52 customer bill payment history is not as predictive of payment  
 2-53 behavior as the credit scoring methodology used by the retail  
 2-54 electric provider.

2-55 Sec. 17.009. PROTECTION OF RESIDENTIAL TELEPHONE SERVICE  
 2-56 APPLICANTS AND CUSTOMERS. (a) A provider of local exchange  
 2-57 telephone service may not deny an applicant's request to become a  
 2-58 residential customer on the basis of the applicant's credit history  
 2-59 or credit score.

2-60 (b) A provider of local exchange telephone service may not  
 2-61 use a credit score or credit history as the basis for determining  
 2-62 price for service:

2-63 (1) for an existing residential customer; or

2-64 (2) in response to an applicant's request to become a  
 2-65 residential customer.

2-66 (c) This section does not limit the authority of a provider  
 2-67 of local exchange telephone service to require a deposit, advance  
 2-68 payment, or credit limit as a condition of service.

2-69 Sec. 17.010. DATABASE. (a) The commission may require

3-1 residential electric service providers to submit to an independent  
3-2 third party approved by the commission customer information that is  
3-3 necessary to determine whether a customer has a satisfactory  
3-4 electric bill payment history if:

3-5 (1) the commission determines that the cost to  
3-6 residential electric service providers for submitting data to the  
3-7 independent third party is reasonable in comparison to the benefit  
3-8 to be gained by customers who have a satisfactory electric bill  
3-9 payment history but an inadequate credit score or credit history;

3-10 (2) the commission determines that the cost of  
3-11 accessing information to determine whether a customer has a  
3-12 satisfactory electric bill payment history does not exceed one-half  
3-13 of the average cost of obtaining an individual customer's credit  
3-14 score;

3-15 (3) information in the database may only be accessed  
3-16 by:

- 3-17 (A) residential retail electric providers; and
- 3-18 (B) an individual customer for information  
3-19 specific to the customer; and

3-20 (4) information in the database is reliable from both  
3-21 the perspective of the customer and a residential retail electric  
3-22 provider.

3-23 (b) A retail electric provider may not use information in  
3-24 the database for purposes of targeted marketing to specific  
3-25 customers.

3-26 (c) On notice to the office and opportunity for hearing, the  
3-27 commission shall withdraw approval of the database described by  
3-28 this section if the commission determines that the database does  
3-29 not meet the criteria established in Subsection (a).

3-30 (d) Except as provided by Subsection (b), this section does  
3-31 not limit the provision or use of information in excess of the  
3-32 minimum required to determine whether a customer has a satisfactory  
3-33 electric bill payment history.

3-34 SECTION 2. If the Public Utility Commission of Texas has not  
3-35 approved a database described by Section 17.010, Utilities Code, as  
3-36 added by this Act, by September 1, 2006, the commission shall report  
3-37 that fact and the reason for it to the governor, the lieutenant  
3-38 governor, and the speaker of the house of representatives not later  
3-39 than October 1, 2006.

3-40 SECTION 3. This Act takes effect September 1, 2005.

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