

By: Anchia

H.B. No. 695

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a loan incentive program to promote energy efficiency in apartment buildings.

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

SECTION 1. Section 39.002, Utilities Code, is amended to read as follows:

Sec. 39.002. APPLICABILITY. This chapter, other than Sections 39.155, 39.157(e), 39.203, 39.903, 39.904, 39.9051, 39.9052, 39.9054, and 39.914(e), does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e), 39.203, and 39.904, however, apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION 2. Section 39.905(a), Utilities Code, is amended to read as follows:

(a) It is the goal of the legislature that:

(1) electric utilities will administer energy efficiency incentive programs in a market-neutral, nondiscriminatory manner but will not offer underlying competitive services;

(2) all customers, in all customer classes, will have a choice of and access to energy efficiency alternatives and other

1 choices from the market that allow each customer to reduce energy  
2 consumption, peak demand, or energy costs;

3 (3) each electric utility will provide, through  
4 market-based standard offer programs, low-interest energy  
5 efficiency improvement loan programs, or limited, targeted,  
6 market-transformation programs, incentives sufficient for retail  
7 electric providers and competitive energy service providers to  
8 acquire additional cost-effective energy efficiency for  
9 residential and commercial customers equivalent to at least:

10 (A) 10 percent of the electric utility's annual  
11 growth in demand of residential and commercial customers by  
12 December 31, 2007;

13 (B) 15 percent of the electric utility's annual  
14 growth in demand of residential and commercial customers by  
15 December 31, 2008, provided that the electric utility's program  
16 expenditures for 2008 funding may not be greater than 75 percent  
17 above the utility's program budget for 2007 for residential and  
18 commercial customers, as included in the April 1, 2006, filing; and

19 (C) 20 percent of the electric utility's annual  
20 growth in demand of residential and commercial customers by  
21 December 31, 2009, provided that the electric utility's program  
22 expenditures for 2009 funding may not be greater than 150 percent  
23 above the utility's program budget for 2007 for residential and  
24 commercial customers, as included in the April 1, 2006, filing;

25 (4) each electric utility in the ERCOT region shall  
26 use its best efforts to encourage and facilitate the involvement of  
27 the region's retail electric providers in the delivery of

1 efficiency programs and demand response programs under this  
2 section;

3 (5) retail electric providers in the ERCOT region, and  
4 electric utilities outside of the ERCOT region, shall provide  
5 customers with energy efficiency educational materials; and

6 (6) notwithstanding Subsection (a)(3), electric  
7 utilities shall continue to make available, at 2007 funding and  
8 participation levels, any load management standard offer programs  
9 developed for industrial customers and implemented prior to May 1,  
10 2007.

11 SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is  
12 amended by adding Section 39.9054 to read as follows:

13 Sec. 39.9054. ENERGY EFFICIENCY IMPROVEMENT LOAN PROGRAM  
14 FOR APARTMENT BUILDINGS. (a) As a means of accomplishing the goals  
15 of Section 39.905, an electric utility may administer a  
16 low-interest loan program to promote energy efficiency  
17 improvements in apartment buildings. The commission shall adopt  
18 rules and procedures for the loan programs. Commission rules must:

19 (1) establish the manner in which loans are repaid;  
20 (2) establish an energy efficiency cost recovery  
21 factor for ensuring timely and reasonable recovery of other costs  
22 associated with loans made under this section to the extent the  
23 costs are not recovered through interest payments;

24 (3) provide a mechanism for a utility that is unable to  
25 establish an energy efficiency cost recovery factor in a timely  
26 manner because of a rate freeze to:

27 (A) defer the other costs of a loan program under

1 this section; and

2 (B) recover those deferred costs through an  
3 energy efficiency cost recovery factor on the expiration of the  
4 rate freeze period;

5 (4) ensure that the other costs of loans provided  
6 under this section are borne by the customer classes that receive  
7 the benefits of loan proceeds; and

8 (5) encourage a utility to pass on the value of the  
9 incentives to the end-use customer.

10 (b) The energy efficiency cost recovery factor under  
11 Subsection (a) may not result in an over-recovery of costs but may  
12 be adjusted each year to change rates to enable electric utilities  
13 to match revenues against energy efficiency costs and any  
14 incentives to which they are granted. The commission shall adjust  
15 the factor to reflect any over-collection or under-collection of  
16 energy efficiency cost recovery revenues in previous years.

17 (c) To be eligible for a loan under a program, an applicant  
18 must:

19 (1) be an owner of an existing multi-unit apartment  
20 building; and

21 (2) use the loan for installation of an appliance or  
22 equipment designed to reduce demand for energy in the apartment  
23 building or for a renovation or repair intended to reduce demand for  
24 energy in the apartment building.

25 (d) The commission by rule shall specify:

26 (1) the types of appliances, equipment, renovations,  
27 and repairs for which a loan may be made under the program; and

1           (2) the types of apartment buildings for which a loan  
2 may be made under the program.

3           (e) The rules relating to repayment of loans must provide  
4 that each loan be repaid:

5                 (1) over a period determined by the commission:

6                         (A) by a surcharge on the electricity bills of  
7 the rental units improved through loan proceeds, if the building's  
8 rental units are separately submetered and billed directly by a  
9 utility provider;

10                        (B) by a surcharge on the electricity bill of the  
11 building's owner, if:

12                                 (i) the building's rental units are not  
13 separately submetered or billed directly by a utility provider, and  
14 the improvements are made to a specific unit; or

15                                 (ii) the improvements are made to a common  
16 area of the building; or

17                         (C) by a combination of surcharges on the  
18 electricity bill of the building's owner and tenants of improved  
19 units;

20                 (2) according to a formula:

21                         (A) based on the difference between total monthly  
22 energy costs after improvements are made and the estimated monthly  
23 energy costs if the improvements had not been made;

24                         (B) that allocates loan repayment costs in a  
25 submetered apartment building, or an apartment building that uses  
26 central system utilities in which the building owner prorates  
27 utility costs among tenants, only to those rental units that are

1 directly improved using loan proceeds;

2 (C) that allows the tenant of an improved unit in  
3 a separately submetered apartment building, or the tenant of an  
4 improved unit in an apartment building using central system  
5 utilities in which the building owner prorates utility costs among  
6 tenants, to realize at least 40 percent of the energy cost savings  
7 computed in Paragraph (A); and

8 (D) that allows the owner of an apartment  
9 building using central system utilities in which the owner does not  
10 prorate utility costs among tenants to realize at least 40 percent  
11 of the energy cost savings computed in Paragraph (A); and

12 (3) by periodic assessments against the recipient of  
13 the loan, determined according to the amount owed and the  
14 building's property tax valuation, if, before the loan is fully  
15 repaid, the building is sold, is no longer leased to tenants, or is  
16 destroyed.

17 (f) The loan repayment surcharge required by Subsection (e)  
18 may not be charged to a tenant or building owner after a loan has  
19 been repaid in full.

20 (g) The commission may establish the rate used to compute a  
21 loan repayment surcharge.

22 SECTION 4. Not later than December 1, 2009, the Public  
23 Utility Commission of Texas shall establish the energy efficiency  
24 improvement loan program under Section 39.9054, Utilities Code, as  
25 added by this Act, and the commission shall begin accepting  
26 applications for loans under that program not later than January 1,  
27 2010.

1           SECTION 5. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2009.