~~Indicates Matter Stricken~~

Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE WITH AMENDMENT

May 25, 2011

**H. 3584**

Introduced by Reps. Sandifer and Gambrell

S. Printed 5/25/11--S.

Read the first time February 23, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3584) to amend Section 58‑37‑50, Code of Laws of South Carolina, 1976, relating to the financing agreements for the installation of certain energy‑efficiency and conservation, etc., respectfully

**REPORT:**

Has polled the Bill out with amendment, to wit:

Amend the bill, as and if amended, by striking all after the enacting language and inserting:

/ SECTION 1. Section 58‑37‑50(H) through (K) of the 1976 Code, as added by Act 141 of 2010, is amended to read:

“(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) ~~above~~ must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in subsection (H)(3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section ~~27‑40‑420~~ 27‑40‑240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one‑half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, ~~Chapter 2,~~ Title 37 of the South Carolina Code of Laws.

(J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing function under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).

(K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied at the time the measures are taken. The procedures allowed by this section may not be used with respect to a new residence or a residence under construction. The provisions of this section may not be used to implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment, or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment, unless (1) the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider, or (2) an electric appliance used for home heating is being replaced by an appliance that operates primarily on electricity but which has the capability of also operating on a secondary fuel source.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

**A** **BILL**

TO AMEND SECTION 58‑37‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FINANCING AGREEMENTS FOR THE INSTALLATION OF CERTAIN ENERGY‑EFFICIENCY AND CONSERVATION IMPROVEMENTS, SO AS TO CORRECT AN ERRONEOUS CROSS‑REFERENCE, AND TO PROVIDE WHERE AN ELECTRICITY OR NATURAL GAS PROVIDER CONTRACTS WITH A THIRD PARTY TO PERFORM CERTAIN FUNCTIONS, THE LIABILITY OF THE THIRD PARTY IS LIMITED IN A SPECIFIC MANNER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 58‑37‑50(H) and (J) of the 1976 Code, as added by Act 141 of 2010, is amended to read:

“(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) ~~above~~ must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in subsection (H)(3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section ~~27‑40‑420~~ 27‑40‑240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one‑half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing function under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).”

SECTION 2. This act takes effect upon approval by the Governor.

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