

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

1 by striking all after the enacting clause and inserting in place thereof the following:

2 SECTION 1. Section 1 of chapter 164 of the General Laws, as appearing in the 2020  
3 Official Edition, is hereby amended by inserting the following definition:-

4 “energy marketer” any person, firm, partnership, association or private corporation that  
5 markets, advertises, or otherwise offers to sell generation service to retail customers that is acting  
6 as an agent for a supplier.

7 SECTION 2. Section 1D of chapter 164 of the General Laws, as so appearing, is hereby  
8 amended by inserting, before the word “Beginning” in line 1, the following:- (i)

9 SECTION 3. Section 1F of said chapter 164 of the General Laws, as so appearing, is  
10 hereby amended by striking out subparagraph (iii) of paragraph (1), and inserting in place thereof  
11 the following 3 subparagraphs:-

12 (iii) All energy brokers, energy marketers, and other suppliers seeking to do business in  
13 the commonwealth shall submit a license application to the department, subject to rules and  
14 regulations promulgated by the department and subject to a fee, the amount to be determined by  
15 the department; provided, said amount shall not be less than \$10,000. Each energy marketer or

16 other supplier that applies for a retail license shall execute and maintain a bond issued by a  
17 qualifying surety or insurance company authorized to transact business in the commonwealth of  
18 Massachusetts in favor of the commonwealth. The amount of the bond shall equal \$5,000,000  
19 per retail license as issued by the department. The bond shall be conditioned upon the full and  
20 faithful performance of all duties and obligations of the applicant as a retail supplier and shall be  
21 valid for a period of not less than 1 year. The cost of the bond shall be paid by the applicant. The  
22 applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part  
23 of its application for certification.

24 (iv) Any third-party who contracts with or is otherwise directly engaged and compensated  
25 by a supplier to sell electric generation services, or contracts with and is directly compensated by  
26 a third-party marketer of the supplier to sell electric generation services on behalf of a supplier,  
27 shall be a legal agent of the supplier. No third-party may sell electric generation services on  
28 behalf of a supplier unless such third party has received appropriate training directly from such  
29 supplier. This subparagraph (iv) shall not apply to third-party Electricity Brokers as defined  
30 under 220 CMR 11.02, or consultants or agents acting on behalf of customers that are  
31 compensated by the customer as part of the customer's electric contract price.

32 (v) The department shall develop a training and educational program for any entity or  
33 individual that is licensed by the department under this section as a competitive supplier. The  
34 department shall develop the program in consultation with interested stakeholders, including  
35 competitive suppliers. The program shall require that a designated representative of each  
36 licensed competitive supplier demonstrate a thorough understanding of the department's  
37 regulations regarding sales, consumer protection and any other matter the department deems  
38 appropriate though an online training program. At the conclusion of the training, the department

39 shall conduct an online examination and, on a satisfactory score, certify that the designated  
40 representative of the licensed competitive supplier has successfully completed the training. The  
41 department shall determine the schedule and frequency by which a designated representative of a  
42 licensed competitive supplier must complete the training and certification. The department may  
43 not issue a license to a new competitive supplier until a designated representative of the new  
44 competitive supplier completes the training and certification. The department may adopt  
45 regulations that include appropriate penalties for failure to comply with this subparagraph. The  
46 department shall use the assessments collected in accordance with paragraph (13) for the initial  
47 development of the training and educational program. The department may establish reasonable  
48 fees as authorized to fund the training and educational program.

49 SECTION 4. Said section 1F of said chapter 164 of the General Laws, as so appearing, is  
50 hereby further amended by adding after subparagraph (ix) of paragraph (8)(a), the following new  
51 subparagraph:-

52 (x) Energy brokers, energy marketers, or other suppliers that market and sell to  
53 residential customers using in-person or door-to-door marketing practices, must use a third-party  
54 verification process as defined in subparagraph (iii), above. Energy brokers, marketers, or other  
55 suppliers that market using in-person or door-to-door marketing shall track the phone numbers  
56 used for third-party verifications. Third-party verifications used in conjunction with in-person or  
57 door-to-door marketing practices are prohibited from using non-fixed voice over internet  
58 protocols or phone numbers that cannot otherwise be affiliated with said third-party. Any in-  
59 person or door-to-door agent who initiates a sale shall not consummate a sale and shall terminate  
60 the interaction if the individual is unable to understand or communicate in the language in which  
61 the marketing or solicitation is being conducted.

62 SECTION 5. Subsection (8) of said section 1F of said chapter 164 of the General Laws,  
63 as so appearing, is hereby amended by striking in paragraph (b) the words “30 days” and  
64 inserting in place thereof the following:- two years.

65 SECTION 6. Said subsection (8) of said section 1F of said chapter 164 is hereby further  
66 amended in paragraph (d) by striking out the figure “\$3,000”, and inserting in place thereof the  
67 following:- \$5,000.

68 SECTION 7. Said section 1F of said chapter 164 of the General Laws, as amended by  
69 section 78 of chapter 8 of the acts of 2021, is hereby further amended by adding at the end  
70 thereof the following 3 new paragraphs:-

71 (11) For energy brokers, energy marketers, or other suppliers that market to customers  
72 using in-person or door-to-door marketing, each agent representing the broker, marketer, or  
73 supplier shall wear an identification badge which is visible at all times during the encounter and  
74 accurately identifies: (i) such agent’s first name and unique agent identification number; (ii) the  
75 energy broker, energy marketer, or supplier that such agent works for; (iii) the company trade  
76 name or D/B/A, if different from the energy broker, energy marketer, or supplier name; (iv) the  
77 agent’s photograph; and (v) the customer service phone number of the energy broker, energy  
78 marketer, or supplier.

79 (12) For energy brokers, energy marketers, or other suppliers that market to customers  
80 using telephone solicitations, each broker, marketer, or supplier agent who initiates a call or who  
81 receives an incoming call shall not consummate a sale and shall terminate the interaction if the  
82 individual is unable to understand or communicate in the language in which the marketing or  
83 solicitation is being conducted.

84 (13) The department shall establish an office of retail market oversight, herein after  
85 referred to as the “office”, to be funded by: the fee established in subparagraph (iii) of paragraph  
86 (1) and; an annual assessment of retail suppliers and brokers based on a formula to be determined  
87 by the department not to exceed \$10,000 annually per licensed entity. The office shall have the  
88 power to actively seek input from all interested parties and to develop a thorough understanding  
89 and critical analyses of the tools and techniques used to promote retail energy competition in  
90 other states. The office shall monitor existing competitive conditions in the commonwealth,  
91 identify barriers to retail competition for all customer classes, and actively explore and propose  
92 to the department solutions to overcome identified barriers and enhance retail competition. The  
93 office shall, in coordination with the office of ratepayer advocacy established in section 11E of  
94 chapter 12, publish on a quarterly basis the number of complaints filed against each supplier, and  
95 other information deemed relevant by the office. The office shall have the authority to address  
96 violations by suppliers through the imposition of a probationary status which may include, but  
97 not be limited to, enhanced oversight, additional reporting requirements, and submission for  
98 department approval of a plan for any fines or remediation to customers specific to any supplier  
99 that violates regulations or any rules subject to this chapter. The office shall report to the  
100 department any recommendations for suspension or revocation of a license.

101 SECTION 8. Chapter 164 of the General Laws, as so appearing, is hereby amended by  
102 inserting after section 1K the following section:-

103 Section 1L. (a) As used in this section, the following words shall, unless the context  
104 otherwise requires, have the following meanings:-

105 “low-income customer,” a retail customer in the commonwealth who is on a residential  
106 low-income discount distribution rate as set forth in subsection (4) of section 1F, or participates  
107 in a low-income energy assistance program, including, but not limited to, the Low-Income Home  
108 Energy Affordability Program or “LIHEAP”.

109 “residential retail customer,” a retail customer in the commonwealth who is on a  
110 residential distribution rate.

111 (b) Effective January 1, 2023, no supplier shall execute a new contract or renew an  
112 existing contract for generation services with any low-income customer. The department shall  
113 establish a competitive procurement process for the supply of retail electric service for low-  
114 income customers in each utility service territory. The process shall be a retail auction with  
115 oversight by the department. The department shall open a proceeding to establish rules for  
116 implementing this section within 90 days of the effective days of this act.

117 (c) As a condition of licensure, or any licensure renewal as of July 1, 2023, under  
118 subsection 1 of section 1F of chapter 164, each supplier shall:

119 (1) not extend a supply agreement with a residential retail customer beyond the  
120 agreement’s stated term without providing at least two notices prior to the end of the supply  
121 agreement’s stated term;

122 (2) not charge a termination or early cancellation fee of a contract to a residential retail  
123 customer; provided, however, this provision shall not apply to charges or fees for devices,  
124 equipment, or other non-commodity services;

125 (3) not make a material change in the terms or duration of any individual residential  
126 contract for the provision of electric generation services by a supplier without providing two  
127 disclosure notices to the customer and the options available to the customer ahead of the  
128 proposed change;

129 (4) no less than quarterly, provide to the department: (i) a list detailing each rate the  
130 supplier charged to residential retail customers in the last quarter; and (ii) the number of low-  
131 income and non-low-income residential retail customers charged each rate included in such list  
132 by rate class. The department shall require that suppliers publish at least one publicly available  
133 rate from each supplier on the department's website; and

134 (5) no less than annually, provide data to the department concerning any renewable  
135 energy certificates retired in connection with the generation service provided to individual  
136 residential retail customers. Such data shall include the geographic location and fuel type of  
137 each such renewable energy certificate, whether each certificate is RPS Class I eligible, pursuant  
138 to section 11F of chapter 25A, and the percentage of the supply purchased from Class I  
139 generation in excess of the supplier's annual Class I obligation. The department shall publish  
140 this information from each supplier on its website.

141 (d) No license may be transferred without prior approval by the department. No customer  
142 may be assigned or transferred without prior notice to the department. Notice of such customer  
143 assignment or customer transfer shall be provided to the department at least thirty days prior to  
144 the effective date of the assignment or transfer of a customer from one supplier to another  
145 supplier. The department may, upon its review of such notice, require certain conditions or deny  
146 assignment or transfer of such customer.

147 (e) Any violation of the conditions of licensure enumerated in this section shall be  
148 penalized pursuant to subsection (7) of section 1F, at no less than \$10,000 per violation per day.  
149 In addition, the attorney general is hereby authorized to bring an action under section 4 of  
150 chapter 93A to enforce the consumer protection provisions of this section and to obtain  
151 restitution, civil penalties, injunctive relief and any other relief awarded pursuant to said chapter  
152 93A. Impersonating an employee of a distribution company or misrepresenting the business  
153 relationship between the supplier and the distribution company shall be punishable by a fine of  
154 not less than \$10,000 per incident, in addition to any other remedies that may be otherwise  
155 applicable under this chapter or chapter 93A.

156 (f) No less than quarterly, the department shall publish each supplier's and electric and  
157 gas distribution companies' complaint data, sourced from complaints made to the department as  
158 well as those made to the attorney general, as provided to the department annually, on the  
159 department's website. Such complaint data shall be and shall include, but not be limited to, the  
160 total number of complaints received regarding the supplier and verified by the department or the  
161 attorney general, the number of complaints received for misleading or false marketing, the  
162 number of complaints for unauthorized switching, the number of complaints for Do Not Call list  
163 violations, and the number of complaints for aggressive marketing. Complaints shall be  
164 represented as a proportion of customers served.

165 SECTION 9. Notwithstanding any general or special law to the contrary, nothing in this  
166 Act shall be construed to apply to an entity organizing or administering a program pursuant to  
167 section 137 of chapter 164.