

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE MARCH 19, 2013

SENATE BILL

No. 37

Introduced by Senator De León

(Principal coauthor: Assembly Member Eggman)

(Coauthor: Assembly Member Muratsuchi)

December 5, 2012

An act to add Sections 1940.10 and 2079.10b to the Civil Code, to amend Section 25402.9 of the Public Resources Code, and to add Chapter 7.6 (commencing with Section 2833) to Part 2 of Division 1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, De León. Energy efficiency and renewable energy upgrades: on-bill repayment program.

(1) Under existing law the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the ~~commission~~ *Public Utilities Commission* to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable.

This bill would enact the California Clean Energy Consumer Access Act of 2013 and would authorize the commission to require an electrical or gas corporation with 250,000 or more service connections to develop and implement an on-bill repayment program providing financial assistance for energy efficiency, renewable energy, distributed generation, or demand response improvements by allowing for the repayment of the financial assistance to be included in the utility customer's utility bill (on-bill repayment). The bill would provide that the on-bill repayment obligation would run with the meter, as defined.

Because a violation of any part of any order, decision, rule, direction, demand, or requirement of the ~~commission~~ *Public Utilities Commission* is a crime, this bill would impose a state-mandated local program.

(2) Existing law requires sellers of property or landlords to provide specified disclosure, to prospective buyers or prospective or existing tenants, regarding the property.

This bill would additionally require sellers of property or landlords to provide to prospective buyers or prospective or existing tenants a disclosure indicating that a portion of the utility bill is subject to an on-bill repayment obligation.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (~~Energy Commission~~) to develop, adopt, and publish an informational booklet to educate and inform homeowners, rental property owners, renters, ~~seller~~ *sellers*, brokers, and the general public about the statewide home energy rating program. Existing law requires the *State Energy Resources Conservation and Development Commission* to charge a fee for the booklet.

This bill would require the *State Energy Resources Conservation and Development Commission* to update the booklet to include information about home energy conservation and on-bill repayment program developed pursuant to (1) above. This bill would instead authorize the *State Energy Resources Conservation and Development Commission* to charge a fee for the booklet.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Clean Energy Consumer Access Act of 2013.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) Currently, many Californians lack access to affordable
6 financing for onsite energy efficiency and clean energy projects.

1 (2) Existing clean energy programs and incentives are important
2 but limited in that they are funded by insufficient amounts of
3 ratepayer or taxpayer moneys, and in that existing programs reach
4 only a small number of Californians due to restrictions in income
5 level, credit score, project size, or property and technology specific
6 eligibility criteria.

7 (3) California’s current economic condition necessitates that
8 the Legislature engineer pioneering ways to create sustainable,
9 green collar jobs.

10 (4) Since the recession began in late 2007, California has lost
11 nearly 1.4 million jobs, including 400,000 in the construction
12 industry alone. Investing in clean energy projects will maximize
13 job creation and will help the state regain a sense of economic
14 security and sustainability at a time when unemployment remains
15 high. The state can further stimulate its economy by putting the
16 industry segment back to work that is most in need, the construction
17 trades.

18 (5) Allowing the *repayment of financing obligations* for clean
19 energy projects through the *use of utility bill bills* has the cobenefit
20 of allowing for a more affordable interest rate than would be
21 otherwise available due to the security of utility bill payments and
22 allowing for ratepayers to see the benefits and costs of clean energy
23 projects on the same document.

24 (6) By tying repayment to the utility bill, ratepayers will make
25 payments for their upgrades on the same bill where savings are
26 realized from the investment, resulting in a new bill that can be
27 equal to or even less than their utility bill prior to energy upgrades.

28 (7) On-bill repayment is a unique clean energy incentive
29 program because it does not rely on public funding and expands
30 access to energy efficiency and clean technology upgrades.

31 (8) On-bill repayment will incentivize private investors to invest
32 in clean energy improvements in California, will stimulate the
33 state’s economy by creating jobs for contractors and other persons
34 who complete new energy improvements, and will reinforce the
35 leadership role of the state in the new energy economy, thereby
36 attracting clean energy manufacturing facilities and related jobs
37 to the state.

38 (b) It is the intent of the Legislature, in enacting this act, to allow
39 greater access to onsite clean energy projects ~~by allowing~~
40 ~~consumers to finance clean energy projects through their utility~~

1 ~~bills in a financing mechanism using third-party capital to repay~~
2 ~~their obligations through their utility bill using a tool called~~
3 ~~“on-bill repayment.”~~

4 SEC. 3. Section 1940.10 is added to the Civil Code, to read:

5 1940.10. (a) A property owner that authorizes a project
6 financed by the OBR program pursuant to Chapter 7.6
7 (commencing with Section 2833) of Part 2 of Division 1 of the
8 Public Utilities Code shall provide to an existing tenant who is
9 responsible, directly or indirectly through the provisions of the
10 applicable lease, for paying all or a portion of the cost of utility
11 service that is subject to an OBR obligation, the disclosure made
12 available to the property owner pursuant to Section 2833.3 of the
13 Public Utilities Code.

14 (b) Prior to the signing of a lease or rental agreement, an owner,
15 or the agent of an owner of any premises with respect to which
16 utility service is subject to an OBR obligation that will be paid by
17 the tenant, whether directly or indirectly through the provisions
18 of the applicable lease, shall provide a prospective tenant with the
19 disclosure that was provided to the owner pursuant to Section
20 2833.3 of the Public Utilities Code.

21 (c) A lease shall not be invalidated solely because of the failure
22 to comply with this section.

23 (d) For the purposes of this section, the following terms have
24 the following meanings:

25 (1) “OBR program” has the same meaning as that set forth in
26 Section 2833 of the Public Utilities Code.

27 (2) “OBR obligation” has the same meaning as that set forth in
28 Section 2833 of the Public Utilities Code.

29 SEC. 4. Section 2079.10b is added to the Civil Code, to read:

30 2079.10b. (a) Every seller of real property subject to an OBR
31 obligation that runs with the meter, pursuant to Chapter 7.6
32 (commencing with Section 2833) of Part 2 of Division 1 of the
33 Public Utilities Code, shall deliver to the buyer of the property the
34 disclosure that was provided to the seller *pursuant to* Section
35 2833.3 of the Public Utilities Code.

36 (b) Upon delivery of the disclosure form to the buyer of real
37 property, the seller or agent is not required to provide additional
38 information relative to the OBR obligation and the information in
39 the disclosure form is deemed adequate to inform the buyer about
40 the existence of the OBR obligation and the OBR repayment charge

1 that will run with the meter pursuant to Section 2833.3 of the Public
2 Utilities Code.

3 *(c) The notice shall further state that unless fully satisfied prior*
4 *to the sale or transfer of the property, the OBR obligation survives*
5 *changes in ownership, tenancy, or meter account responsibility*
6 *and, until fully satisfied, constitutes an obligation of the person*
7 *responsible for the meter account pursuant to Section 2833.8 of*
8 *the Public Utilities Code.*

9 (e)

10 (d) For the purposes of this section, the following terms have
11 the following meanings:

12 (1) “OBR obligation” has the same meaning as that set forth in
13 Section 2833 of the Public Utilities Code.

14 (2) “OBR repayment charge” has the same meaning as that set
15 forth in Section 2833 of the Public Utilities Code.

16 (3) “Runs with meter” has the same meaning as that set forth
17 in Section 2833 of the Public Utilities Code.

18 SEC. 5. Section 25402.9 of the Public Resources Code is
19 amended to read:

20 25402.9. (a) On or before July 1, 1996, the commission shall
21 develop, adopt, and publish an informational booklet to educate
22 and inform homeowners, rental property owners, renters, sellers,
23 brokers, and the general public about the statewide home energy
24 rating program adopted pursuant to Section 25942.

25 (b) In the development of the booklet, the commission shall
26 consult with representatives of the Department of Real Estate, the
27 Department of Housing and Community Development, the Public
28 Utilities Commission, investor-owned and municipal utilities,
29 cities and counties, real estate licensees, home builders, mortgage
30 lenders, home appraisers and inspectors, home energy rating
31 organizations, contractors who provide home energy services,
32 consumer groups, and environmental groups.

33 (c) The commission shall update the booklet developed pursuant
34 to subdivision (a) to include information about home energy
35 conservation and on-bill repayment programs developed and
36 implemented pursuant to Chapter 7.6 (commencing with Section
37 2833) of Part 2 of Division 1 of the Public Utilities Code.

38 (d) The commission may charge a fee for the informational
39 booklet to recover its costs under subdivision (a).

1 SEC. 6. Chapter 7.6 (commencing with Section 2833) is added
2 to Part 2 of Division 1 of the Public Utilities Code, to read:

3
4 CHAPTER 7.6. CALIFORNIA CLEAN ENERGY CONSUMERS ACCESS
5 ACT OF 2013
6

7 2833. For the purposes of this chapter, the following the terms
8 have the following meanings:

9 (a) “Bill neutrality” means a utility customer’s annual payments
10 of OBR repayment charges set at an amount that is less than or
11 equal to the projected annual electric and gas energy savings arising
12 from the OBR improvements in a methodology to be determined
13 by the commission pursuant to Section 2833.1.

14 (b) “Incurring customer” means the utility customer of record
15 during the billing period during which any OBR repayment charge
16 becomes due and payable.

17 (c) “OBR agreement” means a written agreement executed by,
18 and among, a utility customer, an OBR partner or its agent, and a
19 utility or its agent, governing the terms of an OBR obligation.

20 (d) “OBR improvement” means an eligible energy improvement
21 financed through an OBR obligation.

22 (e) “OBR obligation” means an obligation to repay a financing
23 provided to a utility customer *by an OBR partner* pursuant to an
24 on-bill repayment program *approved by the commission*.

25 (f) “OBR partner” means a person or entity providing financing
26 for eligible energy improvements pursuant to an on-bill repayment
27 program. OBR partners include, but are not limited to, banks,
28 savings and loan institutions, credit unions, project developers, or
29 independent solar energy producers, as defined in Section 2868.
30 Financing may be provided in the form of a loan, lease, power
31 purchase agreement, energy service agreement, or other financing
32 structure approved by the commission.

33 (g) “On-bill repayment program” or “OBR program” means a
34 program, which may include one or more pilot test programs,
35 approved by the commission that enables ~~building owners or~~
36 ~~occupants to arrange, by an OBR agreement, for the financing of~~
37 ~~eligible energy improvements that is repaid through charges to be~~
38 ~~included as a portion of utility bills for utility service to the~~
39 ~~premises served by the improvements~~ *financing of eligible energy*
40 *improvements to be repaid through charges to be associated with*

1 *the same utility account or accounts where savings are anticipated*
2 *to be realized as a result of the improvements.*

3 (h) “OBR repayment charge” means a charge, constituting
4 repayment of all or a portion of any OBR obligation, that is
5 included on a utility bill in accordance with a commission-approved
6 utility tariff.

7 (i) “Run with the meter” means all of the following:

8 (1) The OBR obligation, for so long as any portion of the OBR
9 obligation remains outstanding prior to the sale or transfer of the
10 applicable real property, survives a change in ownership, tenancy,
11 or meter account responsibility.

12 (2) The OBR obligation, for so long as any portion of the OBR
13 obligation remains outstanding, at all times constitutes an
14 obligation of the utility customer of record with respect to the
15 premises served by the OBR improvements to repay.

16 (3) Arrears in OBR repayment charges outstanding prior to the
17 sale or transfer of the applicable real property remain the
18 responsibility of the incurring customer, unless expressly assumed
19 by a subsequent customer or third party.

20 (4) The exemption from restrictions on a utility’s right to
21 terminate service pursuant to Section 2833.11 applies to the
22 subsequent utility customer for as long as any portion of the OBR
23 obligation remains outstanding.

24 (j) “Utility” means an electrical corporation or gas corporation
25 that develops, or is required to develop, an on-bill repayment
26 program.

27 2833.1. (a) The commission may require an electrical
28 corporation or gas corporation with 250,000 or more service
29 connections in the state to develop and implement one or more
30 on-bill repayment programs for eligible energy efficiency,
31 renewable energy, distributed generation, *energy storage*, or
32 demand response improvements.

33 (b) A utility shall not implement the on-bill repayment program
34 without the express approval of the commission.

35 (c) The commission shall supervise on-bill repayment programs
36 to ensure that the programs are administered in compliance with
37 the terms approved by the commission.

38 2833.2. (a) The commission shall establish requirements to
39 be met by each utility in the utility’s on-bill repayment programs
40 that are submitted to the commission for approval, including, but

1 not limited to, eligibility criteria for types of improvements and
2 projects, the establishment of energy and cost savings evaluation
3 standards, requirements that prevent increases in expected
4 disconnection rates, prepayment options, rules that prohibit the
5 unauthorized removal from the property of an OBR improvement,
6 a methodology to determine bill neutrality, and project inspection
7 services or requirements.

8 (b) The commission shall limit technologies eligible to be
9 financed through OBR obligations to those that will achieve
10 reductions of greenhouse gases as defined in the California Global
11 Warming Solutions Act of 2006 (Division 25.5 (commencing with
12 Section 38500) of the Health and Safety Code).

13 (c) The commission shall ensure the on-bill repayment program
14 includes all of the following program elements:

15 (1) (A) For two years from the initial approval of the program
16 by the commission, all on-bill repayment programs shall require
17 bill neutrality.

18 (B) Two years after the initial approval, the commission shall
19 evaluate the success of projects financed through on-bill repayment
20 to date. If the commission determines that the requirement for bill
21 neutrality has unnecessarily limited the types of projects that may
22 be financed through the program, the commission may limit the
23 application of the bill neutrality requirement.

24 (C) Notwithstanding subparagraph (B), the bill neutrality
25 requirement shall apply, at all times, in cases where a portion of
26 the OBR repayment charges are expected to be paid by one or
27 more tenants on the property, whether directly or indirectly.

28 (D) *The commission may include changes in the expected*
29 *operating and maintenance costs in calculating bill neutrality.*

30 (2) A requirement that an OBR obligation shall not be put in
31 place without authorization by all owners of the fee interest in the
32 property where the premises served by the OBR improvements is
33 located.

34 (3) (A) Consumer protections for ~~low-income~~ residential
35 customers, including protections to prevent increases in the
36 expected number of service terminations, such as targeted use of
37 a commission-approved loan loss reserve in lieu of service
38 termination, and, including, at all times, a requirement for bill
39 neutrality for lower income households.

1 (B) *The commission may include changes in the expected*
2 *operating and maintenance costs in calculating bill neutrality.*

3 (4) A requirement that the OBR partner implement consumer
4 protections, loan eligibility, and credit determinations.

5 (5) A requirement that the OBR partner provide the utility or
6 its agent with a copy of all financing documents associated with
7 an OBR obligation.

8 (6) A requirement that the OBR repayment charge be listed by
9 the utility as a separate line item on the customer’s bill from the
10 utility.

11 (7) A requirement that the on-bill repayment charge collected
12 by the utility or its agents be remitted to the OBR partner pursuant
13 to a timeframe determined by the commission.

14 (d) *The commission shall consider, before the next energy*
15 *efficiency program cycle, opportunities to coordinate OBR with*
16 *ongoing efforts with participants in existing programs to support*
17 *careers in energy efficiency, particularly for minorities, women,*
18 *and other disadvantaged communities. This includes coordination*
19 *with efforts to improve workforce diversity, job quality, and the*
20 *collection of data on workforce outcomes.*

21 2833.3. The OBR program shall develop all of the following:

22 (a) A description of OBR programs and OBR obligations that
23 would be included in the informational booklet developed pursuant
24 to Section 25402.9 of the Public Resources Code.

25 (b) A standard disclosure required by Section 2079.10b of the
26 Civil Code to be available for use by a seller of real property that
27 is served by OBR improvements that is provided *by the OBR*
28 *partners or its agent* free of charge to the seller upon request.

29 (c) A standard disclosure required by Section 1940.10 of the
30 Civil Code to be available for use by a lessor of real property that
31 is served by OBR improvements that is provided *by the OBR*
32 *partners or its agent* free of charge to the lessor upon request.

33 2833.4. (a) If the amount paid by the utility customer is less
34 than the amount billed to the customer on the utility bill, for a
35 utility customer account to which an OBR obligation is in effect,
36 the commission shall adopt one of the following methods for
37 allocation of the payment:

38 (1) Allocate the payment in the following order of priority:

39 (A) Beginning with the earliest billing period in which an
40 arrearage exists, allocate to the utility in respect of the outstanding

1 arrearage in all charges other than OBR repayment charges (such
2 charges, the non-OBR charges) accrued during that billing period.
3 Upon the satisfaction of that arrearage, allocation to the OBR
4 partner in respect of the outstanding arrearage in the OBR
5 repayment charges accrued during that billing period.

6 (B) Upon the satisfaction of arrearage pursuant to subparagraph
7 (A), the remaining amount of the payment, if any, shall be allocated
8 to the arrearages accrued in subsequent billing periods pursuant
9 to subparagraph (A), with the arrearage accruing from any earlier
10 billing period being satisfied before the arrearages accruing from
11 subsequent billing ~~period~~ *periods*. With respect to any billing
12 period, allocation shall be made first to the utility in respect of all
13 non-OBR charges, and, after satisfaction of the arrearage in
14 non-OBR charges accruing in such billing period, to the OBR
15 partner in respect of the arrearage in OBR repayment charges
16 accruing in such billing period.

17 (C) Upon the satisfaction of all prior arrearages accruing from
18 prior billing periods, the remaining payment, if any, shall be
19 allocated first to the utility in respect of the non-OBR charge in
20 the current billing period. Upon the satisfaction of that charge,
21 allocation shall be made to the OBR partner in respect of the OBR
22 repayment charge in the current billing period.

23 (2) Allocate the payment to the utility and the OBR partner on
24 a pro rata basis, in proportion to the non-OBR charge and OBR
25 repayment charge due and owing during the applicable billing
26 period, with arrearages from the earlier billing period being
27 satisfied first, followed by arrearages from subsequent billing
28 periods, which shall be addressed in chronological order, followed
29 by charges that are due and owing during the current billing period.

30 (b) Any arrearage in payment for a billing period shall be
31 included in subsequent billing periods until it is paid in full.

32 (c) In the event of an arrearage in payment, the full amount of
33 the arrearage constitutes a failure to pay for electric or gas service
34 and shall be treated consistent with the rules established by the
35 commission for a customer's failure to pay for service.

36 2833.5. With respect to a utility account that has been closed
37 and in which *an* arrearage ~~exist~~ *exists*, including *an* arrearage with
38 respect to OBR repayment charges, the commission ~~may~~ *shall*
39 adopt rules providing that after a *reasonable* period of time to be
40 determined by the commission, the share of total arrearage that is

1 attributable to the OBR obligation ~~may~~ *shall* be deemed, as of a
2 date certain *that is no later than 90 days after the closing of the*
3 *account*, to be an obligation owed directly to the OBR partner and
4 not to the utility.

5 2833.6. (a) An OBR obligation shall run with the meter unless
6 the commission has determined that it is not reasonable for the
7 applicable category of OBR obligation to run with the meter.

8 (b) Acceptance of electric or gas service to premises that are
9 served by OBR improvements, and to which an OBR obligation
10 is outstanding, following submission of an application for that
11 service, operates as an acceptance of the OBR obligation associated
12 with electric or gas service, as applicable, to the extent that OBR
13 repayment charges accrue during the period of electric or gas
14 service and an assumption of the contractual rights and obligations
15 of the OBR agreement for the duration of receipt of that service.

16 (c) Acceptance of electric or gas service does not operate as an
17 assumption of any past due OBR repayment charges incurred prior
18 to the commencement of that service by the person or entity that
19 subsequently becomes the customer of record.

20 2833.7. (a) The commission shall authorize a utility to recover
21 all prudently incurred actual costs, net of any fees charged to a
22 customer, OBR partner, contractor, or other third party, of
23 establishing and administering the on-bill repayment program.

24 (b) The commission shall approve a utility's request for cost
25 recovery of actual costs for all judgments, settlements, costs, and
26 expenses, including attorney's fees, and other liabilities paid or
27 incurred by or imposed upon the utility in carrying out required
28 activities under an OBR program pursuant to public or private
29 enforcement of federal laws governing consumer lending, credit,
30 debt collection, and servicing.

31 (c) Utilities, to the extent they are carrying out required activities
32 pursuant to an on-bill repayment program, shall not be responsible
33 for lending, underwriting, and credit determinations, and are not
34 subject to the California Finance Lenders Law (Division 9
35 (commencing with Section 22000) of the Financial Code), the
36 California Financial *Information* Privacy Act (Division 1.4
37 (commencing with Section 4050) of the Financial Code), or the
38 Rosenthal Fair Debt Collection Practices Act (Title 1.6C
39 (commencing with Section 1788) of Part 2 of Division 3 of the
40 Civil Code).

1 2833.8. (a) For each OBR obligation, the OBR partner or its
2 agent shall record in the county recorder's office of a county in
3 which the property is located, a ~~notice, with respect to the real~~
4 ~~property on which the premises served by the OBR improvements~~
5 ~~are situated, of the existence of the OBR obligation and stating the~~
6 *"Notice of On-Bill Repayment Obligation" with a prominent*
7 *header on the document that reads "On-Bill Repayment*
8 *Obligation" in 14-point type and contains the assessor's parcel*
9 *number, owners of record of the affected property, the legal*
10 *description of the affected property, the street address of the*
11 *affected property, total amount of the OBR obligation, the term*
12 *of the OBR obligation, and that the OBR obligation is being repaid*
13 *through a charge on an electric or gas service provided to the*
14 *property. The notice shall further state that it is being*~~filed~~ *recorded*
15 *pursuant to this section and, unless fully satisfied prior to the sale*
16 *or transfer of the property, the OBR obligation shall survive*
17 *changes in ownership, tenancy, or meter account responsibility*
18 *and, until fully satisfied, shall constitute the obligation of the person*
19 *responsible for the meter account. The notice*~~shall~~ *does* not
20 *constitute a mortgage or deed of trust and shall not create any*
21 *security interest or lien title defect, lien, or encumbrance on the*
22 *property. Upon*

23 *(b) Upon satisfaction of the OBR obligation, the OBR partner*
24 *or its agent shall*~~promptly~~ *record a*~~notice of repayment or a~~
25 ~~termination of notice~~ *"Termination of Notice of On-Bill Repayment*
26 *Obligation" within 10 days of receipt of full payment.*

27 ~~(b) The county recorder shall record the notices in the same~~
28 ~~book in which the deeds are recorded.~~

29 2833.9. The commission and the utility shall not provide a
30 forum to adjudicate disputes arising from this chapter. If a dispute
31 arises between the customer and the OBR partner regarding the
32 customer's obligation to pay the OBR obligation, the utility shall
33 not be responsible in any respect relating to the disputes and shall
34 handle funds collected from the customer in accordance with the
35 program rules.

36 2833.10. The commission shall, *with public notice and an*
37 *opportunity for public comment*, periodically evaluate on-bill
38 repayment programs and may suspend or modify part or all of a
39 program if it finds that the program does not meet commission
40 requirements or goals. *Suspension or modification of part or all*

1 *of the program* shall not affect the OBR obligations that exist at
2 the time of the suspension *or modification*.

3 2833.11. Subdivision (e) of Section 777.1 and subdivision (a)
4 of Section 779.2 do not apply to delinquency in OBR repayment
5 charges.

6 2833.12. (a) *In lieu of waiving disconnect protections for*
7 *third-party financing as provided in Section 2833.11, the*
8 *commission shall develop, to the extent feasible and cost effective,*
9 *a loan-loss reserve program or loan guarantee program as part*
10 *of the on-bill repayment program for providing energy efficiency*
11 *programs to residential customers. The program shall be directed*
12 *to residential customers who experience disproportionate bill*
13 *impacts from summer cooling and other demands on the electrical*
14 *system that cause excessive usage and potentially significant bill*
15 *impacts.*

16 (b) *Notwithstanding subdivision (a), but consistent with*
17 *paragraph (3) of subdivision (c) of Section 2833.2, the commission*
18 *may determine that Section 2833.11 applies in either of the*
19 *following circumstances:*

20 (1) *A customer or project is not covered by a loan-loss reserve*
21 *program or a loan guarantee program established in subdivision*
22 *(a).*

23 (2) *A customer elects to waive the provisions of subdivision (a).*
24 ~~2833.12.~~

25 2833.13. (a) This chapter does not require that the on-bill
26 repayment programs be identical and the commission may vary
27 program elements for each utility based upon each utility's
28 individual circumstances.

29 (b) This chapter does not limit the authority of the commission
30 to approve and supervise separate on-bill repayment programs
31 with different features for different categories of customers,
32 including single-family residential, multifamily residential,
33 industrial, governmental, commercial, and other categories of
34 customers that the commission determines to be appropriate.
35 Utilities shall not implement on-bill repayment programs without
36 the express approval of the commission.

37 SEC. 7. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O