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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RESIDENTIAL SOLAR ENERGY--
DISCLOSURE AND HOMEOWNERS BILL OF RIGHTS ACT

Introduced By: Representatives McNamara, Ackerman, Bennett, Jackson, and Lyle

Date Introduced: January 22, 2020

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 39-26.8

4 RESIDENTIAL SOLAR ENERGY DISCLOSURE AND HOMEOWNERS

5 BILL OF RIGHTS ACT

6 **39-26.8-1 Title.**

7 This chapter shall be known and may be cited as the "Residential Solar Energy
8 Disclosure and Homeowners Bill of Rights Act."

9 **39-26.8-2. Definitions.**

10 As used in this chapter:

11 (1) "Customer" means a person who, for primarily personal, family, or household
12 purposes:

13 (i) Purchases a residential solar energy system under a system purchase agreement;

14 (ii) Leases a residential solar energy system under a system lease agreement; or

15 (iii) Purchases electricity under a power purchase agreement.

16 (2) "Department" means the department of business regulation, established in chapter 14
17 of title 42.

18 (3) "Power purchase agreement" means an agreement:

- 1 (i) Between a customer and a solar retailer;
2 (ii) For the customer's purchase of electricity generated by a residential solar energy
3 system owned by the solar retailer; and
4 (iii) That provides for the customer to make payments over a term of at least five (5)
5 years.

6 (4) "Residential solar energy system" means:

7 (i) A solar energy system that:

8 (A) Is installed in the state;

9 (B) Generates electricity primarily for on-site consumption for personal, family, or
10 household purposes;

11 (C) Is situated on no more than four (4) units of residential real property;

12 (D) Has an electricity delivery capacity that exceeds one kilowatt; and

13 (E) Does not include a generator that:

14 (I) Produces electricity; and

15 (II) Is intended for occasional use.

16 (5) "Solar agreement" means a system purchase agreement, a system lease agreement, or
17 a power purchase agreement.

18 (6) "Solar energy system" means a system or configuration of solar energy devices that
19 collects and uses solar energy to generate electricity.

20 (7) "Solar retailer" means a person who:

21 (i) Sells or proposes to sell a residential solar energy system to a customer under a system
22 purchase agreement;

23 (ii) Owns the residential solar energy system that is the subject of a system lease
24 agreement or proposed system lease agreement; or

25 (iii) Sells or proposes to sell electricity to a customer under a power purchase agreement.

26 (8) "System lease agreement" means an agreement:

27 (i) Under which a customer leases a residential solar energy system from a solar retailer;
28 and

29 (ii) That provides for the customer to make payments over a term of at least five (5) years
30 for the lease of the residential solar energy system.

31 (9) "System purchase agreement" means an agreement under which a customer purchases
32 a residential solar energy system from a solar retailer.

33 **39-26.8-3. Applicability of chapter.**

34 (a) This chapter applies to each solar agreement entered into on or after September 1,

1 2020, including a solar agreement that accompanies the transfer of ownership or lease of real
2 property.

3 (b) This chapter does not apply to:

4 (i) The transfer of title or rental of real property on which a residential solar energy
5 system is or is expected to be located, if the presence of the residential solar energy system is
6 incidental to the transfer of title or rental;

7 (ii) A lender, governmental entity, or other third party that enters into an agreement with
8 a customer to finance a residential solar energy system but is not a party to a system purchase
9 agreement, power purchase agreement, or lease agreement;

10 (iii) A sale or lease of, or the purchase of electricity from, a solar energy system that is
11 not a residential solar energy system; or

12 (iv) The lease of a residential solar energy system or the purchase of power from a
13 residential solar energy system under an agreement providing for payments over a term of less
14 than five (5) years.

15 **39-26.8-4. Disclosure statement required.**

16 (a) Before entering a solar agreement, a solar retailer shall provide to a potential customer
17 a separate, written disclosure statement as provided in this section and, as applicable, §§ 39-26.8-
18 5, 39-26.8-6 and 39-26.8-7.

19 (b) The requirement under subsection (a) of this section may be satisfied by the electronic
20 delivery of a disclosure statement to the potential customer. An electronic document under
21 subsection (a) of this section satisfies the font-size standard under subsection (c)(1) of this section
22 if the required disclosures are displayed in a clear and conspicuous manner.

23 (c) A disclosure statement under subsection (a) of this section shall:

24 (1) Be in at least twelve (12) point font;

25 (2) Contain:

26 (i) The name, address, telephone number, and any email address of the potential
27 customer;

28 (ii) The name, address, telephone number, and email address of the solar retailer; and

29 (iii)(A) The name, address, telephone number, email address, and state contractor license
30 number of the person who is expected to install the system that is the subject of the solar
31 agreement; and

32 (B) If the solar retailer selected the person who is expected to provide operations or
33 maintenance support to the potential customer or introduced that person to the potential customer,
34 the name, address, telephone number, email address, and state contractor license of the operations

1 or maintenance support person; and

2 (3) Include applicable information and disclosures as provided in §§ 39-28.6-5, 39-28.6-6
3 and 39-28.6-7.

4 **39-26.8-5. Contents of disclosure statement for any solar agreement.**

5 (a) If a solar retailer is proposing to enter any solar agreement with a potential customer,
6 the disclosure statement required in § 39-26.8-4 shall include:

7 (1) A statement indicating that operations or maintenance services are not included as
8 part of the solar agreement, if those services are not included as part of the solar agreement;

9 (2) If the solar retailer provides any written estimate of the savings the potential customer
10 is projected to realize from the system based on similar installations that have the same
11 geographic orientation in similar climates:

12 (i) The estimated projected savings over the life of the solar agreement; and

13 (ii) At the discretion of the solar retailer, the estimated projected savings over any longer
14 period not to exceed the anticipated useful life of the system;

15 (3) Any material assumptions used to calculate estimated projected savings and the
16 source of those assumptions, including:

17 (i) If an annual electricity rate increase is assumed, the rate of the increase and the solar
18 retailer's basis for the assumption of the rate increase;

19 (ii) The potential customer's eligibility for or receipt of tax credits or other governmental
20 or utility incentives;

21 (iii) System production data, including production degradation;

22 (iv) The system's eligibility for interconnection under any net metering or similar
23 program;

24 (v) Electrical usage and the system's designed offset of the electrical usage;

25 (vi) Historical utility costs paid by the potential customer;

26 (vii) Any rate escalation affecting a payment between the potential customer and the solar
27 retailer;

28 (viii) The costs associated with replacing equipment making up part of the system or, if
29 those costs are not assumed, a statement indicating that those costs are not assumed;

30 (ix) Two (2) separate statements in capital letters in close proximity to any written
31 estimate of projected savings, with substantially the following form and content:

32 (A) "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND
33 ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT
34 NECESSARILY REPRESENTATIVE OF FUTURE RESULTS. FOR FURTHER

1 INFORMATION REGARDING RATES, CONTACT YOUR LOCAL UTILITY OR THE
2 STATE PUBLIC UTILITY COMMISSION"; and

3 (B) "TAX AND OTHER FEDERAL, STATE, AND LOCAL INCENTIVES VARY AS
4 TO REFUNDABILITY AND ARE SUBJECT TO CHANGE OR TERMINATION BY
5 LEGISLATIVE OR REGULATORY ACTION, WHICH MAY IMPACT SAVINGS
6 ESTIMATES. CONSULT A TAX PROFESSIONAL FOR MORE INFORMATION."

7 (x) A notice with substantially the following form and content: "Legislative or regulatory
8 action may affect or eliminate your ability to sell or get credit for any excess power generated by
9 the system, and may affect the price or value of that power.";

10 (xi) A notice advising the customer that the customer has the right to cancel or rescind a
11 solar agreement within a ninety (90) day period prior to installation;

12 (xii) A statement describing the system and indicating the system design assumptions,
13 including the make and model of the solar panels and inverters, system size, positioning of the
14 panels on the customer's property, estimated first-year energy production, and estimated annual
15 energy production degradation, including the overall percentage degradation over the term of the
16 solar agreement or, at the solar retailer's option, over the estimated useful life of the system;

17 (xiii) A description of any warranty, representation, or guarantee of energy production of
18 the system;

19 (xiv) The approximate start and completion dates for the installation of the system;

20 (xv) A statement indicating whether any warranty or maintenance obligations related to
21 the system may be transferred by the solar retailer to a third party and, if so, a statement with
22 substantially the following form and content: "The maintenance and repair obligations under your
23 contract may be assigned or transferred without your consent to a third party who will be bound
24 to all the terms of the contract. If a transfer occurs, you will be notified of any change to the
25 address, email address, or phone number to use for questions or payments or to request system
26 maintenance or repair.";

27 (xvi) If the solar retailer will not obtain customer approval to connect the system to the
28 customer's utility, a statement to that effect and a description of what the customer must do to
29 interconnect the system to the utility;

30 (xvii) A description of any roof penetration warranty or other warranty that the solar
31 retailer provides the customer or a statement, in bold capital letters, that the solar retailer does not
32 provide any warranty;

33 (xviii) A statement indicating whether the solar retailer will make a fixture filing or other
34 notice in the city or town real property records covering the system, including a Notice of

1 Independently-Owned Solar Energy System, and any fees or other costs associated with the filing
2 that may be charged to the customer;

3 (xix) A statement in capital letters with substantially the following form and content:
4 "NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO
5 MAKE ANY PROMISE TO YOU THAT IS NOT CONTAINED IN THIS DISCLOSURE
6 STATEMENT CONCERNING COST SAVINGS, TAX BENEFITS, OR GOVERNMENT OR
7 UTILITY INCENTIVES. YOU SHOULD NOT RELY UPON ANY PROMISE OR ESTIMATE
8 THAT IS NOT INCLUDED IN THIS DISCLOSURE STATEMENT.";

9 (xx) A statement in capital letters with substantially the following form and content:
10 "[name of solar retailer] IS NOT AFFILIATED WITH ANY UTILITY COMPANY OR
11 GOVERNMENT AGENCY. NO EMPLOYEE OR REPRESENTATIVE OF [name of solar
12 retailer] IS AUTHORIZED TO CLAIM AFFILIATION WITH A UTILITY COMPANY OR
13 GOVERNMENT AGENCY.";

14 (xxi) A statement that if the customer fails to make installment payments, the solar
15 retailer may place liens for payment on their residence effective only after written notice is
16 provided to the customer; and

17 (xxii) Any additional information, statement, or disclosure the solar retailer considers
18 appropriate, as long as the additional information, statement, or disclosure does not have the
19 purpose or effect of obscuring the disclosures required under this section.

20 **39-26.8-6. Contents of disclosure statement for system purchase agreement.**

21 (a) If a solar retailer is proposing to enter a system purchase agreement with a potential
22 customer, the disclosure statement required in § 39-26.8-4 shall include:

23 (1) A statement with substantially the following form and content: "You are entering an
24 agreement to purchase an energy generation system. You will own the system installed on your
25 property. You may be entitled to federal tax credits because of the purchase. You should consult
26 your tax advisor";

27 (2) The price quoted to the potential customer for a cash purchase of the system;

28 (3)(i) The schedule of required and anticipated payments from the customer to the solar
29 retailer and third parties over the term of the system purchase agreement, including application
30 fees, up-front charges, down payment, scheduled payments under the system purchase agreement,
31 payments at the end of the term of the system purchase agreement, payments for any operations
32 or maintenance contract offered by or through the solar retailer in connection with the system
33 purchase agreement, and payments for replacement of system components likely to require
34 replacement before the end of the useful life of the system as a whole; and

- 1 (ii) The total of all payments referred to in subsection (a)(3)(i) of this section;
2 (4) A statement indicating that the cost of insuring the system is not included within the
3 schedule of payments under subsection (a)(3) of this section;
4 (5) A statement, if applicable, with substantially the following form and content: "You
5 are responsible for obtaining insurance coverage for any loss or damage to the system. You
6 should consult an insurance professional to understand how to protect against the risk of loss or
7 damage to the system. You should also consult your home insurer about the potential impact of
8 installing a system";
9 (6) Information about whether the system may be transferred to a purchaser of the home
10 or real property where the system is located and any conditions for a transfer; and
11 (7) The statements/notices required in §§ 39-26.8-5(a)(2)(xi) and 39-26.8-5(a)(2) (xxi).

12 **39-26.8-7. Contents of disclosure statement for power purchase agreement.**

13 (a) If a solar retailer is proposing to enter a power purchase agreement with a potential
14 customer, the disclosure statement required in § 39-26.8-4 shall include:

15 (1) A statement with substantially the following form and content: "You are entering an
16 agreement to purchase power from an energy generation system. You will not own the system
17 installed on your property. You will not be entitled to any federal tax credit associated with the
18 purchase";

19 (2) Information about whether the power purchase agreement may be transferred to a
20 purchaser of the home or real property where the system is located and, if so, any conditions for a
21 transfer;

22 (3) If the solar retailer will not obtain insurance against damage or loss to the system, a
23 statement to that effect and a description of the consequences to the customer if there is damage
24 or loss to the system;

25 (4) Information about what will happen to the system at the end of the term of the power
26 purchase agreement; and

27 (5) The statements/notices required in §§ 39-26.8-5(a)(2)(xi) and 39-26.8-5(a)(2) (xxi).

28 **39-26.8-8. Good faith estimate allowed.**

29 A solar retailer that does not, at the time of providing a disclosure statement required in §
30 39-26.8-4 have information required under §§ 39-26.8-5, 39-26.8-6 and 39-26.8-7 to be included
31 in the disclosure statement may make a good faith estimate of that information, if the solar
32 retailer clearly indicates that the information is an estimate and provides the basis for the
33 estimate.

34 **39-26.8-9. Department enforcement authority -- Administrative fine.**

1 (a) Subject to subsection (b) of this section, the department may enforce the provisions of
2 this chapter by:

3 (1) Conducting an investigation into an alleged violation of this chapter;

4 (2) Issuing a cease and desist order against a further violation of this chapter; and

5 (3) Imposing an administrative fine of no more than two thousand five hundred dollars
6 (\$2,500) per solar agreement on a solar retailer that:

7 (i) Materially fails to comply with the disclosure requirements of this chapter; or

8 (ii) Violates any other provision of this chapter, if the department finds that the violation
9 is a willful or intentional attempt to mislead or deceive a customer.

10 (b) The department may not commence any enforcement action under this section more
11 than four (4) years after the date of execution of the solar agreement with respect to which a
12 violation is alleged to have occurred.

13 (c) The department shall distribute an administrative fine collected under subsection
14 (a)(3) of this section to a customer adversely affected by the solar retailer's failure or violation
15 resulting in a fine under subsection (a)(3) of this section, after the department has conducted an
16 administrative proceeding resulting in a determination of the appropriateness and amount of any
17 distribution to a customer.

18 (d) Nothing in this chapter may be construed to affect a remedy a customer has
19 independent of this chapter; or the division's ability or authority to enforce any other law or
20 regulation.

21 **39-26.8-10. Rules and regulations.**

22 The director of the department of business regulation may promulgate such rules and
23 regulations as are necessary and proper to carry out the duties assigned to the director by this
24 chapter or any other provision of law.

25 SECTION 2. This act shall take effect upon passage and shall apply to solar agreements
26 entered into on or after September 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RESIDENTIAL SOLAR ENERGY--
DISCLOSURE AND HOMEOWNERS BILL OF RIGHTS ACT

1 This act would grant residential purchasers of solar energy systems protections requiring
2 solar system retailers to provide disclosures in the retail sale/lease documents as well-as the right
3 to cancel/rescind the agreement within ninety (90) days prior to installation and notice of any
4 liens filed against their residential property.

5 This act would take effect upon passage and would apply to solar agreements entered into
6 on or after September 1, 2020.

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