

2022 -- H 8146 SUBSTITUTE A

LC005742/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

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

Introduced By: Representatives Handy, Fogarty, Serpa, Cassar, Batista, Williams,
Ruggiero, McNamara, Potter, and Tobon

Date Introduced: April 14, 2022

Referred To: House Corporations

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 26.8

4 RESIDENTIAL SOLAR ENERGY DISCLOSURE AND HOMEOWNERS BILL OF RIGHTS

5 ACT

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

7 This chapter shall be known and may be cited as the "Residential Solar Energy Disclosure
8 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 purposes:

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

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

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

15 (2) "Division" means the division of public utilities and carriers.

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

17 (i) Between a customer and a solar retailer;

18 (ii) For the customer's purchase of electricity generated by a residential solar energy system

1 owned by the solar retailer; and

2 (iii) That provides for the customer to make payments over a term of at least five (5) years.

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

4 (i) A solar energy system that:

5 (A) Is installed in the state;

6 (B) Generates electricity primarily for on-site consumption for personal, family, or

7 household purposes;

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

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

10 (E) Does not include a generator that:

11 (I) Produces electricity; and

12 (II) Is intended for occasional use.

13 (5) "Solar agreement" means a system purchase agreement, a system lease agreement, or a

14 power purchase agreement.

15 (6) "Solar energy system" means a system or configuration of solar energy devices that

16 collects and uses solar energy to generate electricity.

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

18 (i) Sells or proposes to sell a residential solar energy system to a customer under a system

19 purchase agreement;

20 (ii) Owns the residential solar energy system that is the subject of a system lease agreement

21 or proposed system lease agreement; or

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

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

24 (i) Under which a customer leases a residential solar energy system from a solar retailer;

25 and

26 (ii) That provides for the customer to make payments over a term of at least five (5) years

27 for the lease of the residential solar energy system.

28 (9) "System purchase agreement" means an agreement under which a customer purchases

29 a residential solar energy system from a solar retailer.

30 **39-26.8-3. Applicability of chapter.**

31 (a) This chapter applies to solar agreements between solar retailers and customers for

32 residential solar energy systems, including any solar agreement that accompanies the transfer of

33 ownership or lease of real property.

34 (b) This chapter does not apply to:

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

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

7 (3) A sale or lease of, or the purchase of electricity from, a solar energy system that is not
8 a residential solar energy system; or

9 (4) The lease of a residential solar energy system or the purchase of power from a
10 residential solar energy system under an agreement providing for payments over a term of less than
11 five (5) years.

12 **39-26.8-4. Disclosure form required.**

13 (a) Before entering a solar agreement, a solar retailer shall provide to a potential customer
14 the standard disclosure form established pursuant to subsection (b) of this section. This requirement
15 shall apply to contracts entered into beginning forty-five (45) days from the date that the standard
16 disclosure form is published by the office of energy resources.

17 (b) The office of energy resources shall develop a standard disclosure form. Use of and
18 compliance with the standard disclosure form will satisfy the solar retailer's obligation under this
19 chapter. The standard disclosure form shall be published on the website of the office of energy
20 resources. In developing the standard disclosure form, the office of energy resources may use as a
21 model the renewable energy fund small scale participant consumer disclosure form developed by
22 the Rhode Island commerce corporation. The office of energy resources shall also consult with
23 industry and other stakeholders in the development of the content and format of the form and in
24 regard to any changes to the form. At a minimum, the disclosure form shall:

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

26 (2) Contain fields that require providing the following information:

27 (i) The name, address, telephone number, and any email address of the potential 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 agreement;
31 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 39-28.6-7 and 39-28.6-8.

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

5 (a) The standard disclosure form shall include:

6 (1) An indication of whether operations or maintenance services are included as part of the
7 solar agreement;

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

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

13 (ii) An optional field for the estimated projected savings over any longer period not to
14 exceed the anticipated useful life of the system; and

15 (3) Fields to disclose material assumptions used to calculate estimated projected savings
16 and the 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 program;

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

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

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

27 (viii) A field to indicate whether costs of replacing equipment were assumed. If such costs
28 were assumed, the form shall require a field for listing the costs associated with replacing
29 equipment making up part of the system applicable.

30 (b) The standard disclosure form shall include the following disclosures and notices:

31 (1)Two (2) separate statements in capital letters in close proximity to any written estimate
32 of projected savings:

33 (i) "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND
34 ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT NECESSARILY

1 REPRESENTATIVE OF FUTURE RESULTS. FOR FURTHER INFORMATION REGARDING
2 RATES, CONTACT YOUR LOCAL UTILITY OR THE STATE PUBLIC UTILITY
3 COMMISSION"; and

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

8 (2) A notice that: "Legislative or regulatory action may affect or eliminate your ability to
9 sell or get credit for any excess power generated by the system, and may affect the price or value
10 of that power."

11 (c) The standard disclosure form shall include fields requiring entry of the following
12 information:

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

18 (2) A description of any warranty, representation, or guarantee of energy production of the
19 system; and

20 (3) The approximate start and completion dates for the installation of the system.

21 (d) The standard disclosure form shall require an indication of whether any warranty or
22 maintenance obligations related to the system may be transferred by the solar retailer to a third
23 party.

24 (e) The standard disclosure form shall require the following disclosure: "If this form
25 indicates that the warranty or maintenance obligation may be transferred, then be advised - The
26 maintenance and repair obligations under your contract may be assigned or transferred without
27 your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs,
28 you will be notified of any change to the address, email address, or phone number to use for
29 questions or payments or to request system maintenance or repair."

30 (f) The standard disclosure form shall require an indication of whether the solar retailer
31 will obtain customer approval to connect the system to the customer's utility. If indicated that the
32 retailer will not obtain said approval, there shall be an additional field requiring a description of
33 what the customer must do to interconnect the system to the utility.

34 (g) The standard disclosure form shall require an indication of whether the solar retailer

1 provides any warranties. If indicated that the retailer does provide warranties, there shall be an
2 additional field requiring a description of any roof penetration warranty or other warranty that the
3 solar retailer provides the customer.

4 (h) The standard disclosure form shall require the solar retailer to indicate whether the solar
5 retailer will make a fixture filing or other notice in the city or town real property records covering
6 the system, including a Notice of Independently-Owned Solar Energy System. If indicated that the
7 retailer will make the fixture filing, there shall be an additional field requiring a description of any
8 fees or other costs associated with the filing that may be charged to the customer.

9 (i) The standard disclosure form shall include the following statement in capital letters that:
10 "NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO
11 MAKE ANY PROMISE TO YOU THAT IS NOT CONTAINED IN THIS DISCLOSURE FORM
12 CONCERNING COST SAVINGS, TAX BENEFITS, OR GOVERNMENT OR UTILITY
13 INCENTIVES. YOU SHOULD NOT RELY UPON ANY PROMISE OR ESTIMATE THAT IS
14 NOT INCLUDED IN THIS DISCLOSURE FORM."

15 (j) The standard disclosure form shall include the following statement in capital letters:
16 "[name of solar retailer] IS NOT AFFILIATED WITH ANY UTILITY COMPANY OR
17 GOVERNMENT AGENCY. NO EMPLOYEE OR REPRESENTATIVE OF [name of solar
18 retailer] IS AUTHORIZED TO CLAIM AFFILIATION WITH A UTILITY COMPANY OR
19 GOVERNMENT AGENCY."

20 (k) The standard disclosure form shall include a statement that if the customer fails to make
21 installment payments, the solar retailer may place liens for payment on their residence effective
22 only after written notice is provided to the customer.

23 (l) The office of energy resources may require any additional information and disclosures
24 deemed necessary to inform and protect customers.

25 (m) The written disclosure form requirement may be satisfied by the electronic delivery of
26 the disclosure form to the potential customer as long as the required disclosures are displayed in a
27 clear and conspicuous manner.

28 **39-26.8-6. Standard from addendum for system lease agreement.**

29 The standard disclosure form shall include an addendum that applies if a solar retailer is
30 proposing to enter into a system purchase agreement with a potential customer. The system lease
31 addendum shall require the solar retailer to provide a detailed comparison of the cost of leasing the
32 system as compared to purchasing the system.

33 **39-26.8-7. Standard form addendum for system purchase agreement.**

34 (a) The standard disclosure form shall include an addendum that applies if a solar retailer

1 is proposing to enter a system purchase agreement with a potential customer. The system purchase
2 addendum shall include:

3 (1) The following statement: "You are entering into an agreement to purchase an energy
4 generation system. You will own the system installed on your property. You may be entitled to
5 federal tax credits because of the purchase. You should consult your tax advisor";

6 (2) A field for the price quoted to the potential customer for a cash purchase of the system;

7 (3) Fields requiring:

8 (i) The schedule of required and anticipated payments from the customer to the solar
9 retailer and third parties over the term of the system purchase agreement, including application
10 fees, up-front charges, down payment, scheduled payments under the system purchase agreement,
11 payments at the end of the term of the system purchase agreement, payments for any operations or
12 maintenance contract offered by or through the solar retailer in connection with the system purchase
13 agreement, and payments for replacement of system components likely to require replacement
14 before the end of the useful life of the system as a whole; and the total of all payments referred to
15 in this subsection;

16 (4) A statement indicating that the cost of insuring the system is not included within the
17 schedule of payments under subsection (a)(3) of this section;

18 (5) A field to indicate whether the customer is responsible for insurance coverage. The
19 field shall be accompanied by the statement: "If so indicated above, you are responsible for
20 obtaining insurance coverage for any loss or damage to the system. You should consult an insurance
21 professional to understand how to protect against the risk of loss or damage to the system. You
22 should also consult your home insurer about the potential impact of installing a system.";

23 (6) Fields requiring information about whether the system may be transferred to a purchaser
24 of the home or real property where the system is located and any conditions for a transfer; and

25 (7) A field requiring a detailed comparison of the costs of purchasing as compared to
26 leasing the system.

27 **39-26.8-8. Standard form addendum for power purchase agreement.**

28 (a) The standard disclosure form shall include an addendum that applies if a solar retailer
29 is proposing to enter a power purchase agreement with a potential customer. The power purchase
30 addendum shall include:

31 (1) The following statement: "You are entering into an agreement to purchase power from
32 an energy generation system. You will not own the system installed on your property. You will not
33 be entitled to any federal tax credit associated with the purchase.";

34 (2) Fields requiring information about whether the power purchase agreement may be

1 transferred to a purchaser of the home or real property where the system is located and, if so, any
2 conditions for a transfer;

3 (3) A field to indicate whether the solar retailer will obtain insurance. The field shall be
4 accompanied by the statement: "If indicated above, the solar retailer will not obtain insurance
5 against damage or loss to the system and the customer is responsible if there is damage or loss to
6 the system"; and

7 (4) Fields requiring information about what will happen to the system at the end of the term
8 of the power purchase agreement.

9 **39-26.8-9. Customer right to cancel solar agreement.**

10 The customer has the right to cancel or rescind a solar agreement within a forty-five (45)
11 days of entering into the solar agreement. The standard disclosure form shall inform the customer
12 of this right.

13 **39-26.8-10. Good faith estimate allowed.**

14 If a solar retailer does not, at the time of providing a disclosure form, have exact cost
15 information required to be included in the disclosure form, pursuant to this chapter, the retailer may
16 make a good faith estimate of that information, if the solar retailer clearly indicates that the
17 information is an estimate and provides the basis for the estimate. If the solar retailer's final cost
18 assessment differs from previously provided estimates, the retailer shall provide a new and
19 complete disclosure form.

20 **39-26.8-11. Division enforcement authority - administrative fine.**

21 (a) Subject to subsection (b) of this section, the division may enforce the provisions of this
22 chapter by:

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

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

25 (3) Imposing an administrative fine of no more than two thousand five hundred dollars
26 (\$2,500) per solar agreement on a solar retailer that:

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

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

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

33 (c) The division shall distribute an administrative fine collected under subsection (a)(3) of
34 this section to a customer adversely affected by the solar retailer's failure or violation resulting in a

1 fine under subsection (a)(3) of this section, after the division has conducted an administrative
2 proceeding resulting in a determination of the appropriateness and amount of any distribution to a
3 customer.

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

6 **39-26.8-12. Rules and regulations.**

7 The division may promulgate such rules and regulations as are necessary and proper to
8 carry out the provisions of this chapter.

9 SECTION 2. This act shall take effect upon passage and shall apply to solar agreements
10 entered into forty-five (45) days after the publication of the standard disclosure form.

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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 by requiring
2 residential solar system retailers to provide a standard disclosure form to customers as well as the
3 providing the customer a right to cancel or rescind the solar agreement within forty-five (45) days
4 of entering into the solar agreement.

5 This act would take effect upon passage and would apply to solar agreements entered into
6 forty-five (45) days after the publication of the standard disclosure form.

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