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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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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: Senators Miller, Valverde, Zurier, Quezada, Sosnowski, Euer,
Archambault, and DiMario

Date Introduced: February 15, 2022

Referred To: Senate Environment & Agriculture

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) "Commission" means the public utilities commission.

12 (2) "Customer" means a person who, for primarily personal, family, or household 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 (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 each solar agreement entered into on or after September 1, 2022,
- 32 including a solar agreement that accompanies the transfer of ownership or lease of real property.
- 33 (b) This chapter does not apply to:
- 34 (i) The transfer of title or rental of real property on which a residential solar energy system

1 is or is expected to be located, if the presence of the residential solar energy system is incidental to
2 the transfer of title or rental;

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

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

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

11 **39-26.8-4. Disclosure statement required.**

12 (a) Before entering a solar agreement, a solar retailer shall provide to a potential customer
13 a separate, written disclosure statement.

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

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

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

20 (2) Contain:

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

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

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

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

30 (3) Include applicable information and disclosures as provided in §§ 39-28.6-5, 39-28.6-6,
31 39-28.6-7 and 39-28.6-8.

32 **39-26.8-5. Contents of disclosure statement for any solar agreement.**

33 (a) If a solar retailer is proposing to enter any solar agreement with a potential customer,
34 the disclosure statement shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (A) "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND
26 ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT NECESSARILY
27 REPRESENTATIVE OF FUTURE RESULTS. FOR FURTHER INFORMATION REGARDING
28 RATES, CONTACT YOUR LOCAL UTILITY OR THE STATE PUBLIC UTILITY
29 COMMISSION"; and

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

34 (x) A notice with substantially the following form and content: "Legislative or regulatory

1 action may affect or eliminate your ability to sell or get credit for any excess power generated by
2 the system, and may affect the price or value of that power.";

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

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

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

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

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

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

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

26 (xviii) A statement indicating whether the solar retailer will make a fixture filing or other
27 notice in the city or town real property records covering the system, including a Notice of
28 Independently-Owned Solar Energy System, and any fees or other costs associated with the filing
29 that may be charged to the customer;

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

1 NOT INCLUDED IN THIS DISCLOSURE STATEMENT.";

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

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

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

13 **39-26.8-6. Additional contents of disclosure statement for system lease agreement.**

14 If a solar retailer is proposing to enter into a system purchase agreement with a potential
15 customer, the disclosure statement shall include a detailed comparison of the cost of leasing the
16 system as compared to purchasing the system.

17 **39-26.8-7. Additional contents of disclosure statement for system purchase**
18 **agreement.**

19 (a) If a solar retailer is proposing to enter a system purchase agreement with a potential
20 customer, the disclosure statement shall include:

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

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

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

33 (ii) The total of all payments referred to in subsection (a)(3)(i) of this section;

34 (4) A statement indicating that the cost of insuring the system is not included within the

1 schedule of payments under subsection (a)(3) of this section:

2 (5) A statement, if applicable, with substantially the following form and content: "You are
3 responsible for obtaining insurance coverage for any loss or damage to the system. You should
4 consult an insurance professional to understand how to protect against the risk of loss or damage
5 to the system. You should also consult your home insurer about the potential impact of installing a
6 system".

7 (6) Information about whether the system may be transferred to a purchaser of the home or
8 real property where the system is located and any conditions for a transfer; and

9 (7) A detailed comparison of the costs of purchasing as compared to leasing the system.

10 **39-26.8-8. Additional contents of disclosure statement for power purchase agreement.**

11 (a) If a solar retailer is proposing to enter a power purchase agreement with a potential
12 customer, the disclosure statement shall include:

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

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

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

23 (4) Information about what will happen to the system at the end of the term of the power
24 purchase agreement.

25 **39-26.8-9. Good faith estimate allowed.**

26 If a solar retailer does not, at the time of providing a disclosure statement required have
27 exact cost information required to be included in the disclosure statement, pursuant to this chapter,
28 the retailer may make a good faith estimate of that information, if the solar retailer clearly indicates
29 that the information is an estimate and provides the basis for the estimate. If the solar retailer's final
30 cost assessment differs from previously provided estimates, the retailer shall provide a new and
31 complete disclosure statement.

32 **39-26.8-10. Commission enforcement authority -- Administrative fine.**

33 (a) Subject to subsection (b) of this section, the commission may enforce the provisions of
34 this chapter by:

1 (1) Conducting an investigation into an alleged violation of this chapter;
2 (2) Issuing a cease and desist order against a further violation of this chapter; and
3 (3) Imposing an administrative fine of no more than two thousand five hundred dollars
4 (\$2,500) per solar agreement on a solar retailer that:

5 (i) Materially fails to comply with the disclosure requirements of this chapter; or
6 (ii) Violates any other provision of this chapter, if the commission finds that the violation
7 is a willful or intentional attempt to mislead or deceive a customer.

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

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

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

18 **39-26.8-11. Rules and regulations.**

19 The commission may promulgate such rules and regulations as are necessary and proper to
20 carry out the provisions of this chapter.

21 SECTION 2. This act shall take effect upon passage and shall apply to solar agreements
22 entered into on or after September 1, 2022.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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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 solar system retailers to provide various disclosures in the retail sale/lease documents as well as the
3 right to cancel or rescind the agreement within ninety (90) days prior to installation of the system
4 and notice of any 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, 2022.

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