

The House Committee on Energy, Utilities and Telecommunications offers the following substitute to HB 1494:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to  
2 electrical service, so as to require that the seller provide a written disclosure statement with  
3 any agreement for the sale of distributed energy generation systems or for the financing of  
4 such systems through leases or solar energy procurement agreements; to provide for  
5 definitions; to require that persons installing such systems be licensed; to require the Public  
6 Service Commission to develop a form for the written disclosure statement and a solar  
7 awareness presentation to be provided on its website; to provide for the imposition and  
8 collection of civil penalties; to provide for exceptions; to provide for related matters; to  
9 provide for an effective date and applicability; to repeal conflicting laws; and for other  
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to electrical service,  
14 is amended by adding a new article to read as follows:

H. B. 1494 (SUB)

15 "ARTICLE 516 46-3-600.17 As used in this article, the term:18 (1) 'Agreement' means a contract executed between a seller and:19 (A) A buyer for the purchase of a distributed energy generation system; or20 (B) A lessee for the financing of a distributed energy generation system either through  
21 a lease or a solar energy procurement agreement.22 (2) 'Buyer' means a person that enters into a contract to purchase a distributed energy  
23 generation system from a seller.24 (3) 'Distributed energy generation system' means a device or system that:25 (A) Is used to generate or store electricity;26 (B) Has an electric delivery capacity, individually or in connection with other similar  
27 devices or systems, of greater than one kilowatt or one kilowatt hour; and28 (C) Is used primarily for on-site consumption.29 Such term shall not include an electric generator intended for occasional use.30 (4) 'Lessee' means a person that finances a distributed energy generation system either  
31 through a lease or a solar energy procurement agreement.32 (5) 'Person' means an individual or entity.33 (6) 'Seller' means a person regularly engaged in, or whose business consists of, selling  
34 distributed energy generation systems or financing distributed energy generation systems  
35 through leases or solar energy procurement agreements.36 (7) 'Solar energy procurement agreement' shall have the same meaning as provided in  
37 Code Section 46-3-62.

38 46-3-601.

39 (a) Any person engaged in the installation of a distributed energy generation system shall  
40 be licensed pursuant to Chapter 14 of Title 43 as a general contractor or as a residential  
41 contractor or employ an individual who is licensed as an electrical contractor pursuant to  
42 Chapter 14 of Title 43.

43 (b) The installation of a distributed energy generation system shall comply with the  
44 provisions of the article and all applicable federal and state laws, rules, or regulations.

45 46-3-602.

46 (a) The seller shall provide to every buyer and lessee as part of any agreement a written  
47 disclosure statement. Such written disclosure statement shall be printed in at least 12 point  
48 type, be acknowledged by the buyer or lessee, and include the following information,  
49 disclosures, and guarantees, if applicable:

50 (1) The name, address, telephone number, and email address of the buyer or lessee;

51 (2) The name, address, telephone number, email address, and valid state contractor  
52 license number of the person responsible for installing the distributed energy generation  
53 system;

54 (3) The name, address, telephone number, email address, and valid state contractor  
55 license number of the distributed energy generation system maintenance provider, if  
56 different from the person responsible for installing the distributed energy generation  
57 system;

58 (4)(A) A disclosure notifying the buyer or lessee whether the distributed energy  
59 generation system is being purchased or being financed through a lease or a solar  
60 energy procurement agreement.

61 (B) If the distributed energy generation system is being purchased, the written  
62 disclosure statement shall include a disclosure in substantially the following form: 'You

63 are entering into an agreement to purchase a distributed energy generation system. You  
64 will own (not lease) the system installed on your property.'

65 (C) If the distributed energy generation system is being financed through a lease, the  
66 written disclosure statement shall include a disclosure in substantially the following  
67 form: 'You are entering into an agreement to lease a distributed energy generation  
68 system. You will lease (not own) the system installed on your property.'

69 (D) If the distributed energy generation system is being financed through a solar  
70 energy procurement agreement, the written disclosure statement shall include a  
71 disclosure in substantially the following form: 'You are entering into an agreement to  
72 purchase power from a distributed energy generation system. You will not own the  
73 system installed on your property.';

74 (5) The total cost to be paid by the buyer or lessee, including, but not limited to, any  
75 interest, installation fees, document preparation fees, service fees, or other fees. Such  
76 total cost if the distributed energy generation system is financed through a solar energy  
77 procurement agreement shall include the initial payment rate and, if applicable, the rate  
78 of any payment increases and the date of the first increase;

79 (6) A payment schedule, including any amounts owed at the agreement signing, at the  
80 commencement of installation, at the completion of installation, and any final payments,  
81 at the commencement of installation, at the completion of installation, and any final  
82 payments. If the distributed energy generation system is being financed through a lease,  
83 the written disclosure statement shall include the frequency and amount of each payment  
84 due under the lease and the total estimated lease payments over the term of the lease;

85 (7) A description of the assumptions used to calculate any savings estimates provided to  
86 the buyer or lessee and a statement in substantially the following form: 'It is important to  
87 understand that any representations as to savings based on future electric utility rates are  
88 estimates only. Your future electric utility rates may vary.';

- 89 (8) A description of any one-time or recurring fees, including, but not limited to,  
90 estimated system removal fees, maintenance fees, internet connection fees, automated  
91 clearinghouse fees, and circumstances triggering late fees that may apply;
- 92 (9) A disclosure notifying as to whether the distributed energy generation system is being  
93 financed and whether the seller is assisting in arranging such financing. If the distributed  
94 energy generation is being financed, a statement in substantially the following form:  
95 'Your system is financed. Carefully read any agreements, contracts, and disclosure forms  
96 provided by your lender. This written disclosure statement does not contain the terms of  
97 your financing agreement. If you have any questions about your financing agreement,  
98 contact your finance provider before signing any agreement or contract.';
- 99 (10) A declaration providing notification of the number of days after the agreement is  
100 signed during which the buyer or lessee shall have the right to rescind such agreement.  
101 If the buyer does not have right to rescind the agreement, notification that such right does  
102 not exist and an explanation as to why it does not;
- 103 (11) A description of the distributed energy generation system's:
- 104 (A) Design assumptions, including the make and model of the major components,  
105 system size, estimated first-year energy production, and estimated annual energy  
106 production decreases, including the overall percentage degradation over the estimated  
107 life of the distributed energy generation system; and
- 108 (B) Excess energy utility compensation status at the time of the agreement signing;  
109 provided, however, that a seller that provides a warranty or guarantee of the energy  
110 production output of the distributed energy generation system may provide a description  
111 and copy of such warranty or guarantee in lieu of the description required under this  
112 paragraph;
- 113 (12) A description of any performance or production guarantees;
- 114 (13) A declaration notifying each federal and state tax credit, rebate, or incentive, if any,  
115 relied upon by the seller in determining the price of the distributed energy generation

116 system and any applicable state or federal tax credit, rebate, or incentive for which the  
117 buyer or lessee may qualify that is known to the seller at the time the agreement is signed.  
118 Such declaration shall also disclose to the lessee whether financing a distributed energy  
119 generation system through a lease may affect qualification for any such tax credit, rebate,  
120 or incentive;

121 (14) A description of the ownership and transferability of any tax credits, rebates,  
122 incentives, or renewable energy certificates associated with the distributed energy  
123 generation system, including a disclosure as to whether the seller is able to and intends  
124 to assign or sell any associated renewable energy certificates to a third party;

125 (15) A disclosure notifying the buyer as to the potential for tax liability or tax credit  
126 eligibility by including a statement in substantially the following form: 'You are  
127 responsible for property taxes on property you own. Consult a tax professional to  
128 understand any tax liability or any tax credit eligibility that may result from the purchase  
129 or financing of a distributed energy generation system.';

130 (16) The estimated start and completion date for the installation of the distributed energy  
131 generation system;

132 (17) A declaration as to whether any maintenance and repairs of the distributed energy  
133 generation system are included in the purchase price or financing costs;

134 (18) A disclosure as to whether any warranty or maintenance obligations related to the  
135 distributed energy generation system may be sold or transferred by the seller to a third  
136 party and, if so, a statement in substantially the following form: 'Your contract may be  
137 assigned, sold, or transferred without your consent to a third party who will be bound to  
138 all the terms of the contract. If a transfer occurs, you will be notified if this will change  
139 the address or phone number to use for system maintenance or repair requests.';

140 (19) If the distributed energy generation system will be purchased, a disclosure notifying  
141 the buyer of the requirements for interconnecting the system to the utility system;

- 142 (20) A disclosure notifying the buyer or lessee of the party responsible for obtaining  
143 interconnection approval;
- 144 (21) A disclosure notifying the buyer or lessee whether any additional equipment may  
145 be necessary in order to maintain continuous power access;
- 146 (22) A description and copy of any roof warranties;
- 147 (23) A disclosure notifying the buyer or lessee of power from a distributed energy  
148 generation system, whether the seller will insure a leased distributed energy generation  
149 system against damage or loss and, if applicable, the circumstances under which the seller  
150 will not insure the system against damage or loss, in substantially the following form:  
151 'You are responsible for obtaining insurance policies or coverage for any loss of or  
152 damage to the system. Consult an insurance professional to understand how to protect  
153 against the risk of loss or damage to the system.';
- 154 (24) A disclosure notifying the buyer or lessee whether the seller or lessor will place a  
155 lien on the buyer's or lessee's home or other property as a result of entering into a  
156 purchase or financing agreement for the distributed energy generation system;
- 157 (25) A disclosure notifying the buyer or lessee whether the seller will file a fixture filing  
158 or a financing statement pursuant to Article 9 of Title 11 on the distributed energy  
159 generation system;
- 160 (26) A disclosure identifying whether the agreement contains any restrictions on the  
161 buyer's or lessee's ability to modify or transfer ownership of a distributed energy  
162 generation system, including whether any modification or transfer is subject to review or  
163 approval by a third party;
- 164 (27) A disclosure as to whether the lease agreement or the solar energy procurement  
165 agreement may be transferred to a purchaser upon sale of the home or real property to  
166 which the system is affixed, and any conditions for such transfer;
- 167 (28) The address and specific link to the commission's website where the solar awareness  
168 presentation required under Code Section 46-3-603 is available. The seller may also

169 include the website address of or specific link to another consumer information video it  
170 has produced or that is publicly available; and

171 (29) A blank section that allows the seller to provide additional relevant disclosures or  
172 explain disclosures made elsewhere in the written disclosure statement.

173 (b) The requirement to provide a written disclosure statement under subsection (a) of this  
174 Code section may be satisfied by the electronic delivery of such written disclosure  
175 statement, if the intended recipient of the electronically delivered written disclosure  
176 statement affirmatively acknowledges its receipt. An electronic document satisfies the font  
177 and other formatting standards required for the written disclosure statement if the format  
178 and the relative size of characters of the electronic document are reasonably similar to  
179 those required in subsection (a) of this Code section or if the contents of such electronic  
180 document are otherwise displayed in a reasonably conspicuous manner.

181 46-3-603.

182 Prior to January 1, 2023, the commission shall:

183 (1) Publish on its website separate standard written disclosure statement forms of no  
184 more than five pages in length that may be used to comply with the requirements of Code  
185 Section 46-3-602. Written disclosure statements provided in substantially the same  
186 configuration as the forms published by the commission or containing the information  
187 and disclosures required by Code Section 46-3-602 shall satisfy the disclosure  
188 requirements of this article; and

189 (2)(A) Develop and make available to the public on its website a solar awareness  
190 presentation.

191 (B) Such solar awareness presentation shall be prerecorded and shall include consumer  
192 information related to:

193 (i) Written disclosure statements and other requirements of this article;

194 (ii) The ongoing costs and maintenance associated with distributed energy generation  
195 systems; and

196 (iii) The current laws in this state relating to metering and connecting distributed  
197 energy generation systems to an electric service provider's distribution system.

198 (C) The commission shall consult with and solicit proposals from the solar industry  
199 and sellers, buyers, and lessees of distributed energy generation systems when  
200 developing the solar awareness presentation.

201 (D) The commission may contract with or hire any experts, consultants, or other  
202 individuals that may be necessary to develop and publish the solar awareness  
203 presentation.

204 46-3-604.

205 (a) A person that willfully and intentionally violates Code Section 46-3-601 or a seller that  
206 willfully and intentionally:

207 (1) Fails to provide a written disclosure statement as required under Code Section  
208 46-3-602; or

209 (2) Fails to provide a written disclosure statement that meets all of the applicable  
210 requirements of Code Section 46-3-602

211 shall be liable for a civil penalty for each violation, provided that the maximum civil  
212 penalty for violations associated with one distributed energy distribution system shall not  
213 exceed the amount provided for in the agreement as the purchase price if the distributed  
214 energy generation system is purchased or, if the agreement is for the financing of the  
215 distributed energy generation system, then the civil penalty shall not exceed the amount the  
216 financed distributed energy generation system would have cost the lessee to purchase at the  
217 time of the agreement signing.

218 (b) A civil penalty under subsection (a) of this Code section may be imposed by the  
219 commission only after notice and hearing. In determining the amount of the penalty, the

220 commission shall consider the gravity of the violation and the number of violations. The  
221 amount of such penalty may be collected by the commission in the manner provided in  
222 Code Section 9-11-69 for the enforcement of money judgments.

223 (c) The civil penalty provided for in this Code section shall be in addition to any criminal  
224 or civil penalties otherwise provided by law.

225 46-3-605.

226 The provisions of this article shall not apply to:

227 (1) A person acting through officers, employees, brokers, or agents, that markets, sells,  
228 solicits, negotiates, or enters into an agreement for the sale or financing of a distributed  
229 energy generation system as part of a transaction involving the sale or transfer of the real  
230 property on which the system is or will be affixed;

231 (2) A transaction involving the sale or transfer of the real property on which a distributed  
232 energy generation system is located;

233 (3) The sale or lease of a distributed energy generation system that will be installed on  
234 nonresidential real property; and

235 (4) A person, other than the seller or lessor, who installs a distributed energy generation  
236 system on residential property."

237 **SECTION 2.**

238 This Act shall become effective on July 1, 2022, and shall apply to contracts executed on or  
239 after January 1, 2023, for the purchase of a distributed energy generation system or for the  
240 financing of a distributed energy generation system either through a lease or a solar energy  
241 procurement agreement.

242 **SECTION 3.**

243 All laws and parts of laws in conflict with this Act are repealed.