

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.