

Regular Session, 2014

HOUSE BILL NO. 528

BY REPRESENTATIVE PIERRE

ENERGY/ALTERNATE: Provides relative to agreements between property owners and third parties installing solar panels and solar energy systems

1 AN ACT

2 To amend and reenact R.S. 47:6030(F) and (G) and to enact R.S. 47:6030(H) through (M),
3 relative to solar energy systems tax credits; to provide for contracts to install solar
4 panels and solar energy systems; to require that contracts to install solar panels on
5 residential property contain specific terms and provisions; to provide for required
6 declarations; to provide for certain monitoring requirements; to provide for the
7 certification of certain solar energy systems relative to tax credit eligibility; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:6030(F) and (G) are hereby amended and reenacted and R.S.
11 47:6030(H) through (M) are hereby enacted to read as follows:

12 §6030. Solar energy systems tax credit; contracts to install solar panels and solar
13 energy systems; requirements

14 * * *

15 F. Any contract to install solar panels on any residential property shall
16 clearly state the following, at minimum, in writing:

17 (1) Ownership terms.

18 (2) The parties' obligations and rights pertaining to maintenance, monitoring,
19 repair, and replacement of the system.

1 (3) The parties' obligations pertaining to insurance requirements including
2 the type of insurance coverage required and the named insureds.

3 (4) The processes and consequences regarding defaults and early termination
4 of the contract.

5 (5) The party or parties responsible for obtaining any required governmental
6 approvals.

7 (6) The party who will claim the tax credit pursuant to this Section.

8 (7) The party who is responsible for payment of any taxes due on or related
9 to the system or its installation.

10 G. The contract shall have attached two clear and conspicuous declarations.

11 H.(1) The first declaration shall be a statement informing the residential
12 property owner of the following:

13 (a) The residential property owner should not rely on any statements or
14 inducements of the seller as described in Paragraph (C)(1) of this Section, regarding
15 Louisiana income tax credits available for the purchase and installation of the
16 system.

17 (b) The residential property owner's eligible costs pursuant to the Louisiana
18 solar energy systems tax credit are limited to those provided in LAC 61:I.1907(F)(1).

19 (c) The residential property owner should consult a tax professional prior to
20 claiming any Louisiana state tax credit.

21 (2) The provisions of the declaration pursuant to Paragraph (H)(1) of this
22 Section shall be in print of not less than twelve point font and in the following form:

23 "Eligible Costs

24 I, the undersigned residential property owner, am the purchaser of a solar
25 energy system and may be entitled to claim the Louisiana solar energy systems tax
26 credit pursuant to R.S. 47:6030.

27 I understand and acknowledge my right to consult a tax professional prior to
28 claiming any Louisiana state tax credit for which I may be eligible. I have been

1 provided with a copy of the Louisiana Department of Revenue Rule relative to
2 Income Tax Credits for Wind or Solar Energy Systems (LAC 61:I.1907).

3 I understand and acknowledge that LAC 61:I.1907(F)(2) and (3) provide
4 costs ineligible for inclusion under the tax credit. I understand that R.S.
5 47:6030(C)(1) explains that my "cost of purchase" or overall "costs" of a solar
6 energy system cannot include any lease management fee or any inducement to
7 purchase or lease a solar energy system.

8 I understand that an inducement is an incentive for me to purchase a solar
9 energy system. An inducement may be offered to me as a rebate, prize, gift
10 certificate, trip, additional energy item or service, or any other thing of value given
11 to me by the seller, installer, or equipment manufacturer as an incentive for me to
12 purchase a solar energy system.

13 Whenever marketing rebates or incentives are offered to me in return for the
14 purchase price of the system or as an inducement to make the purchase, the eligible
15 costs under LAC 61:I.1907(F)(1) will be accordingly reduced by the fair market
16 value of the marketing rebate or incentive that I receive.

17 (Date)

18 (Residential Property Owner's Signature)"

19 I.(1) Pursuant to Paragraph(F)(6) of this Section, to establish the identity of
20 the residential property owner and third-party claimant, the declaration required
21 pursuant to this Subsection shall minimally include and have attached the following:

22 (a) The signature of each residential property owner, except in cases where
23 the owner has legal authority to execute the declaration without the consent of other
24 owners.

25 (b) A copy of the act of sale or other documentation evidencing ownership
26 of the residential property.

1 (c) A document containing the third-party Louisiana contractor's name and
2 contractor's license number, along with the contractor's Solar Designation.

3 (2) Any declaration required by this Subsection that contains provisions not
4 expressly required by this Subsection shall be rendered null and void.

5 J. Notwithstanding any provision of law to the contrary, the owner or lessee
6 of the residential property or system is not precluded from availing himself of any
7 solar energy systems tax credits that are not available pursuant to this Section.

8 K. To be eligible for the Solar Energy Tax Credit, all solar energy systems
9 designed to perform space heating and cooling shall be certified as a complete
10 system by the Air-Conditioning Heating and Refrigeration Institute (AHRI). No
11 modifications or additions shall be made to a solar heating and cooling system that
12 would invalidate AHRI certification or invalidate the manufacturer's warranty on the
13 entire system or any individual component.

14 F.L. Notwithstanding any other provision of law to the contrary, any excess
15 of allowable credit over the aggregate tax liabilities against which such credit may
16 be applied, as provided in this Section, shall constitute an overpayment, as defined
17 in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from
18 the current collections of the taxes imposed by Chapter 1, Chapter 2, Chapter 2-A,
19 Chapter 2-B, or Chapter 5 of Subtitle II of this Title, together with interest as
20 provided in R.S. 47:1624. The right to a credit or refund of any such overpayment
21 shall not be subject to the requirements of R.S. 47:1621(B). All credits and refunds,
22 together with interest thereof, must be paid or disallowed within one year of receipt
23 by the secretary of any such claim for refund or credit. Failure of the secretary to
24 pay or disallow, in whole or in part, any claim for a credit or a refund shall entitle the
25 aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625.

26 G.M. The secretary of the Department of Revenue shall promulgate such
27 rules and regulations in accordance with the Administrative Procedure Act as may
28 be necessary to carry out the provisions of this Section. The rules and regulations
29 shall be promulgated within ninety days of the effective date of this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pierre

HB No. 528

Abstract: Provides relative to agreements between property owners and third parties installing solar panels and solar energy systems.

Proposed law requires any agreement to install solar panels on any residential property to clearly state the rights and responsibilities of all involved parties including ownership terms, maintenance responsibilities, insurance requirements, monitoring requirements, provisions regarding default and early termination of a contract, responsibilities relative to governmental approvals, the party entitled to claim certain tax credits, and tax responsibilities.

Proposed law requires a contract to install a solar energy system to have two declarations and further provides that the first declaration is required to inform the residential property owner of the following:

- (1) The residential property owner should not rely on any statements or inducements of the seller as described in present law (R.S. 47:6030(C)(1), regarding La. income tax credits available for the purchase and installation of the system.
- (2) The residential property owner's eligible costs pursuant to the La. solar energy systems tax credit are limited to those provided in present administrative law (LAC 61:I.1907(F)(1)).
- (3) The residential property owner should consult a tax professional prior to claiming any La. state tax credit.

Proposed law provides the first declaration required by proposed law to be entitled "Eligible Costs". Proposed law further requires the declaration to be in print of not less than 12 point font and in the form specifically provided for in proposed law.

Proposed law requires for the second declaration to establish the identity of the residential property owner and the third-party claimant. Proposed law further provides that the declaration is required to minimally include and have attached the following:

- (1) The signature of each residential property owner, except in cases where the owner has legal authority to execute the declaration without the consent of other owners.
- (2) A copy of the act of sale or other documentation evidencing ownership of the residential property.
- (3) A document containing the third-party Louisiana contractor's name and contractor's license number, along with the contractor's Solar Designation.

Any declaration required by proposed law containing provisions not expressly required in proposed law is rendered null and void.

Proposed law requires any solar energy system to be certified by the Air-Conditioning Heating and Refrigeration Institute to be eligible for the Solar Energy Tax Credit.

Present law provides for the refund of overpayments, which is any excess of allowable credit over the aggregate tax liabilities against which the credit may be applied.

Present law requires the secretary of the Dept. of Revenue to promulgate rules and regulations in accordance with the APA as necessary to carry out the provisions of both present and proposed law, and such rules and regulations are required to be promulgated within 90 days of the effective date.

Proposed law retains present law.

(Amends R.S. 47:6030(F) and (G); Adds R.S. 47:6030(H) through (M))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Made technical changes.
2. Revised the language relative to the requirement for the contract to install solar panels to include the party who will claim the tax credit pursuant to present law.
3. Added that a contract to install a solar energy system is required to have attached two clear and conspicuous declarations relative to the residential property owner and inducements to purchase a solar energy system, provisions regarding eligible costs, the residential property owner's discretion to consult a tax professional, and inclusions and attachments relative to the identity of the residential property owner and third-party contractor.
4. Required solar energy systems to be certified by the Air-Conditioning Heating and Refrigeration Institute to be eligible for the Solar Energy Tax Credit.