

HOUSE BILL REPORT

HB 2156

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to solar consumer protections.

Brief Description: Providing solar consumer protections.

Sponsors: Representatives Reeves, Doglio and Pollet; by request of Department of Commerce.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/16/24, 1/19/24 [DPS].

Brief Summary of Substitute Bill

- Requires a person or entity to be licensed as an electrical contractor to advertise, offer to work on, bid, engage in, conduct, or carry on the business of installing, repairing, replacing, or maintaining solar energy systems that cost more than \$1,000.
- Requires a person or entity who designs solar energy systems that cost more than \$1,000 to either be a licensed electrical contractor, architect, or engineer.
- Requires all solar energy installation contracts to include various provisions, notices, and disclosures.
- Provides for enforcement under the Consumer Protection Act.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Walen, Chair; Reeves, Vice Chair; Robertson, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Chapman, Connors, Donaghy, Hackney, Ryu, Sandlin, Santos and Volz.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Megan Mulvihill (786-7304).

Background:

Electrical Contractor License.

An electrical contractor license is required to engage in the business of installing or maintaining wires or equipment to convey electric current, or equipment to be operated by electric current. A person must have a journey level or specialty electrician certificate of competency in order to work as an electrician. To obtain a certificate of competency, a person must complete certain requirements and pass an examination. The Department of Labor and Industries (L&I) issues licenses and certificates of competency and otherwise administers the regulation of electricians and electrical work. L&I may enter a reciprocal agreement with another state to accept the credentials of the other state if the requirements are equal to Washington's standards.

Net Metering.

Net metering allows customers who produce their own electricity with on-premises solar energy systems to sell the electricity they aren't using back to an electric utility and offset their future energy costs. A net metering on-premises solar energy system is defined as a fuel cell, a combined heat and power facility, or a renewable energy generation facility that:

- has an electrical generating capacity of not more than 100 kilowatts;
- is located on the customer's premises;
- operates in parallel with the electric utility's transmission and distribution facilities;
- and
- is intended primarily to offset part or all of the customer's requirements for electricity.

Summary of Substitute Bill:

License Required.

Any person, firm, partnership, corporation, or other entity advertising, offering to do work, submitting a bid, engaging in, conducting, or carrying on the business of installing, repairing, replacing, or maintaining residential or commercial solar energy systems for a total cost, including labor and materials, in excess of \$1,000 must be licensed as an electrical contractor. Any person, firm, partnership, corporation, or other entity designing residential or commercial solar energy systems for a total cost, including labor and materials, in excess of \$1,000 must either be a licensed electrical contractor, an architect, or an engineer.

Solar Energy Installation Contract.

All solar energy installation contracts (contract) must be written, be in the same language and contain terms used in the sales presentation made to the customer, and a copy must be given to the customer at the time of signing.

The contract must contain:

- the total dollar amount of the contract;
- an itemized list of work to be performed, including electrical system or utility equipment upgrades;
- any financing incorporated directly into the contract, which must be identified as a separate line item and conform to all state and federal consumer loan regulations and disclosure requirements;
- disclosure of the exact amount paid, if any, by a solar energy contractor (contractor) or salesperson to any lender or third-party financing company in the form of a dealer fee, or other similar inducement to obtain financing, irrespective of whether financing is incorporated with the contract or in conjunction with a third-party lender;
- the cost per watt calculated as the total contract amount, including labor and materials, for installing the solar energy system (system) divided by the total direct current nameplate rating of the solar array;
- a detailed payment schedule based on projected completion milestones that explains when costs are due, the customer's right to cancel, and identifies cancellation fees due at each milestone;
- the model and brand name of major system components to be installed, and if changes occur throughout the contract duration, the changes must be documented, the efficiency and warranty period of the new major system components must be provided, and the changes must be agreed upon by the customer;
- the manufacturer's warranty period for each major system component;
- any ongoing operations and maintenance costs that are included in the contract;
- a list of anticipated maintenance activities that the customer will need to perform in order to maintain the warranty and performance of the system;
- the system's first-year annual production projections in kilowatt-hours, and the methodology and nationally recognized, industry-standard tool used to develop the projections;
- an explanation of what happens annually to any unused net metering or other applicable bill credits from on-site generation;
- the contractor's good faith estimate of projected electric bill savings the system is expected to achieve over the first 12 months after interconnection;
- the name, business address, email address, and phone number of the primary salesperson or sales firm, if different from the contractor;
- the name, business address, email address, contractor's license number, and link to the Washington State Department of Labor and Industries' contractor verification tool;
- a statement as to whether all or part of the work is intended to be subcontracted to, or performed by another person or entity, other than the contractor's own workforce;
- the following statements, each initialed by the customer acknowledging they have read and understand each provision:
 - "IF YOU INTEND TO OBTAIN A LOAN TO PAY FOR ALL OR PART OF THE CONTRACT, IT IS RECOMMENDED THAT YOU WAIT UNTIL RECEIVING FINANCIAL APPROVAL BEFORE SIGNING THIS SOLAR ENERGY INSTALLATION CONTRACT. IN ADDITION, IF YOU INTEND

TO OBTAIN A LOAN TO PAY FOR ALL OR A PART OF THE CONTRACT, IT IS RECOMMENDED THAT YOU VERIFY WHETHER LOAN PAYMENTS ARE DUE BEFORE THE SYSTEM IS OPERATIONAL. NOTHING IN THIS CONTRACT ALTERS YOUR RESPONSIBILITY TO PAY YOUR ELECTRIC UTILITY COMPANY FOR AMOUNTS DUE ON YOUR ELECTRIC BILL."

- "CUSTOMER'S RIGHT TO CANCEL: YOU HAVE THE RIGHT TO CANCEL YOUR SOLAR ENERGY INSTALLATION CONTRACT WITHIN THREE BUSINESS DAYS OF CONTRACT SIGNING. YOUR NOTICE OF CANCELLATION MUST BE MADE IN WRITING AND EMAILED OR MAILED VIA CERTIFIED LETTER TO THE CONTACT LISTED IN THIS CONTRACT."
- "If you are a residential customer, you must have sufficient tax liability to utilize the residential clean energy credit. You will not receive these funds directly; you can only offset the taxes that you owe to the federal government. IF YOU ARE PARTICIPATING IN GOVERNMENT ASSISTANCE PROGRAMS OR ARE ON A FIXED INCOME, YOU MAY NOT BE ELIGIBLE FOR THIS TAX CREDIT. The cost of roof repairs should not be included in calculating the tax credit. It is recommended that you consult a tax attorney if you are relying on the tax credit to afford the cost of the solar energy installation."
- a statement clearly explaining whether the contract includes the cost of uninstalling and reinstalling the system if it is installed on the customer's roof and the roof must be replaced or repaired at a future date. If the contract does not include uninstalling and reinstalling the system, it must include a notice initialed and acknowledged by the customer;
- a copy of the Internal Revenue Service's current revision of form 5695 instructions for residential clean energy credit (Part I) qualified solar electric property costs;
- a statement that it is the contractor's responsibility to install the system per the manufacturer instructions, in compliance with the national electric code, in compliance with local building codes, and the applicable utility's interconnection standards;
- a copy of, or URL to, the applicable utility's interconnection application;
- a statement documenting which party is responsible for obtaining permission to operate from the utility;
- a statement that the addition of a system may affect the structure's assessed and taxed value; and
- a statement about how the system will automatically disconnect from the utility grid in the event of a power outage to protect utility repair personnel from potential electric shock and not provide electricity during a power outage, unless the system includes energy storage equipment or power conversion and control technologies designed and installed to provide backup power during an outage.

For installation that includes roofing work for a residential customer, the contractor must

provide the customer with separate invoices for the roofing work and the contract must separately itemize and identify the cost of roofing tear-off and replacement.

Cancellation Rights.

If a customer exercises their right to cancel the contract within three business days of signing it, the contractor may not enforce the contract's terms. The contractor must terminate any security interest or statutory lien created under the transaction within 20 days of receiving the customer's written rescission. If the customer exercises their right to cancel via email or a certified letter postmarked within the three-day window, even if the contractor or salesperson has not responded, the terms of the contract may not be enforced. A salesperson or contractor may not charge a customer for payment until the rescission period has passed.

Utility Interconnection Approval.

An electric utility must approve the interconnection application for the system before installation. A system that is not approved by the utility must be modified to meet the utility's requirements before the installation can proceed. However, the utility may waive this requirement for contractors certified by the utility. The contractor must notify the applicable electric utility of any equipment or design changes that occur.

Transfer of Contract Liability.

A person, firm, partnership, corporation, or other entity who purchases or is otherwise assigned a contract is subject to all claims and defenses that the customer could assert against the contractor. A person, firm, partnership, corporation, or other entity who sells or otherwise assigns a contract must include a prominent notice of the potential liability.

Violations and Remedies.

A contractor, subcontractor, or salesperson who fails to comply with these requirements is liable to the customer for any actual damages sustained as a result of the failure. A person is prohibited from soliciting any deceptive statement or representation regarding the costs, financing, terms, or conditions of purchase or installation of residential or commercial systems. A violation of the requirements set forth by this act is considered unfair or deceptive trade practices and an unfair method of competition under the Consumer Protection Act.

Substitute Bill Compared to Original Bill:

The substitute bill modifies the requirements about who needs to be licensed as an electrical contractor. Rather than requiring a person who sells or installs solar energy systems to be a licensed electrical contractor, the substitute bill requires any person, firm, partnership, corporation, or other entity advertising, offering to do work, submitting a bid, engaging in, conducting, or carrying on the business of installing, repairing, replacing, or maintaining residential or commercial solar energy systems to be a licensed electrical contractor. In addition, any person, firm, partnership, corporation, or other entity designing solar energy

systems needs to be either a licensed electrical contractor, an architect, or an engineer. The substitute bill adds that a customer who decides to cancel their contract must send a notice of cancellation via email or mailed via certified letter within the three-day rescission period. Also, a system that is not approved by the applicable electric utility needs to be modified to meet the utility's requirements before the installation can proceed. The substitute bill adds definitions for "customer" and "solar energy system," along with modifying the definition of "solar energy contractor." In addition, several other language changes or additional clarifications are made that do not have substantive effects on the policy.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) These regulations would establish important consumer protections. Awareness of rooftop solar energy has grown, and there have increasingly been issues with bad actors. An increase in federal funds for tax credits means there may be more installers taking advantage. The disclosures required in the contract provide more clarity for consumers, and it will help them understand how a system will affect their utility bill. The solar energy systems can be very expensive, and so establishing a basic framework for protections is crucial. Often the word "free" is thrown around regarding the cost of solar energy panels. This is the most deceptive word. It is a bait and switch term that lures customers into a proposal that they cannot afford. Customers need to understand that they must front the expenses for a solar energy system, and solar energy systems may not eliminate their utility bills. Complaints have been received about high pressure salespersons who push customers into solar energy systems without guaranteeing an interconnection with the utility company. Then, the customer is unable to reach the installer afterwards. Some customers experience lies regarding how the solar energy panels work, how the tax credit is applied, and the contracts are misleading. Customers may not be provided a paper contract and are forced to sign immediately to move forward. The customer service is awful, installers are lacking business ethics, and they need to be held accountable.

(Opposed) None.

(Other) Finally, private and public policy are aligning for deploying solar energy, which is needed to tackle energy solutions. Sadly, there are aggressive, bad actors who misrepresent who they are and provide customers with misleading information. Customers call when they realize something is not right with the company they hired. The state needs to protect

consumers while also ensuring that those who operate above the board are not unduly burdened by the legislation. The legislation needs to protect honest companies from lawsuits as well. There are ongoing conversations to find a balanced and enforceable approach, and great progress has been made.

Persons Testifying: (In support) Representative Kristine Reeves, prime sponsor; Paul Griffin, Washington Rural Electric Cooperative Association; Nora Hawkins, Washington Department of Commerce; Josie Cummings, Avista; Jennifer Langdon and Dever Haffner-Ratliffe, Cowlitz Public Utility District; Shari Weir, Seattle City Light; Peter Godlewski, Association of Washington Business; Cassie Bordelon, Puget Sound Energy; Brett Bear; Logan Bahr, Tacoma Public Utilities and Tacoma Power; and Chelsea Martin, Modern Electric Water Company.

(Other) Bill Will, Washington Solar Energy Industries Association; Reeves Clippard, A and R Solar; and Gavin Tenold, Northwest Renewables.

Persons Signed In To Testify But Not Testifying: None.