

# SENATE BILL REPORT

## SSB 6256

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As Passed Senate, February 7, 2024

**Title:** An act relating to solar consumer protections.

**Brief Description:** Providing solar consumer protections.

**Sponsors:** Senate Committee on Labor & Commerce (originally sponsored by Senators Stanford, Conway, Hasegawa, Kuderer, Nobles, Saldaña and Valdez; by request of Department of Commerce).

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/25/24, 1/29/24 [DPS, w/oRec].

**Floor Activity:** Passed Senate: 2/7/24, 48-0.

### Brief Summary of First 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.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 6256 be substituted therefor, and the substitute bill do pass.

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*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.*

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Hansen and Stanford.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Braun, MacEwen and Schoesler.

**Staff:** Jarrett Sacks (786-7448)

**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.

Consumer Protection Act. The Consumer Protection Act (CPA) prohibits unfair or deceptive acts or practices in trade or commerce, the formation of contracts, combinations and conspiracies in restraint of trade or commerce, and monopolies. Persons injured by violations of the CPA may bring a civil action to enjoin further violations and recover actual damages, costs, and attorney's fees. Recovery may also include an increased award of triple the actual damages up to a maximum of \$25,000.

The Attorney General may bring an action in the name of the state, or on behalf of persons residing in the state, against any person to enjoin violations of the CPA and obtain restitution. The prevailing party may, in the discretion of the court, recover costs and attorney's fees. The Attorney General may also seek civil penalties up to the statutorily authorized maximums against any person who violates the CPA.

**Summary of First Substitute Bill:** Electrical Contractor License. Any person offering to do work or engaging in the business of installing, repairing, replacing, or maintaining residential or commercial solar energy systems for a total cost of over \$1,000 must have an electrical contractor license. Any person designing solar energy systems for a total cost of over \$1,000 must either have an electrical contractor license or be a licensed architect or engineer and practicing in their field.

Installation Contracts. Solar energy installation contracts must be in writing and in the same language and terms used in the sales presentation to the customer. The contract must contain certain financial and cost-related provisions, including:

- any financing incorporated directly into the contract, which must be a separate line item and conform to state and federal consumer loan regulations;
- disclosure of the exact amount paid, if any, by the solar energy contractor salesperson to any lender or financing company in the form of a dealer fee;
- the total dollar amount of the contract;

- the cost per watt calculated as the total contract amount for installing the solar energy system by the total direct current nameplate rating of the system;
- a detailed payment schedule based on project completion milestones that explains when payments are due, explains the customer's right to cancel, and identifies cancellation fees;
- any ongoing operations and maintenance costs included in the contract;
- a copy of the Internal Revenue Service's form 5695 instructions for residential clean energy credit qualified solar electric property costs; and
- a statement that the addition of a solar energy system may affect the value of the structure as determined by the county assessor and any change in value may be reflected in annual property taxes.

The contract must contain provisions related to the scope of work and warranty on the solar energy system, including:

- an itemized list for work to be performed including any electrical system or utility equipment upgrades that are necessary for installations;
- the model and brand name of major system components to be installed. If any major system components change during the contract the changes must be documented, the efficiency and warranty period must be provided, and the changes must be agreed to in writing by the customer;
- the manufacturer's warranty period for each major system component;
- a list of anticipated maintenance activities that the customer will need to perform to maintain the warranty and performance of the solar energy equipment, including inverter replacement;
- 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 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; and
- a statement that it is the solar energy contractor's responsibility to install the system per manufacturer instructions in compliance with the National Electric Code as enforced by the local jurisdiction, in compliance with local building codes, and in compliance with the applicable utility's interconnection standards.

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.

Contract provisions regarding the performance of the solar energy system that the contract must include are:

- the solar energy contractor's good faith estimate of projected electric bill savings for

- the first year from the solar energy system; and
- 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.

The contract must include provisions related to net-metering and the applicable electric utility, including:

- an explanation of what happens annually to any unused net metering or other applicable bill credits from on-site generation;
- a copy of, or uniform resource locator to, the applicable electric utility's interconnection application;
- a statement documenting which party is responsible for obtaining permission to operate from the utility; 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.

The contract must also contain the following statements, each initialed by the customer acknowledging they read and understood 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;" and
- "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."

The contract must contain certain contact information, including the contact information of the primary solar energy salesperson and the solar energy contractor.

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. The interconnection application for the solar energy system must be approved by the electric utility before installation may begin. A system not approved by the utility must be modified to meet the utility's requirements before the installation can proceed. 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.

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 using 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 CPA.

A person or entity that 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.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2024.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on First Substitute:** PRO: This bill is the result of significant stakeholder effort. Last year, the industry brought forward a bill with consumer protections and this bill builds on that. The bill will help residents and prevent deceptive

sales tactics. Requiring approval for interconnection prior to installation is critical. Customers are promised unrealistic savings and are upset when those promises are not met and there is very little utilities can do to help. Sometimes customers are told solar is free when it is not and sometimes customers do not receive interconnection agreements. The bill ensures accurate info is provided to consumers. There are a lot of good actors who want to grow the solar industry in the state, but there are a few bad actors. The bill provides an enforceable framework to prevent bad actors.

**Persons Testifying:** PRO: Senator Derek Stanford, Prime Sponsor; Ralph Ibarra; Shari Weir, Seattle City Light; Gavin Tenold, Washington Solar Energy Industries Association; Reeves Clippard, A&R Solar; Bill Will, Washington Solar Energy Industries Association; Jennifer Langdon, Cowlitz Public Utility District; DEVER HAFFNER-RATLIFF, Cowlitz PUD; Josie Cummings, Avista; Nora Hawkins, Washington State Department of Commerce.

**Persons Signed In To Testify But Not Testifying:** No one.