

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 73:

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 the
5 delivery of such written disclosure statement; to provide for definitions; 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:

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 an agreement 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 for residential purposes.29 Such term shall not include an electric generator intended for occasional use.30 (4) 'Electric supplier' shall have the same meaning as provided in Code Section 46-3-3.31 (5) 'Lessee' means a person that finances a distributed energy generation system either
32 through a lease or a solar energy procurement agreement.33 (6) 'Person' means an individual or entity.34 (7) 'Seller' means a person engaged in, or whose business consists of, selling distributed
35 energy generation systems or financing distributed energy generation systems through
36 leases or solar energy procurement agreements.37 (8) 'Solar energy procurement agreement' shall have the same meaning as provided in
38 Code Section 46-3-62.

39 46-3-601.

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

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

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

48 (3) The name, address, telephone number, email address, and valid state contractor
49 license number of the distributed energy generation system maintenance provider, if
50 different from the person responsible for installing the distributed energy generation
51 system;

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

55 (B) If the distributed energy generation system is being purchased, the written
56 disclosure statement shall include a disclosure in substantially the following form: 'You
57 are entering into an agreement to purchase a distributed energy generation system. You
58 will own (not lease) the system installed on your property.'

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

63 (D) If the distributed energy generation system is being financed through a solar
64 energy procurement agreement, the written disclosure statement shall include a
65 disclosure in substantially the following form: 'You are entering into an agreement to

66 purchase power from a distributed energy generation system. You will not own the
67 system installed on your property.';

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

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

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

82 (8) A description of any one-time or recurring fees, including, but not limited to,
83 estimated system removal fees, maintenance fees, internet connection fees, automated
84 clearinghouse fees, and circumstances triggering late fees that may apply;

85 (9) A disclosure notifying the buyer or lessee as to whether the distributed energy
86 generation system is being financed and whether the seller is assisting in arranging such
87 financing. If the distributed energy generation system is being financed, the written
88 disclosure statement shall include a statement in substantially the following form: 'Your
89 system is financed. Carefully read any agreements, contracts, and disclosure forms
90 provided by your lender. This written disclosure statement does not contain the terms of
91 your financing agreement. If you have any questions about your financing agreement,
92 contact your finance provider before signing any agreement or contract.';

- 93 (10) A declaration providing notification of the number of days after the agreement is
94 signed during which the buyer or lessee shall have the right to rescind such agreement.
95 If the buyer or lessee does not have right to rescind the agreement, notification that such
96 right does not exist and an explanation as to why it does not;
- 97 (11) A description of the distributed energy generation system's:
98 (A) Design assumptions, including the make and model of the major components,
99 system size, estimated first-year energy production, and estimated annual energy
100 production decreases, including the overall percentage degradation over the estimated
101 life of the distributed energy generation system; and
102 (B) Excess energy utility compensation status at the time the agreement is signed;
103 provided, however, that a seller that provides a warranty or guarantee of the energy
104 production output of the distributed energy generation system may provide a description
105 and copy of such warranty or guarantee in lieu of the description required under this
106 paragraph;
- 107 (12) A description of any performance or production guarantees;
- 108 (13) A declaration notifying the buyer or lessee of each federal and state tax credit,
109 rebate, or incentive, if any, relied upon by the seller in determining the price of the
110 distributed energy generation system and any applicable federal or state tax credit, rebate,
111 or incentive for which the buyer or lessee may qualify that is known to the seller at the
112 time the agreement is signed. Such declaration shall also disclose to the lessee whether
113 financing a distributed energy generation system through a lease may affect qualification
114 for any such tax credit, rebate, or incentive. Such declaration shall recommend that the
115 buyer or lessee seek professional tax advice to determine how any tax credits, rebates,
116 incentives, or renewable energy certificates may apply to such buyer or lessee;
- 117 (14) A description of the ownership and transferability of any tax credits, rebates,
118 incentives, or renewable energy certificates associated with the distributed energy

119 generation system, including a disclosure as to whether the seller is able to and intends
120 to assign or sell any associated renewable energy certificates to a third party;

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

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

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

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

138 (19) If the distributed energy generation system is being purchased, a disclosure
139 notifying the buyer of the requirements for interconnecting the system to the utility
140 system;

141 (20) A disclosure notifying the buyer or lessee of the party responsible for obtaining
142 interconnection approval;

143 (21) A disclosure notifying the buyer or lessee whether any additional equipment may
144 be necessary in order to maintain continuous power access;

145 (22) A description and copy of any roof warranties;

146 (23) A disclosure notifying the lessee whether the seller will insure a leased distributed
147 energy generation system against damage or loss and, if applicable, a disclosure notifying
148 the buyer or lessee the circumstances under which the seller will not insure the system
149 against damage or loss, in substantially the following form: 'You are responsible for
150 obtaining insurance policies or coverage for any loss of or damage to the system. Consult
151 an insurance professional to understand how to protect against the risk of loss or damage
152 to the system.';

153 (24) A disclosure notifying the buyer or lessee whether the seller will place a lien on the
154 buyer's or lessee's home or other property as a result of entering into an agreement for the
155 purchase or financing of the distributed energy generation system;

156 (25) A disclosure notifying the buyer or lessee whether the seller will file a fixture filing
157 or a financing statement pursuant to Article 9 of Title 11 on the distributed energy
158 generation system;

159 (26) A disclosure identifying whether the agreement contains any restrictions on the
160 buyer's or lessee's ability to modify or transfer ownership of a distributed energy
161 generation system, including whether any such modification or transfer is subject to
162 review or approval by a third party;

163 (27) If the distributed energy generation system is being financed through a lease or solar
164 energy procurement agreement, a disclosure as to whether the lease or the solar energy
165 procurement agreement may be transferred to a purchaser upon sale of the home or real
166 property to which the system is affixed, and any conditions for such transfer;

167 (28) The address of and specific link to the commission's internet website where the solar
168 awareness presentation required under Code Section 46-3-602 is available. The seller
169 may also include the internet website address of or specific link to another consumer
170 information video that it 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 46-3-602.

182 Prior to January 1, 2025, the commission shall:

183 (1) Publish on its internet website separate standard written disclosure statement forms
184 that may be used to comply with the requirements of Code Section 46-3-601. Written
185 disclosure statements provided in substantially the same configuration as the forms
186 published by the commission or containing the information and disclosures required by
187 Code Section 46-3-601 shall satisfy the disclosure requirements of this article; and

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

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

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

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

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

197 (C) The commission shall consult with and solicit proposals from the solar industry
198 when developing the solar awareness presentation.

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

202 46-3-603.

203 (a) A seller that willfully:

204 (1) Fails to provide a written disclosure statement as required under Code
205 Section 46-3-601; or

206 (2) Fails to provide a written disclosure statement that meets all of the applicable
207 requirements of Code Section 46-3-601

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

215 (b) A civil penalty under subsection (a) of this Code section may only be imposed by the
216 commission and only after notice and hearing. In determining the amount of the penalty,
217 the commission shall consider the gravity and number of violations. The amount of such
218 penalty may be collected by the commission in the manner provided in Code
219 Section 9-11-69 for the enforcement of money judgments.

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

222 46-3-604.

223 The provisions of this article shall not apply to:

- 224 (1) A person acting through officers, employees, brokers, or agents that markets, sells,
225 solicits, negotiates, or enters into an agreement for the purchase or financing of a
226 distributed energy generation system as part of a transaction involving the sale or transfer
227 of the real property on which the system is or will be affixed;
- 228 (2) A transaction involving the sale or transfer of the real property on which a distributed
229 energy generation system is affixed;
- 230 (3) The sale or lease of a distributed energy generation system that will be installed on
231 nonresidential real property; or
- 232 (4) A person, other than the seller, that installs a distributed energy generation system
233 on residential property."

234

SECTION 2.

235 This Act shall become effective on July 1, 2024, and shall apply to contracts executed on or
236 after January 1, 2025, for the purchase of a distributed energy generation system or for the
237 financing of a distributed energy generation system either through a lease or a solar energy
238 procurement agreement.

239

SECTION 3.

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