

By: Raymond

H.B. No. 2860

A BILL TO BE ENTITLED

AN ACT

relating to on-site distributed generation and energy storage resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. SALES AND LEASING OF ON-SITE DISTRIBUTED GENERATION RESOURCES

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Distributed generation" has the meaning assigned by Section 39.1015(a), Utilities Code.

(2) "Small commercial customer" has the meaning assigned by Section 39.202(o), Utilities Code.

Sec. 113.002. APPLICABILITY. This chapter applies to a seller or lessor of on-site distributed generation resources.

Sec. 113.003. LEASE, SALES, AND INSTALLATION DISCLOSURES. A seller or lessor who enters into a purchase, lease, or power purchase agreement with a residential or small commercial customer for the operation of an on-site distributed generation resource shall provide to the customer in writing:

(1) contact information of the salesperson and installer of the generation resource;

(2) a description of the generation resource, including all associated equipment to be installed;

1           (3) the cost of the generation resource, including all  
2 associated equipment to be installed;

3           (4) a detailed accounting of fees associated with the  
4 installation or operation of the generation resource;

5           (5) representations made as part of the agreement  
6 regarding the expected operational performance and financial  
7 performance of the generation resource; and

8           (6) all applicable warranties.

9           Sec. 113.004. ADDITIONAL DISCLOSURES FOR LEASE AGREEMENTS.

10 In addition to the disclosures required under Section 113.003, a  
11 lessor shall provide to a leasing residential or small commercial  
12 customer in writing:

13           (1) the term and rate of the lease, including any  
14 payment escalators or other terms that affect the customer's  
15 payments; and

16           (2) a statement of whether the lease and any  
17 applicable warranty or maintenance agreement is transferable to the  
18 purchaser of the property where the on-site distributed generation  
19 resource is installed.

20           Sec. 113.005. ADDITIONAL DISCLOSURES FOR POWER PURCHASE  
21 AGREEMENTS. In addition to the disclosures required under Section  
22 113.003, a residential or small commercial customer who enters into  
23 a power purchase agreement is entitled to receive in writing:

24           (1) the term and rate of the power purchase agreement,  
25 including any payment escalators or other terms that affect the  
26 customer's payments; and

27           (2) whether the power purchase agreement and any

1 applicable warranty or maintenance agreement is transferable to the  
2 purchaser of the property where the on-site distributed generation  
3 resource is installed.

4 SECTION 2. Chapter 229, Local Government Code, is amended  
5 by adding Subchapter C to read as follows:

6 SUBCHAPTER C. REGULATION OF SOLAR ENERGY DEVICES

7 Sec. 229.101. REGULATION OF SOLAR ENERGY DEVICES. (a) In  
8 this section:

9 (1) "Small commercial customer" has the meaning  
10 assigned by Section 39.202(o), Utilities Code.

11 (2) "Solar energy device" has the meaning assigned by  
12 Section 171.107, Tax Code.

13 (b) A municipality may prohibit a residential or small  
14 commercial customer from installing a solar energy device only for  
15 a purpose for which a property owners' association may prohibit the  
16 installation under Section 202.010(d), Property Code.

17 SECTION 3. The heading to Section 202.010, Property Code,  
18 is amended to read as follows:

19 Sec. 202.010. REGULATION OF CERTAIN [~~SOLAR~~] ENERGY DEVICES.

20 SECTION 4. Section 202.010(a), Property Code, is amended by  
21 adding Subdivision (3) to read as follows:

22 (3) "Distributed generation" has the meaning assigned  
23 by Section 39.1015(a), Utilities Code.

24 SECTION 5. Section 202.010, Property Code, is amended by  
25 adding Subsection (g) to read as follows:

26 (g) A property owners' association may not include or  
27 enforce a provision in a dedicatory instrument that:

1           (1) requires three or more inspections by the property  
2 owners' association of an on-site distributed generation or energy  
3 storage resource before the resource is operational;

4           (2) is more onerous than interconnection rules adopted  
5 by the Public Utility Commission of Texas; or

6           (3) imposes any inspection or approval requirements or  
7 changes more onerous than those required for a proposed  
8 modification or improvement of an owner's property that is  
9 unrelated to on-site distributed generation or energy storage.

10           SECTION 6. Subchapter C, Chapter 39, Utilities Code, is  
11 amended by adding Section 39.1015 to read as follows:

12           Sec. 39.1015. CONSUMER PROTECTIONS FOR CERTAIN ON-SITE  
13 ENERGY GENERATION AND STORAGE. (a) In this section, "distributed  
14 generation" means electric generation with a capacity of not more  
15 than 2,000 kilowatts that is installed on a retail electric  
16 customer's side of the meter.

17           (b) A residential or small commercial customer is entitled  
18 to have access to on-site distributed generation and energy storage  
19 resources to:

20                   (1) generate and export electricity to the grid;  
21                   (2) consume electricity from the grid; and  
22                   (3) reduce the customer's use of electricity from the  
23 grid.

24           (c) A residential or small commercial customer is entitled  
25 to store energy at the location of the customer's connection to the  
26 grid.

27           (d) A residential or small commercial customer that

1 installs an on-site distributed generation or energy storage  
2 resource is entitled to timely approval of an interconnection  
3 agreement and interconnection of distributed generation or energy  
4 storage with the customer's transmission and distribution utility  
5 or electric utility in accordance with Section 39.554 or 39.916, as  
6 applicable. A residential or small commercial customer is entitled  
7 to timely approval of any permission to operate or any other  
8 approval required for the customer to use the customer's on-site  
9 distributed generation or energy storage resource.

10 (e) A residential or small commercial customer is entitled  
11 to timely notice from the customer's transmission and distribution  
12 utility or electric utility of an improvement and the cost of the  
13 improvement to the distribution grid that must be made to allow the  
14 customer to install or expand existing on-site distributed  
15 generation or energy storage resources.

16 (f) Except for a charge to recover a cost described by  
17 Subsection (e), an electric utility or a retail electric provider  
18 may not impose a rate or charge on a residential or small commercial  
19 customer or require a residential or small commercial customer to  
20 take service under a tariff or service plan that applies only to  
21 customers who have installed on-site distributed generation or  
22 energy storage resources.

23 (g) An electric utility or a retail electric provider may  
24 not charge a residential or small commercial customer a fee solely  
25 because the customer elects to discontinue service from the utility  
26 or provider.

27 (h) An electric utility may not charge a residential or

1 small commercial customer with an on-site distributed generation or  
2 energy storage resource a fee to reconnect to the electric grid that  
3 is more than the fee charged to a customer in the same rate class who  
4 does not have an on-site distributed generation or energy storage  
5 resource, except the interconnection fee applicable to the original  
6 installation of the on-site distributed generation or energy  
7 storage resource.

8 (i) A residential or small commercial customer is entitled  
9 to interconnect in a manner that allows the customer to receive  
10 power from the customer's on-site energy storage resource when the  
11 electric grid is not operating if the customer's on-site  
12 distributed generation resource is equipped with an inverter or  
13 other technology that complies with a standard developed by a  
14 federal agency or standards widely used by industry and other  
15 states that enables the on-site distributed generation resource to  
16 safely provide power to the customer when the electric grid is not  
17 operating.

18 SECTION 7. The changes in law made by this Act apply to an  
19 agreement governing the sale or lease of a distributed generation  
20 system, as defined by Section 39.1015, Utilities Code, as added by  
21 this Act, entered into on or after the effective date of this Act.  
22 An agreement entered into before the effective date of this Act is  
23 governed by the law as it existed immediately before the effective  
24 date of this Act, and that law is continued in effect for that  
25 purpose.

26 SECTION 8. This Act takes effect September 1, 2019.