

By: Menéndez, et al.
(Deshotel)

S.B. No. 398

A BILL TO BE ENTITLED

AN ACT

relating to distributed renewable generation 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 DISTRIBUTED RENEWABLE GENERATION

RESOURCES

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Distributed renewable generation" has the meaning assigned by Section 39.916, Utilities Code.

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

Sec. 113.002. APPLICABILITY. (a) This chapter applies to a seller or lessor of distributed renewable generation resources.

(b) This chapter does not apply to:

(1) a transaction involving the sale or transfer of the real property on which a distributed renewable generation resource is located;

(2) a person, including a person acting through the person's officers, employees, brokers, or agents, who markets, sells, solicits, negotiates, or enters into an agreement for the sale or financing of a distributed renewable generation resource as part of a transaction involving the sale or transfer of the real property on which the distributed renewable generation resource is

1 or will be affixed; or

2 (3) a third party that enters into an agreement for the
3 financing of a distributed renewable generation resource.

4 Sec. 113.003. LEASE, SALES, AND INSTALLATION DISCLOSURES.

5 A seller or lessor who enters into a purchase, lease, or power
6 purchase agreement with a residential or small commercial customer
7 for the operation of a distributed renewable generation resource
8 shall provide to the customer in writing:

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

11 (2) a description of all equipment to be installed;

12 (3) the cost of all equipment to be installed;

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

15 (5) representations, if any, made as part of the
16 agreement regarding the expected operational performance and
17 financial performance of the generation resource; and

18 (6) all applicable warranties.

19 Sec. 113.004. ADDITIONAL DISCLOSURES FOR LEASE AGREEMENTS.

20 In addition to the disclosures required under Section 113.003, a
21 lessor shall provide to a leasing residential or small commercial
22 customer in writing:

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

26 (2) a statement of whether the lease and any
27 applicable warranty or maintenance agreement is transferable to a

1 subsequent purchaser of the property where the distributed
2 renewable generation resource is installed.

3 Sec. 113.005. DISCLOSURES FOR POWER PURCHASE AGREEMENTS. A
4 residential or small commercial customer who enters into a power
5 purchase agreement is entitled to receive in writing:

6 (1) the disclosures required under Sections
7 113.003(1), (2), (5), and (6);

8 (2) the term and rate of the power purchase agreement,
9 including any payment escalators or other terms that affect the
10 customer's payments; and

11 (3) whether the power purchase agreement and any
12 applicable warranty or maintenance agreement is transferable to a
13 subsequent purchaser of the property where the distributed
14 renewable generation resource is installed.

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

17 SUBCHAPTER C. REGULATION OF SOLAR ENERGY DEVICES

18 Sec. 229.101. REGULATION OF SOLAR ENERGY DEVICES. (a) In
19 this section:

20 (1) "Municipally owned utility" has the meaning
21 assigned by Section 11.003, Utilities Code.

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

24 (3) "Solar energy device" has the meaning assigned by
25 Section 171.107, Tax Code.

26 (b) A municipality may not prohibit or restrict the
27 installation of a solar energy device by a residential or small

1 commercial customer except to the extent:

2 (1) a property owner's association may prohibit the
3 installation under Sections 202.010(d)(1) through (7), Property
4 Code; or

5 (2) the interconnection guidelines and
6 interconnection agreement of a municipally owned utility serving
7 the customer's service area, the rules of the Public Utility
8 Commission of Texas, or the protocols of an independent
9 organization certified under Section 39.151, Utilities Code, limit
10 the installation of solar energy devices due to reliability, power
11 quality, or safety of the distribution system.

12 SECTION 3. The changes in law made by this Act apply only to
13 an agreement governing the sale or lease of distributed renewable
14 generation, as defined by Section 39.916, Utilities Code, or a
15 power purchase agreement entered into on or after the effective
16 date of this Act. An agreement entered into before the effective
17 date of this Act is governed by the law as it existed immediately
18 before the effective date of this Act, and that law is continued in
19 effect for that purpose.

20 SECTION 4. This Act takes effect September 1, 2021.