

1-1 By: Menéndez S.B. No. 398  
 1-2 (In the Senate - Filed January 22, 2021; March 9, 2021, read  
 1-3 first time and referred to Committee on Business & Commerce;  
 1-4 March 31, 2021, reported favorably by the following vote: Yeas 9,  
 1-5 Nays 0; March 31, 2021, sent to printer.)

1-6 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7  |     |     |        |     |
| 1-8  | X   |     |        |     |
| 1-9  | X   |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 | X   |     |        |     |
| 1-12 | X   |     |        |     |
| 1-13 | X   |     |        |     |
| 1-14 | X   |     |        |     |
| 1-15 | X   |     |        |     |
| 1-16 | X   |     |        |     |

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to distributed renewable generation resources.  
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-21 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is  
 1-22 amended by adding Chapter 113 to read as follows:  
 1-23 CHAPTER 113. SALES AND LEASING OF DISTRIBUTED RENEWABLE GENERATION  
 1-24 RESOURCES  
 1-25 Sec. 113.001. DEFINITIONS. In this chapter:  
 1-26 (1) "Distributed renewable generation" has the  
 1-27 meaning assigned by Section 39.916, Utilities Code.  
 1-28 (2) "Small commercial customer" has the meaning  
 1-29 assigned by Section 39.202(o), Utilities Code.  
 1-30 Sec. 113.002. APPLICABILITY. (a) This chapter applies to a  
 1-31 seller or lessor of distributed renewable generation resources.  
 1-32 (b) This chapter does not apply to:  
 1-33 (1) a transaction involving the sale or transfer of  
 1-34 the real property on which a distributed renewable generation  
 1-35 resource is located;  
 1-36 (2) a person, including a person acting through the  
 1-37 person's officers, employees, brokers, or agents, who markets,  
 1-38 sells, solicits, negotiates, or enters into an agreement for the  
 1-39 sale or financing of a distributed renewable generation resource as  
 1-40 part of a transaction involving the sale or transfer of the real  
 1-41 property on which the distributed renewable generation resource is  
 1-42 or will be affixed; or  
 1-43 (3) a third party that enters into an agreement for the  
 1-44 financing of a distributed renewable generation resource.  
 1-45 Sec. 113.003. LEASE, SALES, AND INSTALLATION DISCLOSURES.  
 1-46 A seller or lessor who enters into a purchase, lease, or power  
 1-47 purchase agreement with a residential or small commercial customer  
 1-48 for the operation of a distributed renewable generation resource  
 1-49 shall provide to the customer in writing:  
 1-50 (1) contact information of the salesperson and  
 1-51 installer of the generation resource;  
 1-52 (2) a description of all equipment to be installed;  
 1-53 (3) the cost of all equipment to be installed;  
 1-54 (4) a detailed accounting of fees associated with the  
 1-55 installation or operation of the generation resource;  
 1-56 (5) representations, if any, made as part of the  
 1-57 agreement regarding the expected operational performance and  
 1-58 financial performance of the generation resource; and  
 1-59 (6) all applicable warranties.  
 1-60 Sec. 113.004. ADDITIONAL DISCLOSURES FOR LEASE AGREEMENTS.  
 1-61 In addition to the disclosures required under Section 113.003, a

2-1 lessor shall provide to a leasing residential or small commercial  
2-2 customer in writing:

2-3 (1) the term and rate of the lease, including any  
2-4 payment escalators or other terms that affect the customer's  
2-5 payments; and

2-6 (2) a statement of whether the lease and any  
2-7 applicable warranty or maintenance agreement is transferable to a  
2-8 subsequent purchaser of the property where the distributed  
2-9 renewable generation resource is installed.

2-10 Sec. 113.005. DISCLOSURES FOR POWER PURCHASE AGREEMENTS. A  
2-11 residential or small commercial customer who enters into a power  
2-12 purchase agreement is entitled to receive in writing:

2-13 (1) the disclosures required under Sections  
2-14 113.003(1), (2), (5), and (6);

2-15 (2) the term and rate of the power purchase agreement,  
2-16 including any payment escalators or other terms that affect the  
2-17 customer's payments; and

2-18 (3) whether the power purchase agreement and any  
2-19 applicable warranty or maintenance agreement is transferable to a  
2-20 subsequent purchaser of the property where the distributed  
2-21 renewable generation resource is installed.

2-22 SECTION 2. Chapter 229, Local Government Code, is amended  
2-23 by adding Subchapter C to read as follows:

2-24 SUBCHAPTER C. REGULATION OF SOLAR ENERGY DEVICES

2-25 Sec. 229.101. REGULATION OF SOLAR ENERGY DEVICES. (a) In  
2-26 this section:

2-27 (1) "Municipally owned utility" has the meaning  
2-28 assigned by Section 11.003, Utilities Code.

2-29 (2) "Small commercial customer" has the meaning  
2-30 assigned by Section 39.202(o), Utilities Code.

2-31 (3) "Solar energy device" has the meaning assigned by  
2-32 Section 171.107, Tax Code.

2-33 (b) A municipality may not prohibit or restrict the  
2-34 installation of a solar energy device by a residential or small  
2-35 commercial customer except to the extent:

2-36 (1) a property owner's association may prohibit the  
2-37 installation under Sections 202.010(d)(1) through (7), Property  
2-38 Code; or

2-39 (2) the interconnection guidelines and  
2-40 interconnection agreement of a municipally owned utility serving  
2-41 the customer's service area, the rules of the Public Utility  
2-42 Commission of Texas, or the protocols of an independent  
2-43 organization certified under Section 39.151, Utilities Code, limit  
2-44 the installation of solar energy devices due to reliability, power  
2-45 quality, or safety of the distribution system.

2-46 SECTION 3. The changes in law made by this Act apply only to  
2-47 an agreement governing the sale or lease of distributed renewable  
2-48 generation, as defined by Section 39.916, Utilities Code, or a  
2-49 power purchase agreement entered into on or after the effective  
2-50 date of this Act. An agreement entered into before the effective  
2-51 date of this Act is governed by the law as it existed immediately  
2-52 before the effective date of this Act, and that law is continued in  
2-53 effect for that purpose.

2-54 SECTION 4. This Act takes effect September 1, 2021.

2-55 \* \* \* \* \*