

## **BILL ANALYSIS**

S.B. 1036  
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State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that Texas, now the nation's leader in solar power generation, is facing a surge in fraudulent and predatory residential solar panel sales practices, primarily driven by door-to-door sales companies targeting elderly and non-English-speaking Texans. The bill sponsor has further informed the committee that these companies often use deceptive tactics, such as falsely claiming that federal tax credits will cover the full cost, promising elimination of electric bills, and pressuring consumers to electronically initial iPads under the guise of starting a quote, when in fact they are entering into binding 20-or-more-year contracts worth tens of thousands of dollars. The bill sponsor also informed the committee that in the worst cases, sales representatives secure financing, take commissions up front, and vanish, leaving homeowners with debt and nonfunctional systems. Although the Office of the Attorney General permits complaints under deceptive trade practices law, the bill sponsor has informed the committee that the current system is reactive and relies on victims, often from vulnerable communities, to identify and report the fraud, offering inadequate consumer protection.

S.B. 1036 requires solar panel sales companies and individual salespersons to register with the Texas Department of Licensing and Regulation (TDLR), grants TDLR authority to establish standardized contract language, mandate key disclosures—including accurate cost and financing details—at the time of solicitation, prohibit deceptive sales practices, and enforce civil penalties, with enhanced penalties for violations involving victims aged 65 or older. The bill also guarantees consumers the right to cancel a solar panel sales contract within five business days of signing.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1 of this bill.

### **ANALYSIS**

S.B. 1036 amends the Occupations Code to provide for the regulation of residential solar retail transactions and occupational registration requirements.

## Residential Solar Retailers

### General Definitions, Applicability, and Preemption

S.B. 1036 defines the following terms for purposes of the bill's provisions:

- "electric cooperative" and "municipally owned utility" by reference to the Public Utility Regulatory Act's applicable definitions of those terms;
- "electrical contractor" as a person licensed as an electrical contractor under the Texas Electrical Safety and Licensing Act;
- "residential solar energy system" as a solar energy system intended or designed primarily for family, personal, or household use;
- "residential solar retail" as the following:
  - the sale or lease of, or an offer to sell or lease, a residential solar energy system; or
  - a transaction involving any combination of those acts;
- "solar energy system" as a system or configuration of solar energy devices that collects and uses solar energy to generate electricity;
- "solar retailer" as a person who is registered under the bill's provisions as a solar retailer;
- "solar salesperson" as an individual who is registered under the bill's provisions as a solar salesperson;
- "controlling person" as an individual who, as follows:
  - has direct or indirect control of at least 25 percent of the voting securities of a business entity;
  - has the authority to set policy and direct the management of a business entity;
  - is the president, the secretary, or a director of a business entity; or
  - is a general partner of a partnership, including a limited partnership; and
- "business entity" as a corporation, business trust, estate, trust, partnership, including a limited partnership, association, or any other legal entity, regardless of whether the entity is incorporated in Texas.

S.B. 1036 exempts an electrical contractor that employs an individual to engage in residential solar retail on the electrical contractor's behalf from the bill's registration and insurance requirements applicable to a solar retailer, except that an agreement in which the electrical contractor is the seller or lessor is subject to the bill's provisions relating to required contract provisions and to the right to cancel an agreement. Additionally, the bill exempts an individual who is employed by an electrical contractor to engage in residential solar retail on the electrical contractor's behalf from the bill's registration requirements.

S.B. 1036 establishes that the bill's provisions do not apply to the following:

- except as provided by these provisions, a written agreement entered into in Texas for the sale or lease of a residential solar energy system and pertaining to a residential property located outside Texas; or
- a solar energy system, as follows:
  - intended for temporary or emergency use or to provide power to a single appliance;
  - that, if combined with other systems that produce electricity, produces in combination with the other systems a total peak output power of less than one kilowatt, or, if not combined with other systems that produce electricity, is designed to produce a peak output power of less than one kilowatt; or
  - sold or leased:
    - for commercial purposes, including a solar energy system installed on the premises of a nonresidential property;
    - to provide power to a multifamily dwelling that exceeds four dwelling units or stories;
    - before September 1, 2025; or
    - in connection with new residential construction.

The bill's provisions apply to any residential solar retail occurring in Texas in connection with a written agreement described by these provisions.

S.B. 1036 establishes that, to the extent of any conflict between the bill's provisions and any of the following laws, the bill's provisions prevail over:

- a municipal ordinance regulating the same conduct as the bill's provisions; or
- Business & Commerce Code provisions relating to sales and leasing of distributed renewable generation resources or to the cancellation of certain consumer transactions.

#### Powers and Duties

S.B. 1036 requires the Texas Department of Licensing and Regulation (TDLR) to administer and enforce the bill's provisions and the Texas Commission of Licensing and Regulation (TCLR) to adopt rules necessary to administer and enforce the bill's provisions, including the following:

- in addition to any practice prohibited or restricted by the bill's provisions, prohibiting or restricting any specific unfair, deceptive, or misleading practices related to residential solar retail and specifying those practices;
- requiring a solar retailer or solar salesperson to provide disclosures or educational materials when selling or leasing, or offering to sell or lease, a residential solar energy system and specifying the form and format of those disclosures;
- regulating the form and format of an agreement for the sale or lease of a residential solar energy system;
- establishing insurance requirements for solar retailers; and
- establishing continuing education requirements as a prerequisite to renew a solar salesperson registration under the bill's provisions.

The bill requires TCLR to consult the Office of Consumer Credit Commissioner in adopting rules relating to disclosures or educational materials and to the form and format of an agreement as described by these provisions to ensure compliance with federal and state law governing financial transactions, including the federal Truth in Lending Act.

S.B. 1036 requires TCLR to establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering the bill's provisions and of any other activity or function necessary for effective regulation under the bill's provisions.

S.B. 1036 requires the Public Utility Commission of Texas to develop, in consultation with TDLR and the office of the attorney general, educational materials that inform consumers of the consumers' rights and remedies related to the purchase or lease of residential solar energy systems under the bill's provisions and other applicable laws. TCLR by rule may require solar retailers and solar salespersons when engaging in residential solar retail to provide solicited persons with such educational materials.

#### Registration

S.B. 1036 prohibits a person from engaging in residential solar retail for compensation unless the person engages in residential solar retail on a solar retailer's behalf and is registered as a solar salesperson under the bill's provisions and requires a person to be registered as a solar retailer before the person may employ or otherwise contract for the services of an individual to engage in residential solar retail on the person's behalf. These provisions take effect September 1, 2026.

S.B. 1036 requires a person, to be eligible for a registration under the bill's provisions, to submit an application to TDLR, pay any required fees, and meet the eligibility requirements of the bill's provisions and of rules adopted under the bill's provisions. The bill establishes that to be eligible to register as a solar salesperson, the applicant must be an individual. The bill requires the registration application to include the following:

- if the solar retailer is an entity, a list of each controlling person of the retailer;
- the name and registration number of each solar salesperson who engages in residential solar retail on the solar retailer's behalf; and
- evidence satisfactory to TDLR that the applicant has insurance meeting the requirements established by TDLR rule.

S.B. 1036 authorizes TDLR to conduct a criminal history record information check of each applicant or, if applicable, any controlling person of an applicant for a registration under the bill's provisions using information provided by the applicant and made available to TDLR by the Department of Public Safety (DPS) and any other criminal justice agency under Government Code provisions governing DPS. The bill prohibits a solar retailer from being required to complete continuing education to renew the solar retailer's registration under the bill's provisions.

#### Practice by Registrants

S.B. 1036 requires a solar retailer to promptly notify TDLR in a manner prescribed by TDLR of each salesperson authorized to engage in residential solar retail on behalf of the retailer and any change in such an authorization.

#### *Required Supervision*

S.B. 1036 requires a solar retailer to provide reasonable supervision to each authorized solar salesperson on the retailer's behalf, including making reasonable efforts to correct any violation of the bill's provisions or a rule adopted under the bill's provisions that the retailer is aware of or of which a reasonable person under the same circumstances would be aware. A solar retailer is responsible for any such violation committed by an authorized solar salesperson on the retailer's behalf.

#### *Code of Conduct and Compliance With Other Law*

S.B. 1036 requires a solar retailer and a solar salesperson to comply with the following:

- any code of conduct adopted by commission rule governing solar retailers or solar salespersons, as applicable;
- the Deceptive Trade Practices-Consumer Protection Act;
- Business & Commerce Code provisions governing sales and leasing of distributed renewable generation resources, as if the solar retailer or solar salesperson, as applicable, were a seller or lessor under those provisions; and
- the federal Truth in Lending Act and applicable state laws governing financial transactions by providing any disclosure required by those laws.

#### *Registration Information*

S.B. 1036 requires a solar retailer or solar salesperson, as applicable, on request by TDLR or a person to whom a solar retailer or salesperson has offered to sell or lease, or has sold or leased, a residential solar energy system, to provide TDLR or person with the retailer's or salesperson's name and registration number. The bill requires a solar retailer to ensure that each agreement for the sale or lease of a residential solar energy system by the retailer includes the name and registration number of the retailer and the salesperson involved in the transaction. An electrical contractor or individual acting on behalf of an electrical contractor must provide the electrical contractor's name and license number under the same circumstances as a solar retailer or salesperson is required to provide the retailer's or salesperson's name and number under these provisions.

### *Required Contract Provisions*

S.B. 1036 requires a sale or lease agreement, if the sale or lease of a residential solar energy system involves the installation of the system at a person's residence, to do the following:

- provide that the installation of the residential solar energy system will be performed by an electrical contractor;
- conspicuously state the name and license number of the electrical contractor who will perform that installation; and
- provide that the solar retailer or electrical contractor, as applicable, will obtain the following:
  - any permit required by a government entity for the installation;
  - if Public Utility Regulatory Act provisions relating to the interconnection of distributed renewable generation apply, the approval by the electric utility serving the person's residence of the interconnection of the residential solar energy system; and
  - if the person is a customer of an electric cooperative or a municipally owned utility, the cooperative's or utility's approval of the interconnection of the residential solar energy system.

The requirement to conspicuously state the name and license number of the electrical contractor who will perform the installation under these provisions may be satisfied by providing a list of electrical contractors in the agreement from which one must be selected to perform the applicable residential solar energy system. The bill requires the sale or lease agreement, if the sale or lease of a residential solar energy system involves a third-party lender that is affiliated with or referred by the solar retailer, to include a provision requiring the third-party lender to cancel any accompanying loan made by the third-party lender to the buyer or lessee on the buyer's or lessee's cancellation of the agreement under the bill's provisions.

### *Right to Cancel Agreement*

S.B. 1036 requires a solar retailer to do the following:

- allow a buyer or lessee who enters into an agreement to purchase or lease a residential solar energy system to cancel the agreement without penalty or further obligation by providing written notice of the cancellation on or before the fifth business day after the date on which the agreement was executed by the buyer or lessee; and
- include in an agreement for the sale or lease of such a system the last calendar date of that cancellation period and the mailing address or e-mail address for providing the notice of cancellation.

If the agreement does not contain the requisite address for cancellation, the buyer or lessee may cancel the agreement during the cancellation period by providing written notice of cancellation to the solar retailer by any reasonable method. The bill defines "business day" for these purposes as a calendar day excluding Saturday, Sunday, or any legal holiday, as that term is defined by applicable Government Code provisions.

### Enforcement

### *Prohibited Acts*

S.B. 1036 prohibits a person from doing the following:

- intentionally, knowingly, or recklessly making a false, misleading, or deceptive oral or written statement to another person when engaging in residential solar retail;
- falsely stating or implying an affiliation with a public utility or government agency when engaging in residential solar retail;
- failing to provide the disclosure statements or any educational materials as required by the bill's provisions, by Business & Commerce Code governing sales and leasing of distributed renewable generation resources, or by TCLR rule when engaging in residential solar retail;

- engaging in residential solar retail at a residence in violation of posted signage indicating that soliciting is prohibited, unless otherwise directed by an occupant of the residence;
- allowing the installation of a residential solar energy system to be performed by a person who is not an electrical contractor;
- making a material misrepresentation in an application submitted to TDLR under the bill's provisions or in any other document submitted to TDLR under the bill's provisions; or
- violating, attempting to violate, or conspiring to violate the bill's provisions or a rule adopted under the bill's provisions.

#### *Denial or Refusal to Renew*

S.B. 1036 authorizes TDLR's executive director to deny an application to register or refuse to renew a registration under the bill's provisions if the applicant or, if applicable, a controlling person of the applicant has, as follows:

- violated the bill's provisions or a rule or order of TDLR or TDLR's executive director; or
- had suspended or revoked, or has been otherwise formally disciplined in connection with, any authorization to practice an occupation or engage in a business that was issued by a licensing authority in Texas or another state.

#### *Administrative Penalty, Warning Letter, and Cease and Desist Order*

S.B. 1036 authorizes TDLR, in imposing an administrative penalty under applicable state law for a violation of the bill's provisions relating to prohibited acts to consider, in determining the appropriate amount of the penalty, whether any individual over the age of 65 at the time of the prohibited conduct was harmed by the conduct. The bill authorizes TDLR's executive director to do the following:

- before imposing an administrative penalty or sanction against a person under applicable state law, issue a warning letter directing a person to take corrective action regarding the violation that is the basis of the penalty or sanction; and
- in determining whether to issue such a warning letter, to consider any history of violations by the person, including whether the person complied with previous warning letters, and the person's efforts to correct the violation and prevent future violations.

A determination to issue a warning letter under these provisions is not a contested case under the Administrative Procedure Act. TDLR's executive director may issue a cease and desist order under statutory provisions governing TDLR to protect public health and safety.

#### *Amount of Civil Penalty*

S.B. 1036 caps the amount of a civil penalty imposed under statutory provisions governing TDLR for a violation of the bill's provisions or a rule adopted under the bill's provisions at the following:

- \$2,500 for each violation; or
- \$50,000 in the aggregate for all violations of a similar nature.

In a proceeding imposing a civil penalty under applicable statutory provisions relating to injunctive relief and civil penalties for a violation of the bill's provisions or a rule adopted under the bill's provisions, if the court finds that an individual over the age of 65 at the time of the violation was harmed by the violation, the bill caps the amount of the civil penalty at the following:

- \$10,000 for each violation; or
- \$100,000 in the aggregate for all violations of a similar nature.

### *Agreement Cancellation and Refund*

S.B. 1036 authorizes TCLR or TDLR's executive director, after notice and a hearing and after finding that a violation of the bill's provisions or a rule adopted under the bill's provisions has occurred, order the cancellation of an agreement for the sale or lease of a residential solar energy system and the refund of any amount paid under the agreement, except that the amount of a refund ordered under these provisions may not exceed the amounts paid under the agreement. The bill expressly states that these provisions do not authorize TDLR's executive director or TCLR to impose or collect penalties, fines, or other damages, except that a proceeding under these provisions may be combined with a proceeding to impose an administrative penalty or sanction by TDLR. A proceeding under these provisions is a contested case under the Administrative Procedure Act. These provisions expressly do not prohibit an injured party who was refunded money under these provisions from bringing an action in a court with jurisdiction to collect damages, other than the refunded money, or obtain equitable relief under other applicable law.

S.B. 1036 subjects an electrical contractor who violates the bill's provisions or a rule adopted under the bill's provisions to an administrative penalty or sanction or any other enforcement provision under the Texas Electrical Safety and Licensing Act, statutory provisions governing TDLR, and the bill's provisions.

### **Procedural Provisions**

S.B. 1036 does the following:

- establishes that the bill applies only to a contract entered into on or after the bill's effective date. A contract entered into before the bill's effective date is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose;
- requires TCLR to adopt rules necessary to implement the bill's provisions not later than June 1, 2026;
- requires TDLR, as soon as practicable after the bill's effective date, establish and lead a stakeholder work group to provide advice and recommendations to TDLR on regulating activities governed by the bill's provisions; and
- requires TDLR to establish the size, composition, and scope of the stakeholder work group.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2025.