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(Darby)

S.B. No. 1036

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of residential solar retail transactions; requiring an occupational registration; authorizing fees; providing civil and administrative penalties.

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

SECTION 1. Title 11, Occupations Code, is amended by adding Chapter 1806 to read as follows:

CHAPTER 1806. RESIDENTIAL SOLAR RETAILERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1806.001. SHORT TITLE. This chapter may be cited as the Residential Solar Retailer Regulatory Act.

Sec. 1806.002. GENERAL DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Electric cooperative" has the meaning assigned by Section 11.003, Utilities Code.

(4) "Electrical contractor" means a person licensed as an electrical contractor under Chapter 1305.

(5) "Executive director" means the executive director of the department.

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

1 (7) "Residential solar energy system" means a solar
2 energy system intended or designed primarily for family, personal,
3 or household use.

4 (8) "Residential solar retail" means:

5 (A) the sale or lease of, or an offer to sell or
6 lease, a residential solar energy system; or

7 (B) a transaction involving any combination of
8 the acts described by Paragraph (A).

9 (9) "Solar energy system" means a system or
10 configuration of solar energy devices that collects and uses solar
11 energy to generate electricity.

12 (10) "Solar retailer" means a person who is registered
13 under this chapter as a solar retailer.

14 (11) "Solar salesperson" means an individual who is
15 registered under this chapter as a solar salesperson.

16 Sec. 1806.003. DEFINITION OF CONTROLLING PERSON. (a) In
17 this section, "business entity" means a corporation, business
18 trust, estate, trust, partnership, including a limited
19 partnership, association, or any other legal entity, regardless of
20 whether the entity is incorporated in this state.

21 (b) In this chapter, "controlling person" means an
22 individual who:

23 (1) has direct or indirect control of at least 25
24 percent of the voting securities of a business entity;

25 (2) has the authority to set policy and direct the
26 management of a business entity;

27 (3) is the president, the secretary, or a director of a

business entity; or

(4) is a general partner of a partnership, including a limited partnership.

Sec. 1806.004. LIMITED APPLICABILITY TO ELECTRICAL CONTRACTORS. (a) If an electrical contractor employs an individual to engage in residential solar retail on behalf of the electrical contractor, the electrical contractor is exempt from the registration and insurance requirements of this chapter applicable to a solar retailer, except that an agreement in which the electrical contractor is the seller or lessor is subject to Sections 1806.155 and 1806.156.

(b) If an individual is employed by an electrical contractor to engage in residential solar retail on behalf of the electrical contractor, the individual is exempt from the registration requirements of this chapter.

Sec. 1806.005. APPLICABILITY. (a) This chapter does not apply to:

(1) except as provided by Subsection (b), a written agreement:

(A) entered into in this state for the sale or lease of a residential solar energy system; and

(B) pertaining to a residential property located outside this state; or

(2) a solar energy system:

(A) intended:

(i) for temporary or emergency use; or

(ii) to provide power to a single

appliance;

(B) that:

(i) 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

(ii) if not combined with other systems that produce electricity, is designed to produce a peak output power of less than one kilowatt; or

(C) sold or leased:

(i) for commercial purposes, including a solar energy system installed on the premises of a nonresidential property;

(ii) to provide power to a multifamily dwelling that exceeds four dwelling units or stories;

(iii) before September 1, 2025; or

(iv) in connection with new residential construction.

(b) This chapter applies to any residential solar retail occurring in this state in connection with an agreement described by Subsection (a)(1).

Sec. 1806.006. PREEMPTION. To the extent of any conflict between this chapter and any of the following laws, this chapter prevails over:

(1) a municipal ordinance regulating the same conduct as this chapter; or

(2) Chapter 115 or 601, Business & Commerce Code.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 1806.051. GENERAL POWERS AND DUTIES. (a) The department shall administer and enforce this chapter.

(b) The commission shall adopt rules necessary to administer and enforce this chapter, including:

(1) in addition to any practice prohibited or restricted by this chapter, prohibiting or restricting any specific unfair, deceptive, or misleading practices related to residential solar retail and specifying those practices;

(2) 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;

(3) regulating the form and format of an agreement for the sale or lease of a residential solar energy system;

(4) establishing insurance requirements for solar retailers; and

(5) establishing continuing education requirements as a prerequisite to renew a solar salesperson registration under this chapter.

(c) The commission shall consult the Office of Consumer Credit Commissioner in adopting rules described by Subsections (b)(2) and (3) to ensure compliance with federal and state law governing financial transactions, including the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

Sec. 1806.052. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to

cover the costs of:

(1) administering this chapter; and

(2) any other activity or function necessary for effective regulation under this chapter.

Sec. 1806.053. EDUCATIONAL MATERIALS. (a) The Public Utility Commission of Texas shall develop, in consultation with the department 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 this chapter and other applicable laws.

(b) The commission by rule may require solar retailers and solar salespersons when engaging in residential solar retail to provide solicited persons with the educational materials developed under this section.

SUBCHAPTER C. REGISTRATION

Sec. 1806.101. REGISTRATION REQUIRED: SOLAR SALESPERSON. A person may not engage in residential solar retail for compensation unless the person:

(1) engages in residential solar retail on behalf of a solar retailer; and

(2) is registered as a solar salesperson under this chapter.

Sec. 1806.102. REGISTRATION REQUIRED: SOLAR RETAILER. A person may not employ or otherwise contract for the services of an individual to engage in residential solar retail on behalf of the person unless the person is registered as a solar retailer.

Sec. 1806.103. ELIGIBILITY FOR REGISTRATION. (a) To be

1 eligible for a registration under this chapter, a person must:

2 (1) submit an application to the department;

3 (2) pay any required fees; and

4 (3) meet the eligibility requirements of this chapter
5 and of rules adopted under this chapter.

6 (b) To be eligible to register as a solar salesperson, the
7 applicant must be an individual.

8 Sec. 1806.104. SOLAR RETAILER APPLICATION. An application
9 to register as a solar retailer must include:

10 (1) if the solar retailer is an entity, a list of each
11 controlling person of the solar retailer;

12 (2) the name and registration number of each solar
13 salesperson who engages in residential solar retail on behalf of
14 the solar retailer; and

15 (3) evidence satisfactory to the department that the
16 applicant has insurance meeting the requirements established by
17 commission rule.

18 Sec. 1806.105. CRIMINAL HISTORY RECORD INFORMATION CHECK.
19 The department may conduct a criminal history record information
20 check of each applicant or, if applicable, any controlling person
21 of an applicant for a registration under this chapter using
22 information:

23 (1) provided by the applicant; and

24 (2) made available to the department by the Department
25 of Public Safety and any other criminal justice agency under
26 Chapter 411, Government Code.

27 Sec. 1806.106. EXEMPTION FROM CONTINUING EDUCATION.

1 Notwithstanding Section 51.405 or any other provision of this
2 chapter, a solar retailer may not be required to complete
3 continuing education to renew the solar retailer's registration
4 under this chapter.

5 SUBCHAPTER D. PRACTICE BY REGISTRANTS

6 Sec. 1806.151. NOTICE TO DEPARTMENT OF SOLAR SALESPERSONS
7 AUTHORIZED TO ENGAGE IN RESIDENTIAL SOLAR RETAIL. A solar retailer
8 shall promptly notify the department in a manner prescribed by the
9 department of:

10 (1) each solar salesperson authorized to engage in
11 residential solar retail on behalf of the solar retailer; and

12 (2) any change in an authorization described by
13 Subdivision (1).

14 Sec. 1806.152. SUPERVISION REQUIRED. (a) A solar retailer
15 shall provide reasonable supervision to each solar salesperson
16 authorized to engage in residential solar retail on behalf of the
17 solar retailer, including making reasonable efforts to correct any
18 violation of this chapter or a rule adopted under this chapter that
19 the solar retailer is aware of or of which a reasonable person under
20 the same circumstances would be aware.

21 (b) A solar retailer is responsible for any violation
22 described by Subsection (a) committed by a solar salesperson
23 authorized to engage in residential solar retail on behalf of the
24 solar retailer.

25 Sec. 1806.153. CODE OF CONDUCT; COMPLIANCE WITH OTHER LAW.
26 A solar retailer and a solar salesperson shall comply with:

27 (1) any code of conduct adopted by commission rule

governing solar retailers or solar salespersons, as applicable;

(2) Subchapter E, Chapter 17, Business & Commerce Code;

(3) Chapter 115, Business & Commerce Code, as if the solar retailer or solar salesperson, as applicable, were a seller or lessor under that chapter; and

(4) the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and applicable state laws governing financial transactions by providing any disclosure required by those laws.

Sec. 1806.154. REGISTRATION INFORMATION. (a) On request by the department or a person to whom a solar retailer or solar salesperson has offered to sell or lease, or has sold or leased, a residential solar energy system, the solar retailer or solar salesperson, as applicable, shall provide the department or person with the retailer's or salesperson's name and registration number.

(b) A solar retailer shall 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 solar salesperson involved in the transaction.

(c) An electrical contractor or individual acting on behalf of an electrical contractor shall provide the electrical contractor's name and license number under the same circumstances as a solar retailer or solar salesperson is required to provide the retailer's or salesperson's name and number under this section.

Sec. 1806.155. REQUIRED CONTRACT PROVISIONS. (a) If the sale or lease of a residential solar energy system involves the installation of the system at a person's residence, the sale or

1 lease agreement must:

2 (1) provide that the installation of the residential
3 solar energy system will be performed by an electrical contractor;

4 (2) conspicuously state the name and license number of
5 the electrical contractor who will perform the installation
6 described by Subdivision (1); and

7 (3) provide that the solar retailer or electrical
8 contractor, as applicable, will obtain:

9 (A) any permit required by a government entity
10 for the installation described by Subdivision (1);

11 (B) if Section 39.554 or 39.916, Utilities Code,
12 applies, the approval by the electric utility serving the person's
13 residence of the interconnection of the residential solar energy
14 system; and

15 (C) if the person is a customer of an electric
16 cooperative or a municipally owned utility, the cooperative's or
17 utility's approval of the interconnection of the residential solar
18 energy system.

19 (b) The requirement under Subsection (a)(2) may be
20 satisfied by providing a list of electrical contractors in the
21 agreement from which one must be selected to perform the
22 installation described by Subsection (a)(1).

23 (c) If the sale or lease of a residential solar energy
24 system involves a third-party lender that is affiliated with or
25 referred by the solar retailer, the sale or lease agreement must
26 include a provision requiring the third-party lender to cancel any
27 accompanying loan made by the third-party lender to the buyer or

1 lessee on the buyer's or lessee's cancellation of the agreement
2 under Section 1806.156.

3 Sec. 1806.156. RIGHT TO CANCEL AGREEMENT. (a) In this
4 section, "business day" means a calendar day excluding Saturday,
5 Sunday, or any legal holiday, as that term is defined by Section
6 662.021, Government Code.

7 (b) Notwithstanding any other law, a solar retailer shall
8 allow a buyer or lessee who enters into an agreement to purchase or
9 lease a residential solar energy system to cancel the agreement
10 without penalty or further obligation by providing written notice
11 of the cancellation on or before the fifth business day after the
12 date on which the agreement was executed by the buyer or lessee.

13 (c) A solar retailer shall include in an agreement for the
14 sale or lease of a residential solar energy system the last calendar
15 date of the cancellation period prescribed by Subsection (b) and
16 the mailing address or e-mail address for providing the notice of
17 cancellation.

18 (d) If the agreement does not contain the address for
19 cancellation required by Subsection (c), the buyer or lessee may
20 cancel the agreement during the period described by Subsection (b)
21 by providing written notice of cancellation to the solar retailer
22 by any reasonable method.

23 SUBCHAPTER E. ENFORCEMENT

24 Sec. 1806.201. PROHIBITED ACTS. A person may not:

25 (1) intentionally, knowingly, or recklessly make a
26 false, misleading, or deceptive oral or written statement to
27 another person when engaging in residential solar retail;

1 (2) falsely state or imply an affiliation with a
2 public utility or government agency when engaging in residential
3 solar retail;

4 (3) fail to provide the disclosure statements or any
5 educational materials as required by this chapter, by Chapter 115,
6 Business & Commerce Code, or by commission rule when engaging in
7 residential solar retail;

8 (4) engage in residential solar retail at a residence
9 in violation of posted signage indicating that soliciting is
10 prohibited, unless otherwise directed by an occupant of the
11 residence;

12 (5) allow the installation of a residential solar
13 energy system to be performed by a person who is not an electrical
14 contractor;

15 (6) make a material misrepresentation in an
16 application submitted to the department under this chapter or in
17 any other document submitted to the department under this chapter;
18 or

19 (7) violate, attempt to violate, or conspire to
20 violate this chapter or a rule adopted under this chapter.

21 Sec. 1806.202. DENIAL OR REFUSAL TO RENEW. The executive
22 director may deny an application to register or refuse to renew a
23 registration under this chapter if the applicant or, if applicable,
24 a controlling person of the applicant has:

25 (1) violated this chapter or a rule or order of the
26 commission or executive director; or

27 (2) had suspended or revoked, or has been otherwise

1 formally disciplined in connection with, any authorization to
2 practice an occupation or engage in a business that was issued by a
3 licensing authority in this state or another state.

4 Sec. 1806.203. ADMINISTRATIVE PENALTY. In imposing an
5 administrative penalty under Subchapter F, Chapter 51, for a
6 violation of Section 1806.201, the commission in determining the
7 appropriate amount of the penalty may consider whether any
8 individual over the age of 65 at the time of the prohibited conduct
9 was harmed by the conduct.

10 Sec. 1806.204. WARNING LETTER. (a) Before imposing an
11 administrative penalty or sanction against a person under Chapter
12 51, the executive director may issue a warning letter directing a
13 person to take corrective action regarding the violation that is
14 the basis of the penalty or sanction.

15 (b) In determining whether to issue a warning letter under
16 Subsection (a), the executive director may consider any history of
17 violations by the person, including whether the person complied
18 with previous warning letters, and the person's efforts to correct
19 the violation and prevent future violations.

20 (c) A determination to issue a warning letter under this
21 section is not a contested case under Chapter 2001, Government
22 Code.

23 Sec. 1806.205. CEASE AND DESIST ORDER. The executive
24 director may issue a cease and desist order under Section 51.3513 to
25 protect public health and safety.

26 Sec. 1806.206. AMOUNT OF CIVIL PENALTY. (a)
27 Notwithstanding Section 51.352 and except as provided by Subsection

1 (b), the amount of a civil penalty imposed under Chapter 51 for a
2 violation of this chapter or a rule adopted under this chapter may
3 not exceed:

4 (1) \$2,500 for each violation; or

5 (2) \$50,000 in the aggregate for all violations of a
6 similar nature.

7 (b) In a proceeding imposing a civil penalty under Section
8 51.352 for a violation of this chapter or a rule adopted under this
9 chapter, if the court finds that an individual over the age of 65 at
10 the time of the violation was harmed by the violation, the amount of
11 the civil penalty may not exceed:

12 (1) \$10,000 for each violation; or

13 (2) \$100,000 in the aggregate for all violations of a
14 similar nature.

15 Sec. 1806.207. AGREEMENT CANCELLATION AND REFUND. (a)
16 Subject to Subsection (b), the commission or executive director
17 may, after notice and a hearing and after finding that a violation
18 of this chapter or a rule adopted under this chapter has occurred,
19 order the cancellation of an agreement for the sale or lease of a
20 residential solar energy system and the refund of any amount paid
21 under the agreement.

22 (b) The amount of a refund ordered under this section may
23 not exceed the amounts paid under the agreement.

24 (c) This section does not authorize the executive director
25 or commission to impose or collect penalties, fines, or other
26 damages, except that a proceeding under this section may be
27 combined with a proceeding to impose an administrative penalty or

1 sanction by the department.

2 (d) A proceeding under this section is a contested case
3 under Chapter 2001, Government Code.

4 (e) This section does not prohibit an injured party who was
5 refunded money under this section from bringing an action in a court
6 with jurisdiction to collect damages, other than the refunded
7 money, or obtain equitable relief under other applicable law.

8 Sec. 1806.208. VIOLATION BY ELECTRICAL CONTRACTOR. An
9 electrical contractor who violates this chapter or a rule adopted
10 under this chapter is subject to an administrative penalty or
11 sanction or any other enforcement provision under Chapter 1305,
12 Chapter 51, and this chapter.

13 SECTION 2. Chapter 1806, Occupations Code, as added by this
14 Act, applies only to a contract entered into on or after the
15 effective date of this Act. A contract entered into before the
16 effective date of this Act is governed by the law in effect on the
17 date the contract was entered into, and that law is continued in
18 effect for that purpose.

19 SECTION 3. Not later than June 1, 2026, the Texas Commission
20 of Licensing and Regulation shall adopt rules necessary to
21 implement Chapter 1806, Occupations Code, as added by this Act.

22 SECTION 4. As soon as practicable after the effective date
23 of this Act, the Texas Department of Licensing and Regulation shall
24 establish and lead a stakeholder work group to provide advice and
25 recommendations to the department on regulating activities
26 governed by Chapter 1806, Occupations Code, as added by this Act.
27 The department shall establish the size, composition, and scope of

1 the stakeholder work group.

2 SECTION 5. (a) Except as otherwise provided by this Act,
3 this Act takes effect September 1, 2025.

4 (b) Sections 1806.101 and 1806.102 and Subchapter E,
5 Chapter 1806, Occupations Code, as added by this Act, take effect
6 September 1, 2026.