

By: Zaffirini

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

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

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

(6) "Residential solar retail" means:

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

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

5 (7) "Solar energy system" means a system or
6 configuration of solar energy devices that collects and uses solar
7 energy to generate electricity.

8 (8) "Solar retailer" means a person who is registered
9 under this chapter as a solar retailer.

10 (9) "Solar salesperson" means a individual who is
11 registered under this chapter as a solar salesperson.

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

17 (b) In this chapter, "controlling person" means an
18 individual who:

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

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

23 (3) is the president, the secretary, or a director of a
24 business entity; or

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

27 Sec. 1806.004. LIMITED APPLICABILITY TO ELECTRICAL

1 CONTRACTORS. (a) If an electrical contractor employs or otherwise
2 contracts for an individual to engage in residential solar retail
3 on behalf of the electrical contractor, the electrical contractor
4 is exempt from the registration and insurance requirements of this
5 chapter applicable to a solar retailer, except that:

6 (1) the electrical contractor is considered a solar
7 retailer for purposes of Sections 1806.152, 1806.153, and 1806.154;
8 and

9 (2) an agreement in which the electrical contractor is
10 the seller or lessor is subject to Sections 1806.155 and 1806.156.

11 (b) If an individual is employed or otherwise contracted by
12 an electrical contractor to engage in residential solar retail on
13 behalf of the electrical contractor, the individual is exempt from
14 the registration requirements of this chapter, except that the
15 individual is considered a solar salesperson for purposes of
16 Sections 1806.152, 1806.153, and 1806.154.

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

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

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

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

25 (2) a solar energy system:

26 (A) intended:

27 (i) for temporary or emergency use; or

1 (ii) to provide power to a single
2 appliance;

3 (B) that:

4 (i) if combined with other systems that
5 produce electricity, produces in combination with the other systems
6 a total peak output power of less than one kilowatt; or

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

10 (C) sold or leased:

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

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

16 (3) a power purchase agreement under which a person
17 purchases power generated by a solar energy system that is:

18 (A) located on property the person owns; and

19 (B) not owned or leased by the person.

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

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

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

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

2 SUBCHAPTER B. POWERS AND DUTIES

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

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

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

11 (2) requiring a solar retailer or solar salesperson to
12 provide disclosures or educational materials when selling or
13 leasing, or offering to sell or lease, a residential solar energy
14 system and specifying the form and format of those disclosures;

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

17 (4) establishing insurance requirements for solar
18 retailers; and

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

22 Sec. 1806.052. FEES. The commission shall establish and
23 collect reasonable and necessary fees in amounts sufficient to
24 cover the costs of:

25 (1) administering this chapter; and

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

1 Sec. 1806.053. EDUCATIONAL MATERIALS. (a) The Public
2 Utility Commission shall develop, in consultation with the
3 department and the office of the attorney general, educational
4 materials that inform consumers of the consumers' rights and
5 remedies related to the purchase or lease of residential solar
6 energy systems under this chapter and other applicable laws.

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

11 SUBCHAPTER C. REGISTRATION

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

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

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

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

23 Sec. 1806.103. ELIGIBILITY FOR REGISTRATION. (a) To be
24 eligible for a registration under this chapter, a person must:

25 (1) submit an application to the department;

26 (2) pay any required fees; and

27 (3) meet the eligibility requirements of this chapter

1 and of rules adopted under this chapter.

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

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

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

8 (2) the name and registration number of each solar
9 salesperson who engages in residential solar retail on behalf of
10 the solar retailer; and

11 (3) evidence satisfactory to the department that the
12 applicant has insurance meeting the requirements established by
13 commission rule.

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

19 (1) provided by the applicant; and

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

23 Sec. 1806.106. EXEMPTION FROM CONTINUING EDUCATION.

24 Notwithstanding Section 51.405 or any other provision of this
25 chapter, a solar retailer may not be required to complete
26 continuing education to renew the solar retailer's registration
27 under this chapter.

SUBCHAPTER D. PRACTICE BY REGISTRANTS

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

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

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

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

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

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

(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; and

(3) Chapter 115, Business & Commerce Code, as if the

1 solar retailer or solar salesperson, as applicable, were a seller
2 or lessor under that chapter.

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

9 (b) A solar retailer shall ensure that each agreement for
10 the sale or lease of a residential solar energy system by the
11 retailer includes the name and registration number of the retailer
12 and the solar salesperson involved in the transaction.

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

18 Sec. 1806.155. REQUIRED CONTRACT PROVISIONS. (a) If the
19 sale or lease of a residential solar energy system involves the
20 installation of the system at a person's residence, the sale or
21 lease agreement must:

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

24 (2) conspicuously state the name and license number of
25 the electrical contractor who will perform the installation
26 described by Subdivision (1); and

27 (3) provide that the solar retailer or electrical

1 contractor, as applicable, will obtain:

2 (A) any permit required by a government entity
3 for the installation described by Subdivision (1); and

4 (B) if Section 39.554 or 39.916, Utilities Code,
5 applies, the approval by the electric utility serving the person's
6 residence of the interconnection of the residential solar energy
7 system.

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

12 Sec. 1806.156. RIGHT TO CANCEL AGREEMENT. (a) In this
13 section, "business day" means a calendar day excluding Saturday,
14 Sunday, or any legal holiday, as that term is defined by Section
15 662.021, Government Code.

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

22 (c) A solar retailer shall include in an agreement for the
23 sale or lease of a residential solar energy system the last calendar
24 date of the cancellation period prescribed by Subsection (b) and
25 the mailing address or e-mail address for providing the notice of
26 cancellation.

27 (d) If the agreement does not contain the address for

1 cancellation required by Subsection (c), the buyer or lessee may
2 cancel the agreement during the period described by Subsection (b)
3 by providing written notice of cancellation to the solar retailer
4 by any reasonable method.

5 SUBCHAPTER E. ENFORCEMENT

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

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

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

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

17 (4) engage in residential solar retail at a residence
18 in violation of posted signage indicating that soliciting is
19 prohibited, unless otherwise directed by an occupant of the
20 residence;

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

24 (6) make a material misrepresentation in an
25 application submitted to the department under this chapter or in
26 any other document submitted to the department under this chapter;

27 or

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

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

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

9 (2) had suspended or revoked, or has been otherwise
10 formally disciplined in connection with, any authorization to
11 practice an occupation or engage in a business that was issued by a
12 licensing authority in this state or another state.

13 Sec. 1806.203. ADMINISTRATIVE PENALTY. In imposing an
14 administrative penalty under Subchapter F, Chapter 51, for a
15 violation of Section 1806.201, the commission in determining the
16 appropriate amount of the penalty may consider whether any
17 individual over the age of 65 at the time of the prohibited conduct
18 was harmed by the conduct.

19 Sec. 1806.204. WARNING LETTER. (a) Before imposing an
20 administrative penalty or sanction against a person under Chapter
21 51, the executive director may issue a warning letter directing a
22 person to take corrective action regarding the violation that is
23 the basis of the penalty or sanction.

24 (b) In determining whether to issue a warning letter under
25 Subsection (a), the executive director may consider any history of
26 violations by the person, including whether the person complied
27 with previous warning letters, and the person's efforts to correct

1 the violation and prevent future violations.

2 (c) A determination to issue a warning letter under this
3 section is not a contested case under Chapter 2001, Government
4 Code.

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

8 Sec. 1806.206. AMOUNT OF CIVIL PENALTY. (a)
9 Notwithstanding Section 51.352 and except as provided by Subsection
10 (b), the amount of a civil penalty imposed under Chapter 51 for a
11 violation of this chapter or a rule adopted under this chapter may
12 not exceed:

13 (1) \$2,500 for each violation; or

14 (2) \$50,000 in the aggregate for all violations of a
15 similar nature.

16 (b) In a proceeding imposing a civil penalty under Section
17 51.352 for a violation of this chapter or a rule adopted under this
18 chapter, if the court finds that an individual over the age of 55 at
19 the time of the violation was harmed by the violation, the amount of
20 the civil penalty may not exceed:

21 (1) \$10,000 for each violation; or

22 (2) \$100,000 in the aggregate for all violations of a
23 similar nature.

24 Sec. 1806.207. AGREEMENT CANCELLATION AND REFUND. (a)
25 Subject to Subsection (b), the commission or executive director
26 may, after notice and a hearing and after finding that a violation
27 of this chapter or a rule adopted under this chapter has occurred,

1 order the cancellation of an agreement for the sale or lease of a
2 residential solar energy system and the refund of any amount paid
3 under the agreement.

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

6 (c) This section does not authorize the executive director
7 or commission to impose or collect penalties, fines, or other
8 damages, except that a proceeding under this section may be
9 combined with a proceeding to impose an administrative penalty or
10 sanction by the department.

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

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

17 Sec. 1806.208. VIOLATION BY ELECTRICAL CONTRACTOR. An
18 electrical contractor who violates this chapter or a rule adopted
19 under this chapter is subject to an administrative penalty or
20 sanction or any other enforcement provision under Chapter 1305,
21 Chapter 51, and this chapter.

22 SECTION 2. Chapter 1806, Occupations Code, as added by this
23 Act, applies only to a contract entered into on or after the
24 effective date of this Act. A contract entered into before the
25 effective date of this Act is governed by the law in effect on the
26 date the contract was entered into, and that law is continued in
27 effect for that purpose.

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

4 SECTION 4. As soon as practicable after the effective date
5 of this Act, the Texas Department of Licensing and Regulation shall
6 establish and lead a stakeholder work group to provide advice and
7 recommendations to the department on regulating activities
8 governed by Chapter 1806, Occupations Code, as added by this Act.
9 The department shall establish the size, composition, and scope of
10 the stakeholder work group.

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

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