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HOUSE BILL NO. 1439

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on Labor and Commerce
 on _____)

(Patron Prior to Substitute—Delegate Shin)

A *BILL to amend and reenact § 54.1-1102 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 11 of Title 54.1 a section numbered 54.1-1117.1, relating to regulation of contractors; solar installation companies; sale, lease, or power purchase of solar energy systems; civil penalty.*

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-1102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 11 of Title 54.1 a section numbered 54.1-1117.1 as follows:

§ 54.1-1102. Board for Contractors membership; offices; meetings; seal; record.

A. The Board for Contractors shall be composed of 16 members as follows: one member shall be a licensed Class A general contractor; the larger part of the business of one member shall be the construction of utilities; the larger part of the business of one member shall be the construction of commercial and industrial buildings; the larger part of the business of one member shall be the construction of single-family residences; the larger part of the business of one member shall be the construction of home improvements; one member shall be a subcontractor as generally regarded in the construction industry; one member shall be in the business of sales of construction materials and supplies; one member shall be a local building official; one member shall be a licensed plumbing contractor; one member shall be a licensed electrical contractor; one member shall be a licensed heating, ventilation and air conditioning contractor; one member shall be a certified elevator mechanic or a licensed elevator contractor; one member shall be a certified water well systems provider; one member shall be a professional engineer licensed in accordance with Chapter 4 (§ 54.1-400 et seq.); and two members shall be nonlegislative citizen members. The terms of the Board members shall be four years.

The Board shall meet at least once each year and at such other times as may be deemed necessary. Annually, the Board shall elect from its membership a chairman and a vice-chairman to serve for a one-year term. Nine members of the Board shall constitute a quorum.

B. The Board shall promulgate regulations not inconsistent with statute necessary for the licensure of contractors and tradesmen and the certification of backflow prevention device workers, and for the relicensure of contractors and tradesmen and for the recertification of backflow prevention device workers, after license or certificate suspension or revocation. The Board shall include in its regulations a requirement that as a condition for initial licensure as a contractor, the designated employee or a member of the responsible management personnel of the contractor shall have successfully completed a Board-approved basic business course, which shall not exceed eight hours of classroom instruction. In addition, the Board shall (i) require a contractor to appropriately classify all workers as employees or independent contractors, as provided by law and (ii) provide that any contractor who is found to have intentionally misclassified any worker is subject to sanction by the Board.

C. The Board ~~may~~ shall adopt regulations requiring all Class A, B, and C residential contractors, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to use legible written contracts including the following terms and conditions:

1. General description of the work to be performed;
2. Fixed price or an estimate of the total cost of the work, the amounts and schedule of progress payments, a listing of specific materials requested by the consumer and the amount of down payment;
3. Estimates of time of commencement and completion of the work; and
4. Contractor's name, address, office telephone number and license or certification number and class.

In transactions involving door-to-door solicitations, the Board may require that a statement of protections be provided by the contractor to the homeowner, consumer, or buyer, as the case may be.

D. *In transactions involving a sale, lease, or power purchase agreement for a solar energy system, the Board shall require specific contract provisions and disclosures relating to such sale, lease, or power purchase agreement that a solar installation company is required to include pursuant to § 54.1-1117.1. For the purposes of this subsection, "lease," "power purchase agreement," "solar energy system," and "solar installation company" have the same meanings as provided in § 54.1-1117.1.*

E. The Board shall adopt a seal with the words "Board for Contractors, Commonwealth of Virginia." The Director shall have charge, care, and custody of the seal.

~~E.~~ F. The Director shall maintain a record of the proceedings of the Board.

§ 54.1-1117.1. Sale, lease, or power purchase agreement for solar energy system; required provisions and disclosures; civil penalty.

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60 A. As used in this section:

61 "Lease" means an agreement that arranges for the design, permitting, and installation of a solar energy
62 system owned by a party other than the residential customer, in the form of a bailment or lease for the use of
63 personal property by an individual primarily for personal, family, or household purposes, for a period
64 exceeding four months and for a total contractual obligation not exceeding the applicable threshold amount,
65 whether or not the lessee has the option to purchase or otherwise become the owner of the property at the
66 expiration of the lease.

67 "Power purchase agreement" means a contract that arranges for the design, permitting, and installation
68 of a solar energy system owned by a party other than the residential customer where the electric energy
69 generated by the system is sold to the residential customer.

70 "Solar energy system" means a residential solar energy system mounted on a residential structure or
71 installed on the ground of a residential property.

72 "Solar installation company" means a licensee that contracts with residential customers to install
73 residential solar energy systems, or to install solar energy systems owned by third parties from which
74 customers lease solar energy systems or purchase electric energy generated by such systems. "Solar
75 installation company" does not include (i) a third-party owner of solar energy systems or a solar energy
76 system financing company that does not sell or install solar energy systems or (ii) individuals who self-install
77 solar energy systems.

78 B. Any sale, lease, or power purchase agreement for a solar energy system shall require the execution of
79 a written contract that includes the following in at least 10-point font:

80 1. The name, address, telephone number, email address, and state contractor license number of the solar
81 installation company and third party providing the lease, as applicable;

82 2. If the solar installation company will be using subcontractors known at the time the contract is
83 executed, the name, address, telephone number, email address, and state contractor license number, if
84 applicable, of each subcontractor used. If information on subcontractors is not available at the time of
85 executing the written contract, the installer shall be required to provide such information to the customer
86 within five business days of contracting with any subcontractor;

87 3. Information on the amounts and schedule for progress payments, including a specific statement of the
88 down payment amount;

89 4. Solar energy system design assumptions, including system size, estimated first year production,
90 estimated annual system production degradation, presence of energy storage, energy storage capacity,
91 maximum power output of energy storage, and energy storage model information. If there are equipment
92 substitutions that differ from the contracted system design, the solar installation company shall notify the
93 customer within five business days;

94 5. Payment due dates, the manner in which the customer will receive invoices, and how to pay for the
95 lease of the solar energy system or the purchase of power from the solar energy system;

96 6. Any one-time or recurring fees, including the circumstances triggering any late fees, estimated solar
97 energy system removal fees, Uniform Commercial Code notice removal and refiling fees, internet connection
98 fees, and Automated Clearing House fees;

99 7. A description of any performance or production guarantees; and

100 8. The right to cancel the contract, without penalty, within five business days of contract execution.

101 C. A contract for the sale of a solar energy system shall also include the total cost of the system.

102 D. A lease shall also include the following information:

103 1. The term and amount of monthly payments under the lease, including any payment increases and the
104 date of the first increase; and

105 2. The total number of payments and estimated payments over the term of the lease.

106 E. A power purchase agreement shall also include the following information:

107 1. The term and amount of monthly payments under the power purchase agreement, including any
108 payment increases and the date of the first increase;

109 2. Rates applicable for the first year under the power purchase agreement; and

110 3. The total number of payments and estimated payments over the term of the power purchase agreement.

111 F. Any sale, lease, or power purchase agreement for a solar energy system shall require the following
112 written disclosures in at least 10-point font:

113 1. Whether and to what extent maintenance and repairs are included, and any solar energy system
114 maintenance costs for which the customer will be responsible.

115 2. The following statement shall be included with the description of the system and shall be separately
116 acknowledged by the customer: "I understand that comparable equipment may be installed. Such comparable
117 equipment shall be substantially similar equipment to the proposed solar energy system and will not result in
118 a reduction of the estimated first year production by more than five percent, a decrease in the solar energy
119 system's kilowatts-AC and kilowatts-DC size, or an increase in the purchase price for the solar energy
120 system."

121 3. A description of the workmanship warranty that covers repairs for any damage to the customer's

122 residential property in connection with the solar energy system installation.
123 4. For a lease, whether the cost of removal of the solar energy system is included in the contract.
124 5. A brief description of the basis for any savings estimates that were provided to the customer or
125 purchaser, if applicable, which shall include the applicable electric utility rates for service, assumptions for
126 increases to future rates for electric service, estimated solar energy system production, and the availability of
127 programs that provide utility compensation for excess energy generated by the solar energy system at the
128 time of contract execution.
129 6. Information concerning the retention and ownership of any renewable energy credits associated with
130 the solar energy system.
131 7. The individual or entity responsible for obtaining electric interconnection approval for the solar energy
132 system.
133 8. A notice that the customer or purchaser has the right to cancel the contract, without penalty, within five
134 business days of contract execution, including the date and time at which such right expires and the method
135 for canceling the contract.
136 9. The following statement: "The assumptions used to estimate savings such as utility rates may change.
137 There may be fees and standby and demand charges that cannot be offset with solar energy, and excess
138 electricity sent back to the grid may be credited at rates below what you pay for electricity. For further
139 information regarding rates, you may contact your local utility or the State Corporation Commission. Tax
140 and other state and federal incentives are subject to change or termination by executive, legislative, or
141 regulatory action, which may impact savings estimates. Please read your contract carefully for more details."
142 10. If applicable, whether the owner or lessor of the solar energy system will be submitting a fixture filing
143 for the system.
144 11. If applicable, information regarding transferability of the lease and any conditions for lease transfers
145 in connection with a customer selling his home.
146 G. All disclosures required by subsection F shall be provided to the customer or purchaser either through
147 a separate document, signed by the customer or purchaser prior to the execution of the written contract, or
148 through disclosures that are included as a cover sheet to the written contract.
149 H. If the Board finds that a person has willfully engaged in an act or practice in violation of this section,
150 the Board shall impose a monetary penalty of no more than \$2,500 per violation to be remitted to the Low-to-
151 Moderate Income Solar Loan and Rebate Fund. For the purposes of this subsection, prima facie evidence of
152 a willful violation may be shown when the Board notifies the alleged violator by certified mail that an act or
153 practice is a violation of this chapter, and the alleged violator, after receipt of such notice, continues to
154 engage in the act or practice.
155 **2. That, by January 1, 2027, the Board for Contractors (the Board) shall adopt regulations and update**
156 **existing regulations to implement the provisions of this act, including regulations issuing a disclosure**
157 **form to be provided in any transaction involving installers for a sale, lease, or power purchase**
158 **agreement for a residential solar energy system, as defined in § 54.1-1117.1 of the Code of Virginia, as**
159 **created by this act, and guidance for licensees on how to address potential unknown costs related to**
160 **structural changes or repairs needed to complete the installation that may be discovered after entering**
161 **into the contract or after commencement of the installation.**
162 **3. That the provisions of the first enactment of this act shall become effective on January 1, 2027.**