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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 15.2-2288.7, 56-594, 56-594.01, 56-594.2, and 59.1-198 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55.1-1212.1 and by adding in Chapter 23 of Title 56 a section numbered 56-596.7, relating to electric utilities; small portable solar generation devices; Residential Landlord and Tenant Act.*

[H 395]

Approved

**Be it enacted by the General Assembly of Virginia:**  
**1. That §§ 15.2-2288.7, 56-594, 56-594.01, 56-594.2, and 59.1-198 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55.1-1212.1 and by adding in Chapter 23 of Title 56 a section numbered 56-596.7 as follows:**

- § 15.2-2288.7. Local regulation of solar facilities and small portable solar generation devices.**
  - A. An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned residential shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned residential, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.
  - B. An owner of real property zoned agricultural may install a solar facility on the roof of a residential dwelling on such property, or on the roof of another building or structure on such property, to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned agricultural and to be operated under § 56-594 or 56-594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned agricultural, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.
  - C. An owner of real property zoned commercial, industrial, or institutional may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned commercial, industrial, or institutional shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned commercial, industrial, or institutional, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.
  - D. An owner of real property zoned mixed-use may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such

57 facilities are located, provided that such installation is (i) in compliance with any height and setback  
 58 requirements in the zoning district where such property is located and (ii) in compliance with any provisions  
 59 pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to  
 60 § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted  
 61 solar energy generation facility to be located on property zoned mixed-use shall be permitted, provided that  
 62 such installation is (a) in compliance with any height and setback requirements in the zoning district where  
 63 such property is located and (b) in compliance with any provisions pertaining to any local historic,  
 64 architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property  
 65 is located. Except as provided herein, any other solar facility proposed on property zoned mixed-use,  
 66 including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property  
 67 other than the property where such facilities are located, shall be subject to any applicable zoning regulations  
 68 of the locality.

69 *E. No locality shall prohibit the use of a small portable solar generation device, as defined in § 56-596.7,  
 70 on a residential structure, provided that such device (i) is in compliance with any height and setback  
 71 requirements in the zoning district where such residential structure is located; (ii) is in compliance with any  
 72 provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted  
 73 pursuant to § 15.2-2306 where such residential structure is located; and (iii) meets the requirements of this  
 74 section and § 56-596.7.*

75 *F. Nothing in this section shall be construed to supersede or limit contracts or agreements between or  
 76 among individuals or private entities related to the use of real property, including recorded declarations and  
 77 covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia  
 78 Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in  
 79 § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate  
 80 Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant  
 81 to the Property Owners' Association Act (§ 55.1-1800 et seq.).*

82 *F. G. A locality, by ordinance, may provide by-right authority for installation of solar facilities or devices  
 83 in any zoning classification in addition to that provided in this section. A locality may also, by ordinance,  
 84 require a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code  
 85 (§ 36-97 et seq.) who removes solar panels or devices to dispose of such panels or devices in accordance with  
 86 such ordinance in addition to other applicable laws and regulations affecting such disposal.*

87 **§ 55.1-1212.1. Installation of small portable solar generation devices.**

88 *A. As used in this section, "small portable solar generation device" means a moveable photovoltaic  
 89 generation device that (i) has a maximum power output of not more than 1,200 watts per dwelling unit; (ii) is  
 90 designed to be connected to the electrical system of a building through an electrical outlet; (iii) is located on  
 91 the customer's side of the electric meter and intended primarily to offset part of the customer's electricity  
 92 consumption; (iv) meets the standards of the most recent version of the National Electrical Code; (v) is  
 93 certified by a nationally recognized testing laboratory, as described in 29 C.F.R. § 1910.7, or an equivalent  
 94 nationally recognized testing laboratory; and (vi) includes a device or feature that prevents the device from  
 95 affecting or exporting power to the electrical system of the building during a power outage. A small portable  
 96 solar generation device that has a maximum power output to the receptacle outlet of not more than 391 watts  
 97 is exempt from product listing provisions that would require alterations to the building's premises, wiring, or  
 98 electrical panels.*

99 *B. No landlord who owns more than four rental dwelling units or more than a 10 percent interest in more  
 100 than four rental dwelling units, whether individually or through a business entity, in the Commonwealth shall  
 101 prohibit a tenant from installing a small portable solar generation device on the exterior of the tenant's  
 102 premises. However, a landlord may establish reasonable restrictions concerning the size, place, and manner  
 103 of placement of such small portable solar generation devices. The landlord may prohibit or restrict the  
 104 installation of such small portable solar generation devices elsewhere on the premises.*

105 *C. A tenant shall provide notice to the landlord pursuant to this chapter of his intent to install a small  
 106 portable solar generation device with documentation that such device meets the requirements in subsection A  
 107 and that identifies the proposed location for installation at least seven days prior to installation. The landlord  
 108 may respond to such notice with any reasonable restrictions concerning the size, place, and manner of  
 109 placement of such device.*

110 *D. The tenant shall be responsible for any damages sustained to the rental dwelling unit or the premises  
 111 as a result of any small portable solar generation device installed pursuant to this section. No landlord shall  
 112 be liable for failing to maintain a fit and habitable dwelling or provide an essential service under  
 113 §§ 55.1-1220, 55.1-1234, 55.1-1234.1, 55.1-1239, 55.1-1241, 55.1-1243.1, 55.1-1244, 55.1-1244.1,  
 114 55.1-1245, or 55.1-1248 based on a condition in the rental dwelling unit or premises caused solely by a small  
 115 portable solar generation device installed on such premises.*

116 *E. No tenant renting a unit that is subject to ratio utility billing system as defined in 55.1-1212 may utilize  
 117 or install a small portable generation device nor shall a tenant utilize or install such a device if it would  
 118 require alterations to the building's premises, wiring, or electrical panels without express written approval of*

119 *the tenant's landlord.*

120 **§ 56-594. Net energy metering provisions.**

121 A. The Commission shall establish by regulation a program that affords eligible customer-generators the  
 122 opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for  
 123 customers of investor-owned utilities and to begin no later than July 1, 2015, and to end July 1, 2019, for  
 124 customers of electric cooperatives as provided in subsection G, to afford eligible agricultural  
 125 customer-generators the opportunity to participate in net energy metering. The regulations may include, but  
 126 need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or  
 127 transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible  
 128 agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines  
 129 will facilitate the provision of net energy metering, provided that the Commission determines that such  
 130 requirements do not adversely affect the public interest. On and after July 1, 2017, small agricultural  
 131 generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of  
 132 this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible  
 133 agricultural customer-generators may elect to become small agricultural generators, but may not revert to  
 134 being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection  
 135 of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall  
 136 interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural  
 137 customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019,  
 138 may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years  
 139 from the date of their renewable energy generating facility's original interconnection.

140 B. For the purpose of this section:

141 "Eligible agricultural customer-generator" means a customer that operates a renewable energy generating  
 142 facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar  
 143 power, wind power, or aerobic or anaerobic digester gas; (ii) does not have an aggregate generation capacity  
 144 of more than 500 kilowatts; (iii) is located on land owned or controlled by the agricultural business; (iv) is  
 145 connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is  
 146 interconnected and operated in parallel with an electric company's transmission and distribution facilities;  
 147 ~~and~~; (vi) is used primarily to provide energy to metered accounts of the agricultural business; *and (vii) is not*  
 148 *a small portable solar generation device as defined in § 56-596.7.* An eligible agricultural  
 149 customer-generator may be served by multiple meters serving the eligible agricultural customer-generator  
 150 that are located at the same or adjacent sites, such that the eligible agricultural customer-generator may  
 151 aggregate in a single account the electricity consumption and generation measured by the meters, provided  
 152 that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

153 "Eligible customer-generator" means a customer that owns and operates, or contracts with other persons  
 154 to own, operate, or both, an electrical generating facility, including any additions or enhancements such as  
 155 battery storage or a smart inverter, that (i) has a capacity of not more than 25 kilowatts for residential  
 156 customers and not more than three megawatts for nonresidential customers; (ii) uses as its total source of fuel  
 157 renewable energy, as defined in § 56-576; (iii) is located on land owned or leased by the customer and is  
 158 connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is  
 159 interconnected and operated in parallel with an electric company's transmission and distribution facilities; ~~and~~  
 160 (v) is intended primarily to offset all or part of the customer's own electricity requirements; *and (vi) is not a*  
 161 *small portable solar generation device as defined in § 56-596.7.* No contract, lease, or arrangement by which  
 162 a third party owns, maintains, or operates an electrical generating facility on an eligible customer-generator's  
 163 property shall constitute the sale of electricity or cause the customer-generator or the third party to be  
 164 considered an electric utility by virtue of participating in net energy metering. In addition to the electrical  
 165 generating facility size limitations in clause (i), the capacity of any generating facility installed under this  
 166 section between July 1, 2015, and July 1, 2020, shall not exceed the expected annual energy consumption  
 167 based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months  
 168 of billing history is not available. In addition to the electrical generating facility size limitation in clause (i),  
 169 in the certificated service territory of a Phase I Utility, the capacity of any generating facility installed under  
 170 this section after July 1, 2020, shall not exceed 100 percent of the expected annual energy consumption based  
 171 on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of  
 172 billing history is not available, and in the certificated service territory of a Phase II Utility, the capacity of any  
 173 generating facility installed under this section after July 1, 2020, shall not exceed 150 percent of the expected  
 174 annual energy consumption based on the previous 12 months of billing history or an annualized calculation of  
 175 billing history if 12 months of billing history is not available.

176 "Net energy metering" means measuring the difference, over the net metering period, between (i)  
 177 electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the  
 178 electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-  
 179 generator or eligible agricultural customer-generator.

180 "Net metering period" means the 12-month period following the date of final interconnection of the

181 eligible customer-generator's or eligible agricultural customer-generator's system with an electric service  
182 provider, and each 12-month period thereafter.

183 "Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.

184 C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering  
185 shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator  
186 seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect  
187 prior to installation of an electrical generating facility. The electric distribution company shall have 30 days  
188 from the date of notification for residential facilities, and 60 days from the date of notification for  
189 nonresidential facilities, to determine whether the interconnection requirements have been met. Such  
190 regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible  
191 customer-generator's electrical generating system, and each electrical generating system of an eligible  
192 agricultural customer-generator, shall meet all applicable safety and performance standards established by the  
193 National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing  
194 laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section and to  
195 ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible  
196 customer-generator or eligible agricultural customer-generator whose electrical generating system meets  
197 those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the  
198 supplier's electric distribution system, including costs, if any, to (a) install additional controls and (b) perform  
199 or pay for additional tests. No eligible customer-generator or eligible agricultural customer-generator shall be  
200 required to provide proof of liability insurance or to purchase additional liability insurance as a condition of  
201 interconnection.

202 D. The Commission shall establish minimum requirements for contracts to be entered into by the parties  
203 to net metering arrangements. Such requirements shall protect the eligible customer-generator or eligible  
204 agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator  
205 or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that  
206 have electricity supply demand charges contained within the electricity supply portion of the time-of-use  
207 tariffs to participate as an eligible customer-generator or eligible agricultural customer-generator.  
208 Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible  
209 agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the  
210 incremental metering costs required to net meter such customers.

211 E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator  
212 over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible  
213 agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be  
214 compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible  
215 customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for  
216 such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural  
217 customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-  
218 generator shall enter into a power purchase agreement with the requesting eligible customer-generator or  
219 eligible agricultural customer-generator that is consistent with the minimum requirements for contracts  
220 established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the  
221 supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering  
222 standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible  
223 customer-generator or eligible agricultural customer-generator owns any renewable energy certificates  
224 associated with its electrical generating facility; however, at the time that the eligible customer-generator or  
225 eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible  
226 customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the  
227 renewable energy certificates associated with such electrical generating facility to its supplier and be  
228 compensated at an amount that is established by the Commission to reflect the value of such renewable  
229 energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible  
230 agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and  
231 purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible  
232 customer-generator or eligible agricultural customer-generator does not exercise its option to sell its  
233 renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible  
234 customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with  
235 its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates  
236 from eligible customer-generators or eligible agricultural customer-generators shall be recoverable through its  
237 Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-  
238 approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause.  
239 For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or  
240 eligible agricultural customer-generator for the purchase of excess electricity and renewable energy  
241 certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible

242 agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff  
 243 shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come,  
 244 first-served basis in each electric distribution company's Virginia service area until the rated generating  
 245 capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and  
 246 small agricultural generators in the Commonwealth reaches six percent, in the aggregate, five percent of  
 247 which is available to all customers and one percent of which is available only to low-income utility customers  
 248 of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall  
 249 require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such  
 250 excess electricity in a timely manner at a rate to be established by the Commission.

251 On and after the earlier of (i) 2024 for a Phase I Utility or 2025 for a Phase II Utility or (ii) when the  
 252 aggregate rated generating capacity owned and operated by eligible customer-generators, eligible agricultural  
 253 customer-generators, and small agricultural generators in the Commonwealth reaches three percent of a Phase  
 254 I or Phase II Utility's adjusted Virginia peak-load forecast for the previous year, the Commission shall  
 255 conduct a net energy metering proceeding.

256 In any net energy metering proceeding, the Commission shall, after notice and opportunity for hearing,  
 257 evaluate and establish (a) an amount customers shall pay on their utility bills each month for the costs of  
 258 using the utility's infrastructure; (b) an amount the utility shall pay to appropriately compensate the customer,  
 259 as determined by the Commission, for the total benefits such facilities provide; (c) the direct and indirect  
 260 economic impact of net metering to the Commonwealth; and (d) any other information the Commission  
 261 deems relevant. The Commission shall establish an appropriate rate structure related thereto, which shall  
 262 govern compensation related to all eligible customer-generators, eligible agricultural customer-generators,  
 263 and small agricultural generators, except low-income utility customers, that interconnect after the effective  
 264 date established in the Commission's final order. Nothing in the Commission's final order shall affect any  
 265 eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators who  
 266 interconnect before the effective date of such final order. As part of the net energy metering proceeding, the  
 267 Commission shall evaluate the six percent aggregate net metering cap and may, if appropriate, raise or  
 268 remove such cap. The Commission shall enter its final order in such a proceeding no later than 12 months  
 269 after it commences such proceeding, and such final order shall establish a date by which the new terms and  
 270 conditions shall apply for interconnection and shall also provide that, if the terms and conditions of  
 271 compensation in the final order differ from the terms and conditions available to customers before the  
 272 proceeding, low-income utility customers may interconnect under whichever terms are most favorable to  
 273 them.

274 F. Any residential eligible customer-generator or eligible agricultural customer-generator, in the service  
 275 territory of a Phase II Utility who owns and operates, or contracts with other persons to own, operate, or both,  
 276 an electrical generating facility with a capacity that exceeds 15 kilowatts shall pay to its supplier, in addition  
 277 to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the  
 278 terms and conditions under which it is assessed shall be in accordance with a methodology developed by the  
 279 supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby  
 280 charge methodology if it finds that the standby charges collected from all such eligible customer-generators  
 281 and eligible agricultural customer-generators allow the supplier to recover only the portion of the supplier's  
 282 infrastructure costs that are properly associated with serving such eligible customer-generators or eligible  
 283 agricultural customer-generators. Such an eligible customer-generator or eligible agricultural customer-  
 284 generator shall not be liable for a standby charge until the date specified in an order of the Commission  
 285 approving its supplier's methodology. For customers of all other investor-owned utilities, on and after July 1,  
 286 2020, standby charges are prohibited for any residential eligible customer-generator or agricultural customer-  
 287 generator.

288 G. On and after the later of July 1, 2019, or the effective date of regulations that the Commission is  
 289 required to adopt pursuant to § 56-594.01, (i) net energy metering in the service territory of each electric  
 290 cooperative shall be conducted as provided in a program implemented pursuant to § 56-594.01 and (ii) the  
 291 provisions of this section shall not apply to net energy metering in the service territory of an electric  
 292 cooperative except as provided in § 56-594.01.

293 H. The Commission may adopt such rules or establish such guidelines as may be necessary for its general  
 294 administration of this section.

295 I. When the Commission conducts a net energy metering proceeding, it shall:

- 296 1. Investigate and determine the costs and benefits of the current net energy metering program;
- 297 2. Establish an appropriate netting measurement interval for a successor tariff that is just and reasonable in  
 298 light of the costs and benefits of the net metering program in aggregate, and applicable to new requests for  
 299 net energy metering service;
- 300 3. Determine a specific avoided cost for customer-generators, the different type of customer-generator  
 301 technologies where the Commission deems it appropriate, and establish the methodology for determining the  
 302 compensation rate for any net excess generation determined according to the applicable net measurement

303 interval for any new tariff; and

304 4. Make all reasonable efforts to ensure that the net energy metering program does not result in  
305 unreasonable cost-shifting to nonparticipating electric utility customers.

306 J. In evaluating the costs and benefits of the net energy metering program, the Commission shall consider:

307 1. The aggregate impact of customer-generators on the electric utility's long-run marginal costs of  
308 generation, distribution, and transmission;

309 2. The cost of service implications of customer-generators on other customers within the same class,  
310 including an evaluation of whether customer-generators provide an adequate rate of return to the electrical  
311 utility compared to the otherwise applicable rate class when, for analytical purposes only, examined as a  
312 separate class within a cost of service study;

313 3. The direct and indirect economic impact of the net energy metering program to the Commonwealth;  
314 and

315 4. Any other information it deems relevant, including environmental and resilience benefits of customer-  
316 generator facilities.

317 K. Notwithstanding the provisions of this section, § 56-585.1:8, or any other provision of law to the  
318 contrary, any locality that is a nonjurisdictional customer of a Phase II Utility, as defined in § 56-585.1:3, and  
319 is in Planning District Eight with a population greater than 1 million may (i) install solar-powered or  
320 wind-powered electric generation facilities with a rated capacity not exceeding five megawatts, whether the  
321 facilities are owned by the locality or owned and operated by a third party pursuant to a contract with the  
322 locality, on any locality-owned site within the locality and (ii) credit the electricity generated at any such  
323 facility as directed by the governing body of the locality to any one or more of the metered accounts of  
324 buildings or other facilities of the locality or the locality's public school division that are located within the  
325 locality, without regard to whether the buildings and facilities are located at the same site where the electric  
326 generation facility is located or at a site contiguous thereto. The amount of the credit for such electricity to  
327 the metered accounts of the locality or its public school division shall be identical, with respect to the rate  
328 structure, all retail rate components, and monthly charges, to the amount the locality or public school division  
329 would otherwise be charged for such amount of electricity under its contract with the public utility, without  
330 the assessment by the public utility of any distribution charges, service charges, or fees in connection with or  
331 arising out of such crediting.

332 L. Any eligible customer-generator or eligible agricultural customer-generator may participate in demand  
333 response, energy efficiency, or peak reduction from dispatch of onsite battery service, provided that the  
334 compensation received is in exchange for a distinct service that is not already compensated by net metering  
335 credits for electricity exported to the electric distribution system or compensated by any other utility program  
336 or tariff. The Commission shall review and evaluate the continuing need for the imposition of standby or  
337 other charges on eligible customer-generators or eligible agricultural customer-generators in any net energy  
338 metering proceeding conducted pursuant to subsection E.

339 **§ 56-594.01. Net energy metering provisions for electric cooperative service territories.**

340 A. The Commission shall establish by regulation a program that affords eligible customer-generators the  
341 opportunity to participate in net energy metering in the service territory of each electric cooperative, which  
342 program shall commence on the later of July 1, 2019, or the effective date of such regulations. Such  
343 regulations shall be similar to existing regulations promulgated pursuant to § 56-594. In lieu of adopting new  
344 regulations, the Commission may amend such existing regulations to apply to electric cooperatives with such  
345 revisions as are required to comply with the provisions of this section. The regulations may include  
346 requirements applicable to (i) retail sellers, (ii) owners or operators of distribution or transmission facilities,  
347 (iii) providers of default service, (iv) eligible customer-generators, or (v) any combination of the foregoing,  
348 as the Commission determines will facilitate the provision of net energy metering, provided that the  
349 Commission determines that such requirements do not adversely affect the public interest.

350 B. As used in this section:

351 "Eligible customer-generator" means a customer that owns and operates, or contracts with other persons  
352 to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts  
353 for residential customers and not more than one megawatt for nonresidential customers on an electrical  
354 generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy as  
355 defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on  
356 the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel  
357 with an electric company's transmission and distribution facilities; ~~and~~ (v) is intended primarily to offset all  
358 or part of the customer's own electricity requirements; *and (vi) is not a small portable solar generation device*  
359 *as defined in § 56-596.7.* In addition to the electrical generating facility size limitations in clause (i), the  
360 capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the  
361 expected annual energy consumption based on the previous 12 months of billing history or an annualized  
362 calculation of billing history if 12 months of billing history is not available.

363 "Net energy metering" means measuring the difference, over the net metering period, between (i)  
364 electricity supplied to an eligible customer-generator from the electric grid and (ii) the electricity generated

365 and fed back to the electric grid by the eligible customer-generator.

366 "Net metering period" means the 12-month period following the date of final interconnection of the  
 367 eligible customer-generator's system with an electric service provider, and each 12-month period thereafter.

368 C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering  
 369 shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator  
 370 seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect  
 371 prior to installation of an electrical generating facility. The Commission shall publish a form for such prior  
 372 notice and such notice shall be processed promptly by the supplier prior to any construction activity taking  
 373 place. After construction, inspection and documentation thereof shall be required prior to interconnection.  
 374 The electric distribution company shall have 30 days from the date of each notification for residential  
 375 facilities, and 60 days from the date of each notification for nonresidential facilities, to determine whether the  
 376 interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment  
 377 and any necessary interconnection. An eligible customer-generator's electrical generating system shall meet  
 378 all applicable safety and performance standards established by the National Electrical Code, the Institute of  
 379 Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. In  
 380 addition to the requirements set forth in this section and to ensure public safety, power quality, and reliability  
 381 of the supplier's electric distribution system, an eligible customer-generator whose electrical generating  
 382 system meets those standards and rules shall bear all reasonable costs of equipment required for the  
 383 interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional  
 384 controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance. An electric  
 385 cooperative may publish and use its own forms, including an electronic form, for purposes of implementing  
 386 the regulations described herein so long as the information collected on the Commission's form is also  
 387 collected by the cooperative and submitted to the Commission.

388 D. The Commission shall establish minimum requirements for contracts to be entered into by the parties  
 389 to net metering arrangements. Such requirements shall protect the eligible customer-generator against  
 390 discrimination by virtue of its status as an eligible customer-generator and permit customers that are served  
 391 on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply  
 392 portion of the time-of-use tariffs to participate as an eligible customer-generator. Notwithstanding the cost  
 393 allocation provisions of subsection C, eligible customer-generators served on demand charge-based time-of-  
 394 use tariffs shall bear the incremental metering costs required to net meter such customers.

395 E. If electricity generated by an eligible customer-generator over the net metering period exceeds the  
 396 electricity consumed by the eligible customer-generator, the customer-generator shall be compensated for the  
 397 excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator  
 398 enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible  
 399 customer-generator, the supplier that serves the eligible customer-generator shall enter into a power purchase  
 400 agreement with the requesting eligible customer-generator that is consistent with the minimum requirements  
 401 for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall  
 402 obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net  
 403 metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate.  
 404 The eligible customer-generator owns any renewable energy certificates associated with its electrical  
 405 generating facility; however, at the time that the eligible customer-generator enters into a power purchase  
 406 agreement with its supplier, the eligible customer-generator shall have a one-time option to sell the renewable  
 407 energy certificates associated with such electrical generating facility to its supplier and be compensated at an  
 408 amount that is established by the Commission to reflect the value of such renewable energy certificates.  
 409 Nothing in this section shall prevent the eligible customer-generator and the supplier from voluntarily  
 410 entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at  
 411 mutually agreed upon prices if the eligible customer-generator does not exercise its option to sell its  
 412 renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible  
 413 customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the  
 414 supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators  
 415 shall be recoverable through its fuel adjustment clause. For purposes of this section, "all costs" shall be  
 416 defined as the rates paid to the eligible customer-generator for the purchase of excess electricity and  
 417 renewable energy certificates and any administrative costs incurred to manage the eligible customer-  
 418 generator's power purchase arrangements. The net metering standard contract or tariff shall be available to  
 419 eligible customer-generators on a first-come, first-served basis, subject to the provisions of subsection F, and  
 420 shall require the supplier to pay the eligible customer-generator for such excess electricity in a timely manner  
 421 at a rate to be established by the Commission.

422 F. Net energy metering shall be open to customers on a first-come, first-served basis until such time as the  
 423 total capacity of the generation facilities, expressed in alternating current nameplate, reaches two percent of  
 424 system peak for residential customers, two percent of system peak for not-for-profit and nonjurisdictional  
 425 customers, and one percent of system peak for other nonresidential customers, which are herein referred to as  
 426 the electric cooperative's caps. As used in this subsection, "percent of system peak" refers to a percentage of

427 the electric cooperative's highest total system peak, based on the noncoincident peak of the electric  
428 cooperative or the coincident peak of all of the electric cooperative's customers, within the past three years as  
429 listed in Part O, Line 20 of Form 7 filed with the Rural Utilities Service or its equivalent, less any portion of  
430 the cooperative's total load that is served by a competitive service provider or by a market-based rate. Such  
431 caps shall not decrease but may increase if the system peak in any year exceeds the previous year's system  
432 peak. Nothing in this subsection shall amend or confer new rights upon any existing nonjurisdictional  
433 contract or arrangement or work to submit any nonjurisdictional customer, contract, or arrangement to the  
434 jurisdiction of the Commission. For purposes of calculating the caps established in this subsection, all net  
435 energy metering shall be counted, whenever interconnected, and shall include net energy metering  
436 interconnected pursuant to § 56-594, agricultural net energy metering, and any net energy metering entered  
437 into with a third-party provider registered pursuant to subsection K. Net energy metering with  
438 nonjurisdictional customers entered into prior to July 1, 2019, may be counted toward the caps, in the  
439 discretion of the cooperative, as net energy metering if the nonjurisdictional customer takes service pursuant  
440 to a cooperative's net energy metering rider. Net energy metering with nonjurisdictional customers entered  
441 into on or after July 1, 2019, shall be counted toward the caps by default unless the cooperative has reason to  
442 exclude such net energy metering as subject to a separate contract or arrangement. Each electric cooperative  
443 governed by this section shall publish information regarding the calculation and status of its caps pursuant to  
444 this subsection, or the electric cooperative's systemwide cap established in § 56-585.4 if applicable, on the  
445 electric cooperative's website.

446 G. An electric cooperative may, without Commission approval or the requirement of any filing other than  
447 as provided in this subsection, upon the adoption by its board of directors of a resolution so providing, raise  
448 the caps established in subsection F, with any increase allocated among residential, not-for-profit and  
449 nonjurisdictional, and other nonresidential customers as the board of directors may find to be in the interests  
450 of the electric cooperative's membership. The electric cooperative shall promptly file a revised net energy  
451 metering compliance filing with the Commission for informational purposes.

452 H. Any residential eligible customer-generator who owns and operates, or contracts with other persons to  
453 own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to  
454 its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the  
455 standby charge and the terms and conditions under which it is assessed shall be in accordance with a  
456 methodology developed by the supplier and approved by the Commission. The Commission shall approve a  
457 supplier's proposed standby charge methodology if it finds that the standby charges collected from all such  
458 eligible customer-generators allow the supplier to recover only the portion of the supplier's infrastructure  
459 costs that are properly associated with serving such eligible customer-generators. Such an eligible customer-  
460 generator shall not be liable for a standby charge until the date specified in an order of the Commission  
461 approving its supplier's methodology.

462 I. Any eligible agricultural customer-generator interconnected in an electric cooperative service territory  
463 prior to July 1, 2019, shall continue to be governed by § 56-594 and the regulations adopted pursuant thereto  
464 throughout the grandfathering period described in subsection A of § 56-594.

465 J. Any eligible customer-generator served by a competitive service provider pursuant to the provisions of  
466 § 56-577 shall engage in net energy metering only with such supplier and pursuant only to tariffs filed by  
467 such supplier. Such an eligible customer-generator shall pay the full portion of its distribution charges,  
468 without offset or netting, to its electric cooperative.

469 K. After the conclusion of the Commission's rulemaking proceeding pursuant to subsection L, third-party  
470 partial requirements power purchase agreements, the purpose of which is to finance the purchase of  
471 renewable generation facilities by eligible customer-generators through the sale of electricity, shall be  
472 permitted pursuant to the provisions of this section only for those retail customers and nonjurisdictional  
473 customers of the electric cooperative that are exempt from federal income taxation, unless otherwise  
474 permitted by § 56-585.4 or subsection M. No person shall offer a third-party partial requirements power  
475 purchase agreement in the service territory of an electric cooperative without fulfilling the registration  
476 requirements set forth in this section and complying with applicable Commission rules, including those  
477 adopted pursuant to subdivision L 2.

478 L. After August 1, 2019, but before January 1, 2020, the Commission shall initiate a rulemaking  
479 proceeding to promulgate the regulations necessary to implement this section as follows:

480 1. In conducting such a proceeding, the Commission may require notice to be given to current eligible  
481 customer-generators and eligible agricultural customer-generators but shall not require general publication of  
482 the notice. An opportunity to request a hearing shall be afforded, but a hearing is not required. In the  
483 rulemaking proceeding, the electric cooperatives governed by this section shall be required to submit  
484 compliance filings, but no other individual proceedings shall be required or conducted.

485 2. In promulgating regulations to govern third-party power purchase agreement providers as retail sellers,  
486 the Commission shall:

487 a. Direct the staff to administer a registration system for such providers;

488 b. Enumerate in its regulations the jurisdiction of the Commission over providers, generally limited in

489 scope to the behavior of providers, customer complaints, and their compliance with the registration  
 490 requirements and stating clearly that civil contract disputes and claims for damages against providers shall  
 491 not be subject to the jurisdiction of the Commission;

492 c. Enumerate in its regulations the maximum extent of its authority over the providers, to be limited to any  
 493 or all of:

494 (1) Monetary penalties against registered providers not to exceed \$30,000 per provider registration;

495 (2) Orders for providers to cease or desist from a certain practice, act, or omission;

496 (3) Debarment of registered providers;

497 (4) The issuance of orders to show cause; and

498 (5) Authority incident to subdivisions (1) through (4);

499 d. Delineate in its regulations two classes of providers, one for residential customers and one for  
 500 nonresidential customers;

501 e. Direct the staff to set up a self-certification system as described in this subdivision;

502 f. Establish business practice and consumer protection standards from a national renewable energy  
 503 association whose business is germane to the businesses of the providers;

504 g. Require providers to comply with other applicable Commission regulations governing interconnection  
 505 and safety, including utility procedures governing the same;

506 h. Require minimum capitalization or other bond or surety that, in the judgment of the Commission, is  
 507 necessary for adequate consumer protection and in the public interest;

508 i. Require the payment of a fee of \$250 for residential and nonresidential provider registration; and

509 j. Provide that no registered provider, by virtue of that status alone, shall be considered a public utility or  
 510 competitive service provider for purposes of this title.

511 3. The self-certification system described in this subdivision shall require a provider to affirm to the staff,  
 512 under the penalty of revocation of registration, (i) that it is licensed to do business in Virginia; (ii) the names  
 513 of the responsible officers of the provider entity; (iii) that its named officers have no felony convictions or  
 514 convictions for crimes of moral turpitude; (iv) that it will abide by all applicable Commission regulations  
 515 promulgated under this section or for purposes of interconnections and safety; (v) that it will appoint an  
 516 officer to be a primary liaison to the staff; (vi) that it will appoint an employee to be a primary contact for  
 517 customer complaints; (vii) that it will have and disclose to customers a dispute resolution procedure; (viii)  
 518 that it has specified in its registration materials in which territories it intends to offer power purchase  
 519 agreements; (ix) that it, and each of its named officers, agree to submit themselves to the jurisdiction of the  
 520 Commission as described in this subdivision; and (x) that, once registered, the provider shall report any  
 521 material changes in its registration materials to the staff, as a continuing obligation of registration. The staff  
 522 shall send a copy of the registration materials to each cooperative in whose territory the provider intends to  
 523 offer power purchase agreements. The staff, once satisfied that the certifications required pursuant to this  
 524 subdivision are complete, and not more than 30 days following the initial and complete submittal of the  
 525 registration materials, shall enter the provider onto the official register of providers. No formal Commission  
 526 proceeding is required for registration but may be initiated if the staff (a) has reason to doubt the veracity of  
 527 the certifications of the provider or (b) in any other case, if, in the judgment of the staff, extenuating or  
 528 extraordinary circumstances exist that warrant a proceeding. The staff shall not investigate the corporate  
 529 structure, financing, bookkeeping, accounting practices, contracting practices, prices, or terms and conditions  
 530 in a third-party partial requirements power purchase agreement. Nothing in this section shall abridge the right  
 531 of any person, including the Office of Attorney General, from proceeding in a cause of action under the  
 532 Virginia Consumer Protection Act, § 59.1-196 et seq.

533 4. The Commission shall complete such rulemaking procedure within 12 months of its initiation.

534 M. An electric cooperative may, without approval of the Commission or the requirement of any filing  
 535 other than as provided in this subsection, and upon the adoption by its board of directors of a resolution so  
 536 providing, permit the use of any third-party partial requirements power purchase agreement, the purpose of  
 537 which agreement is to finance the purchase of renewable generation facilities by eligible customer-generators  
 538 through the sale of electricity for residential retail customers, nonresidential retail customers, or both. The  
 539 electric cooperative shall promptly file a revised net energy metering compliance filing with the Commission  
 540 for informational purposes.

541 **§ 56-594.2. Small agricultural generators.**

542 A. As used in this section:

543 "Small agricultural generating facility" means an electrical generating facility that:

544 1. Has a capacity:

545 a. Of not more than 1.5 megawatts; and

546 b. That does not exceed 150 percent of the customer's expected annual energy consumption based on the  
 547 previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing  
 548 history is not available;

549 2. Uses as its total source of fuel renewable energy;

550 3. Is located on the customer's premises and is interconnected with its utility through a separate meter;

551 4. Is interconnected and operated in parallel with an electric utility's distribution but not transmission  
552 facilities;

553 5. Is designed so that the electricity generated by the facility is expected to remain on the utility's  
554 distribution system; ~~and~~

555 6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of  
556 1978 (P.L. 95-617); *and*

557 7. *Is not a small portable solar generation device as defined in § 56-596.7.*

558 "Small agricultural generator" means a customer that:

559 1. Is not an eligible agricultural customer-generator pursuant to § 56-594;

560 2. Operates a small agricultural generating facility as part of (i) an agricultural business or (ii) any  
561 business granted a manufacturer license pursuant to subdivisions 1 through 6 of § 4.1-206.1;

562 3. May be served by multiple meters that are located at separate but contiguous sites;

563 4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating  
564 150 percent of the customer's expected annual energy consumption, but not for billing or retail service  
565 purposes, provided that the same utility serves all of its meters;

566 5. Uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for  
567 purposes of the renewable energy generating facility; *and*

568 6. Issues a certification under oath as to the amount of land being used for renewable generation.

569 "Utility" includes supplier or distributor, as applicable.

570 B. A small agricultural generator electing to interconnect pursuant to this section shall:

571 1. Enter into a power purchase agreement with its utility to sell all of the electricity generated from its  
572 small agricultural generating facility, which power purchase agreement obligates the utility to purchase all the  
573 electricity generated, at a rate agreed upon by the parties, but at a rate not less than the utility's Commission-  
574 approved avoided cost tariff for energy and capacity;

575 2. Have the rights described in subsection E of § 56-594 pertaining to an eligible agricultural  
576 customer-generator as to the renewable energy certificates or other environmental attributes generated by the  
577 renewable energy generating facility;

578 3. Abide by the appropriate small generator interconnection process as described in 20VAC5-314; *and*

579 4. Pay to its utility any necessary additional expenses as required by this section.

580 C. Utilities:

581 1. Shall purchase, through the power purchase agreement described in subdivision B 1, all of the output of  
582 the small agricultural generator;

583 2. Shall recover the cost for its distribution facilities to the generating meter either through a proportional  
584 cost-sharing agreement with the small agricultural generator or through metering the total capacity and  
585 energy placed on the distribution system by the small agricultural generator;

586 3. Shall recover all costs incurred by the utility to purchase electricity, capacity, and renewable energy  
587 certificates from the small agricultural generator:

588 a. If the utility has a Commission-approved Renewable Energy Portfolio Standard (RPS) plan and rate  
589 adjustment clause, through the utility's RPS rate adjustment clause; *or*

590 b. If the utility does not have a Commission-approved RPS rate adjustment clause, through the utility's  
591 fuel adjustment clause or through the utility's cost of purchased power;

592 4. May conduct settlement transactions for purchased power in dollars on the small agricultural  
593 generator's electric bill or through other means of settlement, in the utility's sole discretion;

594 5. Shall bill the small agricultural generator eligible costs for small generator interconnection studies  
595 required pursuant to the appropriate small generator interconnection process described in subdivision B 3;  
596 *and*

597 6. Shall bill its expenses, at cost, for any additional engineering studies that a small agricultural generator  
598 is required to pay prior to interconnection.

599 **§ 56-596.7. *Small portable solar generation devices; exempt from interconnection.***

600 A. *As used in this section, "small portable solar generation device" means a moveable photovoltaic*  
601 *generation device that (i) has a maximum power output of not more than 1,200 watts per customer or, in the*  
602 *case of multi-family housing, per residential building unit; (ii) is designed to be connected to the electrical*  
603 *system of a building through an electrical outlet; (iii) is located on the customer's side of the electric meter*  
604 *and intended primarily to offset part of the customer's electricity consumption; (iv) meets the standards of the*  
605 *most recent version of the National Electrical Code; (v) is certified by a nationally recognized testing*  
606 *laboratory, as described in 29 C.F.R. § 1910.7, or an equivalent nationally recognized testing laboratory;*  
607 *and (vi) includes a device or feature that prevents the device from affecting or exporting power to the*  
608 *electrical system of the building during a power outage. A small portable solar generation device that has a*  
609 *maximum power output to the receptacle outlet of not more than 391 watts is exempt from product listing*  
610 *provisions that would require alterations to the building's premises, wiring, or electrical panels.*

611 B. *Any customer of an electric service provider may own and operate a small portable solar generation*  
612 *device that meets the requirements of this section without being subject to interconnection requirements, net*

613 energy metering provisions, or any other provision of law requiring reimbursement to or approval from the  
 614 electric utility to own and operate the small portable solar generation device. No electric service provider  
 615 shall require a customer using a small portable solar generation device to obtain the electric service  
 616 provider's approval before installing or using the device, pay any fee or charge related to the device, or  
 617 install any additional controls or equipment beyond what is integrated with the device. However, any  
 618 customer of an electric service provider shall notify the electric service provider by submitting the form  
 619 established by the Commission, online or by mail, prior to the installation of a small portable solar  
 620 generation device. The electric service provider shall have 15 days after the date of notification to review the  
 621 form for accuracy and completeness and respond to the customer to resolve any deficiencies. If the electric  
 622 service provider does not respond within such 15-day period, the customer is deemed to have met such  
 623 notification requirement and may install the device.

624 C. At any premises with more than one small portable solar generation device at a single property, or  
 625 should the relevant distribution circuit require it, the electric utility or cooperative may install an automatic,  
 626 locking disconnect switch.

627 D. A customer that owns and operates a small portable solar generation device shall ensure that the  
 628 device includes a device or feature that prevents the device from exporting power to the electric grid or from  
 629 affecting the electrical system of the building during a power outage.

630 E. No investor-owned utility, municipal utility, or electric cooperative shall be liable for any damage,  
 631 injury, or interruption in electric service caused by a small portable solar generation device.

632 F. No provision of this section shall apply to a rental dwelling unit that is subject to a ratio utility billing  
 633 system as defined in § 55.1-1212.

634 **§ 59.1-198. Definitions.**

635 As used in this chapter, unless the context requires a different meaning:

636 "Business opportunity" means the sale of any products, equipment, supplies, or services that are sold to an  
 637 individual for the purpose of enabling such individual to start a business to be operated out of his residence,  
 638 but does not include a business opportunity that is subject to the Business Opportunity Sales Act (§ 59.1-262  
 639 et seq.).

640 "Children's product" means a consumer product designed or intended primarily for children 12 years of  
 641 age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age  
 642 or younger, the following factors shall be considered:

643 1. A statement by a manufacturer about the intended use of such product, including a label on such  
 644 product if such statement is reasonable;

645 2. Whether the product is represented in its packaging, display, promotion, or advertising as appropriate  
 646 for use by children 12 years of age or younger;

647 3. Whether the product is commonly recognized by consumers as being intended for use by a child 12  
 648 years of age or younger; and

649 4. The Age Determination Guidelines issued by the staff of the Consumer Products Safety Commission in  
 650 September 2002, and any successor to such guidelines.

651 "Consent" means the same as that term is defined in § 59.1-575.

652 "Consumer transaction" means:

653 1. The advertisement, sale, lease, license, or offering for sale, lease, or license, of goods or services to be  
 654 used primarily for personal, family, or household purposes;

655 2. Transactions involving the advertisement, offer, or sale to an individual of a business opportunity that  
 656 requires both his expenditure of money or property and his personal services on a continuing basis and in  
 657 which he has not been previously engaged;

658 3. Transactions involving the advertisement, offer, or sale to an individual of goods or services relating to  
 659 the individual's finding or obtaining employment;

660 4. A layaway agreement, whereby part or all of the price of goods is payable in one or more payments  
 661 subsequent to the making of the layaway agreement and the supplier retains possession of the goods and  
 662 bears the risk of their loss or damage until the goods are paid in full according to the layaway agreement;

663 5. Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease, or  
 664 license, of goods or services to a church or other religious body; and

665 6. Transactions involving the advertisement of legal services that contain information about the results of  
 666 a state or federal survey, inspection, or investigation of a nursing home or certified nursing facility as  
 667 described in subsection E of § 32.1-126.

668 "Cure offer" means a written offer of one or more things of value, including but not limited to the  
 669 payment of money, that is made by a supplier and that is delivered to a person claiming to have suffered a  
 670 loss as a result of a consumer transaction or to the attorney for such person. A cure offer shall be reasonably  
 671 calculated to remedy a loss claimed by the person and it shall include a minimum additional amount equaling  
 672 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience,  
 673 any attorney's or other fees, expenses, or other costs of any kind that such person may incur in relation to  
 674 such loss, provided, however, that the minimum additional amount need not exceed \$4,000.

675 "Defective drywall" means drywall, or similar building material composed of dried gypsum-based plaster,  
 676 that (i) as a result of containing the same or greater levels of strontium sulfide that has been found in drywall  
 677 manufactured in the People's Republic of China and imported into the United States between 2004 and 2007  
 678 is capable, when exposed to heat, humidity, or both, of releasing sulfur dioxide, hydrogen sulfide, carbon  
 679 disulfide, or other sulfur compounds into the air or (ii) has been designated by the U.S. Consumer Product  
 680 Safety Commission as a product with a product defect that constitutes a substantial product hazard within the  
 681 meaning of § 15(a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064 (a)(2)).

682 "Goods" means all real, personal, or mixed property, tangible or intangible. For purposes of this chapter,  
 683 intangible property includes but shall not be limited to "computer information" and "informational rights" in  
 684 computer information as defined in § 59.1-501.2. *"Goods" includes a small portable solar generation device*  
 685 *as defined in § 56-596.7.*

686 "Person" means any natural person, corporation, trust, partnership, association, and any other legal entity.

687 "Reproductive or sexual health information" means information relating to the past, present, or future  
 688 reproductive or sexual health of an individual, including:

689 1. Efforts to research or obtain reproductive or sexual health information services or supplies, including  
 690 location information that may indicate an attempt to acquire such services or supplies;

691 2. Reproductive or sexual health conditions, status, diseases, or diagnoses, including pregnancy,  
 692 menstruation, ovulation, ability to conceive a pregnancy, whether an individual is sexually active, and  
 693 whether an individual is engaging in unprotected sex;

694 3. Reproductive and sexual health-related surgeries and procedures, including termination of a pregnancy;

695 4. Use or purchase of contraceptives, birth control, or other medication related to reproductive health,  
 696 including abortifacients;

697 5. Bodily functions, vital signs, measurements, or symptoms related to menstruation or pregnancy,  
 698 including basal temperature, cramps, bodily discharge, or hormone levels;

699 6. Any information about diagnoses or diagnostic testing, treatment, or medications, or the use of any  
 700 product or service relating to the matters described in subdivisions 1 through 5; and

701 7. Any information described in subdivisions 1 through 6 that is derived or extrapolated from non-health-  
 702 related information such as proxy, derivative, inferred, emergent, or algorithmic data.

703 "Reproductive or sexual health information" does not include health information that is protected under  
 704 the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), health  
 705 records for the purposes of Title 32.1, or patient-identifying records for the purposes of 42 U.S.C. § 290dd-2.

706 "Services" includes but is not limited to (i) work performed in the business or occupation of the supplier,  
 707 (ii) work performed for the supplier by an agent whose charges or costs for such work are transferred by the  
 708 supplier to the consumer or purchaser as an element of the consumer transaction, or (iii) the subject of an  
 709 "access contract" as defined in § 59.1-501.2.

710 "Supplier" means a seller, lessor, licensor, or professional that advertises, solicits, or engages in consumer  
 711 transactions, or a manufacturer, distributor, or licensor that advertises and sells, leases, or licenses goods or  
 712 services to be resold, leased, or sublicensed by other persons in consumer transactions.

713 **2. That on or before September 1, 2026, the State Corporation Commission shall develop and publish a**  
 714 **simple notification form for a customer of an electric utility or cooperative who installs a small**  
 715 **portable solar generation device, as defined in §§ 55.1-1212.1 and 56-596.7 of the Code of Virginia, as**  
 716 **created by this act, which form shall include only the following information: the customer's name,**  
 717 **contact information, including the address where such device will be installed, electric service provider,**  
 718 **account number, and meter number; the model name and model number of such device; and the name**  
 719 **of the national testing lab that certified such device. Such form shall be made available in an online**  
 720 **version and a printable version.**

721 **3. That the Secretary of Commerce and Trade (the Secretary) or his designee shall convene a work**  
 722 **group to evaluate and develop further recommendations regarding the safety standards and**  
 723 **requirements applicable to small portable solar generation devices as established by the first enactment**  
 724 **of this act. Such evaluation shall include a review of (i) the National Electrical Code, as approved by**  
 725 **the Department of Housing and Community Development (the Department), and any subsequent**  
 726 **versions the Department is considering; (ii) any standards and certifications of a nationally recognized**  
 727 **testing laboratory, as described in 29 C.F.R. § 1910.7, for small portable generation devices; (iii) the**  
 728 **National Electrical Safety Code; and (iv) whether lockable, load-breaking disconnect switches provide**  
 729 **additional safety functionality not covered by the National Electrical Code or by the standards and**  
 730 **certifications of a nationally recognized testing laboratory, as described in 29 C.F.R. § 1910.7. The**  
 731 **stakeholder work group shall include representatives from the Department, the Department of Energy,**  
 732 **investor-owned utilities, electric cooperatives, clean or advanced energy business associations,**  
 733 **environmental advocacy organizations, the Department of Fire Programs, and the Virginia Association**  
 734 **of Realtors, as well as other interested stakeholders as determined by the Secretary or his designee.**  
 735 **The Secretary or his designee shall submit a report on its recommendations and findings to the Chairs**  
 736 **of the Commission on Electric Utility Regulation, the House Committee on Labor and Commerce, and**

737 the Senate Committee on Commerce and Labor by November 15, 2026.  
738 4. That the provisions of the first enactment of this act shall become effective on January 1, 2027.

**REENROLLED**

HB395ER2