

CHAPTER 2017-118

Committee Substitute for Senate Bill No. 90

An act relating to renewable energy source devices; amending s. 24.118, F.S.; correcting a cross-reference; amending s. 193.624, F.S.; revising and defining terms related to renewable energy source devices; prohibiting consideration of the just value of property attributable to a renewable energy source device in determining the assessed value of residential real property; prohibiting the consideration of a specified percentage of the just value of property attributable to a renewable energy source device in determining the assessed value of nonresidential real property; revising applicability; creating s. 196.182, F.S.; exempting a specified percentage of the assessed value of certain renewable energy source devices from ad valorem taxation; exempting a specified percentage of the assessed value of renewable energy source devices affixed to property owned or leased by the United States Department of Defense for the military from ad valorem taxation; providing for the future expiration of specified statutory text; amending s. 501.604, F.S.; correcting cross-references; creating part II of chapter 520, F.S., entitled “Distributed Energy Generation System Sales”; providing definitions; providing applicability relating to, and specifying the disclosures required of, certain agreements to sell or lease distributed energy generation systems; requiring sellers that install such systems to comply with specified safety standards; requiring the Department of Business and Professional Regulation to adopt rules and publish standard disclosure forms; providing penalties; providing exemptions; amending s. 671.304, F.S.; correcting cross-references; providing for the future expiration and reversion of specified statutory text; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 24.118, Florida Statutes, is amended to read:

24.118 Other prohibited acts; penalties.—

(1) UNLAWFUL EXTENSIONS OF CREDIT.—Any retailer who extends credit or lends money to a person for the purchase of a lottery ticket is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This subsection shall not be construed to prohibit the purchase of a lottery ticket through the use of a credit or charge card or other instrument issued by a bank, savings association, credit union, or charge card company or by a retailer pursuant to part III ~~part II~~ of chapter 520, provided that any such purchase from a retailer shall be in addition to the purchase of goods and services other than lottery tickets having a cost of no less than \$20.

Section 2. Section 193.624, Florida Statutes, is amended to read:

193.624 Assessment of renewable energy source devices residential property.—

(1) As used in this section, the term “renewable energy source device” means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- (a) Solar energy collectors, photovoltaic modules, and inverters.
- (b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
- (c) Rockbeds.
- (d) Thermostats and other control devices.
- (e) Heat exchange devices.
- (f) Pumps and fans.
- (g) Roof ponds.
- (h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components equipment used as integral parts of to interconnect such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

- (j) Windmills and wind turbines.
- (k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The term does not include equipment that is on the distribution or transmission side of the point at which a renewable energy source device is interconnected to an electric utility’s distribution grid or transmission lines.

(2) In determining the assessed value of real property used:

(a) For residential purposes, ~~an increase in~~ the just value of the property attributable to ~~the installation of~~ a renewable energy source device may not be considered.

(b) For nonresidential purposes, 80 percent of the just value of the property attributable to a renewable energy source device may not be considered.

(3) This section applies to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property. This section applies to a renewable energy source device installed on or after January 1, 2018, to all other real property, except when installed as part of a project planned for a location in a fiscally constrained county, as defined in s. 218.67(1), and for which an application for a comprehensive plan amendment or planned unit development zoning has been filed with the county on or before December 31, 2017.

Section 3. Section 196.182, Florida Statutes, is created to read:

196.182 Exemption of renewable energy source devices.—

(1) Eighty percent of the assessed value of a renewable energy source device, as defined in s. 193.624, that is considered tangible personal property is exempt from ad valorem taxation if the renewable energy source device:

(a) Is installed on real property on or after January 1, 2018;

(b) Was installed before January 1, 2018, to supply a municipal electric utility located within a consolidated government; or

(c) Was installed after August 30, 2016, on municipal land as part of a project incorporating other renewable energy source devices under common ownership on municipal land for the sole purpose of supplying a municipal electric utility with at least 2 megawatts and no more than 5 megawatts of alternating current power when the renewable energy source devices in the project are used together.

(2) The exemption provided in this section does not apply to a renewable energy source device that is installed as part of a project planned for a location in a fiscally constrained county, as defined in s. 218.67(1), and for which an application for a comprehensive plan amendment or planned unit development zoning has been filed with the county on or before December 31, 2017.

(3) Notwithstanding this section, 80 percent of the assessed value of a renewable energy source device, as defined in s. 193.624, that is affixed to property owned or leased by the United States Department of Defense for the military is exempt from ad valorem taxation, including, but not limited to, the tangible personal property tax.

(4) This section expires December 31, 2037.

Section 4. Subsection (13) of section 501.604, Florida Statutes, is amended to read:

501.604 Exemptions.—The provisions of this part, except ss. 501.608 and 501.616(6) and (7), do not apply to:

(13) A commercial telephone seller licensed pursuant to chapter 516 or ~~part III~~ ~~part II~~ of chapter 520. For purposes of this exemption, the seller must solicit to sell a consumer good or service within the scope of his or her license and the completed transaction must be subject to the provisions of chapter 516 or ~~part III~~ ~~part II~~ of chapter 520.

Section 5. Parts II, III, IV, and V of chapter 520, Florida Statutes, are renumbered as Parts III, IV, V, and VI, respectively, and a new Part II, consisting of sections 520.20, 520.21, 520.22, 520.23, 520.24, 520.25, and 520.26, is created to read:

PART II
DISTRIBUTED ENERGY GENERATION SYSTEM SALES

520.20 Definitions.— As used in this part, the term:

(1) “Agreement” means a contract executed between a buyer or lessee and a seller that leases or sells a distributed energy generation system. For purposes of this part, the term includes retail installment contracts.

(2) “Buyer” means a person that enters into an agreement to buy a distributed energy generation system from a seller.

(3) “Distributed energy generation system” means a device or system that is used to generate or store electricity; that has an electric delivery capacity, individually or in connection with other similar devices or systems, of greater than one kilowatt or one kilowatt-hour; and that is used primarily for on-site consumption. The term does not include an electric generator intended for occasional use.

(4) “Lessee” means a person that enters into an agreement to lease or rent a distributed energy generation system.

(5) “Retail installment contract” means an agreement executed in this state between a buyer and a seller in which the title to, or a lien upon, a distributed energy generation system is retained or taken by the seller from the buyer as security, in whole or in part, for the buyer’s obligations to make specified payments over time.

(6) “Seller” means a person regularly engaged in, and whose business substantially consists of, selling or leasing goods, including distributed energy generation systems, to buyers or lessees. A seller that is also an installer must be licensed under chapter 489.

520.21 Applicability.—This part applies to agreements to sell or lease a distributed energy generation system and is supplemental to other provisions contained in part III related to retail installment contracts. If any provision related to retail installment contract requirements for a

distributed energy generation system under this part conflicts with any other provision related to retail installment contracts, this part controls.

520.22 Safety compliance.—A seller who installs a distributed energy generation system must comply with applicable safety standards established by the Department of Business and Professional Regulation pursuant to chapter 489 and part IV of chapter 553.

520.23 Disclosures required.—Each agreement governing the sale or lease of a distributed energy generation system shall, at a minimum, include a written statement printed in at least 12-point type that is separate from the agreement, is separately acknowledged by the buyer or lessee, and includes the following information and disclosures, if applicable:

(1) The name, address, telephone number, and e-mail address of the buyer or lessee.

(2) The name, address, telephone number, e-mail address, and valid state contractor license number of the person responsible for installing the distributed energy generation system.

(3) The name, address, telephone number, e-mail address, and valid state contractor license number of the distributed energy generation system maintenance provider, if different from the person responsible for installing the distributed energy generation system.

(4) A written statement indicating whether the distributed energy generation system is being purchased or leased.

(a) If the distributed energy generation system will be leased, the written statement must include a disclosure in substantially the following form: “You are entering into an agreement to lease a distributed energy generation system. You will lease (not own) the system installed on your property.”

(b) If the distributed energy generation system will be purchased, the written statement must include a disclosure in substantially the following form: “You are entering into an agreement to purchase a distributed energy generation system. You will own (not lease) the system installed on your property.”

(5) The total cost to be paid by the buyer or lessee, including any interest, installation fees, document preparation fees, service fees, or other fees.

(6) A payment schedule, including any amounts owed at contract signing, at the commencement of installation, at the completion of installation, and any final payments. If the distributed energy generation system is being leased, the written statement must include the frequency and amount of each payment due under the lease and the total estimated lease payments over the term of the lease.

(7) Each state or federal tax incentive or rebate, if any, relied upon by the seller in determining the price of the distributed energy generation system.

(8) A description of the assumptions used to calculate any savings estimates provided to the buyer or lessee, and if such estimates are provided, a statement in substantially the following form: “It is important to understand that future electric utility rates are estimates only. Your future electric utility rates may vary.”

(9) A description of any one-time or recurring fees, including, but not limited to, estimated system removal fees, maintenance fees, Internet connection fees, and automated clearinghouse fees. If late fees may apply, the description must describe the circumstances triggering such late fees.

(10) A statement notifying the buyer whether the distributed energy generation system is being financed and, if so, a statement in substantially the following form: “If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract.”

(11) A statement notifying the buyer whether the seller is assisting in arranging financing of the distributed energy generation system and, if so, a statement in substantially the following form: “If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract.”

(12) A provision notifying the buyer or lessee of the right to rescind the agreement for a period of at least 3 business days after the agreement is signed. This subsection does not apply to a contract to sell or lease a distributed energy generation system in a solar community in which the entire community has been marketed as a solar community and all of the homes in the community are intended to have a distributed energy generation system, or a solar community in which the developer has incorporated solar technology for purposes of meeting the Florida Building Code in s. 553.73.

(13) A description of the distributed energy generation system design assumptions, including the make and model of the major components, system size, estimated first-year energy production, and estimated annual energy production decreases, including the overall percentage degradation over the estimated life of the distributed energy generation system, and the status of utility compensation for excess energy generated by the system at the time of contract signing. A seller who provides a warranty or guarantee of the energy production output of the distributed energy generation system may provide a description of such warranty or guarantee in lieu of a description of the system design and components.

(14) A description of any performance or production guarantees.

(15) A description of the ownership and transferability of any tax credits, rebates, incentives, or renewable energy certificates associated with the distributed energy generation system, including a disclosure as to whether the seller will assign or sell any associated renewable energy certificates to a third party.

(16) A statement in substantially the following form: “You are responsible for property taxes on property you own. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your distributed energy generation system.”

(17) The approximate start and completion dates for the installation of the distributed energy generation system.

(18) A disclosure as to whether maintenance and repairs of the distributed energy generation system are included in the purchase price.

(19) A disclosure as to whether any warranty or maintenance obligations related to the distributed energy generation system may be sold or transferred by the seller to a third party and, if so, a statement in substantially the following form: “Your contract may be assigned, sold, or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified if this will change the address or phone number to use for system maintenance or repair requests.”

(20) If the distributed energy generation system will be purchased, a disclosure notifying the buyer of the requirements for interconnecting the system to the utility system.

(21) A disclosure notifying the buyer or lessee of the party responsible for obtaining interconnection approval.

(22) A description of any roof warranties.

(23) A disclosure notifying the lessee whether the seller will insure a leased distributed energy generation system against damage or loss and, if applicable, the circumstances under which the seller will not insure the system against damage or loss.

(24) A statement, if applicable, in substantially the following form: “You are responsible for obtaining insurance policies or coverage for any loss of or damage to the system. Consult an insurance professional to understand how to protect against the risk of loss or damage to the system.”

(25) A disclosure notifying the buyer or lessee whether the seller or lessor will place a lien on the buyer’s or lessee’s home or other property as a result of entering into a purchase or lease agreement for the distributed energy generation system.

(26) A disclosure notifying the buyer or lessee whether the seller or lessor will file a fixture filing or a State of Florida Uniform Commercial Code Financing Statement Form (UCC-1) on the distributed energy generation system.

(27) A disclosure identifying whether the agreement contains any restrictions on the buyer's or lessee's ability to modify or transfer ownership of a distributed energy generation system, including whether any modification or transfer is subject to review or approval by a third party.

(28) A disclosure as to whether the lease agreement may be transferred to a purchaser upon sale of the home or real property to which the system is affixed, and any conditions for such transfer.

(29) A blank section that allows the seller to provide additional relevant disclosures or explain disclosures made elsewhere in the disclosure form.

The requirement to provide a written statement under this section may be satisfied by the electronic delivery of a document containing the required statement if the intended recipient of the electronic document affirmatively acknowledges its receipt. An electronic document satisfies the font and other formatting standards required for the written statement if the format and the relative size of characters of the electronic document are reasonably similar to those required in the written document or if the information is otherwise displayed in a reasonably conspicuous manner.

520.24 Rulemaking authority; standard disclosure form.-

(1) The Department of Business and Professional Regulation shall adopt rules to implement and enforce the provisions of this part.

(2) The Department of Business and Professional Regulation shall, by January 1, 2018, publish standard disclosure forms that may be used to comply with the disclosure requirements of this part. Disclosures provided in substantially the form published by the department shall be regarded as complying with the disclosure requirements of this part.

520.25 Penalties.—

(1) Any seller who willfully and intentionally violates any provision of this part commits a noncriminal violation, as defined in s. 775.08(3), punishable by a fine not to exceed the cost of the distributed energy generation system.

(2) In the case of a willful and intentional violation of this part, the owner may recover from the person committing such violation, or may set off or counterclaim in any action against the owner by such person, an amount equal to any finance charges and fees charged to the owner under the agreement, plus attorney fees and costs incurred by the owner to assert his or her rights under this part.

520.26 Exemptions.—The provisions of this part do not apply to the following:

(1) A person or company, acting through its officers, employees, brokers, or agents, that markets, sells, solicits, negotiates, or enters into an agreement for the sale or financing of a distributed energy generation system as part of a transaction involving the sale or transfer of the real property on which the system is or will be affixed.

(2) A transaction involving the sale or transfer of the real property on which a distributed energy generation system is located.

(3) A third party, including a local government, that enters into an agreement for the financing of a distributed energy generation system.

(4) The sale or lease of a distributed energy generation system that will be installed on nonresidential real property.

(5) The sale of a distributed energy generation system pursuant to an agreement that requires full payment of the system from the buyer to the seller no later than the date the system is installed by the seller or is delivered from the seller to the buyer or a third party for installation.

(6) A person, other than the seller or lessor, who installs a distributed energy generation system on residential property.

Section 6. Paragraph (d) of subsection (2) of section 671.304, Florida Statutes, is amended to read:

671.304 Laws not repealed; precedence where code provisions in conflict with other laws; certain statutory remedies retained.—

(2) The following laws and parts of laws are specifically not repealed and shall take precedence over any provisions of this code which may be inconsistent or in conflict therewith:

(d) Chapter 520—Retail installment sales (Part I, Motor Vehicle Sales Finance Act; ~~Part III~~ ~~Part II~~, Retail Installment Sales Act; ~~Part IV~~ ~~Part III~~, Installment Sales Finance Act).

Section 7. The amendments made by this act to s. 193.624(2) and (3), Florida Statutes, expire on December 31, 2037, and the text of those subsections shall revert to that in existence on December 31, 2017, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of the text which expire pursuant to this section.

Section 8. This act shall take effect July 1, 2017.

Approved by the Governor June 16, 2017.

Filed in Office Secretary of State June 16, 2017.