
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The legislature finds that deceptive or
2 misleading solar energy device business practices undermine
3 consumer confidence, impose hardship on homeowners, and impede
4 the State's clean energy goals. This Act enhances enforcement
5 of existing law without imposing new licensing requirements on
6 legitimate sales activities.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Require purchase, lease, and power purchase agreements
9 to include a cover page with required disclosures
10 about the right to rescind and cancel and agreement
11 terms;
- 12 (2) Require any person or entity that markets, sells,
13 leases, or solicits a residential solar energy device
14 or that markets, sells, or solicits power purchase
15 agreements to comply with consumer protection laws;
- 16 (3) Prohibit any person or entity from installing,
17 marketing, offering financing, or engaging in customer



1 acquisition for residential solar energy devices
2 without holding a contractor's license or having a
3 contractual affiliation with a licensed contractor;

4 (4) Allow a purchaser, lessee, or host customer to rescind
5 or cancel the agreement without penalty or obligation
6 within a certain period; and

7 (5) Specify that an agreement executed in violation of the
8 law is voidable by the purchaser, lessee, or host
9 customer.

10 SECTION 2. Section 481B-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§481B-6 [Sale of solar]~~ Residential solar energy devices;
13 disclosure requirements[-]; business practices. (a) No person
14 or entity shall advertise, offer to sell, or sell a residential
15 solar energy device unless the person clearly discloses
16 separately, and in writing, the following information concerning
17 the sale price of the residential solar energy device to the
18 consumer:

19 (1) The cost of the residential solar energy device and
20 accessories related to the operation of the



1 residential solar energy device and for their
2 installation; and

3 (2) The cost of items unrelated to the operation of the
4 residential solar energy device, including but not
5 limited to[7] "free gifts", offers to pay electric
6 bills, rebates, and other incentives designed to
7 promote the sale of the residential solar energy
8 device.

9 (b) An agreement for the purchase or lease of a
10 residential solar energy device, or a power purchase agreement
11 for the sale of the output of a residential solar energy device,
12 shall include a cover page that:

13 (1) Prominently displays the following information at the
14 top of the cover page in at least sixteen-point type:

15 (A) Notice of the right to rescind or cancel the
16 agreement, without any penalty or obligation,
17 within three business days after the execution of
18 the agreement;

19 (B) An electronic mail address to which a notice of
20 recission or cancellation may be sent and notice
21 that the purchaser, lessee, or host customer may



1 send a rescission or cancellation notice to that
2 electronic mail address; and

3 (C) Notice that, before the installation of the
4 residential solar energy device, the purchaser,
5 lessee, or host customer will have the
6 opportunity to confirm that no representations,
7 offers, or promises were made at any time
8 concerning the purchase or lease of the
9 residential solar energy device or the power
10 purchase agreement for the sale of the output of
11 a residential solar energy device, other than
12 what is contained in the agreement; and

13 (2) Provides the following information in at least ten-
14 point type:

15 (A) The total system price, including the total cash
16 price and the total price with financing costs,
17 where the cash price and the financed price
18 differ;

19 (B) The estimated annual energy production and
20 methodology used to determine the estimate;



- 1 (C) The estimated annual utility bill savings and
- 2 assumptions used;
- 3 (D) The following tax incentive eligibility
- 4 statement: "Eligibility for federal and state
- 5 tax incentives depends on individual
- 6 circumstances and is not guaranteed by the solar
- 7 company.";
- 8 (E) Payment terms;
- 9 (F) The escalation rate, if applicable;
- 10 (G) The ownership structure, whether purchase, lease,
- 11 loan, or power purchase agreement;
- 12 (H) The name and license number of the installing
- 13 contractor;
- 14 (I) Warranty terms; and
- 15 (J) Consumer cancellation rights.

16 The department of commerce and consumer affairs shall design,
17 publish, and periodically update as needed, a template of the
18 standardized cover page described in this subsection in
19 consultation with representatives from the solar industry.

20 (c) Any person or entity that markets, sells, leases, or
21 solicits a residential solar energy device, or that markets,



1 sells, or solicits power purchase agreements associated with a
 2 residential solar energy device, in the State shall comply with
 3 the consumer protection requirements of this chapter and chapter
 4 444, and any rules adopted thereunder, relating to truthful
 5 advertising, disclosures, contract terms, or cancellation
 6 rights. This subsection shall not apply to financial
 7 institutions.

8 (d) A person or entity that does not hold an active
 9 contractor's license under chapter 444 shall not:

10 (1) Represent that the person or entity is authorized to
 11 install or supervise the installation of a residential
 12 solar energy device;

13 (2) Enter into or offer to enter into a contract for the
 14 installation of a residential solar energy device; or

15 (3) Market, offer financing, or engage in customer
 16 acquisition or lead generation activities for a
 17 residential solar energy device, without being
 18 contractually affiliated with one contractor holding a
 19 license allowing the contractor to install a
 20 residential solar energy device. The contractor's
 21 name and license number shall be disclosed on all



1 marketing materials, proposal documents, and contract
2 documents.

3 (e) Any purchaser or lessee who enters into or signs an
4 agreement for the purchase or lease of a residential solar
5 energy device or host customer who enters into a power purchase
6 agreement may rescind or cancel the agreement, without any
7 penalty or obligation, by giving notice in writing to the
8 installer either by delivering or mailing notice in writing or
9 sending notice by electronic mail no later than 11:59 p.m. on
10 the third business day after the date the agreement was entered
11 into or signed. The notice shall be addressed to the installer
12 at the installer's place of business, or another place
13 designated in the agreement, or sent to the electronic mail
14 address set forth on the cover page required by this section, as
15 applicable, and shall contain words indicating the intent of the
16 purchaser, lessee, or host customer to rescind or cancel the
17 transaction previously entered into.

18 (f) If any person executes with a purchaser or lessee an
19 agreement for the purchase or lease of a solar energy device or
20 with a host customer a power purchase agreement and fails to



1 comply with any requirement of this section, the agreement shall
2 be voidable by the purchaser, lessee, or host customer.

3 (g) The department of commerce and consumer affairs may
4 adopt rules pursuant to chapter 91 necessary for the purposes of
5 this section.

6 [~~(b)~~] (h) As used in this section[~~,"solar"]:~~
7 "Financial institution" has the same meaning as in section
8 412:1-109.

9 "Host customer" means:

10 (1) The customer of record of an electric utility at the
11 location where a residential solar energy device will
12 be located; or

13 (2) A person who has been designated by the customer of
14 record of an electric utility in a letter to the
15 utility explaining the relationship between that
16 person and the customer of record.

17 "Power purchase agreement" means an agreement in which a
18 person or entity:

19 (1) Arranges for the design, installation, maintenance,
20 and energy output of a residential solar energy
21 device; and



1 (2) Sells the electricity generated from a residential
2 solar energy device to the host customer.

3 "Solar energy device" means any new identifiable facility,
4 equipment, apparatus, or the like [~~which~~] that makes use of
5 solar energy for energy storage or heating, cooling, or reducing
6 the use of other types of energy dependent upon fossil fuel for
7 its generation."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

DCCA; Consumer Protection; Residential Solar Energy Devices;
Power Purchase Agreements; Agreement Cover Page; Disclosures;
Contractors; Voidable

Description:

Requires purchase, lease, and power purchase agreements for residential solar energy devices to include a cover page with certain required disclosures. Requires any person or entity that markets, sells, leases, or solicits a residential solar energy device or markets, sells, or solicits power purchase agreements to comply with consumer protection laws. Prohibits any person or entity from installing, marketing, offering financing, or engaging in customer acquisition for a residential solar energy device without holding a contractor's license or having a contractual affiliation with a licensed contractor. Allows for rescission or cancellation of the agreement. Specifies that agreements in violation of the law are voidable. Effective 7/1/3000. (HD1)

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