

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1465

AN ACT

AMENDING SECTION 44-1761, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1763; RELATING TO SOLAR ENERGY DEVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1761, Arizona Revised Statutes, is amended to
3 read:

4 44-1761. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Collector" means a component of a solar energy device that is used
7 to absorb solar radiation, convert it to heat or electricity and transfer the
8 heat to a heat transfer fluid or to storage.

9 2. "DISTRIBUTED ENERGY GENERATION SYSTEM":

10 (a) MEANS A DEVICE OR SYSTEM THAT IS USED TO GENERATE OR STORE
11 ELECTRICITY, THAT HAS A CAPACITY, SINGLY OR IN CONNECTION WITH OTHER SIMILAR
12 DEVICES OR SYSTEMS, GREATER THAN ONE KILOWATT THAT IS PRIMARILY FOR ON-SITE
13 CONSUMPTION.

14 (b) DOES NOT INCLUDE AN ELECTRIC GENERATOR THAT IS INTENDED FOR
15 OCCASIONAL USE.

16 ~~2-~~ 3. "Heat exchanger" means a component of a solar energy device
17 that is used to transfer heat from one fluid to another.

18 4. "SELLER OR MARKETER" MEANS AN INDIVIDUAL OR A COMPANY ACTING
19 THROUGH ITS OFFICERS, EMPLOYEES OR AGENTS THAT MARKETS, SELLS OR SOLICITS THE
20 SALE, FINANCING OR LEASE OF DISTRIBUTED ENERGY GENERATION SYSTEMS OR
21 NEGOTIATES OR ENTERS INTO AGREEMENTS FOR THE SALE, FINANCING OR LEASE OF
22 DISTRIBUTED ENERGY GENERATION SYSTEMS.

23 ~~3-~~ 5. "Solar daylighting" means a device THAT IS specifically
24 designed to capture and redirect the visible portion of the solar beam
25 spectrum, while controlling the infrared portion, for use in illuminating
26 interior building spaces in lieu of artificial lighting.

27 ~~4-~~ 6. "Solar energy device" means a system or series of mechanisms
28 THAT IS designed primarily to provide heating, to provide cooling, to produce
29 electrical power, to produce mechanical power, to provide solar daylighting
30 or to provide any combination of the foregoing by means of collecting and
31 transferring solar generated energy into such uses either by active or
32 passive means. Such systems may also have the capability of storing such
33 energy for future utilization. Passive systems shall clearly be designed as
34 a solar energy device such as a trombe wall and not merely a part of a normal
35 structure such as a window.

36 ~~5-~~ 7. "Storage unit" means a component of a solar energy device that
37 is used to store solar generated electricity or heat for later use.

38 Sec. 2. Title 44, chapter 11, article 11, Arizona Revised Statutes, is
39 amended by adding section 44-1763, to read:

40 44-1763. Distributed energy generation system agreements;
41 disclosures; exception

42 A. AN AGREEMENT GOVERNING THE FINANCING, SALE OR LEASE OF A
43 DISTRIBUTED ENERGY GENERATION SYSTEM TO ANY PERSON OR A POLITICAL SUBDIVISION
44 OF THIS STATE MUST:

- 1 1. BE SIGNED BY THE PERSON BUYING, FINANCING OR LEASING THE
2 DISTRIBUTED ENERGY GENERATION SYSTEM AND MUST BE DATED. ANY AGREEMENT THAT
3 CONTAINS BLANK SPACES AFFECTING THE TIMING, VALUE OR OBLIGATIONS OF THE
4 AGREEMENT IN A MATERIAL MANNER WHEN SIGNED BY THE BUYER OR LESSEE IS VOIDABLE
5 AT THE OPTION OF THE BUYER OR LESSEE UNTIL THE DISTRIBUTED ENERGY GENERATION
6 SYSTEM IS INSTALLED.
- 7 2. BE IN AT LEAST TEN-POINT TYPE.
- 8 3. INCLUDE A PROVISION GRANTING THE BUYER OR LESSEE THE RIGHT TO
9 RESCIND THE FINANCING, SALE OR LEASE AGREEMENT FOR A PERIOD OF NOT LESS THAN
10 THREE BUSINESS DAYS AFTER THE AGREEMENT IS SIGNED BY THE BUYER OR LESSEE AND
11 BEFORE THE DISTRIBUTED ENERGY GENERATION SYSTEM IS INSTALLED.
- 12 4. PROVIDE A DESCRIPTION, INCLUDING THE MAKE AND MODEL OF THE
13 DISTRIBUTED ENERGY GENERATION SYSTEM'S MAJOR COMPONENTS OR A GUARANTEE
14 CONCERNING ENERGY PRODUCTION OUTPUT THAT THE DISTRIBUTED ENERGY GENERATION
15 SYSTEM BEING SOLD OR LEASED WILL PROVIDE OVER THE LIFE OF THE AGREEMENT.
- 16 5. SEPARATELY SET FORTH THE FOLLOWING ITEMS, IF APPLICABLE:
17 (a) THE TOTAL PURCHASE PRICE OR TOTAL COST TO THE BUYER OR LESSEE
18 UNDER THE AGREEMENT FOR THE DISTRIBUTED ENERGY GENERATION SYSTEM OVER THE
19 LIFE OF THE AGREEMENT.
20 (b) ANY INTEREST, INSTALLATION FEES, DOCUMENT PREPARATION FEES,
21 SERVICE FEES OR OTHER COSTS TO BE PAID BY THE BUYER OR LESSEE OF THE
22 DISTRIBUTED ENERGY GENERATION SYSTEM.
23 (c) IF THE DISTRIBUTED ENERGY GENERATION SYSTEM IS BEING FINANCED OR
24 LEASED, THE TOTAL NUMBER OF PAYMENTS, THE PAYMENT FREQUENCY, THE AMOUNT OF
25 THE PAYMENT EXPRESSED IN DOLLARS AND THE PAYMENT DUE DATE.
- 26 6. PROVIDE A DISCLOSURE IN THE SALE AND FINANCING AGREEMENTS, TO THE
27 EXTENT THEY ARE USED BY THE SELLER OR MARKETER IN DETERMINING THE PURCHASE
28 PRICE OF THE AGREEMENT, IDENTIFY ALL CURRENT TAX INCENTIVES AND REBATES OR
29 OTHER STATE OR FEDERAL INCENTIVES FOR WHICH THE BUYER MAY BE ELIGIBLE AND ANY
30 CONDITIONS OR REQUIREMENTS PURSUANT TO THE AGREEMENT TO OBTAIN THESE TAX
31 INCENTIVES, REBATES OR OTHER INCENTIVES.
- 32 7. IDENTIFY THE TAX OBLIGATIONS THAT THE BUYER OR LESSEE MAY BE
33 REQUIRED TO PAY AS A RESULT OF BUYING, FINANCING OR LEASING THE DISTRIBUTED
34 ENERGY GENERATION SYSTEM, INCLUDING:
35 (a) THE ASSESSED VALUE AND THE PROPERTY TAX ASSESSMENTS ASSOCIATED
36 WITH THE DISTRIBUTED ENERGY GENERATION SYSTEM CALCULATED IN THE YEAR THE
37 AGREEMENT IS SIGNED.
38 (b) TRANSACTION PRIVILEGE TAXES THAT MAY BE ASSESSED AGAINST THE
39 PERSON BUYING OR LEASING THE DISTRIBUTED ENERGY GENERATION SYSTEM.
40 (c) ANY OBLIGATION OF THE BUYER OR LESSEE TO TRANSFER TAX CREDITS OR
41 TAX INCENTIVES OF THE DISTRIBUTED ENERGY GENERATION SYSTEM TO ANY OTHER
42 PERSON.
- 43 8. DISCLOSE WHETHER THE WARRANTY OR MAINTENANCE OBLIGATIONS RELATED TO
44 THE DISTRIBUTED ENERGY GENERATION SYSTEM MAY BE SOLD OR TRANSFERRED TO A
45 THIRD PARTY.

1 9. INCLUDE A DISCLOSURE, THE RECEIPT OF WHICH SHALL BE SEPARATELY
2 ACKNOWLEDGED BY THE BUYER OR LESSEE, IF A TRANSFER OF THE SALE, LEASE OR
3 FINANCING AGREEMENT CONTAINS ANY RESTRICTIONS PURSUANT TO THE AGREEMENT ON
4 THE LESSEE'S OR BUYER'S ABILITY TO MODIFY OR TRANSFER OWNERSHIP OF A
5 DISTRIBUTED ENERGY GENERATION SYSTEM, INCLUDING WHETHER ANY MODIFICATION OR
6 TRANSFER IS SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY. IF THE
7 MODIFICATION OR TRANSFER OF THE DISTRIBUTED ENERGY GENERATION SYSTEM IS
8 SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY, THE AGREEMENT MUST IDENTIFY
9 THE NAME, ADDRESS AND TELEPHONE NUMBER OF, AND PROVIDE FOR UPDATING ANY
10 CHANGE IN, THE ENTITY RESPONSIBLE FOR APPROVING THE MODIFICATION OR TRANSFER.

11 10. INCLUDE A DISCLOSURE, THE RECEIPT OF WHICH SHALL BE SEPARATELY
12 ACKNOWLEDGED BY THE BUYER OR LESSEE, IF A MODIFICATION OR TRANSFER OF
13 OWNERSHIP OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY GENERATION
14 SYSTEM IS OR WILL BE AFFIXED CONTAINS ANY RESTRICTIONS PURSUANT TO THE
15 AGREEMENT ON THE LESSEE'S OR BUYER'S ABILITY TO MODIFY OR TRANSFER OWNERSHIP
16 OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY GENERATION SYSTEM IS
17 INSTALLED OR AFFIXED, INCLUDING WHETHER ANY MODIFICATION OR TRANSFER IS
18 SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY. IF THE MODIFICATION OR
19 TRANSFER OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY GENERATION
20 SYSTEM IS AFFIXED OR INSTALLED IS SUBJECT TO REVIEW OR APPROVAL BY A THIRD
21 PARTY, THE AGREEMENT MUST IDENTIFY THE NAME, ADDRESS AND TELEPHONE NUMBER,
22 AND PROVIDE FOR UPDATING ANY CHANGE IN, THE ENTITY RESPONSIBLE FOR APPROVING
23 THE MODIFICATION OR TRANSFER.

24 11. PROVIDE A FULL AND ACCURATE SUMMARY OF THE TOTAL COSTS UNDER THE
25 AGREEMENT FOR MAINTAINING AND OPERATING THE DISTRIBUTED ENERGY GENERATION
26 SYSTEM OVER THE LIFE OF THE DISTRIBUTED ENERGY GENERATION SYSTEM, INCLUDING
27 FINANCING, MAINTENANCE AND CONSTRUCTION COSTS RELATED TO THE DISTRIBUTED
28 ENERGY GENERATION SYSTEM.

29 12. IF THE AGREEMENT CONTAINS AN ESTIMATE OF THE BUYER'S OR LESSEE'S
30 FUTURE UTILITY CHARGES BASED ON PROJECTED UTILITY RATES AFTER THE
31 INSTALLATION OF A DISTRIBUTED ENERGY GENERATION SYSTEM, PROVIDE AN ESTIMATE
32 OF THE BUYER'S OR LESSEE'S ESTIMATED UTILITY CHARGES DURING THE SAME PERIOD
33 AS IMPACTED BY POTENTIAL UTILITY RATE CHANGES RANGING FROM AT LEAST A FIVE
34 PERCENT ANNUAL DECREASE TO AT LEAST A FIVE PERCENT ANNUAL INCREASE FROM
35 CURRENT UTILITY COSTS. THE COMPARATIVE ESTIMATES MUST BE CALCULATED BASED ON
36 THE SAME UTILITY RATES.

37 13. INCLUDE A DISCLOSURE, THE RECEIPT OF WHICH SHALL BE SEPARATELY
38 ACKNOWLEDGED BY THE BUYER OR LESSEE, THAT STATES:

39 UTILITY RATES AND UTILITY RATE STRUCTURES ARE SUBJECT TO CHANGE.
40 THESE CHANGES CANNOT BE ACCURATELY PREDICTED. PROJECTED SAVINGS
41 FROM YOUR DISTRIBUTED ENERGY GENERATION SYSTEM ARE THEREFORE
42 SUBJECT TO CHANGE. TAX INCENTIVES ARE SUBJECT TO CHANGE OR
43 TERMINATION BY EXECUTIVE, LEGISLATIVE OR REGULATORY ACTION.

44 B. BEFORE THE MAINTENANCE OR WARRANTY OBLIGATIONS OF A DISTRIBUTED
45 ENERGY GENERATION SYSTEM UNDER AN EXISTING LEASE, FINANCING OR PURCHASE

1 AGREEMENT IS TRANSFERRED, THE PERSON WHO IS CURRENTLY OBLIGATED TO MAINTAIN
2 OR WARRANT THE DISTRIBUTED ENERGY GENERATION SYSTEM MUST DISCLOSE THE NAME,
3 ADDRESS AND TELEPHONE NUMBER OF THE PERSON WHO WILL BE ASSUMING THE
4 MAINTENANCE OR WARRANTY OF THE DISTRIBUTED ENERGY GENERATION SYSTEM.

5 C. IF THE SELLER'S OR MARKETER'S MARKETING MATERIALS CONTAIN AN
6 ESTIMATE OF THE BUYER'S OR LESSEE'S FUTURE UTILITY CHARGES BASED ON PROJECTED
7 UTILITY RATES AFTER THE INSTALLATION OF A DISTRIBUTED ENERGY GENERATION
8 SYSTEM, THE MARKETING MATERIALS MUST CONTAIN AN ESTIMATE OF THE BUYER'S OR
9 LESSEE'S ESTIMATED UTILITY CHARGES DURING THE SAME PERIOD AS IMPACTED BY
10 POTENTIAL UTILITY RATE CHANGES RANGING FROM AT LEAST A FIVE PERCENT ANNUAL
11 DECREASE TO AT LEAST A FIVE PERCENT ANNUAL INCREASE FROM CURRENT UTILITY
12 COSTS.

13 D. THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL OR COMPANY, ACTING
14 THROUGH ITS OFFICERS, EMPLOYEES OR AGENTS, THAT MARKETS, SELLS, SOLICITS,
15 NEGOTIATES OR ENTERS INTO AN AGREEMENT FOR THE SALE, FINANCING OR LEASE OF A
16 DISTRIBUTED ENERGY GENERATION SYSTEM AS PART OF A TRANSACTION INVOLVING THE
17 SALE OR TRANSFER OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY
18 GENERATION SYSTEM IS OR WILL BE AFFIXED.

19 Sec. 3. Effective date

20 This act is effective from and after December 31, 2015.