

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, INCLUDING A POLITICAL
44 SUBDIVISION OF THIS STATE OTHER THAN A PUBLIC POWER ENTITY, AS DEFINED IN

1 SECTION 30-801, OR A PUBLIC SERVICE CORPORATION, AS DEFINED IN ARTICLE XV,
2 SECTION 2, CONSTITUTION OF ARIZONA, MUST:

3 1. BE SIGNED BY THE PERSON BUYING, FINANCING OR LEASING THE
4 DISTRIBUTED ENERGY GENERATION SYSTEM AND MUST BE DATED. ANY AGREEMENT THAT
5 CONTAINS BLANK SPACES WHEN SIGNED BY THE BUYER OR LESSEE IS VOIDABLE AT THE
6 OPTION OF THE BUYER OR LESSEE UNTIL THE DISTRIBUTED ENERGY GENERATION SYSTEM
7 IS INSTALLED.

8 2. BE IN AT LEAST TEN-POINT TYPE.

9 3. INCLUDE A PROVISION GRANTING THE BUYER OR LESSEE THE RIGHT TO
10 RESCIND THE FINANCING, SALE OR LEASE AGREEMENT FOR A PERIOD OF NOT LESS THAN
11 THREE BUSINESS DAYS AFTER THE AGREEMENT IS SIGNED BY THE BUYER OR LESSEE AND
12 BEFORE THE DISTRIBUTED ENERGY GENERATION SYSTEM IS INSTALLED.

13 4. PROVIDE A DESCRIPTION, INCLUDING THE MAKE AND MODEL OR A GUARANTEE
14 CONCERNING ENERGY PRODUCTION OUTPUT THAT THE DISTRIBUTED ENERGY GENERATION
15 SYSTEM BEING SOLD OR LEASED WOULD PROVIDE.

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 POTENTIAL TAX OBLIGATIONS THAT THE BUYER OR LESSEE
33 MUST OR MAY BE REQUIRED TO PAY AS A RESULT OF BUYING, FINANCING OR LEASING
34 THE DISTRIBUTED ENERGY GENERATION SYSTEM, INCLUDING:

35 (a) PROPERTY TAX ASSESSMENTS ASSOCIATED WITH THE DISTRIBUTED ENERGY
36 GENERATION SYSTEM, THE ASSESSED VALUE OF THE DISTRIBUTED ENERGY GENERATION
37 SYSTEM AND ITS COMPONENTS AND ANY DEPRECIATION SCHEDULES.

38 (b) ANY 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 OR OTHER IMPACT PURSUANT TO THE
4 AGREEMENT ON THE LESSEE'S OR BUYER'S ABILITY TO MODIFY OR TRANSFER OWNERSHIP
5 OF A DISTRIBUTED ENERGY GENERATION SYSTEM, INCLUDING WHETHER ANY MODIFICATION
6 OR 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 OR OTHER IMPACT
15 PURSUANT TO THE AGREEMENT ON THE LESSEE'S OR BUYER'S ABILITY TO MODIFY OR
16 TRANSFER OWNERSHIP OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY
17 GENERATION SYSTEM IS INSTALLED OR AFFIXED, INCLUDING WHETHER ANY MODIFICATION
18 OR TRANSFER IS SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY. IF THE
19 MODIFICATION OR TRANSFER OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY
20 GENERATION SYSTEM IS AFFIXED OR INSTALLED IS SUBJECT TO REVIEW OR APPROVAL BY
21 A THIRD PARTY, THE AGREEMENT MUST IDENTIFY THE NAME, ADDRESS AND TELEPHONE
22 NUMBER, AND PROVIDE FOR UPDATING ANY CHANGE IN, THE ENTITY RESPONSIBLE FOR
23 APPROVING THE MODIFICATION OR TRANSFER.

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

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

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

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

43 B. BEFORE THE MAINTENANCE OR WARRANTY OBLIGATIONS OF A DISTRIBUTED
44 ENERGY GENERATION SYSTEM UNDER AN EXISTING LEASE, FINANCING OR PURCHASE
45 AGREEMENT IS TRANSFERRED, THE PERSON WHO IS CURRENTLY OBLIGATED TO MAINTAIN

1 OR WARRANT THE DISTRIBUTED ENERGY GENERATION SYSTEM MUST DISCLOSE THE NAME,
2 ADDRESS AND TELEPHONE NUMBER OF THE PERSON WHO WILL BE ASSUMING THE
3 MAINTENANCE OR WARRANTY OF THE DISTRIBUTED ENERGY GENERATION SYSTEM.

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

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