

1 A bill to be entitled
2 An act relating to renewable energy source devices;
3 amending s. 24.118, F.S.; correcting a cross-
4 reference; amending s. 163.08, F.S.; articulating the
5 2016 constitutional amendment prohibiting
6 consideration of solar or renewable energy source
7 devices in determining assessed values of real
8 properties; requiring local government financing
9 agreements related to certain qualifying improvements
10 to contain certain disclosures; amending s. 193.624,
11 F.S.; revising and defining terms related to renewable
12 energy source devices; excluding the value of a
13 renewable energy source device installed on or after a
14 specified date from the assessed value of real
15 property; specifying projects and facilities to which
16 this exclusion does not apply; creating s. 196.182,
17 F.S.; exempting the assessed value of certain
18 renewable energy source devices from ad valorem
19 taxation; specifying projects and facilities to which
20 this exemption does not apply; amending s. 501.604,
21 F.S.; correcting a cross-reference; creating part II
22 of chapter 520, F.S., entitled "Distributed Energy
23 Generation System Sales"; providing definitions;
24 providing applicability relating to, and specifying
25 the disclosures required of, certain agreements to

26 | sell, finance, or lease distributed energy generation
 27 | systems; providing exemptions; requiring sellers,
 28 | buyers, and lessees of such systems to comply with
 29 | specified standards, tariffs, and rules; providing
 30 | penalties; amending s. 671.304, F.S.; correcting
 31 | cross-references; providing for the future expiration
 32 | and reversion of specified statutory text; providing
 33 | an effective date.

34 |

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

36 |

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

39 | 24.118 Other prohibited acts; penalties.—

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

51 | than \$20.

52 | Section 2. Paragraph (a) of subsection (1) and subsection
53 | (4) of section 163.08, Florida Statutes, are amended to read:

54 | 163.08 Supplemental authority for improvements to real
55 | property.—

56 | (1) (a) In chapter 2008-227, Laws of Florida, the
57 | Legislature amended the energy goal of the state comprehensive
58 | plan to provide, in part, that the state shall reduce its energy
59 | requirements through enhanced conservation and efficiency
60 | measures in all end-use sectors and reduce atmospheric carbon
61 | dioxide by promoting an increased use of renewable energy
62 | resources. That act also declared it the public policy of the
63 | state to play a leading role in developing and instituting
64 | energy management programs that promote energy conservation,
65 | energy security, and the reduction of greenhouse gases. In
66 | addition to establishing policies to promote the use of
67 | renewable energy, the Legislature provided for a schedule of
68 | increases in energy performance of buildings subject to the
69 | Florida Energy Efficiency Code for Building Construction. In
70 | chapter 2008-191, Laws of Florida, the Legislature adopted new
71 | energy conservation and greenhouse gas reduction comprehensive
72 | planning requirements for local governments. In the 2008 general
73 | election, the voters of this state approved a constitutional
74 | amendment authorizing the Legislature, by general law, to
75 | prohibit consideration of any change or improvement made for the

76 | purpose of improving a property's resistance to wind damage or
77 | the installation of a renewable energy source device in the
78 | determination of the assessed value of residential real
79 | property. In the 2016 primary election, the voters of this state
80 | approved a constitutional amendment authorizing the Legislature,
81 | by general law, to prohibit consideration of the installation of
82 | a solar or renewable energy source device on any property in the
83 | determination of the assessed value of the underlying real
84 | property.

85 | (4) (a) Subject to local government ordinance or
86 | resolution, a property owner may apply to the local government
87 | for funding to finance a qualifying improvement and enter into a
88 | financing agreement with the local government. Costs incurred by
89 | the local government for such purpose may be collected as a non-
90 | ad valorem assessment. Any financing agreement entered into
91 | between a local government and a property owner for the
92 | financing of a qualifying improvement must comply with the
93 | disclosure requirements in s. 520.23 that apply to distributed
94 | energy generation systems.

95 | (b) A non-ad valorem assessment shall be collected
96 | pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
97 | shall not be subject to discount for early payment. However, the
98 | notice and adoption requirements of s. 197.3632(4) do not apply
99 | if this section is used and complied with, and the intent
100 | resolution, publication of notice, and mailed notices to the

101 property appraiser, tax collector, and Department of Revenue
 102 required by s. 197.3632(3)(a) may be provided on or before
 103 August 15 in conjunction with any non-ad valorem assessment
 104 authorized by this section, if the property appraiser, tax
 105 collector, and local government agree.

106 Section 3. Section 193.624, Florida Statutes, is amended
 107 to read:

108 193.624 Assessment of renewable energy source devices
 109 ~~residential property.~~-

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

114 (a) Solar energy collectors, photovoltaic modules, and
 115 inverters.

116 (b) Storage tanks and other storage systems, excluding
 117 swimming pools used as storage tanks.

118 (c) Rockbeds.

119 (d) Thermostats and other control devices.

120 (e) Heat exchange devices.

121 (f) Pumps and fans.

122 (g) Roof ponds.

123 (h) Freestanding thermal containers.

124 (i) Pipes, ducts, wiring, structural supports, refrigerant
 125 handling systems, and other components ~~equipment~~ used as

126 integral parts of ~~to interconnect~~ such systems; however, such
127 equipment does not include conventional backup systems of any
128 type or any equipment or structure that would be required in the
129 absence of the renewable energy source device.

130 (j) Windmills and wind turbines.

131 (k) Wind-driven generators.

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

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

138
139 The term does not include equipment that is on the distribution
140 or transmission side of the point at which a renewable energy
141 source device is interconnected to an electric utility's
142 distribution grid or transmission lines.

143 (2) As used in this section, the term "utility scale
144 renewable energy project" means an electrical generating
145 facility that incorporates one or more renewable energy source
146 devices and:

147 (a) Is certified pursuant to ss. 403.501-403.518; or

148 (b) When the devices are used together, is designed to
149 achieve a total AC electric generating capacity of greater than
150 20 megawatts.

151 (3) For purposes of subsection (2), the term "facility"
152 includes, but is not limited to, renewable energy source devices
153 located on the same parcel, any contiguous parcels, and any
154 parcel in close proximity to another parcel, regardless of the
155 ownership of the parcels or the renewable energy source devices
156 located on the parcels. The combined AC electric generating
157 capacity of all renewable energy source devices on such parcels
158 must be used to determine the AC electric generating capacity of
159 the facility.

160 ~~(4)(2)~~ In determining the assessed value of real property
161 ~~used for residential purposes, an increase in~~ the just value of
162 the property attributable to ~~the installation of~~ a renewable
163 energy source device may not be considered.

164 ~~(5)(3)~~ This section applies to the installation of a
165 renewable energy source device installed on or after January 1,
166 2013, to new and existing residential real property. This
167 section applies to a renewable energy source device installed on
168 or after January 1, 2018, to all other real property, except
169 when installed as part of a utility scale renewable energy
170 project planned for a location in a fiscally constrained county,
171 as defined in s. 218.67(1), and for which an application for a
172 comprehensive plan amendment or planned unit development zoning
173 has been filed with the county on or before December 31, 2017.

174 Section 4. Section 196.182, Florida Statutes, is created
175 to read:

176 196.182 Exemption of renewable energy source devices.—

177 (1) A renewable energy source device, as defined in s.
178 193.624, that is considered tangible personal property and that
179 is installed on real property on or after January 1, 2018, is
180 exempt from ad valorem taxation.

181 (2) The exemption provided in this section does not apply
182 to a renewable energy source device that is installed as part of
183 a utility scale renewable energy project, as defined in s.
184 193.624(2), that is planned for a location in a fiscally
185 constrained county, as defined in s. 218.67(1), and for which an
186 application for a comprehensive plan amendment or planned unit
187 development zoning has been filed with the county on or before
188 December 31, 2017.

189 (3) This section expires December 31, 2037.

190 Section 5. Subsection (13) of section 501.604, Florida
191 Statutes, is amended to read:

192 501.604 Exemptions.—The provisions of this part, except
193 ss. 501.608 and 501.616(6) and (7), do not apply to:

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

200 Section 6. Parts II, III, IV, and V of chapter 520,

201 Florida Statutes, are renumbered as Parts III, IV, V, and VI,
202 respectively, and a new Part II, consisting of sections 520.20,
203 520.21, 520.22, 520.23, and 520.24, is created to read:

204 PART II

205 DISTRIBUTED ENERGY GENERATION SYSTEM SALES

206 520.20 Definitions.—As used in this part, the term:

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

211 (2) "Buyer" means a person that enters into an agreement
212 to buy, lease, or finance a distributed energy generation system
213 from a seller.

214 (3) "Distributed energy generation system" means a
215 renewable energy source device, as defined in s. 193.624, that
216 has a capacity, alone or in connection with other similar
217 devices, of up to one kilowatt and that is primarily intended
218 for on-site use. The term does not include an electric generator
219 intended for occasional use.

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

222 (5) "Retail installment contract" means an agreement
223 executed in this state between a buyer and a seller in which the
224 title to, or a lien upon, a distributed energy source device is
225 retained or taken by the seller from the buyer as security, in

226 whole or in part, for the buyer's obligations to make specified
227 payments over time.

228 (6) "Seller" means a person regularly engaged in, and
229 whose business substantially consists of, selling, financing, or
230 leasing goods, including distributed energy generation systems,
231 to buyers or lessees. For purposes of the disclosure
232 requirements of s. 520.23, the term includes a local government
233 that finances the purchase of a qualified improvement under s.
234 163.08(4).

235 520.21 Applicability.—This part applies to agreements to
236 sell, finance, or lease a distributed energy generation system
237 and is supplemental to other provisions contained in part III
238 related to retail installment contracts. If any provision
239 related to retail installment contract requirements for a
240 distributed energy generation system under this part conflicts
241 with any other provision related to retail installment
242 contracts, this part controls.

243 520.22 Required safety standards.—

244 (1) A seller who installs a distributed energy generation
245 system must comply with applicable safety, performance, and
246 reliability standards established by:

247 (a) The Florida Public Service Commission.

248 (b) The electric utility, as defined in s. 366.02, in
249 whose service territory the distributed energy generation system
250 will be installed.

- 251 (c) The National Electric Code.
- 252 (d) The National Electrical Safety Code.
- 253 (e) The Institute of Electrical and Electronics Engineers.
- 254 (f) UL.
- 255 (g) The Federal Energy Regulatory Commission.
- 256 (h) Local regulatory authorities.
- 257 (2) A buyer or lessee who installs a distributed energy
258 generation system and wishes to receive the benefit of an
259 electric utility's net metering program must comply with the
260 applicable interconnection tariffs and rules of the electric
261 utility and any applicable interconnection rules and standards
262 established by the Florida Public Service Commission.
- 263 520.23 Disclosures required.—
- 264 (1) Each agreement between a buyer or lessee and a seller
265 that sells, finances, or leases a distributed energy generation
266 system must be in at least 12-point type and must:
- 267 (a) Be signed and dated by the person buying, financing,
268 or leasing the distributed energy generation system and the
269 seller.
- 270 (b) Contain a provision granting the buyer or lessee the
271 right to rescind the agreement for a period of not less than 3
272 business days after the agreement is signed by the buyer or
273 lessee and before the distributed energy generation system is
274 installed.
- 275 (c) Provide a description of the distributed energy

276 generation system, including the make and model of its major
277 components and the expected amount of energy it will produce
278 based on average weather conditions. In lieu of providing this
279 information, a seller may provide a warranty or guarantee of the
280 energy production output that the distributed energy generation
281 system will provide over the life of the distributed energy
282 generation system.

283 (d) Separately set forth the following items, if
284 applicable:

285 1. The total cost to be paid by the buyer or lessee,
286 including any interest, installation fees, document preparation
287 fees, service fees, or other fees.

288 2. If the distributed energy generation system is being
289 financed or leased, the total number of payments, the payment
290 frequency, the amount of the payment expressed in dollars, the
291 total amount of interest expressed in dollars, and the payment
292 due dates.

293 (e) Disclose and specifically identify all tax credits,
294 including electric utility rate credits, rebates, or state or
295 federal tax incentives for which the buyer or lessee may be
296 eligible and that are used by the seller in calculating the
297 purchase price of the distributed energy generation system. The
298 disclosure must identify any conditions or requirements to
299 obtain such credits, rebates, or tax incentives.

300 (f) Identify any tax obligations that the buyer or lessee

301 may be required to pay in buying, financing, or leasing the
302 distributed energy generation system, including:

303 1. Any taxes that may be assessed against the buyer or
304 lessee.

305 2. Any obligation of the buyer or lessee to transfer tax
306 credits, rebates, or other state or federal tax incentives that
307 may apply to the system to any other person or to the seller.

308 (g) Disclose whether the seller will insure the
309 distributed energy generation system against damage or loss and,
310 if applicable, circumstances under which the seller will not
311 insure the system against damage or loss.

312 (h) Disclose whether the warranty or maintenance
313 obligations of the distributed energy generation system may be
314 sold or transferred to a third party.

315 (i) In each lease agreement, an identification of the
316 party responsible for the balance of the lease payments if the
317 property on which the distributed energy generation system is
318 located is sold or if the lessee dies before the end of the
319 lease agreement.

320 (j) Provide a full and accurate summary of the total costs
321 under the agreement for maintaining and operating the
322 distributed energy generation system over the life of the
323 system, including financing, maintenance, and construction costs
324 related to the system.

325 (k) If the agreement contains an estimate of the buyer's

326 or lessee's future utility charges based on projected utility
327 rates after the installation of a distributed energy generation
328 system:

329 1. Provide an estimate of the buyer's or lessee's
330 estimated utility charges during the same period as impacted by
331 potential utility rate changes ranging from at least a 5-percent
332 annual decrease to at least a 5-percent annual increase from
333 current utility costs. The comparative estimates must be
334 calculated using the same utility rates.

335 2. Specify whether, and the extent to which, the estimate
336 is based on the buyer's or lessee's participation in a utility
337 net metering program and identify the conditions or requirements
338 for participation in the program.

339 (2) In addition to the requirements in subsection (1),
340 each agreement shall include the following disclosures,
341 separately acknowledged and signed by the buyer or lessee:

342 (a) A statement identifying whether the agreement contains
343 any restrictions on the buyer's or lessee's ability to modify or
344 transfer ownership of a distributed energy generation system,
345 including whether any modification or transfer is subject to
346 review or approval by a third party. If the modification or
347 transfer of the distributed energy generation system is subject
348 to review or approval by a third party, the agreement must
349 identify the name, address, and telephone number of the person
350 responsible for approving the modification or transfer and must

351 specify the method for updating any change in the person's
352 information.

353 (b) A provision disclosing whether the agreement contains
354 any restrictions on the ability of the buyer or lessee to modify
355 or transfer ownership of real property to which a distributed
356 energy generation system is or will be affixed, including
357 whether a modification or transfer is subject to review or
358 approval by a third party. The disclosure must identify the
359 name, address, and telephone number of the person responsible
360 for approving any modification or transfer and must specify the
361 method for updating any change in the person's information.

362 (c) A statement that contains the following language:

363
364 UTILITY RATES AND UTILITY RATE STRUCTURES MAY CHANGE AND THESE
365 CHANGES CANNOT BE ACCURATELY PREDICTED. THEREFORE, PROJECTED
366 SAVINGS FROM YOUR DISTRIBUTED ENERGY GENERATION SYSTEM MAY
367 CHANGE. IN ADDITION, TAX CREDITS, REBATES, AND OTHER STATE OR
368 FEDERAL INCENTIVES ARE SUBJECT TO CHANGE OR TERMINATION BY
369 FEDERAL OR STATE EXECUTIVE, LEGISLATIVE, OR REGULATORY ACTION.

370
371 (3) A person who is obligated to maintain or warrant a
372 distributed energy generation system under an agreement may not
373 transfer the maintenance or warranty obligations of that system
374 until the person discloses the name, address, and telephone
375 number of the person who will be assuming the maintenance or

376 | warranty of that system.

377 | (4) Marketing materials that are provided to a buyer or
378 | lessee that estimate a buyer's or lessee's future utility
379 | charges based on projected utility rates that might apply after
380 | installation of a distributed energy generation system must also
381 | provide an estimate of the buyer's or lessee's estimated utility
382 | charges for the same period assuming a rate increase of at least
383 | 5 percent and assuming a rate decrease of at least 5 percent.

384 | (5) This section does not apply to a person or company,
385 | acting through its officers, employees, or agents, that markets,
386 | sells, solicits, negotiates, or enters into an agreement for a
387 | distributed energy generation system as part of a transaction
388 | involving the sale or transfer of real property to which the
389 | system is affixed.

390 | 520.24 Penalties.—

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

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

401 under this part.

402 Section 7. Paragraph (d) of subsection (2) of section
403 671.304, Florida Statutes, is amended to read:

404 671.304 Laws not repealed; precedence where code
405 provisions in conflict with other laws; certain statutory
406 remedies retained.—

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

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

413 Section 8. The amendments made by this act to s.
414 193.624(2), (3), (4), and (5), Florida Statutes, expire on
415 December 31, 2037, and the text of those subsections shall
416 revert to that in existence on December 31, 2017, except that
417 any amendments to such text enacted other than by this act shall
418 be preserved and continue to operate to the extent that such
419 amendments are not dependent upon the portions of the text which
420 expire pursuant to this section.

421 Section 9. This act shall take effect July 1, 2017.