

House Bill 57 (AS PASSED HOUSE AND SENATE)

By: Representatives Dudgeon of the 25th, Drenner of the 85th, Brockway of the 102nd, Geisinger of the 48th, Setzler of the 35th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,
2 relating to the generation and distribution of electricity generally, so as to provide for
3 financing of solar technology by retail electric customers for the generation of electric energy
4 to be used on and by property owned or occupied by such customers or to be fed back to the
5 electric service provider; to provide a short title; to provide declarations and findings; to
6 provide definitions of certain terms; to provide that an electric service provider shall not be
7 liable for certain acts related to solar technology; to specify what requirements may be
8 imposed upon a retail electric customer utilizing solar technology connected to an electric
9 system of an electric service provider; to clarify who shall be considered an electric supplier
10 and an electric service provider; to provide for applicability; to provide for related matters;
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to the
15 generation and distribution of electricity generally, is amended by adding a new part to read
16 as follows:

17 style="text-align:center">"Part 4

18 46-3-60.

19 This part shall be known and may be cited as the 'Solar Power Free-Market Financing Act
20 of 2015.'

21 46-3-61.

22 The General Assembly hereby finds and declares that:

- 23 (1) It is in the public interest to facilitate customers of electric service providers to invest
 24 in and install on their property solar technologies of their choice;
 25 (2) Free-market financing of solar technologies may provide more customers with
 26 opportunities to install solar technology;
 27 (3) Solar energy procurement agreements, and other similar financing arrangements,
 28 including those in which the payments are based on the performance and output of the
 29 solar technology installed on the property of customers of electric service providers, are
 30 financing arrangements which may help reduce or eliminate upfront costs involved in
 31 solar technology investments and installation by such customers; and
 32 (4) Individuals and entities which offer or receive such financing opportunities through
 33 solar energy procurement agreements pursuant to this part should not be considered or
 34 treated as electric service providers.

35 46-3-62.

36 As used in this part, the term:

- 37 (1) 'Affiliate' means any entity directly or indirectly controlling or controlled by or under
 38 direct or indirect common control with an electric service provider.
 39 (2) 'Capacity limit' means a peak generating capacity in alternating current that is no
 40 greater than:
 41 (A) Ten kilowatts, for a residential application; or
 42 (B) One hundred and twenty-five percent of the actual or expected maximum annual
 43 peak demand of the premises the solar technology serves, for a commercial application.
 44 (3) 'Control' means the power to significantly influence the management and policies of
 45 any affiliate, directly or indirectly, whether through the ownership of voting securities,
 46 by contract, or otherwise.
 47 (4) 'Electric service provider' means any electric supplier that is engaged in the business
 48 of distributing electricity to retail electric customers in this state.
 49 (5) 'Electric supplier' has the same meaning as provided in paragraph (3) of Code
 50 Section 46-3-3.
 51 (6) 'Entity' means any business entity, including, but not limited to, a corporation,
 52 partnership, limited liability company, or sole proprietorship.
 53 (7) 'Maximum annual peak demand' means the maximum single hour electric demand
 54 actually occurring or expected to occur at a premises, measured at the premises' electrical
 55 meter.
 56 (8) 'Person' means any individual or entity.
 57 (9) 'Premises' has the same meaning as provided in paragraph (6) of Code
 58 Section 46-3-3.

59 (10) 'Property' means the tract of land on which a premises is located, together with all
 60 adjacent contiguous tracts of land utilized by the same retail electric customer.

61 (11) 'Retail electric customer' means a person who purchases electric service from an
 62 electric service provider for such person's use and not for the purpose of resale.

63 (12) 'Solar energy procurement agreement' means any agreement, lease, or other
 64 arrangement under which a solar financing agent finances the installation, operation, or
 65 both of solar technology in which the payments are based on the performance and output
 66 of the solar technology installed on the property.

67 (13) 'Solar financing agent' means any person, including an electric service provider and
 68 an affiliate, whose business includes the leasing, financing, or installation of solar
 69 technology.

70 (14) 'Solar technology' means a system that:

71 (A) Generates electric energy that is fueled solely by ambient sunlight;

72 (B) Is installed upon property owned or occupied by a retail electric customer; and

73 (C) Is connected to the electric service provider's distribution system on either side of
 74 the electric service provider's meter.

75 46-3-63.

76 (a) Solar technology at or below the capacity limit may be financed by a retail electric
 77 customer through a solar financing agent utilizing a solar energy procurement agreement,
 78 provided that:

79 (1) Such solar technology and the installation thereof complies with all applicable state
 80 laws and all applicable county and municipal ordinances and permitting requirements;
 81 and

82 (2) The retail electric customer or the solar financing agent gives notice to the electric
 83 service provider serving the premises at least 30 days prior to operation of such solar
 84 technology.

85 (b) No electric service provider shall prevent or otherwise interfere with the installation,
 86 operation, or financing of solar technology by a retail electric customer through a solar
 87 financing agent pursuant to subsection (a) of this Code section, except that an electric
 88 service provider may require the retail electric customer to meet applicable safety, power
 89 quality, and interconnection requirements as provided in Code Section 46-3-64.

90 (c) An electric service provider not acting as a solar financing agent at the specific
 91 property where the liability arises shall not be liable for any loss of assets, injury, or death
 92 that may arise from, be caused by, or relate to:

93 (1) The act, or failure to act, of the retail electric customer or the solar financing agent
 94 relating to the solar technology;

95 (2) The solar energy procurement agreement or any other agreement between the retail
96 electric customer and the solar financing agent; or

97 (3) The solar technology.

98 (d) A solar financing agent which is not an electric service provider or affiliate may
99 provide solar energy procurement agreements authorized by this part, notwithstanding the
100 restrictions of Part 1 of this article.

101 (e) A property with multiple premises may have multiple solar technologies financed by
102 solar energy procurement agreements; provided, however, that a single solar technology
103 is not connected to multiple premises and that the cumulative capacity of solar technologies
104 connected to a premises shall not exceed the capacity limit. Solar technology installed to
105 serve one premises shall only generate electric energy that is used on and by such premises
106 or fed back to an electric service provider.

107 46-3-64.

108 (a) For solar technology with a peak generating capacity of not more than 10 kilowatts for
109 a residential application and not more than 100 kilowatts for a commercial application, the
110 electric service provider may require the retail electric customer or solar financing agent
111 to provide, at the retail electric customer's or solar financing agent's expense, all equipment
112 necessary to meet applicable safety, power quality, and interconnection requirements
113 established by the National Electrical Code, National Electrical Safety Code, Institute of
114 Electrical and Electronics Engineers, and Underwriters Laboratories, prior to
115 interconnecting the solar technology to the electric service provider's electric system. If
116 such applicable safety, power quality, and interconnection requirements are met, an electric
117 service provider shall not require compliance with additional safety or performance
118 standards, require the performance of or payment for additional tests, or require the
119 purchase of additional liability insurance.

120 (b) For solar technology with a peak generating capacity of more than 10 kilowatts for a
121 residential application and more than 100 kilowatts for a commercial application, the
122 electric service provider may require compliance with additional requirements beyond
123 those specified in subsection (a) of this Code section. Such additional requirements shall
124 include only those necessary to protect public safety, power quality, and system reliability.

125 46-3-65.

126 (a) Provided that the solar technology does not exceed the capacity limit, the leasing,
127 financing, or installation of such solar technology through a solar energy procurement
128 agreement shall not be considered the provision of electric service to the public, retail
129 electric service, or retail supply of electricity by the solar financing agent, and neither the

130 retail electric customer nor the solar financing agent shall be considered an electric supplier
131 within the meaning of Part 1 of this article or in violation of exclusive electric service
132 rights arising therein.

133 (b) Notwithstanding any other provision of law, a solar financing agent's actions under this
134 part shall not cause the solar financing agent to be considered an electric service provider
135 for any purpose under this title.

136 (c) Any electric service provider or affiliate shall be authorized to become a solar
137 financing agent; provided, however, that the restrictions of Part 1 of this article shall apply
138 to any such electric service provider's provision of solar technology. An electric service
139 provider and an affiliate shall be subject to subsection (a) of Code Section 46-3-11 in
140 providing services as a solar financing agent.

141 46-3-66.

142 (a) Except as provided in subsection (d) of Code Section 46-3-63 and subsections (a)
143 and (b) of Code Section 46-3-65, nothing in this part shall be construed as modifying the
144 restrictions of Part 1 of this article on the sale, offer for sale, or distribution of retail electric
145 service in this state.

146 (b) Nothing in this part shall be construed to create or alter rights in real property or to
147 change any restrictions or regulations on the use of real property that may exist under any
148 means, including, but not limited to, a covenant, contract, ordinance, or state or federal law.

149 (c) Nothing in this part shall be construed to restrict, affect, or diminish the ability of any
150 county or municipality to adopt or enforce ordinances, permits, or regulations, or otherwise
151 to exercise any lawful power under the Constitution or laws of this state, including, without
152 limitation, those affecting zoning, land use, or the use of public rights of way.

153 (d) Nothing in this part shall be applied to impair any obligation or right under a contract
154 entered into prior to the effective date of this part or any amendment to or extension of such
155 contract.

156 (e) Nothing in this part shall be applied to any party to a wholesale electric power or
157 transmission service contract entered into prior to the effective date of this part or to any
158 original party to such contract that is subsequently amended or extended to the extent that
159 the financing and installation of the solar technology would cause such party to be in
160 breach of such contract or increase the costs of such contract by \$100,000.00 or more. Any
161 legal successor to substantially all rights and assets of a party shall also be considered a
162 party under this subsection."

163 **SECTION 2.**

164 All laws and parts of laws in conflict with this Act are repealed.