



# Senate

General Assembly

**File No. 356**

February Session, 2024

Senate Bill No. 297

*Senate, April 9, 2024*

The Committee on Energy and Technology reported through SEN. NEEDLEMAN of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT CONCERNING CONSUMER PROTECTION FOR CUSTOMERS OF SOLAR POWER COMPANIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) For purposes of this  
2 section:

3 (1) "Residential solar photovoltaic system" has the same meaning as  
4 provided in section 16-245nn of the general statutes; and

5 (2) "Residential solar photovoltaic systems provider" means any  
6 individual, partnership, limited liability company, corporation or other  
7 legal entity which provides residential solar photovoltaic systems.

8 (b) (1) Any third-party agent who contracts with or is otherwise  
9 compensated by a residential solar photovoltaic systems provider to sell  
10 residential solar photovoltaic systems shall be a legal agent of such  
11 provider. No third-party agent may sell residential solar photovoltaic  
12 systems on behalf of such provider unless (A) the third-party agent is

13 an employee or independent contractor of such provider, and (B) the  
14 third-party agent has received training directly from such provider.

15 (2) All sales and solicitations of residential solar photovoltaic systems  
16 by a residential solar photovoltaic systems provider or agent of such  
17 provider to a customer conducted and consummated entirely by mail,  
18 door-to-door sale, telephone or other electronic means, during a  
19 scheduled appointment at the premises of a customer or at a fair, trade  
20 or business show, convention or exposition shall:

21 (A) For any sale or solicitation, (i) identify the person making such  
22 sale or solicitation and the residential solar photovoltaic systems  
23 provider or providers the person represents; (ii) explain the purpose of  
24 the solicitation; and (iii) explain all rates, fees, variable charges and  
25 terms and conditions for the residential solar photovoltaic systems  
26 provided; and

27 (B) For door-to-door sales to customers, be conducted (i) in  
28 accordance with any municipal and local ordinances regarding door-to-  
29 door solicitations; (ii) between the hours of ten o'clock a.m. and six  
30 o'clock p.m. unless the customer schedules an earlier or later  
31 appointment; and (iii) with both English and Spanish written materials  
32 available. Any representative of a residential solar photovoltaic systems  
33 provider or agent of such provider shall prominently display or wear a  
34 photo identification badge stating the name of such person's employer  
35 or the residential solar photovoltaic systems provider the person  
36 represents.

37 (3) Each residential solar photovoltaic systems provider shall file  
38 annually with the Public Utilities Regulatory Authority a list that  
39 contains the name of any agent working on behalf of such provider.

40 (4) Each residential solar photovoltaic systems provider shall develop  
41 and implement standards and qualifications for employees and third-  
42 party agents who are engaged in the sale or solicitation of residential  
43 solar photovoltaic systems by such provider.

44 (c) Each residential solar photovoltaic systems provider or agent of  
45 such provider shall comply with the provisions of the telemarketing  
46 rules adopted pursuant to 15 USC 6102.

47 (d) Any violation of this section shall be deemed an unfair or  
48 deceptive trade practice under subsection (a) of section 42-110b of the  
49 general statutes. Any contract for the residential solar photovoltaic  
50 systems that the authority finds to be the product of unfair or deceptive  
51 marketing practices or in material violation of the provisions of this  
52 section shall be void and unenforceable. Any waiver of the provisions  
53 of this section by a customer of residential solar photovoltaic systems  
54 shall be deemed void and unenforceable by the residential solar  
55 photovoltaic systems provider.

56 Sec. 2. (*Effective from passage*) (a) There is established a task force to  
57 examine and make recommendations concerning policy, regulations  
58 and legislation to improve disclosure requirements and consumer  
59 protection for consumers who purchase, lease or enter into power  
60 purchase agreements for solar photovoltaic systems. Such study shall  
61 include an examination of whether special protections are necessary for  
62 consumers who are low-income or senior citizens.

63 (b) The task force shall consist of the following members:

64 (1) The Commissioner of Energy and Environmental Protection, or  
65 the commissioner's designee;

66 (2) The chairperson of the Public Utilities Regulatory Authority, or  
67 the chairperson's designee;

68 (3) The Consumer Counsel, or the Consumer Counsel's designee;

69 (4) The Commissioner of Consumer Protection, or the commissioner's  
70 designee;

71 (5) The president of the Connecticut Green Bank, or the president's  
72 designee;

73 (6) One appointed by the Governor, who shall be a member of an  
74 association that represents retailers of solar photovoltaic systems in the  
75 state;

76 (7) Two appointed by the speaker of the House of Representatives,  
77 one of whom shall have experience representing senior citizens in  
78 matters related to consumer protection or utilities;

79 (8) Two appointed by the president pro tempore of the Senate, one of  
80 whom shall have experience representing consumer groups, especially  
81 in underserved communities;

82 (9) One appointed by the majority leader of the House of  
83 Representatives;

84 (10) One appointed by the majority leader of the Senate;

85 (11) Two appointed by the minority leader of the House of  
86 Representatives; and

87 (12) Two appointed by the minority leader of the Senate.

88 (c) All initial appointments to the task force shall be made not later  
89 than thirty days after the effective date of this section. Any vacancy shall  
90 be filled by the appointing authority.

91 (d) The speaker of the House of Representatives and the president  
92 pro tempore of the Senate shall select the chairperson of the task force  
93 from among the members of the task force. Such chairperson shall  
94 schedule the first meeting of the task force, which shall be held not later  
95 than sixty days after the effective date of this section.

96 (e) The administrative staff of the joint standing committee of the  
97 General Assembly having cognizance of matters relating to energy and  
98 technology shall serve as administrative staff of the task force.

99 (f) Not later than January 1, 2025, the task force shall submit a report  
100 on its findings and recommendations to the joint standing committees  
101 of the General Assembly having cognizance of matters relating to

102 energy and technology and general law, in accordance with the  
103 provisions of section 11-4a of the general statutes. The task force shall  
104 terminate on the date that it submits such report or January 1, 2025,  
105 whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>from passage</i>	New section

**ET**      *Joint Favorable*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Consumer Protection, Dept.	GF - Cost	55,000	72,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	22,000	29,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill subjects solar companies to certain telemarketing and solicitation restrictions and makes violations an unfair trade practice resulting in a cost to the Department of Consumer Protection (DCP) and the State Comptroller beginning in FY 25. To meet the requirements of the bill DCP will need to hire one special investigator for a salary and other expenses cost of \$55,000 in FY 25<sup>2</sup> and \$72,000 in FY 26, along with associated fringe benefit costs of \$22,000 in FY 25 and \$29,000 in FY 26. The additional employee is needed to manage, review, and investigate the additional complaints.

The bill also creates a taskforce to study the improvement of photovoltaic solar systems sales for customers and is expected to be completed within existing resources, resulting in no fiscal impact to the state.

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.25% of payroll in FY 25.

<sup>2</sup>FY 25 costs reflect 9 months of salary due to the bill's October 1, 2024 effective date.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****SB 297****AN ACT CONCERNING CONSUMER PROTECTION FOR CUSTOMERS OF SOLAR POWER COMPANIES.****SUMMARY**

This bill establishes various requirements for sales and solicitations of residential solar photovoltaic (PV) systems. Among other things, it requires that:

1. third-party agents selling the systems for a residential solar PV system provider be trained by the provider;
2. providers annually submit a list of their agents to the Public Utilities Regulatory Authority (PURA); and
3. providers and their agents, among other things, (a) identify themselves when making the sale or solicitation, (b) explain all rates, fees, and charges for the system being sold, and (c) generally limit their door-to-door sales to between 10:00 a.m. and 6:00 p.m.

The bill makes a violation of its provisions on residential solar PV sales and solicitations an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND).

Lastly, the bill creates a 16-member task force to study ways to improve solar PV system sales for customers. The task force must report its findings and recommendations to the Energy and Technology and General Law committees by January 1, 2025.

EFFECTIVE DATE: October 1, 2024, except the task force provision takes effect upon passage.



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**RESIDENTIAL SOLAR PV SYSTEM SALES AND SOLICITATIONS*****Application***

By law, and under the bill, a “residential solar photovoltaic system” is equipment and devices that:

1. are primarily meant to collect solar energy and generate electricity by photovoltaic effect,
2. have a nameplate capacity rating of 12 kilowatts or less,
3. are installed on the roof of a single-family home, and
4. conform to the State Building Code.

A “residential solar PV systems provider” is any individual, partnership, limited liability company, corporation, or other legal entity that provides residential solar PV systems.

***Third-Party Agents***

The bill makes a third-party agent the legal agent of a residential solar PV system provider if the agent contracts with, or is compensated by, the provider to sell residential solar PV systems. It prohibits third-party agents from selling the systems for these providers unless they (1) are the provider’s employee or independent contractor and (2) have received training directly from the provider.

The bill also requires the providers to annually file with PURA a list of the names of any agents working on their behalf.

***Sales and Solicitations Requirements***

The bill requires each residential solar PV system provider to develop and implement standards and qualifications for the employees and third-party agents engaged in selling or soliciting the provider’s residential solar PV systems. (It does not specify any additional criteria for these standards and qualifications.)

It also establishes requirements for all sales and solicitations of residential solar PV systems by the providers and their agents to a

customer. They apply to those conducted and completed entirely by mail; door-to-door sale; telephone or other electronic means; during a scheduled appointment at the customer's premises; or at a fair, trade or business show, convention, or exposition. These require that the sale or solicitation (1) identify the person making the sale or solicitation and the provider he or she represents; (2) explain the purpose of the solicitation; and (3) explain all rates, fees, variable charges, and terms and conditions for the system.

For door-to-door sales, the bill also requires that the sale be done (1) according to any municipal and local ordinances for door-to-door solicitations; (2) between 10:00 a.m. and 6:00 p.m., unless the customer schedules a different appointment; and (3) with written materials available in both English and Spanish. In addition, the provider's representative or agent must prominently display or wear a photo identification badge stating the name of his or her employer or the provider that he or she represents.

The bill also requires that providers and their agents comply with the Federal Trade Commission's telemarketing sales rules, which, among other things, restricts when and who they can call (16 C.F.R. § 310.1 et seq.).

### ***Enforcement***

In addition to making violations of its provisions an unfair or deceptive trade practice under CUTPA, the bill also makes a customer's waiver of any of its provisions void and unenforceable by the residential solar PV systems provider.

The bill further specifies that any contract for residential solar PV systems is void and unenforceable if PURA finds it to be the product of unfair or deceptive marketing practices or in material violation of the bill's provisions. (PURA's authority to determine whether a contract is an unfair or deceptive marketing practice is unclear, as this authority generally lies with the consumer protection commissioner under CUTPA. In addition, to the extent this provision applies to existing

contracts, it may implicate the Contract Clause of the U.S. Constitution (see BACKGROUND).)

### **SOLAR PV SYSTEM TASK FORCE**

The bill requires the task force to study policy, regulations, and legislation to improve disclosure requirements and consumer protection for consumers who purchase, lease, or enter into power purchase agreements for solar PV systems. The study must also examine whether special protections are needed for consumers who are low-income or senior citizens.

The task force must report its findings and recommendations to the Energy and Technology and General Law committees by January 1, 2025. The task force terminates when it submits the report, or January 1, 2025, whichever is later.

#### ***Membership***

Under the bill, the task force has 16 members: five ex-officio members, one gubernatorial appointee, and ten legislative appointees. The ex-officio members are the environmental protection commissioner, PURA chairperson, consumer counsel, consumer protection commissioner, and Connecticut Green Bank president, or their respective designees. The appointees are as follows:

1. one appointed by the governor, who must be a member of an association that represents retailers of solar PV systems in Connecticut;
2. two appointed by the House speaker, one of whom must have experience representing senior citizens in matters related to consumer protection or utilities;
3. two appointed by the Senate president pro tempore, one of whom must have experience representing consumer groups, especially in underserved communities;
4. one appointed by the House majority leader;

5. one appointed by the Senate majority leader;
6. two appointed by the House minority leader; and
7. two appointed by the Senate minority leader.

All initial appointments to the task force must be made within 30 days after the bill's passage. The appointing authority must fill any vacancies.

### ***Meetings and Administration***

Under the bill, the House speaker and Senate president pro tempore must select the chairperson from among the task force's members. The chairperson must schedule the task force's first meeting, which must be held within 60 days after the bill's passage. The Energy and Technology Committee's administrative staff must serve as the task force's administrative staff.

## **BACKGROUND**

### ***CUTPA***

CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order (CGS § 42-110a et seq.).

### ***Contract Clause***

The U.S. Constitution's Contract Clause (art. I, § 10) prohibits states from passing laws that impair the obligation of contracts. In a 2017 opinion (2017-06), Connecticut's attorney general noted that when a litigant raises a Contract Clause challenge against a legislative act,

courts ask three questions to determine whether the act violates the clause: (1) is the impairment substantial; (2) if so, does the law serve a legitimate public purpose; and (3) if so, are the means of accomplishing this purpose reasonable and necessary (*Buffalo Teachers Fed'n v. Tobe*, 464 F.3d 362 (2d Cir. 2006)).

**Related Bill**

sHB 5236 (File 103), § 25, favorably reported by the General Law Committee, among other things, allows DCP to impose a civil penalty of up to \$5,000 for CUTPA violations, after an administrative hearing.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable

Yea 14    Nay 4    (03/21/2024)