

MAINE STATE LEGISLATURE

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L.D. 1964

Date: 2/19/24

(Filing No. S-511)

ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE

SENATE

132ND LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 771, L.D. 1964, "An Act to Require the Development of a Standard Written Disclosure for Sellers and Installers of Distributed Generation Resources, to Make Changes to Other Standard Disclosures and to Make Misrepresentation in the Sale of Electricity Products an Unfair Trade Practice"

Amend the bill by striking out the title and substituting the following:

'An Act to Establish Additional Requirements Related to the Sale or Lease of Net Energy Billing Interests and Solar Energy Equipment'

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Office of the Public Advocate receives inquiries nearly every day from Maine consumers who are struggling to understand who their solar provider is or how to contact their provider with questions about their account; and

Whereas, the sale or lease of solar energy equipment involves significant consumer investment and long-term contracts, which may be complex; and

Whereas, recent federal tax changes may increase the likelihood of door-to-door solicitations for the lease of solar energy equipment, and this legislation must take effect as soon as possible to clarify and improve upon existing consumer protection laws; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out all of sections 2, 3, 4, 5, 6 and 7 and inserting the following:

'Sec. 2. 32 MRSA §4661, sub-§2, as enacted by PL 1969, c. 395, is amended to read:

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2. **Merchandise.** "Merchandise" includes any objects, wares, goods, commodities, intangibles or services. "Merchandise" also includes a contract for a shared financial interest in a distributed generation resource that has a net energy billing arrangement in accordance with Title 35-A, section 3209-A or 3209-B and solar energy equipment as defined in Title 35-A, section 3218, subsection 1.

Sec. 3. 32 MRSA §14701, sub-§4, as amended by PL 2005, c. 347, Pt. E, §1, is further amended to read:

4. **Merchandise.** "Merchandise" includes any objects, wares, goods, promises, commodities, intangibles, services or other things of value but does not include food or technical or vocational schools located outside of the State that are registered pursuant to Title 20-A, section 9501. "Merchandise" also includes a contract for a shared financial interest in a distributed generation resource that has a net energy billing arrangement in accordance with Title 35-A, section 3209-A or 3209-B and solar energy equipment as defined in Title 35-A, section 3218, subsection 1. "Merchandise" does not include securities that are registered or exempt from registration pursuant to chapter 135, the Maine Uniform Securities Act and rules adopted pursuant to that Act or insurance products that are regulated under Title 24-A.

Sec. 4. 35-A MRSA §3209-A, sub-§5, ¶G-1 is enacted to read:

G-1. As applicable, must comply with the requirements of Title 32, chapter 69, subchapter 5 and Title 32, chapter 128, subchapter 2;

Sec. 5. 35-A MRSA §3218 is enacted to read:

§3218. Standard written disclosure for sale or lease of solar energy equipment

1. **Definition.** For the purposes of this section, "solar energy equipment" means all controls, tanks, pumps, heat exchangers, collectors and other equipment necessary for the collection, transfer and storage of solar energy. "Solar energy equipment" includes photovoltaic modules, inverters and racking and electronic control systems. "Solar energy equipment" does not include passive solar energy systems or those systems using natural means to collect, store and transfer solar energy or equipment owned by a transmission and distribution utility.

2. **Standard written disclosure.** Beginning June 1, 2026, a person that sells or leases solar energy equipment that is installed on the customer side of the meter shall, prior to a sale or lease, provide to the customer a completed standard written disclosure. The completed standard written disclosure must be provided to the customer in a form that the customer may keep. The completed disclosures may be provided to the customer in electronic form, subject to compliance with the consumer consent and other applicable provisions of federal law, including, but not limited to, the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Chapter 96, as amended. The standard written disclosure must include the following:

- A. The name of the seller or lessor and contact information of the seller or lessor or a representative of the seller or lessor;
- B. The name of the primary installer and contact information of the primary installer;
- C. A plain language summary of design, cost and warranty information, including the average cost of system interconnection by project size based on the previous calendar

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1 year's range of interconnection costs as published annually by the interconnection
2 ombudsman appointed pursuant to section 107, subsection 1 on the commission's
3 publicly accessible website pursuant to subsection 4;

4 D. A checklist of the responsibilities of the seller or lessor, primary installer, customer
5 and transmission and distribution utility related to the transaction;

6 E. A description of any dispute resolution mechanisms, including information relating
7 to the interconnection ombudsman under section 3474, subsection 4, available to the
8 seller or lessor, primary installer, customer and transmission and distribution utility;

9 F. Clearly described terms and conditions of any financial agreement or contract
10 associated with the sale or lease of solar energy equipment, including information
11 about contract termination and a description of the parties' obligations under the
12 contract if the customer moves or if the replacement or repair of the customer's roof is
13 required; and

14 G. Signature lines for the seller or lessor and customer to attest that the seller or lessor
15 provided, and the customer received, the standard written disclosure prior to the sale
16 or lease of the solar energy equipment.

17 3. Violation. A violation of subsection 2 is a violation of the Maine Unfair Trade
18 Practices Act.

19 4. Interconnection costs; reporting. By March 1, 2026, and annually thereafter, each
20 large, investor-owned transmission and distribution utility shall provide the interconnection
21 ombudsman appointed pursuant to section 107, subsection 1 with the average
22 interconnection costs for the previous calendar year by project size. By May 1, 2026, and
23 annually thereafter, the interconnection ombudsman shall publish on the commission's
24 publicly accessible website the average interconnection costs by project size along with
25 disclaimer language regarding the range and factors associated with the cost of
26 interconnection pursuant to subsection 2, paragraph C.

27 **Sec. 6. Department of Energy Resources; model forms.** By June 1, 2026, the
28 Department of Energy Resources shall develop 2 model standard written disclosure forms
29 for the sale and for the lease of solar energy equipment described in the Maine Revised
30 Statutes, Title 35-A, section 3218, informed by stakeholder input. The department shall
31 make the disclosure forms available on its publicly accessible website.'

32 Amend the bill by adding before the summary the following:

33 '**Emergency clause.** In view of the emergency cited in the preamble, this legislation
34 takes effect when approved.'

35 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
36 number to read consecutively.

37 **SUMMARY**

38 This amendment changes the title of the bill and adds an emergency preamble and
39 clause. It makes the following changes to the bill.

40 1. It clarifies the definition of "merchandise" for the purposes of the laws governing
41 consumer solicitation sales to specify that "merchandise" includes a contract for a shared
42 financial interest in a distributed generation resource that has a net energy billing

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1 arrangement in the kilowatt-hour credit or commercial and institutional net energy billing
2 program as well as solar energy equipment.

3 2. It clarifies the definition of "merchandise" for the purposes of the laws governing
4 transient sellers of consumer merchandise to specify that "merchandise" includes a contract
5 for a shared financial interest in a distributed generation resource that has a net energy
6 billing arrangement in the kilowatt-hour credit or commercial and institutional net energy
7 billing program as well as solar energy equipment.

8 3. Beginning June 1, 2026, it requires a person who sells or leases solar energy
9 equipment that is installed on the customer side of the meter to provide a standard written
10 disclosure to a customer prior to a sale or lease. A failure to provide the standard written
11 disclosure as required by the law is a violation of the Maine Unfair Trade Practices Act.
12 The amendment removes the requirement for certain elements of the written disclosure that
13 are in the bill. It requires the Department of Energy Resources to develop 2 model standard
14 written disclosure forms: one for the sale of solar energy equipment and one for the lease
15 of solar energy equipment.

16 4. By March 1, 2026, it requires each large, investor-owned transmission and
17 distribution utility to annually provide the interconnection ombudsman with the average
18 interconnection costs for the previous calendar year by project size. By May 1, starting in
19 2026, the interconnection ombudsman must annually publish the average interconnection
20 costs by project size on the Public Utilities Commission's website.

21 5. It removes the provisions that require competitive electricity providers and project
22 sponsors to provide certain disclosures to residential customers and that require rulemaking
23 applicable to the Attorney General and the Public Utilities Commission.

24 The amendment retains from the bill the prohibition on a person's falsely representing
25 that the person is a representative or affiliate of an electric utility or representative or
26 official of a governmental agency or program when selling, offering to sell, leasing,
27 installing or entering into any other financial arrangement regarding an electricity product.
28 A violation of the prohibition is a violation of the Maine Unfair Trade Practices Act.

29 **FISCAL NOTE REQUIRED**
30 (See attached)

COMMITTEE AMENDMENT



132nd MAINE LEGISLATURE

LD 1964

LR 1248(04)

An Act to Require the Development of a Standard Written Disclosure for Sellers and Installers of Distributed Generation Resources, to Make Changes to Other Standard Disclosures and to Make Misrepresentation in the Sale of Electricity Products an Unfair Trade Practice

Fiscal Note for Bill as Amended by Committee Amendment "A"(S-511)

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Public Utilities Commission or the Department of Energy Resources from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.