

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Rodrigues offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (1) of section 24.118, Florida
7 Statutes, is amended to read:

8 24.118 Other prohibited acts; penalties.—

9 (1) UNLAWFUL EXTENSIONS OF CREDIT.—Any retailer who
10 extends credit or lends money to a person for the purchase of a
11 lottery ticket is guilty of a misdemeanor of the second degree,
12 punishable as provided in s. 775.082 or s. 775.083. This
13 subsection shall not be construed to prohibit the purchase of a
14 lottery ticket through the use of a credit or charge card or
15 other instrument issued by a bank, savings association, credit
16 union, or charge card company or by a retailer pursuant to part

072093 - h1351-strike.docx

Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

17 ~~III part II~~ of chapter 520, provided that any such purchase from
18 a retailer shall be in addition to the purchase of goods and
19 services other than lottery tickets having a cost of no less
20 than \$20.

21 Section 2. Section 193.624, Florida Statutes, is amended
22 to read:

23 193.624 Assessment of renewable energy source devices
24 ~~residential property.~~

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

29 (a) Solar energy collectors, photovoltaic modules, and
30 inverters.

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

33 (c) Rockbeds.

34 (d) Thermostats and other control devices.

35 (e) Heat exchange devices.

36 (f) Pumps and fans.

37 (g) Roof ponds.

38 (h) Freestanding thermal containers.

39 (i) Pipes, ducts, wiring, structural supports, refrigerant
40 handling systems, and other components ~~equipment~~ used as
41 integral parts of ~~to interconnect~~ such systems; however, such

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

42 equipment does not include conventional backup systems of any
43 type or any equipment or structure that would be required in the
44 absence of the renewable energy source device.

45 (j) Windmills and wind turbines.

46 (k) Wind-driven generators.

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

50 (m) Pipes and other equipment used to transmit hot
51 geothermal water to a dwelling or structure from a geothermal
52 deposit.

53
54 The term does not include equipment that is on the distribution
55 or transmission side of the point at which a renewable energy
56 source device is interconnected to an electric utility's
57 distribution grid or transmission lines.

58 (2) In determining the assessed value of real property
59 ~~used for residential purposes, an increase in~~ the just value of
60 the property attributable to ~~the installation of~~ a renewable
61 energy source device may not be considered.

62 (3) This section applies to the installation of a
63 renewable energy source device installed on or after January 1,
64 2013, to new and existing residential real property. This
65 section applies to a renewable energy source device installed on
66 or after January 1, 2018, to all other real property, except

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

67 when installed as part of a project planned for a location in a
68 fiscally constrained county, as defined in s. 218.67(1), and for
69 which an application for a comprehensive plan amendment or
70 planned unit development zoning has been filed with the county
71 on or before December 31, 2017.

72 Section 3. Section 196.182, Florida Statutes, is created
73 to read:

74 196.182 Exemption of renewable energy source devices.—

75 (1) A renewable energy source device, as defined in s.
76 193.624, that is considered tangible personal property and that
77 is installed on real property on or after January 1, 2018, is
78 exempt from ad valorem taxation.

79 (2) The exemption provided in this section does not apply
80 to a renewable energy source device that is installed as part of
81 a project planned for a location in a fiscally constrained
82 county, as defined in s. 218.67(1), and for which an application
83 for a comprehensive plan amendment or planned unit development
84 zoning has been filed with the county on or before December 31,
85 2017.

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

87 Section 4. Subsection (13) of section 501.604, Florida
88 Statutes, is amended to read:

89 501.604 Exemptions.—The provisions of this part, except
90 ss. 501.608 and 501.616(6) and (7), do not apply to:

91 (13) A commercial telephone seller licensed pursuant to

Amendment No. 1

92 chapter 516 or part III ~~part II~~ of chapter 520. For purposes of
93 this exemption, the seller must solicit to sell a consumer good
94 or service within the scope of his or her license and the
95 completed transaction must be subject to the provisions of
96 chapter 516 or part III ~~part II~~ of chapter 520.

97 Section 5. Parts II, III, IV, and V of chapter 520,
98 Florida Statutes, are renumbered as Parts III, IV, V, and VI,
99 respectively, and a new Part II, consisting of sections 520.20,
100 520.21, 520.22, 520.23, and 520.24, is created to read:

101 PART II

102 DISTRIBUTED ENERGY GENERATION SYSTEM SALES

103 520.20 Definitions.— As used in this part, the term:

104 (1) "Agreement" means a contract executed between a buyer
105 or lessee and a seller that leases or sells a distributed energy
106 generation system. For purposes of this part, the term includes
107 retail installment contracts.

108 (2) "Buyer" means a person that enters into an agreement
109 to buy or lease a distributed energy generation system from a
110 seller.

111 (3) "Distributed energy generation system" means a device
112 or system that is used to generate or store electricity, that
113 has an electric delivery capacity, individually or in connection
114 with other similar devices or systems, of greater than one
115 kilowatt or one kilowatt-hour, and that is used primarily for
116 on-site consumption. The term does not include an electric

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

117 generator intended for occasional use.

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

120 (5) "Retail installment contract" means an agreement
121 executed in this state between a buyer and a seller in which the
122 title to, or a lien upon, a distributed energy generation system
123 is retained or taken by the seller from the buyer as security,
124 in whole or in part, for the buyer's obligations to make
125 specified payments over time.

126 (6) "Seller" means a person regularly engaged in, and
127 whose business substantially consists of, selling or leasing
128 goods, including distributed energy generation systems, to
129 buyers or lessees. A seller that is also an installer must be
130 licensed under ch. 489.

131 520.21 Applicability.- This part applies to agreements to
132 sell or lease a distributed energy generation system and is
133 supplemental to other provisions contained in part III related
134 to retail installment contracts. If any provision related to
135 retail installment contract requirements for a distributed
136 energy generation system under this part conflicts with any
137 other provision related to retail installment contracts, this
138 part controls.

139 520.22 Safety compliance.-

140 (1) A seller who installs a distributed energy generation
141 system must comply with applicable safety standards established

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

142 by the Department of Business and Professional Regulation
143 pursuant to ch. 489 and part IV of ch. 553.

144 520.23 Disclosures required.— Each agreement governing the
145 sale or lease of a distributed energy generation system shall,
146 at a minimum, include a written statement that is printed in at
147 least 12-point type, that is separate from the agreement and
148 separately acknowledged by the buyer, and that includes the
149 following information and disclosures, where applicable:

150 (1) The name, address, telephone number, and email address
151 of the buyer.

152 (2) The name, address, telephone number, email address,
153 and valid state contractor license number of the person
154 responsible for the installation of the distributed energy
155 generation system.

156 (3) The name, address, telephone number, email address,
157 and valid state contractor license number of the distributed
158 energy generation system maintenance provider, if different from
159 the person responsible for installing the system.

160 (4) A statement indicating whether the buyer is purchasing
161 or leasing the distributed energy generation system.

162 (a) If the buyer is leasing the distributed energy
163 generation system, the written statement must include a
164 disclosure substantially in the following form: "YOU ARE
165 ENTERING INTO AN AGREEMENT TO LEASE A SOLAR ELECTRICITY
166 GENERATING SYSTEM. YOU WILL LEASE (NOT OWN) THE SYSTEM INSTALLED

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

167 ON YOUR PROPERTY.”

168 (b) If the buyer is purchasing the distributed energy
169 generation system, the written statement must include a
170 disclosure substantially in the following form: “YOU ARE
171 ENTERING INTO AN AGREEMENT TO PURCHASE A SOLAR ELECTRICITY
172 GENERATING SYSTEM. YOU WILL OWN (NOT LEASE) THE SYSTEM INSTALLED
173 ON YOUR PROPERTY.”

174 (5) The total cost to be paid by the buyer or lessee,
175 including any interest, installation fees, document preparation
176 fees, service fees, or other fees.

177 (6) A payment schedule, including any amounts owed at
178 contract signing, at the commencement of installation, at the
179 completion of installation, and any final payments. If the
180 distributed energy generation system is being leased, the
181 written statement must include the frequency and amount of each
182 payment due under the lease and the total estimated lease
183 payments over the term of the lease.

184 (7) Each state or federal tax incentive or rebate, if any,
185 relied upon by the seller in determining the price of the
186 distributed energy generation system.

187 (8) A description of the assumptions used to calculate any
188 savings estimates provided to the buyer, and if such estimates
189 are provided, a statement in substantially the following form:
190 “It is important to understand that future utility electricity
191 rates are estimates only. Your future utility rates and utility

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

192 rate changes may vary.”

193 (9) A description of any one-time or recurring fees,
194 including but not limited to the circumstances triggering any
195 late fees, estimated system removal fees, maintenance fees,
196 internet connection fees, and automated clearing house fees.

197 (10) A statement notifying the buyer whether the
198 distributed energy generation system is being financed and, if
199 so, a statement in substantially the following form: “If your
200 system is financed, carefully read any agreements and/or
201 disclosure forms provided by your lender. This statement does
202 not contain the terms of your financing agreement. If you have
203 any questions about your financing arrangement, contact your
204 finance provider before signing a contract.”

205 (11) A statement notifying the buyer whether the seller is
206 assisting in arranging financing of the distributed energy
207 generation system and, if so, a statement in substantially the
208 following form: “If your system is financed, carefully read any
209 agreements and/or disclosure forms provided by your lender. This
210 statement does not contain the terms of your financing
211 agreement. If you have any questions about your financing
212 arrangement, contact your finance provider before signing a
213 contract.”

214 (12) A provision notifying the buyer or lessee of the
215 right to rescind the agreement for a period ending not less than
216 three business days after the agreement is signed. This

072093 - h1351-strike.docx

Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

217 subsection does not apply to a contract to sell or lease a
218 distributed energy generation system in a solar community in
219 which the entire community has been marketed as a solar
220 community and all of the homes in the community are intended to
221 have a distributed energy generation system, or where the
222 developer has incorporated solar technology for purposes of
223 meeting the Florida Building Code in s. 553.73.

224 (13) A description of the distributed energy generation
225 system design assumptions, including the make and model of its
226 major components, system size, estimated first-year production,
227 and estimated annual system production decreases, including the
228 overall percentage degradation over the estimated life of the
229 distributed energy generation system, and the status of utility
230 compensation for excess energy generated by the system at the
231 time of contract signing. If the seller is providing a warranty
232 or guarantee of the energy production output of the distributed
233 energy generation system, then the seller may provide a
234 description of such warranty or guarantee in lieu of a
235 description of the system design and components.

236 (14) A description of any performance or production
237 guarantees.

238 (15) A description of the ownership and transferability of
239 any tax credits, rebates, incentives, or renewable energy
240 certificates associated with the distributed energy generation
241 system, including a disclosure as to whether the seller will

072093 - h1351-strike.docx

Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

242 assign or sell any associated renewable energy certificates to a
243 third party.

244 (16) A statement in substantially the following form: "You
245 are responsible for property taxes on property you own. Consult
246 a tax professional to understand any tax liability or
247 eligibility for any tax credits that may result from the
248 purchase of your distributed energy generation system."

249 (17) The approximate start and completion dates for
250 installation.

251 (18) A disclosure as to whether system maintenance and
252 repairs are included in the system purchase.

253 (19) A disclosure as to whether any warranty or
254 maintenance obligations related to the distributed energy
255 generation system may be sold or transferred by the seller to a
256 third party and, if so, a statement in substantially the
257 following form: "Your contract may be assigned, sold, or
258 transferred without your consent to a third party that will be
259 bound to all the terms of the contract. If such a transfer
260 occurs, you will be notified if this will change the address or
261 phone number to use for system maintenance or repair requests."

262 (20) If the buyer is purchasing the distributed energy
263 generation system, a disclosure notifying the buyer of the
264 requirements for interconnecting the system to the utility
265 system.

266 (21) A disclosure notifying the buyer or lessee of the

072093 - h1351-strike.docx

Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

267 party responsible for obtaining interconnection approval.

268 (22) A description of any roof warranties.

269 (23) A disclosure notifying the lessee whether the seller
270 will insure a leased distributed energy generation system
271 against damage or loss and, if applicable, the circumstances
272 under which the seller will not insure the system against damage
273 or loss.

274 (24) A statement, if applicable, in substantially the
275 following form: "You are responsible for obtaining insurance
276 policies or coverage for any loss of or damage to the system.
277 Consult an insurance professional to understand how to protect
278 against the risk of loss or damage to the system."

279 (25) A disclosure notifying the buyer or lessee whether
280 the seller or lessor will place a lien on the buyer or lessee's
281 home or other property as a result of entering into a purchase
282 or lease agreement for the distributed energy generation system.

283 (26) A disclosure notifying the buyer or lessee whether
284 the seller or lessor will file a fixture filing or a State of
285 Florida Uniform Commercial Code Financing Statement Form (UCC-1)
286 on the distributed energy generation system.

287 (27) A disclosure identifying whether the agreement
288 contains any restrictions on the buyer's or lessee's ability to
289 modify or transfer ownership of a distributed energy generation
290 system, including whether any modification or transfer is
291 subject to review or approval by a third party.

072093 - h1351-strike.docx

Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

292 (28) A disclosure as to whether the lease agreement may be
293 transferred to a purchaser upon sale of the home or real
294 property to which the system is affixed, and any conditions for
295 such transfer.

296 (29) A section where the seller may provide additional
297 relevant disclosures or explain disclosures made elsewhere in
298 the disclosure form.

299 520.24 Rulemaking authority; standard disclosure form.-

300 (1) The Department of Business and Professional Regulation
301 shall adopt rules to implement and enforce the provisions of
302 this part.

303 (2) The Department of Business and Professional Regulation
304 shall, by January 1, 2018, publish standard disclosure forms
305 that may be used to comply with the disclosure requirements of
306 this part. Disclosures provided in substantially the form
307 published by the department shall be regarded as complying with
308 the disclosure requirements of this part.

309 520.25 Penalties.-

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

314 (2) In the case of a willful and intentional violation of
315 this part, the owner may recover from the person committing such
316 violation, or may set off or counterclaim in any action against

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

317 the owner by such person, an amount equal to any finance charges
318 and fees charged to the owner under the agreement, plus attorney
319 fees and costs incurred by the owner to assert his or her rights
320 under this part.

321 520.26 Exemptions.— The provisions of this part do not
322 apply to the following:

323 (1) A person or company, acting through its officers,
324 employees, brokers or agents, that markets, sells, solicits,
325 negotiates or enters into an agreement for the sale or financing
326 of a distributed energy generation system as part of a
327 transaction involving the sale or transfer of the real property
328 on which the distributed energy generation system is or will be
329 affixed.

330 (2) A transaction involving the sale or transfer of the
331 real property on which a distributed energy generation system is
332 located.

333 (3) A third party, including a local government, that
334 enters into an agreement for the financing of a distributed
335 energy generation system.

336 Section 6. Paragraph (d) of subsection (2) of section
337 671.304, Florida Statutes, is amended to read:

338 671.304 Laws not repealed; precedence where code
339 provisions in conflict with other laws; certain statutory
340 remedies retained.—

341 (2) The following laws and parts of laws are specifically

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Published On: 4/18/2017 8:53:34 PM

Amendment No. 1

342 not repealed and shall take precedence over any provisions of
343 this code which may be inconsistent or in conflict therewith:

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

347 Section 7. The amendments made by this act to s.
348 193.624(2), (3), (4), and (5), Florida Statutes, expire on
349 December 31, 2037, and the text of those subsections shall
350 revert to that in existence on December 31, 2017, except that
351 any amendments to such text enacted other than by this act shall
352 be preserved and continue to operate to the extent that such
353 amendments are not dependent upon the portions of the text which
354 expire pursuant to this section.

355 Section 8. This act shall take effect July 1, 2017.

356

357

T I T L E A M E N D M E N T

358
359 Remove everything before the enacting clause and insert:

360 A bill to be entitled

361 An act relating to renewable energy source devices; amending s.
362 24.118, F.S.; correcting a cross-reference; amending s. 193.624,
363 F.S.; revising and defining terms related to renewable energy
364 source devices; excluding the value of a renewable energy source
365 device installed on or after a specified date from the assessed
366 value of real property; creating s. 196.182, F.S.; exempting the

072093 - h1351-strike.docx

Published On: 4/18/2017 8:53:34 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1351 (2017)

Amendment No. 1

367 | assessed value of certain renewable energy source devices from
368 | ad valorem taxation; amending s. 501.604, F.S.; correcting a
369 | cross-reference; creating part II of chapter 520, F.S., entitled
370 | "Distributed Energy Generation System Sales"; providing
371 | definitions; providing applicability relating to, and specifying
372 | the disclosures required of, certain agreements to sell or lease
373 | distributed energy generation systems; requiring sellers that
374 | install such systems to comply with specified safety standards;
375 | requiring adoption of implementing rules; requiring adoption of
376 | standard disclosure forms; providing penalties; providing
377 | exemptions; amending s. 671.304, F.S.; correcting cross-
378 | references; providing for the future expiration and reversion of
379 | specified statutory text; providing an effective date.