



Consumer Protection Primer

v1.0



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Introduction

Solar grew leaps and bounds since the 1970's. It took forty years to reach the one millionth solar installation in 2016 while the two millionth installation arrived in 2019. And over 13% of U.S. homes are predicted to have a photovoltaic ("PV") system by 2030. Innovations like financing solar through leases combined with dropping costs and policies like net-metering supported the rise of residential solar. Consumers have more options than ever before. Consumers looking to install a system can purchase a system, lease a system, or use a Power Purchase Agreement ("PPA"). Purchases can be financed through solar loans, home equity lines of credit, and other products. Community solar opened access to consumers who rent their home, live in condos, or cannot install solar for other reasons. And more options may emerge to address consumer needs and demands.

Solar Energy Industries Association's ("SEIA") Solar+ Decade Roadmap lays out a vision for solar to grow from under 4% of total electricity generation in the US to 30% by 2030.¹ Renewable portfolio standards, tax credits, building codes, net-metering, and other policies will help continue and accelerate that growth. The Solar+ Decade Roadmap also recognized the need for the industry to responsibly manage its growth.

Like any consumer facing industry, solar companies need to be good stewards and understand their responsibilities so that consumers are treated fairly. Consumer confidence determines the industry's success. Consumers expect and deserve truthful advertising, contracts with key terms, and not to be harassed with unwanted phone calls or texts. Consumer protection laws have existed for decades to safeguard consumer interests. The laws address every part of the residential transaction from advertisements to installations. The goal is to help consumers make informed decisions and select products based on price, quality, and service. Consumer protection laws safeguard not only consumer rights but also fair competition within the industry.

As businesses navigate the wide variety of consumer protection rules, this guide will introduce solar companies – both rooftop and community solar providers – to federal and state consumer protection laws and offer some tips for training employees, complaint procedures, and evaluating third-party service providers. The guide starts with an overview of national laws and generally applicable topics and then presents state addendums to discuss state-specific rules. The guide is not intended to offer legal advice or cover every topic and state. A business will need to hire outside legal counsel to advise them on specific practices. The guide will be regularly updated to include additional guidance and cover new topics, laws, and states as appropriate.

Why Consumer Protection?

The purpose of consumer protection laws is to protect consumers from false, misleading, and unfair trade practices. Such practices prevent consumers from making informed purchasing decisions. A consumer may end up paying more than expected or buying a product that does not perform as advertised. Through a level playing field, consumers

¹ See <https://www.seia.org/research-resources/solar-decade-roadmap-building-solar-economy>

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can balance price, performance, and quality to choose their preferred product and let companies to succeed based on merit.

Meet the Regulators

You will come across state and federal regulators. Some government agencies oversee certain industries while others enforce specific consumer protection laws. In some instances, a government agency has the power to publish regulations. And federal and state agencies may join forces to sue a business. As a result, it is important to be familiar with the main consumer protection agencies.

Federal Agencies

The Federal Trade Commission (“FTC”) is the chief consumer protection agency and enforces the FTC Act which prohibits unfair and deceptive trade practices. The FTC regulates advertising and marketing, telemarketing, contracts, and other parts of a consumer transaction. The FTC can publish regulations and guidelines pursuant to the FTC Act. Further, many state unfair and deceptive trade laws are designed to follow FTC actions and guidelines.

The Federal Communications Commission (“FCC”) is the main telecommunications regulator, enforces the Telephone Consumer Protection Act (“TCPA”), and publishes regulations related to the TCPA.

The Consumer Financial Protection Bureau (“CFPB”) is the chief federal financial regulator. The CFPB enforces laws regarding consumer leases and financial products.

State Agencies

State Attorneys General have the broadest enforcement authority and enforce laws related to deceptive advertising, telemarketing laws, unfair trade practices, and other consumer protection matters. State Attorneys General often coordinate with the FTC and other federal agencies on enforcement actions.

State licensing boards license residential contractors and may enforce rules on contract terms and advertising for home improvements. Home improvement salespersons may also need to register with a state licensing board. In some states, contractors are licensed at the city or county level.

Some state energy agencies that oversee state incentive programs may also have additional rules or regulations for participating companies. In some states, utility commissions maintain state-specific Do-Not-Call lists.

There may be other agencies depending on the state you operate in and products you offer.

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Advertising and Marketing

Advertisements – whether in print, online, TV, and other media – tout business qualifications and product benefits to catch someone’s interest. A significant body of state and federal laws, ranging from the Federal Trade Commission Act (“FTC Act”) to home improvement contractor laws, apply to advertisements. These laws can ban deceptive advertising or require specific disclosures. This section focuses on deceptive advertisements.

Unfair or deceptive acts and practices are unlawful. Deceptive acts and practices are likely to mislead reasonable consumers about a material term. Material terms are terms likely to affect a consumer’s purchasing decisions, and typical examples include price, performance, and quality.

What counts as a deceptive act or practice depends on the facts and circumstances surrounding a claim. For example, advertisements where each component is true can still mislead consumers. Or an advertisement might convey multiple meanings with one of the meanings being deceptive. As you review ad campaigns, sales scripts, and marketing materials, ask yourself these few questions: 1) Is it true?; 2) Can I back it up?; and 3) Is it confusing? Below are some tips to consider along with common claims that warrant a closer look.

Substantiation

Express and implied claims need to be supported and have a reasonable basis for the support. The amount and type of evidence depends on the type of claim and its specificity. For example, performance and pricing claims require more substantiation than other claims. Some factors to consider:

- Extrinsic evidence
 - Guides how consumers may interpret a claim and the level of substantiation expected. This can include expert testimony or consumer surveys. It helps determine if the offered evidence is sufficient.
- Level of substantiation
 - What does the claim expressly state or imply?
 - For example, does an ad mention something like “tests prove” or “studies show”? If so, what are the studies and tests that you relied on?
- Competent and reliable scientific evidence
 - Anecdotal evidence, rules of thumb, sales materials, and newspaper articles do not count as reliable evidence.
 - Tests and scientific research conducted by experts using accepted procedures are examples of reliable evidence. The tests and research must be relevant.

Disclaimers

Disclaimers can clarify claims, but some advertisers use disclaimers to contradict claims or hide important conditions. An advertiser might put a disclaimer in an obscure location or print a disclaimer in tiny font. One needs to be careful when drafting a disclaimer. The FTC considers four factors when evaluating disclaimers:

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- **Prominence:** Is the font big enough and legible enough for a consumer to read? Font size and contrast between font and background colors play critical roles.
- **Presentation:** Is the disclaimer in plain English or written in confusing jargon? Is the disclaimer buried inside an unrelated section?
- **Placement:** Is the disclaimer somewhere that the consumer will easily see? Or is a critical disclaimer placed in the bottom of the page or in the back?
- **Proximity:** Is the disclaimer near the claim it modifies?

Other Items to Consider

- Some statements can be reasonably interpreted in more than one way. In those situations, the advertiser “is liable for the misleading interpretation” even if they did not intend to mislead.
- Omitting important information is often a problem when an advertisement presents half-truths.
- If ads are targeted at a particular audience, they will be evaluated based on a reasonable person in the target audience rather than the general public.
- Businesses can sue competitors for trademark infringement and certain unfair trade practices, like misleading advertising, under the Lanham Act.
- Advertisements for leases have additional disclosure requirements depending on the statements.

Claims to Pay Attention To

Over the years certain claims have attracted government attention. This section summarizes some key FTC guidelines along with SEIA guidance on solar-specific claims.

Free and Similar Claims

Some advertisements use “free” to refer to deals where the customer pays nothing upfront and then makes monthly payments. The FTC found that “free” is a powerful marketing phrase because a consumer is likely to assume that they will pay nothing over the life of the system.

FTC guidelines warn that “free” claims require caution. Offers of “free” products need to list all conditions and obligations in a clear and conspicuous location. If you offer a free item with a purchase, then FTC cautions against marking up the price of the main product.

Endorsements and Affiliations

Endorsements help win new customers by showing satisfied customers or demonstrating a standard of excellence. But advertisers should disclose any material relationship with the endorser such as whether the endorser is a paid spokesperson.

Claims of any affiliation or endorsement from a government agency or utility should be treated with great care. An advertiser may confuse licensure, certifications, membership in an organization, or participation in a program with an endorsement or partnership. Such participation, however, does not necessarily equate to an endorsement or

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partnership. Advertisers should confirm a partnership or endorsement exists before making the claim.

Endorsements cannot make claims that a business could not make themselves. Customer endorsements might tout a result from the service, but there needs to be proof that establishes the claimed results are consistent with generally expected results. Moreover, an endorsement must follow the endorser's actual opinion and experience.

Up To

Advertisements may say something like “save up to 70% off your electricity bill.” According to the FTC, the advertiser “must have competent and reliable scientific evidence to substantiate that all or almost all consumers are likely to achieve the maximum savings claimed.” In one set of cases, the FTC sued companies for claiming their products would save customers “up to” a certain percent off their energy bills when the company had no evidence backing the claim.

Savings

Savings estimates can drive many decisions to go solar. Savings estimates are based on estimated system production, system price, utility rates, and net-metering programs. Like any other claim, savings claims require substantiation and a reasonable basis for the claim. Some items to consider when talking about savings with a consumer:

- System production – Did you account for the site's characteristics, such as shading, or use idealized conditions? Does the estimate account for seasonal changes in production?
- Utility escalators – Are you using a rule of thumb or historical utility data? Are the utility rates based on the consumer's service territory and class?
- System costs and Incentives – When the consumer buys the system outright, does the presented cost assume tax credits or other incentives?² If so, is the consumer aware that incentives were incorporated in the cost and the conditions to claim the incentives? Are those incentives likely to expire or run out before the consumer can claim them? Consider advising a consumer to consult a tax professional to understand whether they can use any tax incentives.
 - Leases and PPAs should make clear who has the right to which incentives.
- Overall system costs - For purchased systems, is the consumer aware of costs that may need to be incurred over the lifetime of the system, such as inverter replacement? And are those costs factored into projected savings?
- Net metering or similar programs – Most states have some form of net-metering program, but each program is different. In some cases, utility bills have fixed fees that cannot be zeroed out. Excess electricity may be compensated at lower than retail rates. Solar households may be moved to a different rate class. Rates may differ based on the time of day. Additionally, net-metering programs could be changed over the life of the system, and the risk/responsibility should be clearly communicated to the consumer. In some states, municipal utilities and electric cooperatives may not be required to offer net-metering. Taken together, there are

² For more on the residential 25D tax credit, please review SEIA's *Solar ITC Phasedown* factsheet. Available at <https://www.seia.org/sites/default/files/2019-10/SEIA-ITC-Phasedown-Factsheet.pdf>

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cases where a system reduces electricity consumption by X% but the realized bill savings are less than that.

- Low- and moderate-income households – States may have reduced or subsidized rates for low- or moderate-income households. In these situations, the consumer's expected savings could be less than someone paying normal electricity rates.
- Awareness – Consider explaining to the consumer the key assumptions used in the savings estimate.

RECs

Renewable Energy Certificates (“RECs”) are tradable tags that represent the renewable qualities of the electricity a solar system generates. RECs help consumers track how much solar power their home uses. The sale or assignment of a system's RECs to a third-party affects a consumer's ability to make certain claims about their home being powered by solar. In 2012, the FTC released the revised *Guides for the Use of Environmental Marketing Claims* (“Green Guides”) which provides guidance on REC sales. While not law, the Green Guides do indicate the FTC's views on what may be misleading advertising regarding RECs. If a customer does not keep the RECs, it limits their ability to say their home is solar powered. But the customer may be able to say that they are helping bring more renewables to the grid. Additionally, states with their own REC programs may have specific rules on how to discuss RECs with customers.

Made in USA

Some consumers seek goods made in the USA for reasons ranging from perceived quality to a desire to support domestic industries. The FTC's “Made in USA” rule states that unqualified claims require “all or virtually all” of the product be made in the US. However, manufacturers may present qualified claims like “Made in the USA with X% domestic content.” In addition, the FTC guidance indicates that manufacturers using foreign components may use “Assembled in USA” claims if there is substantial transformation and assembly taking place in the US.

Puffery

Everyone has seen catchy advertisements like how Red Bull “gives you wings.” These outlandish or purely subjective statements are known as “puffery.” Courts have held puffery is not deceptive because reasonable consumers would not rely on mere opinions or obviously outlandish claims. But advertisers must use caution. Attempts at puffery have been held to be comparative claims or quantifiable claims which are actionable under false advertising laws.

Cases of Interest

Over the years, there have been cases involving other industries which address issues relevant to the solar industry. Some practices which lead to government action include:

- Exaggerated and unsubstantiated energy efficiency and savings claims. In one set of cases, alleged violations included:
 - No support for the claim that the windows would reduce a home's cooling and heating use by 49%;
 - No evidence that most consumers would hit the “up to” number;

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- Conflated energy savings between their windows and existing windows with total home energy savings; and
- Failing to account for energy consumption unrelated to heating and cooling (e.g., lighting).
- Misleading claims about prices and offers. Some of the alleged violations in one set of cases against auto dealers included:
 - Printing the disclaimers in extremely small font relative to the main claims;
 - Ads prominently saying “PURCHASE! NOT A LEASE!” when most cars were leases;
 - \$0 down claims and then writing in fine print that a customer must trade in their vehicle;
 - Listed APRs only applied to a small subset of products; and
 - Listed prices, which included incentives and rebates, were available to only a small group of consumers
- Maintaining websites or lead generation landing pages with names or layouts that mimic government agencies or programs.
- Failure to disclose that well-known social media influencers were paid to promote a product.
- Customers were offered free products in exchange for posting positive reviews.
- Contracts barred customers from posting negative online reviews.

Marketing to Low- and Moderate-Income Households

As solar continues to decrease in cost, there is growing interest all over the country in the various solar options. General advertising principles apply to marketing claims directed at low and moderate income (“LMI”) households; however, it is worth highlighting certain areas deserving extra care when marketing to LMI households.

Savings claims depend, in part, on a household’s electricity rate plan, the Net-Metering program, and product cost. LMI households may pay lower rates than other residential customers, and LMI households who install solar or subscribe to community solar may be kicked off the reduced rate plan in some states. This impacts actual savings, and a LMI customer may end up paying more with solar. As a result, you should be aware of how electricity rate discount programs work in your markets so that LMI consumers receive accurate information.

Federal and state incentives can reduce someone’s out-of-pocket costs and improve the return on investment, but not every customer can take full advantage of available incentives. Unlike a rebate, the federal residential tax credit currently only applies against the customer’s tax bill and cannot be redeemed for cash. Customers without sufficient tax liability may carry over unused portions of the federal tax credit into future years.³ While businesses need to exercise caution with anything construed as tax advice, they should not state or imply that full use of incentives are guaranteed.

³ As of February 2022, Congress is considering legislation that, if passed, would make the residential tax credits refundable if a contractor is registered with the Department of Treasury.

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Contract language must match that language used in the sales presentation per the FTC's Cooling Offer Rule. For example, a contract must be in Spanish if the sales presentation was in Spanish.

Courts and government agencies evaluate marketing claims from a reasonable customer's perspective. However, marketing claims targeted at certain groups will be judged against how a reasonable customer within that group may interpret the claim. As a result, there may be instances where advertisements are evaluated based on a hypothetical reasonable LMI customer.

Some states have programs that offer additional discounts or even free systems to LMI households. These programs may require participating solar providers to apply and follow additional requirements, such as marketing claims. In addition to following program rules, this can raise considerations about cost and sponsorship claims. Claims of "free solar" or "government gives away solar" normally raise red flags, but such claims may be true for select LMI programs. A business may claim their prices are superior to their competitors' prices. While that may be true for most customers, it may not be true if there is a LMI program that offers reduced cost solar systems.

Unfair Acts or Practices

The Dodd-Frank Act and FTC Act prohibit unfair acts or practices in addition to deceptive acts. Unfair acts have three components:

1. Causes or likely to cause substantial injury (typically monetary);
2. The injury is not reasonably avoidable; and
3. The injury to consumers or competition outweighs any benefits.

Identifying unfair practices can be a "you know it when you see it" evaluation. Some examples of unfair trade practices include:

- Refusing to release a lien after a consumer makes their final payment;
- Bait and switch;
- Failing to send disclosures in the language used during the telemarketing call;
- Failing to apply payments promptly and accurately;
- Accepting monthly payments while failing to provide the contracted service;
- Billing a customer before they submitted authorization; and
- Threatening lawsuits that you do not have the authorization to pursue.

Telemarketing

Calls made with the intent to sell or market goods or services ("marketing calls") are highly regulated, and companies need to understand the rules governing them.

Marketing Calls Generally

There are federal and state limitations and requirements relating to (i) the times of day that calls can be made, (ii) how long after an auto-dialed call is answered that the

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consumer must be connected to a live representative, (iii) the need for prior written consent for receiving prerecorded messages, (iv) the automated option to be placed on internal Do-Not-Call (“DNC”) list, (v) the disclosure of Do-Not-Call options on any message left on answering machines, (vi) how many rings must occur before a call is disconnected, and (vii) what the caller (live or automated) must say about the purpose of the call and about itself to the consumer at the very start of each call. Federal rules also treat text messages the same as calls.

Telephone Sales Rule Generally

The Telephone Sales Rule (“TSR”) places several requirements on telemarketers such as time-of-day restrictions, disclosures, and record keeping.

Absent a consumer’s prior consent, the TSR prohibits outbound calls from 9 p.m. to 8 a.m. in the consumer’s time zone. The TSR allows for a telephone to ring for 15 seconds or four times before a call is disconnected. When a consumer answers the phone, the telemarketer has two seconds to connect the consumer to a sales agent. And a telemarketer-initiated call must start with disclosures about the identity of the seller, that the call is to sell something, and the offered product or service.

There are exceptions to the TSR. For example, TSR does not cover calls made in response to a general advertisement or direct mailer.

Prerecorded Calls

Prerecorded messages to a cellphone or landline number require a customer’s prior written consent. Even then, the prerecorded message itself must meet the following criteria:

1. Interactive opt-out mechanism available at the beginning of the call:
 - a. If a live caller picks up, a voice activated or keypress mechanism to add the consumer’s number to the company’s internal DNC list and terminate the call; and
 - b. For calls going to voicemail, present a toll-free number that will offer the opt-out mechanism
2. Calls must follow additional rules:
 - a. Ring for at least 15 seconds or 4 rings before disconnecting an unanswered call;
 - b. Play the prerecorded message within two seconds after the recipient of the call completes his or her greeting; and
 - c. Comply with other telemarketing rules and laws

Certain prerecorded or artificial voice calls are allowed without prior express consent. Of relevance to solar providers, calls have to fulfill three conditions:

- Either be a non-commercial call to a residence or a commercial call that doesn’t advertise or constitute telemarketing;
- No more than three artificial/prerecorded calls are made in any 30 consecutive day period; and
- Include an opt-out mechanism.

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Do Not Call Lists

If a consumer is on the national Do-Not-Call list, no company can call that consumer without first obtaining written consent to make such calls, or by having an established business relationship with that consumer.

If the individual purchased something from the company, the company may call the customer under the established business relationship exception for up to 18 months after the last purchase or payment by the consumer. Customers who filed an application or inquired about a product may be called for three months. The established business relationship exception does not apply if the consumer requests not to be called.

There are exceptions for unsolicited calls from consumers and calls from consumers made in response to general media advertising.

A business must maintain its own internal Do-Not-Call list and honor all consumer requests to be put on that list. The established business relationship exemption does not apply to consumers who have asked to be on internal Do-Not-Call lists. When a consumer is not on the national Do-Not-Call list, companies are given greater ability to use autodialed and manually-dialed calls without a consumer's permission.

Record Keeping

Most businesses must keep certain telemarketing records for two years. Such records include:

- Advertising materials;
- Sales records;
- Employee records; and
- Consumer authorizations and consents.

Autodialers

The TCPA defines Automated Telephone Dialing Systems (“autodialers” or “ATDS”) as “equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.”

Telemarketing calls made with an autodialer require express prior written consent from a consumer. Informational calls (*e.g.*, service visit reminders) made to a cellphone need prior express consent (oral or written).

The US Supreme Court in 2021 held that autodialers must have the actual capacity for random or sequential number generation. However, there is some uncertainty if a phone with the capacity is counted as an autodialer even if the call was not made with the autodialer function.

Mobile Phones

Calling mobile phones is more complicated. Any autodialed call to a consumer's mobile phone requires the caller to obtain that consumer's prior written consent, and an established business relationship is not an exception to the rule.

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Permission Matrix

	Telemarketing	Informational
Prerecorded call to landline	Prior express written consent	Prior express consent
Prerecorded call to cellphone	Prior express written consent	Prior express consent
Autodialed call to landline	Prior express consent	None
Autodialed call to cellphone	Prior express written consent	Prior express consent

Consent Language

Prior Express Written Consent language need to be clear and conspicuous on a website. Similar to disclaimers, font size, color, and placement of consent language in relation to the sections where the consumer fills out their contact information are important factors. Written consents should present or capture the following information:

- Each company who can call the consumer;
- Consumer's phone number;
- Phrases like "I agree" or "I consent";
- Consumer authorizes a business to call or text them about products or services;
- Prerecorded messages and/or automated dialing systems can be used;
- Whether text messages can be used;
- Whether message and data rates may apply;
- Consumer is not required to sign the consent as a condition of purchasing products or services; and
- Consumer's signature (electronic signatures are acceptable). If a checkbox is used, the consumer should affirmatively check the box instead of being presented with a prechecked box.

Prior Express Consent can be either verbal or written, but businesses have the burden of proof in showing the consumer gave their consent. Businesses should keep recorded calls (in compliance with other state laws) or written requests. There are no magic phrases to show express consent; however, past guidance indicates that a consumer giving their phone number to a business can count as consent. According to the federal government, some actions that do not qualify as express consent include:

- Looking up the consumer's phone number on caller ID during a call; and
- Using public sources like Internet sites to find someone's phone number.

Spoofing

Spoofing is unlawful when one falsifies, alters, or obscures the number and name appearing on Caller ID to mislead consumers. Third-party service providers, however, can display the name and number of the company on whose behalf the call is being made.

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Vicarious Liability

In certain circumstances, a business is liable for the third-party telemarketers' actions. According to the FCC, factors pointing towards liability include when the business who hired the third-party telemarketer:

- Gives the telemarketer access to customer information in its sales platform;
- Gives the telemarketer access to information on product capabilities and pricing;
- Permits the telemarketer to use the company's name and trademarks;
- Writes or reviews telemarketing scripts; and
- Knows or reasonably should know that the telemarketing was breaking TCPA rules.

Reassigned Numbers

Customers occasionally change their phone numbers between the time they give permission to a caller and when a call covered by the TCPA is made. In that situation, the caller may inadvertently call another person and potentially face a lawsuit. The FCC published a reassigned number database that callers can use to verify that a number does not belong to a different person than the one who previously gave consent to be called. The FCC created a safe harbor for callers who in good faith used the most recent reassigned number database yet end up calling someone with a reassigned number.

Lead Generation

Lead generation is finding consumers interested in a product and forwarding them with a business who sells that product. Lead generators may use advertisements and Search Engine Optimization techniques to attract consumers and entice them to learn more about going solar. Some lead generators use door-to-door canvassing to identify interested consumers.

Leads may be sent directly to a solar company, or an aggregator may bundle leads from many lead generators and distributes them to a solar company. Depending on the contract between the solar company and lead provider, the lead provider may verify the leads and identify leads of interest.

Lead generation can help businesses supplement their marketing efforts and connect with consumers that they may have otherwise not found. But solar companies should exercise care in selecting lead generators and take the time to understand a lead generator's business practices. Poor lead generation practices can generate poor candidates for solar, irate customers, or lawsuits instead of successful sales.

Lead Generation Advertisements

Lead Generators are often one of the first touch points with a consumer and can shape a consumer's beliefs about solar. It can be difficult to correct a consumer's misperceptions if they come across incorrect information early in the shopping process. A consumer may not know who to trust and hesitate to sign a contract if there is a big difference between what a lead generator presented and what a salesperson tells them. A solar system or community solar subscription failing to live up to a customer's mistaken

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beliefs can prompt customer complaints and hurt the solar company's reputation. A misleading landing page may trigger legal liability for the lead buyer. For example, the Federal Trade Commission sued a group of lead buyers whose leads came from landing pages pretending to be military recruiting sites.

The same advertising and marketing rules discussed earlier apply to lead generation. It is important to keep your eyes open for some of the following phrases and concepts:

- Free solar;
- Government gives away solar to middle class families;
- Government requires you to purchase solar;
- New Government program;
- Affiliation with a government entity or electric utility;
- Utility or Government will pay you to go solar; and
- Fake testimonials and endorsements.

Online Landing Pages

The landing page should clearly identify the lead generator, the role of the lead generator, and how the consumer's data will be used. In some states, a landing page might have to list the lead buyer's contractor's license number or a home improvement salesperson registration number if the lead generator takes an active role in the sales process.

Landing pages need a clear disclosure and customer acknowledgement that identified lead buyers may contact them. Some businesses have been sued because the list of potential callers included just about every company in that industry. Lead buyers should consider maintaining proof that a consumer received the necessary disclosures and gave their consent to be called.

Remanent Leads

Sometimes a consumer expresses interest in a product, but no one purchases the lead. These leads are referred to as remnant leads and sometimes are sold to businesses offering different products. Lead buyers should be careful buying remnant leads because the consumer may not expect a sales pitch for a solar system. And there may be questions about consumer permissions to receive calls regarding an unrelated product.

Lead Tracking

Lead buyers may want to use lead tracking and verification technologies. There are services that record and store consumer interactions on a website. Information captured can include the date and time of the visit, page URL, and the individual's IP address. This lets you see consent language on the webpage and whether a consumer gave a valid consent before you call them.

In addition, there are tools to track where leads come from and their history throughout the sales process. This in turn helps you identify what works, pain points, and how to improve operations and the customer experience.

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Contracts

Contract rules depend on the type of product or how the product was sold (*e.g.*, at a consumer's home). Laws require contracts to include key terms, present clear terms, and be easily read. Examples of key terms include costs and early termination rights and responsibilities. State contracts laws will be discussed later; however, business should pay attention home improvement and solar-specific laws. Some state programs, such as low-income solar programs, have additional contract requirements for participating businesses.

Home Solicitation Agreements

Door-to-door sales are subject to the FTC's Cooling Off Rule. Door-to-door sales are not limited to cold-knocking and include sales made at a consumer's home, a consumer's workplace, or a convention center.

The rule gives customers three business days to cancel the agreement for any reason ("cooling off rights"). A business must orally inform the customer about the cooling off rights. Saturdays are considered business days, and recent legislation designates Juneteenth (June 19) as a federal holiday.

Customers must receive a signed and dated copy of the contract. And contracts need to have a statement about the cooling off rights near the signature line, include two copies of the notice of cancellation form, and match the language used in the sales presentation (*e.g.*, Spanish sales pitch requires a Spanish contract). The Notice of Cancellation form has to include the seller's name and the main or permanent branch office or local address of a seller. And the rule includes statements and information which must be in the Notice of Cancellation form.

Electronic Signatures

Sales have continued to shift to electronic medium and contracts are being signed electronically. Congress passed the Electronic Signatures in Global and National Commerce Act ("ESIGN Act") which holds that e-signatures are valid when a signature is required outside of wills, real estate transactions, and testamentary trusts. The ESIGN Act allows states to instead adopt the Uniform Electronic Transaction Act ("UETA"). Only New York has not adopted some version of the UETA as of January 2022.

Consumers must consent to conduct business electronically. Consent can be established by showing a consumer received consent disclosures, affirmatively agreed to electronically sign, and kept their consent.

A valid signature must be attributable to the consumer. Some supporting factors include:

- Audit trails showing, among other things, the IP address associated with the signature and who received the agreement;
- Security features such as blocking third parties from accessing the consumer's account; and
- Verification procedures to access and sign the agreement.

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Finally, any record retention requirements can be satisfied by keeping electronic copies of the agreements.

Warranties

Under the Magnuson-Moss Warranty Act, businesses offering a warranty must provide a written one with a plain English description of the parties, product and components, what the warrantor will do in case of any defects or malfunctions, how to have the warranty fulfilled, duration, informal dispute settlement, and exclusions. Magnuson-Moss also addresses informal dispute settlement procedures, pre-sale availability of written warranty terms, and tying arrangements.

Leases

The Consumer Leasing Act was passed in 1976, and Regulation M was created in 1981. Regulation M ensures accurate disclosure of a lease's material terms and has presentation requirements. Leases must present, among other terms, a description of the property, a payment schedule, additional charges, maintenance responsibilities for each party, and warranties. Certain terms must be described in their own sections.

Registration and Licensure

Depending on the product and method of sale, you may need to apply for special licenses or register with government agencies. Certain employees might need to register with the state depending on their job duties. And you may need to register your third parties as well. Finally, some local government have their own registration and licensing requirements for door-to-door sales.

Additional Consumer Protections

The following may affect a business depending on the product and type of customer:

CAN-SPAM Act applies to emails and most of the requirements are directed at emails which advertise or promote a product or service ("commercial content"). The law includes prohibitions on false or misleading headers (e.g., "From") and subject lines. Emails with commercial content must identify itself as an ad, list a valid physical postal address for the sender, and include an opt-out mechanism. Opt-out requests need to be processed within ten business days.

The Service Members Civil Relief Act offers several protections to active-duty service members, reservists, and National Guard members. Some of the protections include restrictions on default judgments and interest rate caps on certain types of credit.

Fair Credit Reporting Act affects businesses who uses someone's credit score to evaluate applications for credit or other purposes. If a business uses a credit score to deny credit or take adverse action against a consumer, they must tell the consumer about the decision and the name, address, and phone number of the agency that provided the information. A business may only access a credit report if there is a valid business need.

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And consumers may freeze their credit reports to prevent third parties from accessing the report.

Electronic Funds Transfer Act (“EFTA”) addresses the use of electronic means, such as Automated Clearing House, to pay for goods or services. The law requires lenders and financial institutions to make disclosures to the customer before a transfer is made.

Equal Credit Opportunity Act regulates the extension of credit and prohibits discrimination based on race, color, religion, national origin, sex, marital status, age, and use of public assistance. There are some exceptions to determine if a customer’s income will remain consistent.

Consumer Review Fairness Act bars contracts from including terms that prohibit or restrict a consumer’s ability to post reviews about a company or its products and services. This includes fines or fees for posting reviews.

The Fair Debt Collection Practices Act applies to third-party debt collection practices. FDCPA limits when a debt collector can call the debtor, what they can tell third-parties, and what they can say to a debtor. Some specific rules include:

- Debt collectors cannot talk to most third parties about a customer’s debts;
- Cannot call between 9pm and 8am unless the consumer states otherwise;
- Cease communications at the consumer’s request, but the debt collector may notify the consumer that they will invoke specified remedies; and
- No false or misleading representations, including the amount of legal status of the debt.

Complaint Response

Customer complaints arise from time to time. Complaints can relate to everything from marketing claims to system maintenance. And complaints come from various channels, such as phone calls, social media, or trade associations. While it can be frustrating to hear complaints, companies need to take them seriously and quickly respond. Inattention or a haphazard response to complaints can cause easily resolved issues to spiral out of control. Businesses should consider having a formal complaint response plan in place to ensure complaints are reviewed and any decisions are communicated to the complainant. A complaint response plan could address the following topics:

- Employees responsible for reviewing and handling complaints and those employees can respond to complaints in a timely manner
- Intake of complaints
 - Acknowledgement that complaints can come in different forms and from various channels.
 - Train employees in customer-facing roles or other customer relation positions (e.g., General Counsels) on intake procedures, complaint identification, etc.

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- Evaluation of complaints
 - Identify the type of complaint, the content of the complaint, and requested resolution
 - Designate a person or department in charge of reviewing complaints.
 - Identify departments which may be looped in to address a specific complaint (e.g., the installation department). In some cases, a complaint may involve multiple issues requiring attention from multiple departments.
- Resolving complaints
 - Identify the customer's ask
 - Recommended Resolution
 - Addressing unreasonable or unresponsive customers
 - If problems are discovered, then develop a plan to address it and reduce the likelihood of it happening again
- Communications to the appropriate parties
 - Communication to the consumer
 - Communication among the departments
 - Include during the resolution and post-resolution
 - For the post-resolution communication, this can include any recommended changes to business practices
- Review/Compliance
 - Review complaints to identify trends, gaps, and other needs
 - Results of a review may lead to revisions in written policies, trainings, or other actions

Training and Written Policies

Maintain written policies for staff. These documents can address company expectations for employees, such as codes of ethics, sales scripts, customer relations, and how to evaluate advertisement campaigns. Policies should also lay out disciplinary procedures and policies.

It is important to train employees who interact with consumers or have consumer interests as part of their job duties (e.g., sales and marketing). Staff should be trained when they join a company, and there should also be regular trainings for both management and staff to keep best practices front of mind. You should track completed training for each employee. Realistic examples can help employees better understand, identify, and correct potential problems.

Review your policies and materials. Changes in laws, state programs, and operations may require updates to your training programs and written policies. Customer and employee feedback (both positive and negative) may also offer useful insights regarding revisions to your trainings and areas worth extra attention.

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In addition, some laws impose record keeping obligations. For instance, federal telemarketing laws require consumer authorizations to be kept for at least two years. The Sarbanes Oxley Act offers a list of documents which need to be kept along with different retention periods based on the type of document. And states may have their own document retention or record keeping rules. Written policies should present clear information on which documents must be maintained and for how long.

Written policies coupled with trainings promote consistent operations, remind staff of their responsibilities, and reduce the number of complaints. Written policies and regular trainings may also help if the government investigates your business. A combination of a reliable training program, written policies, and enforcement of the policies help show a business takes reasonable steps to educate and oversee employees. This can reduce any penalties coming out of a consumer protection violation. In fact, some states require businesses to train salespersons on consumer protection laws and regulations. And some states offer defenses in certain cases if a business can demonstrate a robust training and compliance program.

Due Diligence and Risk Management

Third-party service providers can bolster your operations from advertising to sales. However, third-party service providers can leave you vulnerable to reputational harm and legal risk. Sales agents may make promises inconsistent with what you offer resulting in angry customers. Sloppy online lead generation practices have left lead buyers vulnerable to TCPA class actions. And government agencies have probed companies and their risk management practices when third-party service providers run amok. As a result, it is critical to pay close attention to your third-party providers. Careful vetting helps you make informed decisions and have some peace of mind when you hire a third-party service provider.

Due diligence, however, does not stop after you hire a service provider. It is essential to monitor and audit to verify the service provider lives up to their reputation and course correct to protect your business. Here are some potential due diligence and risk management measures and questions to ask potential service providers:

- Up Front
 - What products/services do you offer? Where do you sell them (states, utility territories, and localities)? Do you target particular groups?
 - How do you sell the product/service (*e.g.*, online or door-to-door)?
 - Do you participate in programs which may have special rules (*e.g.*, LMI programs)?
 - Do you use third-party service providers? Who are the service providers? What do they do for you?
 - Map out your legal risks and obligations.
- Due Diligence
 - What codes of conduct and written policies are in place? What type of trainings do they hold for relevant staff? Do they line up with your responsibilities?
 - What is their compliance program? Do they understand their duties?

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- What is the third-party provider's history of complaints and reputation?
- Who are the owners? Do they have a history of legal complaints?
- References
- What's in the collateral? For example, what's written on landing pages, advertisements, TCPA compliance statements, and sales scripts?
- Do they have all the necessary licenses and registrations in place? This can depend on the product, the role (*e.g.*, selling vs. referrals), and how they perform a role (*e.g.*, in-person sales).
- Does the vendor rely on subcontractors or sub-subcontractors? If so, who are those parties? What are the policies and practices? What oversight does the vendor exercise over them? Can you contact them?
- For lead generation, do they have a lead verification program? Is there a way to track the source of leads and their journey throughout the sales process?
- Contracts
 - Detail the compliance and performance requirements
 - Right to audit the service provider (*e.g.*, sales scripts and advertisements)
 - Indemnity provisions
- Oversight and on-going measures
 - Monitor your third-party vendors and audit them. Look at their advertisements, landing pages, marketing collateral, scripts, etc.
 - For online lead generation, consider lead tracking and verification technologies. There are services that record and store consumer interactions on a website. Information captured can include the date and time of the visit, page URL, and the individual's IP address. This lets you see consent language on the webpage and whether a consumer gave a valid consent before you call them.
 - In addition, there are tools to track where leads come from and their history throughout the sales process. Employing such tools can help you identify where leads come from, pain points in the sales process, and where complaint come from. This lets you improve your operations and your customers' experiences.
 - If an audit reveals bad practices or poor controls, take appropriate corrective action.

Installations

While installation quality is not the focus of this guide, SEIA's Quality Assurance Working Group has published an installation best practices guide to facilitate high-quality, consistent residential solar projects. Topics covered in the guide include system design, production estimates, installations, and operations & maintenance.

Key Laws and Regulations

Section	Name and What's Covered
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47 U.S.C. § 227	Telephone Consumer Protection Act Autodialers, prerecorded messages, and other telemarketing calls.
15 U.S.C. §§ 6101-6108	Telemarketing and Consumer Fraud and Abuse Prevention Act FTC rulemaking regarding telemarketing, including disclosures
15 U.S.C. § 6151	National Do-Not-Call Registry Creation of a national Do Not Call registry.
16 CFR Part 310	Telemarketing Sales Rule Telemarketing disclosures, prerecorded messages, recordkeeping, and deceptive and abusive telemarketing.
15 U.S.C. §§ 7701-7713	Controlling the Assault of Non-Solicited Pornography and Marketing Act Business-to-consumer emails
16 CFR Part 316	CAN-SPAM Rule Email rules, including sender information, disclosures, and opt-outs.
15 U.S.C. § 45	FTC Act Prohibits false and deceptive acts and practices.
16 CFR Part 233	Guides Against Deceptive Pricing
16 CFR Part 239	Guides for the Advertising of Warranties and Guarantees
16 CFR Part 251	Guide Concerning Use of the Word "Free" and Similar Representations
16 CFR Part 260	Green Guides Renewable Energy Certificates and other sustainability claims
16 CFR Part 255	Guidelines on Endorsements
15 U.S.C. §1125	Lanham Act False advertising by competitors and trademark infringement
16 CFR Part 238	Guidelines on Bait & Switch
15 U.S.C. § 1667 et seq.	Consumer Leasing Act Disclosures, formatting, and advertisements for consumer leases

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12 CFR Part 213	Regulation M Implements the Consumer Leasing Act
15 U.S.C. § 1601	Truth in Lending Act Consumer financing (<i>e.g.</i> , loans and retail installment agreements), including required terms, APR, and formatting
12 CFR Part 226	Regulation Z Implements the Truth in Lending Act.
16 CFR Part 429.1	Cooling-Off Rule
16 CFR Part 433	Holder in Due Course Rule Certain loans must allow a consumer to raise a seller's misconduct as a defense for not repaying a loan.
15 U.S.C. § 45a	Labels on Products FTC can regulate "Made in the USA" and "Made in America" claims.
16 CFR Part 323	Made in USA Labeling Rule "Made in the USA," "Made in America," and similar claims.
15 U.S.C. § 1692 et seq.	Fair Debt Collection Act
15 U.S.C. § 1681 et seq.	Fair Credit Reporting Act
50 U.S.C. §§ 3901-4043	The Service Members Civil Relief Act
15 U.S.C. § 7001 et seq.	Electronic Signatures in Global and National Commerce Act
15 U.S.C. §§ 6801 - 6809	Gramm-Leach-Bliley Act Notices of information sharing and data protection connected with consumer financial products.
12 CFR Part 1016	Regulation P Implements Gramm-Leach-Bliley
FCC 13-54	Vicarious liability in telemarketing

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Links

Industry Resources

- SEIA Solar Business Code: <https://www.seia.org/initiatives/seia-solar-business-code>
- SEIA Disclosure Forms: <https://www.seia.org/research-resources/solar-transaction-disclosures>
- SEIA Consumer Guide to Rooftop Solar: <https://www.seia.org/research-resources/residential-consumer-guide-solar-power>
- SEIA Consumer Guide to Community Solar: <https://www.seia.org/sites/default/files/Residential%20Consumer%20Guide%20to%20Community%20Solar%20-%20FINAL.pdf>
- SEIA Installation Best Practices Guide: <https://www.seia.org/sites/default/files/2018-09/SEIA-Residential-Installation-Best-Practices-Guide-2018-September.pdf>
- Database of State Incentives for Renewables & Efficiency: www.dsireusa.org

Government Resources

- United States Code: <https://www.law.cornell.edu/uscode/text>
- Code of Federal Regulations: <https://www.ecfr.gov/>
- Federal Trade Commission: <https://ftc.gov/>
- Consumer Financial Protection Bureau: <https://www.consumerfinance.gov/>
- Federal Communications Commission: <https://fcc.gov/>
- Do-Not-Call Registry: <https://telemarketing.donotcall.gov/>
- FCC Reassigned Number Registry: <https://www.reassigned.us/>

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State Addendums

In addition to federal laws, states have their own consumer protection laws which can mirror federal laws or impose stricter requirements. For example, many states have deceptive and unfair practices laws that not only mirror the FTC Act (a.k.a. “mini-FTC Acts”), but also direct state courts and enforcement agencies to follow FTC guidelines and federal court decisions regarding the FTC Act.⁴

Telemarketers may have to deal with both the federal Do-Not-Call list and state Do-Not-Call lists. Rooftop system sales may fall under home improvement contract regimes which may affect the enforceability of a contract or entail additional contract and advertising rules. And some states have solar-specific rules. As a result, it is critical to understand your state’s consumer protection laws.

The following states addendums touch on advertising, marketing, telemarketing, contracts, and solar specific rules. The addendums do not address contractor licensing requirements with contractor boards, but they address other registration or licensing requirements like those for salespersons. There may be other rules applicable to your business, such as those regarding debt collection.

⁴ States that recognize some level of deference to the FTC and federal courts’ interpretation of the FTC Act include Alabama; Alaska; Arizona; Connecticut; Florida; Georgia; Idaho; Illinois; Louisiana; Maine; Maryland; Massachusetts; Montana; New Hampshire; New Mexico; North Carolina; Ohio; Pennsylvania; Rhode Island; South Carolina; Tennessee; Texas; Utah; Vermont; Washington; and West Virginia.

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Arizona

Advertising in General

Arizona prohibits deception, fraud, misrepresentations, and unfair acts and practices connected with sales and advertisements. Arizona's law notes that state courts may look to FTC guides and federal court decisions regarding the FTC Act.

Written bids, estimates, advertisements, and other collateral for home improvements must display "ROC" followed by a contractor's license number. However, broadcast, internet, and billboard advertisements may instead include a link to website that prominently displays the contractor's name and license number.

Home Solicitation Sales

Arizona's law appears to follow the FTC's Cooling Off Rule. The law also appears to prohibit referral sales where the seller offers a commission or rebate to the customer in exchange for a list of prospective customers or assisting with a sale to someone else. Referral sales are voidable by the buyer.

Home Improvement Agreements

A customer must receive legible copies of all signed documents associated with a home improvement contract. Contracts must include the following terms:

- Name, business address, and contractor's license number;
- Name and mailing address of the customer and the jobsite;
- Date of contract;
- Estimated date of completion;
- Description of work to be done;
- Total dollar amount for the job, including taxes;
- Deposits and payment schedule; and
- A prominently displayed statement in at least 10-point bold font about the customer's right to file a complaint with Contractor Registrar. The statement must include the Registrar's phone, Registrar's web address, and a notice "that complaints must be made within the applicable time period as set forth in [section 32-1155, subsection A.](#)"

Telemarketing

Telemarketers have to register with the Secretary of State; however, entities licensed under Title 32 (*e.g.*, home improvement contractors) only need to file a limited registration statement. The law also exempts one who makes a solicitation but completes the sale at a face-to-face meeting.

Before the start of the sales pitch, the caller must disclose: 1) the street address of where they're calling from; 2) the address of seller's principal location; 3) the legal name of the company they represent; 4) the true legal name of the solicitor; and 5) that call's purpose is to sell something.

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During the call or in follow-up correspondence, the sellers must disclose:

- Any charge, including the amount for the use of any premium being offered.
- Any material restriction, requirement, condition, limitation or exception that is associated with the use of the premium.
- Any charge connected with the sale of merchandise.
- The time period within which any premium will be delivered.
- The consumer's right to cancel the transaction pursuant to subsection C.

Sales made by telephone are ineffective unless the seller is told: 1) orally and in writing the legal name, telephone number and complete street address of the physical location of the seller; and 2) orally, their cancellation rights.

Solar Specific Requirements

A company who sells or leases a rooftop solar system in Arizona must give the consumer a certificate that the solar system complies with Arizona's new laws.

If a contract has blank spaces in areas that may have a material effect on the "timing, value or obligations of the agreement," then the agreement is voidable until the company installs the system. In addition, any blank spaces must be shown and initialed by the consumer at the time the agreement is signed.

Leases and PPAs must include the following terms that are to be separately acknowledged by the customer:

- Make/model of all major components or a production guarantee good for the life of the system;
- Length of the warranty for major components if it is less than the duration of the agreement;
- Total Cost;
- Interest, installation fees, document preparation fees, and other fees
- For leased/financed systems, the payment schedule;
- Cooling off period provision;
- Any restrictions on transferring or modifying ownership of the system plus the name and contact information for the party who's will review and approve the request
- A statement about utility rates:
"Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted. Projected savings from your distributed energy generation system are therefore subject to change. Tax incentives are subject to change or termination by executive, legislative or regulatory action."

Other terms that need to be listed in the contract include:

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- To the extent government incentives are used to determine the system's purchase price, identify all state and federal incentives and rebates that the buyer might be eligible for along with their requirements;
- Potential tax obligations for the consumer including;
 - The assessed value and the property tax assessments for the year
 - Transaction privilege taxes
 - Transfer tax incentives and credits to another party
- Whether warranty obligations may be sold or transferred to another party;
- Any restrictions on the homeowner's ability to transfer ownership of their home; and
 - If there is a restriction, the company must provide the name and contact info for the party who's will review/approve the request
- A full and accurate summary of total O&M costs

A company (manufacturers or installers) must provide a written description of the warranty, responsibilities assumed or disclaimed, and a device's performance data, along with the components of the device. The source of any performance data must be disclosed. The Registrar of Contractors is responsible for approving such written description.

If future electricity rates are projected, the agreement has to list projections over the life of the agreement based on at least 5% decreases per year through at least 5% increases per year in 1% increments. For example, if a company offers a 20-year lease and predicts that utility rates will increase 3% per year, it must include estimated future electricity rates over the next 20 years based on: 5%, 4%, 3%, 2%, 1% decreases per year **and** 0%, 1%, 2%, 3%, 4%, and 5% increases per year (i.e., at least 11 projections).

If a savings estimate is provided or savings are suggested, documents talking about savings needs to substantiate the methodology used to calculate savings and quantify the savings over the life of the agreement. Further, a document with a savings estimate must show the previous utility rates for the consumer's utility over a number of years equal to the duration of the agreement.

Key Laws and Regulations

Section	What's Regulated
ARS 44-1271 et seq.	Telephone solicitations
ARS 44-1521 et seq.	Unfair and deceptive acts and practices
ARS 44-5001 et seq.	Home solicitations and referral sales

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ARS 44-6001 et seq.	Retail installment agreements
ARS 44-7001 et seq.	Electronic Transactions
ARS 32-1101 et seq.	Contractor licensing and registration
ARS 32-1158	Home improvement contracts
ARS 44-1761	Distributed Generation warranties, contracts, and disclosures

Links to State Resources

- Arizona Revised Statutes: <https://www.azleg.gov/arstitle/>
- Arizona Registrar of Contractors: <https://roc.az.gov/>
- Arizona Corporation Commission: <https://www.azcc.gov/>

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California

Advertising in General

California laws prohibit unfair and deceptive acts and practices just like their federal counterparts. Some examples of unfair and deceptive acts include:

- Misrepresenting sponsorship, certification, or affiliation
- False or misleading disparagement of another's goods or business
- Advertising goods or services with intent not to sell them as advertised
- Most prerecorded calls that do not start with a live caller

Home Improvement Contractors have to display their license numbers in any advertisement which, according to the CSLB, includes business cards, brochures, proposals, vehicle signage, and clothing with the company name and logo.⁵

Each commercially registered vehicle must display the business name and contractor license number in a visible location. The name and contractor license number have to be in at least 72-point font or the letters be at least 0.75 inches high and wide.

According to a 2020 CSLB newsletter, lead generators who sell systems, provide quotes, or negotiate contracts must follow all applicable registration and licensure requirements. But lead generators do not need a Home Improvement Salesperson registration if they simply refer consumers to a licensed contractor and their registered salespersons.⁶

Home Solicitation Sales

California's home solicitation sales law is similar to the FTC's Cooling Off Rule. However, senior citizens (65 years old or older) have a five-business day cooling off period instead of the typical three business day period.

Home Improvement Agreements

A person who negotiates agreements on behalf of a contractor must be registered as Home Improvement Salesperson ("HIS") with the California State Licensing Board ("CSLB"). This requirement applies to both employees and third-party salespersons. There are certain exceptions to HIS registration rules. For example, officers of record for the company and persons listed in the CSLB's records as being associated with license do not need to register as a HIS.

A consumer must receive a signed copy of the agreement before any work begins. Agreements must be in at least 10-point font and contain the following provisions:

- Heading in bold font that reads "Home Improvement"
- On the first page

5 See <https://www.cslb.ca.gov/Newsletter/2019-Spring/3-Advertising-Rules.asp>

6 See https://www.cslb.ca.gov/Resources/Newsletters/ContractorNewsletterSpring_2020.pdf

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- The date the consumer signed the agreement; and
 - The name and address of contractor who should receive the Notice of Cancellation along with a note that buyer can send the notice to that contractor
- Name, business address, and license number of the contractor
- If applicable, the name and registration number of the HIS who solicited or negotiated the contract. According to the CSLB, the HIS registration must be attached to the company whose name is on the contract.
- Statement in at-least 12-point font:
 - “You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started.”
- Total amount of the contract with the heading “Contract Price”
- If finance charges will be included, a separate section for any finance charge and the heading “Finance Charge”
- A description of the project and materials to be used plus the heading “Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed,”
- If a down payment is charged
 - A heading of “Downpayment;”
 - The amounts charged; and
 - A statement in at least 12-point font: “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.”
- If progress payments are charged,
 - A heading of “Schedule of Progress Payments”;
 - The amount of each payment coupled with the corresponding milestone; and
 - A statement in at least 12-point font: “The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT.”
- Information on start and end dates
 - What constitutes substantial commencement of work;
 - Approximate commencement date with the heading “Approximate Start Date” (e.g., November 20, 2021); and
 - Approximate completion date with the heading “Approximate Completion Date.”
- Documents to be incorporated along with the heading “List of Documents to be Incorporated into the Contract” (if applicable)
- The heading “Note About Extra Work and Change Orders” along with the following statement:

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- “Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments.”
- Liability insurance notice. The notice may be in an attachment if the agreement says *“A notice concerning commercial general liability insurance is attached to this contract.”* The notice must have the heading *“Commercial General Liability Insurance (GCL)”* followed by one of the following statements:
 - “(The name on the license or ‘This contractor’) does not carry commercial general liability insurance.”
 - “(The name on the license or ‘This contractor’) carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at _____ to check the contractor’s insurance coverage.”
 - “(The name on the license or ‘This contractor’) is self-insured.”
 - “(The name on the license or ‘This contractor’) is a limited liability company that carries liability insurance or maintains other security as required by law. You may call (the insurance company or trust company or bank) at ___ to check on the contractor’s insurance coverage or security.”
- Workers’ compensation insurance notice. The notice may be in an attachment if the agreement says *“A notice concerning workers’ compensation insurance is attached to this contract.”* The notice must have the heading *“Workers’ Compensation Insurance”* followed by one of the following statements:
 - “(The name on the license or ‘This contractor’) has no employees and is exempt from workers’ compensation requirements.”
 - “(The name on the license or ‘This contractor’) carries workers’ compensation insurance for all employees.”
- A notice about extra or change-order work which includes the following statements:
 - Buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order.
 - Extra work or a change order is not enforceable against a buyer unless the change order also identifies all of the following in writing prior to the commencement of work covered by the new change order:
 - The scope of work encompassed by the order.
 - The amount to be added or subtracted from the contract.
 - The effect the order will make in the progress payments or the completion date.
 - Contractor’s failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

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- Mechanic's Lien Warning

“MECHANICS LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics lien on your property. A mechanics lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a ‘Preliminary Notice.’ This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if they are not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's internet website at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

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REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.”

- Notice about the CSLB in at least 12-point font
“Information about the Contractors State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor’s employees.

For more information:

Visit CSLB’s internet website at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

- Notice about cancellation rights for non-senior citizens which much in at least 12-point bold face font
“Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may

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keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

- Notice about cancellation rights for senior citizens which must be in 12-point boldface font

“Five-Day Right to Cancel

You, the buyer, have the right to cancel this contract within five business days. You may cancel by emailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the fifth business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

- For either cancellation notice, it must be
 - In near proximity to the customer’s signature line
 - Customer acknowledges receipt of the notice by signing and dating the notice form in the signature space
 - Notice may be attached to the contract **if** there’s a statement in 12-point bold face type which reads
 - For a contract with a senior citizen: “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Five-Day Right to Cancel.’”
 - For all other contracts: “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Three-Day Right to Cancel.’”
- The cancellation notice
- The cancellation notice shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which also shall be attached to the agreement

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or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

 /enter date of transaction/
(Date)

“You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to /name of seller/ , at /address of seller's place of business/ , not later than midnight of /date for last day of cancellation/ .

I hereby cancel this transaction. /Date/

 /Buyer's signature

- Near the signature line, a statement that the consumers can require the contractor to have a performance and payment bond

Change orders can only become part of the contract if it is written and signed.

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Telemarketing

State law directs “telephonic sellers” to register annually with the Attorney General’s office and post a bond. However, persons or businesses licensed under Business & Professions Code, Chapter 9 of Division 3 who sell products governed by those sections are not telephonic sellers. Home Improvement Contractors fall under Business & Professions Code Chapter 9 of Division 3.

California does not maintain a state-specific DNC list, but it does prohibit calls to residential numbers on the federal DNC list absent the appropriate consumer permissions or exceptions. In addition, it is illegal to interfere with a consumer’s attempts to be placed on a DNC list or charge a fee to place a consumer on a DNC list. Businesses with an established business relationship with a consumer cannot persuade a consumer to put their name on a DNC list to keep competitors from calling the consumer.

The prohibition on calls to DNC list numbers does not apply if there is an express written agreement. Callers, however, have the burden of proof in showing that a signed agreement exists. Written agreements shall include a clear, conspicuous disclosure of 1) The name of the entity requesting permission to call; 2) the consumer’s telephone number; and 3) the consumer’s signature; and 4) that the consumer may be contacted by the seller or its agents even though the consumer is on the DNC list. There are other exemptions for callers with an established business relationship with the consumer.

Solar Specific Rules

All rooftop solar contracts – except systems installed as part of new home construction – must include a disclosure form published by the CSLB.⁷

AB 1070 directed the California Public Utilities Commission to develop standard inputs and assumptions for solar savings estimates. Solar providers have to present a baseline estimate to all consumers which accounts for the following:

- An annual production estimate using PVWatts
- Load profile based on the home’s hourly usage over the last twelve months. An estimated load profile can be used if the hourly data is unavailable or inaccessible
- Rate schedules based on customer’s current, pre-solar rate class. For the post-solar bill estimates, you must use the rate class most beneficial to the consumer.
- Utility escalation rate: Capped at 4% as of March 2021
- Degradation rate: Use the manufacturer’s published numbers. Acceptable documentation includes test reports.
- Length of savings: 20 years

⁷ <https://www.cslb.ca.gov/Resources/Contractors/SolarDisclosureDoc.pdf>

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A solar provider may offer an alternate savings estimate using different parameters except for the utility escalation rate.

Solar providers have to give customers a copy of the CPUC customer packet before the contract is signed, and the customer has to initial and sign the packet. A copy of the signed packet is uploaded with the interconnection application along with a copy of the contract. This requirement does not apply to solar system installed as part of a new home construction.

LMI Considerations

California offers discounted electricity rates to select households through the California Alternate Rates for Energy Program (“CARE”) and Family Electric Rate Assistance Program (“FERA”) programs. Eligible households must meet either an income threshold or participate in certain public assistance programs.

Citations of Key Laws and Regulations

Section	What’s Regulated
Pub. Util. Code §§ 2871-2876	Automatic Dialing Devices
Civ. Code § 1667 et seq.	Unlawful contracts and provisions
Cal.Bus. & Prof.Code § 17511.1	Telephonic Sellers
Cal.Bus. & Prof.Code § 17200 et seq.	Unfair and deceptive acts and practices
Cal.Bus. & Prof.Code § 17590 et seq.	Telemarketing
Cal.Bus. & Prof.Code § 17560	Automatic purchase renewals
Civ. Code § 1770	Deceptive practices
Cal.Bus. & Prof.Code § 7150 et seq.	Home improvements, including contracts and salespersons, solar disclosures
Civ. Code § 1799.200 et seq.	Customer receipt of signed contracts
Civ. Code § 1689.7	Contract language must match the principal language used in the sales presentation

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Pub. Util. Code § 2869	DG leases and PPAs
Pub. Util. Code § 2854.6	Savings estimates
10 CCR § 1620.01	PACE, including PACE solicitors
16 CCR § 861	Home improvement advertisements
Cal. Civ. Code § 1633.1 et seq.	Electronic transactions, including attribution of electronic signatures

Links to State Resources

- California laws: <https://leginfo.legislature.ca.gov/faces/codes.xhtml>
- California Code of Regulations: <https://oal.ca.gov/publications/ccr>
- California State Contractors Licensing Board: www.cslb.ca.gov
- California Department of Financial Protection & Innovation: <https://dfpi.ca.gov>
- California Public Utilities Commission: www.cpuc.ca.gov

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Colorado

Advertising in General

Colorado law prohibits deceptive trade practices and presents a laundry of deceptive acts which include false representations about certifications, affiliations, performance, and pricing. The law notes that the listed deceptive acts is not exclusive.

Home Solicitation Sales

Colorado's home solicitation contract laws appear to follow the FTC's rules.

Telemarketing

Businesses conducting commercial telephone solicitations have to register each year with the Attorney General's office at least ten days before calling consumers in Colorado. Colorado law offers some exemptions to registration.

Colorado has a state-specific DNC list managed by the Public Utilities Commission ("PUC"), and telemarketers need to register with the PUC. Updated DNC lists are released once a quarter and businesses have twenty days from publication to use the update list.

If a sale is made by telephone, it is illegal to not inform the customer about their cancellation rights or preventing them from canceling during the cooling off period. Refunds have to be made within 30 days after the seller receives the notice of cancellation. And any deceptive trade practice during the course of a sales call is actionable. Deceptive acts include misrepresenting that consumer won a sweepstakes or will receive a free product.

Citations of Key Laws and Regulations

Section	What's Regulated
CRS 6-1-101 et seq.	Unfair and deceptive trade practices.
CRS 6-1-301 et seq.	Telemarketing practices, including false or deceptive representations. Requires commercial telemarketers to register with the states.
CRS 6-1-901 et seq.	Establishes a Colorado Do-Not-Call list and makes it unlawful to call someone on the DNC list absent certain permissions or exceptions.
CRS 12-23-101 et seq.	Establishes a licensing board for electricians which will administer examinations and inspect systems in areas without adequate inspectors
CRS 5-3-401 et seq.	

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Home solicitation agreement rules, including required terms and cooling off periods.

Links to State Resources

- Colorado Revised Statutes: <http://www.lexisnexis.com/hottopics/colorado/>
- Colorado Public Utilities Commission: <https://puc.colorado.gov/>
- Colorado Division of Professions & Occupations: <https://dpo.colorado.gov/>

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Florida

Advertising in General

Florida law prohibits unconscionable, unfair, and deceptive acts and practices. According to the law, any interpretations of the law should be consistent with federal laws, regulations, and guidance.

Home Solicitation Sales

Like the federal rules, Florida defines door-to-door sales to include sales made anywhere outside of the seller's fixed business location. Both businesses and salespersons need a home solicitation permit for door-to-door sales. Salespersons must carry a permit with them during home solicitations and display the permit before beginning a solicitation. The requirement does not apply when the salesperson visits a home at the consumer's request.

During the visit, salespersons must leave a business card, contract, or receipt that includes:

- The disclosures required under Fla. Stat. § 501.031;
- Parent company's name, address, and phone number; and
- Salesperson's name, address, and phone number.
- Florida has other requirements for home sales consistent with the FTC's Cooling Off Rule.

Home Improvement Agreements

A home improvement contract cannot include any blank spaces when signed and the customer has to receive a copy of the signed contract. Agreements must contain the following terms:

- Name, address, and contractor license number of company;
- Name of the salesperson;
- Approximate dates for when work will begin and end;
- Description of work and materials;
- Amounts financed;
- Total payments due minus any down payments;
- Number of monthly payments and amount due for each month;
- Description of any collateral security taken;
- 10-pt bold prescribed notice about signing blanks, right to a copy at time of signing, and potential for liens for failure to pay; and
- Whether workman's comp and public liability insurance are carried.

Telemarketing

Telemarketers operating in Florida or calling Florida consumers need a license; however, there is a list of exemptions to the registration requirement.

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Calls using automated dialing systems or prerecorded messages need prior express written consent which in turn requires four things: 1) The consumer's signature; 2) Clear authorization for calls, texts, prerecorded messages, and the use of autodialers; 3) The consumer's phone number; and 4) A clear and conspicuous statement that the consumer authorizes telemarketing calls and that there is no need to sign the authorization as a condition of purchase. Unlike federal laws, Florida does not define automated dialing systems (a.k.a. autodialers).

The state imposes a three-call limit on solicitation calls regarding the same subject matter if the caller uses an autodialer or prerecorded messages. In addition, Florida law has a rebuttable presumption that calls made to phone numbers with a Florida area code is a call to a Florida resident or person within the state.

Calls are restricted to 8am to 8pm and the caller must disclose within the first 30 seconds the caller's true name, the company on whose behalf they're selling for, and type of goods or services being offered.

Telephone sales are unenforceable until a written agreement is sent to the customer. The agreement must contain:

- Name, address, phone number, and telemarketing license of the seller;
- A description of the goods sold;
- A notice that no payments are due until the contract is signed and returned; and
- Information on the consumer's cooling off rights and where to send cancellation notices.
- Records of telemarketing must be kept for two years. Records include names and numbers of each consumer called, authorizations, scripts and presentations, and sales collateral.

Solar Specific Rules

Rooftop solar contracts must include a disclosure form published by the Department of Business and Professional Regulation ("DBPR") or company's own form if it is substantially the same as the one published by the state. There are exemptions for systems sold as part of a new home and system sales that require full payment by the time the system is installed or delivered to the customer.

Key Laws and Regulations

Section	What's Regulated
Fla. Stat. Ann. §§ 501.021 – 501.055	Home solicitation sales
Fla. Stat. Ann. § 520.60 et seq.	Home improvement sales and financing

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Fla. Stat. Ann. § 501.201 et seq.	Deceptive and unfair trade practices
Fla. Stat. Ann. § 501.601	Telemarketing
Fla. Stat. Ann. § 516.001 et seq.	Consumer finance
Fla. Stat. Ann. § 520.20 et seq.	Solar system disclosures
Fla. Stat. Ann. § 489.128	Contracts with unlicensed contractors

Links to State Resources

- Florida Statutes: <https://www.flsenate.gov/Laws/Statutes/>
- Florida Department of Business & Professional Regulation: <http://www.myfloridalicense.com/DBPR/>
- Florida Solar Disclosure Forms: https://floridabuilding.org/c/c_publications.aspx
- Florida Public Service Commission: <http://www.psc.state.fl.us/>

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Hawaii

Advertising in General

Hawaii has a mini-FTC act which prohibits unfair and deceptive acts or practices. According to the law, any interpretations of the law should be consistent with federal laws, regulations, and guidance.

Licensed contractors must display the name associated with the license and the license number in any advertisement which includes, but is not limited to, radio ads, billboards, vehicle signage, and yellow page listing.

Advertisements and offers for solar system which include a sales price must disclose 1) the cost of necessary equipment and installation; and 2) unrelated items such as “free gifts” and other incentives used to promote the purchase.

Home Solicitation Sales

Hawaii’s home solicitation contract rules are consistent with the FTC’s Cooling Off Rule except that companies need to account for state holidays (*e.g.*, King Kamehameha I Day). Moreover, home improvement contracts sold through a home solicitation without the appropriate contractor license have a 30-day cancellation period. A contract is unenforceable if the seller does an unfair or deceptive act.

Home Improvement Agreements

A home improvement contract is unenforceable unless all requirements are met. Before the customer signs an agreement, the contractor has to make the following disclosures:

- Verbally explain lien rights of all parties (including subcontractors);
- Verbally explain in detail the homeowner's option to demand bonding on the project, how the bond would protect the homeowner, and the approximate expense of the bond;
- Approximate percentage of work to be subcontracted
- Contractor’s bonding status and the customer has the right to demanding bonding for the project. If the contractor is not bonded, the extent of any financial security available to assure performance;
- Contractor license number and classification(s);
- All warranties (if any); and
- Estimated cost of the project

A customer must receive a written home improvement contract that includes the following terms:

1. Name, address, license number, and classification(s) of the contractor;
2. Dollar amounts due;
3. Date work is to start and number of days for completion;
4. Scope of the work to be performed and materials to be used;

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5. Approximate percentage of work to be subcontracted and the names and license numbers of all subcontractors (if any);
6. A clear statement of the risk of loss of any payments made to a sales representative (printed in distinct capital letters next to the owner's signature line);
7. Lien rights of parties to the contract including the contractor, subcontractors, or any materialman supplying commodities or labor on the project;
8. Homeowner's option to demand bonding on the project, how the bond would protect the homeowner and the approximate expense of the bond;
9. Notice of the contractor's right to resolve alleged construction defects prior to commencing any litigation in accordance with HRS Section 672E-11
10. The terms of any warranty offered; and
11. The signatures of the homeowner and the contractor.

Telemarketing

Telemarketers cannot break any rules related to the federal DNC list, the FTC's Telemarketing Sales Rule, and the Telephone Consumer Protection Act. Within the first minute an outbound call, finished within the first three minutes, and before a payment request, the seller needs to need state the following:

- True purpose of the call
- Goods and services being sold; and
- The caller's name and the company name on whose behalf they're calling

Telemarketers cannot offer any prize conditioned on payment or purchase. If a customer agrees to purchase something during the call, the caller has to offer the following disclaimer: "YOU ARE NOT OBLIGATED TO MAKE ANY PAYMENT UNLESS YOU SIGN THIS CONFIRMATION AND RETURN IT TO THE SELLER."

Further, a seller cannot misrepresent the goods or services. Sellers cannot state they are registered with the State or endorsed by the State.

Hawaii law defines abusive telemarketing practices to include threatening consumers or using profane language, cause a telephone to ring more than ten times, call a consumer after they said they do not wish to be contacted, and make a call between 9pm and 8am.

Telemarketers need to maintain records of their activities for two years. Some of the records include:

- Location of the telephone solicitor and seller plus the street address of where the calls were made from;
- Injunctions, temporary restraining orders, consent orders involving violations of state or federal telemarketing laws;
- Copies of all express verifiable authorization;
- Procedures for maintaining an internal DNC list;
- Call scripts and outlines, training materials, and handbooks; and

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- Materials to be provided to a consumer.

Contracts made as a result of violation of Hawaii’s telemarketing law is voidable by a customer.

Solar Specific Requirements

Offers and advertisements must present the following disclosures about the sales price:

- “The cost of the solar energy device and accessories related to the operation of the solar energy device and for their installation; and”
- “The cost of items unrelated to” the system, such as gifts

Key Laws and Regulations

Section	What’s Regulated
HRS § 481C-1 et seq.	Door-to-Door Sales
HRS § 444-9.2	Contractor advertisements
HRS § 444-25.5	Home improvement contract disclosures
HRS § 481b-6	Solar sales disclosures
HRS § 480d-1 et seq.	Collection practices
HRS § 481-9.5	Auto-renewal clauses
HRS § 481M-1 et seq.	Lease-Purchase agreements for personal property
HRS § 481P-1 et seq.	Telemarketing
HRS § 487A-1 et seq.	Language of consumer transactions
HRS § 489E-1 et seq.	Electronic transactions
HAR § 16-77-83	Contractor advertisements
HAR § 16-77-79	Contractor disclosures to the consumer

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HAR § 16-77-80	Contractor contracts
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Links to State Resources

- Hawaii Contractor License Board: <https://cca.hawaii.gov/pvl/boards/contractor/>
- Hawaii Revised Statutes: <https://www.capitol.hawaii.gov/docs/hrs.htm>
- Hawaii Administrative Rules: <https://cca.hawaii.gov/hawaii-administrative-rules/>
- Hawaii Public Utilities Commission: <https://puc.hawaii.gov/>

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Illinois

Advertising in General

The Illinois has a mini-FTC Act which prohibits unfair and deceptive acts or practices. The Illinois law states that considerable weight is to be given to the FTC's and Federal Courts' interpretations of the FTC Act.

Home Solicitation Sales

The Illinois home solicitation contract laws appear to follow the FTC's rules.

Home Improvement Agreements

A home repair salesperson must be licensed in each city and county that they operate in.

State law directs contractors to give a copy of the state-published pamphlet to consumers. A customer must sign an acknowledgment that they received the pamphlet. The contractor keeps the signed acknowledgment and hands over a signed copy to the consumer.

Contracts must include 1) the business name and address of the company; 2) total cost of the project; and 3) parts and materials described with reasonable particularity. If a PO Box is listed as the address, the contract must list the home address of the person performing the work. Contractors also need to inform consumers about the presence of a binding arbitration clause or waiver to a right to a jury trial.

Most home improvement agreements have a cooling off period of at least three business days. However, senior citizens (65 years old or older) have fifteen business days to cancel without penalty.

If the business changes their name or address before the start or completion of a project, they need to notify the customer within 10 days of the change.

Home Repairs

The Illinois home repair fraud law makes it illegal for a contractor to knowingly misrepresent a material fact about the agreement or themselves, enter into an unconscionable agreement, or uses deception to enter into an agreement with a consumer. The law lists seven situations which create a rebuttable presumption of fraud.

Telemarketing

Illinois telemarketing law appears to be consistent the FTC's Telemarketing Sales Rule for calls not made with an autodialer. If an autodialer is used, a business must maintain a list of all numbers called. Calls made with an autodialer must comply with the following:

- Call time limitation from 9am to 9pm
- Call must disconnect within 30 seconds after it ends. If that is unfeasible, a live caller must be used and begin the call with their name, purpose of the call, and

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their business's name, address, and phone number then ask if the consumer wants to hear a prerecorded message.

- Cannot be used to dial numbers sequentially
- Cannot spoof or block caller ID.

Exceptions to the autodialer rule include calls made at the customer's request and calls to customers where there is a preexisting relationship between the two parties.

Solar Specific Rules

Rooftop solar installers have to register with the Illinois Commerce Commission before installing a system. Moreover, Rooftop and community solar providers participating in the Adjustable Block Program ("ABP") have to register as Approved Vendors with the Illinois Power Agency. Third-party service providers (e.g., sales firms) must be registered as Approved Vendor designees. And Approved Vendors are responsible for ensuring their service providers follow relevant Adjustable Block Program rules.

Records of installations need to be kept for three years after the calendar year in which they were created.

All customers must receive a copy of the Illinois Power Agency published brochure to customers before signing the contract. A disclosure form needs to accompany all contracts. Moreover, all contracts must include the following terms in at least 12-point font:

- Legal name and address of the seller
- Charges for service
- Term of the contract, including renewal clauses
- Early termination fees;
- Deposits; and
- Fees for switching to the Approved Vendor

Community solar agreements must include additional terms, such as security deposits, when the solar provider may terminate the agreement, data privacy policies, and system maintenance plans.

The ABP's marketing guidelines offers specific guidance on claims connected to RECs, system costs, bill savings, use of the Illinois Shines logo, affiliation with government entities and utilities, and testimonials. In addition, Approved Vendors must comply with marketing rules for alternative energy suppliers.⁸ Some notable requirements from the alternative energy supplier rules include:

⁸ See Section 7.6 of Illinois Power Agency Long-Term Renewable Resources Procurement Plan. Applicable sections include 412.105(a)-(c), 412.120, 412.130, 412.140(a)-(b) & (d), 412.150, 412.160(a)-(b) & (d), 412.170, and 412.180. Community solar providers also need to follow 412.210 and 412.240.

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- For in-person solicitations, the salesperson must wear a badge with their photo, name, company’s name & logo, and ID number.
- In-person solicitations cannot take place after the earlier of dusk or 7:00pm;
- Businesses must perform background checks on employees and third-party providers who solicit customers in-person;
- During sales calls, the callers must state their name, ID number, and that they represent an Approved Vendor. If it is clear the consumer does not understand English, the caller must either terminate the call or transfer the consumer to someone who speaks a language understood by the consumer;
- Solicitation calls resulting in a sale must be recorded and retained for at least two years. Sales calls greater than two minutes, but did not result in a sale, must be recorded and kept for at least 6 months.;
- Salesperson s must be trained on relevant sales & marketing rules;
- Contracts must be retained for the greater of two years or the term of the contract. If a customer requests a copy of the agreement, the seller has 7 business days to send the copy.;
- Community solar agreements must comply with the alternative energy supplier rules for contract renewals and contract rescission.

Key Laws and Regulations

Section	What’s Regulated
815 ILCS 505/2	Unfair and deceptive trade practices
815 ILCS 505/2N	Non-English transactions
815 ILCS 513/1 et seq.	Home repairs
815 ILCS 515/1 et seq.	Home repair fraud
815 ILCS 517/1 et seq.	Internet callers
815 ILCS 413/1 et seq.	Telephone solicitations
815 ILCS 305	Automatic telephone dialers
815 ILCS 601/1 et seq.	Autorenewals
83 Ill. Adm. Code Part 412, Subpart B	Alternative energy supplier rules (Illinois Adjustable Block Program)

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Public Act 102-0662	Participation in the Illinois Adjustable Block Program
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Links to State Resources

- Illinois Compiled Statutes: <https://www.ilga.gov/legislation/ilcs/ilcs.asp>
- Illinois Administrative Code: <https://www.ilga.gov/commission/jcar/admincode/titles.html>
- Illinois Power Agency: <https://www2.illinois.gov/sites/ipa/Pages/default.aspx>
- Illinois Commerce Commission: <https://www.icc.illinois.gov/>

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Maryland

Advertising in General

Maryland law prohibits unfair and deceptive trade practices which include false and misleading claims. For example, advertised prices which do not include the cost of installation or other necessary components need to clearly and conspicuously explain that fact. The law states that considerable weight is to be given to the FTC's and Federal Courts' interpretations of the FTC Act.

For home improvement contractors, vehicles need to include the contractor license number preceded by "MHIC #" on both sides. This display must be at least 3 inches in height. In addition, all solicitations – print, radio, business cards, television, or online – must state the contractor's name and license number.

Home Solicitation Agreements

Maryland's home solicitation contract law follows the FTC's Cooling Off rule except that Maryland offers longer cooling off periods. Consumers who are at least 65 years old have 7 business days to cancel a contract without penalty. All other consumers have 5 business days. In Maryland, business days include all days except for Sundays, federal holidays, and state-specific holidays like American Indian Heritage Day (fourth Friday in November).

Contracts must include, in at least 10-point boldface, a statement about cooling off rights in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the fifth business day or seventh business day if the buyer is at least 65 years old, after the date of this transaction. See the attached notice of cancellation for an explanation of this right."

Home Improvement Agreements

Home improvement salespersons must be licensed with the Maryland Home Improvement Commission and cannot represent more than one contractor at any given time. Home improvement agreements must be signed by both parties, and the consumer must receive a signed copy of the agreement before work begins. The following terms must be reflected in an agreement:

- Name, contact information, and license number for the contractor;
- Name, contact information, and license number for each salesperson involved;
- Approximate dates for the job;
- Description of the work and materials to be used;
- Number of monthly payments and amounts, including any finance charges;
 - *Note that deposits are limited to 1/3 of the contract price*
- Any collateral security;
- Description of each document incorporated into the agreement;

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- Telephone number and website for the Maryland Home Improvement Commission and statements that:
 - Each contractor and subcontractor must be licensed; and
 - Anyone may ask the Commission about a contractor or subcontractor
- Notice developed by regulations that;
 - specifies the protections available to consumers through the Commission; and
 - advises the consumer of the right to purchase a performance bond for additional protection against loss.
- Statement about the Maryland Home Improvement Commission;
 - The Maryland Home Improvement Commission administers the Guaranty Fund, which may compensate homeowners for certain actual losses caused by acts or omissions of licensed contractors; and
 - A homeowner has the right to purchase a performance bond for additional protection against losses not covered by the Guaranty Fund.
- If applicable, a customer-initialed notice that a contractor will place a lien on the home; and
- If there is a mandatory arbitration clause, a statement about;
 - Who will conduct the arbitration
 - Any mandatory fees and a fee schedule
 - Whether the arbitrator's findings are binding
 - Claims against the Home Improvement Guaranty Fund by a consumer shall be stayed until completion of any mandatory arbitration proceeding
 - An adjacent space for both parties to initial and date
- If an agreement is conditioned on the approval of the contractor before becoming binding, it must include language that any decision will be made within 10 working days and that the decision will be sent to the consumer in writing.

In addition, contractors cannot offer gifts, cash loans, or bonus awards to entice customers; however, sales and price reductions are permissible.

Telemarketing

Maryland law makes it unlawful to violate the federal Telephone Consumer Protection Act or Telephone Sales Rule. The state treats violations of the federal telemarketing rules as a type unfair and deceptive trade practice.

Contracts made pursuant to a telephone solicitation must be in writing and signed and comply with all relevant regulations. In addition, a contract must include the following:

- Oral or written representations made by the seller about the transaction;
- A detailed description of the goods and services along with the price.
- The description of the goods or services must match the description made on the phone;
- The name, address, and phone number of the seller; and

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- A statement in 12-point above the signature line: “You are not obligated to pay any money unless you sign this contract and return it to the seller”

However, this requirement does not apply to Door-to-Door sales.

Solar Specific Rules

Maryland’s community solar pilot program mandates a disclosure form with a contract.⁹ While community solar provider can customize the form, there are requirements for font size, content, and overall presentation. In addition, door-to-door salespersons must be trained on federal, state, and local laws on advertising and marketing.

Community solar agreements must let customers downsize their agreements and only charge a reasonable fee for the downsizing. If a subscription automatically renews, then the customer must be notified at least 30 days before the scheduled renewal. The notice must state changes to material terms and conditions and how the customer can terminate the agreement without any penalty. Subscriptions need to contain all material terms, including:

- A plain language explanation of pricing and if pricing/charges may increase;
- Transferring a subscription, including costs;
- One-time and recurring charges;
- Other fees (e.g., late fees) and what triggers them;
- Length of the agreement and rollover provisions;
- Early termination, including processes and costs;
- (If applicable) Security deposit charged, when it may be returned, how it will be used, and how it will be protected;
- Customer termination rights, fees, remedies, and notice procedures;
 - And a similar one for providers
- (If applicable) Contract renewal procedures;
- Dispute resolution procedures;
- Maryland PSC’s toll-free number and website address;
- Notice that utility charges are not included;
- Bill procedures;
- Data privacy policies;
- How underperformance is compensated;
- Evidence of insurance;
- Maintenance plans;
- Production estimates and how they were developed;
- Contact information for questions and complaints; and
- How customers will be notified about outages lasting more than three business days, the estimated duration of the outage, and estimated lost production.

⁹ See https://www.psc.state.md.us/wp-content/uploads/Community-Solar-Contract-Disclosure-Form-and-Instructions_04162018.pdf

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Key Laws and Regulations

Section	What's Regulated
Md. Code Ann., Com. Law § 13-301	Unfair and deceptive trade practices
Md. Code Ann., Com. Law § 13-305	Prizes to entice consumers
Md. Code Ann., Com. Law § 13-304	Referral sales
Md. Code Ann., Com. Law § 14-201 – 204	Debt collection
Md. Code Ann., Com. Law § 14-301 et seq.	Door-to-door sales
Md. Code Ann., Com. Law § 14- 2200 et seq.	Contracts made through telephone solicitations
Md. Code Ann., Com. Law § 14- 3402	Protection of Social Security Numbers
MD Code, Business Regulation, § 8-301	Licensure of home Improvement contractors and salespersons
MD Code, Business Regulation, § 8-501 et seq.	Home Improvement contracts, salesperson, inducements, etc.
MD Code, Business Regulation, § 8-605 – 610	Home improvement contractor acts and practices
COMAR 20.62.05.08	Community solar subscription terms

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Md. Code Ann., Com. Law § 14-1201 et seq.	Consumer credit reporting agencies
Md. Code Ann., Com. Law § 14-3201	Telemarketing

Links to State Resources

- Maryland Statutes: <https://mgaleg.maryland.gov/mgawebwebsite/laws/statutes>
- Code of Maryland Regulations: <http://www.dsd.state.md.us/COMAR/ComarHome.html>
- Maryland Home Improvement Commission: <https://www.dllr.state.md.us/license/mhic/>
- Maryland Public Service Commission: <https://www.psc.state.md.us/>

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Massachusetts

Advertising

Massachusetts law follows the FTC Act and declares that unfair or deceptive acts or practices are prohibited. The law also states that the legislature's intent is for the law to be interpreted consistently with the FTC Act and Federal Courts' decisions regarding the FTC Act.

Home improvement advertisements need to display the contractor's license number. Websites, business cards, and vehicle signage (among other things) are considered advertisements.

Home Solicitation Sales

The Massachusetts home solicitation sale law follows the FTC's Cooling Off Rule. The three-day cooling off period countdown does not begin until an agreement includes all required terms and the consumer receives a signed copy of the contract. Terms that waive consumer rights are unenforceable.

Home Improvement Agreements

A Home Improvement Agreement has to be signed by both parties and the consumer must be given a copy of the signed agreement. Otherwise, no work can begin. Massachusetts also requires home improvement agreements to include the following terms:

- On the first page,
 - Contractor's full name, address (non-PO Box), Federal Employer Identification Number, and registration/license number;
 - Name(s) of the salesperson(s) who solicited or negotiated the contract; and
 - Date of execution
- Date work is scheduled to begin and be completed
- Work to be done and materials to be used
- Total cost and payment schedules
 - Deposits cannot exceed 1/3 of the contract price
 - Final payment cannot be required until the contract is completed to everyone's satisfaction
- Clear and conspicuous notices of
 - Contractors and subcontractors must be registered and that inquiries be sent to:
 - Office of Consumer Affairs and Business Regulation
 - Home Improvement Contractor Registration
 - 10 Park Plaza, Room
 - 5170 Boston, MA 02116
 - (617) 973-8700
 - Registration number of contractors and subcontractors;
 - Consumer's three-day cooling off rights;

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- Warranties and consumer rights under M.G.L. c. 142A;
- In ten-point font directly above the signature a statement: “**DO NOT SIGN THIS CONTRACT IF THERE ARE ANY BLANK SPACES**”; and
- Whether a lien or other security interest will be placed on the home
- Waivers of any consumer rights under M.G.L. c. 142A are prohibited;
- Statement about any necessary construction permits, the contractor has to obtain the permits, and consumers who secure their own permits or work with unregistered contractors cannot access the Guaranty Fund;
- A description of all documents incorporated into the agreement; and
- May include a clause that the company can initiate arbitration as long as the language is clear and signed by both parties. Massachusetts law states the following language is acceptable:

THE CONTRACTOR AND THE HOMEOWNER HEREBY MUTUALLY AGREE IN ADVANCE THAT IN THE EVENT THE CONTRACTOR HAS A DISPUTE CONCERNING THIS CONTRACT, THE CONTRACTOR MAY SUBMIT SUCH DISPUTE TO A PRIVATE ARBITRATION SERVICE WHICH HAS BEEN APPROVED BY THE DIRECTOR OF THE EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATIONS AND THE CONSUMER SHALL BE REQUIRED TO SUBMIT TO SUCH ARBITRATION AS PROVIDED IN M.G.L. c. 142A. 201 CMR: OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

Owner: _____

Contractor: _____

In addition, payments may not be accelerated because a contractor deems themselves financially insecure. The contractor, however, can ask the remainder of funds be placed in a joint-escrow account.

Telemarketing

Telemarketers making unsolicited calls must register with the Massachusetts Office of Consumer Affairs and Business Regulation. Massachusetts also maintains a state-specific DNC list, updated quarterly, that businesses must review before making a call. Calls are limited to 8am to 8pm and may not use prerecorded messages. Use of technologies to block or circumvent caller IDs are prohibited.

During the first minute of an unsolicited call, the caller has to disclose four things: 1) the call's purpose (e.g., to sell something); 2) the name of the ultimate sellers; 3) (if applicable) the name of the third-party telemarketing company; and 4) a complete and accurate description of what's being offered, including, the retail market value.

There is a defense to a business who can show they implemented a compliance program to prevent unsolicited sales calls.

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Solar Specific Rules

Rooftop systems and community solar subscriptions participating in the SMART program must include a disclosure form with all contracts.

LMI Considerations

Massachusetts offers discounted electricity rates to low-income households. For example, customers receiving assistance under the Low Income Home Energy Assistance Program (“LIHEAP”) receive discounts on their electric bills from investor owned utilities. There are other assistance programs which may make a household eligible for electric rate discounts.¹⁰ The exact discount depends on the investor-owned utility territory, but it is around 35 percent. LMI customers who install solar or subscribe to community solar may see less savings than typical customers. As a result, solar companies should take steps to verify if the customer is on a reduced rate plan.

Security Breaches

A company must provide notice to a consumer if a security breach occurs.

Citations of Key Laws and Regulations

Section	What’s Regulated
ALM GL ch. 93, § 48	Door-to-door sales
ALM GL ch. 93, § 49	Debt collection procedures
ALM GL ch. 93A, §§ 1 – 11	Unfair and deceptive acts and practices
ALM GL ch. 93H, § 2	Department of consumer affairs and business regulation can adopt rules on safeguarding personal information
ALM GL ch. 93H, § 3	Notices in case of a security breach
ALM GL ch. 159C, §§ 1 – 14	Telemarketing calls
201 CMR 12.01 – 12.07	Massachusetts Do-Not-Call Registry and general telemarketing rules
ALM GL ch. 141, § 1 et seq.	Supervision of electricians
237 CMR 1.00 - 23.00	Electricians and Systems Installers including licensure.
ALM GL ch. 142A, § 1 et seq.	Home Improvement Contractors and contract terms
201 CMR 14.18	Consumer recovery fund

¹⁰ Other programs include Supplemental Security Income, Supplemental Nutrition Assistance Program, Public or Subsidize Housing, and School Breakfast/Lunch Program.

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201 CMR 18.04(5)(c)(2)	Prohibited acts for residential contractors, including abandonment and operating without a license.
201 CMR 18.05	Home improvement contracts
940 CMR 3.00	General consumer protection regulations
940 CMR 3.02	False Advertising
940 CMR 3.05	General misrepresentations
940 CMR 3.09	Door-to-door sales and home improvement transactions
940 CMR 6.14	Record keeping related to advertisements
ALM GL ch. 143, § 1 et seq.	Inspection of residential installations
ALM GL ch. 110G, § 1 et seq.	Electronic Signatures

Links to State Resources

- Massachusetts Laws: <https://malegislature.gov/laws/generallaws>
- Code of Massachusetts Regulations: <https://www.mass.gov/code-of-massachusetts-regulations-cmr>
- Massachusetts Department of Public Utilities: <https://www.mass.gov/orgs/departement-of-public-utilities>
- Massachusetts SMART Program Disclosure Forms: <https://www.mass.gov/info-details/solar-massachusetts-renewable-target-smart-program#consumer-protection-&-disclosure-forms>
- Massachusetts Attorney General's Office CARD program: <https://www.mass.gov/service-details/consumer-services-at-the-attorney-generals-office>
- Massachusetts Office of Consumer Affairs and Business Regulation: <https://www.mass.gov/orgs/office-of-consumer-affairs-and-business-regulation>
- Massachusetts Department of Energy Resources: <https://www.mass.gov/orgs/massachusetts-department-of-energy-resources>

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Nevada

Advertising

Licensed contractors must display their license number on all business advertisements. Advertisements include vehicle signage, business cards, letterhead, directories, and websites. Vehicles registered to the licensee must display the licensee's name and number with each letter at least 1.5 inches high.

Home Solicitation Sales

Nevada's home solicitation agreement rules follow the FTC's Cooling Off Rule.

Home Improvement Agreements

General building contractors must list the name, license number, business address, and phone number for all subcontractors and persons who provide at least \$500 worth of materials. Agreements also need to include a notice about the potential for liens.

Home improvement agreements must prominently display the company's license number and primary place of business. Agreements need to include any monetary limits on the license and a notice about the Nevada recovery fund:

RESIDENTIAL CONSTRUCTION RECOVERY FUND

Payment may be available from the Recovery Fund if you are damaged financially by a project performed on your residence pursuant to a contract, including construction, remodeling, repair or other improvements, and the damage resulted from certain specified violations of Nevada law by a contractor licensed in this State. To obtain information relating to the Recovery Fund and filing a claim for recovery from the Recovery Fund, you may contact the State Contractors' Board.

All agreements and documents for the transaction must be retained for at least three years after completion. In addition, licensees must show their license card to interested persons.

Telemarketing

Telemarketers must register with the Consumer Affairs Division of the Department of Business and Industry; however, licensed contractors selling services under their license are exempted from registration. Registration also does not apply to someone who solicits a sale by phone but intends to and does complete a transaction in-person. In addition, no salesperson must be associated with or employed by more than one seller.

During a solicitation or sales presentation, the salesperson must state their true name, the name of the company on whose behalf the call is made, and the purpose of the call.

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There are specific disclosures related to any gifts, rebates, gifts, and other premiums to be offered.

Solar Specific Rules

All residential rooftop solar agreements must include or comply with the following terms:

- If an agreement references the price of electricity from the utility, you need to provide a statement in 12-point font that state substantially:
Actual utility rates may go up or down and actual savings may vary. For further information regarding rates, you may contact your local utility or the Public Utilities Commission of Nevada.
- An express written warranty for the installation and the penetration into the roof. The warranty must last at least 10 years after the system installation;
- An express written warranty that lasts at least 10 years after system installation;
- Express warranties in writing for the system's component parts, including parts and labor either directly from the solar installation company or passed through from the manufacturer of the component parts:
 - For collectors and storage units, not less than a 10-year warranty; and
 - For inverters, not less than a 7-year warranty
- Down payments are limited to the lesser of \$1,000 or 10% of the contract price;
- Statement that change orders must be in writing and describe any changes in scope of work and price;
- A plan of the system, including dimensions and equipment for the system;
- The name of the customer's electric utility and utility rates;
- Written statement of the customer's rights under Sections 2 - 14 of the Act, NRS 598.9801 and 598.9822;
- Near the signature line, include a statement that customer...; and
 - Can contact the Contractor's Board or PUC for reviewing the contract
 - Can request a performance bond if such a bond is not already required under NRS 624.270
 - May contact an attorney for an explanation of their rights
 - May request a copy of the contract in the language used to explain the contract
- A method to let the customer initial provisions in the contract to indicate they read and understood them.

System purchase agreements have to include the following terms:

- Name, contact information, and contractor's license for the
 - System installer
 - System maintenance provider (if different from the installer **and** if maintenance is provided under the agreement)
- Name and contact information for the customer

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- Description and assumptions concerning the design of the distributed generation system, including, but not limited to:
 - System size in kW (DC)
 - Estimated production in year 1
 - Annual degradation for the system
- Cost of the system and payment schedule
- Estimated timeline for the installation
- Informing the consumer of their 3-business day cooling off rights
- A copy of the system warranty
 - *Note:* this refers to Section 19(2) which requires a system to have “an express warranty that” lasts for at least 10 years after system installation.
- Any incentives assumed in the final purchase price
- Any performance guarantees
- If a savings estimate is provided, the basis for the estimate
- If applicable, retention of RECs
- Notice that a consumer may file a complaint with the Nevada PUC
- Contact information (including telephone number) for the
 - State Contractor’s Board and Nevada PUC
- A signature block to be signed by the consumer and solar company

Residential power purchase agreements have to include the following terms:

- Name, contact information, and contractor’s license for the
 - system installer
 - system maintenance provider (if different from the system installer)
- Name and contract information for the
 - PPA provider
 - Customer
- Term of the lease
- Estimated timeline for system installation
- Payment schedule including
 - Payments to be made in the first of the agreement (*e.g.*, price per kWh)
 - Payment due dates
- Escalator rates and the date of the first increase in payment
- Estimated output of the system
- Obligation of the solar company regarding construction and repair of the system
- One-time and recurring fees and a description of circumstances triggering late fees
- Taxes due at the commencement of the agreement, and estimated taxes over the full term of the agreement, subject to state or local change in tax rate or tax structure
- Copy of the warranty for the system
- Ownership of any tax credits, tax rebates, tax incentives, or RECs

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- Terms for renewal of the agreement
- Options for the customer regarding continuation, termination, or transfer of the agreement in the case of...
 - Sale of the property
 - Death of the customer
- The customer's 3-business day cooling off rights
- Any restrictions on the right to modify or transfer the property
- Any performance guarantees
- Transferability of PPA Provider's obligations under the warranty to another party
- Notice that a consumer may file a complaint with the Nevada PUC
- Contact information (including telephone number) for the
 - State Contractor's Board **and**
 - Nevada PUC
- Signature block that's signed by both the customer and solar company

Residential leases have to include the following terms:

- Name, contact information, and contractor's license for the system installer
- Name, contact information, and contractor's license for the system maintenance provider (if different from the system installer)
- Name and contract information for the system lessor
- Name and contact information for the customer
- Term of the lease
- General description of the leased system
- Amount due at signing, completion of the system, or inspection of the system
- A description of any warranties
- Monthly payments due under the lease and total lease payments over the life of the agreement
- One-time and recurring charges, including a description of circumstances that trigger late fees
- Lessor responsibilities for installing, repairing, or removing the system
- Lessor responsibilities for construction and insurance for the system
- Taxes due at commencement of the lease **and** known taxes over the term of the lease
- Estimated timeline for the installation
- Informing the consumer of their 3-business day cooling off rights
- A copy of the system warranty
 - *Note:* this refers to Section 19(2) which requires a lease or PPA to have "an express warranty that" lasts for at least 10 years after system installation.
- Any performance guarantees
- Notification of the transferability of warranty obligations to another party
- Incentives included in calculating lease payments
- Ownership of any tax credits, tax rebates, tax incentives, and RECs

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- Options for continuing, terminating, or transferring the lease in the event of
 - Sale of the property
 - Death of the lessee
- Any restrictions on modification or sale of the property
- Estimate of system production in the first year of operation
- Notice that a consumer may file a complaint with the Nevada PUC
- Contact information (including telephone number) for the
 - State Contractor's Board **and**
 - Nevada PUC
- A signature block to be signed by the consumer and solar company

Contracts must also include a cover sheet and disclosure form which specified information. The disclosure form cannot exceed three pages and may include additional information if it does not conflict with the mandatory disclosures. The sections below describe what needs to be in the disclosure forms and cover sheets.

System purchase cover sheet requirement

- Total cost
- Amount due at signing and completion
- Estimated timeline for the system installation
- Size of the system
- Estimated value of RECs, rebates, and incentives used in the purchase price
- Length of the term of the agreement
- Term of the warranty
- Description of any warranties
- Notice that the State Contractors' Board has a Recovery Fund and the Recovery Fund is used to reimburse consumers financially damaged by a licensed contractor performing work on the home
- Contact information for the State Contractors' Board

System purchase disclosure form terms

- Name, contact information, and contractor's license for the
 - System installer
 - If applicable, the maintenance provider
- Name and contact information for the customer
- Price of the system
- Payment schedule
- Approximate start and completion dates for the project
- Person responsible for obtaining interconnection approval (customer, installer)
- Information on the system's design and XXX
 - System size
 - Estimated production for the first year

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- Estimated annual degradation of the system
- Whether or not the applicable utility credits the consumer for excess electricity generated (*e.g.*, net-metering)
- If O&M is included
- A description of roof repair warranties
- Applicable performance guarantees
- If a savings estimate was provided, a description of the basis for the estimate
- Retention of any RECs

PPA cover page terms

- Price per kWh for the first year of the agreement
- Escalation rate, and the date that the escalator first applies
- Estimated timeline for installation
- Initial term of the agreement
- Amount due at signing, completion of installation, and system inspection
- Estimated production during the first year
- Options available at the end of the initial term
- Options for purchasing the system before the end of the agreement
- Notice that the State Contractors' Board has a Recovery Fund and the Recovery Fund is used to reimburse consumers financially damaged by a licensed contractor performing work on the home
- Contact info for the State Contractors' Board

PPA disclosure form terms

- Name, contact information, and contractor's license for the
 - System installer
 - Maintenance provider (if different from the system installer)
- Name and contract information for the PPA provider
- Payment schedule, including (if applicable) at:
 - Signing of the agreement
 - Commencement of system installation
 - Completion of system installation
- Escalator rates and the date of the first increase in rate
- When payments are due;
- Description of one-time or recurring fees and the circumstances that trigger the fees
 - Late payments
 - System removal
 - Removal and re-filing of UCC-1 statements
 - Internet non-connection
 - Automated clearinghouse
- Assumptions concerning system design, including:

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- Size of the system
- Estimated production during the first year of operation
- Estimated annual degradation of the system
- Whether the local utility policy is to credit consumer for excess energy generated by the distributed energy system, as of the time of installation.
- Whether a fixture filing is intended to be filed on the system
- Whether system maintenance and repairs are included
- Any warranty for repairing any damages to the roof relating to system installation or removal
- Transferability of the system in connection with a home sale
- Any performance guarantees
- The basis for any estimates of savings that were provided to the purchaser, if applicable
- Retention of RECs (if applicable)

Lease cover page terms

- Estimated dollar amount of monthly payments for the first year, escalator rate, and the date the escalator rate first applies
- Estimated timeline for the system installation
- Term length of the lease
- Amounts due at signing, completion of installation, and system inspection
- Estimated system production for the first year
- Description of any warranties
- Any state or federal tax incentives included in calculating the lease payments
- Options available at the end of the lease (*e.g.*, extension of the agreement)
- Options for purchasing the system before the end of the lease
- Notice that the State Contractors' Board has a Recovery Fund and the Recovery Fund is used to reimburse consumers financially damaged by a licensed contractor performing work on the home
- Contact info for the State Contractors' Board

Lease disclosure form terms

- Name, contact information, and contractor's license for the
 - System installer
 - Maintenance provider (if different from the system installer)
- Name and contract information for the
 - System lessor
 - Customer
- Term of the lease
- Monthly payments due during the first year of the lease
- Total number of payments
- Escalator rates for the monthly payments and the date of the first increase

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- Amount due at
 - Signing
 - Completion of installation
- Total amount to be paid under the lease including any incentives included in the estimated lease payments
- One-time or recurring fees and the circumstances that trigger those fees, including:
 - Overdue payments
 - System removal
 - Removal and re-filing of UCC-1 statements
 - Internet non-connection
 - Automated clearinghouse
- System design information
 - Size of the system
 - Estimated production for the first year of operation
 - Estimated annual production degradation for the system
 - Whether or not the local utility policy is to credit consumer for excess energy generated by the distributed energy system, as of the time of installation
- Lessor's intent to file a fixture filing
- System maintenance and repairs included in the lease

Citations of Key Laws and Regulations

Section	What's Regulated
N.R.S. 598.140 - 280	Door-to-door sales
N.R.S. 598.131 – 139	Sales promotions
N.R.S. 598.9801 – 9822	DG contracts and disclosures
N.R.S. 598.0903 - .0999	Deceptive practices
N.R.S. 597.812 – 818	Automatic dialing and announcing devices
N.R.S. 599B.005 et seq.	Telemarketing
N.R.S. Chapters 719 & 720	Electronic transactions
N.R.S. 624.720	Contractor advertisements
NAC Chapter 624	Contractors

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NAC 598.200 et seq.	Comparative price advertising
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Links to State Resources

- Nevada Revised Statutes: <https://www.leg.state.nv.us/nrs/>
- Nevada Administrative Code: <https://www.leg.state.nv.us/nac/CHAPTERS.HTML>
- Nevada State Contractors Board: <http://www.nvcontractorsboard.com/>
- Nevada Public Utilities Commission: <https://puc.nv.gov/>

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New Jersey

Advertising

New Jersey law prohibits false and misleading advertising. While the New Jersey law does not explicitly reference the FTC Act, the state AG has worked with the FTC on enforcement actions.

Home improvement contractors need to display “NJHIC” followed by their license number on all advertisements, business documents sent to consumers, and commercial vehicles. Invoices, contracts, and correspondences must prominently display a toll-free telephone number published by the state.

Home Solicitation Sales

New Jersey’s home solicitation law grants a three-business day cooling off period. Business Day excludes Saturdays, Sundays, and state holidays.

Two copies of the signed agreement must be delivered to the consumer. If the seller used a foreign language when advertising or selling a product to a consumer, one copy of the receipt has to be in English and the other in the foreign language used. New Jersey prohibits waivers of customer rights under the home solicitation law. Further, the law mandates the following terms in an agreement:

- Seller’s name and place of business
- Description of the goods sold
- Amount paid by the consumer or the value of goods delivered
- A notice in at least 10-point bold font:
 - “NOTICE TO RETAIL BUYER: YOU MAY RESCIND THIS SALE PROVIDED THAT YOU NOTIFY THE RETAIL SELLER OF YOUR INTENT TO DO SO BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, POSTMARKED NOT LATER THAN 5 P.M. OF THE THIRD BUSINESS DAY FOLLOWING THE SALE. FAILURE TO EXERCISE THIS OPTION, HOWEVER, WILL NOT INTERFERE WITH ANY OTHER REMEDIES AGAINST THE RETAIL SELLER YOU MAY POSSESS. IF YOU WISH, YOU MAY USE THIS PAGE AS NOTIFICATION BY WRITING ‘I HEREBY RESCIND’ AND ADDING YOUR NAME AND ADDRESS. A DUPLICATE OF THIS RECEIPT IS PROVIDED BY THE RETAIL SELLER FOR YOUR RECORDS.”

If a consumer rescinds the contract, the seller has to refund the any payments within 10 business days of receipt and keep a record of the cancellation notice for at least 18 months.

Telemarketing

At least certain telemarketers have to annually register with the New Jersey Division of Consumers Affairs.

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New Jersey law prohibits unsolicited marketing calls to consumers on the federal DNC list unless there is an established business relationship. Businesses also have to maintain an internal do-not-call list.

Calls cannot use technology that blocks the phone number on caller ID. During the first 30 seconds of a call, the caller must disclose their name, who they represent, and the purpose of the call. And unsolicited calls are only allowed between 8:00am and 9:00pm.

The law directs businesses to train staff and establish written compliance policies & procedures. In addition, businesses must maintain records for at least two years of their internal DNC lists, sales scripts, names and contact information for telemarketing staff, consumers called, policies and procedures manuals related to telemarketing training and compliance, requests to be placed on an internal DNC list, and any call recordings made.

Home Improvement Agreements

Customers have three business days to cancel the contract without penalty. The clock starts when the customer receives a signed copy of the agreement.

Change orders have to be in writing and signed by both parties to be effective.

Home improvement agreements need to include the following terms:

- Legal name, address, and license number of the contractor;
- Legal name and business address of the salesperson who solicited or negotiated the contract;
- Description of work to be done and principal products to be used;
- Total cost including finance charges;
- Dates for when work begins and is expected to be completed;
- Description of any security interests;
- Any guarantee or warranty made by the contractor about the project, products, labor, or services;
- Statement about whether the contractor carries workers' compensation insurance;
- A copy of the contractor's general liability policy;
- Notice directly above the signature line;
"NOTICE TO OWNER"

Do not sign this contract in blank. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights. Do not sign any completion certificate or agreement stating that you are satisfied with the entire project before this project is complete. Home repair contractors are prohibited by law from requesting or accepting a certificate of completion signed by the owner

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prior to the actual completion of the work to be performed under the home repair contract.”

- A notice about cooling off rights in at least 10-point bold-faced type:
NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR
2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)
(Address of Contractor)
(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor’s receipt of the cancellation notice.

New Jersey also prohibits the following terms:

- Blanks spaces to be filled in after the agreement is signed;
- Waivers of liability for claims related to the contract, debt collection, or repossession practices;
- An acceleration clause where the contractor requires full payment earlier than due because the contractor declares themselves financially insecure;
- Paying an amount other than what is in the contract; however, retail installment contracts can accompany the agreement;
- Any power of attorney to confess judgment or any other power of attorney;
- Assignment of or order for the payment of any salary wages, commissions or other compensation for services, or any part thereof, earned or to be earned;
- Absent approval from Division of Consumer Affairs, payments to the consumer for placing a sign at the home or sharing the names of potential customers.

Home Improvement Sales Practices

Home improvement salespersons must register with the state and wear a state-issued identification badge. A business cannot deliver materials, begin work, or use any similar tactic to pressure a consumer into signing a home improvement contract. A business cannot request the buyer to sign a certificate of completion, or make final payment on the contract before the home improvement is completed in accordance with the terms of the contract.

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General Consumer Contract Requirements

New Jersey law imposes general requirements on consumer contracts, such as leases for household purposes. Consumer contracts “shall be written in a simple, clear, understandable and easily readable way.”¹¹ State law offers a defense when a clause or term is required or permitted under state or federal rules. Waivers of consumer rights under New Jersey’s unfair trade practices act are prohibited.

Consumer Leases

All leases must be in writing and include the following terms:

- Name and address of the customer;
- Name, address, and phone number of lessor. If lessor plans to assign the lease, then include the same information for the assignee;
- Date of execution;
- In 14-point bold font, identify the agreement as a “lease”;
- No blank spaces may be filled after the consumer signs the agreement;
- Payment schedules; and
- Information specified lease conditions.

Required disclosures can be made in an addendum if the lease references the addendum and the addendum is separately signed by the lessee before signing the lease.

Compliance with the Consumer Leasing Act and Regulation M regarding substantially similar rules is considered compliance with N. J. S. A. 56:12-62(g) and (h).

Solar Specific Rules

Rooftop and community solar providers participating in the New Jersey Board of Public Utilities’ (BPU) Successor Solar Incentive Program must provide customers with a copy of state published disclosure forms.¹²

Community Solar providers have register with the Board of Public Utilities (“BPU”) before marketing or selling any subscriptions. During any marketing interaction, the salesperson has to identify their name and the name of the registered community solar provider they represent. High pressure sales tactics are prohibited. And advertisements and marketing collateral must include a toll-free or local number and a website link where consumers can learn more about the product.

Mandatory terms for community solar subscriptions include:

- Plain language description, including type of agreement, effective date, length of agreement, payment schedules, good faith estimate of savings, and assumptions behind the savings;
- A cooling off period of at least seven days;

¹¹ New Jersey Code § 56:12-2

¹² As of February 2022, the forms can be found at <https://njcleanenergy.com/renewable-energy/programs/susi-program/adi-program>

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- Prices must include disclaimers that utility rates and savings estimates are subject to change and that the BPU does not regulate prices or guarantee savings; and
- Toll-free or local phone number and email address that consumers can contact for information about the product, file complaints, and cancel or renew the subscription

A signed copy of the agreement must be received by the consumer within two calendar days of signing. And contracts must be kept for at least six years after the end. Further, there is a six-year retention period for proof of eligibility for LMI subscriptions.

Key Laws and Regulations

Section	What's Regulated
N.J.S.A. 56:8-136 et seq.	Home improvement contractors
N.J.S.A. 56:8-119 et seq.	Telemarketing calls
N.J.S.A. 56:8-1 et seq.	Deception, fraud, false pretense, false promise and other bad acts to induce a sale
N.J.S.A. 56:8-165	Security breach disclosures
N.J.A.C. 13:45A-9.1 set seq.	General advertising
N.J.A.C. 13:45A-17.1 et seq.	Home improvement contractor registration
N.J.A.C. 13:45A-16.1	Home improvement practices
N.J.A.C. 13:45D-1.1 et seq.	Telemarketing
N.J.S.A. 17:16C-61.1	Door-to-Door sales and retail installment contracts
N.J.S.A. 14:8-9.10	Community solar contracts, marketing, and sales
N.J.S.A. 56:12-1 – 13	Consumer contracts
N.J.S.A. 56:12-60 – 70	Consumer leases
N.J.S.A. 52:27D-141.7	Residential solar installations
N.J.S.A. 56:11-1 et seq.	Consumer credit transactions
N.J.S.A. 56:12-14	Truth-in-Consumer Contract, Warranty and Notice Act

Links to State Resources

- New Jersey Statutes:
<https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publsh:10.1048/Enu>

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- New Jersey Administrative Code: <http://www.lexisnexis.com/hottopics/njcode>
- New Jersey Register: <http://www.lexisnexis.com/hottopics/njoal/>
- New Jersey Division of Consumer Affairs: <https://www.njconsumeraffairs.gov/hic>
- New Jersey Board of Public Utilities: <https://www.bpu.state.nj.us/>
- New Jersey Clean Energy Program: <https://njcleanenergy.com/>

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New York

Advertising

Deceptive acts and practices are prohibited. New York law offers a safe harbor to businesses acting in compliance with regulations or interpretations published by the FTC or federal courts' interpretations of the FTC Act.

Home Solicitation Sales

Home solicitation agreements must follow the same rules as the FTC's Cooling Off Rule. The three-day cooling off period, however, does not begin until the business complies with all the requirements.

Home Improvement Agreements

Customers must receive a signed copy of the contract plus any incorporated materials before the start of work. Home improvement agreements must include the following terms:

- Name, address, telephone number and license number, if applicable, of the contractor
- Estimated dates when work will begin and end plus a statement of any contingencies that would materially impact the date
- A description of the work to be performed, the materials to be provided to the owner, including make, model number or any other identifying information
- Notice that payments prior to completion must be deposited or post a bond, contract of indemnity or letter of credit that
- Description of any progress payments and triggering events
- Notice about the buyer's cooling off rights
- A warning about mechanic's lien in bold font:

"Any contractor, subcontractor, or materialman who provides home improvement goods or services pursuant to your home improvement contract and who is not paid may have a valid legal claim against your property known as a mechanic's lien. Any mechanic's lien filed against your property may be discharged. Payment of the agreed-upon price under the home improvement contract prior to filing of a mechanic's lien may invalidate such lien. The owner may contact an attorney to determine his rights to discharge a mechanic's lien".

Telemarketing

Telemarketers have to register with the state, but there is an exception for businesses that are licensed or registered with either a federal or state agency.

Telemarketing calls can only be made between 8am and 9pm unless the consumer gives their express consent to be called at a different time. At the beginning of the call, the

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caller has to state their name, who they represent, the call's purpose and the good being offered, and whether the call is being recorded.

A sales call cannot begin with a pre-recorded call absent express written consent from the consumer. If a pre-recorded call is made, there needs to be a voice or dial-pad mechanism for a number to be placed on an internal DNC list. For pre-recorded calls that can be accepted by a voicemail service, there needs to be a toll-free number to an opt-out system.

It is illegal to block the consumer's caller ID system or have caller ID display false information; however, a caller may display the name of who they represent. Telemarketers are directed to keep records of their activities for two years.

State law offers a safe harbor to businesses who can demonstrate that they have established and implemented written policies on compliance with New York's telemarketing laws. A business seeking a safe harbor must show they trained personnel in telemarketing regulations and obtained a recent version of the federal DNC list not more than 31 days before a call.

Solar Specific Rules

Read SEIA's guide to the NY PSC rules for more information on solar specific rules for companies operating in New York.

Key Laws and Regulations

Section	What's Regulated
NY Pers. Prop. Law § 425 et seq.	Door-to-Door sales
GBL § 770 et seq.	Home improvement contracts
GBL § 349	Deceptive and misleading business practices
GBL § 350	False Advertising
GBL § 399-p	Automated telemarketing devices
GBL § 399-pp	Fraud and abuse in telemarketing
GBL § 399-z	Do-Not-Call lists
C.P.L.R. § 3015(e)	Licensing to do business
C.P.L.R. § 4544	Contract font sizes
N.Y. Gen. Oblig. Law § 5-301	Prohibited contracts and contract terms
NY Pers. Prop. Law § 401 et seq.	Retail installment sales

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Links to State Resources

- New York Personal Property Laws: <https://www.nysenate.gov/legislation/laws/PEP>
- New York General Business Laws: <https://www.nysenate.gov/legislation/laws/GBS>
- New York Civil Practice Law & Rules: <https://www.nysenate.gov/legislation/laws/CVP>
- New York Department of Public Service: <https://www.dps.ny.gov/>
- Home Improvement Contractor Licensure: <https://ag.ny.gov/checking-whether-home-improvement-contractor-licensed>

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New Mexico

Advertising

New Mexico law follows the FTC Act and declares that unfair or deceptive acts or practices are prohibited. The law also states that any interpretations should be consistent with interpretations of the FTC Act.

Advertisements for home improvements must list the contractor's license number.

Home Solicitations

New Mexico law follows the FTC's home solicitation rules except that businesses need to take into account New Mexico state holidays like Indigenous Peoples' Day. The law also bars any waivers of consumer rights under its home solicitation laws.

Telemarketing

New Mexico's telemarketing laws follow federal telemarketing laws, but there are some differences. For example, callers have 15 seconds instead of 30 seconds to state their name, who they represent, and the purpose of the call. And call times are limited to 9am to 9pm.

Telemarketing done with "an automated telephone dialing or push-button or tone-activated address signaling system with a prerecorded message" is prohibited unless there is an existing business relationship or the consumer consent.

Callers also may not misrepresent the purpose of the call, such as claiming the call is an informational call when the intent is to sell a product.

Solar Specific Rules

Residential agreements for solar sales, leases, and PPAs need to include a disclosure form published by the New Mexico Attorney General's office. Payments for leases or PPAs cannot begin until the system is interconnected. Within 30 days of installation, the contractor must provide proof that the necessary permits were obtained before installation and that the installation passed inspection. If a UCC-1 filing is made against the system, the seller has to provide a copy of the form within 30 days of filing.

If any marketing materials or presentations offer a savings estimate, then the seller must provide the estimate's assumptions and calculations. If historical information is used to estimate savings, the estimate has to include the following statement: "Historical data are not necessarily representative of future results."

For systems eligible for state tax credits, contractors must meet additional requirement. For example, the contractor has to use new equipment and provide, at a minimum, a two-year warranty for parts and labor with a couple exceptions. In addition, the contract

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shall provide details about system design, installation, O&M, and performance. Such details include:

- A summary of the system that meets all 3.3.28 NMAC's requirements, including system size and estimated production;
- A one-page O&M instructions guide that is posted in an accessible location; and
- Upon installation, written warranties, including effective dates, and contact information for acting on the warranty or extending it.

For Community Solar, the Public Regulation Commission will develop a disclosure form and other consumer protections by April 1, 2022.

Key Law and Regulations

Section	What's Regulated
N. M. S. A. 1978, § 62-16B-7	Community solar, including disclosure forms
N. M. S. A. 1978, § 57-31-1 et seq.	Distributed generation
N. M. S. A. 1978, § 57-12-1 et seq.	Unfair and deceptive practices
N. M. S. A. 1978, § 57-12-21	Door to door sales
N. M. S. A. 1978, § 57-12-22	Telemarketing
N. M. S. A. 1978, § 57-15-1 et seq.	False advertising
N. M. S. A. 1978, § 60-13-1	Contractor licensing

Links to State Resources:

- New Mexico Statutes: <https://nmonesource.com/nmos/en/nav.do>
- New Mexico Public Regulation Commission: <https://www.nm-prc.org/>
- New Mexico Attorney General: <https://www.nmag.gov/default.aspx>

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Pennsylvania

Advertising

Pennsylvania's Unfair Trade Practices and Consumer Protection Law prohibits "unfair or deceptive acts of practices." The law presents 20 specific acts that are treated as unfair or deceptive acts and includes a catch-all provision. Examples include misrepresenting certifications, false statements about competitors, and not complying with a written guarantee or warranty. The law also empowers the Attorney General to develop rules and regulations for enforcement and administration.

Home improvement advertisements must display the contractor's license number.

Home Solicitation Sales

Pennsylvania law follows the FTC's home solicitation rules.

Home Improvement Agreements

Home improvement contractors must register with the Attorney General Office's Bureau of Consumer Protection before marketing their services in Pennsylvania.

A copy of the signed contract must be promptly given to the consumer. To be enforceable, contracts must contain the following terms and disclosures:

- Contractor's name, registration number, phone number, and a non-PO Box address;
- Names, addresses, and phone numbers for all subcontractors
- Signatures of both parties;
- Date of the transaction;
- Copies of any required notices;
- Approximate start and completion date of the project
- Description of work and materials to be used absent a written change order. There are additional notices for time and materials provisions.
- Total sales price;
- Down payments (limited to 1/3 of the contract price);
- Agreement to maintain liability insurance of not less than \$50,000 and property damage insurance of not less than \$50,000;
- Bureau of Consumer Protection's toll-free number to verify a contractor's license; and
- Notice of right of rescission

Arbitration clauses are subject the following requirements:

- The text must be in capital letters, in at least 12-point bold font, and the clause be on a separate page;
- Contain a separate line for each party to indicate they agree to it;
- Be dated and signed by both parties, and the date must be the date the contract was executed;

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- Statement on whether arbitration is binding or may be appealed to court of common pleas; and
- State whether the facts of the dispute, related documents and the decision are confidential.

Pennsylvania holds that certain clauses are voidable by the consumer:

- Hold harmless clauses;
- Waivers of Federal, State or local health, life, safety or building code requirements;
- Confession of judgment clause;
- Waivers of any right to a jury trial in any action brought by or against the owner;
- Assignment of or order for payment of wages or other compensation for services;
- Owner agrees not to assert any claim or defense arising out of the contract;
- Contractor shall be awarded attorney fees and costs;
- Owner relieves the contractor from liability for acts committed by the contractor or the contractor's agents during debt collection or repossession of any goods; and
- Waiver of any rights provided under the home improvement contractor laws.

Telemarketing

Pennsylvania maintains a state-specific DNC list. Telemarketers must register with the Attorney General's office at least 30 days before offering any goods. Businesses licensed by or registered with a state agency are not considered telemarketers for registration purposes. However, third-party telemarketers hired by an exempt business must still register with the Attorney General's office.

During the call, telemarketers have to provide their name, who they represent, and a number or address that the consumer can contact. Calls are disallowed during any legal holiday. Calls have to end at the customer's request.

The state offers a safe harbor to telemarketers calling someone who asked to not be called. Telemarketers can take advantage of the safe harbor exception if can prove four things: 1) Implemented written compliance procedures; 2) Trained personnel on the compliance procedures; 3) Maintain an internal DNC list; and 4) The call(s) were made in error.

There are additional rules for robocalls which are defined as solicitation calls "made to a large number of people, using a computerized autodialer, to deliver a prerecorded telemarketing message."¹³ Telemarketers using robocalls must establish procedures to let a consumer opt out of future calls, inform consumers at the beginning of the call how to opt-out, and offer an immediate way to opt-out (*e.g.*, voice activated mechanism). Opting out of robocalls does not create an established businesses relationship. And opt-outs

¹³ 73 P.S. § 2242

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cannot be conditioned on the consumer's written consent. Finally, robocalls left on voicemail must include a toll-free line which will let the consumer opt-out of future calls. Blocking the name or number from showing up on caller ID is unlawful.

Key Laws and Regulations

Section	What's Regulated
73 P.S. § 201-7	Home solicitation sales
73 P.S. § 517.3	Registration of contractors
73 P.S. § 517.6	Display of contractor licenses
73 P.S. § 517.7	Home improvement contracts
73 P.S. § 517.8	Home improvement fraud
73 P.S. § 201-3	Unfair and deceptive practices
73 P.S. § 2241 et seq.	Telemarketing

Links to State Resources

- Pennsylvania Statutes: [https://www.budget.pa.gov/Resources/Pages/PAStatutes\(Unofficial\)Online.aspx](https://www.budget.pa.gov/Resources/Pages/PAStatutes(Unofficial)Online.aspx)
- Pennsylvania Department of Labor & Industry: <https://www.dli.pa.gov/>
- Pennsylvania Public Utilities Commission: <https://www.puc.pa.gov/>

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South Carolina

Registration/Licensure

All contractors must be registered with the South Carolina Contractor's licensing board. Companies offering residential leases also need to register with the Office of Regulatory Staff.

Advertising

South Carolina's Unfair Trade Practices Act prohibits unfair and deceptive acts and practices. According to the law, the legislature's intent is for state courts to be guided by FTC guides and federal court interpretations of the FTC Act. In addition to the rules prohibiting false and deceptive advertising, solar advertisements and marketing materials face additional requirements.

Contractors have to display their license number on commercial vehicles, invoices, and proposals to the customer.

Advertisements and solicitations may not be directed to consumers that the marketer would likely know is unable to fulfill the terms or "benefit" from an agreement.

Lead generation ads must include a statement in at least 14-point font or font two points larger than the surrounding text. The statement reads:

"This is a solicitation for [insert renewable energy facility type]. [Insert lead generator name] will not provide you with [insert renewable energy facility type]. Instead [insert lead generator name] will share your information with one or more third parties who may contact you to provide [insert renewable energy facility type]."

Written marketing materials must be in at least 12-point font, be in the same language as the sales pitch, and contain the following information:

- Salesperson's name and contact information
- If system pricing is discussed, total price, whether O&M is included, and the consumer's eligibility for tax credits. Tax credits may not be incorporated into the advertised price if it is unavailable to the majority of the public.
- Warranties or guarantees related to energy production
- If a savings estimate is given, then include estimated savings over the system's life and material assumptions such as:
 - Utility rate escalators;
 - Consumer's eligibility for tax credits or other incentives;
 - System production;
 - Eligibility for net-metering; and
 - Equipment replacement costs
- Two statements in at least 14-point font about tax credits and utility rates:

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- “This is a quote. Your power company’s rate for [insert renewable energy facility type] may be different from your current rate. Rates may go up or down and the money you may save, if any, may vary. Past data may not be a good gauge of future results. For more information about rates, contact your power company.”
- “Tax and credits or incentives including those provided by federal, state, or local governments may change or end. This can impact the amount of money you might save. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your [insert renewable energy facility type].”

Telemarketing

South Carolina’s telemarketing laws appear to follow federal telemarketing laws.

Agreements

A business must give the customer a DCA published pamphlet during a solicitation.

Home solicitation customers who are 70 years old or older must wait at least three days before they can sign a contract. This waiting period, however, does not apply if the customer initiates contact with the solar company and requests the visit.

If either their HOA rejects a request to install a system or an AHJ rejects a permit application, the consumer has 10 days to cancel the agreement or renegotiate a new one. The same waiting periods and cooling off periods for new contract apply to renegotiated contracts.

All agreements must include a disclosure form published by DCA. In turn, an agreement must be in at least 12-point font, the same language as the sales pitch, and signed by both parties. Mandatory terms for a contract include

- Name and contact information for the consumer, retailer, lead generator (if applicable), the persons expected to install and maintain the system, and representative to receive complaints;
- A published statement about cancellation rights;
- A published statement about the nature of the transaction;
- Total price;
- If there is financing through the seller or their affiliate, information on amount financed, APR, and a payment schedule;
- For leases, a payment schedule, including amounts due;
- One time or recurring fees such as system removal, maintenance, equipment replacement, late fees, and ACH fees.
- System design information, including system size, make/model of equipment, estimated production, and price per Watt;
- Approximate start and completion dates for installation;

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- If a savings estimate has been given, then show
 - Estimated savings over the life of the agreement;
 - If the customer will participate in net-metering pursuant to Title 58, Chapter, a statement that 1:1 NEM is only available until May 1, 2029
 - If applicable, a statement that solar choice metering tariffs will be offered in lieu of NEM; and
 - Material assumptions, including, but not limited to, utility rates, utility rate escalators, production estimates, eligibility for net-metering, and equipment replacement costs.
 - Two published statements about tax incentives and utility rates;
 - “This is a quote. Your power company’s rate for [insert renewable energy facility type] may be different from your current rate. Rates may go up or down and the money you may save, if any, may vary. Past data may not be a good gauge of future results. For more information about rates, contact your power company.”; and
 - “Tax and credits or incentives including those provided by federal, state, or local governments may change or end. This can impact the amount of money you might save. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your [insert renewable energy facility type].”
- Any warranty or guarantee regarding production;
- Whether O&M and equipment replacements are included in the cost;
- Whether a fixture filing will be made;
- Restrictions on transferring the system to a homebuyer and if the transfer depends on a third-party’s review or approval;
- How the customer’s data privacy and security will be protected;
- Party responsible for obtaining interconnection approvals; and
- On the first page, a spot where the customer can indicate if they are subject for the three-day waiting period.

Leases are subject to additional requirements:

- Payments cannot be based on metered output;
- Leases can only serve one household or premise;
- Display the ORS Certificate number;
- ORS phone number and email address for complaints, including a statement in 12-point bold font:
 - ‘If you are unable to resolve your complaint with the Lessor, you have the right to contact the South Carolina Office of Regulatory Staff.’
- Energy production guarantee and impact on monthly payments;
- If a UCC-1 filing is made, then provide the consumer a copy of the statement within 30 days of filing;

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- Description of state and federal tax incentives included in the calculation of payments;
- Billing and payment procedures;
- Statement in 12-point bold font about utility rates:
“Utility rates, structures and estimated savings are subject to change, and incentives may change or be terminated by executive, legislative or regulatory action.”
- Statement in 12-point bold font about the agreement:
“All provisions contained in the Lease Agreement and disclosures are considered agreed to by the Lessee upon signature. NO employee or representative of [name of Lessor] is authorized to make any promise to you that is not contained in the Lease Agreement or disclosures concerning the cost savings, tax benefits, or government or utility incentives. You should not rely upon any promise or estimate received verbally or in writing which is not clearly contained in this Lease Agreement or disclosures.”

Due Diligence

Businesses must conduct due diligence on any third-party service providers to ensure they are reasonably able to fulfill their duties.

Record Keeping

Businesses have to keep the following records for at least three years:

- Agreements with South Carolina consumers;
- Solicitation materials used, including sales scripts, internet ads, emails, and business cards
- Records of all customers contacted or that the company attempted to contact;
- Name, address, and any unique identifiers of any person who received, requested, or contracted for leads or referrals. This includes any payments or other consideration paid for such services.

Key Laws and Regulations

Section	What's Regulated
S.C. Code of Regulations R.111-10	Solar leases, lessor registration, and lessor operations
S.C. Code of Regulations R. 28-78	Distributed Generation agreements, marketing, and record retention
S.C. Code Ann. § 39-5-10 et seq.	Unfair and deceptive acts and practices

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S.C. Code Ann. § 37-21-10 et seq.	Telemarketing
S.C. Code Ann. § 40-11-5 et seq.	Contractor licensing and regulations
S.C. Code Ann. § 37-5-108	Unconscionable Debt Practices
S.C. Code Ann. § 58-27-2600 et seq.	Solar leases
S.C. Code Ann. § 37-2-501 et seq.	Home solicitation sales
S.C. Code Ann. § 37-2-301 et seq.	Advertising and disclosures in credit sales
S.C. Code Ann. § 37-3-101 et seq.	Consumer loans

Links to State Resources:

- South Carolina Statutes: <https://www.scstatehouse.gov/code/statmast.php>
- South Carolina Public Service Commission: <https://psc.sc.gov/>
- South Carolina Contractor's Licensing Board: <https://llr.sc.gov/clb/>
- South Carolina Office of Regulatory Staff: <https://ors.sc.gov/>
- South Carolina Department of Consumer Affairs: <https://consumer.sc.gov/>

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Texas

Advertising

The Texas Deceptive Trade Practices-Consumer Protection Act prohibits false, misleading, and deceptive acts and practices. The law offers a non-exhaustive list of unlawful acts, including false or deceptive claims about a competitor, endorsements, product performance, and pricing.

Home Solicitation rules

Texas law follows the FTC's home solicitation sales rules and holds that use of forms or notices from the FTC constitutes compliance with state law. Sellers cannot transfer, sell, or assign a notice or other evidence of indebtedness to a finance company or other third-party before midnight of the fifth day after the consumer contract was signed.

Contracts are considered void if the seller does the following:

- Include confession of judgment or waiver of rights clause;
- Fail to inform or misrepresenting a right to cancel; or
- Fail to include merchant's name and address, date of transaction, and due date for sending a cancellation notice.

Home Improvement Contracts

Home improvement contracts must include the contractor's registration number with the Texas Residential Construction Commission, the contact information for the Texas Residential Construction Commission, (if applicable) a conspicuous warning about arbitration, and a warning that reads:

“IMPORTANT NOTICE: You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.”

Telemarketing

Texas maintains a state-specific Do-Not-Call list and prohibits unsolicited calls to numbers on the list. Telemarketers who are state licensees may still call customers on the DNC list if they meet three things: 1) do not use an automated telephone dialing system; 2) complete the transaction in a face-to-face sales presentation; and 3) were not asked by the consumer to cease the calls. Calls are also allowed if the consumer gave consent or there is an established relationship business relationship within the last 12 months

Blocking or altering the name or number displayed on a caller ID system is prohibited. However, telemarketers may alter the name and number displayed on the caller ID system to reflect the client's name and number.

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Texas offers a defense for unsolicited calls to someone on the Texas DNC list if the caller can prove the call was an isolated incident and that they have adequate policies and practices in place to comply with telemarketing laws.

Solar Specific Rules

Residential rooftop solar leases and purchase agreements must include a disclosure form which addresses the following information:

- Contact information for the salesperson and installer of the system;
- Description of the equipment to be installed;
- System cost;
- Detailed accounting of fees associated with installation or operation;
- If applicable, any representations about system performance and savings;
- All applicable warranties; and
- For leases, the disclosure form must also include
 - The term and rate of the lease, including escalators; and
 - Whether any warranty or maintenance agreement transfers to a homebuyer;

Residential PPAs must include a disclosure form that addresses the following information:

- Contact information for the salesperson and installer of the system;
- Description of the equipment to be installed;
- Term and rate of the PPA, including escalators;
- If applicable, any representations about system performance and/or savings;
- All applicable warranties; and
- Whether any warranty or maintenance agreement transfers to another homeowner

Key Laws and Regulations

Section	What's Regulated
Tex. Bus. & Com. Code Ann. § 17.41 et seq.	Deceptive trade practices
V.T.C.A., Bus. & C. § 601.001	Home solicitation sales
V.T.C.A., Property Code § 41.007	Home improvement contracts
V.T.C.A., Bus. & C. § 304.001 et seq.	Telemarketing and Do-Not-Call lists
V.T.C.A., Bus. & C. § 113.001	Disclosures for residential solar agreements
V.T.C.A., Finance Code § 392.001	Debt Collection

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V.T.C.A., Occupations Code § 1305.159	Electrical contractor licenses
V.T.C.A., Finance Code § 342.001	Consumer loans
7 TAC §§ 83.101- 83.862	Consumer lenders

Links to State Resources:

- Texas Statutes: <https://statutes.capitol.texas.gov/>
- Texas Public Utility Commission: <https://www.puc.texas.gov/>
- Texas Department of Licensing & Regulation: <https://www.tdlr.texas.gov/>

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Virginia

Advertising

Virginia law prohibits false and deceptive advertising and marketing and includes a list of fraudulent acts and practices such as misrepresenting price, bait & switch, and violations of various state laws (*e.g.*, Virginia Home Solicitations Act).

Home Solicitations

Virginia law generally follows the FTC's home solicitation rules; however, there is a thirty-day cancellation period if the seller misrepresents the purpose of the meeting.

Home Improvements

Home improvement contracts must include the following terms and statements:

- Contractor's name, address, license numbers, class of license, and classifications or specialty services;
- Start date and estimated completion date;
- Total cost and payment schedules;
- Description of work to be performed and specified materials;
- A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating timeframes for payment or performance;
- That contractor will comply with all local requirement for permits, inspection, and zoning;
- Cancellation rights of the parties;
- For door-to-door agreements, a signed acknowledgment that the consumer received a DPOR published statement on consumer protections;
- Statement that contract modifications affecting cost, materials, work to be performed, or completion date must be in writing and signed by all parties; and
- Notice about the contractor recovery fund and how to contact DBPOR for claim information.

It is unlawful to fail to promptly deliver the signed contract to the consumer. Copies of complete contracts and related documents, including change orders, must be retained for at least five years.

Telemarketing

Virginia's telemarketing laws appear to closely follow federal telemarketing laws; however, there are certain provisions worth pointing out:

- Callers have to disclose their first name and last name in addition to name of the person or entity on whose behalf they are calling;
- Call times are restricted to 8am to 9pm unless they have the consumer's prior consent;

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- There is joint liability between third-party callers and their clients;
- There is an affirmative defense for callers who can show that they established and implemented reasonable practices and procedures to prevent unwanted calls.

Solar Specific Rules

Community solar providers have to obtain a license from the State Corporation Commission and register with the investor-owned utility before marketing or selling subscriptions.

Advertising, marketing materials, and contracts/offers must include a statement that prices do not include charges from the utility.

A standard disclosure form published by the State Corporation Commission has to accompany an agreement.¹⁴ In addition, agreements need to include the following information:

- Price;
- Fees (e.g., late fees);
- Size of the subscription;
- Length of the contract;
- Termination provisions;
- Location of the facility;
- Size of the facility;
- Billing terms and conditions;
- Responsibilities of the Community Solar provider and utility;
- Toll-free number and address for complaints and inquiries;
- Clear statement that;
 - Subscription cannot exceed annual usage
 - Can only participate in one project
 - NEM customers may not participate
- Confirmation the customer authorizes the IOU and providers to share information about the customer (e.g., utility account numbers and subscription); and
- Customer signature and date

Customer information must be safeguarded unless authorized by the customer or it's in the public domain. The privacy requirement, however, does not prevent otherwise permitted disclosures of payment or credit information. And Community Solar providers must retain customer billing and account records along with complaint records for at least three years.

¹⁴ See <https://scc.virginia.gov/getattachment/4902726b-7f38-4d46-8a41-493d99aba283/shared-standard-customer-disclosure-guide.pdf>

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Key Laws and Regulations

Section	What's Regulated
VA Code Ann. § 56-594.3	Community solar
20 VAC 5-340-50	Community solar marketing, contracts, and disclosures
VA Code Ann. § 59.1-196 et seq	Unfair and deceptive practices
VA Code Ann. § 59.1-21.1 et seq.	Home solicitation sales
VA Code Ann. § 54.1-1100 et seq.	Contractors
18 VAC 50-22-260	Contractors, including agreements
VA Code Ann. § 59.1-510 et seq.	Telemarketing

Links to State Resources:

- Codes of Virginia: <https://law.lis.virginia.gov/vacode>
- Virginia Administrative Code: <https://law.lis.virginia.gov/admincode>
- Virginia Department of Professional and Occupational Regulation: <https://www.dpor.virginia.gov/Boards/Contractors>
- Virginia State Corporation Commission: <https://www.scc.virginia.gov/>