

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

**CHAPTER 90**  
**SENATE BILL 1465**

AN ACT

AMENDING SECTION 44-1761, ARIZONA REVISED STATUTES; AMENDING TITLE 44,  
CHAPTER 11, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1763;  
RELATING TO SOLAR ENERGY DEVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1761, Arizona Revised Statutes, is amended to  
3 read:

4 44-1761. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Collector" means a component of a solar energy device that is used  
7 to absorb solar radiation, convert it to heat or electricity and transfer the  
8 heat to a heat transfer fluid or to storage.

9 2. "DISTRIBUTED ENERGY GENERATION SYSTEM":

10 (a) MEANS A DEVICE OR SYSTEM THAT IS USED TO GENERATE OR STORE  
11 ELECTRICITY, THAT HAS A CAPACITY, SINGLY OR IN CONNECTION WITH OTHER SIMILAR  
12 DEVICES OR SYSTEMS, GREATER THAN ONE KILOWATT THAT IS PRIMARILY FOR ON-SITE  
13 CONSUMPTION.

14 (b) DOES NOT INCLUDE AN ELECTRIC GENERATOR THAT IS INTENDED FOR  
15 OCCASIONAL USE.

16 ~~2-~~ 3. "Heat exchanger" means a component of a solar energy device  
17 that is used to transfer heat from one fluid to another.

18 4. "SELLER OR MARKETER" MEANS AN INDIVIDUAL OR A COMPANY ACTING  
19 THROUGH ITS OFFICERS, EMPLOYEES OR AGENTS THAT MARKETS, SELLS OR SOLICITS THE  
20 SALE, FINANCING OR LEASE OF DISTRIBUTED ENERGY GENERATION SYSTEMS OR  
21 NEGOTIATES OR ENTERS INTO AGREEMENTS FOR THE SALE, FINANCING OR LEASE OF  
22 DISTRIBUTED ENERGY GENERATION SYSTEMS.

23 ~~3-~~ 5. "Solar daylighting" means a device THAT IS specifically  
24 designed to capture and redirect the visible portion of the solar beam  
25 spectrum, while controlling the infrared portion, for use in illuminating  
26 interior building spaces in lieu of artificial lighting.

27 ~~4-~~ 6. "Solar energy device" means a system or series of mechanisms  
28 THAT IS designed primarily to provide heating, to provide cooling, to produce  
29 electrical power, to produce mechanical power, to provide solar daylighting  
30 or to provide any combination of the foregoing by means of collecting and  
31 transferring solar generated energy into such uses either by active or  
32 passive means. Such systems may also have the capability of storing such  
33 energy for future utilization. Passive systems shall clearly be designed as  
34 a solar energy device such as a trombe wall and not merely a part of a normal  
35 structure such as a window.

36 ~~5-~~ 7. "Storage unit" means a component of a solar energy device that  
37 is used to store solar generated electricity or heat for later use.

38 Sec. 2. Title 44, chapter 11, article 11, Arizona Revised Statutes, is  
39 amended by adding section 44-1763, to read:

40 44-1763. Distributed energy generation system agreements;  
41 disclosures; exception

42 A. AN AGREEMENT GOVERNING THE FINANCING, SALE OR LEASE OF A  
43 DISTRIBUTED ENERGY GENERATION SYSTEM TO ANY PERSON OR A POLITICAL SUBDIVISION  
44 OF THIS STATE MUST:

45 1. BE SIGNED BY THE PERSON BUYING, FINANCING OR LEASING THE  
46 DISTRIBUTED ENERGY GENERATION SYSTEM AND MUST BE DATED. ANY AGREEMENT THAT

1 CONTAINS BLANK SPACES AFFECTING THE TIMING, VALUE OR OBLIGATIONS OF THE  
2 AGREEMENT IN A MATERIAL MANNER WHEN SIGNED BY THE BUYER OR LESSEE IS VOIDABLE  
3 AT THE OPTION OF THE BUYER OR LESSEE UNTIL THE DISTRIBUTED ENERGY GENERATION  
4 SYSTEM IS INSTALLED.

5 2. BE IN AT LEAST TEN-POINT TYPE.

6 3. INCLUDE A PROVISION GRANTING THE BUYER OR LESSEE THE RIGHT TO  
7 RESCIND THE FINANCING, SALE OR LEASE AGREEMENT FOR A PERIOD OF NOT LESS THAN  
8 THREE BUSINESS DAYS AFTER THE AGREEMENT IS SIGNED BY THE BUYER OR LESSEE AND  
9 BEFORE THE DISTRIBUTED ENERGY GENERATION SYSTEM IS INSTALLED.

10 4. PROVIDE A DESCRIPTION, INCLUDING THE MAKE AND MODEL OF THE  
11 DISTRIBUTED ENERGY GENERATION SYSTEM'S MAJOR COMPONENTS OR A GUARANTEE  
12 CONCERNING ENERGY PRODUCTION OUTPUT THAT THE DISTRIBUTED ENERGY GENERATION  
13 SYSTEM BEING SOLD OR LEASED WILL PROVIDE OVER THE LIFE OF THE AGREEMENT.

14 5. SEPARATELY SET FORTH THE FOLLOWING ITEMS, IF APPLICABLE:

15 (a) THE TOTAL PURCHASE PRICE OR TOTAL COST TO THE BUYER OR LESSEE  
16 UNDER THE AGREEMENT FOR THE DISTRIBUTED ENERGY GENERATION SYSTEM OVER THE  
17 LIFE OF THE AGREEMENT.

18 (b) ANY INTEREST, INSTALLATION FEES, DOCUMENT PREPARATION FEES,  
19 SERVICE FEES OR OTHER COSTS TO BE PAID BY THE BUYER OR LESSEE OF THE  
20 DISTRIBUTED ENERGY GENERATION SYSTEM.

21 (c) IF THE DISTRIBUTED ENERGY GENERATION SYSTEM IS BEING FINANCED OR  
22 LEASED, THE TOTAL NUMBER OF PAYMENTS, THE PAYMENT FREQUENCY, THE AMOUNT OF  
23 THE PAYMENT EXPRESSED IN DOLLARS AND THE PAYMENT DUE DATE.

24 6. PROVIDE A DISCLOSURE IN THE SALE AND FINANCING AGREEMENTS, TO THE  
25 EXTENT THEY ARE USED BY THE SELLER OR MARKETER IN DETERMINING THE PURCHASE  
26 PRICE OF THE AGREEMENT, IDENTIFY ALL CURRENT TAX INCENTIVES AND REBATES OR  
27 OTHER STATE OR FEDERAL INCENTIVES FOR WHICH THE BUYER MAY BE ELIGIBLE AND ANY  
28 CONDITIONS OR REQUIREMENTS PURSUANT TO THE AGREEMENT TO OBTAIN THESE TAX  
29 INCENTIVES, REBATES OR OTHER INCENTIVES.

30 7. IDENTIFY THE TAX OBLIGATIONS THAT THE BUYER OR LESSEE MAY BE  
31 REQUIRED TO PAY AS A RESULT OF BUYING, FINANCING OR LEASING THE DISTRIBUTED  
32 ENERGY GENERATION SYSTEM, INCLUDING:

33 (a) THE ASSESSED VALUE AND THE PROPERTY TAX ASSESSMENTS ASSOCIATED  
34 WITH THE DISTRIBUTED ENERGY GENERATION SYSTEM CALCULATED IN THE YEAR THE  
35 AGREEMENT IS SIGNED.

36 (b) TRANSACTION PRIVILEGE TAXES THAT MAY BE ASSESSED AGAINST THE  
37 PERSON BUYING OR LEASING THE DISTRIBUTED ENERGY GENERATION SYSTEM.

38 (c) ANY OBLIGATION OF THE BUYER OR LESSEE TO TRANSFER TAX CREDITS OR  
39 TAX INCENTIVES OF THE DISTRIBUTED ENERGY GENERATION SYSTEM TO ANY OTHER  
40 PERSON.

41 8. DISCLOSE WHETHER THE WARRANTY OR MAINTENANCE OBLIGATIONS RELATED TO  
42 THE DISTRIBUTED ENERGY GENERATION SYSTEM MAY BE SOLD OR TRANSFERRED TO A  
43 THIRD PARTY.

44 9. INCLUDE A DISCLOSURE, THE RECEIPT OF WHICH SHALL BE SEPARATELY  
45 ACKNOWLEDGED BY THE BUYER OR LESSEE, IF A TRANSFER OF THE SALE, LEASE OR  
46 FINANCING AGREEMENT CONTAINS ANY RESTRICTIONS PURSUANT TO THE AGREEMENT ON

1 THE LESSEE'S OR BUYER'S ABILITY TO MODIFY OR TRANSFER OWNERSHIP OF A  
2 DISTRIBUTED ENERGY GENERATION SYSTEM, INCLUDING WHETHER ANY MODIFICATION OR  
3 TRANSFER IS SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY. IF THE  
4 MODIFICATION OR TRANSFER OF THE DISTRIBUTED ENERGY GENERATION SYSTEM IS  
5 SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY, THE AGREEMENT MUST IDENTIFY  
6 THE NAME, ADDRESS AND TELEPHONE NUMBER OF, AND PROVIDE FOR UPDATING ANY  
7 CHANGE IN, THE ENTITY RESPONSIBLE FOR APPROVING THE MODIFICATION OR TRANSFER.

8 10. INCLUDE A DISCLOSURE, THE RECEIPT OF WHICH SHALL BE SEPARATELY  
9 ACKNOWLEDGED BY THE BUYER OR LESSEE, IF A MODIFICATION OR TRANSFER OF  
10 OWNERSHIP OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY GENERATION  
11 SYSTEM IS OR WILL BE AFFIXED CONTAINS ANY RESTRICTIONS PURSUANT TO THE  
12 AGREEMENT ON THE LESSEE'S OR BUYER'S ABILITY TO MODIFY OR TRANSFER OWNERSHIP  
13 OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY GENERATION SYSTEM IS  
14 INSTALLED OR AFFIXED, INCLUDING WHETHER ANY MODIFICATION OR TRANSFER IS  
15 SUBJECT TO REVIEW OR APPROVAL BY A THIRD PARTY. IF THE MODIFICATION OR  
16 TRANSFER OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY GENERATION  
17 SYSTEM IS AFFIXED OR INSTALLED IS SUBJECT TO REVIEW OR APPROVAL BY A THIRD  
18 PARTY, THE AGREEMENT MUST IDENTIFY THE NAME, ADDRESS AND TELEPHONE NUMBER,  
19 AND PROVIDE FOR UPDATING ANY CHANGE IN, THE ENTITY RESPONSIBLE FOR APPROVING  
20 THE MODIFICATION OR TRANSFER.

21 11. PROVIDE A FULL AND ACCURATE SUMMARY OF THE TOTAL COSTS UNDER THE  
22 AGREEMENT FOR MAINTAINING AND OPERATING THE DISTRIBUTED ENERGY GENERATION  
23 SYSTEM OVER THE LIFE OF THE DISTRIBUTED ENERGY GENERATION SYSTEM, INCLUDING  
24 FINANCING, MAINTENANCE AND CONSTRUCTION COSTS RELATED TO THE DISTRIBUTED  
25 ENERGY GENERATION SYSTEM.

26 12. IF THE AGREEMENT CONTAINS AN ESTIMATE OF THE BUYER'S OR LESSEE'S  
27 FUTURE UTILITY CHARGES BASED ON PROJECTED UTILITY RATES AFTER THE  
28 INSTALLATION OF A DISTRIBUTED ENERGY GENERATION SYSTEM, PROVIDE AN ESTIMATE  
29 OF THE BUYER'S OR LESSEE'S ESTIMATED UTILITY CHARGES DURING THE SAME PERIOD  
30 AS IMPACTED BY POTENTIAL UTILITY RATE CHANGES RANGING FROM AT LEAST A FIVE  
31 PERCENT ANNUAL DECREASE TO AT LEAST A FIVE PERCENT ANNUAL INCREASE FROM  
32 CURRENT UTILITY COSTS. THE COMPARATIVE ESTIMATES MUST BE CALCULATED BASED ON  
33 THE SAME UTILITY RATES.

34 13. INCLUDE A DISCLOSURE, THE RECEIPT OF WHICH SHALL BE SEPARATELY  
35 ACKNOWLEDGED BY THE BUYER OR LESSEE, THAT STATES:

36 UTILITY RATES AND UTILITY RATE STRUCTURES ARE SUBJECT TO CHANGE.  
37 THESE CHANGES CANNOT BE ACCURATELY PREDICTED. PROJECTED SAVINGS  
38 FROM YOUR DISTRIBUTED ENERGY GENERATION SYSTEM ARE THEREFORE  
39 SUBJECT TO CHANGE. TAX INCENTIVES ARE SUBJECT TO CHANGE OR  
40 TERMINATION BY EXECUTIVE, LEGISLATIVE OR REGULATORY ACTION.

41 B. BEFORE THE MAINTENANCE OR WARRANTY OBLIGATIONS OF A DISTRIBUTED  
42 ENERGY GENERATION SYSTEM UNDER AN EXISTING LEASE, FINANCING OR PURCHASE  
43 AGREEMENT IS TRANSFERRED, THE PERSON WHO IS CURRENTLY OBLIGATED TO MAINTAIN  
44 OR WARRANT THE DISTRIBUTED ENERGY GENERATION SYSTEM MUST DISCLOSE THE NAME,  
45 ADDRESS AND TELEPHONE NUMBER OF THE PERSON WHO WILL BE ASSUMING THE  
46 MAINTENANCE OR WARRANTY OF THE DISTRIBUTED ENERGY GENERATION SYSTEM.

1 C. IF THE SELLER'S OR MARKETER'S MARKETING MATERIALS CONTAIN AN  
2 ESTIMATE OF THE BUYER'S OR LESSEE'S FUTURE UTILITY CHARGES BASED ON PROJECTED  
3 UTILITY RATES AFTER THE INSTALLATION OF A DISTRIBUTED ENERGY GENERATION  
4 SYSTEM, THE MARKETING MATERIALS MUST CONTAIN AN ESTIMATE OF THE BUYER'S OR  
5 LESSEE'S ESTIMATED UTILITY CHARGES DURING THE SAME PERIOD AS IMPACTED BY  
6 POTENTIAL UTILITY RATE CHANGES RANGING FROM AT LEAST A FIVE PERCENT ANNUAL  
7 DECREASE TO AT LEAST A FIVE PERCENT ANNUAL INCREASE FROM CURRENT UTILITY  
8 COSTS.

9 D. THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL OR COMPANY, ACTING  
10 THROUGH ITS OFFICERS, EMPLOYEES OR AGENTS, THAT MARKETS, SELLS, SOLICITS,  
11 NEGOTIATES OR ENTERS INTO AN AGREEMENT FOR THE SALE, FINANCING OR LEASE OF A  
12 DISTRIBUTED ENERGY GENERATION SYSTEM AS PART OF A TRANSACTION INVOLVING THE  
13 SALE OR TRANSFER OF THE REAL PROPERTY TO WHICH THE DISTRIBUTED ENERGY  
14 GENERATION SYSTEM IS OR WILL BE AFFIXED.

15 Sec. 3. Effective date

16 This act is effective from and after December 31, 2015.

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.