

1 HB277  
2 174168-1  
3 By Representative Johnson (K)  
4 RFD: Transportation, Utilities and Infrastructure  
5 First Read: 23-FEB-16

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8 SYNOPSIS: This bill would authorize a retail electric  
9 service customer to install or have installed solar  
10 technology for the generation of electricity for  
11 his or her own use and to finance such installation  
12 though a solar financing agent.

13 This bill would prohibit an electric  
14 supplier or utility from preventing, penalizing,  
15 discriminating against, or otherwise interfering  
16 with the installation or financing of solar  
17 technology by a retail electric service customer  
18 through a solar financing agent and from requiring  
19 the purchase of additional equipment or insurance  
20 or to perform additional testing other than that  
21 required by all applicable safety codes.

22 This bill would specify that such a solar  
23 financing agent would not be considered a supplier  
24 of electricity or a utility.

25 This bill would specify that the agreement  
26 between a retail electric service customer and a

1 solar financing agent shall not be considered a  
2 private contract for electric service.

3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

7  
8 To add Chapter 4A, commencing with Section 37-4A-1,  
9 to Title 37 of the Code of Alabama 1975, to provide for the  
10 installation, use, and financing of solar technology for use  
11 by a retail electric customer; to prohibit an electric  
12 supplier or utility from preventing, penalizing,  
13 discriminating against, or otherwise interfering with the  
14 installation or financing of solar technology; to prohibit an  
15 electric supplier or utility from requiring the retail  
16 electric customer to purchase additional equipment or  
17 insurance or to perform additional testing other than that  
18 required by all applicable safety codes; to provide that a  
19 solar financing agent would not be considered a supplier of  
20 electricity or a utility; and to specify that the agreement  
21 between a retail electric service customer and a solar  
22 financing agent shall not be considered a private contract for  
23 electric service.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Chapter 4A is added to Title 37 of the  
26 Code of Alabama 1975, as follows:

27 Chapter 4A. Solar Power Financing

1 §37-4A-1.

2 (a) This chapter shall be known and may be cited as  
3 the Solar Power Free-Market Financing and Property Rights Act  
4 of 2016.

5 (b) The Legislature finds that:

6 (1) It is in the public interest to encourage free  
7 choice for customers of retail electric services to save on  
8 their power bills by investing in current technologies,  
9 including energy efficient lighting, energy efficient  
10 appliances and air conditioning systems, and solar  
11 technologies for the on-site generation of electricity.

12 (2) Free market financing of solar technologies will  
13 provide more customers with opportunities to increase energy  
14 and cost savings.

15 (3) Leases, power purchase agreements, and other  
16 similar arrangements are financing arrangements that reduce or  
17 eliminate up-front costs involved in solar technology  
18 investments by retail electric service customers, thereby  
19 creating immediate cost saving opportunities.

20 (4) Retail electric service customers who finance  
21 their investment in solar technology and those individuals and  
22 entities that offer such financing opportunities through  
23 leases or power purchase agreements should not be considered  
24 or treated as an electric supplier or utility for any purpose  
25 in this title.

26 §37-4A-2.

1           As used in this chapter, the following terms have  
2 the following meanings:

3           (1) ELECTRIC SUPPLIER. An electric supplier as  
4 defined in Section 37-14-2.

5           (2) PRIVATE CONTRACT FOR ELECTRIC SERVICE. A  
6 contract as defined in subsection (b) of Section 37-4-30.

7           (3) RETAIL ELECTRIC SERVICE. A service as defined in  
8 Section 37-14-2.

9           (4) RETAIL ELECTRIC SERVICE CUSTOMER. A person who  
10 purchases retail electric service from an electric supplier  
11 for his or her own use and not for the purpose of resale.

12           (5) SOLAR FINANCING AGENT. An individual or entity  
13 whose business includes the installation or financing of solar  
14 technology on property owned or occupied by a retail electric  
15 service customer primarily for the on-site generation of  
16 electric energy.

17           (6) SOLAR TECHNOLOGY. A system that generates  
18 electric energy that is fueled by ambient sunlight and is  
19 installed upon property owned or occupied by a retail electric  
20 service consumer.

21           (7) UTILITY. A utility as defined in Section 37-4-1.  
22 §37-4A-3.

23           (a) A retail electric service customer may install  
24 or have installed solar technology for the generation of  
25 electric energy for use primarily on property owned or  
26 occupied by that customer. The solar technology and its  
27 installation may be financed by the retail electric service

1 customer through a solar financing agent utilizing a loan,  
2 lease, power purchase agreement, or any other form of  
3 financing agreement.

4 (b) No electric supplier or utility shall prevent,  
5 penalize, discriminate against, or otherwise interfere with  
6 the installation or financing of solar technology by a retail  
7 electric service customer through a solar financing agent  
8 pursuant to subsection (a).

9 (c) An electric supplier may require the retail  
10 electric service customer or solar financing agent to provide,  
11 at the customer's or solar financing agent's expense, only  
12 such equipment as is necessary to meet applicable safety,  
13 power quality, and interconnection requirements established by  
14 the National Electrical Code, the National Electrical Safety  
15 Code, the Institute of Electrical and Electronics Engineers,  
16 and the Underwriters Laboratories prior to interconnecting the  
17 solar technology to the retail electric service system. If the  
18 applicable safety, power quality, and interconnection  
19 requirements are met, an electric supplier may not require  
20 compliance with additional safety or performance standards,  
21 the performance of or payment for additional tests, or the  
22 purchase of additional liability insurance.

23 §37-4A-4.

24 (a) A provision in a loan, lease, power purchase  
25 agreement, or other form of financing agreement for payments  
26 to a solar financing agent by a retail electric service  
27 customer based on the amount of electricity furnished to such

1 customer shall not be considered the providing of electricity  
2 to the public, the providing of electric service or retail  
3 electric service, or the supplying of electric service at  
4 retail by the solar financing agent, nor shall it be  
5 considered a private contract for electric service.

6 (b) Notwithstanding any other provision of law, a  
7 solar financing agent shall not be considered an electric  
8 supplier or utility for any purpose in this title.

9 (c) Notwithstanding any other provision of law, an  
10 agreement between a retail electric service customer and a  
11 solar financing agent related to the installation or financing  
12 of solar technology on property owned or occupied by a retail  
13 electric service customer shall not be considered a private  
14 contract for electric service.

15 §37-4A-5.

16 Nothing in this chapter shall be construed to create  
17 or alter rights in real property or to change any restrictions  
18 or regulations on the use of real property that may exist,  
19 including, but not limited to, a covenant, contract,  
20 ordinance, or state or federal law.

21 Section 2. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.