

# STATE OF NEW YORK

6887

2023-2024 Regular Sessions

## IN ASSEMBLY

May 8, 2023

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Energy

AN ACT to amend the public authorities law, in relation to establishing a do-not-solicit solar development statewide registry prohibiting solar solicitors from contacting persons who are included on such registry

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public authorities law is amended by adding a new  
2 section 1885 to read as follows:

3 § 1885. Solar solicitation; establishment of do-not-solicit solar  
4 development statewide registry. 1. As used in this section, the follow-  
5 ing terms shall have the following meanings:

6 (a) "President" means the president of the New York state energy  
7 research and development authority.

8 (b) "Solar developer" means a business that finances, installs, owns,  
9 operates and/or maintains solar panels for the purposes of generating  
10 electricity.

11 (c) "Solar solicitor" means any person who, for financial profit or  
12 commercial purposes in connection with solar development, makes solar  
13 marketing sales calls, electronic messaging, or on-premises sales  
14 appeals to a customer when the customer is in this state or any person  
15 who directly controls or supervises the conduct of a solar solicitor.

16 (d) "Commercial purposes" means the sale or offer for sale or lease of  
17 property for the purposes of constructing major solar energy generation  
18 projects.

19 (e) "Customer" means any natural person who is a resident of this  
20 state and who is or may be offered payment for portions of land for the  
21 purposes of the installation of solar panels for electricity generation.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (f) "Doing business in this state" means conducting solar solicitation  
2 calls: (i) from a location in this state; or (ii) from a location  
3 outside of this state to consumers residing in this state.

4 (g) "Unsolicited solar development call" means any solar solicitation  
5 call, electronic messaging, or on-premises appeal other than a call,  
6 electronic message or on-premises appeal:

7 (i) in response to an express written or verbal request by the custom-  
8 er; or

9 (ii) in connection with an established business relationship, which  
10 has not been terminated by either party, unless such customer has stated  
11 to the solar solicitor that such customer no longer wishes to receive  
12 the solar solicitation calls of such solar solicitor.

13 (h) "Caller identification information" means information provided by  
14 a caller identification service regarding the telephone number and name  
15 of the person calling.

16 (i) "Caller identification service" means a service that allows a  
17 telephone subscriber to have the telephone number, and, where available,  
18 name of the calling party transmitted contemporaneously with the tele-  
19 phone call, and displayed on a device in or connected to the subscri-  
20 er's telephone.

21 (j) "Electronic messaging" means: real-time or near real-time non-  
22 voice messages in text form over communications networks, and includes  
23 the transmission of writing, signs, signals, pictures, and sounds of all  
24 kinds by aid of wire, cable or other like connection between the points  
25 of origin and reception of such transmission; or an electronic message  
26 or an executable program or computer file that contains an image of a  
27 message that is transmitted between two or more computers or electronic  
28 terminals. Such term shall include electronic messages that are trans-  
29 mitted within or between computer networks.

30 (k) "On-premises sales appeals" means in-person communication taking  
31 place at or in the vicinity of the customer's residence or the land  
32 which the solar solicitor is offering to purchase or lease.

33 2. No solar solicitor shall engage in solar solicitation at any time  
34 other than between 8:00 A.M. and 7:00 P.M. at the location of the  
35 customer unless the customer has given their express consent to the call  
36 at a different time. Solar solicitors shall provide, in a clear and  
37 coherent manner using words with common and everyday meanings, at the  
38 beginning of each solar solicitation call all of the following informa-  
39 tion, provided that the information set forth in paragraphs (a) and (b)  
40 of this subdivision shall be given to the customer first:

41 (a) the solar solicitor's name and the person on whose behalf the  
42 solicitation is being made, if other than the solar solicitor;

43 (b) the option to be automatically added to the seller's entity  
44 specific do-not-solicit list, as required by subdivision three of this  
45 section;

46 (c) whether the call is being recorded; and

47 (d) the purpose of the telephone call.

48 2-a. It shall be unlawful for any solar solicitor to knowingly cause  
49 any caller identification service to transmit misleading, inaccurate, or  
50 false caller identification information, provided that it shall not be a  
51 violation of this section to substitute (for the name and phone number  
52 used in, or billed for, making the call) the name or telephone number of  
53 the person or seller on behalf of which a solar solicitation call is  
54 placed.

55 3. The authority is authorized to establish, manage, and maintain a  
56 do-not-solicit solar development statewide registry which shall contain

1 a list of customers who do not wish to receive unsolicited solar solici-  
2 itation calls. The authority may contract with a private vendor to  
3 establish, manage and maintain such a registry, and such contract shall  
4 require the vendor to provide the no solar solicitation calls registry  
5 in a printed hard copy format and in any other format as prescribed by  
6 the authority.

7 4. No solar solicitor may make or cause to be made any unsolicited  
8 solar development call to any customer when such customer's telephone  
9 number, email address, address of the customer's residence or address of  
10 the land which the solar solicitor is offering to purchase or lease has  
11 been on the statewide do-not-solicit registry established by the author-  
12 ity for a period of thirty-one days prior to the date the call is made.

13 4-a. It shall be unlawful for any solar solicitor doing business in  
14 this state to knowingly make an unsolicited solar development call to  
15 any person in a county, city, town or village under a declared local  
16 state of emergency, pursuant to section twenty-four of the executive  
17 law, or state declared disaster emergency, pursuant to section twenty-  
18 eight of the executive law.

19 5. No solar solicitor shall initiate any solar solicitation call by  
20 means of a technology that delivers a pre-recorded message, unless the  
21 solar solicitor has obtained from the customer an express agreement, in  
22 writing that:

23 (a) the solar solicitor obtained only after a clear and conspicuous  
24 disclosure that the purpose of the agreement is to authorize the devel-  
25 oper to make solar solicitation calls to such customer;

26 (b) the solar solicitor obtained without requiring, directly or indi-  
27 rectly, that the agreement be executed as a condition of selling or  
28 leasing portions of land for the purposes of the installation of solar  
29 panels for electricity generation;

30 (c) evidences the willingness of the customer to receive solar solici-  
31 itation calls by or made on behalf of a specific seller; and

32 (d) includes such customer's telephone number and signature.

33 6. In the case of any solar solicitation call made by a natural  
34 person, the solar solicitor shall inform the customer that they may  
35 request that their telephone number, email address, address of the  
36 customer's residence or address of the land which the solar solicitor is  
37 offering to purchase or lease be added to the seller's entity specific  
38 do-not-solicit registry. If the customer opts to do so, the solar soli-  
39 citor shall immediately end the call and shall add the number called to  
40 such list or cause the number called to be added to such list.

41 7. No solar solicitor or developer shall transmit, share, or otherwise  
42 make available any customer's contact information, including name, tele-  
43 phone number, or email address, which has been provided to such solar  
44 solicitor or developer by such customer, to any person, corporation, or  
45 other entity without the express agreement of the consumer in writing or  
46 in electronic format, unless otherwise required by law, or pursuant to a  
47 lawful subpoena or court order.

48 8. Solar solicitors or developers shall keep records relating to its  
49 solicitation activities for a period of sixty months from the date the  
50 record is created.

51 9. (a) The authority shall provide notice to customers of the estab-  
52 lishment of the statewide do-not-solicit registry. Any customer who  
53 wishes to be included on such registry shall notify the authority in the  
54 manner provided for by the authority.

55 (b) Any company that provides local telephone directories to customers  
56 in this state shall inform its customers of the provisions of this

1 section by means of publishing a notice in such local telephone directo-  
2 ries.

3 10. When the authority has reason to believe a solar solicitor or  
4 developer has engaged in repeated unlawful acts in violation of this  
5 section, or when a notice of hearing has been issued pursuant to subdi-  
6 vision eleven of this section, the authority may request in writing the  
7 production of relevant documents and records as part of its investi-  
8 gation. If the person upon whom such request was made fails to produce  
9 the documents or records within thirty days after the date of the  
10 request, the authority may issue and serve subpoenas to compel the  
11 production of such documents and records. If any person shall refuse to  
12 comply with a subpoena issued under this section, the authority may  
13 petition a court of competent jurisdiction to enforce the subpoena and  
14 such sanctions as the court may direct.

15 11. (a) Where it is determined after hearing that any person has  
16 violated one or more provisions of this section, the president, or his  
17 or her designee, may assess a fine of eleven thousand dollars for each  
18 violation.

19 (b) Where it is determined after hearing that any person has, on a  
20 second, separate occasion violated one or more provisions of this  
21 section, the president, or their designee, may assess a fine of twenty-  
22 two thousand dollars for each violation.

23 (c) Where it is determined after hearing that any person has, on a  
24 third, separate occasion violated one or more provisions of this  
25 section, the authority in conjunction with the office for renewable  
26 energy siting, shall revoke any development permits for the solar devel-  
27 oper and place their name on a public registry, created by the authori-  
28 ty, of companies that have repeatedly violated the provisions of this  
29 section.

30 (d) Any proceeding conducted pursuant to paragraph (a) of this subdi-  
31 vision shall be subject to the state administrative procedure act.

32 (e) Nothing in this subdivision shall be construed to restrict any  
33 right which any person may have under any other law, rule or regulation.

34 12. The authority shall promulgate rules and regulations for the  
35 administration of this section.

36 13. Severability. If any clause, sentence, paragraph or part of this  
37 section shall be adjudged by any court of competent jurisdiction to be  
38 invalid, such judgment shall not affect, impair or invalidate the  
39 remainder thereof, but shall be confined in its operation to the clause,  
40 sentence, paragraph or part thereof directly involved in the controversy  
41 in which such judgment shall have been rendered.

42 § 2. This act shall take effect on the sixtieth day after it shall  
43 have become a law.