



March 21, 2024

The Honorable Joseph J. Solomon,
Chairman, House Corporations Committee
Rhode Island State House
Providence, Rhode Island 02908

RE: H7603 - Relating to Public Utilities and Carriers – Residential Solar Energy Disclosure and Homeowners Bill of Rights Act

Dear Chairman Solomon,

PosiGen is strongly supportive of effective consumer protections that will help root out harmful practices and enable positive customer experiences. Improvement in these areas is critical to the long-term viability of the solar industry and we are committed to making that happen. As such, **PosiGen supports most of H7603**, including the main concepts in the bill regarding a solar retailer registration process, effective consumer disclosure forms, and enhanced sales standards and requirements for both employee and third-party salespersons. **We do have one major concern with a section in the bill**, and we also have two additional recommendations on language that we will expand on in this testimony.

PosiGen is a public benefit corporation and certified B corp that provides rooftop solar and energy efficiency services with an emphasis on making solar affordable and accessible to low-and-moderate income communities. PosiGen expanded operations to Rhode Island in 2023 and was selected to be the solar provider of Rhode Island's Affordable Solar Access Pathways ("ASAP") Program for low-income households which launched in January 2024.¹ PosiGen has over 25,000 customers and 600 employees across a dozen states.

Section 5-93-17. Loans and financing.

This section is – based on the title, wording throughout the section, and the contents of Title 19 Chapter 14 – aimed at the financing of solar systems through loans and ensuring that those loan brokers or providers are properly licensed. Requiring providers of solar loans to be licensed as lenders makes sense. However, two words - "or lease" - have been included in this section which would represent a major deviation from how leases are legally treated in Rhode Island, particularly an operating lease for equipment. It would create essentially a second new license that a solar lease provider would be required to obtain by January 1, 2025 in order to continue operating in the state (the first new license being the solar retailer license in Section 5-93-4).

Under the language in the bill, solar retailers who offer leases would be required to be licensed as lenders or financial institutions per R.I. Gen. Laws § 19-14. It is not clear how that would work in practice due to the fact that § 19-14 clearly was not designed to accommodate solar leases. In fact, it is not clear how a solar lease provider *would even apply* for a license given they do not clearly fit within any of the

¹ See

<https://governor.ri.gov/press-releases/governor-mckee-office-energy-resources-commerce-ri-announce-launch-affordable-solar> and <https://energy.ri.gov/renewable-energy/solar/affordable-solar-access-pathways-asap-program>.





existing license definitions. On DBR's "I Need an Initial License"² page it categorizes different types of licenses - none of which cover solar leases. Presumably the closest category is the "Banking and Mortgage Professionals and Debt Collectors" category. However, that then points applicants to the Nationwide Multistate Licensing System ("NMLS") to apply. All of the license types listed on the NMLS website for Rhode Island are similarly not applicable (such as licenses for debt collectors, mortgages, student loans, lenders, etc).³

This ambiguity creates substantial business uncertainty and risk, particularly if the envisioned licensing process and compliance regime are not developed well before January 1, 2025 so that companies can actually comply. Unlike all other sections of H7603 where the rationale and consumer benefits are clear, it is not clear what problem this new license process would solve or how it would benefit consumers. Additionally, because § 19-14 is not well positioned for solar leases it could lead to nonsensical or impossible compliance requirements for solar lease providers.

The full ramifications that Section 5-93-17 would have on solar lease providers is not yet known because nowhere else in the country are lease providers required to obtain lender or financial institution licenses. This is a major shift in regulatory structure and we are concerned that there is not sufficient detail in this bill regarding how a lease provider would receive the applicable license, what compliance requirements would accompany that license, and whether the information necessary in order for solar lease providers to comply would even be ready by January 1, 2025.

For those reasons, we strongly recommend that the language "or lease" be removed from this section. Clearly loan providers who are providing financing and debt for homeowners should be licensed as lenders or financial institutions. However, leases are *not* the same as a loan and are not credit instruments and should not be treated as such. If no change is made to this section, offering solar leases - including PosiGen's accessible solar lease for low-income households that is utilized in the state's Affordable Solar Access Pathways Program⁴ - may not be possible come January 1, 2025.

Section 5-93-5. Solicitations and Sales

We are strongly supportive of providing clear information to consumers regarding who a salesperson is working on behalf of, providing materials in both English and Spanish, wearing photo ID badges, implementing standards and qualifications for salespersons, maintaining a roster of active salespersons, and complying with telemarketing rules. The one part of this section that we would recommend a change be made is with regard to (a)(2), specifically where it says, "For door-to-door sales to customers, be conducted in accordance with local ordinances, between the hours of ten o'clock a.m. (10:00 a.m.) and six o'clock p.m. (6:00 p.m.)..." **We recommend that the bill retain the "in accordance with local ordinances" and remove the specific 10-6 solicitation hours language.**

The vast majority of municipalities in Rhode Island already have ordinances that specify the acceptable soliciting hours that are applicable to *all solicitors*, not just the solar industry. The majority of those

² <https://dbr.ri.gov/about-dbr/i-need-initial-license>

³ List of licenses on NMLS for Rhode Island:

<https://mortgage.nationwidelicensingsystem.org/slr/Pages/DynamicLicenses.aspx?StateID=RI>

⁴ See

<https://governor.ri.gov/press-releases/governor-mckee-office-energy-resources-commerce-ri-announce-launch-affordable-solar> and <https://energy.ri.gov/renewable-energy/solar/affordable-solar-access-pathways-asap-program>.





ordinances have soliciting hours up to 8 pm, though some are earlier or later or include seasonal differences. There is no need for the state to specifically mandate a 10-6 solicitation window for a single industry, particularly as it conflicts with local ordinances. The municipality is best positioned to determine their policies regarding solicitors for all industries. There is no compelling rationale for treating the solar industry differently from windows, pest control, alarms, home improvement, and other industries that may employ some door-to-door solicitation practices. If a standard solicitation hours is retained in this bill, then we would recommend that it be changed to 10-8 to better align with the majority of municipalities in the state.

It also creates a practical enforcement problem because DBR is the enforcement agency for this bill, yet DBR presumably will not be on the streets monitoring compliance with the 6pm knocking restriction. Enforcement of local solicitation ordinances is done by town police. A solar salesperson knocking at 6:15pm would not be violating a local ordinance but would be violating this piece of the statute, so it is not clear how local authorities would address that situation. Having consistent solicitation restrictions applicable to all sectors alleviates this enforcement inconsistency.

Section 5-93-4. Solar retailer registration

Our final recommendation is regarding a detail in the solar retailer registration process. We don't oppose the creation of this new registration requirement and can understand the value it can provide in terms of transparency and accountability. **We recommend that (b)(2)(iii) be modified to remove the requirement that the designated agent who is authorized to accept service of process be required to be located within the state.** We believe this is unnecessary and may actually hamper the ability to accept service of process in a timely and consistent manner.

As a company that operates in multiple states, we have authorized agents already identified to accept service of process. Having consistency in who that agent is makes service of process clear, easier, and more timely for PosiGen. If we were required to have a Rhode Island-based agent, that would likely need to be authorizing an employee who would then need to be trained accordingly. Potential employee turnover over time would create a less clear and consistent process than utilizing existing authorized agents. We believe this is a fairly small technical change and does not substantially impact the solar retailer registration process but would be a major quality of life improvement for solar retailers who operate in multiple states.

We would appreciate the opportunity to continue to participate in discussion on H7603 as it moves forward. We look forward to participating as the provisions of this bill are implemented. Please contact me at kwallace@posigen.com or (208) 608-6179 with any questions regarding this bill.

Respectfully,
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VP, Public Policy & Government Affairs
PosiGen, PBC

