

SENATE BILL NO. 63

BY SENATOR MORRELL

AN ACT

To enact R.S. 14:202.2 and R.S. 47:1508(B)(35), relative to solar electric and solar thermal system contractors; to provide criminal penalties relative to failure to meet certain contractual obligations for the installation and maintenance of a solar electric system or solar thermal system; to provide relative to definitions; to provide an exception to the confidentiality of taxpayer records; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:202.2 is hereby enacted to read as follows:

§202.2. Solar electric and solar thermal system contractors; solar tax credit fraud

A.(1) It shall be unlawful for any person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), to claim a tax credit provided by R.S. 47:6030 or other provision of law against taxes owed to the state of Louisiana if the person:

(a) Has failed to perform or complete the installation of the system or failed to maintain or repair the system under the terms of the contract.

(b) Fails to maintain or repair the system under the terms of the contract subsequent to claiming the tax credit.

(2)(a) The knowing material failure by a contractor to perform or complete the installation of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), or maintain or repair the system under the terms of the contract shall constitute solar installation fraud.

(b) Whoever commits the crime of solar installation fraud shall be subject to the penalty provisions provided for in R.S. 14:202.1.

B.(1) When the aggregate amount of the tax credit claimed is one thousand dollars or less, whoever violates the provisions of this Section upon

1 conviction may be fined not less than one hundred dollars nor more than five
2 hundred dollars, or imprisoned for not more than six months.

3 (2) When the aggregate amount of the tax credit claimed is greater than
4 one thousand dollars, whoever violates the provisions of this Section upon
5 conviction may be fined not less than one hundred dollars nor more than five
6 hundred dollars, or imprisoned, with or without hard labor, for not more than
7 six months for each one thousand dollars of the tax credit claimed, provided
8 that the aggregate imprisonment shall not exceed five years.

9 C. The district attorney shall notify the Department of Revenue in
10 writing of any prosecution under this Section.

11 D. Nothing contained in this Section shall be construed to prevent the
12 state, through the attorney general, from asserting a cause of action to recover
13 damages or penalties, or assess or collect a penalty, resulting from a violation
14 of this Section.

15 E. The remedies and rights provided under this Section are in addition
16 to and do not preclude any remedy otherwise available under law, including but
17 not limited to the provisions of R.S. 51:1401 et seq.

18 F. Any person who is found liable under a civil action brought by the
19 attorney general resulting from a violation of this Section shall be liable to the
20 attorney general for all costs, expenses and fees related to investigations and
21 proceedings associated with the violation, including attorney fees. An action to
22 recover costs, expenses, fees, and attorney fees shall be ancillary to, and shall be
23 brought and heard in the same court as, the civil action resulting from a
24 violation of this Section.

25 G.(1) The attorney general may examine, or cause to be examined, by
26 agents thereof, without notice, the conditions and affairs of any person who has
27 received money from a contract for the sale, installation, maintenance, or repair
28 of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C),
29 and who has claimed a tax credit.

30 (2) In connection with an examination authorized by this Subsection, the

1 attorney general, or his agents, may examine under oath any person concerning
2 the affairs and business of the person who has received money from a contract
3 for the sale, installation, maintenance, or repair of a solar electric system or
4 solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax
5 credit.

6 H. The provisions of this Section shall be applicable to entities engaging
7 in the business of selling, leasing, installing, servicing, or monitoring solar
8 energy equipment. Nothing in this Section shall be construed to impose civil or
9 criminal liability on homeowners or on any third party whose involvement is
10 limited to providing financing to the homeowner or financing for installation.
11 Entities engaged in the business of arranging agreements for the lease or sale
12 of solar energy systems or acquiring customers for financing entities shall not
13 be exempt from the provisions of this Section.

14 Section 2. R.S. 47:1508(B)(35) is hereby enacted to read as follows:

15 §1508. Confidential character of tax records

16 * * *

17 B. Nothing herein contained shall be construed to prevent:

18 * * *

19 (35) The secretary, in order to implement the provisions of R.S.
20 14:202.2, from disclosing the following information to the office of the attorney
21 general upon the request of the attorney general or his designee:

22 (a) A list of the taxpayers claiming the tax credit authorized by R.S.
23 47:6030.

24 (b) The taxpayer's submitted Form R-1086 and supporting
25 documentation.

26 (c) The amount of the credit received by the taxpayer pursuant to R.S.
27 47:6030.

28 * * *

29 Section 3. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____