

# RESIDENTIAL SOLAR RETAILERS Penalties and Sanctions

## Solar Retailer Penalties and Sanctions Solar Salesperson Penalties and Sanctions

Texas Occupations Code, Chapter 1806  
16 Texas Administration Code, Chapter 71

## Solar Retailer Assessment Penalties and Sanctions

### Class A

**Penalty Range:** Warning letter to \$1,000

#### Registration and Notification Violations

| Violation                                                                                                                                                                  | Statute/Rule          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Failed to obtain a solar retailer registration before employing or contracting for services of an individual to engage in residential solar retail for the solar retailer. | 1806.102;<br>71.21(a) |
| Failed to renew annual solar retailer registration.                                                                                                                        | 71.23                 |
| Failed promptly to notify the Department of authorized solar salesperson or changes thereof.                                                                               | 1806.151(2)           |
| Failed to notify the Department within 30 days of a change in registrant's name, address, phone number, or e-mail address.                                                 | 71.26(a)              |
| Failed to notify the Department of a change in controlling ownership of solar retailer.                                                                                    | 71.25(a)              |

#### Prohibited Act Violations

| Violation                                                                                                                                                                 | Statute/Rule             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Failed to maintain a copy of any solar contract, signed disclosure form, and any related records for the duration of the term of the contract plus five years thereafter. | 1806.051(1);<br>71.50(d) |

| <b>Violation</b>                                                                     | <b>Statute/Rule</b>                      |
|--------------------------------------------------------------------------------------|------------------------------------------|
| Solicited a residence with no solicitation signage posted (retailer and salesperson) | 1806.152(b);<br>71.50(a),<br>71.52(b)(3) |

## **Class B**

**Penalty:** \$1,000 to \$3,500 and/or up to 1-year full suspension

### **Code of Conduct Violations**

| <b>Violation</b>                                                                                                                                                                                    | <b>Statute/Rule</b>         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Failed to cooperate and furnish requested documentation to the Department during an investigation or upon request.                                                                                  | 71.50(f)                    |
| Failed to supervise solar salesperson acting on retailer's behalf.                                                                                                                                  | 71.50(b)                    |
| Failed adequately to train solar salespersons.                                                                                                                                                      | 71.50(b)(2)                 |
| Failed to take reasonable steps to remedy any effects on a consumer when a violation of the Act by a salesperson becomes known to the solar retailer.                                               | 71.50(b)(4)                 |
| Failed promptly to respond to reasonable consumer inquiries concerning solar contracts.                                                                                                             | 71.50(e)(1)                 |
| Failed to furnish the consumer or the consumer's designated representative a copy of the solar contract, upon request.                                                                              | 71.50(e)(3)                 |
| Failed to provide educational brochure to consumer at least 24 hours before the consumer signs a solar contract.                                                                                    | 1806.051(b)(2);<br>71.43(b) |
| Failed to furnish consumer with the solar salesperson's name, department-issued registration number, and supervising solar retailer's name and department-issued registration number, upon request. | 71.50(e)(2)<br>71.51(c)     |

### **Insurance Violations**

| <b>Violation</b>                                                                                                                                                                                                                                                  | <b>Statute/Rule</b>                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| Failed to maintain the minimum general or professional liability insurance.                                                                                                                                                                                       | 1806.051(b)(4);<br>71.22(a)          |
| Failed to obtain general or professional liability insurance from an acceptable insurer.                                                                                                                                                                          | 1806.051(b)(4);<br>71.22 (b)(1)      |
| Failed to maintain general or professional liability insurance that named the Department as an interested party or covered liability to consumers arising from the acts of the solar retailer or solar salesperson who was acting on the solar retailer's behalf. | 1806.051(b)(4);<br>71.22 (b)(2), (3) |

| <b>Violation</b>                                                                         | <b>Statute/Rule</b>         |
|------------------------------------------------------------------------------------------|-----------------------------|
| Failed to notify the Department in writing of any lapse or change in insurance coverage. | 1806.051(b)(4);<br>71.22(c) |

### **Unregistered Activity Violations**

| <b>Violation</b>                                                                                                                  | <b>Statute/Rule</b> |
|-----------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Employed or contracted with an individual to engage in solar retail on its behalf that was not registered as a solar salesperson. | 71.50(b)(3)         |

### **Contract Requirements Violations**

| <b>Violation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Statute/Rule</b>                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Failed to provide a solar contract or provided a solar contract not in compliance with one or more of the following:<br>-written in English<br>- printed in clear, understandable, easy-to-read language<br>-stated the name, address, and registration number of the solar retailer and solar salesperson<br>-stated the name and license number of the installer, or a list of names and license numbers of electrical contractors from which the installer will be selected. | 71.40(a)(1)-(3),(5);<br>71.50(b)(1)(A) |
| At the time the contract agreement is signed, the solar retailer or licensed electrical contractor failed to provide the consumer a printed or electronic copy of the completed solar agreement.                                                                                                                                                                                                                                                                                | 71.40(b)                               |
| Failed to mail a printed copy of the solar agreement to the consumer the next business day after the solar agreement was signed and an electronic copy of the agreement was provided to the consumer.                                                                                                                                                                                                                                                                           | 71.40(b)(2)                            |

## **Class C**

**Penalty:** \$2,000 to \$5,000 plus 1-year probated suspension up to revocation

### **Code of Conduct Violations**

| <b>Violation</b>                                                                                                                                                     | <b>Statute/Rule</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Failure to process timely a consumer request to cancel including arranging the removal of any installed equipment and refunding any monies advanced by the consumer. | 71.50(c)            |
| Failed promptly to respond to consumer inquiries concerning a solar contract.                                                                                        | 71.50(e)(1)         |

| <b>Violation</b>                                                     | <b>Statute/Rule</b> |
|----------------------------------------------------------------------|---------------------|
| Failed materially to comply with the terms of the solar contract.    | 71.52(e)            |
| Failed to conduct business with honesty, integrity and fair dealing. | 71.51(c)            |

### **Unregistered Violations**

| <b>Violation</b>                                                                                                                      | <b>Statute/Rule</b>         |
|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Caused the installation of a residential solar energy system to be performed by a person who is not a licensed electrical contractor. | 1806.201(5);<br>71.52(c)(1) |

### **Contract Violations**

| <b>Violation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Statute/Rule</b>                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Failed to allow a consumer to cancel the contract without penalty or further obligation when notice was provided before the 5 <sup>th</sup> business day after the date of the solar contract                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 1806.156(b);<br>71.42(a)               |
| Failed to provide consumer with a complete disclosure form signed by both the consumer and solar salesperson.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 71.41(a)                               |
| Failed to include in the contract a consumer notice in 14 pt., bold and capitalized font of the right to cancel within five business days and the mailing or email address that the notice may be sent.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 1806.156;<br>71.40(a)(7),<br>71.42(b), |
| Failed to provide a solar contract that included one or more of the following:<br>-provide that the installer will be a Texas-licensed electrical contractor<br>-provide that any permit required by a government entity for installation will be obtained by the solar retailer or installer<br>-if applicable, approval by the electric utility, electric cooperative, or municipally owned utility serving the consumer's personal residence of the interconnection of the residential solar energy system<br>-if applicable, a provision requiring the third-party lender to cancel the lending agreement if the consumer exercises their right to cancel | 71.40(a)(4),(6),(8)                    |

## Prohibited Acts Violations

| Violation                                                                                                                                                                                                                                                                                                                                                                                              | Statute/Rule |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Failed to take reasonable steps to correct a consumer's misunderstanding of a matter related to the solar contract.                                                                                                                                                                                                                                                                                    | 71.52(a)     |
| Made false statements or misrepresentations, either orally, electronically or in writing, regarding a term of the solar contract or transaction.                                                                                                                                                                                                                                                       | 71.52(a)     |
| Falsely represented that the solar retailer or salesperson is a representative of a utility, electric cooperative, or municipally owned utility.                                                                                                                                                                                                                                                       | 71.52(b)(1)  |
| Stated that the consumer will be eligible for tax incentives without simultaneously advising the consumer to seek tax advice from a qualified independent professional.                                                                                                                                                                                                                                | 71.52(b)(2)  |
| Violated, attempted to violate or conspired to violate the Residential Solar Retailer Act, (Occupations Code, Chapter 1806), 16 TAC, Chapter 71, the Texas Deceptive Trade Practices Act (Business & Commerce Code, Chapter 17), Sale and Leasing of Distributed Renewable Generation Resources (Business & Commerce Code, Chapter 115), the Truth in Lending Act (15 U.S.C. § 1601, <i>et. seq.</i> ) | 71.52(c)(3)  |

## Class D

**Penalty:** \$5,000 and/or revocation

### Violations

| Violation                                                                                                                               | Statute/Rule                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| Obtains or attempts to obtain a license by fraud or false representation                                                                | 60.23(a)(1)                                      |
| Failed to comply with previous order of Commission or Executive Director                                                                | 51.353(a);<br>60.23(a)(5);<br>71.50(a). 71.51(a) |
| Falsified a document or made a material misrepresentation in an application or other document submitted to the Department or Commission | 60.23(a)(2);<br>71.52(c)(2)                      |
| Permits the use or display of a license by a person not authorized to use that license                                                  | 60.23(a)(3)                                      |
| Failed to cooperate with the Department regarding an inspection or investigation.                                                       | 60.203(c);<br>71.50(f)                           |
| Failed to pay the Department for a dishonored payment or processing fee                                                                 | 60.82                                            |

| <b>Violation</b>                                                                                                      | <b>Statute/Rule</b> |
|-----------------------------------------------------------------------------------------------------------------------|---------------------|
| Interfered with an investigation; threatened or intimidated a Department employee in connection with an investigation | 60.203(c)           |

## **Solar Salesperson Penalties and Sanctions**

### **Class A**

**Penalty Range:** Warning letter to \$1,000

#### **Registration and Notification Violations**

| <b>Violation</b>                                                                                                           | <b>Statute/Rule</b>   |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Failed to obtain a solar salesperson registration before engaging in residential solar retail transactions.                | 1806.101;<br>71.24(a) |
| Failed to renew annual solar salesperson registration.                                                                     | 71.25(a)              |
| Failed to notify the Department within 30 days of a change in registrant's name, address, phone number, or e-mail address. | 71.26(a)              |

#### **Unregistered Activity Violations**

| <b>Violation</b>                                                                                                  | <b>Statute/Rule</b>      |
|-------------------------------------------------------------------------------------------------------------------|--------------------------|
| Failed to operate under the supervision of a registered solar retailer when engaging in residential solar retail. | 1806.101(1);<br>71.52(d) |

#### **Prohibited Acts Violations**

| <b>Violation</b>                                                                     | <b>Statute/Rule</b>                      |
|--------------------------------------------------------------------------------------|------------------------------------------|
| Solicited a residence with no solicitation signage posted (retailer and salesperson) | 1806.152(b);<br>71.50(a),<br>71.52(b)(3) |

### **Class B**

**Penalty:** \$1,000 to \$3,500 and/or up to 1-year full suspension

## Code of Conduct Violations

| Violation                                                                                                                                                                                           | Statute/Rule                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Failed to provide educational brochure to consumer at least 24 hours before the consumer signs a solar contract.                                                                                    | 1806.051(b)(2);<br>71.43(b) |
| Failed to furnish consumer with the solar salesperson's name, department-issued registration number, and supervising solar retailer's name and department-issued registration number, upon request. | 71.50(e)(2)<br>71.51(c)     |

## Unregistered Activity Violations

| Violation                                                                                                                         | Statute/Rule |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------|
| Employed or contracted with an individual to engage in solar retail on its behalf that was not registered as a solar salesperson. | 71.50(b)(3)  |

## Class C

**Penalty:** \$2,000 to \$5,000 plus 1-year probated suspension up to revocation

## Code of Conduct Violations

| Violation                                                            | Statute/Rule |
|----------------------------------------------------------------------|--------------|
| Failed to conduct business with honesty, integrity and fair dealing. | 71.51(c)     |

## Unregistered Violations

| Violation                                                                                                                             | Statute/Rule                |
|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Caused the installation of a residential solar energy system to be performed by a person who is not a licensed electrical contractor. | 1806.201(5);<br>71.52(c)(1) |

## Prohibited Acts Violations

| Violation                                                                                                                                        | Statute/Rule |
|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Failed to take reasonable steps to correct a consumer's misunderstanding of a matter related to the solar contract.                              | 71.52(a)     |
| Made false statements or misrepresentations, either orally, electronically or in writing, regarding a term of the solar contract or transaction. | 71.52(a)     |

| <b>Violation</b>                                                                                                                                                                                                                                                                                                                                                                                       | <b>Statute/Rule</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Falsely represented that the solar retailer or salesperson is a representative of a utility, electric cooperative, or municipally owned utility.                                                                                                                                                                                                                                                       | 71.52(b)(1)         |
| Stated that the consumer will be eligible for tax incentives without simultaneously advising the consumer to seek tax advice from a qualified independent professional.                                                                                                                                                                                                                                | 71.52(b)(2)         |
| Violated, attempted to violate or conspired to violate the Residential Solar Retailer Act, (Occupations Code, Chapter 1806), 16 TAC, Chapter 71, the Texas Deceptive Trade Practices Act (Business & Commerce Code, Chapter 17), Sale and Leasing of Distributed Renewable Generation Resources (Business & Commerce Code, Chapter 115), the Truth in Lending Act (15 U.S.C. § 1601, <i>et. seq.</i> ) | 71.52(c)(3)         |

## **Class D**

**Penalty:** \$5,000 and/or revocation

### **Violations**

| <b>Violation</b>                                                                                                                        | <b>Statute/Rule</b>                              |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| Obtains or attempts to obtain a license by fraud or false representation                                                                | 60.23(a)(1)                                      |
| Failed to comply with previous order of Commission or Executive Director                                                                | 51.353(a);<br>60.23(a)(5);<br>71.50(a). 71.51(a) |
| Falsified a document or made a material misrepresentation in an application or other document submitted to the Department or Commission | 60.23(a)(2);<br>71.52(c)(2)                      |
| Permits the use or display of a license by a person not authorized to use that license                                                  | 60.23(a)(3)                                      |
| Failed to cooperate with the Department regarding an inspection or investigation.                                                       | 60.203(c);<br>71.50(f)                           |
| Failed to pay the Department for a dishonored payment or processing fee                                                                 | 60.82                                            |
| Interfered with an investigation; threatened or intimidated a Department employee in connection with an investigation                   | 60.203(c)                                        |