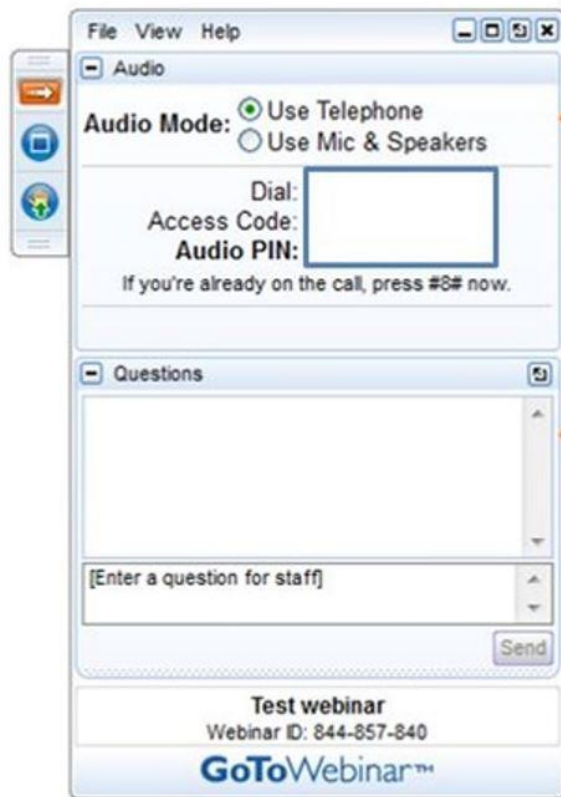


# Solar Consumer Protection

December 8, 2016



# Housekeeping



All participants are in “Listen-Only” mode. Select “Use Mic & Speakers” to avoid toll charges and use your computer’s VOIP capabilities. Or select “Use Telephone” and enter your PIN onto your phone key pad.

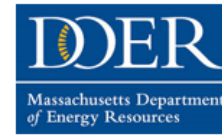
Submit your questions at any time by typing in the Question Box and hitting Send.

**This webinar is being recorded.**

You will find a recording of this webinar, as well as all previous CESA webcasts, archived on the CESA website at

[www.cesa.org/webinars](http://www.cesa.org/webinars)

# About CESA



# Sustainable Solar Education Project

- Provides information and educational resources to state and municipal officials on strategies to ensure distributed solar electricity remains consumer friendly and benefits low- and moderate-income households.
- The project is managed by the CESA and is funded through the U.S. Department of Energy SunShot Initiative's Solar Training and Education for Professionals program.
- Sign up for the Sustainable Solar mailing list to receive our free monthly newsletter and announcements of upcoming events:

[www.cesa.org/projects/sustainable-solar/newsletter](http://www.cesa.org/projects/sustainable-solar/newsletter)



# Presenters

- **Amir Yazdi**, Assistant General Counsel, Solar Energy Industries Association
- **Shannon Baker-Branstetter**, Energy and Environment Policy Counsel, Consumers Union
- **Nate Hausman**, Project Director, Clean Energy States Alliance

Moderator: **Warren Leon**, Executive Director, Clean Energy States Alliance





## Solar Consumer Protection: SEIA

Amir Yazdi, Assistant General Counsel

# Why SEIA Action on Consumer Protection?

- Consumer protection (CP) is a top priority to SEIA
  - Solar reached 1 million installations after 40+ years, and the next 1 million will come in 24 months
  - Industry success depends on consumers having great experiences
  - Need for leadership in CP as industry grows
  - Need for more specific tools & resources for companies and consumers
- ***Increase consumers' understanding of solar transactions.***
- We need **you and your company** to recognize these issues! Consumer protection must work in the field, not just on slides or conferences....

# SEIA Consumer Protection Committee

## Mission

- To improve consumer understanding of the solar transaction

## Key audiences: consumers, industry, government, and media

- Increase their understanding of solar energy transactions
- Inform them of solar technical capabilities, and characteristics
- While maintaining a pro-growth, pro-competitive stance

## Members

- National developers to regional installers



Image by Kevin Baird





**U.S. SOLAR  
DEPARTMENT**



**Find Out How Your Neighbor  
Went Solar Without Paying A Dime.**

## California Launches No Cost Solar Program for Middle-Class Homeowners

Posted by Spencer R.



# Existing Regulation of the Solar Industry

- The solar industry is highly regulated at the federal, state, and local level.
- State regulation is typically the most expansive and rooted in laws in effect for many decades.
- Every state has some form of deceptive trade practice, consumer protection, or consumer fraud act.
- Federal and local laws augment state regulations.

Finance	Construction/ Electrical	Advertising and Marketing
Solar finance is governed by federal, state and local laws, regulations and ordinances covering leases, loans and home sales.	Solar installations are governed by the rules and guidelines of state contractor and electrical licensing boards, state electrical and building codes, and local contracting, permitting, and zoning rules.	Companies that advertise or market products to consumers are governed by federal and state false advertising laws as well laws on telemarketing laws (e.g., Do-Not-Call lists).

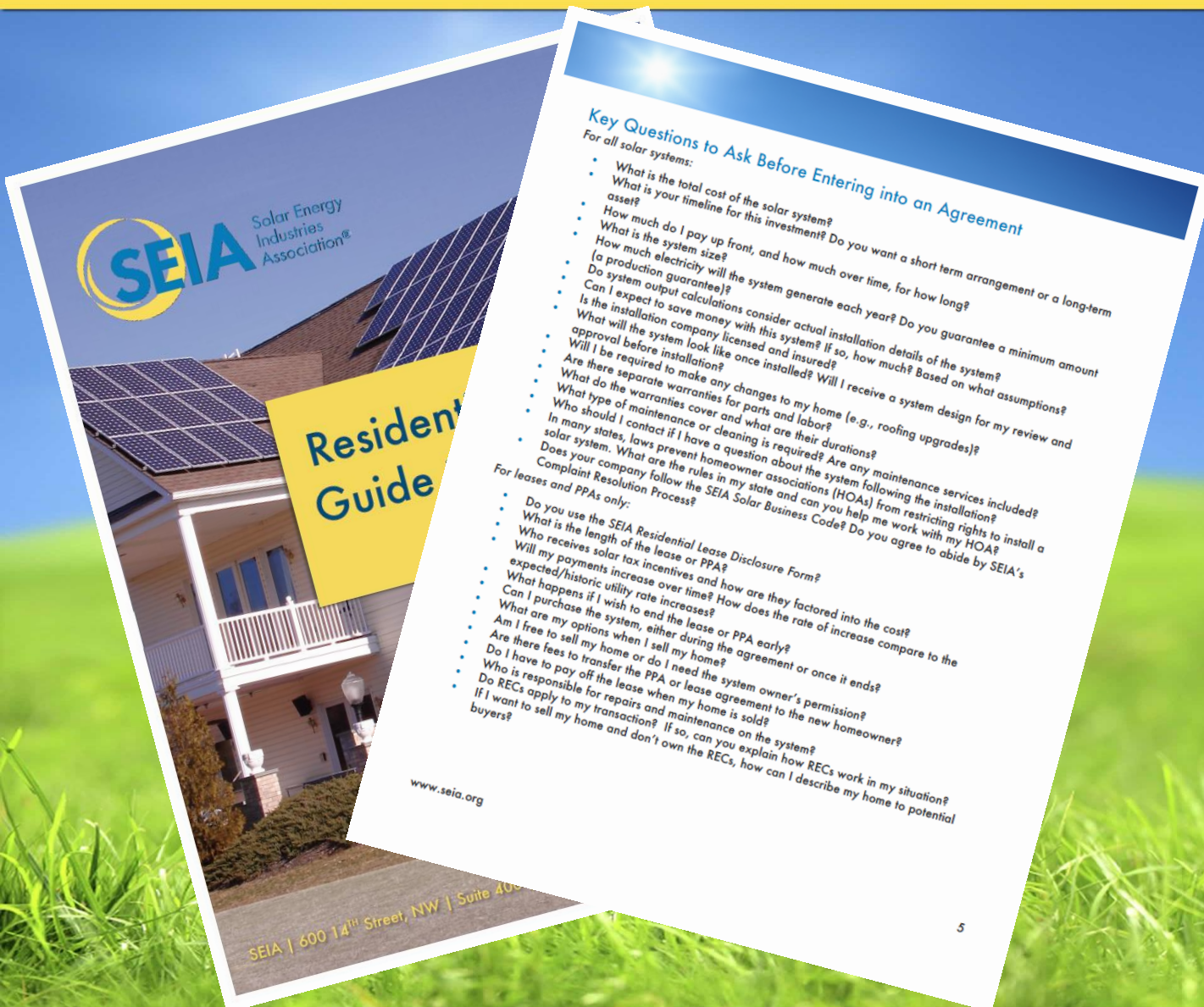
# Existing Regulators of the Solar Industry

Finance	Construction/ Electrical	Technology	Manufacturing
<ul style="list-style-type: none"><li>• <b>Consumer Financial Protection Bureau</b></li><li>• <b>Federal Trade Commission</b></li><li>• <b>State Lenders Licensing Regulators</b></li><li>• <b>State Attorneys General</b></li></ul>	<ul style="list-style-type: none"><li>• <b>State Contractor Licensing Boards</b></li><li>• <b>Local Municipality Licensing/Permitting</b></li><li>• <b>State Engineering Licensing Boards</b></li><li>• <b>Occupational Safety and Health Administration</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Federal Trade Commission</b></li><li>• <b>Federal Communications Commission</b></li><li>• <b>State Attorney Generals</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Federal Trade Commission</b></li><li>• <b>National Electric Code</b></li><li>• <b>Underwriters Laboratory (UL)</b></li><li>• <b>State Attorney Generals</b></li></ul>

# SEIA Consumer Protection Resources

- All available for free at [www.seia.org/consumers](http://www.seia.org/consumers)
- Industry Resources
  - *SEIA Solar Business Code* (first released at SPI 2015)
  - Industry updates on relevant consumer protection topics
  - Model contracts for residential leases and PPAs
  - Compliance tools
  - Webinars
- Consumer Resources
  - *SEIA Residential Consumer Guide to Solar Power*
  - *Residential Consumer Guide to Community Solar*
  - *SEIA Solar Disclosure Forms* for leases and PPAs

# Residential Consumer Guide to Solar Power



- Goal: make 'going solar' as effortless and streamlined as possible for informed consumers
  - Financing options available
  - Important contracting terms
  - Questions to ask yourself before you begin to go solar
  - Questions to ask solar installers
- Spanish version is available
- Community Solar version released

# Disclosure Forms

SEIA® SOLAR LEASING DISCLOSURE STATEMENT			
<p>This streamlined statement is designed to help you understand the terms and costs of your solar lease.            This statement is not a substitute for the contract, lease and other documents associated with this transaction.            Read your contract and other documents carefully. All information presented below is subject to the terms of your contract.</p>			
<b>LESSOR:</b> Address:  Tel.: License # (if applicable): Email:	<b>INSTALLER:</b> Address:  Tel.: State/County Contractor License #: Email:	<b>WARRANTY/MAINTENANCE PROVIDER:</b> Address:  Tel.: License # (if applicable): Email:	
<b>LESSEE:</b> Customer ID: System Installation Address: Lessee Mailing Address: Email: Contract Date:			
<p>* NOTE: YOU ARE ENTERING INTO AN AGREEMENT TO LEASE A SOLAR SYSTEM. YOU WILL NOT OWN THE SOLAR SYSTEM INSTALLED ON YOUR PROPERTY. YOU CANNOT CLAIM THE FEDERAL INVESTMENT TAX CREDIT. CONSULT WITH YOUR TAX ADVISOR.</p>			
Amount & Term (A)	Amount Due Up-Front (B)	Total Estimated Lease Payments (C)	Other Possible Charges (D)
Your monthly payment during the first year of the lease: \$ _____  The length of your solar lease: <input type="checkbox"/> ___ Years <input type="checkbox"/> ___ Months  *NOTE: See Box G: "Lease Payment Escalator" for factors that may affect the amount of future monthly payments.	Amount you owe Lessor at solar lease signing: \$ _____  Amount you owe Lessor at the completion of installation: \$ _____  Total up-front payments you owe Lessor: \$ _____	Total of all your monthly payments and estimated taxes over the course of the lease:  Your estimated total lease payments excluding taxes are \$ _____  Your estimated total tax payments are \$ _____ based on estimated average monthly tax payment of \$ _____  <b>Incentives Included In Your Estimated Lease Payments:</b> <input type="checkbox"/> None     _____ _____ _____	Other charges you may have to pay under your solar lease:  <b>Late Charge:</b> If a payment is more than _____ days late, you will be charged \$ _____.  <b>Estimated System Removal Fee:</b> \$ _____  <b>UCC Notice Removal and Re-Filing Fee:</b> If you refinance your mortgage, you may have to pay \$ _____.  <b>Non-Connection to Internet:</b> If you do not maintain a high-speed internet connection, you will be charged a monthly fee of \$ _____ and/or as a result your monthly payments may be based upon estimates.

- Snapshot of the key terms in an agreement
- Help consumers understand an agreement and compare offers
- Help you engage with consumers
- Versions for lease and PPAs are available
- Version for system purchases in development
- Commitment from major companies to use the forms by the end of the year



## SEIA CONSUMER PROTECTION INDUSTRY ALERT: TELEMARKETING RULES

### INTRODUCTION

As the residential solar industry expands nationally, solar companies are engaging more with telemarketing and lead generation companies to connect with consumers. These include both companies who are members of the Solar Energy Industries Association (SEIA) and those who are not. Solar companies need to understand all applicable laws that govern those activities, including federal law. Although the vast majority of solar companies do comply with applicable laws, the Federal Communications Commission (FCC) has received complaints involving residential solar transactions.

As part of SEIA's consumer protection efforts and as a service to the industry, this alert provides an overview of relevant rules that companies need to be aware of to stay compliant with the law. This alert does not provide legal or other professional guidance. If you have questions regarding the legality of any action, please consult with legal counsel before taking such action.

### SEIA SOLAR BUSINESS CODE

As a condition of membership, SEIA member companies must abide by the SEIA Solar Business Code<sup>1</sup>, the first version of which was approved by the SEIA Board of Directors in 2015. The Code defines rules of conduct on advertising, marketing and consumer interactions, and contracts, in addition to other provisions. SEIA member companies must follow any applicable federal law governing telemarketing and mobile phone limitations. The Code specifically states that any SEIA member company that engages third parties for lead generation must "take commercially reasonable measures" to make sure those third parties do not violate the Code. Otherwise, a SEIA member company can be held accountable for Code violations by third-party service providers.

### SPOOFING

Some telemarketers falsify, alter, or obscure the number and name that appears on a telephone call, known as "spoofing" and is prohibited by the FCC because it misleads consumers. Every telemarketer must "[t]ransmit or display its telephone number or the telephone number of the person whose behalf the telemarketer is calling, and, if possible, its name or the name of the company for which it is selling products or services."<sup>2</sup> See <https://www.fcc.gov/consumers/guides/caller-id-and-spoofing> for further information on spoofing from the FCC directly.

### TELEMARKETING/UNWANTED CALLS

Calls made with the intent to sell or market goods or services ("marketing calls") are highly regulated, and companies need to understand the rules governing them. For instance, federal law provides that if a consumer is on the national Do-Not-Call list,<sup>2</sup> no solar company can call that consumer without first obtaining written consent to make such calls, or by having an established business relationship with that consumer. In addition, a company must maintain its own internal Do-Not-Call list and honor all requests to be put on that list. The established business relationship exemption does not apply to consumers who have asked to be on internal Do-Not-Call lists. When a consumer is not on the national Do-Not-Call list, solar companies are given greater ability to use autodialed and manually-dialed calls without a consumer's permission.

There are also federal and state limitations and requirements relating to (i) the times of day that calls can be made, (ii) how long after an auto-dialed call is answered that the consumer must be connected to a live representative, (iii) the need for prior written consent for receiving prerecorded messages, (iv) the automated option to be placed on internal Do-Not-Call list, (v) the disclosure of Do-Not-Call options on any message left on answering machines, (vi) how many rings must occur before a call is disconnected, and (vii) what the caller (live or automated) must say about the purpose of the call and about itself to the consumer at the very start of each call.

Calling mobile phones is more complicated. Any autodialed call to a consumer's mobile phone requires the caller to obtain that consumer's prior written consent, and an established business relationship is not an exception to the rule. While manually-dialed calls are only subject to Do-Not-Call list restrictions, the FCC's definition of an autodialed call is broad. For instance, the FCC considers autodialing to include calls from devices that can store telephone numbers and dial them along with devices that can be modified to do so later. Taken together, virtually every company needs prior express written consent before calling a mobile phone. See <https://transition.fcc.gov/eep/policy/Telemarketing-Rules.pdf> for further information from the FCC directly.

### LEAD GENERATION

Some companies hire third-party entities known as lead generators for consumer acquisition purposes. Using third parties to obtain leads raises concerns about how such third parties obtain the prior written consent for the company to later call the leads in compliance with the foregoing Do-Not-Call, autodial, prerecorded message and mobile phone limitations. There are also concerns about deceptive statements made by those lead generators in trying to obtain the leads. Solar companies are responsible for taking "commercially reasonable steps" to make sure that lead generators they hire comply with the SEIA Solar Business Code.

<sup>1</sup> <https://consumercomplaints.fcc.gov/hc/en-us/articles/202654304>  
<sup>2</sup> <https://www.donotcall.gov/>

# SEIA Solar Business Code

- Foundation of our consumer protection efforts
- First national business code for the solar industry
- Officially released at SPI 2015
- All members of SEIA agree to abide by the Code by terms of their membership
- Designed to fundamentally increase consumer understanding in solar power transactions

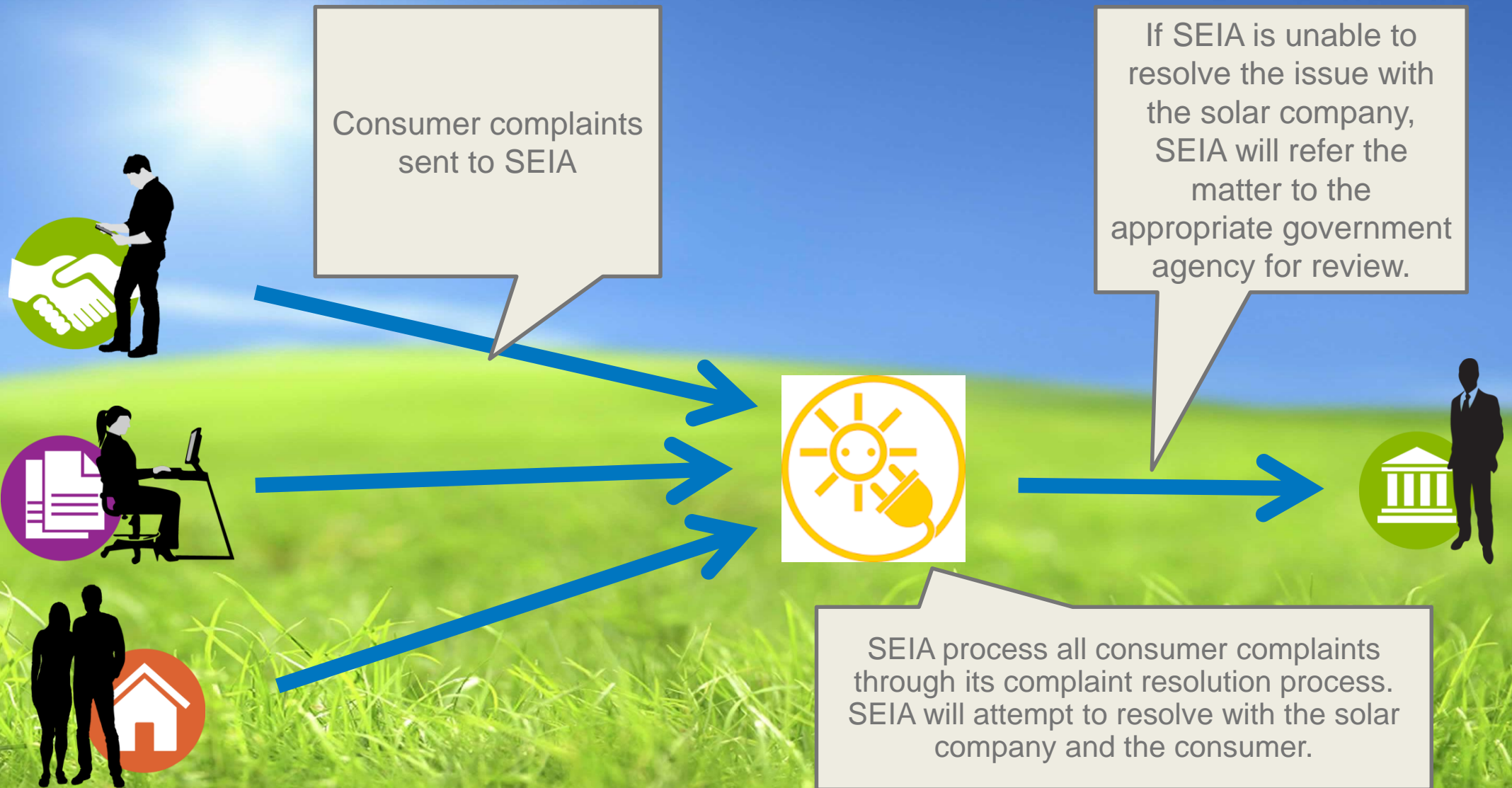




# SEIA Solar Business Code (continued)

- Guiding Principles
- Unfair, Deceptive, or Abusive Acts or Practices
- Advertising
- Sales and Marketing Interactions
- Contracts

# Consumer Complaint Process



# What Can I Do to Help?

- Consider importance of consumer protection on your business.
- Review the free materials on SEIA's website.
- Let others know you're following the Solar Business Code, and that they should too.
- Educate your employees about consumer protection – some of the best in business are doing right now.
- Contact us with any questions – here to help.
  - Amir Yazdi, SEIA [ayazdi@seia.org](mailto:ayazdi@seia.org)
  - [consumer@seia.org](mailto:consumer@seia.org)

**CONSUMER PROTECTION AND  
ROOFTOP SOLAR**

**SHANNON BAKER-BRANSTETTER  
POLICY COUNSEL  
CONSUMERS UNION**

**ConsumersUnion<sup>®</sup>**

POLICY & ACTION FROM CONSUMER REPORTS

# ABOUT US

## Testing

- Test thousands of products in 50+ independent labs
- Buy at retail, anonymously

## Survey

- National, state, and membership surveys

## Media

- Consumer Reports magazine and Consumer Reports online
- @ConsumerReports, @ConsumersUnion

## Advocacy

- Consumer value and benefit lens
- State and federal
- Utility and transportation policy
- Financial services, product safety, health care, etc.



**ConsumersUnion**<sup>®</sup>

POLICY & ACTION FROM CONSUMER REPORTS

# WHY ROOFTOP SOLAR?

- Reduce utility bills
- Enhance consumer choice
- Stable and predictable costs
- Improve air quality
- Freedom and independence from utility
- Address climate change



# BUT WHAT ARE THE RISKS?

- Expected or promised savings don't materialize
- Hidden or unexpected costs (high cost loans, added fees, transfer of tax rebate/RECs)
- Unfair or unclear contracts
- Restrictions on transferring leases
- Poor quality installation or inappropriate siting
- Robocalls or cold calls targeting consumers who know very little about solar or contracts
- Potential cost-shifting to non-solar customers
- Utility fees on solar customers



# 3 BIGGEST CONSUMER PROBLEMS WITH SOLAR INSTALLATIONS

1. Difficulty comparing offers (escalating costs for leases/PPAs)
2. Difficulty understanding and negotiating contracts
3. Dealing with bad actors (fraud, overpromising/misrepresentation, robocalls)

Only the first one really is specific to the solar industry.

And some utilities try to increase barriers to entry by increasing fees for solar customers.



# WHY SOLAR NEEDS BETTER CONSUMER PROTECTION

- In transitioning to solar, consumers/ratepayers are moving from a relatively regulated industry - their utility - to a relatively unregulated world of private home contractors.
- Electricity is an essential service, so it makes sense to continue consumer protections as they begin to enter the realm of providing their own electricity.
- Complaints about solar are not unique or worse than other industries, but there are already big problems that have proven hard to solve with home contractors for repairs/remodeling,
- Unlike remodels and many other home projects, rooftop solar is an opportunity for consumers to actually save money—want to see consumers reap these benefits.

# WHAT CAN BE DONE TO IMPROVE VALUE FOR CONSUMERS?

- Encourage low-interest loans over leasing
- State/local government oversight over consumer protection, quality control
- FTC crackdown on robocalls and false claims
- State, FTC and industry efforts to streamline disclosures or create template
  - “good faith estimate” that displays production ratios, cost/kW, and disclosure of company name, contact information, and corporate registration information
  - Standard form/template that consumer could ask company to fill out even if state didn’t require it
- Consumer education (IREC, CU, CESA materials)
- PUC valuation of solar (CU-Synapse report)



# FIELDS TO INCLUDE IN THE “GOOD FAITH ESTIMATE”

- 20 year average per Kwh cost (to compare to utility)
- Fees/price escalation
- Explicit identification of how payback/savings calculation may rely on incentives or net metering policies that are subject to change
- Sale/lease/PPA
- Interest rate, payment schedule
- Total costs and estimated savings for 5, 10, 15, 20 year marks
  - estimated savings based on utility-specific rate trends and also on 1 or 2% increase for easier comparison
- Explicit designation of recipient for subsidies, regulatory incentives, RECs
- Assignment of responsibility for roof repairs/replacement, reinstallation of solar panels
- Restrictions on selling the property or transferring a lease
- Consequences for breaking a lease
- Minimum performance guarantees?
- Is there binding mandatory arbitration?



# DIFFICULTIES AND CHALLENGES

- Solar quotes have different assumptions in the calculations, lots of different data points
- Low consumer awareness
- Company names sound the same
- Early adopters tend to be more savvy consumers, but as solar has gone mainstream and more players, risk of problems is greater
- Contractors for home improvement projects have notoriously high levels of customer complaints due to the under-regulated environment

Other CR resources/links:

<http://www.consumerreports.org/energy-saving/shedding-light-on-solar-power/>

<http://www.consumerreports.org/energy-saving/real-cost-of-leasing-vs-buying-solar-panels/>

<http://www.consumerreports.org/energy-saving/how-to-install-a-solar-system/>

<http://www.consumerreports.org/energy-saving/solar-power-projects-from-homeowners/>

<http://www.consumerreports.org/video/view/home-garden/news/4579483018001/7-questions-before-you-go-solar/>

???

**Contact Shannon Baker-Branstetter  
at [bakesh@consumer.org](mailto:bakesh@consumer.org)**

# Solar Consumer Protection

December 8, 2016

Nate Hausman  
Project Director  
Clean Energy States Alliance



# Range of Solar Consumer Protection Issues

- Confusion about solar financing options
- Confusing contracts
- Consumers' difficulty identifying reputable and reliable installers
- Consumers do not understand their rights
- Consumers unable to collect on warranty claims
- False advertising claims
- High-pressure sales tactics
- Inadequate warranties
- Incomplete or misleading projections of consumers' cost savings
- Installations do not produce as much electricity or otherwise perform as promised
- Installations have improper wiring or safety problems
- Renewable Energy Certificate (REC) double counting and misleading claims about who receives solar electricity

# Why It's Important to Address Consumer Protection

- To retain public trust and support in solar
  - Some consumers have voiced complaints and concerns
- To make sure solar doesn't exploit vulnerable populations
- To prevent solar backlash



# Potential Reasons Why Solar Consumer Protection Issues Have Cropped Up

- Market maturity
- Lower barriers to entry (e.g., availability of third-party ownership, solar loans, incentives, and community solar)
- Decline of state incentive programs means some states no longer have as much control over the solar process

# Why States and Municipalities Should Take Action

- States and municipalities have the ability to implement solar programs and policies that inform and protect consumers. People look to state and local government for information.
- If states and municipalities don't address these issues proactively, they may have to expend resources to redress problems after they arise.
- Government's job is to set rules and ensure they are followed for the benefit of all.
- To maintain a robust, competitive solar market that promotes economic development and allows states and municipalities to meet their solar goals.

# What CESA Is Doing



- **Sustainable Solar Education Project:** Providing information and resources to help states and municipalities ensure distributed solar remains consumer friendly and benefits low- and moderate-income households.

[www.cesa.org/projects/sustainable-solar](http://www.cesa.org/projects/sustainable-solar)

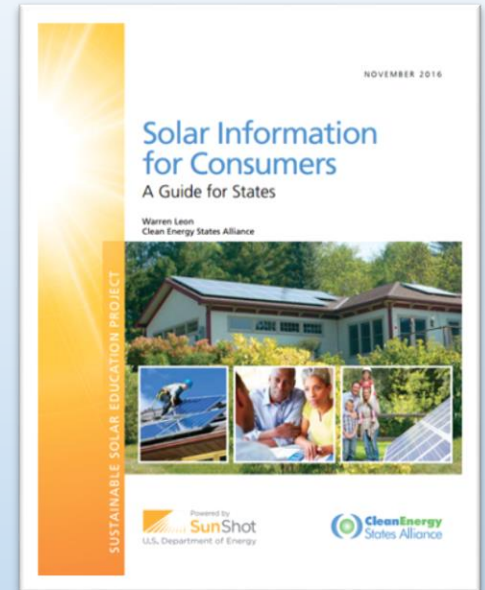


# Training & Resource Development

The Sustainable Solar Education Project is developing a variety of educational resources:

- **Guides**
- **Webinars**
- **Online course material**
- **In-person training**

The project is also publishing a free **monthly e-newsletter** highlighting news and resources related to solar equitability and consumer protection from across the country.



# Sustainable Solar Education Project

## Guide Topics

### **Published:**

- Solar Information for Consumers: A Guide for States

### **In Development:**

- Programs and Policies to Bring the Benefits of Solar to Low-Income Residents
- Publicly Support Loan Program Design
- Regulations and Standards for Solar Equipment and Installers
- State and Municipal Solar+Storage Policies and Programs for Low- and Moderate-Income Communities

### **Contemplated:**

- Solar Consumer Protection for Community Solar Programs & Projects

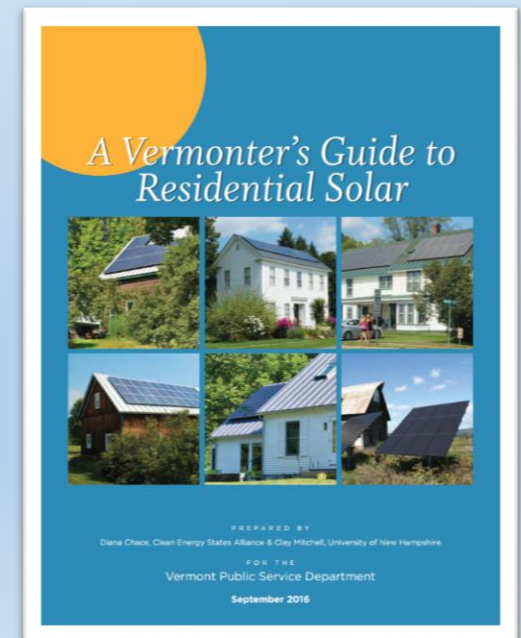
# Other CESA Solar Guides

CESA published *A Homeowner's Guide to Solar Financing – Leases, Loans, and Power Purchase Agreements (PPAs)*

- State-specific versions of the guide have been produced in Massachusetts, New Mexico, and New York
- Spanish version of the guide is also available

State-specific information

- CESA produced *A Vermonter's Guide to Residential Solar* for the Vermont Public Service Department.



# Thank You

Nate Hausman

Project Director

Clean Energy States Alliance

(802) 223-2554 x206

[Nate@cleanegroup.org](mailto:Nate@cleanegroup.org)

[www.cesa.org](http://www.cesa.org)



# Contact Information

## SUSTAINABLE SOLAR EDUCATION PROJECT

Warren Leon  
Executive Director, CESA  
[wleon@cleanegroup.org](mailto:wleon@cleanegroup.org)

Nate Hausman  
Project Director, CESA  
[nate@cleanegroup.org](mailto:nate@cleanegroup.org)

Visit our website to learn more about the Sustainable Solar Education Project  
and to sign up for our e-newsletter:

<http://cesa.org/projects/sustainable-solar/>

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