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March 29, 2017

The Honorable Ben Hueso, Chair
Senate Committee on Energy, Utilities and Communications
State Capitol, Room 4035
Sacramento CA 95814

RE: SB 71 (Wiener) – Support if Amended

Dear Senator Hueso:

We write to share with you concerns with SB 71 (Wiener) as amended on March 1, 2017. We have discussed these concerns with Senator Wiener's staff and hope to reach a resolution.

SB 71 requires the installation of a solar electric or solar thermal system on most new residential and commercial construction beginning January 1, 2018. It empowers the California Building Standards Commission to establish additional regulations on these installations that reflect the most recent technology available.

Solar electric and solar thermal systems are valuable components for advancing California's goals of energy independence and reduced greenhouse gas emissions. However worthy those goals, a mandate that all new homebuyers must purchase installed solar systems creates an open invitation to expand the unfair anti-consumer practices that already plague the residential solar industry. Any legislation that creates such a requirement on consumers must protect them from industry abuse.

Complaints against bad actors in the solar industry include deceptive marketing, false promises of savings, and failures to disclose potential costs and negative impacts of solar leases on property taxes, home sales and refinancing. Several state Attorneys General have issued consumer alerts to beware of solar scams.¹

SB 71's intent language speaks about the greater efficiency of financing a solar system at the time the home is built, but it does not address financing methods. While some homebuilders may simply increase the sale price for the home to cover the cost of the solar installation, others may balk at the idea of adding another \$30,000 or more to the sale price. It is likely that the current financing options that solar companies utilize to sell installations for existing homes would be adapted to cover the cost of the installation on a new home. These include special solar loans and long-term leases from the solar company that owns the solar array on a homeowner's roof.

In theory, the homeowner pays off the loan or lease through energy savings and tax rebates. In practice, these savings are often illusory. Many homeowners end up paying more for a solar installation than they would if they made their home as energy efficient and energy conserving as possible while continuing to

¹ <http://www.ago.state.ms.us/releases/attorney-general-jim-hood-advises-consumers-to-know-the-facts-before-investing-in-solar-energy-systems/>; http://www.nola.com/business/baton-rouge/index.ssf/2015/04/solar_power_system_scams_attorney_general_buddy_caldwell.html

purchase their electricity from a local utility. There is nothing wrong with an informed consumer choosing the higher net cost of solar financing or leasing over more economical alternatives. But we object to the deceptive claims and false promises of energy and cost savings made by industry bad actors to lure consumers into a bad deal.

A consumer may be surprised to learn that popular private financing programs such as PACE (Property Assessed Clean Energy) and HERO (Home Energy Renovation Opportunity) raise their property taxes to pay off the lease. These are loans from private businesses that have government-approval - a far cry from their deceptive presentation to homeowners as government-run financing. Increased property taxes may outstrip any promised savings in energy bills. More troubling, solar loans place a lien on the property that can impair one's ability to sell or refinance a home.² The solar lien is in "first-lien position", meaning the loan must be paid off in full before the home sale or refinancing can occur.³ Home sales are more likely to fall through when a potential buyer refuses to take over the seller's costly decades-long loan or lease.⁴ Instead of enhancing the home's value, homeowners have paid solar financing companies \$20,000 to \$30,000 to buy out the loan or lease and clear the way for the home sale.⁵

Some solar companies lie about energy production and resulting savings that a solar installation will achieve. We recently spoke with two consumers who told us about solar companies that made big promises of energy and cost savings but failed to deliver. Both purchased their solar systems, financed with 30-year loans. Now they are stuck with underpowered systems and loans they cannot pay.

A homeowner in San Bernardino County signed up for a 5,000 watt system that the solar company projected would meet 93% of his family's energy needs. The installed system is delivering 3,600 watts, and provides less than half of his energy needs, at a unit price greater than the cost charged by his local electric utility. When he complained, the solar company stated that his home's electric system lacked the capacity to handle 5,000 watts. The consumer conducted testing that proved the company's claim was false. The solar company refused his request for additional panels to get closer to the promised 5,000 watts. With higher energy bills, he cannot make payments towards his loan. He reverted to his local utility to provide all his electric power needs at a lower price. He fears the solar company will place a lien on his house and send his loan to a collections agency.⁶

A Los Angeles County homeowner bought a solar system and other home energy improvements from another solar company. It promised 99% of her energy consumption would be covered by her solar panels. Instead, they provide less than 55% coverage. At an 8% interest rate, paying off her home solar loan is a hardship. Even worse, after her panels had been installed, the solar company informed her that to qualify for future rebates, she would have to pay an "addendum" on her loan that increased its cost by nearly 20%.⁷

SB 71 should be amended to eliminate, or establish stringent regulation of, special solar loans and solar leasing for installations under its new home mandate. It should hold the homebuilder or solar installer liable for a failure to deliver on an electric power generation claim. In its current form, the bill does nothing to require truth in labeling, limits on financing and leasing schemes, and full disclosure of the various scams that rip off homeowners.

California has already tied purchasing mandates to government regulation of an industry it forces consumers to patronize. California's automobile insurance regulation established the national model for a

² <http://www.sacbee.com/news/politics-government/capitol-alert/article104313221.html>

³ <http://www.pe.com/articles/program-768927-hero-ramirez.html>

⁴ <http://losangeles.cbslocal.com/2016/04/30/goldstein-investigation-those-solar-panels-that-should-make-you-see-green-might-have-you-seeing-red/>

⁵ <http://www.latimes.com/business/realestate/la-fi-harney-20150322-story.html>

⁶ Personal interview, November 2016.

⁷ Personal interview, November 2016.

transparent, competitive, and fair marketplace for a product that motorists must purchase. The Building Code contains many detailed regulations for homebuilder to follow to protect residents from shoddy or unsafe construction.

We want residential solar to succeed. SB 71 could create an excellent national standard for solar installations, but only if it addresses the shady practices that hurt consumers and tarnish the industry's reputation.

We look forward to working with the author to address these gaps in a regulatory scheme that requires homeowners to make costly purchases without consumer protections. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The signature is written in a cursive, flowing style.

Richard Holober
Executive Director

cc: Members of the Senate Committee on Energy, Utilities and Communications
Senator Wiener