

SENATE BILL 65

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CONSUMER PROTECTION; ENACTING THE CONSUMER SOLAR PROTECTION ACT; PROVIDING FOR FINANCE CONTRACTS; PROVIDING DUTIES AND LIMITATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Consumer Solar Protection Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

.228875.2AIC February 7, 2025 (11:33am)

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Consumer Solar Protection Act:

- A. "consumer" means a natural person;
- B. "consumer reporting agency" means a person that for monetary fees or dues or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers to furnish consumer reports to third parties and that uses any means or facility of interstate commerce to prepare or furnish consumer reports;
- C. "finance contract" means an agreement that provides financing for the sale or installation of a residential solar energy system, a lease for a residential solar energy system or a power purchase agreement;
- D. "power purchase agreement" means an agreement by which a third party installs, owns and operates a residential solar energy system on a consumer's property and the consumer purchases the system's electric output for a predetermined period;
- E. "repurchase" means that the holder of a finance contract demanded and received a return of the amount paid to the seller or installer pursuant to the finance contract; and
- F. "residential solar energy system" means a residential facility or system that uses photovoltaic cells and solar energy to generate electricity.

SECTION 3. [NEW MATERIAL] PERMITS--SELLERS AND

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INSTALLERS--PROHIBITED ACTIONS.--

A. A person who is intending to install a residential solar energy system shall have all required permits approved and displayed as provided by state law or local ordinance before any installation work occurs.

B. A person selling a residential solar energy system to a consumer shall not:

(1) create an email account for the consumer or attempt to access the consumer's email account in connection with the application of an electronic signature on any sales, installation or finance contract documents in connection with the system;

(2) represent or imply that the system is:  
(a) offered as part of a government program;

(b) offered as part of a program from the applicable utility company; or

(c) free; or

(3) represent to the consumer that the system entitles the consumer to federal or state tax credits unless the seller:

(a) is qualified to give tax advice;

(b) has evaluated the eligibility of the consumer to whom the representation is being made; and

(c) provides written documentation of

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the evaluation and representation at the time the representation is made.

C. Prior to or at the time of the sale of a residential solar energy system to a consumer, a person selling the system shall provide to the consumer upon request a paper copy of any documents proffered in electronic form, including finance contracts or other contracts.

D. A person selling or installing a residential solar energy system shall not request or accept a power of attorney from the consumer for whom the system is being installed. A power of attorney accepted in violation of this subsection is void.

**SECTION 4. [NEW MATERIAL] WHEN SYSTEMS OPERATIONAL-- PAYMENTS NOT DUE WHEN NOT OPERATIONAL.--**

A. A residential solar energy system is considered to be operational if it is generating electricity.

B. If a residential solar energy system is not operational within STBTC ~~ninety~~ STBTC STBTC **one hundred eighty** STBTC days after the first date of installation of solar panels, the holder of a finance contract, seller, installer, lessor or electricity generator shall not:

(1) request or accept payments from the consumer under the finance contract, lease or agreement until the system is operational;

(2) fail to or refuse to return any payments

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made or received while the system was not operational; or

(3) report to a consumer reporting agency that a payment was late if it was due while the system was not operational.

C. A holder of a finance contract shall not request or accept payments from a consumer after repurchase.

**SECTION 5. [NEW MATERIAL] PRIVATE RIGHT OF ACTION.--**

A. A person violating a provision of the Consumer Solar Protection Act with respect to a consumer shall be liable to the consumer for the greater of actual damages or statutory damages in the amount of one thousand dollars (\$1,000).

B. In an action filed by a consumer or on behalf of a class of consumers, if the consumer proves that the violation was willful, actual or statutory damages, as applicable, shall be trebled, injunctive relief may be granted and the court shall award reasonable attorney fees and costs to the prevailing consumer.