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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/24/25 *Check all that apply:*
Bill Number: SB 65 Original Correction
 Amendment Substitute

Sponsor: Sen. Katy M. Duhigg **Agency Name and Code** AOC
Short Title: Consumer Solar Protection Act **Number:** 218
Person Writing Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 65 enacts the “Consumer Solar Protection Act,” (CSPA) detailing prohibited actions and creating a private right of action for consumers, as follows:

Section 2: Defines “consumer,” “consumer reporting agency,” “finance contract,” “power purchase agreement,” “repurchase” and “residential solar energy system”.

Section 3: Requires a person intending to install a residential solar system to have all required permit approved and displayed before installation work occurs and prohibits the following actions:

- Creation of 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;
- Representing or implying that the system is offered as part of a government program, offered as part of a program from the applicable utility company or free; or
- Representing to the consumer that the system entitles the consumer to federal or state tax credits unless the seller is qualified to give tax advice, has evaluated the eligibility of the consumer to whom the representation is being made, and provides written documentation of the evaluation and representation at the time the representation is made.

The Act also requires the system seller to provide to the consumer upon request a paper copy of documents proffered in electronic form, including finance contracts or other contracts, prior to or at the time of the sale of a residential solar energy system to a consumer. The Act prohibits a seller from requesting or accepting a power of attorney from the consumer for whom the system is being installed and provide that a power of attorney accepted in violation of the Act is void.

Section 4: provides that if the residential solar energy system is not operational within 90 days after the first date of installation of solar panels, the holder of a finance contract, seller, installer, lessor or electricity generation is prohibited from:

- Requesting or accepting payments from the consumer until the system is operational;
- Failing or refusing to return any payments made or received while the system was not operational; or
- Reporting to a consumer reporting agency that a payment was late if it was due while the system was not operational.

The Act prohibits a holder of a finance contract from requesting or accepting payment from a consumer after repurchase.

Section 5: provides that a person violating a provision of the CSPA with respect to a consumer is liable to the consumer for the greater of actual damages or statutory damages in the amount of \$1,000. The Act further provides that, 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 shall be trebled, injunctive relief may be granted and the court shall award reasonable attorney fees and costs to the prevailing consumer.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation

of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced civil actions and appeals from the awarding of damages, injunctive relief and attorney fees and costs. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

1. In response to bad actors in the consumer solar energy field, states and the federal government and consumer protection groups have increased their efforts to protect and educate consumers. In March 2024, the Solar Consumer Protection Act was signed into law in Washington state. See RCW 19.95.005 et. seq. at <https://app.leg.wa.gov/RCW/default.aspx?cite=19.95&full=true> . That law requires solar contracts to explicitly disclose certain costs and clearly state system performance expectations, according to the Washington Solar Energy Industries Association and reported by the online Solar Power World. Also in March 2024, the Home Solar Energy Amendments bill was signed into law in Utah. This law prohibits the start of rooftop solar installation for seven days after a contract is signed and mandates a 10-day refund grace period if a homeowner decides to back out. See *Government and industry take aim at shady solar sales practices*, October 2024, <https://www.solarpowerworldonline.com/2024/10/government-industry-take-aim-at-shady-solar-sales-practices/#:~:text=Washington%20state%20Gov.,%E2%80%9D> . See also, *Solar Consumer Protection*, <https://www.nrel.gov/state-local-tribal/solar-consumer-protection.html> and *Consumer Solar Awareness*, U.S. Dept. of the Treasury, <https://home.treasury.gov/policy-issues/consumer-policy/consumer-solar-awareness> . Texas also passed a Solar Consumer Protection Act in 2021, while Arizona was the first state to enact a solar consumer protection law in 2015. See *Here Comes the Sun, A State Policy Handbook for Distributed Solar Energy*, July 2017, <https://www.naseo.org/data/sites/1/documents/publications/Here%20Comes%20the%20Sun%20Handbook%20July%202017.pdf> .
2. The Unfair Practices Act, Section 57-12-10(B) NMSA 1978, does not permit a jury to award punitive damages, but only permits a judge to award up to treble damages for a willful engagement in an unfair or deceptive trade practice or an unconscionable trade practice, stating, “Where the trier of fact finds that the party charged with an unfair or deceptive trade practice or an unconscionable trade practice has willfully engaged in the trade practice, the court may award up to three times actual damages or three hundred dollars (\$300), whichever is greater, to the party complaining of the practice.” The CSPA, in contrast, provides that if the consumer proves the violation was willful, damages *shall* be trebled. Additionally, Section 57-12-10(C) NMSA 1978 requires the court to award attorney fees and costs to the party charged with an unfair or deceptive trade practice or an unconscionable trade practice if it finds that the party complaining of such trade practice brought an action that was groundless. The CSPA contains no such provision for the awarding of attorney fees and costs to a residential solar energy system seller.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS