

LFC Requester:

Ismael Torres

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: January 28, 2025

Check all that apply:

Bill Number: SB98

Original Correction
Amendment Substitute

Sponsor: Sen. Elizabeth Stefanics and Rep. Joy Garratt

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Prohibit Certain Solar Covenants

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: SB98 amends NMSA 1978, Section 3-18-32, relating to the limitation of county and municipal restrictions on solar collectors. SB98 provides examples of the categories of void or unenforceable covenants, conditions, or restrictions that would effectively prohibit the installation or use of a solar collector (as defined in the Solar Rights Act, NMSA 1978, §§ 47-3-1 to -5).

As it currently stands, covenants, conditions, and restrictions that affect the transfer, sale, or use of or an interest in real property, which effectively prohibit the installation or use of a solar collector is already void and unenforceable. SB98 adds clarification or examples as to what this might include, by stating that it “includ[es]” covenants, conditions, or restrictions that (1) increase the cost to the consumer, after the application of any credits and incentives, of purchasing and installing a solar collector by more than ten percent or a total of one thousand, five hundred dollars (\$1,500), or (2) reduces the efficiency of the operation of a solar collector by more than ten percent. Additionally, SB98 provides attorney fees to a prevailing party in an action to enforce compliance with this section.

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB65 – Consumer Solar Protection Act; enacts Consumer Solar Protection Act, provides more consumer protections for purchasers of a residential solar energy system and a private right of

action for violation of Consumer Solar Protection Act. SB65 relates to SB98 by subject matter, but does not conflict, duplicate, or act as a companion to SB98.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.