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SENATE BILL

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

INTRODUCED BY
Katy M. Duhigg

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 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

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1 parties and that uses any means or facility of interstate
2 commerce to prepare or furnish consumer reports;

3 C. "finance contract" means an agreement that
4 provides financing for the sale or installation of a
5 residential solar energy system, a lease for a residential
6 solar energy system or a power purchase agreement;

7 D. "power purchase agreement" means an agreement by
8 which a third party installs, owns and operates a residential
9 solar energy system on a consumer's property and the consumer
10 purchases the system's electric output for a predetermined
11 period;

12 E. "repurchase" means that the holder of a finance
13 contract demanded and received a return of the amount paid to
14 the seller or installer pursuant to the finance contract; and

15 F. "residential solar energy system" means a
16 residential facility or system that uses photovoltaic cells and
17 solar energy to generate electricity.

18 SECTION 3. [NEW MATERIAL] PERMITS--SELLERS AND
19 INSTALLERS--PROHIBITED ACTIONS.--

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

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

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

6 (2) represent or imply that the system is:

7 (a) offered as part of a government
8 program;

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

11 (c) free; or

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

15 (a) is qualified to give tax advice;

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

18 (c) provides written documentation of
19 the evaluation and representation at the time the
20 representation is made.

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

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

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

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

10 B. If a residential solar energy system is not
11 operational within ninety days after the first date of
12 installation of solar panels, the holder of a finance contract,
13 seller, installer, lessor or electricity generator shall not:

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

17 (2) fail to or refuse to return any payments
18 made or received while the system was not operational; or

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

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

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

25 A. A person violating a provision of the Consumer

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

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