

1 SENATE BILL 233

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Antonio Maestas

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10 AN ACT

11 RELATING TO CONSUMER PROTECTION; MAKING FAILURE TO PROVIDE THE  
12 WRITTEN STATEMENT REQUIRED BY THE DISTRIBUTED GENERATION  
13 DISCLOSURE ACT AN UNFAIR OR DECEPTIVE TRADE PRACTICE.

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

16 SECTION 1. Section 57-31-3 NMSA 1978 (being Laws 2017,  
17 Chapter 102, Section 3) is amended to read:

18 "57-31-3. DISTRIBUTED ENERGY GENERATION SYSTEM  
19 DISCLOSURES--EXCEPTION.--

20 A. Beginning thirty days after publication in the  
21 New Mexico register of the form disclosure statements issued by  
22 the attorney general pursuant to Section [~~5 of the Distributed~~  
23 ~~Generation Disclosure Act~~] 57-31-5 NMSA 1978, any agreement  
24 governing the financing, sale or lease of a distributed energy  
25 generation system, or the sale of power to a power purchaser,

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1 shall include a written statement with font no smaller than ten  
2 points and no more than four pages, unless a font larger than  
3 ten points is used, separate from the agreement and separately  
4 signed by the buyer or lessee, that includes the following  
5 provisions:

6 (1) the name, address, telephone number and  
7 email address of the buyer or lessee;

8 (2) the name, address, telephone number, email  
9 address and valid state contractor license number of the person  
10 responsible for installing the distributed energy generation  
11 system;

12 (3) the name, address, telephone number, email  
13 address and a valid state contractor license number of the  
14 distributed energy generation system maintenance provider, if  
15 different from the person responsible for installing the  
16 system;

17 (4) a provision notifying the buyer or lessee  
18 of the right to rescind the agreement for a period ending not  
19 less than three business days after the agreement is signed;

20 (5) a description of the distributed energy  
21 generation system design assumptions, including system size,  
22 estimated first-year production and estimated annual system  
23 production decreases, including the overall percentage  
24 degradation over the life of the distributed energy generation  
25 system;

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1 (6) a description of any performance  
2 guarantees that a seller or marketer may include in an  
3 agreement;

4 (7) the purchase price of the distributed  
5 energy generation system, total projected lease or power  
6 purchase payments;

7 (8) a description of any one-time or recurring  
8 fees, including the circumstances triggering any late fees,  
9 estimated system removal fees, maintenance fees, Uniform  
10 Commercial Code notice removal and refiling fees, internet  
11 connection fees and automated [~~clearing house~~] clearing-house  
12 fees;

13 (9) if the seller is financing or leasing the  
14 distributed energy generation system, the total amount  
15 financed, the total number of payments, the payment frequency,  
16 the amount of the payment expressed in dollars, the payment due  
17 dates and the applicable annual percentage rate; except that in  
18 the case of financing arrangements subject to state or federal  
19 lending disclosure requirements, disclosure of the annual  
20 percentage rate shall be made in accordance with the applicable  
21 state or federal lending disclosure requirements;

22 (10) if a seller or marketer uses a tax  
23 incentive or rebate in determining the price, a provision  
24 identifying each state and federal tax incentive or rebate  
25 used;

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1 (11) a description of the ownership and  
2 transferability of any tax credits, rebates, incentives or  
3 renewable energy certificates in connection with the  
4 distributed energy generation system;

5 (12) a list of the following tax obligations  
6 that the buyer may be required to pay or incur as a result of  
7 the contract's provisions, including:

8 (a) the cost of any business personal  
9 property taxes assessed on the distributed energy generation  
10 system in the event of a power purchase agreement or lease;

11 (b) gross receipts taxes for any  
12 equipment purchased and services rendered;

13 (c) obligations of the power purchaser  
14 or lessee to transfer tax credits or tax incentives of the  
15 distributed energy generation system to any other person; and

16 (d) in the case of a commercial  
17 installation, a change in assessed property taxes in the event  
18 of a purchase of a distributed energy generation system;

19 (13) a disclosure regarding whether the  
20 warranty or maintenance obligations related to the distributed  
21 energy generation system may be sold or transferred to a third  
22 party;

23 (14) a disclosure regarding any restrictions  
24 pursuant to the agreement on the buyer's or lessee's ability to  
25 modify or transfer ownership of the distributed energy

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1 generation system, including whether any modification or  
2 transfer is subject to review or approval by a third party and  
3 the name, mailing address and telephone number of the entity  
4 responsible for approving the modification or transfer, if  
5 known to the seller or marketer at the time the agreement is  
6 made;

7 (15) a description of all options available to  
8 the buyer or lessee in connection with the continuation,  
9 termination or transfer of the agreement between the buyer or  
10 lessee and the seller or marketer in the event of the transfer  
11 of the real property to which the distributed energy generation  
12 system is affixed;

13 (16) a description of the assumptions used for  
14 any savings estimates that were provided to the buyer or  
15 lessee;

16 (17) a disclosure that states: "Actual  
17 utility rates may go up or down and actual savings may vary.  
18 For further information regarding rates, you may contact your  
19 local utility or the public regulation commission. Tax and  
20 other state and federal incentives are subject to change.";

21 (18) a disclosure notifying the buyer or the  
22 lessee of transferability of any warranty obligations to  
23 subsequent buyers or lessees; and

24 (19) a disclosure notifying the buyer or  
25 lessee that interconnection requirements, including time lines,

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1 are established by rules of the public regulation commission  
2 and may be obtained from either the public regulation  
3 commission or the local utility.

4 B. The seller or marketer shall provide the buyer  
5 or lessee with proof that, within thirty days of completion of  
6 installation or modification:

7 (1) all permits required for the installation  
8 or any modification of the distributed energy generation system  
9 were obtained prior to installation; and

10 (2) installation or any modification of the  
11 distributed energy generation system received the approval of  
12 an inspector authorized by the governmental authority having  
13 jurisdiction over the permitting and enforcement authority.

14 C. In the event that a seller or marketer causes a  
15 financing statement to be filed pursuant to the Uniform  
16 Commercial Code - Secured Transactions, the seller or marketer,  
17 or any successor in interest to the seller or marketer, shall  
18 provide to the buyer or lessee a copy of the filed financing  
19 statement within thirty calendar days of the filing.

20 D. If a promotional document or sales presentation  
21 related to a distributed energy generation system states that  
22 the system will result in certain financial savings for the  
23 buyer or lessee, the document or sales presentation shall  
24 provide the assumptions and calculations used to derive those  
25 savings.

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E. If a promotional document or sales presentation related to a distributed energy generation system states that the system will result in certain energy savings in terms of production, the document or sales presentation shall provide the assumptions and calculations used to derive those energy savings and any comparative estimates. If historical information is used, it shall be accompanied by the following statement: "Historical data are not necessarily representative of future results."

F. A failure to provide the written statement required by this section constitutes an unfair or deceptive trade practice pursuant to the Unfair Practices Act."