

ASSEMBLY BILL NO. 330—ASSEMBLYWOMAN KIRKPATRICK

MARCH 16, 2015

Referred to Committee on Commerce and Labor

**SUMMARY**—Provides requirements relating to the sale or lease of certain systems for the generation of electricity. (BDR 58-934)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to energy; requiring a person who sells or installs certain systems for the generation of electricity to provide a warranty for each such system; requiring agreements for the financing, sale or lease of such systems to include or be accompanied by certain information, statements and disclosures; requiring sellers or lessors of such systems to maintain certain records; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

This bill provides requirements for agreements to sell, lease or install “distributed generation systems,” which are defined as electricity generating systems, other than certain portable or other electric generators intended for occasional use, that: (1) generate electricity from solar energy; (2) are located on the property of a customer of an electric utility; (3) are connected on the customer’s side of the electricity meter; (4) provide electricity primarily to offset customer load on that property; and (5) may operate in parallel with the utility’s transmission and distribution facilities.

**Section 6** of this bill requires a person who sells, installs or sells and installs a distributed generation system to provide with the sale or installation an express, written warranty for the system which must provide coverage for both parts and labor. The seller or installer also must provide with the sale or installation a description of the warranty, a description of any responsibility assumed or disclaimed by the seller or installer, and performance data for the system. **Section 7** of this bill requires a person transferring an obligation under a required warranty to provide the name, address and telephone number of the person to whom the obligation is being transferred.

**Section 8** of this bill lists the requirements for any agreement for the financing, sale or lease of a distributed generation system. The agreement, which must be in



writing, must include information regarding: (1) the manufacturer, seller and installer of the system; (2) the effectiveness of the system; (3) the cost of the purchase or lease and the cost of operating and maintaining the system; (4) tax incentives and obligations relating to the purchase or lease of the system; and (5) any restrictions or obligations imposed by the agreement. The seller or lessor of a system also must provide written statements regarding utility rates and attesting to the truthfulness and completeness of the agreement. **Section 8** also provides that any agreement that fails to comply with these requirements is voidable at the option of the person purchasing or leasing the system, until the installation of the system.

**Section 9** of this bill provides requirements for an agreement for the financing, sale or lease of a distributed generation system that requires any modification or transfer of the system to be approved by a third party. **Section 10** of this bill provides requirements for an agreement that includes an estimate of the cost of electricity for the purchaser or lessee after the system is installed. **Section 11** of this bill requires a seller or lessor of a distributed generation system who represents to the purchaser or lessee that the purchaser or lessee will be entitled to certain tax credits to prepare and maintain a record of that representation.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Collector” means a component of a distributed generation system that is used to absorb solar radiation, convert the solar radiation to electricity and transfer the electricity to a storage unit.*

**Sec. 4. 1.** *“Distributed generation system” and “system” mean a system or facility for the generation of electricity that:*

- (a) Uses solar energy to generate electricity;*
- (b) Is located on the property of a customer of an electric utility;*
- (c) Is connected on the customer’s side of the electricity meter;*
- (d) Provides electricity primarily to offset customer load on that property; and*
- (e) May operate in parallel with the utility’s transmission and distribution facilities.*

**2.** *The term does not include a portable or other electric generator that is intended for occasional use.*

**Sec. 5.** *“Storage unit” means a component of a distributed generation system that is used to store electricity.*



**Sec. 6. 1. A person who sells a distributed generation system shall provide to the purchaser an express, written warranty for the system which:**

**(a) For the collectors and storage units of the system, expires not earlier than 2 years after the sale of the system;**

**(b) For all other components of the system, expires not earlier than 18 months after the sale of the system; and**

**(c) Must provide coverage for both parts and labor.**

**2. A person who installs a distributed generation system shall provide to the person for whom the system is installed an express, written warranty for the installation of the system which:**

**(a) For the collectors and storage units of the system, expires not earlier than 2 years after the installation of the system is completed;**

**(b) For all other components of the system, expires not earlier than 1 year after the installation of the system is completed; and**

**(c) Must provide coverage for both parts and labor.**

**3. A person who sells, installs or sells and installs a distributed generation system shall provide with the system a written statement on a form prescribed by the Director. A copy of each statement must be provided to the Director, who shall make each such copy available for public inspection and copying. The statement must include:**

**(a) A description of the warranty required by the applicable provisions of this section for the system;**

**(b) A description of any responsibility assumed or disclaimed by the person providing the statement; and**

**(c) If the person providing the statement is the seller of the system, performance data, and the source of that data, for the system.**

**4. The provisions of this section relating to a person who installs a distributed generation system do not apply to a person who installs a system on his or her own property.**

**Sec. 7. If any obligation under a warranty required by section 6 of this act is transferred, the person transferring the obligation shall:**

**1. Provide to the purchaser or lessee of the distributed generation system the name, address and telephone number of the person to whom the obligation is being transferred; and**

**2. Disclose to the purchaser or lessee whether the person to whom the obligation is being transferred is certified by the North American Board of Certified Energy Practitioners or any successor organization.**



**Sec. 8. 1. An agreement for the financing, sale or lease of a distributed generation system must be in writing in at least 10-point font and must:**

(a) Be signed and dated by the purchaser or lessee of the system.

(b) Include a provision granting the purchaser or lessee the right to rescind the agreement for a period ending:

(1) Not less than 5 days after the agreement is signed; or

(2) When installation of the system begins,

↪ whichever is earlier.

(c) Include the name, mailing address and telephone number of the manufacturer, seller and installer of the system and, if the agreement is for the lease of the system, the name, mailing address and telephone number of the lessor of the system.

(d) Disclose whether the seller and installer of the system are certified by the North American Board of Certified Energy Practitioners or any successor organization.

(e) For each component of the system, include any serial number or other identifying number provided by the manufacturer of the component.

(f) Separately set forth:

(1) If the agreement is pursuant to a financing agreement:

(I) The total cost to the purchaser or lessee over the duration of the agreement; and

(II) The total number of payments and the schedule of payments; and

(2) Any interest, fees for the installation of the system, fees for the preparation of any documents relating to the agreement and any other costs to be paid by the purchaser or lessee.

(g) Include an estimate of the total cost of operating and maintaining the system for the period during which it can be reasonably expected that the system will be operational, including, without limitation, the cost of any construction necessary for the installation of the system.

(h) Include an estimate of the amount of electricity that will be generated by the system on a monthly and annual basis.

(i) Identify each state and federal tax incentive available for purchasing or leasing the system, including, without limitation, the expiration date of any such tax incentive and any conditions or requirements for qualifying for any such tax incentive.

(j) Identify each tax obligation resulting from the purchase or lease of the system, including, without limitation:

(1) An estimate of the assessed value and the depreciation schedule of the system and the components of the system;



(2) Any sales, use or rental tax that may be assessed for the purchase or lease of the system; and

(3) Any obligation of the purchaser or lessee of the system to transfer any tax incentive associated with the system.

(k) Disclose whether any obligations under a warranty required by section 6 of this act may be transferred.

(l) Disclose any restrictions which the agreement imposes on the modification or transfer of the system.

(m) Disclose any restrictions which the agreement imposes on the modification or transfer of the real property to which the system is affixed.

(n) Disclose any obligation the seller or lessor has regarding the installation or removal of the system.

(o) If the agreement is for the lease of a system, provide for the continuation, termination or transfer of the lease in the event of:

(1) The sale of the real property to which the system is affixed; or

(2) The death of the lessee.

(p) If the agreement is for the sale or lease of a system, include the declaration required by subsection 3.

2. The seller or lessor of a distributed generation system shall provide to the purchaser or lessee a written statement, separate from the agreement described in subsection 1, in substantially the following form:

Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted. The projected savings from your distributed generation system are therefore subject to change. Tax incentives and tax subsidies are subject to change or termination by executive, legislative or regulatory action.

3. The seller or lessor of a distributed generation system shall sign and provide to the purchaser or lessee a written declaration in substantially the following form:

Under penalty of perjury, I declare that I have examined this agreement and that, to the best of my knowledge and belief, the information contained in the agreement is true, correct and complete.

4. An agreement for the financing, sale or lease of a distributed generation system that does not comply with the requirements of subsection 1 or that is not accompanied by the statement required by subsection 2 is voidable at the option of



1 *the person buying or leasing the system until the installation of the*  
2 *system begins.*

3 **Sec. 9. 1.** *If an agreement for the financing, sale or lease of*  
4 *a distributed generation system requires that any modification or*  
5 *transfer of the system be approved by a third party, the agreement*  
6 *must:*

7 (a) *Include the name, address and telephone number of the*  
8 *third party; and*

9 (b) *Identify any modification for which approval is required.*

10 2. *If an agreement for the financing, sale or lease of a*  
11 *distributed generation system requires that any modification or*  
12 *transfer of the real property to which the system is affixed be*  
13 *approved by a third party, the agreement must:*

14 (a) *Include the name, address and telephone number of the*  
15 *third party; and*

16 (b) *Identify any modification for which approval is required.*

17 **Sec. 10.** *If an agreement for the financing, sale or lease of a*  
18 *distributed generation system includes an estimate of the cost of*  
19 *electricity for the purchaser or lessee after the installation of the*  
20 *system, the agreement must include an estimate of the cost of*  
21 *electricity for the purchaser or lessee after any changes in the*  
22 *rates paid by customers of the utility providing electricity to the*  
23 *purchaser or lessee. The estimate must consider a range of*  
24 *possible rate changes from a 5 percent annual decrease to a 5*  
25 *percent annual increase from the rate paid at the time of the*  
26 *agreement.*

27 **Sec. 11. 1.** *If the seller or lessor of a distributed generation*  
28 *system represents to the purchaser or lessee of the system that the*  
29 *purchaser or lessee will be entitled to a tax credit pursuant to 26*  
30 *U.S.C. § 25D, the seller or lessor shall:*

31 (a) *Provide a written record of the representation to the*  
32 *purchaser or lessee of the system; and*

33 (b) *Maintain a copy of the record for not less than 7 years*  
34 *after the date of the sale or lease of the system.*

35 2. *The seller or lessor shall provide a copy of the record*  
36 *required by subsection 1 on request to an agent of the United*  
37 *States Internal Revenue Service for inspection or copying.*

