

**Amendment No. 520**

Assembly Amendment to Assembly Bill No. 330 (BDR 58-934)

**Proposed by:** Assembly Committee on Commerce and Labor

**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

SJA/JWP



Date: 4/17/2015

A.B. No. 330—Provides requirements relating to the sale or lease of certain systems for the generation of electricity. (BDR 58-934)



## 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~~ **Revises provisions relating to** 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 **or sells electricity generated by such systems** to provide a warranty for each such system; requiring agreements for the financing, sale or lease of such systems **or the sale of electricity generated by such systems** to include or be accompanied by certain information, statements and disclosures; requiring sellers or lessors of such systems to maintain certain records; **requiring a person who sells or installs such systems or sells electricity generated by such systems to register with the Office of Energy; providing that certain actions constitute a deceptive trade practice;** 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~~ **premises** 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~~ **those premises;** 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 ~~or~~ **or for the purchase of electricity generated by 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 ~~or~~ or the purchase of electricity; and (5) any restrictions or obligations imposed by the agreement. The seller or lessor of a system or the seller of electricity 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, or purchasing electricity generated by 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.

Section 12 of this bill prohibits a person from selling, leasing or installing a distributed generation system or selling electricity generated by such a system without first registering with the Office of Energy. Section 12 also requires the Director of the Office of Energy to adopt regulations relating to registration.

Sections 6, 8 and 12 declare certain actions in violation of the provisions of this bill to constitute a deceptive trade practice for the purposes of chapter 598 of NRS.

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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 ~~111~~ 12, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to ~~111~~ 12, 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~~ premises 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~~ those premises; and*

- (e) ~~May operate~~ Operates 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 ~~12~~ 20 years after the sale of the system;*
- (b) For the inverters of the system, expires not earlier than 7 years after the sale of the system;*

~~(c)~~ (c) For all other components of the system, expires not earlier than ~~18~~ months, 2 years after the sale of the system; and

~~(d)~~ (d) 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~~ premises.

5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

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, or an agreement for the purchase of electricity generated by a distributed generation system, must be in writing in at least ~~10-point~~ 12-point font and must:

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

(b) Include a provision granting the purchaser or lessee of the system or the purchaser of electricity 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 ~~of the system~~ of the system or the purchaser of electricity, as applicable.

(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 ~~or purchasing electricity generated by 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 ~~or the purchase of electricity generated by 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 ~~or the purchase of electricity generated by the system~~; and

(3) Any obligation of the purchaser or lessee of the system ~~or the purchaser of electricity generated by 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 ~~3-4.4.~~

(q) If the agreement is for the purchase of electricity generated by the system, include:

(1) The duration of the agreement; and

(2) The price per unit of electricity generated by the system and purchased by the purchaser, including, without limitation, any escalation factor affecting the price.

(r) Any other term or condition that a reasonable person would consider material to a decision to enter into an agreement for the financing, sale or lease of a system or the purchase of electricity generated by a system.

2. The seller or lessor of a distributed generation system shall provide to the purchaser or lessee, and the seller of electricity generated by a distributed generation system shall provide to the purchaser of such electricity, 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 ~~++~~ and may apply to you in the future. 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. If an agreement described in subsection 1 refers to the price of electricity provided by a public utility, the seller or lessor of the distributed generation system or the seller of electricity generated by the system shall provide to the purchaser or lessor 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. For additional information regarding utility rates and utility rate structures, you may contact your local public utility or the Public Utilities Commission of Nevada.

4. The seller or lessor of a distributed generation system and the seller of electricity generated by 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.

~~++~~ 5. An agreement for the financing, sale or lease of a distributed generation system, or an agreement for the purchase of electricity generated by 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 the person buying or leasing the system or purchasing the electricity until the installation of the system begins.

6. A failure by the seller or lessor of a distributed generation system or the seller of electricity generated by a distributed generation system to include in an agreement for the financing, sale or lease of a distributed generation system or an agreement for the purchase of electricity generated by a distributed generation system any provision required by this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

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

- (a) Include the name, address and telephone number of the third party; and
- (b) Identify any modification for which approval is required.

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

- (a) Include the name, address and telephone number of the third party; and
- (b) Identify any modification for which approval is required.

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

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

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

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

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

Sec. 12. 1. A person shall not sell, lease or install a distributed generation system or sell electricity generated by a distributed generation system unless the person has registered with the Office of Energy by submitting to the Office a form prescribed by the Director.

2. The Director shall adopt regulations:

(a) Requiring a registration form submitted to the Office of Energy pursuant to subsection 1 to include:

(1) The name, street address, mailing address, electronic mail address and telephone number of the registrant;

(2) The name and contact information of any person designated by the registrant to receive notices and other communications from the Office of Energy;

(3) A statement indicating each activity described in subsection 1 in which the registrant intends to engage; and

(4) Any other information required by the Director;

(b) Requiring a registrant to submit to the Office of Energy:

(1) An example of the agreement described in section 8 of this act for each activity described in subsection 1 in which the registrant has indicated he or she intends to engage; and

(2) An updated example of the agreement described in section 8 of this act, if a previously submitted example is no longer reasonably accurate or if the registrant intends to engage in an activity described in subsection 1 for which the registrant has not yet submitted an example of an agreement;

(c) Requiring a registrant to submit to the Office of Energy an amended registration form if any information provided to the Office of Energy on a registration form or a previously submitted amended registration form is no longer correct; and

1 (d) Providing the time period within which an updated example described in  
2 subparagraph (2) of paragraph (b) or an amended registration form described in  
3 paragraph (c) must be submitted.

4 3. The sale, lease or installation of a distributed generation system or the  
5 sale of electricity generated by a distributed generation system without:

6 (a) Registering with the Office of Energy pursuant to this section;

7 (b) Submitting to the Office of Energy the examples of agreements required  
8 to be submitted pursuant to regulations adopted pursuant to paragraph (b) of  
9 subsection 2; or

10 (c) Submitting to the Office of Energy an amended registration form within  
11 the time period prescribed pursuant to regulations adopted pursuant to paragraph  
12 (d) of subsection 2,

13 ↪ constitutes a deceptive trade practice for the purposes of NRS 598.0903 to  
14 598.0999, inclusive.