

Changes to Nevada's Residential Rooftop Solar Law Aims to Protect Consumers

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Nevada, with its vast deserts and direct sunlight, provides much opportunity to utilize distributed generation systems, better known as residential rooftop solar (referred to in this article as solar). Since the rise in popularity of alternative forms of energy, many solar companies have flocked to Nevada. With that came door-to-door solar sales. Many of you may have received flyers or phone calls or gotten that knock on the door with promises that solar will save you money: “Never pay for power again!” “You will receive thousands of dollars in tax incentives!” “The system will pay for itself!”

These promises led to thousands of Nevadans signing on the dotted line to purchase solar systems, only to find out later that the promises made to induce the sale were sometimes misleading or deceptive.

Under Nevada law, the Nevada Attorney General, Bureau of Consumer Protection (BCP) has the authority to investigate and prosecute violations of Nevada's Deceptive Trade Practices Act.¹ The act governs both door-to-door sales and the purchase or lease of solar.² The public can file complaints with the BCP, and the BCP has received a flood of solar-related complaints over the past several years in which consumers allege various misrepresentations against solar companies. As a result of these complaints, it became apparent that the law desperately needed revision to better protect both consumers and upstanding solar companies. During the 2023 Legislative Session, Senator Fabian

Doñate, along with co-sponsor Chip Daly, sponsored Senate Bill 293 (referred to in this article as “SB 293” or “the new law”). SB 293 was signed into law by Governor Joe Lombardo on June 4, 2023, and went into effect on January 1, 2024. This article explains the provisions in SB 293 designed to combat the deceptive trade practices observed in the solar industry.

As the BCP received and processed solar complaints, a pattern emerged – the complaints often stemmed from a door-to-door sales representative's sales presentation. Many Nevadans claimed the solar sales representatives made false claims or omissions of material fact about solar, including but not limited to the price of the solar system, the amount of the monthly bill, claims that the customer would no longer receive a power bill, or that all (or the majority of) the system would be covered by tax credits or rebates. The solar contracts obligating customers to pay thousands of dollars (often \$30,000 to \$80,000 or more) were frequently signed



on the same day the sales presentation was given using an electronic tablet.

When investigations took place, the solar installation company often represented that the sales representative was not an employee of the installation company, but rather, an independent contractor of a third-party sales company. The companies pointed the finger at each other – the installation companies claimed the sales companies were responsible, and the sales companies claimed the responsibility fell on the solar installation companies. When it came time to investigate and prosecute the sales companies or sales individuals, they were commonly difficult if not impossible to locate, as the industry has explained it is somewhat transient. Frequently, the practice was bad actors in sales companies would come to Nevada, create independent contractor relationships with solar installation companies, make the sales (with their main – if not only incentive – being to secure the sale no matter what), send the signed contract to the solar installation company, and leave the state with paid commission in hand.

All involved with SB 293 sought to prevent this issue. As such, the new law alters who is allowed to perform solar sales. It provides that every Nevada “solar installation company” must hold a contractor’s license under NRS Chapter 624, and that anyone providing a proposal or executing a contract for solar must hold a contractor’s license or be employed by a licensed contractor. This requirement encompasses not only the company that installs the solar system, but also includes any entity advertising, soliciting, or offering to enter into an agreement concerning a solar system. This definition was broadened in hopes of preventing the third-party sales companies from using deception to secure solar sales. SB 293 includes a carve out for lead generators, a legal term defining those people who are only serving as a referral source, providing contact information, setting up appointments, or advertising through print media for solar installation companies.

SB 293 makes substantial modifications to the requirements of the solar contract’s cover page, required under existing law.³ The cover page for solar purchases, leases, and power purchase agreements must include information such as the total cost, installation timeline, estimated monthly payment, estimated production, and estimated value of any energy credits and rebates. SB 293

requires additional provisions to be included in the cover pages, including a notice of the three-day right to rescind for any or no reason without penalty or obligation, an email address that can accept the notice to rescind, notice of the recording requirement, and notice that the customer will have an opportunity to confirm that no other promises or representations were made outside the contract and cover page to induce the sale.

The cover page must also provide that the solar customer will still receive a power bill if they are connected to the power grid, the estimated production or offset based on the available consumption data, an explanation that any changes to consumption will impact the offset and notice that the consumer may request a copy of any document used in the solar solicitation. In addition, solar companies are required to provide a translated version of the solar contract and cover page in the consumer’s native language prior to the execution of the contract if the sale or advertisement was made in the consumer’s native language.

Another issue SB 293 seeks to resolve is the difficulty of proving or disproving deceptive acts committed during the sales presentation. Solar customers complain of various misrepresentations and omissions of material fact, but often these alleged deceptive acts were performed orally and there was little or no evidence to support the claims. In contrast, solar companies frequently claimed that the complainant’s allegations were false, but still had to defend against the allegations because there was no evidence to disprove the customer’s claims. To cure this issue, SB 293 contains a new recording requirement. The new law requires solar companies to have a recorded conversation with the customer at the time of the execution of the solar contract (or within 48 hours after execution but before any installation commences) in which the solar representative verbally obtains confirmation of the customer’s identity, communicates each provision contained in the cover page, and obtains verbal confirmation that the customer understands each provision. This recorded conversation can take place in person, by telephone, or videoconference, and the recording must be maintained by the solar company for four years after the final solar inspection. The solar company is prohibited from commencing installation until the recorded conversation takes place. If the solar company does not obtain

a recording, the transaction is voidable at the election of the purchaser. Lastly, if a solar installation company violates any of the provisions governing solar, including the new requirements under SB 293, the contract is voidable by the customer.

With the recording requirement in place, there will be evidence that the customer understands and confirms receipt of the information in the cover page – topics that are often the subject of consumer complaints.

The goal of SB 293 is to prevent deceptive representations made by solar company representatives, as well as false accusations made by consumers; provide a mechanism for solar companies to accurately represent the products it is selling and consumers to fully understand what they are purchasing; and afford consumers a cancellation period for such an important purchase.



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ENDNOTES:

1. NRS 598 et. seq.
2. NRS 598.140 et. seq. and NRS 598.9801 et. seq.
3. NRS 598.9813 (rooftop solar purchase), NRS 598.9809 (rooftop solar lease), and NRS 598.9816 (power purchase agreements).