

7679

I N S E N A T E

May 12, 2016

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to prohibiting home-
owners' associations from restricting the installation or use of solar
power systems

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The real property law is amended by adding a new article
2 9-C to read as follows:

3 ARTICLE 9-C

4 SOLAR RIGHTS ACT

5 SECTION 342. CERTAIN COVENANTS, CONDITIONS, AND RESTRICTIONS OF HOMEOWN-
6 ERS' ASSOCIATIONS PROHIBITED.

7 S 342. CERTAIN COVENANTS, CONDITIONS, AND RESTRICTIONS OF HOMEOWNERS'
8 ASSOCIATIONS PROHIBITED. 1. DEFINITIONS. FOR THE PURPOSES OF THIS
9 SECTION:

10 (A) "RESTRICTION ON USE" MEANS ANY COVENANT, RESTRICTION, OR CONDITION
11 CONTAINED IN:

12 (I) A DEED;

13 (II) A CONTRACT;

14 (III) THE BY-LAWS OF A HOMEOWNERS' ASSOCIATION;

15 (IV) ANY RULES OR REGULATIONS ADOPTED BY A HOMEOWNERS' ASSOCIATION;

16 (V) A SECURITY AGREEMENT; OR

17 (VI) ANY OTHER INSTRUMENT AFFECTING THE TRANSFER OR SALE OF, OR ANY
18 INTEREST IN, REAL PROPERTY.

19 (B) "SOLAR POWER SYSTEM" MEANS A PHOTOVOLTAIC SYSTEM, COMPRISING OF
20 SOLAR ELECTRIC GENERATING EQUIPMENT, INSTALLED ON A ROOFTOP, WITH A
21 RATED CAPACITY OF NOT MORE THAN TWENTY-FIVE KILOWATTS.

22 2. A HOMEOWNERS' ASSOCIATION MAY NOT ADOPT OR ENFORCE ANY RULES OR
23 REGULATIONS THAT WOULD EFFECTIVELY PROHIBIT, OR IMPOSE UNREASONABLE
24 LIMITATIONS ON, THE INSTALLATION OR USE OF A SOLAR POWER SYSTEM. A
25 RESTRICTION ON USE WHICH EFFECTIVELY PROHIBITS THE INSTALLATION OR USE
26 OF A SOLAR POWER SYSTEM IS UNENFORCEABLE AND SHALL BE VOID AS CONTRARY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 TO PUBLIC POLICY. FOR THE PURPOSES OF THIS SUBDIVISION, AN UNREASONABLE
2 LIMITATION INCLUDES, BUT IS NOT LIMITED TO, ANY RESTRICTION ON USE THAT:

3 (A) INHIBITS THE SOLAR POWER SYSTEM FROM FUNCTIONING AT ITS INTENDED
4 MAXIMUM EFFICIENCY; OR

5 (B) INCREASES THE SOLAR POWER SYSTEM'S INSTALLATION OR MAINTENANCE
6 COSTS BY AN AMOUNT WHICH IS ESTIMATED TO BE GREATER THAN TEN PERCENT OF
7 THE TOTAL COST OF THE INITIAL INSTALLATION OF THE SOLAR POWER SYSTEM,
8 INCLUDING THE COSTS OF LABOR AND EQUIPMENT.

9 3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, A HOMEOWNERS'
10 ASSOCIATION MAY ADOPT OR ENFORCE A RESTRICTION ON USE TO PROHIBIT THE
11 INSTALLATION OF A SOLAR POWER SYSTEM THAT IS LOCATED ON PROPERTY OWNED
12 OR MAINTAINED BY THE HOMEOWNERS' ASSOCIATION OR THAT IS LOCATED ON PROP-
13 ERTY OWNED IN COMMON BY THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION.

14 4. ANY DENIAL OF A HOMEOWNER'S INSTALLATION OF A SOLAR POWER SYSTEM BY
15 A HOMEOWNERS' ASSOCIATION MUST INCLUDE A DETAILED DESCRIPTION OF THE
16 EXACT BASIS FOR REJECTION IN WRITING WITH SPECIFIC EXAMPLES OF THE HOME-
17 OWNERS' ASSOCIATION'S CONCERNS, IF APPLICABLE.

18 5. A SOLAR POWER SYSTEM MUST MEET THE REQUIREMENTS ESTABLISHED BY ANY
19 LOCAL, STATE OR FEDERAL LAW, RULE OR REGULATION ON HEALTH AND SAFETY
20 STANDARDS AND THOSE REQUIREMENTS IMPOSED BY STATE AND LOCAL PERMITTING
21 AUTHORITIES.

22 6. A PERSON CLAIMING TO BE AGGRIEVED BY ANY VIOLATION OF THIS SECTION
23 MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION. IN ANY
24 ACTION BROUGHT PURSUANT TO THIS SECTION, THE COURT MAY AWARD COSTS OF
25 LITIGATION, INCLUDING REASONABLE ATTORNEYS' FEES, TO THE PREVAILING
26 PARTY.

27 S 2. This act shall take effect on the sixtieth day after it shall
28 have become a law.