

7679--A

I N S E N A T E

May 12, 2016

Introduced by Sens. MARCELLINO, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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

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

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1 OF A SOLAR POWER SYSTEM IS UNENFORCEABLE AND SHALL BE VOID AS CONTRARY
2 TO PUBLIC POLICY. FOR THE PURPOSES OF THIS SUBDIVISION, AN UNREASONABLE
3 LIMITATION INCLUDES, BUT IS NOT LIMITED TO, ANY RESTRICTION ON USE THAT:

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

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

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

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

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

23 6. A PERSON MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDIC-
24 TION FOR ANY VIOLATION OF THIS SECTION. IN ANY ACTION BROUGHT PURSUANT
25 TO THIS SECTION, THE COURT MAY AWARD APPROPRIATE REMEDY AND COSTS OF
26 LITIGATION, INCLUDING REASONABLE ATTORNEYS' FEES, TO THE PREVAILING
27 PARTY.

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