

5296

2013-2014 Regular Sessions

I N A S S E M B L Y

February 22, 2013

Introduced by M. of A. ROZIC -- read once and referred to the Committee
on Judiciary

AN ACT to amend the real property law, in relation to prohibiting the
shading of solar devices on adjacent property by landscaping

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 16
2 to read as follows:

3 ARTICLE 16

4 SOLAR SHADE CONTROL LAW

5 SECTION 500. SHORT TITLE.

6 501. DEFINITIONS.

7 502. INTERFERENCE WITH SOLAR DEVICE.

8 503. VIOLATIONS AND PENALTIES.

9 504. APPLICABILITY.

10 505. EXEMPTION.

11 S 500. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
12 THE "SOLAR SHADE CONTROL LAW".

13 S 501. DEFINITIONS. AS USED IN THIS ARTICLE:

14 1. "SOLAR COLLECTOR" MEANS A FIXED DEVICE, STRUCTURE, OR PART OF A
15 DEVICE OR STRUCTURE, WHICH IS USED PRIMARILY TO TRANSFORM SOLAR ENERGY
16 INTO THERMAL, CHEMICAL, OR ELECTRICAL ENERGY, AND WHICH IS USED AS PART
17 OF A SYSTEM WHICH MAKES USE OF SOLAR ENERGY FOR ANY OR ALL OF THE
18 FOLLOWING PURPOSES:

19 A. WATER HEATING,

20 B. SPACE HEATING OR COOLING, OR

21 C. POWER GENERATION.

22 2. "CHAIR" MEANS THE CHAIR OF THE NEW YORK STATE ENERGY RESEARCH AND
23 DEVELOPMENT AUTHORITY.

24 S 502. INTERFERENCE WITH SOLAR DEVICE. 1. AFTER JANUARY FIRST, TWO
25 THOUSAND FOURTEEN, NO PERSON OWNING, OR IN CONTROL OF A PROPERTY SHALL

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

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1 ALLOW A TREE OR SHRUB TO BE PLACED, OR, IF PLACED, TO GROW ON SUCH PROP-
2 ERTY, SUBSEQUENT TO THE INSTALLATION OF A SOLAR COLLECTOR ON THE PROPER-
3 TY OF ANOTHER SO AS TO CAST A SHADOW GREATER THAN TEN PERCENT OF THE
4 COLLECTOR ABSORPTION AREA UPON THAT SOLAR COLLECTOR SURFACE ON THE PROP-
5 ERTY OF ANOTHER AT ANY ONE TIME BETWEEN THE HOURS OF TEN O'CLOCK A.M.
6 AND TWO O'CLOCK P.M., LOCAL STANDARD TIME; PROVIDED, THAT THIS SECTION
7 SHALL NOT APPLY TO SPECIFIC TREES AND SHRUBS WHICH ARE IN EXISTENCE AT
8 THE TIME OF INSTALLATION OF A SOLAR COLLECTOR OR DURING THE REMAINDER OF
9 THAT ANNUAL SOLAR CYCLE CAST A SHADOW UPON THAT SOLAR COLLECTOR.

10 2. IN RECOGNITION OF ONGOING RESEARCH INTO AND DEVELOPMENT OF NEW
11 TECHNOLOGIES IN ENERGY COLLECTION, THE CHAIR IN CONSULTATION WITH THE
12 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL, WITHIN SIX MONTHS OF
13 THE EFFECTIVE DATE OF THIS ARTICLE, PROMULGATE RULES AND REGULATIONS
14 GOVERNING THE PLACEMENT AND OPERATIONS OF SOLAR DEVICES AND REGULATIONS
15 REGARDING POTENTIAL CONFLICTS BETWEEN ADJACENT PASSIVE AND ACTIVE SOLAR
16 TECHNOLOGIES.

17 3. THE CHAIR, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL
18 CONSERVATION, SHALL PREPARE, OR CAUSE TO BE PREPARED AND DISTRIBUTED TO
19 CITIES, TOWNS AND VILLAGES A MODEL COMPREHENSIVE SOLAR SHADE ORDINANCE
20 FOR THE PURPOSE OF SAVING ENERGY.

21 4. THE CHAIR, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL
22 CONSERVATION, SHALL PREPARE, OR CAUSE TO BE PREPARED AND DISTRIBUTED TO
23 CITIES, TOWNS AND VILLAGES A PAMPHLET CONTAINING INFORMATION REGARDING
24 THE SOLAR SHADE CONTROL LAW.

25 S 503. VIOLATIONS AND PENALTIES. 1. NOT LESS THAN THIRTY DAYS BEFORE
26 COMMENCING AN ACTION ALLEGING VIOLATION OF SUBDIVISION ONE OF SECTION
27 FIVE HUNDRED TWO OF THIS ARTICLE, WRITTEN NOTICE OF INTENTION TO
28 COMMENCE SUCH ACTION MUST BE GIVEN BY PERSONAL SERVICE OR CERTIFIED MAIL
29 TO THE OWNER, LESSEE OR LAWFUL OCCUPANT OF THE PROPERTY WHERE THE TREE
30 OR SHRUB CAUSING SUCH VIOLATION IS LOCATED TO PROVIDE AN OPPORTUNITY TO
31 CURE THE VIOLATION.

32 2. UPON A FINDING OF VIOLATION OF SUCH SUBDIVISION, THE COURT MAY
33 ORDER THE PERSON FOUND TO HAVE COMMITTED SUCH VIOLATION TO CURE THE
34 VIOLATION AND IF THE VIOLATION IS NOT CURED IN A TIMELY MANNER, THE
35 COURT MAY IMPOSE DAMAGES, NOT TO EXCEED ONE THOUSAND DOLLARS.

36 S 504. APPLICABILITY. 1. NOTHING IN THIS ARTICLE SHALL APPLY TO TREES
37 PLANTED, GROWN, OR HARVESTED ON LANDS AND IN FORESTS AS PROVIDED IN
38 ARTICLE NINE OF THE ENVIRONMENTAL CONSERVATION LAW OR ON LAND DEVOTED TO
39 THE PRODUCTION OF COMMERCIAL AGRICULTURAL CROPS.

40 2. NOTHING IN THIS ARTICLE SHALL APPLY TO THE REPLACEMENT OF A TREE OR
41 SHRUB WHICH HAD BEEN GROWING PRIOR TO THE INSTALLATION OF A SOLAR
42 COLLECTOR AND WHICH, SUBSEQUENT TO THE INSTALLATION OF SUCH SOLAR
43 COLLECTOR, DIES.

44 S 505. EXEMPTION. ANY COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT, BY
45 MAJORITY VOTE OF ITS GOVERNING BODY, AN ORDINANCE EXEMPTING SUCH MUNICI-
46 PALITY FROM THE PROVISIONS OF THIS ARTICLE.

47 S 2. This act shall take effect immediately.