

1072

2015-2016 Regular Sessions

I N   S E N A T E

January 8, 2015

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Introduced by Sen. GOLDEN -- 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 the shading of solar devices on adjacent property by landscaping

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 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 SIXTEEN, 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.