

# STATE OF NEW YORK

3691

2017-2018 Regular Sessions

## IN ASSEMBLY

January 30, 2017

Introduced by M. of A. GALEF, SIMON, STIRPE, ROSENTHAL, GOTTFRIED,  
MURRAY -- Multi-Sponsored by -- M. of A. SKARTADOS, STEC, STECK --  
read once and referred to the Committee on Housing

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:

### ARTICLE 9-C

#### SOLAR RIGHTS ACT

3 Section 342. Certain covenants, conditions, and restrictions of homeown-  
4 ers' associations prohibited.

5 § 342. Certain covenants, conditions, and restrictions of homeowners'  
6 associations prohibited. 1. Definitions. For the purposes of this  
7 section:

8 (a) "restriction on use" means any covenant, restriction, or condition  
9 contained in:

10 (i) a deed;

11 (ii) a contract;

12 (iii) the by-laws of a homeowners' association;

13 (iv) any rules or regulations adopted by a homeowners' association;

14 (v) a security agreement; or

15 (vi) any other instrument affecting the transfer or sale of, or any  
16 interest in, real property.

17 (b) "solar power system" means a photovoltaic system, comprising of  
18 solar electric generating equipment, installed on a rooftop, with a  
19 rated capacity of not more than twenty-five kilowatts.

20 2. A homeowners' association may not adopt or enforce any rules or  
21 regulations that would effectively prohibit, or impose unreasonable  
22   
23

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

LBD07705-01-7

1 limitations on, the installation or use of a solar power system. A  
2 restriction on use which effectively prohibits the installation or use  
3 of a solar power system is unenforceable and shall be void as contrary  
4 to public policy. For the purposes of this subdivision, an unreasonable  
5 limitation includes, but is not limited to, any restriction on use that:

6 (a) inhibits the solar power system from functioning at its intended  
7 maximum efficiency; or

8 (b) increases the solar power system's installation or maintenance  
9 costs by an amount which is estimated to be greater than ten percent of  
10 the total cost of the initial installation of the solar power system,  
11 including the costs of labor and equipment.

12 3. Notwithstanding subdivision two of this section, a homeowners'  
13 association may adopt or enforce a restriction on use to prohibit the  
14 installation of a solar power system that is located on property owned  
15 by the homeowners' association or that is located on property owned in  
16 common by the members of the homeowners' association.

17 4. Any denial of a homeowner's installation of a solar power system by  
18 a homeowners' association must include a detailed description of the  
19 exact basis for rejection in writing with specific examples of the home-  
20 owners' association's concerns, if applicable.

21 5. A solar power system must meet the requirements established by any  
22 local, state or federal law, rule or regulation on health and safety  
23 standards and those requirements imposed by state and local permitting  
24 authorities.

25 6. A person may bring a civil action in a court of competent jurisdic-  
26 tion for any violation of this section. In any action brought pursuant  
27 to this section, the court may award the appropriate remedies and costs  
28 of litigation, including reasonable attorneys' fees, to the prevailing  
29 party.

30 § 2. This act shall take effect on the sixtieth day after it shall  
31 have become a law.