

# STATE OF NEW YORK

5896

2019-2020 Regular Sessions

## IN ASSEMBLY

February 20, 2019

Introduced by M. of A. GALEF, PEOPLES-STOKES, BARRON, DE LA ROSA, ORTIZ, L. ROSENTHAL, TAYLOR, GOTTFRIED, PAULIN, DINOWITZ, ABINANTI, ARROYO, FAHY, GLICK, SIMON, STIRPE, SANTABARBARA, SEAWRIGHT, THIELE, COLTON, QUART, CARROLL, JONES -- Multi-Sponsored by -- M. of A. LUPARDO, STEC, STECK -- read once and referred to the Committee on Housing

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:

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

### ARTICLE 9-C

#### SOLAR RIGHTS ACT

Section 342. Certain covenants, conditions, and restrictions of homeowners' associations prohibited.

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

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

(i) a deed;

(ii) a contract;

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

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

(v) a security agreement; or

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

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

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

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1     2. A homeowners' association may not adopt or enforce any rules or  
2 regulations that would effectively prohibit, or impose unreasonable  
3 limitations on, the installation or use of a solar power system. A  
4 restriction on use which effectively prohibits the installation or use  
5 of a solar power system is unenforceable and shall be void as contrary  
6 to public policy. For the purposes of this subdivision, an unreasonable  
7 limitation includes, but is not limited to, any restriction on use that:

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

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

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

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

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

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

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