

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2740

(By Delegates Manypenny, Doyle, Mahan, Guthrie,
Canterbury, Iaquinta, Barker, Hartman, Brown and Hatfield)



Passed March 10, 2012

To Take Effect Ninety Days From Passage

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H. B. 2740

(BY DELEGATES MANYPENNY, DOYLE, MAHAN, GUTHRIE,
CANTERBURY, IAQUINTA, BARKER, HARTMAN, BROWN AND
HATFIELD)

[Passed March 10, 2012; to take effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-19, relating to housing associations making covenants and other restrictions that restrict the installation or use of solar energy systems unenforceable after effective date of section; defining terms; and providing exceptions thereto.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §36-4-19, to read as follows:

ARTICLE 4. COVENANTS.

§36-4-19. Solar energy covenants unenforceable; penalty.

- 1 (a) It is the policy of the state to promote and encourage
- 2 the residential and commercial use of solar energy systems

3 and to remove obstacles thereto to promote energy efficiency
4 and pollution reduction. Therefore, any covenant, restriction,
5 or condition contained in any governing document of a
6 housing association executed or recorded after the effective
7 date of this section that effectively prohibits or restricts the
8 installation or use of a solar energy system is void and
9 unenforceable: *Provided*, That a housing association may, by
10 vote of its members, establish or remove a restriction that
11 prohibits or restricts the installation or use of a solar energy
12 system.

13 (b) For the purposes of this section:

14 (1) "Solar energy system" means a system affixed to a
15 building or buildings that uses solar devices, which are
16 thermally isolated from living space or any other area where
17 the energy is used, to provide for the collection, storage, or
18 distribution of solar energy; and

19 (2) "reasonable restriction" means those restrictions that
20 do not effectually result in a prohibition of their use by
21 eliminating the system's energy conservation benefits or
22 economic practicality.

23 (c) This section does not apply to provisions that impose
24 reasonable restrictions on solar energy systems including
25 restrictions for historical preservation, architectural
26 significance, religious or cultural importance to a given
27 community. Nothing in this section precludes the regulation
28 of solar energy systems by state and local authorities which
29 may establish land use, health and safety standards. Nothing
30 in this section precludes housing associations from restricting
31 or limiting the installation of solar energy systems installed
32 in common areas and common structures.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor