

# SENATE BILL 49

N1  
HB 639/23 – ENT & ECM

(PRE-FILED)

4r1149  
CF 4r1150

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By: **Senator Elfreth**

Requested: October 25, 2023

Introduced and read first time: January 10, 2024

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Restrictions on Use – Solar Collector Systems – Alteration**

3 FOR the purpose of prohibiting a restriction on use regarding land use that increases the  
4 cost of installing a solar collector system by at least a certain percentage over a  
5 certain cost or that reduces the efficiency of the solar collector system by at least a  
6 certain percentage under a certain level of energy generation; authorizing a  
7 community association to prohibit the installation of a solar collector system in the  
8 common area or common elements within the real estate development served by the  
9 community association; authorizing a community association to impose reasonable  
10 restrictions on the installation of a solar collector system in the common area or  
11 common elements; authorizing a community association to install a solar collector  
12 system in the common area or common elements provided the installation is not  
13 otherwise prohibited by applicable law; and generally relating to regulation of solar  
14 collector systems.

15 BY repealing and reenacting, with amendments,  
16 Article – Real Property  
17 Section 2–119  
18 Annotated Code of Maryland  
19 (2023 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
21 That the Laws of Maryland read as follows:

22 **Article – Real Property**

23 2–119.

24 (a) (1) In this section the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) "Restriction on use" includes any covenant, restriction, or condition  
2 contained in:

3 (i) A deed;

4 (ii) A declaration;

5 (iii) A contract;

6 (iv) The bylaws or rules of a condominium or homeowners  
7 association;

8 (v) A security instrument; or

9 (vi) Any other instrument affecting:

10 1. The transfer or sale of real property; or

11 2. Any other interest in real property.

12 (3) "Solar collector system" means a solar collector or other solar energy  
13 device, the primary purpose of which is to provide for the collection, storage, and  
14 distribution of solar energy for electricity generation, space heating, space cooling, or water  
15 heating.

16 (4) "Solar easement" means an interest in land that:

17 (i) Is conveyed or assigned in perpetuity; and

18 (ii) Limits the use of the land to preserve the receipt of sunlight  
19 across the land for the use of a property owner's solar collector system.

20 (b) (1) A restriction on use regarding land use may not impose or act to impose  
21 unreasonable limitations on the installation of a solar collector system on the roof or  
22 exterior walls of improvements, provided that the property owner owns or has the right to  
23 exclusive use of the roof or exterior walls.

24 (2) For purposes of paragraph (1) of this subsection, [an unreasonable  
25 limitation includes a limitation that:

26 (i) Significantly increases the cost of the solar collector system; or

27 (ii) Significantly decreases the efficiency of the solar collector  
28 system] **A RESTRICTION ON USE IS UNREASONABLE IF APPLICATION OF THE**  
29 **RESTRICTION ON USE TO A PARTICULAR PROPOSAL:**

30 **(I) INCREASES THE INSTALLATION COST OF THE SOLAR**

1 COLLECTOR SYSTEM BY AT LEAST 5% OVER THE PROJECTED COST OF THE INITIALLY  
2 PROPOSED INSTALLATION; OR

3 (II) REDUCES THE ENERGY GENERATED BY THE SOLAR  
4 COLLECTOR SYSTEM BY AT LEAST 10% BELOW THE PROJECTED ENERGY  
5 GENERATION OF THE INITIALLY PROPOSED INSTALLATION.

6 (3) (I) THE OWNER SHALL PROVIDE DOCUMENTATION THAT IS  
7 SATISFACTORY TO THE COMMUNITY ASSOCIATION TO SHOW THAT THE RESTRICTION  
8 IS UNREASONABLE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

9 (II) THE DOCUMENTATION REQUIRED UNDER SUBPARAGRAPH  
10 (I) OF THIS PARAGRAPH SHALL BE PREPARED BY AN INDEPENDENT SOLAR PANEL  
11 DESIGN SPECIALIST WHO:

12 1. IS CERTIFIED BY THE NORTH AMERICAN BOARD OF  
13 CERTIFIED ENERGY PRACTITIONERS; OR

14 2. HAS ATTESTED BY AFFIDAVIT TO DESIGNING AT  
15 LEAST 30 SOLAR COLLECTOR SYSTEMS IN THE COURSE OF TRADE WITHIN THE PRIOR  
16 3 YEARS.

17 (4) (I) A COMMUNITY ASSOCIATION MAY PROHIBIT OR RESTRICT  
18 THE INSTALLATION OF A SOLAR COLLECTOR SYSTEM IN THE COMMON AREA OR  
19 COMMON ELEMENTS WITHIN THE REAL ESTATE DEVELOPMENT SERVED BY THE  
20 ASSOCIATION.

21 (II) A COMMUNITY ASSOCIATION MAY ESTABLISH REASONABLE  
22 RESTRICTIONS AS TO THE NUMBER, SIZE, PLACE, OR MANNER OF PLACEMENT OR  
23 INSTALLATION OF A SOLAR COLLECTOR SYSTEM INSTALLED IN THE COMMON AREA  
24 OR COMMON ELEMENTS.

25 (III) NOTWITHSTANDING THE PROVISIONS OF THE GOVERNING  
26 DOCUMENTS AND PROVIDED THAT THE INSTALLATION IS NOT OTHERWISE  
27 PROHIBITED BY APPLICABLE LAW, THE BOARD OF DIRECTORS FOR A COMMUNITY  
28 ASSOCIATION SHALL HAVE DISCRETION TO INSTALL A SOLAR COLLECTOR SYSTEM  
29 IN THE COMMON AREA OR COMMON ELEMENTS WITHIN THE REAL ESTATE  
30 DEVELOPMENT SERVED BY THE COMMUNITY ASSOCIATION.

31 (c) (1) A property owner who has installed or intends to install a solar collector  
32 system may negotiate to obtain a solar easement in writing.

33 (2) Any written instrument creating a solar easement shall include:

1 (i) A description of the dimensions of the solar easement expressed  
2 in measurable terms, including vertical or horizontal angles measured in degrees or the  
3 hours of the day on specified dates when direct sunlight to a specified surface of a solar  
4 collector system may not be obstructed;

5 (ii) The restrictions placed on vegetation, structures, and other  
6 objects that would impair the passage of sunlight through the solar easement; and

7 (iii) The terms under which the solar easement may be revised or  
8 terminated.

9 (3) A written instrument creating a solar easement shall be recorded in the  
10 land records of the county where the property is located.

11 (d) This section does not apply to a restriction on use on historic property that is  
12 listed in, or determined by the Director of the Maryland Historical Trust to be eligible for  
13 inclusion in, the Maryland Register of Historic Properties.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2024.