

FIRST REGULAR SESSION

SENATE BILL NO. 109

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0617S.01I

AN ACT

To amend chapter 442, RSMo, by adding thereto one new section relating to solar energy systems in certain planned communities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 442, RSMo, is amended by adding thereto one new section, to be known as section 442.013, to read as follows:

442.013. 1. As used in this section, the following terms shall mean:

(1) "Homeowners' association", the association of a planned community, including but not limited to a nonprofit corporation or unincorporated association of homeowners in a planned community, existing under a recorded declaration of such planned community;

(2) "Person", a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property;

(3) "Planned community", real property with respect to which a person, by virtue of the person's ownership, is obligated to pay real property taxes, insurance premiums, maintenance, or improvement of common ground or other real property described in a recorded declaration. A planned community shall not include a condominium as defined in section 448.1-103 or a cooperative;

(4) "Solar collector":

(a) An assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct or indirect solar energy, specially designed for holding a substantial amount of useful thermal energy to a gas, solid, or liquid or to use that energy directly;

(b) A mechanism that absorbs solar energy and converts it into electricity;

22 (c) A mechanism or process used for gathering solar energy
23 through wind or thermal gradients; or

24 (d) A component used to transfer thermal energy to a gas, solid,
25 or liquid, or to convert it into electricity;

26 (5) "Solar energy", radiant energy received from the sun at wave
27 lengths suitable for heat transfer, photosynthetic use, or photovoltaic
28 use;

29 (6) "Solar energy system":

30 (a) A complete assembly, structure, or design of a solar collector,
31 or a solar storage mechanism, which uses solar energy for generating
32 electricity or for heating or cooling gases, solids, liquids, or other
33 materials; and

34 (b) The design, materials, or elements of a system and its
35 maintenance, operation, and labor components, and the necessary
36 components if any, of the supplemental conventional energy systems
37 designed or constructed to interface with a solar energy system;

38 (7) "Solar storage mechanism", equipment or elements that are
39 utilized for storing solar energy and gathered by a solar collector for
40 subsequent use, such as piping and transfer mechanisms, containers,
41 heat exchangers, or controls thereof, and gases, solids, liquids, or a
42 combination thereof.

43 2. Any restriction contained in a recorded declaration of a
44 planned community, or any rule or regulation promulgated by a
45 homeowners' association which prohibits, or has the effect of
46 prohibiting, the installation of a solar energy system is enforceable
47 only to the extent that the solar energy system:

48 (1) Shall not threaten the public health or safety, or violate any
49 provision of law;

50 (2) Shall not be located on real property owned or maintained by
51 the homeowners' association, or in common by members of the
52 homeowners' association;

53 (3) Shall not be located in the front yard of the home;

54 (4) Shall meet applicable standards and requirements imposed
55 by state and local permitting authorities; and

56 (5) Shall, if mounted on the roof of the home:

57 (a) Not extend beyond the roofline;

58 (b) Be parallel to the slope of the roof; and

59 (c) Have a top edge parallel to the roofline.

60 3. The architectural covenants of a recorded declaration of the
61 planned community shall apply to solar energy systems.

62 4. No solar energy systems shall be installed without the
63 homeowner seeking to install a solar energy system providing
64 notification to the homeowner's respective homeowners' association,
65 and providing an architectural plan of such planned solar energy
66 system installation to the homeowners' association. Upon receiving
67 such notification and architectural plan, the homeowners' association
68 shall review the plan and shall notify the homeowner seeking to install
69 the solar energy system within thirty calendar days if such system is
70 in compliance with the provisions of subdivision (5) of subsection 2 of
71 this section. If such system is in compliance with the provisions of
72 subdivision (5) of subsection 2 of this section, the homeowners'
73 association shall grant written approval to the homeowner. If such
74 system is not in compliance with the provisions of subdivision (5) of
75 subsection 2 of this section, the homeowners' association may deny the
76 homeowner the authority to install such system and shall notify the
77 homeowner of such denial in writing. If a homeowners' association
78 denies the installation of such solar energy system, the homeowner may
79 collect signatures of homeowners belonging to the homeowners'
80 association by petition. If the homeowner collects a majority of
81 signatures of homeowners belonging to the homeowners' association,
82 the homeowner may submit such petition to the homeowners'
83 association which shall constitute approval to install such solar energy
84 system.

85 5. In any judicial proceeding arising under this section, the
86 prevailing party, whether prosecuting or defending such claim, shall be
87 entitled to recover reasonable attorney fees and costs.

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