

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 109**  
99TH GENERAL ASSEMBLY

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Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, March 16, 2017, with recommendation that the Senate Committee Substitute do pass.

0617S.02C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

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

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*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**

21 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 or back yard of the  
54 home;

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

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

- 58           **(a) Not extend beyond the roofline;**  
59           **(b) Be parallel to the slope of the roof; and**  
60           **(c) Have a top edge parallel to the roofline.**

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

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

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

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