

FIRST REGULAR SESSION

SENATE BILL NO. 368

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Read 1st time February 25, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1784S.02I

AN ACT

To amend chapter 442, RSMo, by adding thereto one new section relating to the use of solar energy systems by property owners located within 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) "Association", any cooperative form of ownership of multiunit housing, including but not limited to, a common interest community association, a condominium unit owners' association, and a homeowners' association;

(2) "Common interest community association", real estate other than a condominium or cooperative with respect to which any person by virtue of his or her ownership of a partial interest or unit therein is obligated to pay for maintenance, improvement, insurance premiums, or real estate taxes of other real estate described in a declaration which is administered by an association;

(3) "Condominium unit owners' association", an association or unit owners' association as defined and provided for in subdivision (3) of section 448.1-103;

(4) "Homeowners' association", including but not limited to a nonprofit corporation or unincorporated association of homeowners created pursuant to a declaration to own and operate portions of a planned community or other residential subdivision and which has the power under the declaration to assess association members to pay the

21 costs and expenses incurred in the performance of the association's
22 obligations under the declaration, or tenants-in-common with respect
23 to the ownership of common areas or amenities of a planned community
24 or other residential subdivision;

25 (5) "Solar collector":

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

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

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

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

37 (6) "Solar energy", radiant energy received from the sun at wave
38 lengths suitable for heat transfer, photosynthetic use, or photovoltaic
39 use;

40 (7) "Solar energy system":

41 (a) A complete assembly, structure, or design of solar collector,
42 or a solar storage mechanism, which uses solar energy for generating
43 electricity or for heating or cooling gases, solids, liquids, or other
44 materials; and

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

49 (8) "Solar storage mechanism", equipment or elements (such as
50 piping and transfer mechanisms, containers, heat exchangers, or
51 controls thereof, and gases, solids, liquids, or combinations thereof)
52 that are utilized for storing solar energy, gathered by a solar collector,
53 for subsequent use.

54 2. Notwithstanding any other provision of law to the contrary,
55 the adoption of a bylaw or exercise of any power by the governing
56 entity of an association which prohibits or has the effect of prohibiting
57 the installation of a solar energy system is expressly prohibited.

58 **3. No deed restrictions, covenants, or similar binding agreements**
59 **running with the land shall prohibit or have the effect of prohibiting**
60 **a solar energy system from being installed on a building erected on a**
61 **lot or parcel covered by the deed restrictions, covenants, or binding**
62 **agreements, if the building is subject to an association. A property**
63 **owner shall not be denied permission to install a solar energy system**
64 **by any entity granted the power or right in any deed restriction,**
65 **covenant, or similar binding agreement to approve, forbid, control, or**
66 **direct alteration of property.**

67 **4. A solar energy system shall meet applicable standards and**
68 **requirements imposed by state and local permitting authorities.**

69 **5. An association may adopt reasonable rules regarding the**
70 **placement of solar energy systems if such rules do not prevent the**
71 **installation of the system, impair the functioning of the system, restrict**
72 **the system's use, or adversely affect the cost or efficiency of the solar**
73 **energy system.**

74 **6. Notwithstanding any provision of the association documents,**
75 **the court shall award reasonable attorney fees and costs to any party**
76 **who substantially prevails in an action against any association for a**
77 **violation of this section.**

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