

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 750

Short Title: Clarify Deed Restrictions/Solar Collectors. (Public)

Sponsors: Representatives Sasser, Hanig, and Szoka (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Energy and Public Utilities, if favorable, Rules, Calendar, and Operations of the House

April 16, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW GOVERNING DEED RESTRICTIONS ON SOLAR COLLECTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 22B-20 reads as rewritten:

"§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.

(a) The intent of the General Assembly is to protect the public health, safety, and welfare by encouraging the development and use of solar resources and by prohibiting deed restrictions, covenants, and other similar agreements that could have the ultimate effect of driving the costs of owning and maintaining a residence beyond the financial means of most owners.

(b) ~~Except as provided in subsection (d) of this section, any~~ Any deed restriction, covenant, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property on land subject to the deed restriction, covenant, or agreement is void and unenforceable. As used in this section, the term "residential property" means property where the predominant use is for residential purposes. The term "residential property" does not include any condominium created under Chapter 47A or 47C of the General Statutes located in a multi-story building containing units having horizontal boundaries described in the declaration. As used in this section, the term "declaration" has the same meaning as in G.S. 47A-3 or G.S. 47C-1-103, depending on the chapter of the General Statutes under which the condominium was created.

(c) This section does not prohibit a deed restriction, covenant, or similar binding agreement that runs with the land that would regulate the location or screening of solar collectors as described in subsection (b) of this section, provided the deed restriction, covenant, or similar binding agreement does not have the effect of ~~preventing the reasonable use reducing the operating efficiency~~ of a solar collector for a residential property. If an owners' association is responsible for exterior maintenance of a structure containing individual residences, a deed restriction, covenant, or similar binding agreement that runs with the land may provide that (i) the title owner of the residence shall be responsible for all damages caused by the installation, existence, or removal of solar collectors; (ii) the title owner of the residence shall hold harmless and indemnify the owners' association for any damages caused by the installation, existence, or removal of solar collectors; and (iii) the owners' association shall not be responsible for maintenance, repair, replacement, or removal of solar collectors unless expressly agreed in a



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1 written agreement that is recorded in the office of the register of deeds in the county or counties
2 in which the property is situated. As used in this section, "owners' association" has the same
3 meaning as in G.S. 47F-1-103. As used in this section, the term "reducing the operating efficiency
4 of a solar collector" means the regulation of the location or screening of the solar collector would
5 decrease the efficiency or performance of the solar collector by more than ten percent (10%) of
6 the amount that was originally specified for the solar collector.

7 ~~(d) This section does not prohibit a deed restriction, covenant, or similar binding~~
8 ~~agreement that runs with the land that would prohibit the location of solar collectors as described~~
9 ~~in subsection (b) of this section that are visible by a person on the ground:~~

10 ~~(1) On the facade of a structure that faces areas open to common or public access;~~

11 ~~(2) On a roof surface that slopes downward toward the same areas open to~~
12 ~~common or public access that the facade of the structure faces; or~~

13 ~~(3) Within the area set off by a line running across the facade of the structure~~
14 ~~extending to the property boundaries on either side of the facade, and those~~
15 ~~areas of common or public access faced by the structure.~~

16 (e) In any civil action arising under this section, the court may award costs and reasonable
17 attorneys' fees to the prevailing party."

18 **SECTION 2.** This act is effective when it becomes law.