

1 ENGROSSED HOUSE
2 BILL NO. 1023

By: Townley and Maynard of the
House

3 and

4 Bullard of the Senate
5

6 An Act relating to property; defining terms;
7 providing that an owners association may not prohibit
8 the installation of solar energy systems; providing
9 exceptions; providing for codification; and providing
10 an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 859 of Title 60, unless there is
14 created a duplication in numbering, reads as follows:

15 A. As used in this section:

16 1. "Covenant and restriction of a real estate development"
17 means a recorded instrument in which a declarant reserves:

18 a. a right to facilitate the development, construction,
19 and marketing of the subdivision, and

20 b. a right to direct the size, shape, and composition of
21 the subdivision; and

22 2. "Solar energy system" has the same meaning as that term is
23 defined in Section 2357.1 of Title 68 of the Oklahoma Statutes.
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1 B. Except as otherwise provided by subsection D of this
2 section, an owners association may not include or enforce a
3 provision in an instrument that prohibits or restricts a property
4 owner from installing a solar energy system, unless the instrument
5 was effective prior to the effective date of this act. A new owners
6 association, established by a covenant and restriction of a real
7 estate development, created after the effective date of this act
8 shall have one (1) year from the date the owners association is
9 created to prohibit the installation of solar energy systems.

10 C. A provision that violates subsection B of this section is
11 void.

12 D. An owners association may include or enforce a provision in
13 an instrument that prohibits a solar energy system that:

14 1. As adjudicated by a court:

15 a. threatens the public health or safety, or

16 b. violates a law;

17 2. Is located on property owned or maintained by the owners
18 association;

19 3. Is located on property owned in common by the members of the
20 owners association;

21 4. Is located in an area on the property owner's property other
22 than:

23 a. on the roof of the home or of another structure

24 allowed under an instrument, or

1 b. in a fenced yard or patio owned and maintained by the
2 property owner;

3 5. If mounted on the roof of the home:

4 a. extends higher than or beyond the roofline,

5 b. is located in an area other than an area designated by
6 the owners association, unless the alternate location
7 increases the estimated annual energy production of
8 the system, as determined by using a publicly
9 available modeling tool provided by the National
10 Renewable Energy Laboratory, by more than ten percent
11 (10%) above the energy production of the system if
12 located in an area designated by the owners
13 association, this includes all equipment for the solar
14 system to be located on the backside of the house,
15 c. solar equipment on a roof not being removed prior to a
16 new roof replacement to allow proper installation of
17 new roof, and
18 d. has a frame, a support bracket, or visible piping or
19 wiring that is not in a silver, bronze, or black tone
20 commonly available in the marketplace;

21 6. As installed, voids material warranties; or

22 7. Was installed without prior approval by the owners
23 association or by a committee created in an instrument for such
24 purposes that provides decisions within a reasonable period or

1 within a period specified in the covenant and restriction of a real
2 estate development instrument.

3 E. An owners association or the association's architectural
4 review committee may not withhold approval for installation of a
5 solar energy system if the provisions of the instrument to the
6 extent authorized by subsection D of this section are met or
7 exceeded, unless the association or committee, as applicable,
8 determines in writing that placement of the system as proposed by
9 the property owner constitutes a condition that substantially
10 interferes with the use and enjoyment of land by causing
11 unreasonable discomfort or annoyance to persons of ordinary
12 sensibilities. For purposes of making a determination under this
13 subsection, the written approval of the proposed placement of the
14 system by all property owners of adjoining property constitutes
15 prima facie evidence that such a condition does not exist.

16 SECTION 2. This act shall become effective November 1, 2023.

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1 Passed the House of Representatives the 9th day of March, 2023.

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4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ___ day of _____, 2023.

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9 Presiding Officer of the Senate