

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1023

By: Townley

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5  
6 AS INTRODUCED

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

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

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

16 A. As used in this section:

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

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

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

23 2. "Solar energy system" has the same meaning as that term is  
24 defined in Section 2357.1 of Title 68 of the Oklahoma Statutes.

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.

5 C. A provision that violates subsection B of this section is  
6 void.

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

9 1. As adjudicated by a court:

10 a. threatens the public health or safety, or

11 b. violates a law;

12 2. Is located on property owned or maintained by the owners  
13 association;

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

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

18 a. on the roof of the home or of another structure  
19 allowed under an instrument, or

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

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

23 a. extends higher than or beyond the roofline,  
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1           b.    is located in an area other than an area designated by  
2                    the owners association, unless the alternate location  
3                    increases the estimated annual energy production of  
4                    the system, as determined by using a publicly  
5                    available modeling tool provided by the National  
6                    Renewable Energy Laboratory, by more than ten percent  
7                    (10%) above the energy production of the system if  
8                    located in an area designated by the owners  
9                    association, and

10           c.    has a frame, a support bracket, or visible piping or  
11                    wiring that is not in a silver, bronze, or black tone  
12                    commonly available in the marketplace;

13           6.    As installed, voids material warranties; or

14           7.    Was installed without prior approval by the owners  
15                    association or by a committee created in an instrument for such  
16                    purposes that provides decisions within a reasonable period or  
17                    within a period specified in the covenant and restriction of a real  
18                    estate development instrument.

19           E.    An owners association or the association's architectural  
20                    review committee may not withhold approval for installation of a  
21                    solar energy system if the provisions of the instrument to the  
22                    extent authorized by subsection D of this section are met or  
23                    exceeded, unless the association or committee, as applicable,  
24                    determines in writing that placement of the system as proposed by

1 the property owner constitutes a condition that substantially  
2 interferes with the use and enjoyment of land by causing  
3 unreasonable discomfort or annoyance to persons of ordinary  
4 sensibilities. For purposes of making a determination under this  
5 subsection, the written approval of the proposed placement of the  
6 system by all property owners of adjoining property constitutes  
7 prima facie evidence that such a condition does not exist.

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

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