

REFERENCE TITLE: homeowners' association; solar energy devices

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1537

Introduced by
Senator Gray C

AN ACT

AMENDING SECTION 33-439, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES
AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-439, Arizona Revised Statutes, is amended to
3 read:

4 33-439. Restrictions on installation or use of solar energy
5 devices invalid; exception

6 A. Any covenant, restriction or condition contained in any deed,
7 contract, security agreement or other instrument affecting the transfer or
8 sale of, or any interest in, real property which effectively prohibits the
9 installation or use of a solar energy device as defined in section 44-1761 is
10 void and unenforceable.

11 B. A deed, contract, security agreement or other instrument affecting
12 the transfer or sale of, or any interest in, real property entered into
13 before April 17, 1980 shall not be subject to ~~the provisions of~~ this section.

14 C. A BUILDER, DEVELOPER OR HOMEOWNERS' ASSOCIATION THAT FAILS TO ADOPT
15 GENERALLY ACCEPTED SOLAR INDUSTRY STANDARDS FOR THE INSTALLATION OF SOLAR
16 ENERGY DEVICES MAY NOT DENY APPROVAL FOR OR REFUSE TO ALLOW INSTALLATION OF A
17 SOLAR ENERGY DEVICE. FAILURE TO TAKE FORMAL ACTION ON AN APPLICATION FOR
18 INSTALLATION OF A SOLAR ENERGY DEVICE WITHIN SIXTY DAYS OF SUBMITTAL IS
19 DEEMED AN APPROVAL.

20 D. A BUILDER, DEVELOPER OR HOMEOWNERS' ASSOCIATION MAY NOT TAKE ANY
21 ENFORCEMENT ACTION OR IMPOSE ANY PENALTY OR FINE PURSUANT TO THE COMMUNITY
22 DOCUMENTS AGAINST A HOMEOWNER WHO INSTALLS OR USES A SOLAR ENERGY DEVICE
23 PURSUANT TO THIS SECTION. A BUILDER, DEVELOPER OR HOMEOWNERS' ASSOCIATION IS
24 LIABLE FOR A CIVIL PENALTY OF TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH
25 VIOLATION OF THIS SECTION.

26 Sec. 2. Legislative intent

27 A. It has been the longstanding policy of the legislature to support
28 the private property rights of all of this state's homeowners, including
29 their right to invest their resources in the installation of solar energy
30 devices. It is the intent of this legislation to support court rulings
31 upholding section 33-439, Arizona Revised Statutes, in the hope of avoiding
32 further litigation.

33 B. The legislature affirms the right of Arizonans living in planned
34 communities to reduce their energy consumption and save financial resources
35 through an investment in solar energy without the arbitrary restrictions
36 contained in codes, covenants and restrictions adopted by builders and
37 planned communities. These arbitrary restrictions have been prohibited by
38 the legislature since 1980 with the enactment of section 33-439, Arizona
39 Revised Statutes. Restrictions enforced by builders, developers and
40 homeowners' associations that increase system costs, unnecessarily delay
41 installations, reduce system performance and shorten system life all
42 discourage the use of solar energy. These restrictions prevent this state
43 from taking advantage of the air quality benefits and economic benefits that
44 solar energy can provide to this state.

1 C. The legislature supports greater use of solar energy devices so
2 that all citizens in this state can make a cost-effective investment in solar
3 energy that will provide energy savings and clean energy to the purchaser
4 with the corresponding economic development and air quality benefits shared
5 by all citizens of this state.