

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

SENATE BILL 1254

AN ACT

AMENDING SECTION 33-439, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-1815 AND 33-1816; RELATING TO REAL PROPERTY.

(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 THIS SECTION APPLIES WITHOUT REGARD TO THE EFFECTIVE DATE OF THE DEED,
15 CONTRACT, SECURITY AGREEMENT OR OTHER INSTRUMENT AFFECTING THE REAL PROPERTY.

16 Sec. 2. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
17 amended by adding sections 33-1815 and 33-1816, to read:

18 33-1815. Association authority; commercial signage

19 NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, AFTER AN
20 ASSOCIATION HAS APPROVED A COMMERCIAL SIGN, INCLUDING ITS REGISTERED
21 TRADEMARK THAT IS LOCATED ON PROPERTIES ZONED FOR COMMERCIAL USE IN THE
22 PLANNED COMMUNITY, THE ASSOCIATION, INCLUDING ANY SUBSEQUENTLY ELECTED BOARD
23 OF DIRECTORS, MAY NOT REVOKE OR MODIFY ITS APPROVAL OF THAT SIGN IF THE OWNER
24 OR OPERATOR OF THE SIGN HAS RECEIVED APPROVAL FOR THE SIGN FROM THE LOCAL OR
25 COUNTY GOVERNING BODY WITH JURISDICTION OVER THE SIGN.

26 33-1816. Solar energy devices; reasonable restrictions

27 A. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, AN
28 ASSOCIATION SHALL NOT PROHIBIT THE INSTALLATION OR USE OF A SOLAR ENERGY
29 DEVICE AS DEFINED IN SECTION 44-1761.

30 B. AN ASSOCIATION MAY ADOPT REASONABLE RULES REGARDING THE PLACEMENT
31 OF A SOLAR ENERGY DEVICE IF THOSE RULES DO NOT PREVENT THE INSTALLATION,
32 IMPAIR THE FUNCTIONING OF THE DEVICE OR RESTRICT ITS USE OR ADVERSELY AFFECT
33 THE COST OR EFFICIENCY OF THE DEVICE.

34 C. NOTWITHSTANDING ANY PROVISION OF THE COMMUNITY DOCUMENTS, THE COURT
35 SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO ANY PARTY WHO SUBSTANTIALLY
36 PREVAILS IN AN ACTION AGAINST THE BOARD OF DIRECTORS OF THE ASSOCIATION FOR A
37 VIOLATION OF THIS SECTION.

38 Sec. 3. Legislative purpose

39 It has been the longstanding policy of the Arizona legislature to
40 support the private property rights of all Arizona homeowners to invest their
41 financial resources in the installation of solar energy devices. The Arizona
42 Legislature affirms the right of the Arizona homeowners to reduce their
43 energy consumption and save financial resources through an investment in
44 solar energy, an investment free from the restrictions of the conditions,
45 covenants and restrictions nullified through this section since 1980. These

1 restrictions are commonly enforced by builders, developers and homeowners'
2 associations. These restrictions increase solar system cost, unnecessarily
3 delay the use of solar energy by Arizona citizens of all walks of life and
4 all levels of economic status. These restrictions prevent Arizonans from
5 taking advantage of the economic, environmental and public health benefits
6 that solar energy provides. This Legislature supports greater use of solar
7 energy devices so that all Arizona citizens can make a cost-effective
8 investment in solar energy that will provide energy savings and clean energy
9 to the purchaser and the economic development and air quality to all of
10 Arizona.