State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

HOUSE BILL 2593

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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

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

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

B. A deed, contract, security agreement or other instrument affecting the transfer or sale of, or any interest in, real property entered into before April 17, 1980 shall not be subject to the provisions of this section. THIS SECTION APPLIES WITHOUT REGARD TO THE EFFECTIVE DATE OF THE DEED, CONTRACT, SECURITY AGREEMENT OR OTHER INSTRUMENT AFFECTING THE REAL PROPERTY.

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

33-1815. Solar energy devices; reasonable restrictions

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

B. AN ASSOCIATION MAY ADOPT REASONABLE RULES REGARDING THE PLACEMENT OF A SOLAR ENERGY DEVICE IF THOSE RULES DO NOT IMPAIR THE FUNCTIONING OF THE DEVICE OR UNREASONABLY RESTRICT ITS USE OR ADVERSELY AFFECT THE COST OR EFFICIENCY OF THE DEVICE.

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