

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 670
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
5/22/07

Short Title: Use of Solar Collectors.

(Public)

Sponsors:

Referred to:

March 13, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CITY ORDINANCES, COUNTY ORDINANCES,
AND DEED RESTRICTIONS, COVENANTS, AND OTHER SIMILAR
AGREEMENTS CANNOT PROHIBIT OR HAVE THE EFFECT OF
PROHIBITING THE INSTALLATION OF SOLAR COLLECTORS NOT
FACING PUBLIC ACCESS OR COMMON AREAS ON DETACHED
SINGLE-FAMILY RESIDENCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 160A of the General Statutes is amended
by adding a new section to read:

"§ 160A-201. Limitations on regulating solar collectors.

(a) Except as provided in subsection (c) of this section, no city ordinance shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence, and no person shall be denied permission by a city to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence.

(b) This section does not prohibit an ordinance regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the ordinance does not have the effect of preventing the reasonable use of a solar collector for a detached single-family residence.

(c) This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:

(1) On the façade of a structure that faces areas open to common or public access;

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or

(3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party."

SECTION 2. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-144. Limitations on regulating solar collectors.

(a) Except as provided in subsection (c) of this section, no county ordinance shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence. No person shall be denied permission by a county to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence.

(b) This section does not prohibit an ordinance regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the ordinance does not have the effect of preventing the reasonable use of a solar collector for a detached single-family residence.

(c) This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:

(1) On the façade of a structure that faces areas open to common or public access;

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or

(3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party."

SECTION 3. Chapter 22B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Deed Restrictions, Covenants, and Other Agreements Prohibiting Solar Collectors.

"§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.

(a) The intent of the General Assembly is to protect the public health, safety, and welfare by encouraging the development and use of solar resources and by prohibiting deed restrictions, covenants, and other similar agreements that could have the ultimate

1 effect of driving the costs of owning and maintaining a residence beyond the financial
2 means of most owners.

3 (b) Except as provided in subsection (d) of this section, any deed restriction,
4 covenant, or similar binding agreement that runs with the land that would prohibit, or
5 have the effect of prohibiting, the installation of a solar collector that gathers solar
6 radiation as a substitute for traditional energy for water heating, active space heating
7 and cooling, passive heating, or generating electricity for a detached single-family
8 residence on land subject to the deed restriction, covenant, or agreement is void and
9 unenforceable.

10 (c) This section does not prohibit a deed restriction, covenant, or similar binding
11 agreement that runs with the land that would regulate the location or screening of solar
12 collectors as described in subsection (b) of this section, provided the deed restriction,
13 covenant, or similar binding agreement does not have the effect of preventing the
14 reasonable use of a solar collector for a detached single-family residence.

15 (d) This section does not prohibit a deed restriction, covenant, or similar binding
16 agreement that runs with the land that would prohibit the location of solar collectors as
17 described in subsection (b) of this section that are visible by a person on the ground:

18 (1) On the façade of a structure that faces areas open to common or public
19 access;

20 (2) On a roof surface that slopes downward toward the same areas open to
21 common or public access that the façade of the structure faces; or

22 (3) Within the area set off by a line running across the façade of the
23 structure extending to the property boundaries on either side of the
24 façade, and those areas of common or public access faced by the
25 structure.

26 (e) In any civil action arising under this section, the court may award costs and
27 reasonable attorneys' fees to the prevailing party."

28 **SECTION 4.** This act becomes effective October 1, 2007, and applies to
29 deed restrictions, covenants, or similar binding agreements that run with the land
30 recorded on or after that date.