WEST VIRGINIA CODE: §36-4-19

§36-4-19. Solar energy covenants unenforceable; penalty.

(a) It is the policy of the state to promote and encourage the residential and commercial use of solar energy systems and to remove obstacles thereto to promote energy efficiency and pollution reduction. Therefore, any covenant, restriction, or condition contained in any governing document of a housing association executed or recorded after the effective date of this section that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable: Provided, That a housing association may, by vote of its members, establish or remove a restriction that prohibits or restricts the installation or use of a solar energy system.

(b) For the purposes of this section:

(1) "Solar energy system" means a system affixed to a building or buildings that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy; and

(2) "reasonable restriction" means those restrictions that do not effectually result in a prohibition of their use by eliminating the system's energy conservation benefits or economic practicality.

(c) This section does not apply to provisions that impose reasonable restrictions on solar energy systems including restrictions for historical preservation, architectural significance, religious or cultural importance to a given community. Nothing in this section precludes the regulation of solar energy systems by state and local authorities which may establish land use, health and safety standards. Nothing in this section precludes housing associations from restricting or limiting the installation of solar energy systems installed in common areas and common structures.

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