WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2740

(By Delegates Manypenny, Doyle, Mahan, Guthrie, Canterbury, Iaquinta, Barker, Hartman, Brown and Hatfield)

Passed March 10, 2012
To Take Effect Ninety Days From Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-19, relating to housing associations making covenants and other restrictions that restrict the installation or use of solar energy systems unenforceable after effective date of section; defining terms; and providing exceptions thereto.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §36-4-19, to read as follows:

ARTICLE 4. COVENANTS.

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

1 (a) It is the policy of the state to promote and encourage
2 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 20th day of ________, 2012.

Governor
PRESENTED TO THE GOVERNOR

MAR 19 2012

Time 11:10 am