

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2740**

5 (By Delegates Manypenny, Doyle, Mahan, Guthrie, Canterbury,
6 Iaquina, Barker, Hartman, Brown and Hatfield)
7

8 [Passed March 10, 2012; in effect ninety days from passage.]
9

10 AN ACT to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §36-4-19, relating to
12 housing associations making covenants and other restrictions
13 that restrict the installation or use of solar energy systems
14 unenforceable after effective date of section; defining terms;
15 and providing exceptions thereto. *Be it enacted by the*
16 *Legislature of West Virginia:*

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

20 **ARTICLE 4. COVENANTS.**

21 **§36-4-19. Solar energy covenants unenforceable; penalty.**

22 (a) It is the policy of the state to promote and encourage
23 the residential and commercial use of solar energy systems and to
24 remove obstacles thereto to promote energy efficiency and pollution
25 reduction. Therefore, any covenant, restriction, or condition

1 contained in any governing document of a housing association
2 executed or recorded after the effective date of this section that
3 effectively prohibits or restricts the installation or use of a
4 solar energy system is void and unenforceable: *Provided*, That a
5 housing association may, by vote of its members, establish or
6 remove a restriction that prohibits or restricts the installation
7 or use of a solar energy system.

8 (b) For the purposes of this section:

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

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

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

1 the installation of solar energy systems installed in common areas
2 and common structures.