

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

**House Bill No. 2740**

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



Passed March 10, 2012

To Take Effect Ninety Days From Passage

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## H. B. 2740

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(BY DELEGATES MANYPENNY, DOYLE, MAHAN, GUTHRIE,  
CANTERBURY, IAQUINTA, BARKER, HARTMAN, BROWN AND  
HATFIELD)

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[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

3 and to remove obstacles thereto to promote energy efficiency  
4 and pollution reduction. Therefore, any covenant, restriction,  
5 or condition contained in any governing document of a  
6 housing association executed or recorded after the effective  
7 date of this section that effectively prohibits or restricts the  
8 installation or use of a solar energy system is void and  
9 unenforceable: *Provided*, That a housing association may, by  
10 vote of its members, establish or remove a restriction that  
11 prohibits or restricts the installation or use of a solar energy  
12 system.

13 (b) For the purposes of this section:

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*