A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-19, relating to making covenants and other restrictions that restrict the installation or use of solar energy systems unenforceable; defines terms; and provides 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.

(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, upon the effective date of this section any covenant, restriction, or condition contained in any deed,
contract, security instrument, or other instrument affecting the
transfer or sale of, or any interest in, real property, and any
provision of a governing document of a housing development or
association that effectively prohibits or restricts the
installation or use of a solar energy system is void and
unenforceable.

(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. 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 home
associations, condominiums or unit properties from restricting or
limiting the installation of solar energy systems installed in
common areas and common structures.