
A BILL FOR AN ACT

RELATING TO SOLAR ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 196-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§196-7 Placement of solar energy devices.** (a)

4 Notwithstanding any law to the contrary, no person shall be
5 prevented by any covenant, declaration, bylaws, restriction,
6 deed, lease, term, provision, condition, codicil, contract, or
7 similar binding agreement, however worded, from installing a
8 solar energy device on any single-family residential dwelling or
9 townhouse that the person owns. Any provision in any lease,
10 instrument, or contract contrary to the intent of this section
11 shall be void and unenforceable.

12 (b) Every private entity shall adopt rules by December 31,
13 2006, that provide for the placement of solar energy devices,
14 and revise those rules as necessary by July 1, 2011. The rules
15 shall facilitate the placement of solar energy devices and shall
16 not impose conditions or restrictions that render the device
17 more than twenty-five per cent less efficient or increase the
18 cost of installation, maintenance, and removal of the device by



1 more than fifteen per cent. No private entity shall assess or
2 charge any homeowner any fees or require an encumbrance on title
3 for the placement of any solar energy device.

4 (c) Every private entity subject to subsection (b) shall
5 submit a copy of its duly adopted rules as described in
6 subsection (b) on or before the due date of its next condominium
7 association biennial registration form required by section 514B-
8 103(2). Any private entity that fails to comply with this
9 subsection shall have its registration rejected and shall lose
10 its tax exempt status for purposes of Hawaii state taxes
11 notwithstanding its tax exempt status under section 501(c) of
12 the Internal Revenue Code of 1986, as amended. Exempt status
13 shall be restored and the condominium association biennial
14 registration shall be accepted when the private entity has
15 complied with this subsection.

16 [~~e~~] (d) Any person may place a solar energy device on
17 any single-family residential dwelling or townhouse unit owned
18 by that person, provided that:

- 19 (1) The device is in compliance with the rules and
20 specifications adopted pursuant to subsection (b);
21 (2) The device is registered with the private entity of
22 record within thirty days of installation; and



1 (3) If the device is placed on a common element or limited
2 common element as defined by a project's declaration,
3 the homeowner shall first obtain the consent of the
4 private entity; provided further that such consent
5 shall be given if the homeowner agrees in writing to:

6 (A) Comply with the private entity's design
7 specification for the installation of the device;

8 (B) Engage a duly licensed contractor to install the
9 device; and

10 (C) Within fourteen days of approval of the solar
11 device by the private entity, provide a
12 certificate of insurance naming the private
13 entity as an additional insured on the
14 homeowner's insurance policy.

15 [~~(d)~~] (e) If a solar energy device is placed on a common
16 element or limited common element:

17 (1) The owner and each successive owner of the single-
18 family residential dwelling or townhouse unit on which
19 the device is placed shall be responsible for any
20 costs for damages to the device, the common elements,
21 limited common elements, and any adjacent units,
22 arising or resulting from the installation,



1 maintenance, repair, removal, or replacement of the
2 device. The repair, maintenance, removal, and
3 replacement responsibilities shall be assumed by each
4 successive owner until the solar energy device has
5 been removed from the common elements or limited
6 common elements. The owner and each successive owner
7 shall at all times have and maintain a policy of
8 insurance covering the obligations of the owner under
9 this paragraph and shall name the private entity as an
10 additional insured under said policy; and

11 (2) The owner and any successive owner of the single-
12 family residential dwelling or townhouse unit on which
13 the device is placed shall be responsible for removing
14 the solar energy device if reasonably necessary or
15 convenient for the repair, maintenance, or replacement
16 of the common elements or limited common elements.

17 [~~(e)~~] (f) If a material or labor roof warranty exists at
18 the time a solar energy device is installed on a roof that is a
19 common element or limited common element, the homeowner shall
20 obtain confirmation in writing from the company that issued the
21 warranty that the installation of the solar energy device will



1 not void the roof warranty. The homeowner shall provide the
2 private entity with a copy of the confirmation.

3 [~~f~~] (g) For the purposes of this section:

4 "Private entity" means any association of homeowners,
5 community association, condominium association, cooperative, or
6 any other non-governmental entity with covenants, bylaws, and
7 administrative provisions with which the homeowner's compliance
8 is required.

9 "Solar energy device" means any identifiable facility,
10 equipment, apparatus, or the like, including a photovoltaic cell
11 application, that is applicable to a single-family residential
12 dwelling or townhouse and makes use of solar energy for heating,
13 cooling, or reducing the use of other types of energy dependent
14 upon fossil fuel for generation; provided that "solar energy
15 device" shall not include skylights or windows."

16 SECTION 2. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect upon its approval.

19

INTRODUCED BY: _____



JAN 24 2013



H.B. NO. 1406

Report Title:

Solar Energy Devices; Association Rules

Description:

Requires private entities to submit a copy of their duly adopted rules regarding the placement of solar energy devices on or before the due date of their next condominium association biennial registration. Provides that private entities that fail to submit a copy of their rules shall lose their tax exempt status.

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