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



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

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

19 ~~(e)~~ (d) Any person may place a solar energy device on any
20 single-family residential dwelling or townhouse unit owned by
21 that person; provided that:



- 1 (1) The device is in compliance with the rules and
- 2 specifications adopted pursuant to subsection (b);
- 3 (2) The device is registered with the private entity of
- 4 record within thirty days of installation; and
- 5 (3) If the device is placed on a common element or limited
- 6 common element as defined by a project's declaration,
- 7 the homeowner shall first obtain the consent of the
- 8 private entity; provided further that such consent
- 9 shall be given if the homeowner agrees in writing to:
- 10 (A) Comply with the private entity's design
- 11 specification for the installation of the device;
- 12 (B) Engage a duly licensed contractor to install the
- 13 device; and
- 14 (C) Within fourteen days of approval of the solar
- 15 device by the private entity, provide a
- 16 certificate of insurance naming the private
- 17 entity as an additional insured on the
- 18 homeowner's insurance policy.

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

- 21 (1) The owner and each successive owner of the single-
- 22 family residential dwelling or townhouse unit on which



1 the device is placed shall be responsible for any
2 costs for damages to the device, the common elements,
3 limited common elements, and any adjacent units,
4 arising or resulting from the installation,
5 maintenance, repair, removal, or replacement of the
6 device. The repair, maintenance, removal, and
7 replacement responsibilities shall be assumed by each
8 successive owner until the solar energy device has
9 been removed from the common elements or limited
10 common elements. The owner and each successive owner
11 shall at all times have and maintain a policy of
12 insurance covering the obligations of the owner under
13 this paragraph and shall name the private entity as an
14 additional insured under said policy; and

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

21 [~~e~~] (f) If a material or labor roof warranty exists at the
22 time a solar energy device is installed on a roof that is a



1 common element or limited common element, the homeowner shall
2 obtain confirmation in writing from the company that issued the
3 warranty that the installation of the solar energy device will
4 not void the roof warranty. The homeowner shall provide the
5 private entity with a copy of the confirmation.

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

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

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

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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



Report Title:

Solar Energy Devices; Association Rules

Description:

Requires homeowners, community, and condo associations and cooperatives to submit their duly adopted rules providing for the placement of solar energy devices by the due date of their next condominium association biennial registration. Provides for loss of tax exempt status for failure to comply. (HB1406 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

