
A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. The legislature finds that it is the policy of
2 the State to reduce dependence on imported fossil fuels and to
3 promote all feasible means of energy conservation and renewable
4 energy sources. The sun is one of the biggest renewable energy
5 resources and the State has encouraged, through policy,
6 widespread adoption of solar water heating devices and
7 photovoltaic systems. With many Hawaii residents utilizing
8 solar energy, issues have surfaced regarding homeowners' right
9 to access sunlight.

10 The legislature recognizes the value of planting and
11 maintaining trees and shrubs for shade, to moderate outdoor
12 temperatures, and to provide other aesthetic and economic
13 benefits. However, it is necessary to establish controls for
14 situations where trees or shrubs may impact the use of an
15 alternative energy device on an adjacent property.

16 The purpose of this Act is to ensure that solar energy
17 system owners have adequate access to sunlight.



1 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . SOLAR SHADE CONTROL

5 §196-A Solar collector defined. As used in this part,
6 "solar collector" means a fixed device, structure, or part of a
7 device or structure on the roof of a building that is used
8 primarily to transform solar energy into thermal, chemical, or
9 electrical energy for one or all of the following purposes:

- 10 (1) Water heating;
11 (2) Space heating or cooling; and
12 (3) Electrical energy generation.

13 The term includes a fixed device, structure, or part of a device
14 or structure that is installed on the ground because it cannot
15 be installed on the roof of the building receiving the energy
16 due to inappropriate roofing material, slope of the roof,
17 structural shading, or orientation of the building. The term
18 does not include a fixed device, structure, or part of a device
19 or structure that is designed and intended to offset more than
20 the building's demand for electricity, hot water, or space
21 heating and cooling.



1 **§196-B Solar collector location.** The location of any
2 solar collector shall comply with state law and county
3 ordinances and shall be set back not less than five feet from
4 the property line and not less than ten feet above the ground;
5 provided that a solar collector may be less than ten feet in
6 height if, in addition to the five-foot setback, the solar
7 collector is set back three times the amount lowered below ten
8 feet.

9 **§196-C Solar shade prohibited.** After the installation of
10 a solar collector, no person who owns property or controls
11 another property shall allow a tree or shrub to be placed or, if
12 placed, to grow on the property in a manner that casts a shadow
13 greater than ten per cent of the collector absorption area upon
14 the solar collector surface at any one time between the hours of
15 10 a.m. and 2 p.m.

16 **§196-D Notice of installation.** Prior to the installation
17 of a solar collector, an owner of the building where the solar
18 collector will be installed may provide written notice by
19 certified mail to a person owning property that may be impacted
20 by the requirements of this part. If a notice is mailed, the
21 notice shall be mailed no more than sixty days prior to the
22 installation of the solar collector and shall read:



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"SOLAR SHADE CONTROL NOTICE

Section 196-C, Hawaii Revised Statutes, prohibits a tree or shrub from casting a shadow greater than ten per cent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. if the tree or shrub is planted or placed after installation of a solar collector. The owner of the building where a solar collector is proposed to be installed is providing this written notice to persons owning property that may be affected by the requirements of section 196-C, Hawaii Revised Statutes, no more than sixty days prior to the installation of a solar collector. The building owner is providing the following information:

Name and address of building owner:

Telephone number of building owner:

Address of building and specific location where a solar collector will be installed, including street number and name, city, zip code, and tax map key number:



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Installation date of solar collector:

Building Owner, Date"

§196-E Late installation; notice. If the owner of a building where a solar collector is proposed to be installed provides notice pursuant to section 196-D, and the installation occurs later than the date specified in the notice, the owner shall specify the later date in a subsequent notice to persons receiving the initial notice.

§196-F Notice upon transfer. (a) A transferor of the building where a solar collector is installed may provide a record of persons receiving the notice pursuant to section 196-D to a transferee of the building.

(b) A transferor of property receiving a notice pursuant to section 196-D may provide the notice to a transferee of the property.

§196-G Violation; private nuisance. (a) A person who alleges the existence of a private nuisance due to violation of section 196-C may bring a civil action for appropriate



1 injunctive relief or actual damages or both within two years
2 after the occurrence of the alleged violation of this part.

3 (b) An action commenced pursuant to subsection (a) may be
4 brought in the circuit court for the circuit where the alleged
5 violation occurred, where the complainant resides, or where the
6 person against whom the civil complaint is filed resides or has
7 a principal place of business.

8 (c) For purposes of this section:

9 "Damages" means damages for injury or loss caused by
10 violation of section 196-C, including reasonable attorney fees.

11 "Private nuisance" means the maintenance of a tree or shrub
12 in violation of section 196-C if the person who maintains or
13 permits the tree or shrub to be maintained fails to remove or
14 alter the tree or shrub after receiving a written notice from
15 the owner or agent of the affected solar collector requesting
16 compliance with the requirements of section 196-C.

17 **§196-H Application.** This part shall not apply to:

18 (1) A tree or shrub planted prior to the installation of a
19 solar collector;

20 (2) The replacement of a tree or shrub that had been
21 growing prior to the installation of a solar collector
22 and that, subsequent to the installation of the solar



1 collector, dies or is removed for the protection of
 2 public health, safety, or the environment; or
 3 (3) A tree or shrub that is subject to a county ordinance.

4 §196-I County regulation. If a county ordinance
 5 regulating tree preservation or solar shade control conflicts
 6 with this part, the county ordinance shall prevail."

7 SECTION 3. This Act does not affect rights and duties that
 8 matured, penalties that were incurred, and proceedings that were
 9 begun before its effective date.

10 SECTION 4. In codifying the new sections added by section
 11 2 of this Act, the revisor of statutes shall substitute
 12 appropriate section numbers for the letters used in designating
 13 the new sections in this Act.

14 SECTION 5. This Act shall take effect upon its approval.
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Report Title:

Solar Shade Control; Solar Energy Systems; Private Nuisance

Description:

Establishes solar shade regulations to protect solar energy system owners from shading caused by trees and shrubs on adjacent properties.

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

