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## A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1           SECTION 1. The legislature finds that section 196-7(b),  
2 Hawaii Revised Statutes, required condominium, community, and  
3 homeowner associations to adopt rules by December 31, 2006, to  
4 allow for the placement of solar energy devices. The  
5 legislature further finds that some associations have not  
6 complied with the law by adopting rules for solar energy  
7 devices.

8           Therefore, the purpose of this Act is to require those  
9 associations to adopt rules to allow the placement of solar  
10 energy devices on single-family residential dwellings and  
11 townhouse units by the owners of those dwellings and units,  
12 subject to specified conditions.

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

15           "§196-7 Placement of solar energy devices. (a)  
16 Notwithstanding any law to the contrary, no person shall be  
17 prevented by any covenant, declaration, bylaws, restriction,



1 deed, lease, term, provision, condition, codicil, contract, or  
2 similar binding agreement, however worded, from installing a  
3 solar energy device on any single-family residential dwelling or  
4 townhouse that the person owns. Any provision in any lease,  
5 instrument, or contract contrary to the intent of this section  
6 shall be void and unenforceable.

7 (b) Every private entity shall adopt rules by December 31,  
8 2006, that provide for the placement of solar energy devices,  
9 and revise those rules as necessary by July 1, 2011. The rules  
10 shall facilitate the placement of solar energy devices and shall  
11 not impose conditions or restrictions that render the device  
12 more than twenty-five per cent less efficient or increase the  
13 cost of installation, maintenance, and removal of the device by  
14 more than fifteen per cent. No private entity shall assess or  
15 charge any homeowner any fees for the placement of any solar  
16 energy device.

17 (c) Any person may place, or contract for the placement  
18 of, a solar energy device on any single-family residential  
19 dwelling or townhouse unit owned by that person, provided that:

20 (1) The device is in compliance with the rules and  
21 specifications adopted pursuant to subsection (b);



- 1           (2) The device is registered with the private entity of
- 2                   record within thirty days of installation; and
- 3           (3) If the device is placed on a common element or limited
- 4                   common element as defined by a project's declaration,
- 5                   the homeowner shall first obtain the consent of the
- 6                   private entity; provided further that [~~such~~] the
- 7                   consent shall be given if the homeowner agrees in
- 8                   writing to:
  - 9                   (A) Comply with the private entity's design
  - 10                           specification for the installation of the device;
  - 11                   (B) Engage a duly licensed contractor to install the
  - 12                           device; and
  - 13                   (C) Within fourteen days of approval of the solar
  - 14                           device by the private entity, provide a
  - 15                           certificate of insurance naming the private
  - 16                           entity as an additional insured on the
  - 17                           homeowner's insurance policy.
- 18           (d) If a solar energy device is placed on a common element
- 19                   or limited common element:
  - 20                   (1) The owner and each successive owner of the single-
  - 21                           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.



1           (e) If there is an existing contractor's guarantee or  
2 manufacturer's labor or material warranty on the roof, roofing  
3 membrane, or roofing material on a roof that is a common element  
4 or limited common element, the contractor that installs a solar  
5 energy device on the roof shall notify the private entity in  
6 writing that the installation of a solar energy device may  
7 affect or void the roofing guarantees or warranties. If the  
8 private entity chooses to forgo the roofing guarantee or  
9 warranty, the contractor that installs a solar energy device  
10 shall obtain that decision in writing. Otherwise, the  
11 contractor that installs a solar energy device shall obtain the  
12 roofing manufacturer's written approval for that project and  
13 follow the roofing manufacturer's written instructions for  
14 waterproofing roof penetrations for the specific roofing  
15 material or coordinate the waterproofing with the contractor  
16 that issued the guarantee or warranty. If the penetrations for  
17 the installation of a solar energy device are waterproofed by  
18 the roofing contractor that provided the existing guarantee or  
19 warranty, the roofing contractor shall maintain the existing  
20 guarantee or warranty; provided that if either the roofing  
21 contractor's guaranty or the roofing manufacturer's warranty is



1 no longer in effect, the contractor who installs the solar  
2 energy device and waterproofs the penetrations in accordance  
3 with this section shall apply the contractor's or lessor's  
4 standard labor and workmanship warranty. The homeowner shall  
5 provide the private entity with a copy of the applicable  
6 guarantee or warranty.

7 (f) For the purposes of this section:

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

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

20 (g) After January 1, 2017, any private entity that has not  
21 adopted rules as required by subsection (b), regarding the



1 placement of solar energy devices on single-family residential  
2 dwellings or townhouse units, shall allow the placement of solar  
3 energy devices on any single-family residential dwelling or  
4 townhouse unit by the owner of that single-family residential  
5 dwelling or townhouse unit, pursuant to subsection (c), until  
6 the private entity adopts the relevant rules. In the absence of  
7 rules to the contrary, an owner desiring to place a solar energy  
8 device shall submit a complete installation proposal to the  
9 private entity prior to the placement of the solar energy  
10 device.

11 The private entity shall approve, approve with  
12 modifications, or deny a complete installation proposal within  
13 thirty days of submission. If after thirty days the private  
14 entity has not approved, approved with modifications, or denied  
15 the installation proposal, the installation proposal shall be  
16 deemed approved by the private entity.

17 No private entity shall withhold or deny approval of any  
18 complete installation proposal on the basis that the private  
19 entity has not adopted rules pursuant to subsection (b).



1 Nothing in this subsection shall be deemed to prohibit a  
2 private entity from requiring, as a condition of approval of an  
3 installation proposal, that:

4 (1) The placed solar energy device serve only the single-  
5 family residential dwelling or townhouse unit owned by  
6 the person who submitted the installation proposal;

7 (2) The solar energy device be placed or installed by a  
8 contractor holding a valid contractor's license with  
9 the appropriate specialty classification for the  
10 proposed work;

11 (3) Appropriate building permits for the placement of the  
12 solar energy device be obtained prior to the placement  
13 or installation; and

14 (4) The solar energy device comply with applicable county  
15 ordinances and rules."

16 SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

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*Kalil Mad*  
*Tou Bar*  
*Nicole E Lower*

INTRODUCED BY:

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*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*



*Jakobi On*

*[Signature]*  
*[Signature]*



# H.B. NO. 2523

**Report Title:**

Solar Energy Devices; Solar Panels; Homeowners Associations, Community Associations; Condominium Association; Automatic Approval

**Description:**

Establishes default rules for homeowners, community, and condominium associations that have not adopted rules allowing for the placement of solar energy devices on single-family residential dwellings and townhouse units.

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

