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

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

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



- 1 (1) The placed solar energy device be installed pursuant
2 to an approved utility interconnection agreement or
3 serve only the single-family residential dwelling or
4 townhouse unit owned by the person who submitted the
5 installation proposal;
- 6 (2) The solar energy device be placed or installed by a
7 contractor holding a valid contractor's license with
8 the appropriate specialty classification for the
9 proposed work;
- 10 (3) Appropriate building permits for the placement of the
11 solar energy device be obtained prior to the placement
12 or installation; and
- 13 (4) The solar energy device comply with applicable county
14 ordinances and rules."

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 Statutory material to be repealed is bracketed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

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



Report Title:

Solar Energy Devices; Solar Panels; Homeowners Associations;
Community Associations; Condominium Association

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. (HB2523 HD2)

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