Article 3.

Deed Restrictions, Covenants, and Other Agreements Prohibiting Solar Collectors.

§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.

(a) The intent of the General Assembly is to protect the public health, safety, and welfare by encouraging the development and use of solar resources and by prohibiting deed restrictions, covenants, and other similar agreements that could have the ultimate effect of driving the costs of owning and maintaining a residence beyond the financial means of most owners.

(b) Except as provided in subsection (d) of this section, any deed restriction, covenant, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property on land subject to the deed restriction, covenant, or agreement is void and unenforceable. As used in this section, the term "residential property" means property where the predominant use is for residential purposes. The term "residential property" does not include any condominium created under Chapter 47A or 47C of the General Statutes located in a multi-story building containing units having horizontal boundaries described in the declaration. As used in this section, the term "declaration" has the same meaning as in G.S. 47A-3 or G.S. 47C-1-103, depending on the chapter of the General Statutes under which the condominium was created.

(c) This section does not prohibit a deed restriction, covenant, or similar binding agreement that runs with the land that would regulate the location or screening of solar collectors as described in subsection (b) of this section, provided the deed restriction, covenant, or similar binding agreement does not have the effect of preventing the reasonable use of a solar collector for a residential property. If an owners' association is responsible for exterior maintenance of a structure containing individual residences, a deed restriction, covenant, or similar binding agreement that runs with the land may provide that (i) the title owner of the residence shall be responsible for all damages caused by the installation, existence, or removal of solar collectors; (ii) the title owner of the residence shall hold harmless and indemnify the owners' association for any damages caused by the installation, existence, or removal of solar collectors; and (iii) the owners' association shall not be responsible for maintenance, repair, replacement, or removal of solar collectors unless expressly agreed in a written agreement that is recorded in the office of the register of deeds in the county or counties in which the property is situated. As used in this section, "owners' association" has the same meaning as in G.S. 47F-1-103.

(d) This section does not prohibit a deed restriction, covenant, or similar binding agreement that runs with the land that would prohibit the location of solar collectors as described in subsection (b) of this section that are visible by a person on the ground:

(1) On the facade of a structure that faces areas open to common or public access;

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or

(3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

(e) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2007-279, s. 3; 2009-553, s. 3.)