

HOUSE BILL 639

N1

3lr2696

By: **Delegate Smith**

Introduced and read first time: February 3, 2023

Assigned to: Environment and Transportation and Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2023

CHAPTER _____

1 AN ACT concerning

2 **Restrictions on Use – Solar Collector Systems – Alteration**

3 FOR the purpose of prohibiting a restriction on use regarding land use that increases the
4 cost of installing a solar collector system by at least a certain percentage over a
5 certain cost or that reduces the efficiency of the solar collector system by at least a
6 certain percentage under a certain level of energy generation; authorizing a
7 community association to prohibit the installation of a solar collector system in the
8 common area or common elements within the real estate development served by the
9 community association; authorizing a community association to impose reasonable
10 restrictions on the installation of a solar collector system in the common area or
11 common elements; authorizing a community association to install a solar collector
12 system in the common area or common elements provided the installation is not
13 otherwise prohibited by applicable law; and generally relating to regulation of solar
14 collector systems.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 2–119
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2022 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 2-119.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Restriction on use" includes any covenant, restriction, or condition
4 contained in:

5 (i) A deed;

6 (ii) A declaration;

7 (iii) A contract;

8 (iv) The bylaws or rules of a condominium or homeowners
9 association;

10 (v) A security instrument; or

11 (vi) Any other instrument affecting:

12 1. The transfer or sale of real property; or

13 2. Any other interest in real property.

14 (3) "Solar collector system" means a solar collector or other solar energy
15 device, the primary purpose of which is to provide for the collection, storage, and
16 distribution of solar energy for electricity generation, space heating, space cooling, or water
17 heating.

18 (4) "Solar easement" means an interest in land that:

19 (i) Is conveyed or assigned in perpetuity; and

20 (ii) Limits the use of the land to preserve the receipt of sunlight
21 across the land for the use of a property owner's solar collector system.

22 (b) (1) A restriction on use regarding land use may not impose or act to impose
23 unreasonable limitations on the installation of a solar collector system on the roof or
24 exterior walls of improvements, provided that the property owner owns or has the right to
25 exclusive use of the roof or exterior walls.

26 (2) For purposes of paragraph (1) of this subsection, [an unreasonable
27 limitation includes a limitation that:

28 (i) Significantly increases the cost of the solar collector system; or

1 (ii) Significantly decreases the efficiency of the solar collector
2 system] A RESTRICTION ON USE IS UNREASONABLE IF APPLICATION OF THE
3 RESTRICTION ON USE TO A PARTICULAR PROPOSAL:

4 (I) INCREASES THE INSTALLATION COST OF THE SOLAR
5 COLLECTOR SYSTEM BY AT LEAST 5% OVER THE PROJECTED COST OF THE INITIALLY
6 PROPOSED INSTALLATION; OR

7 (II) REDUCES THE ENERGY GENERATED BY THE SOLAR
8 COLLECTOR SYSTEM BY AT LEAST 10% BELOW THE PROJECTED ENERGY
9 GENERATION OF THE INITIALLY PROPOSED INSTALLATION.

10 (3) (I) THE OWNER SHALL PROVIDE DOCUMENTATION THAT IS
11 SATISFACTORY TO THE COMMUNITY ASSOCIATION TO SHOW THAT THE RESTRICTION
12 IS UNREASONABLE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

13 (II) THE DOCUMENTATION REQUIRED UNDER SUBPARAGRAPH
14 (I) OF THIS PARAGRAPH SHALL BE PREPARED BY AN INDEPENDENT SOLAR PANEL
15 DESIGN SPECIALIST WHO:

16 1. IS CERTIFIED BY THE NORTH AMERICAN BOARD OF
17 CERTIFIED ENERGY PRACTITIONERS; ~~AND~~ OR

18 2. ~~IS LICENSED IN THE STATE~~ HAS ATTESTED BY
19 AFFIDAVIT TO DESIGNING AT LEAST 30 SOLAR COLLECTOR SYSTEMS IN THE COURSE
20 OF TRADE WITHIN THE PRIOR 3 YEARS.

21 (4) (I) A COMMUNITY ASSOCIATION MAY PROHIBIT OR RESTRICT
22 THE INSTALLATION OF A SOLAR COLLECTOR SYSTEM IN THE COMMON AREA OR
23 COMMON ELEMENTS WITHIN THE REAL ESTATE DEVELOPMENT SERVED BY THE
24 ASSOCIATION.

25 (II) A COMMUNITY ASSOCIATION MAY ESTABLISH REASONABLE
26 RESTRICTIONS AS TO THE NUMBER, SIZE, PLACE, OR MANNER OF PLACEMENT OR
27 INSTALLATION OF A SOLAR COLLECTOR SYSTEM INSTALLED IN THE COMMON AREA
28 OR COMMON ELEMENTS.

29 (III) NOTWITHSTANDING THE PROVISIONS OF THE GOVERNING
30 DOCUMENTS AND PROVIDED THAT THE INSTALLATION IS NOT OTHERWISE
31 PROHIBITED BY APPLICABLE LAW, THE BOARD OF DIRECTORS FOR A COMMUNITY
32 ASSOCIATION SHALL HAVE DISCRETION TO INSTALL A SOLAR COLLECTOR SYSTEM
33 IN THE COMMON AREA OR COMMON ELEMENTS WITHIN THE REAL ESTATE
34 DEVELOPMENT SERVED BY THE COMMUNITY ASSOCIATION.

1 (c) (1) A property owner who has installed or intends to install a solar collector
2 system may negotiate to obtain a solar easement in writing.

3 (2) Any written instrument creating a solar easement shall include:

4 (i) A description of the dimensions of the solar easement expressed
5 in measurable terms, including vertical or horizontal angles measured in degrees or the
6 hours of the day on specified dates when direct sunlight to a specified surface of a solar
7 collector system may not be obstructed;

8 (ii) The restrictions placed on vegetation, structures, and other
9 objects that would impair the passage of sunlight through the solar easement; and

10 (iii) The terms under which the solar easement may be revised or
11 terminated.

12 (3) A written instrument creating a solar easement shall be recorded in the
13 land records of the county where the property is located.

14 (d) This section does not apply to a restriction on use on historic property that is
15 listed in, or determined by the Director of the Maryland Historical Trust to be eligible for
16 inclusion in, the Maryland Register of Historic Properties.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.