

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1023

By: Townley

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to property; defining terms;  
9 providing that an owners association may not prohibit  
10 the installation of solar energy systems; providing  
11 exceptions; providing for codification; and providing  
12 an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 859 of Title 60, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. As used in this section:

18 1. "Covenant and restriction of a real estate development"  
19 means a recorded instrument in which a declarant reserves:

20 a. a right to facilitate the development, construction,  
21 and marketing of the subdivision, and

22 b. a right to direct the size, shape, and composition of  
23 the subdivision;  
24

1        2. "Solar energy system" has the same meaning as that term is  
2 defined in Section 2357.1 of Title 68 of the Oklahoma Statutes.

3        B. Except as otherwise provided by subsection D of this  
4 section, an owners association may not include or enforce a  
5 provision in an instrument that prohibits or restricts a property  
6 owner from installing a solar energy system, unless the instrument  
7 was effective prior to the effective date of this act. A new owners  
8 association, established by a covenant and restriction of real  
9 estate development, created after the effective date of this act  
10 shall have one (1) year from the date the owners association is  
11 created to prohibit to the installation of solar energy systems.

12        C. A provision that violates subsection B of this section is  
13 void.

14        D. An owners association may include or enforce a provision in  
15 an instrument that prohibits a solar energy system that:

16        1. As adjudicated by a court:

17            a. threatens the public health or safety, or

18            b. violates a law;

19        2. Is located on property owned or maintained by the owners  
20 association;

21        3. Is located on property owned in common by the members of the  
22 owners association;

23        4. Is located in an area on the property owner's property other  
24 than:

- a. on the roof of the home or of another structure allowed under an instrument, or
- b. in a fenced yard or patio owned and maintained by the property owner;

5. If mounted on the roof of the home:

- a. extends higher than or beyond the roofline,
- b. is located in an area other than an area designated by the owners association, unless the alternate location increases the estimated annual energy production of the system, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the system if located in an area designated by the owners association, this includes all equipment for the solar system to be located on the backside of the house,
- c. solar equipment on a roof not being removed prior to a new roof replacement to allow proper installation of new roof, and
- d. has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;

6. As installed, voids material warranties; or

1       7. Was installed without prior approval by the owners  
2 association or by a committee created in an instrument for such  
3 purposes that provides decisions within a reasonable period or  
4 within a period specified in the covenant and restriction of a real  
5 estate development instrument.

6       E. An owners association or the association's architectural  
7 review committee may not withhold approval for installation of a  
8 solar energy system if the provisions of the instrument to the  
9 extent authorized by subsection D of this section are met or  
10 exceeded, unless the association or committee, as applicable,  
11 determines in writing that placement of the system as proposed by  
12 the property owner constitutes a condition that substantially  
13 interferes with the use and enjoyment of land by causing  
14 unreasonable discomfort or annoyance to persons of ordinary  
15 sensibilities. For purposes of making a determination under this  
16 subsection, the written approval of the proposed placement of the  
17 system by all property owners of adjoining property constitutes  
18 prima facie evidence that such a condition does not exist.

19       SECTION 2. This act shall become effective November 1, 2023.

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21       59-1-7921       JBH       03/02/23

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