

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 639

(Delegate Smith)

Environment and Transportation and
Economic Matters

Judicial Proceedings

Restrictions on Use - Solar Collector Systems - Alteration

This bill alters statutory provisions that prohibit unreasonable restrictions on land use related to the installation of a solar collector system under specified circumstances. The bill specifies that a restriction on use is unreasonable if application of the restriction to a particular proposal (1) increases the installation cost of the system by at least 5% over the projected cost of the initially proposed installation or (2) reduces the energy generated by the solar collector system by at least 10% below the projected energy generation in the initial proposal.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State operations or finances.

Local Effect: The bill is not anticipated to materially impact local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The owner must provide satisfactory documentation to the community association evidencing the unreasonable nature of the restrictions. The documentation must be prepared by an independent solar panel design specialist who is certified, as specified, or has attested by affidavit to designing at least 30 solar collector systems in the course of trade within the prior three years.

A community association may prohibit or restrict the installation of a solar collector system in the common area/elements within the real estate development served by the association. Additionally, the community association may establish reasonable restrictions as to the number, size, place, or manner of placement or installation of a solar collector system installed in the common area/elements. Notwithstanding the provisions of the governing documents (and provided that the installation is not otherwise prohibited by applicable law), the board of directors for a community association must have discretion to install a solar collector system in the common area/elements within the real estate development served by the community association.

Current Law: A solar collector system is a solar collector or other solar energy device that has the primary purpose of providing for the collection, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. A restriction on use regarding land use may not impose or act to impose unreasonable limitations on the installation of a solar collector system on the roof or exterior walls of improvements, provided that the property owner owns or has the right to exclusive use of the roof or exterior walls. An unreasonable restriction includes a limitation that (1) significantly increases the cost of the solar collector system or (2) significantly decreases the efficiency of the solar collector system.

A property owner who has installed or intends to install a solar collector system may negotiate to obtain a solar easement in writing. Any written instrument creating a solar easement must contain:

- a description of the dimensions of the solar easement expressed in measurable terms, as specified;
- the restrictions placed on vegetation, structures, and other objects that would impair the passage of sunlight through the solar easement; and
- the terms under which the solar easement may be revised or terminated.

A written instrument creating a solar easement must be recorded in the appropriate land records. These restrictions do not apply to a restriction on use on historic property that is listed in, or determined by the Director of the Maryland Historical Trust to be eligible for inclusion in, the Maryland Register of Historic Properties.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Energy Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2023
km/jkb Third Reader - March 27, 2023
Revised - Amendment(s) - March 27, 2023

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