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§2–119.

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

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

(i) A deed;

(ii) A declaration;

(iii) A contract;

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

(v) A security instrument; or

(vi) Any other instrument affecting:

1. The transfer or sale of real property; or

2. Any other interest in real property.

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

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

(i) Is conveyed or assigned in perpetuity; and

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

(b) (1) 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.

(2) For purposes of paragraph (1) of this subsection, a restriction on use is unreasonable if application of the restriction on use to a particular proposal:

(i) Increases the installation cost of the solar collector system by at least 5% over the projected cost of the initially proposed installation; or

(ii) Reduces the energy generated by the solar collector system by at least 10% below the projected energy generation of the initially proposed installation.

(3) (i) The owner shall provide documentation that is satisfactory to the community association to show that the restriction is unreasonable under paragraph (2) of this subsection.

(ii) The documentation required under subparagraph (i) of this paragraph shall be prepared by an independent solar panel design specialist who:

1. Is certified by the North American Board of Certified Energy Practitioners; or

2. Has attested by affidavit to designing at least 30 solar collector systems in the course of trade within the prior 3 years.

(4) (i) A community association may prohibit or restrict the installation of a solar collector system in the common area or common elements within the real estate development served by the association.

(ii) A 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 or common elements.

(iii) 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 shall have discretion to install a solar collector system in the common area or common elements within the real estate development served by the community association.

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

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

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

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

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

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

(d) This section does 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.

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