
Judiciary Committee

HB 1112

Title: An act relating to constraints on the installation of solar energy systems.

Brief Description: Regarding constraints on the installation of solar energy systems. .

Sponsors: Representatives Eddy, Roberts, Seaquist, Blake, White, Williams, Jacks, Dunshee, Simpson and Moeller.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Prohibits a homeowners' association or condominium association from impairing the ability of an owner to install or use a solar energy system.
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Hearing Date: 1/29/09

Staff: Courtney Barnes (786-7194)

Background:

Homeowners' Associations

A homeowners' association (association) is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. An association typically arises from restrictive covenants recorded by a developer against property in a subdivision. An association is managed by a board of directors, elected by the members, once the developer relinquishes control. In general, the purpose of an association is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

The Homeowners' Association Act (HOAA) was enacted by the Legislature in 1995 to "provide consistent laws regarding the formation and legal administration of homeowners' associations." Associations are governed by: (1) the HOAA, which identifies the duties and powers of an association; (2) restrictive covenants pursuant to which an association is established; and (3)

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bylaws, rules, and regulations adopted by a particular association. In addition, depending on how a particular association is legally organized, its activities and management may be governed by the Business Corporation Act or the Nonprofit Corporation Act.

Condominiums and Unit Owners' Associations

The Washington Condominium Act (WCA) governs the management of all residential condominiums built in Washington after July 1, 1990. The Horizontal Property Regimes Act (HPRA) governs those built before July 1, 1990. A condominium consists of real property that has individually owned units and also has commonly held elements in which all the individual unit owners have an undivided common interest.

A unit owners' association (condominium association), which governs a condominium through its board of directors, must be comprised exclusively of unit owners and must be organized on or before the date the first unit in the condominium is conveyed. In general, the purpose of a condominium association is to manage and maintain a condominium's common areas and structures, to review design, and to maintain architectural control. Condominium associations are governed by: (1) the WCA or the HPRA, which identify the duties and powers of a condominium association; (2) restrictive covenants pursuant to which a condominium association is established; and (3) bylaws, rules, and regulations adopted by a particular condominium association.

Summary of Bill:

Legislative Findings and Intent

The Legislature finds that property owners have been prevented from producing renewable energy, and the production of renewable energy is a national priority and contributor to the reduction of global climate change. The intent of the Legislature is to remove unnecessary constraints on property owners who are willing to contribute their personal resources toward these global, national, and statewide priorities.

Changes to the Planned Community Statutes

Modifications are made to sections of the Horizontal Property Regimes Act, the Condominium Act, and the Homeowners Association Act (collectively called "planned community statutes"). The definition sections of the planned community statutes are amended so each act contains uniform definitions for general terms, such as "association," "board of directors," and "governing documents."

"Solar energy system" is defined in each of the three planned community statutes. A "solar energy system" means any device or combination of devices or elements which rely upon direct sunlight as an energy source including, but not limited to, any substance or device which collects sunlight for use in: (a) the heating or cooling of a structure or building; (b) the heating or pumping of water; (c) industrial, commercial, or agricultural processes; or (d) the generation of electricity.

An association may not impair the ability of an owner to install, construct, maintain, or use a solar energy system. Any provision in the governing documents that impairs an owner's ability to install, construct, maintain, or use a solar energy system is void and unenforceable.

An association impairs an owner's ability to install, construct, maintain, or use a solar energy system if it: (a) unreasonably delays or increases the cost of installation or use of a solar energy system; (b) regulates a solar energy system in a manner that decreases designed energy production by more than 5 percent; or (c) precludes the use of a solar energy system. A fee imposed by an association to install a solar energy system is unreasonable if it is not reasonable relative to the costs to process a local government permit.

If the association's governing documents require the approval of a solar energy system, an owner's application for the installation of a solar energy system must be processed in the same manner as an application for an architectural modification.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.