

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 842
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40526-MQ-127

Short Title: Clarify Deed Restrictions/Solar Collectors. (Public)

Sponsors: Representative Warren.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE LAW GOVERNING DEED RESTRICTIONS ON SOLAR
3 COLLECTORS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 22B-20 reads as rewritten:

6 "§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.

7 (a) The intent of the General Assembly is to protect the public health, safety, and welfare
8 by encouraging the development and use of solar resources and by prohibiting deed restrictions,
9 covenants, and other similar agreements that could have the ultimate effect of driving the costs
10 of owning and maintaining a residence beyond the financial means of most owners.

11 (b) ~~Except as provided in subsection (d) of this section, any~~ Any deed restriction,
12 covenant, or similar binding agreement that runs with the land that would prohibit, or have the
13 effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute
14 for traditional energy for water heating, active space heating and cooling, passive heating, or
15 generating electricity for a residential property on land subject to the deed restriction, covenant,
16 or agreement is void and unenforceable. As used in this section, the term "residential property"
17 means property where the predominant use is for residential purposes. The term "residential
18 property" does not include any condominium created under Chapter 47A or 47C of the General
19 Statutes located in a multi-story building containing units having horizontal boundaries described
20 in the declaration. As used in this section, the term "declaration" has the same meaning as in
21 G.S. 47A-3 or G.S. 47C-1-103, depending on the chapter of the General Statutes under which
22 the condominium was created.

23 (c) This section does not prohibit a deed restriction, covenant, or similar binding
24 agreement that runs with the land that would regulate the location or screening of solar collectors
25 as described in subsection (b) of this section, provided the deed restriction, covenant, or similar
26 binding agreement does not have the effect of ~~preventing the reasonable use~~ reducing the
27 operating efficiency of a solar collector for a residential property. If an owners' association is
28 responsible for exterior maintenance of a structure containing individual residences, a deed
29 restriction, covenant, or similar binding agreement that runs with the land may provide that (i)
30 the title owner of the residence shall be responsible for all damages caused by the installation,
31 existence, or removal of solar collectors; (ii) the title owner of the residence shall hold harmless
32 and indemnify the owners' association for any damages caused by the installation, existence, or
33 removal of solar collectors; and (iii) the owners' association shall not be responsible for
34 maintenance, repair, replacement, or removal of solar collectors unless expressly agreed in a
35 written agreement that is recorded in the office of the register of deeds in the county or counties
36 in which the property is situated. As used in this section, "owners' association" has the same



1 meaning as in G.S. 47F-1-103. As used in this section, the term "reducing the operating efficiency
2 of a solar collector" means the regulation of the location or screening of the solar collector would
3 decrease the efficiency or performance of the solar collector by more than ten percent (10%) of
4 the amount that was originally specified for the solar collector.

5 ~~(d) This section does not prohibit a deed restriction, covenant, or similar binding~~
6 ~~agreement that runs with the land that would prohibit the location of solar collectors as described~~
7 ~~in subsection (b) of this section that are visible by a person on the ground:~~

8 ~~(1) On the facade of a structure that faces areas open to common or public access;~~

9 ~~(2) On a roof surface that slopes downward toward the same areas open to~~
10 ~~common or public access that the facade of the structure faces; or~~

11 ~~(3) Within the area set off by a line running across the facade of the structure~~
12 ~~extending to the property boundaries on either side of the facade, and those~~
13 ~~areas of common or public access faced by the structure.~~

14 (e) In any civil action arising under this section, the court may award costs and reasonable
15 attorneys' fees to the prevailing party."

16 **SECTION 2.** This act is effective when it becomes law and applies to deed
17 restrictions, covenants, or similar binding agreements that run with the land recorded on or after
18 that date.