

SOLAR ACCESS AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill enacts provisions related to restrictions on solar energy systems.

Highlighted Provisions:

This bill:

- ▶ provides that, for real property governed by a governing document, a governing document may not prohibit or restrict an owner's installation of a solar energy system under certain circumstances;
- ▶ provides that a declaration may restrict the size, location, or manner of placement of a solar energy system under certain circumstances;
- ▶ provides that an association may, by association rule, restrict an owner's installation of a solar energy system under certain circumstances;
- ▶ provides for attorney fees in an action brought under an enacted chapter; and
- ▶ provides an applicability date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-30-101, Utah Code Annotated 1953



28 **57-30-102**, Utah Code Annotated 1953
29 **57-30-201**, Utah Code Annotated 1953
30 **57-30-301**, Utah Code Annotated 1953
31 **57-30-401**, Utah Code Annotated 1953

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **57-30-101** is enacted to read:

35 **CHAPTER 30. SOLAR ACCESS**

36 **Part 1. General Provisions**

37 **57-30-101. Title.**

38 This chapter is known as "Solar Access."

39 Section 2. Section **57-30-102** is enacted to read:

40 **57-30-102. Definitions.**

41 As used in this chapter:

42 (1) "Association" means all of the owners of real property subject to a declaration:

43 (a) acting as a group in accordance with the real property declaration and bylaws; or

44 (b) organized as a legal entity in accordance with the declaration.

45 (2) "Board" means the governing board of an association as set forth in a governing
46 document.

47 (3) (a) "Declarant" means a person that executes a declaration and submits the
48 declaration for recording in the office of the recorder of the county where the real property
49 described in the declaration is located.

50 (b) "Declarant" includes the successor or assign of the person described in Subsection
51 (3)(a).

52 (4) "Declaration" means a recorded declaration of covenants, conditions, and
53 restrictions.

54 (5) (a) "Governing document" means a legal instrument that provides for management
55 or provides restrictions for the real property under the jurisdiction of the legal instrument.

56 (b) "Governing document" includes:

57 (i) the articles of incorporation of an association;

58 (ii) bylaws;

(iii) a plat;

(iv) a declaration; and

(v) rules of an association.

(6) "Lot" means the same as that term is defined in Section [57-8a-102](#).

(7) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection (7)(a).

Section 3. Section **57-30-201** is enacted to read:

Part 2. Limit on Association Restrictions of Solar Energy Systems

57-30-201. Governing document -- May not prohibit installation of solar energy system -- Exceptions.

(1) Except as provided in Subsections (2), (3), and (4), a governing document may not prohibit or restrict:

(a) an owner of a lot with a detached dwelling from installing a solar energy system on the owner's lot; or

(b) an owner of a lot with an attached dwelling from installing a solar energy system on:

(i) a portion of the lot where the association does not have a maintenance, repair, or replacement obligation; or

(ii) limited common area where the association does not have a maintenance, repair, or replacement obligation.

(2) A declaration may impose a restriction on a solar energy system's size, location, or manner of placement if the restriction:

(a) decreases the solar energy system's production by 5% or less; and

(b) increases the solar energy system's cost of installation by 5% or less.

(3) An association may, by association rule, require an owner that installs a solar energy system on the owner's lot:

(a) to install a solar energy system that, or install the solar energy system in a manner that:

(i) complies with applicable health, safety, and building requirements established by the state or a political subdivision of the state;

90 (ii) if the solar energy system is used to heat water, is certified by:
91 (A) the Solar Rating and Certification Corporation; or
92 (B) a nationally recognized solar certification entity;
93 (iii) if the solar energy system is used to produce electricity, complies with applicable
94 safety and performance standards established by:
95 (A) the National Electric Code;
96 (B) the Institute of Electrical and Electronics Engineers;
97 (C) Underwriters Laboratories;
98 (D) an accredited electrical testing laboratory; or
99 (E) the state or a political subdivision of the state;
100 (iv) if the solar energy system is mounted on a roof:
101 (A) does not extend above the roof line; or
102 (B) has panel frame, support bracket, or visible piping or wiring that has a color or
103 texture that is similar to the roof material; or
104 (v) if the solar energy system is mounted on the ground, is not visible from the street
105 that a lot fronts;
106 (b) to pay any reasonable cost or expense incurred by the association to review an
107 application to install a solar energy system; or
108 (c) be responsible, jointly and severally with any subsequent owner of the lot while the
109 violation of the rule or requirement occurs, for any cost or expense incurred by the association
110 to enforce a declaration requirement or association rule.
111 (4) In addition to the restrictions described in Subsections (2) and (3), an association
112 may require by association rule that an owner, as a condition of installing a solar energy
113 system, record a deed restriction against the owner's lot that runs with the land that requires the
114 current owner of the lot to indemnify or reimburse the association or a member of the
115 association for any loss or damage caused by the installation, maintenance, or use of the solar
116 energy system, including costs and reasonable attorney fees incurred by the association or a
117 member of the association.

118 Section 4. Section **57-30-301** is enacted to read:

119 **Part 3. Enforcement**

120 **57-30-301. Attorney fees.**

121 In an action to enforce this chapter, the court shall award the prevailing party, in
122 addition to any other available relief, an amount equal to the prevailing party's costs and
123 reasonable attorney fees.

124 Section 5. Section **57-30-401** is enacted to read:

125 **Part 4. Applicability**

126 **57-30-401. Applicability.**

127 (1) This chapter applies to any restriction on a lot owner's installation of a solar energy
128 system:

129 (a) described in a declaration, no matter at which time the declaration was recorded; or

130 (b) created by an official action taken by an association, no matter when the official
131 action was taken.

132 (2) This chapter does not apply to prohibition on a lot owner's installation of a solar
133 energy system:

134 (a) described in a declaration recorded before January 1, 2017; or

135 (b) created by official association action taken before January 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel