

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0242.01 Duane Gall

HOUSE BILL 08-1270

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HOUSE SPONSORSHIP

Kerr A.,

SENATE SPONSORSHIP

Tupa,

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House Committees  
Transportation & Energy

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE REMOVAL OF RESTRICTIONS ON THE USE OF ENERGY  
102 EFFICIENCY MEASURES IN CONNECTION WITH REAL PROPERTY.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Extends an existing prohibition on covenants and deed restrictions that limit the use of solar energy devices to include other energy efficiency measures, defined to include wind-electric generators, shade structures, shutters, attic fans, evaporative coolers, energy-efficient outdoor lighting devices, and retractable clotheslines. Adds a conforming amendment to the "Colorado Common Interest Ownership Act".

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 38-30-168, Colorado Revised Statutes, is amended  
3 to read:

4           **38-30-168. Unreasonable restrictions on solar energy devices**  
5 **and other energy efficiency measures - definitions.** (1) (a) ~~After May~~  
6 ~~25, 1979, any~~ A covenant, restriction, or condition contained in any deed,  
7 contract, security instrument, or other instrument affecting the transfer or  
8 sale of, or any interest in, real property ~~solely on the basis of aesthetic~~  
9 ~~considerations which~~ THAT effectively prohibits or restricts the  
10 installation or use of ~~a solar energy device, as defined in section~~  
11 ~~38-32.5-100.3;~~ AN ENERGY EFFICIENCY MEASURE is void and  
12 unenforceable.

13           (b) AS USED IN THIS SECTION, "ENERGY EFFICIENCY MEASURE"  
14 MEANS A DEVICE OR STRUCTURE THAT REDUCES THE AMOUNT OF ENERGY  
15 DERIVED FROM FOSSIL FUELS THAT IS CONSUMED BY A RESIDENCE OR  
16 BUSINESS LOCATED ON THE REAL PROPERTY. "ENERGY EFFICIENCY  
17 MEASURE" INCLUDES, WITHOUT LIMITATION:

18           (I) A SOLAR ENERGY DEVICE, AS DEFINED IN SECTION  
19 38-32.5-100.3;

20           (II) A WIND-ELECTRIC GENERATOR WITH A GENERATING CAPACITY  
21 THAT DOES NOT EXCEED THE AVERAGE DAILY ENERGY REQUIREMENTS OF  
22 THE RESIDENCE OR BUSINESS LOCATED ON THE REAL PROPERTY;

23           (III) AN AWNING, SHUTTER, TRELIS, RAMADA, OR OTHER SHADE  
24 STRUCTURE THAT IS MARKETED FOR THE PURPOSE OF REDUCING ENERGY  
25 CONSUMPTION;

26           (IV) A GARAGE OR ATTIC FAN AND ANY ASSOCIATED VENTS OR

1 LOUVERS;  
2 (V) AN EVAPORATIVE COOLER;  
3 (VI) AN ENERGY-EFFICIENT OUTDOOR LIGHTING DEVICE,  
4 INCLUDING WITHOUT LIMITATION A LIGHT FIXTURE CONTAINING A COILED  
5 OR STRAIGHT FLUORESCENT LIGHT BULB, AND ANY SOLAR RECHARGING  
6 PANEL, MOTION DETECTOR, OR OTHER EQUIPMENT CONNECTED TO THE  
7 LIGHTING DEVICE; AND  
8 (VII) A RETRACTABLE CLOTHESLINE.

9 (2) Subsection (1) of this section shall not apply to:

10 (a) Aesthetic provisions ~~which~~ THAT impose reasonable  
11 restrictions on ~~solar energy devices~~ THE DIMENSIONS, PLACEMENT, OR  
12 EXTERNAL APPEARANCE OF AN ENERGY EFFICIENCY MEASURE and ~~which~~  
13 THAT do not:

14 (I) Significantly increase ~~the cost of the device~~ ITS PURCHASE  
15 PRICE OR OPERATING COSTS; OR

16 (II) SIGNIFICANTLY DECREASE ITS PERFORMANCE OR EFFICIENCY;

17 (b) BONA FIDE SAFETY REQUIREMENTS, CONSISTENT WITH AN  
18 APPLICABLE BUILDING CODE OR RECOGNIZED ELECTRICAL SAFETY  
19 STANDARD, FOR THE PROTECTION OF PERSONS AND PROPERTY; OR

20 (c) MUTUALLY ENFORCEABLE COVENANTS OR RULES OF A  
21 COMMON INTEREST COMMUNITY, ADOPTED IN ACCORDANCE WITH SECTION  
22 38-33.3-106.5 (1) (g), GOVERNING THE PLACEMENT OF ENERGY  
23 EFFICIENCY MEASURES.

24 (3) THIS SECTION SHALL NOT BE CONSTRUED TO CONFER UPON ANY  
25 PROPERTY OWNER THE RIGHT TO PLACE AN ENERGY EFFICIENCY MEASURE  
26 ON PROPERTY OF ANOTHER OR UPON COMMON PROPERTY OF A COMMON  
27 INTEREST COMMUNITY.

1           **SECTION 2.** 38-33.3-106.5 (1), Colorado Revised Statutes, is  
2 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3           **38-33.3-106.5. Prohibitions contrary to public policy -**  
4 **patriotic and political expression - emergency vehicles - fire**  
5 **prevention - energy efficiency measures - definitions.**

6 (1) Notwithstanding any provision in the declaration, bylaws, or rules  
7 and regulations of the association to the contrary, an association shall not  
8 prohibit any of the following:

9           (g) ENERGY EFFICIENCY MEASURES, AS DEFINED IN SECTION  
10 38-30-168. THE ASSOCIATION MAY ADOPT A POLICY GOVERNING THE  
11 INSTALLATION OF ENERGY EFFICIENCY MEASURES ON COMMON PROPERTY  
12 FOR THE BENEFIT OF UNIT OWNERS AND REQUIRING UNIT OWNERS TO  
13 PARTICIPATE IN THE COMMONLY OWNED SYSTEM RATHER THAN INSTALL  
14 INDIVIDUAL SYSTEMS OF THE SAME KIND, BUT ONLY IF THE BENEFIT TO A  
15 UNIT OWNER FROM PARTICIPATING IN THE COMMONLY OWNED SYSTEM  
16 EQUALS OR EXCEEDS THE BENEFIT THAT THE UNIT OWNER WOULD REALIZE  
17 FROM INSTALLING A SYSTEM OF THE SAME KIND ON HIS OR HER OWN  
18 PROPERTY.

19           **SECTION 3. Effective date - applicability.** (1) This act shall  
20 take effect at 12:01 a.m. on the day following the expiration of the  
21 ninety-day period after final adjournment of the general assembly that is  
22 allowed for submitting a referendum petition pursuant to article V,  
23 section 1 (3) of the state constitution, (August 6, 2008, if adjournment  
24 sine die is on May 7, 2008); except that, if a referendum petition is filed  
25 against this act or an item, section, or part of this act within such period,  
26 then the act, item, section, or part, if approved by the people, shall take  
27 effect on the date of the official declaration of the vote thereon by

- 1 proclamation of the governor.
- 2 (2) The provisions of this act shall apply to covenants and policies
- 3 adopted on or after the applicable effective date of this act.