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ASSEMBLY COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED JUNE 12, 2008

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SYNOPSIS

Requires developers to offer solar energy systems in certain new home construction.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 16, 2009.

(Sponsorship Updated As Of: 3/17/2009)

1 AN ACT concerning solar energy systems and supplementing
2 ²**[Title]** Titles 48 and² 52 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the “Residential
8 Development Solar Energy Systems Act.”

9

10 2. The Legislature finds and declares that:

11 a. New Jersey residents primarily rely on fossil fuels for their
12 energy needs;

13 b. Fossil fuels are nonrenewable fuels since they are derived
14 from finite resources that will inevitably dwindle over time,
15 becoming too expensive or too environmentally damaging to
16 extract;

17 c. Unlike fossil fuels, renewable energy sources have minimal
18 environmental impact since, for example, energy produced from
19 photovoltaic cells does not result in air or water pollution, deplete
20 natural resources, or endanger animal and human health;

21 d. The use of renewable energy equipment also reduces the
22 nation's dependency on foreign sources of energy, which is an
23 important strategy in the process of creating a secure and
24 sustainable energy future;

25 e. The use of renewable energy technology would benefit New
26 Jersey's economy since jobs evolve directly from the manufacture,
27 design, installation, service and repair, and marketing of renewable
28 energy products;

29 f. The State has adopted a renewable energy portfolio standard
30 that requires twenty percent of the State's electricity demand to be
31 produced from renewable sources by the year 2020, and requires a
32 specific percentage of these renewable energy sources to be from
33 solar photovoltaic systems;

34 g. Generating electricity from solar energy reduces
35 consumption of fossil fuels, which decreases pollution and
36 greenhouse gas emissions; and

37 h. The installation of even small scale solar energy systems
38 will combat global warming and reduce the nation's dependence on
39 foreign energy sources, resulting in a significant environmental
40 benefit.

41

42 3. As used in this act:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted September 25, 2008.

² Senate SEG committee amendments adopted November 13, 2008.

³ Senate floor amendments adopted November 24, 2008.

⁴ Assembly floor amendments adopted March 16, 2009.

1 “Advertising” means the same as the term is defined in section 3
2 of P.L.1977, c.419 (C.45:22A-23).

3 “Commissioner” means the Commissioner of Community
4 Affairs.

5 “Developer” means any person who constructs or offers to
6 construct a dwelling unit as part of a residential development.

7 “Dwelling unit” means a single-family residence constructed as
8 part of a development, the roof of which is exclusive to that
9 residence and not a common element or common area.

10 “Owner” means any person who acquires a legal or equitable
11 interest in a dwelling unit.

12 “Prospective owner” means any person who contemplates
13 acquiring a legal or equitable interest in a dwelling unit.

14 “Residential development” means development undertaken for
15 the purpose of creating ¹[50] 25¹ or more dwelling units for owner
16 occupancy.

17 “Solar energy system” means any system which uses solar
18 energy to provide all or a portion of the heating, cooling, or general
19 energy needs of a dwelling unit ²[through such means as] ,
20 including, but not limited to,² nocturnal heat radiation, flat plate or
21 focusing solar collectors, or photovoltaic solar cells.

22

23 4. a. ²[A] Where technically feasible, as determined by the
24 commissioner in consultation with the Board of Public Utilities, a²
25 developer shall offer to install, or to provide for the installation of,
26 a solar energy system into a dwelling unit when a prospective
27 owner enters into negotiations with the developer to purchase a
28 dwelling unit.

29 b. A developer shall disclose in any advertising, in a manner
30 and form determined by the commissioner pursuant to the
31 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
32 seq.):

33 (1) that a prospective owner may have a solar energy system
34 installed in any dwelling unit;

35 (2) the total cost of installing a solar energy system into a
36 dwelling unit that will be charged to the owner by the developer;
37 ²[and]²

38 (3) ²[an estimate of the] general information on the
39 environmental benefits of, and² potential energy cost savings
40 associated with ²[the] ² solar energy ²[system option, provided that
41 the calculation of the estimated savings has been approved by the
42 commissioner in consultation with the Board of Public Utilities]
43 systems; and

44 (4) information concerning any applicable credits, rebates, or
45 other incentives that may be available for the installation of solar
46 energy systems, as provided to the developer by the commissioner

1 and the Board of Public Utilities pursuant to subsection b. of section
2 7 of this act².

3
4 5. ²~~【A developer shall install, or provide for the installation of,~~
5 ~~a solar energy system into a dwelling unit if】~~ If² the prospective
6 owner accepts, pursuant to a written contract, the developer's offer
7 to install, or to provide for the installation of, a solar energy system
8 into the dwelling unit ⁴~~【and becomes the owner of that dwelling~~
9 ~~unit】~~⁴ ², then the developer shall install, or provide for the
10 installation of, a solar energy system into the dwelling unit ⁴~~【upon】~~
11 prior to⁴ the completion of the construction of that unit².

12
13 6. If the dwelling unit is located within a residential
14 development for which homeowner association or other owner or
15 membership association will be responsible for the maintenance,
16 repair or replacement of the roof of the dwelling unit or other area
17 upon which a solar energy system is installed, and the association
18 incurs any additional cost or expense resulting from the installation
19 of a solar energy system, such as the additional cost to remove and
20 reinstall the system in the course of maintenance, repair or
21 replacement, then the association shall have the right to:

22 a. impose and collect the additional cost or expense from the
23 owner of the dwelling unit, which shall be collectible in the same
24 manner as any other common expense or fee of the development;

25 b. access the dwelling unit as may be reasonably required to
26 perform such maintenance, repair or replacement; and

27 c. record a declaration or similar instrument, in the same
28 manner as a deed, with the county clerk for the purpose of advising
29 current and prospective owners of the dwelling unit that they may
30 be responsible for the additional costs and expenses described in
31 this section.

32
33 7. a. The commissioner, in consultation with the Board of
34 Public Utilities, shall adopt, pursuant to the “Administrative
35 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), standards
36 with respect to the technical sufficiency of solar energy systems to
37 be installed pursuant to this act. These standards, at a minimum,
38 shall provide:

39 (1) ²that² the solar energy system is ²to be² installed in
40 conformance with the manufacturer's specifications and in
41 compliance with all applicable electrical and building code
42 standards;

43 (2) ²that² the solar energy system is intended primarily to offset
44 part or all of the consumer's own electricity demand;

- 1 (3) ²that² all components in the solar energy system are ²to be²
2 new and unused, and ²[have] shall² not ²have² previously been
3 placed in service in any other location or for any other application;
- 4 (4) ²that² the solar energy system ²[has] shall have² a warranty
5 of not less than 10 years ²provided by the solar energy system
6 manufacturer, and shall be subject to coverage afforded under "The
7 New Home Warranty and Builders' Registration Act," P.L.1977,
8 c.467 (C.46:3B-1 et seq.) to protect the integrity of the roof of the
9 home and² to protect against defects and undue degradation of
10 electrical generation output;
- 11 (5) ²that² the solar energy system ²[has] shall have² meters or
12 other devices in place to monitor and measure the system's
13 performance and the quantity of electricity generated by the system;
- 14 (6) ²[appropriate energy efficiency improvements in] that the
15 solar energy system shall comply with adopted energy codes for²
16 the dwelling unit where the solar energy system is installed;
- 17 (7) ²for² rating criteria for equipment, components, and systems
18 to assure reasonable performance and criteria for complying with
19 these minimum ratings; ²[and]²
- 20 (8) ²[consistency] that the solar energy system shall be
21 consistent² with the net metering standards and safety and power
22 quality interconnection standards adopted by the Board of Public
23 Utilities pursuant to subsection e. of section 38 of P.L.1999, c.23
24 (C.48:3-87) ²; and
- 25 (9) for the criteria by which the technical feasibility of the
26 installation of a solar energy system is determined in section 4 of
27 this act².
- 28 b. The commissioner, in consultation with the Board of Public
29 Utilities, shall:
- 30 (1) publish educational materials designed to demonstrate how
31 developers may incorporate solar energy systems during
32 construction as well as energy efficiency measures that best
33 complement solar energy systems; and
- 34 (2) provide developers with information concerning any
35 applicable credits, rebates, or other incentives that may be available
36 for the installation of solar energy systems.
- 37
- 38 8. The commissioner shall enforce the provisions of this act
39 ²and may assess violators of this act² in accordance with the
40 ²[authority granted] penalties provided for² under section 18 of
41 P.L.1977, c.419 (C.45:22A-38).
- 42
- 43 ²9. The Board of Public Utilities shall adopt orders, rules, or
44 regulations that provide for solar energy systems installed in
45 accordance with the provisions of P.L. , c. (C.)(pending
46 before the Legislature as this bill) to be eligible for all applicable

1 credits, rebates, or other incentives that may be available for the
2 installation of solar energy systems.²

3

4 ²**[9.] 10.**² This act shall take effect immediately and shall apply
5 to any dwelling unit for which a construction permit is issued on or
6 after the 90th day following the ³**[date of enactment]** issuance of
7 the standards adopted pursuant to section 7³ of this act.