

CHAPTER 33

AN ACT concerning solar energy systems and supplementing Titles 48 and 52 of the Revised Statutes.

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

C.52:27D-141.1 Short title.

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

C.52:27D-141.2 Findings, declarations relative to solar energy systems.

2. The Legislature finds and declares that:

- a. New Jersey residents primarily rely on fossil fuels for their energy needs;
- b. Fossil fuels are nonrenewable fuels since they are derived from finite resources that will inevitably dwindle over time, becoming too expensive or too environmentally damaging to extract;
- c. Unlike fossil fuels, renewable energy sources have minimal environmental impact since, for example, energy produced from photovoltaic cells does not result in air or water pollution, deplete natural resources, or endanger animal and human health;
- d. The use of renewable energy equipment also reduces the nation's dependency on foreign sources of energy, which is an important strategy in the process of creating a secure and sustainable energy future;
- e. The use of renewable energy technology would benefit New Jersey's economy since jobs evolve directly from the manufacture, design, installation, service and repair, and marketing of renewable energy products;
- f. The State has adopted a renewable energy portfolio standard that requires twenty percent of the State's electricity demand to be produced from renewable sources by the year 2020, and requires a specific percentage of these renewable energy sources to be from solar photovoltaic systems;
- g. Generating electricity from solar energy reduces consumption of fossil fuels, which decreases pollution and greenhouse gas emissions; and
- h. The installation of even small scale solar energy systems will combat global warming and reduce the nation's dependence on foreign energy sources, resulting in a significant environmental benefit.

C.52:27D-141.3 Definitions relative to solar energy systems.

3. As used in this act:

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

“Commissioner” means the Commissioner of Community Affairs.

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

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

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

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

“Residential development” means development undertaken for the purpose of creating 25 or more dwelling units for owner occupancy.

“Solar energy system” means any system which uses solar energy to provide all or a portion of the heating, cooling, or general energy needs of a dwelling unit, including, but not limited to, nocturnal heat radiation, flat plate or focusing solar collectors, or photovoltaic solar cells.

C.52:27D-141.4 Developer to offer to install solar energy system.

4. a. Where technically feasible, as determined by the commissioner in consultation with the Board of Public Utilities, a developer shall offer to install, or to provide for the installation of, a solar energy system into a dwelling unit when a prospective owner enters into negotiations with the developer to purchase a dwelling unit.

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

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

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

(3) general information on the environmental benefits of, and potential energy cost savings associated with, solar energy systems; and

(4) information concerning any applicable credits, rebates, or other incentives that may be available for the installation of solar energy systems, as provided to the developer by the commissioner and the Board of Public Utilities pursuant to subsection b. of section 7 of this act.

C.52:27D-141.5 Installation of solar energy system.

5. If the prospective owner accepts, pursuant to a written contract, the developer's offer to install, or to provide for the installation of, a solar energy system into the dwelling unit, then the developer shall install, or provide for the installation of, a solar energy system into the dwelling unit prior to the completion of the construction of that unit.

C.52:27D-141.6 Rights of homeowner association.

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

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

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

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

C.52:27D-141.7 Adoption of standards relative to solar energy systems.

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

(1) that the solar energy system is to be installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards;

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

(3) that all components in the solar energy system are to be new and unused, and shall not have previously been placed in service in any other location or for any other application;

(4) that the solar energy system shall have a warranty of not less than 10 years provided by the solar energy system manufacturer, and shall be subject to coverage afforded under "The New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.) to protect the integrity of the roof of the home and to protect against defects and undue degradation of electrical generation output;

(5) that the solar energy system shall have meters or other devices in place to monitor and measure the system's performance and the quantity of electricity generated by the system;

(6) that the solar energy system shall comply with adopted energy codes for the dwelling unit where the solar energy system is installed;

(7) for rating criteria for equipment, components, and systems to assure reasonable performance and criteria for complying with these minimum ratings;

(8) that the solar energy system shall be consistent with the net metering standards and safety and power quality interconnection standards adopted by the Board of Public Utilities pursuant to subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87); and

(9) for the criteria by which the technical feasibility of the installation of a solar energy system is determined in section 4 of this act.

b. The commissioner, in consultation with the Board of Public Utilities, shall:

(1) publish educational materials designed to demonstrate how developers may incorporate solar energy systems during construction as well as energy efficiency measures that best complement solar energy systems; and

(2) provide developers with information concerning any applicable credits, rebates, or other incentives that may be available for the installation of solar energy systems.

C.52:27D-141.8 Enforcement, penalties.

8. The commissioner shall enforce the provisions of this act and may assess violators of this act in accordance with the penalties provided for under section 18 of P.L.1977, c.419 (C.45:22A-38).

C.52:27D-141.9 Orders, rules, regulations.

9. The Board of Public Utilities shall adopt orders, rules, or regulations that provide for solar energy systems installed in accordance with the provisions of P.L.2009, c.33 (C.52:27D-141.1 et seq.) to be eligible for all applicable credits, rebates, or other incentives that may be available for the installation of solar energy systems.

10. This act shall take effect immediately and shall apply to any dwelling unit for which a construction permit is issued on or after the 90th day following the issuance of the standards adopted pursuant to section 7 of this act.

Approved March 31, 2009.