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SENATE BILL 1031

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO PROPERTY LAW; AMENDING THE DEFINITION OF "SOLAR COLLECTOR" IN THE SOLAR RIGHTS ACT; INVALIDATING RESTRICTIONS ON THE INSTALLATION OR USE OF SOLAR COLLECTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 3, Article 18 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LIMITATION OF COUNTY AND MUNICIPAL RESTRICTIONS ON SOLAR COLLECTORS.--

A. A county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act, except that placement of solar collectors in historic districts may be regulated but not prohibited by a municipality.

B. A covenant, restriction or condition contained

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1 in a deed, contract, security agreement or other instrument,
2 effective after July 1, 1978, affecting the transfer, sale or
3 use of, or an interest in, real property that effectively
4 prohibits the installation or use of a solar collector is void
5 and unenforceable."

6 Section 2. Section 47-3-1 NMSA 1978 (being Laws 1977,
7 Chapter 169, Section 1) is amended to read:

8 "47-3-1. SHORT TITLE.--~~[This act]~~ Sections 47-3-1 through
9 47-3-5 NMSA 1978 may be cited as the "Solar Rights Act"."

10 Section 3. Section 47-3-3 NMSA 1978 (being Laws 1977,
11 Chapter 169, Section 3) is amended to read:

12 "47-3-3. DEFINITIONS.--As used in the Solar Rights Act:

13 A. "solar collector" means ~~[any]~~ a device,
14 substance or element, or a combination of devices, substances
15 or elements, ~~[which rely]~~ that relies upon sunshine as an
16 energy source and ~~[which are]~~ that is capable of collecting not
17 less than twenty-five thousand ~~[Btu's]~~ British thermal units on
18 a clear winter solstice day or that is used for the conveyance
19 of light to the interior of a building. The term also includes
20 any ~~[substance or]~~ device, substance or element ~~[which]~~ that
21 collects solar energy for use in:

22 (1) the heating or cooling of a structure or
23 building;

24 (2) the heating or pumping of water;

25 (3) industrial, commercial or agricultural

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1 processes; or

2 (4) the generation of electricity.

3 A solar collector may be used for purposes in addition to
4 the collection of solar energy. These uses include, but are
5 not limited to, serving as a structural member or part of a
6 roof of a building or structure and serving as a window or
7 wall; and

8 B. "solar right" means a right to an unobstructed
9 line-of-sight path from a solar collector to the sun, which
10 permits radiation from the sun to impinge directly on the solar
11 collector."