

A-Engrossed
House Bill 2559

Ordered by the House April 9
Including House Amendments dated April 9

Sponsored by Representatives GREENLICK, BARNHART; Representatives BUCKLEY, FREDERICK, GORSEK, HELM, LININGER, READ, REARDON, VEGA PEDERSON, WILLIAMSON (at the request of Jerry Weinert) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits inclusion, in instrument conveying or contracting to convey real property or in declaration or bylaws of planned community or condominium, of provisions prohibiting installation and use of solar panels for obtaining solar access. **Specifies that individual who purchases and installs, or contracts for purchase and installation of, solar panels owns solar panels.**

A BILL FOR AN ACT

1
2 Relating to solar access for residential real property; creating new provisions; and amending ORS
3 93.270.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 93.270 is amended to read:

6 93.270. (1) A person conveying or contracting to convey fee title to real property may not in-
7 clude in an instrument for that purpose a provision **that**:

8 (a) [*Restricting*] **Restricts** the use of the real property by any person or group of persons by
9 reason of race, color, religion, sex, sexual orientation, national origin or disability.

10 (b) [*Restricting*] **Restricts** the use of the real property by any home or facility that is licensed
11 under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunc-
12 tion with treatment or training or a combination thereof.

13 (c) **Prohibits the installation and use, on residential lots, residential parcels or other**
14 **lawfully established units of land for residential use, of solar panels for obtaining solar access**
15 **as described in ORS 215.044 and 227.190.**

16 (2) Any provision in an instrument executed in violation of subsection (1) of this section is void
17 and unenforceable.

18 (3) An instrument that contains a provision restricting the use of real property in a manner
19 listed in subsection (1)(b) of this section does not give rise to any public or private right of action
20 to enforce the restriction.

21 (4)[(a)] An instrument that contains a provision restricting the use of real property by requiring
22 roofing materials with a lower fire rating than that required in the state building code established
23 under ORS chapter 455 does not give rise to any public or private right of action to enforce the
24 restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on
25 public or private right of action under this [*paragraph*] **subsection** are limited solely to consider-
26 ations of fire rating.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 [(b)] (5) As used in this [subsection,] **section:**

2 (a) **“Lawfully established unit of land” has the meaning given that term in ORS 92.010.**

3 (b) **“Lot” has the meaning given that term in ORS 92.010.**

4 (c) **“Parcel” has the meaning given that term in ORS 92.010.**

5 (d) **“Wildfire hazard zones” are areas that are legally declared by a governmental agency having**
6 **jurisdiction over the area to have special hazards caused by a combination of combustible natural**
7 **fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over**
8 **relatively long periods each year. Wildfire hazard zones shall be determined using criteria estab-**
9 **lished by the State Forestry Department.**

10 **SECTION 2. Sections 3 and 4 of this 2015 Act are added to and made a part of ORS 94.550**
11 **to 94.783.**

12 **SECTION 3. (1) A provision in a declaration or bylaws of a planned community is void**
13 **and unenforceable as a violation of the public policy to protect the public health, safety and**
14 **welfare of the people of Oregon if the provision prohibits an owner, who owns the roof or**
15 **other exterior portion of a building or improvement on which solar panels may be installed,**
16 **from installing or using solar panels for obtaining solar access as described in ORS 215.044**
17 **and 227.190.**

18 (2) **An owner of record of real property subject to an instrument that contains a pro-**
19 **vision described in this section may file a petition to remove the provision in the manner**
20 **provided in ORS 93.272 for removal of a similar provision from an instrument conveying or**
21 **contracting to convey real property.**

22 **SECTION 4. (1) An owner who purchases and installs, or contracts for the installation**
23 **of, solar panels, is the owner of the solar panels.**

24 (2) **An owner who does not purchase but who installs or contracts for the installation of**
25 **solar panels may enter into a contract:**

26 (a) **To purchase from the person that owns the solar panels the energy produced by the**
27 **solar panels; or**

28 (b) **That provides that the owner will, at a date certain, assume ownership of the solar**
29 **panels.**

30 **SECTION 5. Sections 6 and 7 of this 2015 Act are added to and made a part of ORS**
31 **chapter 100.**

32 **SECTION 6. (1) A provision in a declaration or bylaws of a condominium is void and**
33 **unenforceable as a violation of the public policy to protect the public health, safety and**
34 **welfare of the people of Oregon if the provision prohibits a unit owner, who owns the roof**
35 **or other exterior portion of the unit on which solar panels may be installed, from installing**
36 **or using solar panels for obtaining solar access as described in ORS 215.044 and 227.190.**

37 (2) **An owner of record of real property subject to an instrument that contains a pro-**
38 **vision described in this section may file a petition to remove the provision in the manner**
39 **provided in ORS 93.272 for removal of a similar provision from an instrument conveying or**
40 **contracting to convey real property.**

41 **SECTION 7. (1) A unit owner who purchases and installs, or contracts for the installation**
42 **of, solar panels, is the owner of the solar panels.**

43 (2) **A unit owner who does not purchase but who installs or contracts for the installation**
44 **of solar panels may enter into a contract:**

45 (a) **To purchase from the person that owns the solar panels the energy produced by the**

1 **solar panels; or**

2 **(b) That provides that the unit owner will, at a date certain, assume ownership of the**

3 **solar panels.**

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