

45:22A-48.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 153
NJSA: 45:22A-48.2 (Limits homeowners' association regulation of solar collectors on certain roofs)
BILL NO: A2853 (Substituted for S2638)
SPONSOR(S): Chatzidakis and others
DATE INTRODUCED: March 13, 2006
COMMITTEE: **ASSEMBLY:** Housing and Local Government
 SENATE: Economic Growth
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** March 8, 2007
 SENATE: June 18, 2007
DATE OF APPROVAL: August 21, 2007

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Second reprint enacted)

A2853

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)
COMMITTEE STATEMENT: **[ASSEMBLY](#):** [Yes](#)
 [SENATE](#): [Yes](#)
[FLOOR AMENDMENT STATEMENT](#): [Yes](#)
LEGISLATIVE FISCAL ESTIMATE: No

S2638

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)
COMMITTEE STATEMENT: **ASSEMBLY:** No
 [SENATE](#): [Yes](#)
FLOOR AMENDMENT STATEMENT: No
LEGISLATIVE FISCAL ESTIMATE: No
VETO MESSAGE: No
GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS: No

NEWSPAPER ARTICLES: No

IS 4/30/08

P.L. 2007, CHAPTER 153, *approved August 21, 2007*
Assembly, No. 2853 (*Second Reprint*)

1 AN ACT requiring homeowner associations to permit the installation
2 of solar collectors and supplementing P.L.1993, c.30 (C.45:22A-
3 43 et seq.)

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

7
8 1. **[A homeowners']** a. **An**¹ association **[formed to manage the**
9 elements of property owned in common by all members of the
10 community, whether it be an association managing a private
11 community, including retirement communities, or a cooperative
12 housing development,] formed for the management of commonly-
13 owned elements and facilities, regardless of whether organized
14 pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43),¹ shall not
15 adopt or enforce a **[rule or]**¹ restriction, covenant, bylaw¹, rule or
16 regulation¹ prohibiting the installation of solar collectors on **[a**
17 townhome as defined in P.L. , c. (C.) (pending before the
18 Legislature as this bill). Any rule or bylaw adopted by a
19 homeowners' association in violation of this section shall be void.]
20 certain roofs of dwelling units, as follows:

21 A roof of a single family dwelling unit which is solely owned by
22 an individual or individuals, and which is not designated as a
23 common element or common property in the governing documents of
24 an association; and

25 A roof of a townhouse dwelling unit, which for the purposes of
26 this subsection means any single-family dwelling unit constructed
27 with attached walls to another such unit on at least one side, which
28 unit extends from the foundation to the roof, and has at least two
29 sides which are unattached to any other building, and the repair of the
30 roof for the townhouse dwelling unit is designated as the
31 responsibility of the owner and not the association in the governing
32 documents.¹

33 **[a.]** **b.**¹ **[A homeowners']** **An**¹ association may adopt rules
34 **[or bylaws]**¹ to regulate the installation **[and maintenance]**¹ of solar
35 collectors **[in townhomes]** on those roofs as specified in subsection
36 a. of this section, in accordance with subsection c. of this section,
37 and¹ as follows:

38 (1) The qualifications **[and]**¹ certification **[and insurance]**¹
39 requirements of personnel or contractors who may install the solar
40 collectors;

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:

¹Assembly AHO committee amendments adopted May 18, 2006.

²Assembly floor amendments adopted February 22, 2007.

1 (2) The location where solar collectors may be placed on roofs;

2 (3) ¹ ~~["The installation of screens adjacent to wall or ground-~~
3 ~~mounted solar collectors to enhance the solar collectors' appearance;~~

4 (4)]¹ The concealment of solar collectors' supportive structures,
5 fixtures and ¹ ~~["plumbing"] piping¹; ² ~~["or"]²~~~~

6 ¹ ~~["(5) (4)"]~~¹ The color harmonization of solar collectors with
7 ¹ ~~["townhome roof or building"]~~ the¹ colors ¹ ~~["of structures or~~
8 ~~landscaping in the development"]~~¹ ²; and

9 (5) The aggregate size or coverage or total number of solar
10 collectors, provided that the provisions of paragraph (2) of subsection
11 c. below are met² .

12 ¹ ~~["b. A homeowners'"]~~ c. (1) An¹ association shall ¹ ~~["waive any~~
13 ~~rules or bylaws"]~~ not adopt and shall not enforce any rule¹ related to
14 the installation or maintenance of solar collectors, if compliance with
15 a rule or rules would increase the solar collectors' installation or
16 maintenance costs by ¹ ~~["more"]~~ an amount which is estimated to be
17 greater¹ than 10 percent ¹ ~~[".~~ A homeowners' association shall also
18 ~~waive any rules or bylaws"]~~ of the total cost of the initial installation
19 of the solar collectors, including the costs of labor and equipment.

20 (2) An association shall not adopt and shall not enforce any rule¹
21 related to the installation or maintenance of solar collectors, if
22 compliance with such rules inhibits the solar collectors from
23 functioning at their intended maximum efficiency.

24 ¹ ~~["c.] d."] The Commissioner of Community Affairs shall enforce
25 the provisions of P.L. , c. (C.) (pending before the Legislature
26 as this bill) in accordance with the authority granted under section 18
27 of P.L.1977, c. 419 (C.45:22A-38).~~

28 ["Townhome" as used in this act means any single-family
29 dwelling unit constructed in a group of three or more attached units
30 in which each unit extends from foundation to roof and with open
31 space on at least two sides.]

32 ¹ e. The provisions of P.L. , c. (C.) (pending before the
33 Legislature as this bill) shall not apply to associations that are under
34 the control of the developer as provided under section 5 of P.L.1993,
35 c.30 (C.45:22A-47).¹

36

37 2. This act shall take effect immediately.

38

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40

41

42 Limits homeowners' association regulation of solar collectors on
43 certain roofs.

ASSEMBLY, No. 2853

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 13, 2006

Sponsored by:

Assemblyman **LARRY CHATZIDAKIS**

District 8 (Burlington)

Assemblyman **FRANCIS L. BODINE**

District 8 (Burlington)

Co-Sponsored by:

Assemblyman **Manzo**

SYNOPSIS

Prohibits homeowners' association rules from limiting the placement of solar collectors on townhomes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/19/2006)

1 AN ACT requiring homeowner associations to permit the installation
2 of solar collectors and supplementing P.L.1993, c.30 (C.45:22A-
3 43 et seq.)

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

7
8 1. A homeowners' association formed to manage the elements
9 of property owned in common by all members of the community,
10 whether it be an association managing a private community,
11 including retirement communities, or a cooperative housing
12 development, shall not adopt or enforce a rule or bylaw prohibiting
13 the installation of solar collectors on a townhome as defined in
14 P.L. , c. (C.) (pending before the Legislature as this bill). Any
15 rule or bylaw adopted by a homeowners' association in violation of
16 this section shall be void.

17 a. A homeowners' association may adopt rules or bylaws to
18 regulate the installation of solar collectors in townhomes as follows:

19 (1) The qualifications and certification requirements of personnel
20 or contractors who may install the solar collectors;

21 (2) The location where solar collectors may be placed on roofs;

22 (3) The installation of screens adjacent to wall or ground-
23 mounted solar collectors to enhance the solar collectors'
24 appearance;

25 (4) The concealment of solar collectors' supportive structures,
26 fixtures and plumbing; or

27 (5) The color harmonization of solar collectors with townhome
28 roof or building colors.

29 b. A homeowners' association shall waive any rules or bylaws
30 related to the installation or maintenance of solar collectors, if
31 compliance with a rule or rules would increase the solar collectors'
32 installation or maintenance costs by more than 10 percent. A
33 homeowners' association shall also waive any rules or bylaws
34 related to the installation or maintenance of solar collectors, if
35 compliance with such rules inhibits the solar collectors from
36 functioning at their intended maximum efficiency.

37 c. The Commissioner of Community Affairs shall enforce the
38 provisions of P.L. , c. (C.) (pending before the Legislature as
39 this bill) in accordance with the authority granted under section 18
40 of P.L.1977, c. 419 (C.45:22A-38).

41 "Townhome" as used in this act means any single-family
42 dwelling unit constructed in a group of three or more attached units
43 in which each unit extends from foundation to roof and with open
44 space on at least two sides.

45
46 2. This act shall take effect immediately.

1 STATEMENT

2

3 This bill would require homeowners' associations to permit
4 homeowners to the install solar collectors on townhomes. This bill
5 would also allow homeowners' associations to provide certain
6 guidelines for the installation of solar collectors, provided that such
7 guidelines do not impose unreasonable additional installation costs
8 or impair the efficiency of the solar collectors.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2853

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2006

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2853 with committee amendments.

This bill would supplement “The Planned Real Estate Development Full Disclosure Act, P.L.1977, c.419 (C.45:22A-21 et seq.), which concerns planned communities with commonly owned property managed by an association. As amended, the bill would prohibit any association formed for the management of commonly-owned elements and facilities from forbidding the installation of solar collectors on roofs of certain single family dwelling units and townhouse dwelling units. Specifically, under the bill an association could not prohibit solar collectors on:

A roof of a single family dwelling unit that is solely owned by an individual or individuals, and which roof is not designated as a common element or common property in the governing documents of an association. Neither could an association prohibit solar collectors on:

A roof of a townhouse dwelling unit, defined as any single-family dwelling unit constructed with attached walls to another such unit on at least one side, which unit extends from the foundation to the roof, and has at least two sides which are unattached to any other building, and the repair of the roof for the townhouse dwelling unit is designated as the responsibility of the owner and not the association in the governing documents.

The bill would allow associations to provide certain guidelines for the installation and maintenance of solar collectors on the types of roofs enumerated in the bill including:

- (1) The qualifications, certification and insurance requirements of personnel or contractors who may install the solar collectors;
- (2) The location where solar collectors may be placed on roofs;
- (3) The concealment of solar collectors’ supportive structures, fixtures and piping; and
- (4) The color harmonization of solar collectors with the colors of structures or landscaping in the development.

The bill would prohibit an association from adopting or enforcing any rule related to the installation or maintenance of solar collectors that would increase the solar collectors' installation or maintenance costs by more than 10 percent of the initial installation cost or that would inhibit the solar collectors from functioning at their intended maximum efficiency.

Committee amendments

The committee amended the bill to limit its application to dwelling units with roofs that are not common elements or community property and the repair of which is the responsibility of the owner of the dwelling unit, not the association. In addition, the amendments would allow an exemption if compliance with a rule or rules would increase the solar collectors' installation or maintenance costs by an amount which is estimated to be greater than 10 percent of the total cost of the initial installation of the solar collectors, including the costs of labor and equipment. In addition, the amendments provide that the bill will not apply to certain associations which are under developer control.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 2853

STATE OF NEW JERSEY

DATED: MAY 24, 2007

The Senate Economic Growth Committee reports favorably Assembly Bill No. 2853 (2R).

This bill would supplement "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), which concerns planned communities with commonly owned property managed by an association. The bill would prohibit any association formed for the management of commonly-owned elements and facilities from forbidding the installation of solar collectors on roofs of certain single family dwelling units and townhouse dwelling units. The bill, however, permits an association to restrict the aggregate size or coverage, or total number of solar collectors in an installation, provided that the implementation of the rules would not inhibit the solar collectors from functioning at their intended maximum efficiency in any installation. Specifically, under the bill an association could not prohibit solar collectors on:

A roof of a single family dwelling unit that is solely owned by an individual or individuals, and which roof is not designated as a common element or common property in the governing documents of an association; or

A roof of a townhouse dwelling unit, defined as any single-family dwelling unit constructed with attached walls to another such unit on at least one side, which unit extends from the foundation to the roof, and has at least two sides which are unattached to any other building, and the repair of the roof for the townhouse dwelling unit is designated as the responsibility of the owner and not the association in the governing documents.

The bill would allow associations to provide certain guidelines for the installation and maintenance of solar collectors on the types of roofs enumerated in the bill. Those authorized guidelines could cover:

- (1) The qualifications, certification and insurance requirements of personnel or contractors who may install the solar collectors;
- (2) The location where solar collectors may be placed on roofs;
- (3) The concealment of solar collectors' supportive structures, fixtures and piping;

(4) The color harmonization of solar collectors with the colors of structures or landscaping in the development; and

(5) The aggregate size or coverage, or total number of solar collectors in an installation, provided that the implementation of the rules would not inhibit of the solar collectors from functioning at their intended maximum efficiency in any installation.

The bill would prohibit an association from adopting or enforcing any rule related to the installation or maintenance of solar collectors that would increase the solar collectors' installation or maintenance costs by more than 10 percent of the initial installation cost or that would inhibit the solar collectors from functioning at their intended maximum efficiency.

As reported by the committee, Assembly Bill, No. 2853 (2R) is identical to Senate Bill, No. 2638 which was also reported by the committee on this date.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2853

with Assembly Floor Amendments
(Proposed By Assemblyman CHATZIDAKIS)

ADOPTED: FEBRUARY 22, 2007

These floor amendments add to the ability of a homeowners' association to regulate the installation of solar collectors on certain type roofs in common interest communities. The amendments permit an association to restrict the aggregate size or coverage, or total number of solar collectors in an installation, provided that the implementation of the rules would not inhibit of the solar collectors from functioning at their intended maximum efficiency in any installation.

SENATE, No. 2638

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 10, 2007

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator MARTHA W. BARK

District 8 (Burlington)

Co-Sponsored by:

Senator Allen

SYNOPSIS

Limits homeowners' association regulation of solar collectors on certain roofs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/19/2007)

1 AN ACT requiring homeowner associations to permit the installation
2 of solar collectors and supplementing P.L.1993, c.30 (C.45:22A-
3 43 et seq.)

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

7
8 1. a. An association formed for the management of commonly-
9 owned elements and facilities, regardless of whether organized
10 pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43), shall not
11 adopt or enforce a restriction, covenant, bylaw, rule or regulation
12 prohibiting the installation of solar collectors on certain roofs of
13 dwelling units, as follows:

14 A roof of a single family dwelling unit which is solely owned by
15 an individual or individuals, and which is not designated as a
16 common element or common property in the governing documents
17 of an association; and

18 A roof of a townhouse dwelling unit, which for the purposes of
19 this subsection means any single-family dwelling unit constructed
20 with attached walls to another such unit on at least one side, which
21 unit extends from the foundation to the roof, and has at least two
22 sides which are unattached to any other building, and the repair of
23 the roof for the townhouse dwelling unit is designated as the
24 responsibility of the owner and not the association in the governing
25 documents.

26 b. An association may adopt rules to regulate the installation
27 and maintenance of solar collectors on those roofs as specified in
28 subsection a. of this section, in accordance with subsection c. of
29 this section, and as follows:

30 (1) The qualifications, certification and insurance requirements
31 of personnel or contractors who may install the solar collectors;

32 (2) The location where solar collectors may be placed on roofs;

33 (3) The concealment of solar collectors' supportive structures,
34 fixtures and piping;

35 (4) The color harmonization of solar collectors with the colors
36 of structures or landscaping in the development; and

37 (5) The aggregate size or coverage or total number of solar
38 collectors, provided that the provisions of paragraph (2) of
39 subsection c. below are met.

40 c. (1) An association shall not adopt and shall not enforce any
41 rule related to the installation or maintenance of solar collectors, if
42 compliance with a rule or rules would increase the solar collectors'
43 installation or maintenance costs by an amount which is estimated
44 to be greater than 10 percent of the total cost of the initial
45 installation of the solar collectors, including the costs of labor and
46 equipment.

47 (2) An association shall not adopt and shall not enforce any rule
48 related to the installation or maintenance of solar collectors, if

1 compliance with such rules inhibits the solar collectors from
2 functioning at their intended maximum efficiency.

3 d. The Commissioner of Community Affairs shall enforce the
4 provisions of P.L. , c. (C.) (pending before the Legislature as
5 this bill) in accordance with the authority granted under section 18
6 of P.L.1977, c. 419 (C.45:22A-38).

7 e. The provisions of P.L. , c. (C.) (pending before the
8 Legislature as this bill) shall not apply to associations that are under
9 the control of the developer as provided under section 5 of
10 P.L.1993, c.30 (C.45:22A-47).

11

12 2. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill would supplement “The Planned Real Estate
18 Development Full Disclosure Act, P.L.1977, c.419 (C.45:22A-21 et
19 seq.), which concerns planned communities with commonly owned
20 property managed by an association. The bill would prohibit any
21 association formed for the management of commonly-owned
22 elements and facilities from forbidding the installation of solar
23 collectors on roofs of certain single family dwelling units and
24 townhouse dwelling units. The bill, however, permits an
25 association to restrict the aggregate size or coverage, or total
26 number of solar collectors in an installation, provided that the
27 implementation of the rules would not inhibit of the solar collectors
28 from functioning at their intended maximum efficiency in any
29 installation. Specifically, under the bill an association could not
30 prohibit solar collectors on:

31 A roof of a single family dwelling unit that is solely owned by an
32 individual or individuals, and which roof is not designated as a
33 common element or common property in the governing documents
34 of an association. Neither could an association prohibit solar
35 collectors on:

36 A roof of a townhouse dwelling unit, defined as any single-
37 family dwelling unit constructed with attached walls to another such
38 unit on at least one side, which unit extends from the foundation to
39 the roof, and has at least two sides which are unattached to any
40 other building, and the repair of the roof for the townhouse dwelling
41 unit is designated as the responsibility of the owner and not the
42 association in the governing documents.

43 The bill would allow associations to provide certain guidelines
44 for the installation and maintenance of solar collectors on the types
45 of roofs enumerated in the bill including:

46 (1) The qualifications, certification and insurance requirements
47 of personnel or contractors who may install the solar collectors;

S2638 B. SMITH, BARK

4

- 1 (2) The location where solar collectors may be placed on roofs;
2 (3) The concealment of solar collectors' supportive structures,
3 fixtures and piping;
4 (4) The color harmonization of solar collectors with the colors
5 of structures or landscaping in the development; and
6 (5) The aggregate size or coverage, or total number of solar
7 collectors in an installation, provided that the implementation of the
8 rules would not inhibit of the solar collectors from functioning at
9 their intended maximum efficiency in any installation.
- 10 The bill would prohibit an association from adopting or
11 enforcing any rule related to the installation or maintenance of solar
12 collectors that would increase the solar collectors' installation or
13 maintenance costs by more than 10 percent of the initial installation
14 cost or that would inhibit the solar collectors from functioning at
15 their intended maximum efficiency.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2638

STATE OF NEW JERSEY

DATED: MAY 24, 2007

The Senate Economic Growth Committee reports favorably Senate Bill No. 2638.

This bill would supplement "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), which concerns planned communities with commonly owned property managed by an association. The bill would prohibit any association formed for the management of commonly-owned elements and facilities from forbidding the installation of solar collectors on roofs of certain single family dwelling units and townhouse dwelling units. The bill, however, permits an association to restrict the aggregate size or coverage, or total number of solar collectors in an installation, provided that the implementation of the rules would not inhibit the solar collectors from functioning at their intended maximum efficiency in any installation. Specifically, under the bill an association could not prohibit solar collectors on:

A roof of a single family dwelling unit that is solely owned by an individual or individuals, and which roof is not designated as a common element or common property in the governing documents of an association; or

A roof of a townhouse dwelling unit, defined as any single-family dwelling unit constructed with attached walls to another such unit on at least one side, which unit extends from the foundation to the roof, and has at least two sides which are unattached to any other building, and the repair of the roof for the townhouse dwelling unit is designated as the responsibility of the owner and not the association in the governing documents.

The bill would allow associations to provide certain guidelines for the installation and maintenance of solar collectors on the types of roofs enumerated in the bill. Those authorized guidelines could cover:

- (1) The qualifications, certification and insurance requirements of personnel or contractors who may install the solar collectors;
- (2) The location where solar collectors may be placed on roofs;
- (3) The concealment of solar collectors' supportive structures, fixtures and piping;
- (4) The color harmonization of solar collectors with the colors of structures or landscaping in the development; and

(5) The aggregate size or coverage, or total number of solar collectors in an installation, provided that the implementation of the rules would not inhibit of the solar collectors from functioning at their intended maximum efficiency in any installation.

The bill would prohibit an association from adopting or enforcing any rule related to the installation or maintenance of solar collectors that would increase the solar collectors' installation or maintenance costs by more than 10 percent of the initial installation cost or that would inhibit the solar collectors from functioning at their intended maximum efficiency.

As reported by the committee, Senate Bill, No. 2638 is identical to Assembly Bill, No. 2853 (2R) which was also reported by the committee on this date.