

§196-7 Placement of solar energy devices. (a) Notwithstanding any law to the contrary, no person shall be prevented by any covenant, declaration, bylaws, restriction, deed, lease, term, provision, condition, codicil, contract, or similar binding agreement, however worded, from installing a solar energy device on any single-family residential dwelling or townhouse that the person owns. Any provision in any lease, instrument, or contract contrary to the intent of this section shall be void and unenforceable.

(b) *[Subsection repealed June 30, 2015. For subsection effective June 30, 2015, see below.]* Every private entity shall adopt rules by December 31, 2006, that provide for the placement of solar energy devices, and revise those rules as necessary by July 1, 2011. The rules shall facilitate the placement of solar energy devices and shall not impose conditions or restrictions that render the device more than twenty-five per cent less efficient or increase the cost of installation, maintenance, and removal of the device by more than fifteen per cent. No private entity shall assess or charge any homeowner any fees or require an encumbrance on title for the placement of any solar energy device.

(b) *[Subsection effective June 30, 2015. For subsection repealed June 30, 2015, see above.]* Every private entity shall adopt rules by December 31, 2006, that provide for the placement of solar energy devices, and revise those rules as necessary by July 1, 2011. The rules shall facilitate the placement of solar energy devices and shall not impose conditions or restrictions that render the device more than twenty-five per cent less efficient or increase the cost of installation, maintenance, and removal of the device by more than fifteen per cent. No private entity shall assess or charge any homeowner any fees for the placement of any solar energy device.

(c) Any person may place a solar energy device on any single-family residential dwelling or townhouse unit owned by that person, provided that:

- (1) The device is in compliance with the rules and specifications adopted pursuant to subsection (b);
- (2) The device is registered with the private entity of record within thirty days of installation; and
- (3) If the device is placed on a common element or limited common element as defined by a project's declaration, the homeowner shall first obtain the consent of the private entity; provided further that such consent shall be given if the homeowner agrees in writing to:
 - (A) Comply with the private entity's design specification for the installation of the device;
 - (B) Engage a duly licensed contractor to install the device; and
 - (C) Within fourteen days of approval of the solar device by the private entity, provide a certificate of insurance naming the private entity as an additional insured on the homeowner's insurance policy.

(d) If a solar energy device is placed on a common element or limited common element:

- (1) The owner and each successive owner of the single-family residential dwelling or townhouse unit on which the device is placed shall be responsible for any costs for damages to the device, the common elements, limited common elements, and any adjacent units, arising or resulting from the installation, maintenance, repair, removal, or replacement of the device. The repair, maintenance, removal, and replacement responsibilities shall be assumed by each successive owner until the solar energy device has been removed from the common elements or limited common elements. The owner and each successive owner shall at all times have and maintain a policy of insurance covering the obligations of the owner under this paragraph and shall name the private entity as an additional insured under said policy; and
- (2) The owner and any successive owner of the single-family residential dwelling or townhouse unit on which the device is placed shall be responsible for removing the solar energy device if reasonably necessary or convenient for the repair, maintenance, or replacement of the common elements or limited common elements.

(e) If there is an existing contractor's guarantee or manufacturer's labor or material warranty on the roof, roofing membrane, or roofing material on a roof that is a common element or limited common element, the contractor that installs a solar energy device on the roof shall notify the private entity in writing that the installation of a solar energy device may affect or void the roofing guarantees or warranties. If the private entity chooses to forgo the roofing guarantee or warranty, the contractor that installs a solar energy device shall obtain that decision in writing. Otherwise, the contractor that installs a solar energy device shall obtain the roofing manufacturer's written approval for that project and follow the roofing manufacturer's written instructions for waterproofing roof penetrations for the specific roofing material or coordinate the waterproofing with the contractor that issued the guarantee or warranty. If the penetrations for the installation of a solar energy device are waterproofed by the roofing contractor that provided the existing guarantee or warranty, the roofing contractor shall maintain the existing guarantee or warranty; provided that if either the roofing contractor's guaranty or the roofing manufacturer's warranty is no longer in effect, the contractor who installs the solar energy device and waterproofs the penetrations in accordance with this section shall apply the contractor's or lessor's standard labor and workmanship warranty. The homeowner shall provide the private entity with a copy of the applicable guarantee or warranty.

(f) For the purposes of this section:

"Private entity" means any association of homeowners, community association, condominium association, cooperative, or any other non-governmental entity with covenants, bylaws, and administrative provisions with which the homeowner's compliance is required.

"Solar energy device" means any identifiable facility, equipment, apparatus, or the like, including a photovoltaic cell application, that is applicable to a single-family residential dwelling or townhouse and makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for generation; provided that "solar energy device" shall not include skylights or windows. [L 1992, c 268, §1; am L 2005, c 157, §2; am L 2010, c 201, §2; am L 2014, c 106, §2]

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