

House Bill 3090

Sponsored by Representative CANNON, Senator DINGFELDER; Representatives BAILEY, BARNHART, BRUUN, BUCKLEY, DEMBROW, HARKER, READ, STIEGLER, Senators HASS, ROSENBAUM

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 **as introduced**.

Prohibits inclusion in instrument conveying or contracting to convey real property or in declaration or bylaws of community governed by declaration of certain provisions prohibiting or limiting use of renewable energy devices.

A BILL FOR AN ACT

1
2 Relating to renewable energy; creating new provisions; and amending ORS 93.270.

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

4 **SECTION 1.** ORS 93.270, as amended by section 16, chapter 100, Oregon Laws 2007, is amended
5 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:

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

10 (b) Restricting the use of the real property by any home or facility that is licensed by or under
11 the authority of the department under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide resi-
12 dential care alone or in conjunction with treatment or training or a combination thereof.

13 **(c)(A) Prohibiting, on residential lots or parcels, the installation or use of a renewable**
14 **energy device; or**

15 **(B) Restricting, on residential lots or parcels, the location or orientation of solar collec-**
16 **tors on a roof, within an orientation that is 45 degrees or fewer east or west of due south,**
17 **unless the restriction does not impair the effective operation of the solar collectors.**

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

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

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

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

30 **(a) "Renewable energy device" means a device that utilizes and relies upon a renewable**

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 **source of energy including, but not limited to solar collectors and clotheslines.**

2 (b) "Wildfire hazard zones" [are] means areas that are legally declared, **using criteria estab-**
3 **lished by the State Forestry Department,** by a governmental agency having jurisdiction over the
4 area to have special hazards caused by a combination of combustible natural fuels, topography and
5 climatic conditions that result in a significant hazard of catastrophic fire over relatively long peri-
6 ods each year. [*Wildfire hazard zones shall be determined using criteria established by the State*
7 *Forestry Department.*]

8 **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS 94.550 to 94.783.**

9 **SECTION 3. (1) A provision in a declaration or bylaws of a planned community is void**
10 **and unenforceable as a violation of the public policy to protect the public health, safety and**
11 **welfare of Oregon if the provision:**

12 (a) Prohibits the installation or use of a renewable energy device, as defined in ORS
13 93.270; or

14 (b) Restricts the location or orientation of solar collectors on a roof, within an orien-
15 tation that is 45 degrees or fewer east or west of due south, unless the restriction does not
16 impair the effective operation of the solar collectors.

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

21 **SECTION 4. Section 5 of this 2009 Act is added to and made a part of ORS chapter 100.**

22 **SECTION 5. (1) A provision in a declaration or bylaws of a condominium is void and**
23 **unenforceable as a violation of the public policy to protect the public health, safety and**
24 **welfare of Oregon if the provision:**

25 (a) Prohibits the installation or use of a renewable energy device, as defined in ORS
26 93.270; or

27 (b) Restricts the location or orientation of solar collectors on a roof, within an orien-
28 tation that is 45 degrees or fewer east or west of due south, unless the restriction does not
29 impair the effective operation of the solar collectors.

30 (2) An owner of record of property subject to an instrument that contains a provision
31 described in this section may file a petition to remove the provision in the manner provided
32 in ORS 93.272 for removal of a similar provision from an instrument conveying or contract-
33 ing to convey real property.

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