

**ASSEMBLY BILL**

**No. 1448**

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**Introduced by Assembly Member Lopez**

February 27, 2015

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An act to amend Section 714 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1448, as introduced, Lopez. Solar energy systems: real property restrictions.

Existing law prohibits any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document from effectively prohibiting or restricting the installation or use of a solar energy system.

This bill would prohibit these instruments or a rental agreement or lease from effectively prohibiting or restricting the installation or use of a solar energy system, including a clothesline.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 714 of the Civil Code is amended to read:  
2 714. (a) Any covenant, restriction, or condition contained in  
3 any *rental agreement, lease*, deed, contract, security instrument,  
4 or other instrument affecting the transfer or sale of, or any interest  
5 in, real property, and any provision of a governing document, as  
6 defined in Section 4150 or 6552, that effectively prohibits or

1 restricts the installation or use of a solar energy system, *including*  
2 *a clothesline*, is void and unenforceable.

3 (b) This section does not apply to provisions that impose  
4 reasonable restrictions on solar energy systems. However, it is the  
5 policy of the state to promote and encourage the use of solar energy  
6 systems and to remove obstacles thereto. Accordingly, reasonable  
7 restrictions on a solar energy system are those restrictions that do  
8 not significantly increase the cost of the system or significantly  
9 decrease its efficiency or specified performance, or that allow for  
10 an alternative system of comparable cost, efficiency, and energy  
11 conservation benefits.

12 (c) (1) A solar energy system shall meet applicable health and  
13 safety standards and requirements imposed by state and local  
14 permitting authorities, consistent with Section 65850.5 of the  
15 Government Code.

16 (2) Solar energy systems used for heating water in single family  
17 residences and solar collectors used for heating water in  
18 commercial or swimming pool applications shall be certified by  
19 an accredited listing agency as defined in the Plumbing and  
20 Mechanical Codes.

21 (3) A solar energy system for producing electricity shall also  
22 meet all applicable safety and performance standards established  
23 by the California Electrical Code, the Institute of Electrical and  
24 Electronics Engineers, and accredited testing laboratories such as  
25 Underwriters Laboratories and, where applicable, rules of the  
26 Public Utilities Commission regarding safety and reliability.

27 (d) For the purposes of this section:

28 (1) (A) For solar domestic water heating systems or solar  
29 swimming pool heating systems that comply with state and federal  
30 law, “significantly” means an amount exceeding 10 percent of the  
31 cost of the system, but in no case more than one thousand dollars  
32 (\$1,000), or decreasing the efficiency of the solar energy system  
33 by an amount exceeding 10 percent, as originally specified and  
34 proposed.

35 (B) For photovoltaic systems that comply with state and federal  
36 law, “significantly” means an amount not to exceed one thousand  
37 dollars (\$1,000) over the system cost as originally specified and  
38 proposed, or a decrease in system efficiency of an amount  
39 exceeding 10 percent as originally specified and proposed.

1 (2) “Solar energy system” has the same meaning as defined in  
2 paragraphs (1) and (2) of subdivision (a) of Section 801.5.

3 (e) (1) Whenever approval is required for the installation or  
4 use of a solar energy system, the application for approval shall be  
5 processed and approved by the appropriate approving entity in the  
6 same manner as an application for approval of an architectural  
7 modification to the property, and shall not be willfully avoided or  
8 delayed.

9 (2) For an approving entity that is an association, as defined in  
10 Section 4080 or 6528, and that is not a public entity, both of the  
11 following shall apply:

12 (A) The approval or denial of an application shall be in writing.

13 (B) If an application is not denied in writing within 45 days  
14 from the date of receipt of the application, the application shall be  
15 deemed approved, unless that delay is the result of a reasonable  
16 request for additional information.

17 (f) Any entity, other than a public entity, that willfully violates  
18 this section shall be liable to the applicant or other party for actual  
19 damages occasioned thereby, and shall pay a civil penalty to the  
20 applicant or other party in an amount not to exceed one thousand  
21 dollars (\$1,000).

22 (g) In any action to enforce compliance with this section, the  
23 prevailing party shall be awarded reasonable attorney’s fees.

24 (h) (1) A public entity that fails to comply with this section  
25 may not receive funds from a state-sponsored grant or loan program  
26 for solar energy. A public entity shall certify its compliance with  
27 the requirements of this section when applying for funds from a  
28 state-sponsored grant or loan program.

29 (2) A local public entity may not exempt residents in its  
30 jurisdiction from the requirements of this section.