

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1448

Introduced by Assembly Member Lopez

February 27, 2015

An act to ~~amend Section 714 of~~ *add Sections 1940.20 and 4750.10* to the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1448, as amended, Lopez. ~~Solar energy systems:~~ *Personal energy conservation:* real property restrictions.

(1) *Existing law requires a landlord to permit a tenant to participate in personal agriculture in portable containers approved by the landlord if certain conditions are met, including, among others, that the plant crop will not interfere with the maintenance of the rental property.*

This bill would require a landlord to permit a tenant to utilize a clothesline or drying rack, as defined, approved by the landlord in the tenant's private area, as defined, if certain conditions are met, including, among others, that the clothesline or drying rack will not interfere with the maintenance of the rental property. The bill would specify that these provisions do not prohibit reasonable time or location restrictions.

(2) *Under existing law, any provision of a governing document, as defined, that effectively prohibits or unreasonably restricts the use of a homeowner's backyard for personal agriculture, as defined, is void and unenforceable, unless it imposes a reasonable restriction, as defined, on the use of a homeowner's backyard.*

This bill would make any provision of a governing document, as defined, void and unenforceable if it effectively prohibits or unreasonably restricts the use of a homeowner's backyard for personal

energy conservation purposes, including, but not limited to, the use of a clothesline, as defined, or any other similar device, except that reasonable restrictions, as defined, would be enforceable. The bill would specify that these provisions would only apply to yards that are designated for the exclusive use of the homeowner.

~~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 1940.20 is added to the Civil Code,*
2 *immediately following Section 1940.10, to read:*

3 *1940.20. (a) For purposes of this section, the following*
4 *definitions shall apply:*

5 *(1) "Clothesline" includes a cord, rope, or wire from which*
6 *clothes may be hung to dry or air.*

7 *(2) "Drying rack" means an apparatus from which clothes may*
8 *be hung to dry or air.*

9 *(3) "Private area" means an outdoor area or an area in the*
10 *tenant's premises enclosed by a wall or fence with access from a*
11 *door of the premises.*

12 *(b) A landlord shall permit a tenant to utilize a clothesline or*
13 *drying rack approved by the landlord in the tenant's private area*
14 *if both of the following conditions are met:*

15 *(1) The clothesline or drying rack shall not interfere with the*
16 *maintenance of the rental property.*

17 *(2) The clothesline or drying rack shall not create a health or*
18 *safety hazard, block doorways, or interfere with walkways or utility*
19 *service equipment.*

20 *(c) This section does not prohibit reasonable time or location*
21 *restrictions.*

1 *SEC. 2. Section 4750.10 is added to the Civil Code, immediately*
2 *following Section 4750, to read:*

3 4750.10. (a) *For purposes of this section, “clothesline” has*
4 *the same definition as in Section 1940.20.*

5 (b) *Any provision of a governing document, as defined in Section*
6 *4150, shall be void and unenforceable if it effectively prohibits or*
7 *unreasonably restricts the use of a homeowner’s backyard for*
8 *personal energy conservation purposes, including, but not limited*
9 *to, the use of a clothesline or any similar device.*

10 (c) (1) *This section does not apply to provisions that impose*
11 *reasonable restrictions on the use of a homeowner’s yard for*
12 *personal energy conservation purposes, including the use of a*
13 *clothesline or any similar device.*

14 (2) *For purposes of this section, “reasonable restrictions” are*
15 *restrictions that do not significantly increase the cost of engaging*
16 *in personal energy conservation, including the use of a clothesline*
17 *or any similar device, or significantly decrease the efficiency of*
18 *personal energy conservation.*

19 (3) *This section applies only to yards that are designated for*
20 *the exclusive use of the homeowner.*

21 (d) *Nothing in this section shall prohibit an association from*
22 *establishing and enforcing reasonable rules governing clotheslines*
23 *or any similar device.*

24 ~~SECTION 1. Section 714 of the Civil Code is amended to read:~~

25 ~~714. (a) Any covenant, restriction, or condition contained in~~
26 ~~any rental agreement, lease, deed, contract, security instrument,~~
27 ~~or other instrument affecting the transfer or sale of, or any interest~~
28 ~~in, real property, and any provision of a governing document, as~~
29 ~~defined in Section 4150 or 6552, that effectively prohibits or~~
30 ~~restricts the installation or use of a solar energy system, including~~
31 ~~a clothesline, is void and unenforceable.~~

32 ~~(b) This section does not apply to provisions that impose~~
33 ~~reasonable restrictions on solar energy systems. However, it is the~~
34 ~~policy of the state to promote and encourage the use of solar energy~~
35 ~~systems and to remove obstacles thereto. Accordingly, reasonable~~
36 ~~restrictions on a solar energy system are those restrictions that do~~
37 ~~not significantly increase the cost of the system or significantly~~
38 ~~decrease its efficiency or specified performance, or that allow for~~
39 ~~an alternative system of comparable cost, efficiency, and energy~~
40 ~~conservation benefits.~~

1 ~~(e) (1) A solar energy system shall meet applicable health and~~
2 ~~safety standards and requirements imposed by state and local~~
3 ~~permitting authorities, consistent with Section 65850.5 of the~~
4 ~~Government Code.~~

5 ~~(2) Solar energy systems used for heating water in single family~~
6 ~~residences and solar collectors used for heating water in~~
7 ~~commercial or swimming pool applications shall be certified by~~
8 ~~an accredited listing agency as defined in the Plumbing and~~
9 ~~Mechanical Codes.~~

10 ~~(3) A solar energy system for producing electricity shall also~~
11 ~~meet all applicable safety and performance standards established~~
12 ~~by the California Electrical Code, the Institute of Electrical and~~
13 ~~Electronics Engineers, and accredited testing laboratories such as~~
14 ~~Underwriters Laboratories and, where applicable, rules of the~~
15 ~~Public Utilities Commission regarding safety and reliability.~~

16 ~~(d) For the purposes of this section:~~

17 ~~(1) (A) For solar domestic water heating systems or solar~~
18 ~~swimming pool heating systems that comply with state and federal~~
19 ~~law, "significantly" means an amount exceeding 10 percent of the~~
20 ~~cost of the system, but in no case more than one thousand dollars~~
21 ~~(\$1,000), or decreasing the efficiency of the solar energy system~~
22 ~~by an amount exceeding 10 percent, as originally specified and~~
23 ~~proposed.~~

24 ~~(B) For photovoltaic systems that comply with state and federal~~
25 ~~law, "significantly" means an amount not to exceed one thousand~~
26 ~~dollars (\$1,000) over the system cost as originally specified and~~
27 ~~proposed, or a decrease in system efficiency of an amount~~
28 ~~exceeding 10 percent as originally specified and proposed.~~

29 ~~(2) "Solar energy system" has the same meaning as defined in~~
30 ~~paragraphs (1) and (2) of subdivision (a) of Section 801.5.~~

31 ~~(e) (1) Whenever approval is required for the installation or~~
32 ~~use of a solar energy system, the application for approval shall be~~
33 ~~processed and approved by the appropriate approving entity in the~~
34 ~~same manner as an application for approval of an architectural~~
35 ~~modification to the property, and shall not be willfully avoided or~~
36 ~~delayed.~~

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

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

1 ~~(B) If an application is not denied in writing within 45 days~~
2 ~~from the date of receipt of the application, the application shall be~~
3 ~~deemed approved, unless that delay is the result of a reasonable~~
4 ~~request for additional information.~~

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

10 ~~(g) In any action to enforce compliance with this section, the~~
11 ~~prevailing party shall be awarded reasonable attorney's fees.~~

12 ~~(h) (1) A public entity that fails to comply with this section~~
13 ~~may not receive funds from a state-sponsored grant or loan program~~
14 ~~for solar energy. A public entity shall certify its compliance with~~
15 ~~the requirements of this section when applying for funds from a~~
16 ~~state-sponsored grant or loan program.~~

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