

SECOND REGULAR SESSION

# HOUSE BILL NO. 2152

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCNEIL.

5810H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 442, RSMo, by adding thereto one new section relating to the homeowners' solar rights act.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 442, RSMo, is amended by adding thereto one new section, to be known as section 442.011, to read as follows:

**442.011. 1. This section shall be known and may be cited as the "Homeowners' Solar Rights Act".**

**2. As used in this section, the following terms shall mean:**

**(1) "Solar collector":**

**(a) An assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct and indirect solar energy, specially designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid, or liquid, or to use that energy directly;**

**(b) A mechanism that absorbs solar energy and converts it into electricity;**

**(c) A mechanism or process used for gathering solar energy through wind or thermal gradients; or**

**(d) A component used to transfer thermal energy to a gas, solid, or liquid, or to convert it into electricity;**

**(2) "Solar energy", radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use, or photovoltaic use;**

**(3) "Solar energy system":**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           **(a) A complete assembly, structure, or design of a solar collector or a solar storage**  
18 **mechanism that uses solar energy for generating electricity or for heating or cooling gases,**  
19 **solids, liquids, or other materials; and**

20           **(b) The design, materials, or elements of a system and its maintenance, operation,**  
21 **and labor components, and the necessary components, if any, of supplemental conventional**  
22 **energy systems designed or constructed to interface with a solar energy system;**

23           **(4) "Solar storage mechanism", equipment or elements, such as piping and transfer**  
24 **mechanisms, containers, heat exchangers, or controls thereof, and gases, solids, liquids, or**  
25 **combinations thereof, that are utilized for storing solar energy or are gathered by a solar**  
26 **collector for subsequent use.**

27           **3. Notwithstanding any provision of this section or other provision of law, the**  
28 **adoption of a bylaw or exercise of any power by the governing entity of a homeowners'**  
29 **association, common interest community association, or condominium unit owners'**  
30 **association that prohibits or has the effect of prohibiting the installation of a solar energy**  
31 **system is expressly prohibited.**

32           **4. No deed restrictions, covenants, or similar binding agreements running with the**  
33 **land shall prohibit or have the effect of prohibiting a solar energy system from being**  
34 **installed on a building erected on a lot or parcel covered by the deed restrictions,**  
35 **covenants, or binding agreements, if the building is subject to a homeowners' association,**  
36 **common interest community association, or condominium unit owners' association. A**  
37 **property owner shall not be denied permission to install a solar energy system by any entity**  
38 **granted the power or right in any deed restriction, covenant, or similar binding agreement**  
39 **to approve, forbid, control, or direct alteration of property. However, for purposes of this**  
40 **section, the entity may determine the specific location where a solar energy system may be**  
41 **installed on the roof with an orientation to the south or within forty-five degrees east or**  
42 **west of due south, provided that the determination does not impair the effective operation**  
43 **of the solar energy system. Each homeowners' association, common interest community**  
44 **association, or condominium unit owners' association shall adopt an energy policy**  
45 **statement regarding the location, design, and architectural requirements of solar energy**  
46 **systems within one hundred twenty days after an association receives a request for a policy**  
47 **statement or an application from an association member. An association shall disclose,**  
48 **upon request, its energy policy statement and shall include the statement in its**  
49 **homeowners' common interest community or condominium unit owners' association**  
50 **declaration.**

51           **5. A solar energy system shall meet applicable standards and requirements imposed**  
52 **by state and local permitting authorities.**

53           **6. If approval is required for the installation or use of a solar energy system, the**  
54 **application for approval shall be processed by the appropriate approving entity of the**  
55 **association within ninety days after the submission of the application. However, if an**  
56 **application is submitted before an energy policy statement is adopted by an association, the**  
57 **ninety-day period shall not begin to run until the date that the policy is adopted.**

58           **7. Any entity, other than a public entity, that willfully violates this section shall be**  
59 **liable to the applicant for actual damages occasioned thereby and for any other**  
60 **consequential damages. Any entity that complies with the requirements of this section**  
61 **shall not be liable to any other resident or third party for such compliance.**

62           **8. In any litigation arising under this section, the prevailing party shall be entitled**  
63 **to costs and reasonable attorney's fees.**

64           **9. This section shall not apply to any building that is greater than thirty feet in**  
65 **height.**

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