

# MAINE STATE LEGISLATURE

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L.D. 73

Date: 5/26/19

Majority

(Filing No. H-370)

UTILITIES AND ENERGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 62, L.D. 73, Bill, "An Act To Protect the Right To Use Solar Energy"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 30-A MRSA §3013 is enacted to read:

§3013. Solar energy devices; ordinances

A municipal ordinance, bylaw or regulation adopted after September 30, 2009 that directly regulates the installation or use of solar energy devices on residential property must comply with the requirements of Title 33, chapter 28-A. For the purposes of this section, "solar energy device" has the same meaning as in Title 33, section 1421, subsection 5.

Sec. 2. 33 MRSA c. 28-A is enacted to read:

CHAPTER 28-A

SOLAR RIGHTS

§1421. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Legal instrument. "Legal instrument" includes:

A. Municipal ordinances, bylaws or regulations that directly regulate the installation or use of solar energy devices on residential property;

B. Rules, bylaws or regulations of an association of property owners, including but not limited to a homeowners association, unit owners association or condominium owners association; and

**COMMITTEE AMENDMENT**

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1 C. Deed restrictions, restrictive covenants, declarations, contracts or similar binding  
2 agreements.

3 2. Residential property. "Residential property" means real property located in this  
4 State that is used for residential dwelling purposes.

5 3. Solar clothes-drying device. "Solar clothes-drying device" means a clothes line,  
6 drying rack or other equipment used for solar drying of clothing.

7 4. Solar collector. "Solar collector" means a device, structure or part of a device or  
8 structure that is designed and used to transform solar energy into thermal, chemical or  
9 electrical energy to meet the water heating, space heating, space cooling or electricity  
10 generation requirements of one residential dwelling.

11 5. Solar energy device. "Solar energy device" means a solar collector or solar  
12 clothes-drying device.

13 **§1422. Policy**

14 It is the policy of the State to promote the use of solar energy and to avoid  
15 unnecessary obstacles to the use of solar energy devices.

16 **§1423. Use and installation of solar energy devices**

17 1. Application. This section applies to a legal instrument adopted or created after  
18 September 30, 2009 that defines or limits the rights or privileges of owners or renters  
19 with respect to the use of residential property.

20 2. Right to install and use solar energy devices. Except as provided in subsections  
21 3 and 4, a legal instrument subject to this section may not prohibit a person from  
22 installing or using:

23 A. A solar energy device on residential property owned by that person; or

24 B. A solar clothes-drying device on residential property leased or rented by that  
25 person.

26 3. Exception. A legal instrument subject to this section may prohibit the installation  
27 and use of solar energy devices on residential property in common ownership with 3rd  
28 parties or common elements of a condominium.

29 4. Reasonable restrictions. A legal instrument subject to this section may include  
30 reasonable restrictions on the installation and use of a solar energy device. For the  
31 purposes of this section, a reasonable restriction is any restriction that is necessary to  
32 protect:

33 A. Public health and safety, including but not limited to ensuring safe access to and  
34 rapid evacuation of buildings;

35 B. Buildings from damage;

36 C. Historic or aesthetic values, when an alternative of reasonably comparable cost  
37 and convenience is available; or

38 D. Shorelands under shoreland zoning provisions pursuant to Title 38, chapter 3,  
39 subchapter 1, article 2-B.

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**§1424. Limitation**

This chapter does not supersede any existing authority of any entity to adopt and enforce any laws, rules or regulations on any matter other than the installation and use of solar energy devices on residential property.'

**SUMMARY**

This amendment is the majority report of the committee. The amendment replaces the bill with more specific provisions regarding protections for the installation and use of solar energy devices, including solar collectors and solar clothes-drying devices, on residential property. The amendment specifies that a legal instrument adopted or created after September 30, 2009 that defines or limits the rights or privileges of owners or renters with respect to the use of residential property may not prohibit a person from installing or using a solar energy device on residential property owned by that person or from installing or using a solar clothes-drying device on residential property leased or rented by that person. Under the amendment, "legal instrument" includes municipal ordinances, bylaws or regulations and rules, bylaws or regulations of an association of property owners as well as deed restrictions, restrictive covenants and other similar binding agreements. The amendment specifies that a legal instrument may prohibit the installation and use of solar energy devices on residential property in common ownership with 3rd parties or common elements of a condominium. The amendment also permits certain reasonable restrictions on the installation and use of a solar energy device that protect public health and safety, shorelands, buildings and historic or aesthetic values.