

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2555

(SENATE AUTHORS: EATON)

DATE	D-PG	OFFICIAL STATUS
03/12/2014	6158	Introduction and first reading Referred to Judiciary
03/26/2014	6861a	Comm report: To pass as amended and re-refer to Environment and Energy
03/31/2014	7170	Comm report: To pass
	7187	Second reading

A bill for an act

1.1 relating to real property; prohibiting certain restrictions on the use of residential
 1.2 solar energy systems; amending Minnesota Statutes 2012, sections 515.07;
 1.3 515B.2-103; 515B.3-102; proposing coding for new law in Minnesota Statutes,
 1.4 chapter 500.
 1.5

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[500.216] LIMITS ON CERTAIN RESIDENTIAL SOLAR ENERGY**
 1.8 **SYSTEMS PROHIBITED.**

1.9 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
 1.10 section.

1.11 (b) "Private entity" means a homeowners association, community association, or
 1.12 other association that is subject to a homeowner's association document.

1.13 (c) "Homeowners association document" means a document containing the
 1.14 declaration, articles of incorporation, bylaws, or rules and regulations of:

1.15 (1) a common interest community, as defined in section 515B.1-103, regardless of
 1.16 whether the common interest community is subject to chapter 515B; and

1.17 (2) a residential community that is not a common interest community.

1.18 (d) "Solar energy system" has the meaning given in section 216C.06, subdivision 17.

1.19 Subd. 2. **General rule.** (a) Notwithstanding any covenant, restriction, or condition
 1.20 contained in a deed, security instrument, homeowners association document, or any other
 1.21 instrument affecting the transfer, sale of, or an interest in, real property, a private entity may
 1.22 not prohibit or refuse to permit installation, maintenance, or use of a roof-mounted solar
 1.23 energy system by the owner of a single-family dwelling, except as provided in this section.

1.24 (b) If approval by a private entity is required for the installation or use of a solar
 1.25 energy system, the application for approval must be processed and approved in the same

2.1 manner as an application for approval of an architectural modification to the property,
2.2 and must not be willfully avoided or delayed. A private entity shall approve or deny an
2.3 application in writing. If an application is not denied in writing within 60 days from the
2.4 date of receipt of the application, the application is deemed approved unless the delay is
2.5 the result of a reasonable request for additional information. An application must be
2.6 approved unless it fails to comply with allowable conditions under subdivision 4.

2.7 Subd. 3. **Applicability.** This section applies to single-family dwellings, whether
2.8 attached or detached, where the dwelling owner is responsible for repair, replacement,
2.9 and insurance of the roof of the dwelling.

2.10 Subd. 4. **Allowable conditions.** (a) This section does not prohibit a private entity
2.11 from requiring that:

2.12 (1) a licensed contractor install a solar energy system;

2.13 (2) a roof-mounted solar energy system not extend above the peak of a pitched roof
2.14 or beyond the edge of the roof;

2.15 (3) the owner not modify the existing style of roof design or type of roofing material;

2.16 (4) the owner or installer of a solar energy system indemnify or reimburse the private
2.17 entity or its members for loss or damage caused by the installation, maintenance, use,
2.18 repair, or removal of a solar energy system;

2.19 (5) the owner and each successive owner of a solar energy system list the private
2.20 entity as a certificate holder on the homeowner's insurance policy;

2.21 (6) the owner and each successive owner of a solar energy system be responsible for
2.22 removing the system if reasonably necessary for the repair, maintenance, or replacement
2.23 of common elements or limited common elements, as defined in section 515B.1-103; or

2.24 (7) a solar energy system for heating water be certified by the Solar Rating
2.25 Certification Corporation (SRCC) or an equivalent certification agency; or a solar energy
2.26 system for producing electricity meet all applicable safety and performance standards
2.27 established by the National Electrical Code, the Institute of Electrical and Electronics
2.28 Engineers, and accredited testing laboratories, including, but not limited to, Underwriters
2.29 Laboratories and, where applicable, rules of the Public Utilities Commission regarding
2.30 safety and reliability.

2.31 (b) A solar energy system must meet applicable standards and requirements imposed
2.32 by the state and by governmental units, as defined in section 462.384.

2.33 (c) A private entity may impose additional reasonable restrictions on the installation,
2.34 maintenance, or use of solar energy systems. Additional restrictions are presumed to be
2.35 reasonable if they do not decrease the projected generation of energy by a solar energy
2.36 system by more than ten percent or increase its cost by more than ten percent, compared

3.1 with the generation of energy and the cost of labor and materials certified by the designer
 3.2 or installer of the solar energy system as originally proposed without these restrictions.
 3.3 A private entity may obtain an alternative bid and design from a solar energy system
 3.4 designer or installer for the purposes of this paragraph.

3.5 **EFFECTIVE DATE.** This section is effective January 1, 2015, and applies to
 3.6 common interest communities or residential communities created on or after that date.

3.7 Sec. 2. Minnesota Statutes 2012, section 515.07, is amended to read:

3.8 **515.07 COMPLIANCE WITH COVENANTS, BYLAWS, AND RULES.**

3.9 Each apartment owner shall comply strictly with the bylaws and with the
 3.10 administrative rules adopted pursuant thereto, as either of the same may be lawfully
 3.11 amended from time to time, and with the covenants, conditions, and restrictions set forth in
 3.12 the declaration or in the owner's deed to the apartment. Failure to comply with any of the
 3.13 same shall be ground for an action to recover sums due, for damages or injunctive relief or
 3.14 both maintainable by the manager or board of directors on behalf of the association of
 3.15 apartment owners or, in a proper case, by an aggrieved apartment owner. This chapter is
 3.16 subject to ~~section~~ sections 500.215 and 500.216.

3.17 Sec. 3. Minnesota Statutes 2012, section 515B.2-103, is amended to read:

3.18 **515B.2-103 CONSTRUCTION AND VALIDITY OF DECLARATION AND**
 3.19 **BYLAWS.**

3.20 (a) All provisions of the declaration and bylaws are severable.

3.21 (b) The rule against perpetuities may not be applied to defeat any provision of
 3.22 the declaration or this chapter, or any instrument executed pursuant to the declaration
 3.23 or this chapter.

3.24 (c) In the event of a conflict between the provisions of the declaration and the
 3.25 bylaws, the declaration prevails except to the extent that the declaration is inconsistent
 3.26 with this chapter.

3.27 (d) The declaration and bylaws must comply with ~~section~~ sections 500.215 and
 3.28 500.216.

3.29 Sec. 4. Minnesota Statutes 2012, section 515B.3-102, is amended to read:

3.30 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

3.31 (a) Except as provided in subsections (b) and (c), and subject to the provisions of the
 3.32 declaration or bylaws, the association shall have the power to:

4.1 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles
4.2 of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common
4.3 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may
4.4 jeopardize the health, safety or welfare of other occupants, which involves noise or
4.5 other disturbing activity, or which may damage the common elements or other units;
4.6 (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the
4.7 common elements and conduct which may damage the common interest community;
4.8 (v) regulating the exterior appearance of the common interest community, including,
4.9 for example, balconies and patios, window treatments, and signs and other displays,
4.10 regardless of whether inside a unit; (vi) implementing the articles of incorporation,
4.11 declaration and bylaws, and exercising the powers granted by this section; and (vii)
4.12 otherwise facilitating the operation of the common interest community;

4.13 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and
4.14 collect assessments for common expenses from unit owners;

4.15 (3) hire and discharge managing agents and other employees, agents, and
4.16 independent contractors;

4.17 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in
4.18 its own name on behalf of itself or two or more unit owners on matters affecting the
4.19 common elements or other matters affecting the common interest community or, (ii) with
4.20 the consent of the owners of the affected units on matters affecting only those units;

4.21 (5) make contracts and incur liabilities;

4.22 (6) regulate the use, maintenance, repair, replacement, and modification of the
4.23 common elements and the units;

4.24 (7) cause improvements to be made as a part of the common elements, and, in the
4.25 case of a cooperative, the units;

4.26 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest
4.27 to real estate or personal property, but (i) common elements in a condominium or planned
4.28 community may be conveyed or subjected to a security interest only pursuant to section
4.29 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative
4.30 may be subjected to a security interest, only pursuant to section 515B.3-112;

4.31 (9) grant or amend easements for public utilities, public rights-of-way or other
4.32 public purposes, and cable television or other communications, through, over or under
4.33 the common elements; grant or amend easements, leases, or licenses to unit owners for
4.34 purposes authorized by the declaration; and, subject to approval by a vote of unit owners
4.35 other than declarant or its affiliates, grant or amend other easements, leases, and licenses
4.36 through, over or under the common elements;

5.1 (10) impose and receive any payments, fees, or charges for the use, rental, or
5.2 operation of the common elements, other than limited common elements, and for services
5.3 provided to unit owners;

5.4 (11) impose interest and late charges for late payment of assessments and, after
5.5 notice and an opportunity to be heard before the board or a committee appointed by it,
5.6 levy reasonable fines for violations of the declaration, bylaws, and rules and regulations
5.7 of the association;

5.8 (12) impose reasonable charges for the review, preparation and recordation of
5.9 amendments to the declaration, resale certificates required by section 515B.4-107,
5.10 statements of unpaid assessments, or furnishing copies of association records;

5.11 (13) provide for the indemnification of its officers and directors, and maintain
5.12 directors' and officers' liability insurance;

5.13 (14) provide for reasonable procedures governing the conduct of meetings and
5.14 election of directors;

5.15 (15) exercise any other powers conferred by law, or by the declaration, articles
5.16 of incorporation or bylaws; and

5.17 (16) exercise any other powers necessary and proper for the governance and
5.18 operation of the association.

5.19 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose
5.20 limitations on the power of the association to deal with the declarant which are more
5.21 restrictive than the limitations imposed on the power of the association to deal with other
5.22 persons.

5.23 (c) Notwithstanding subsection (a), powers exercised under this section must comply
5.24 with ~~section~~ sections 500.215 and 500.216.