

CHAPTER 454
FORMERLY
SENATE BILL NO. 316
AS AMENDED BY
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO SOLAR PHOTOVOLTAIC SYSTEMS AND REAL PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 318, Chapter 3, Title 25 of the Delaware Code by adding the following:

“(f) No covenant, restriction, or condition contained in a deed, contract, or other legal instrument which affects the transfer, sale, or any other interest in real property, which is zoned for residential use and the lot or lots are one-half of an acre or greater in size, that prohibits or unreasonably restricts the owner of the property from installing or using a ground mounted system for obtaining solar energy on that owner’s property shall be allowed in any deed, contract or other legal instrument. A covenant, restriction, or condition which requires that fencing, landscaping, or other appropriate means be used to shield the system from view, so that it is not readily visible from adjacent streets shall be deemed to be a reasonable restriction.”

Section 2. Section 1 shall only apply to deeds, contracts, declarations, or other legal instruments that are executed after the effective date of this Act.

Section 3. Amend Section 318(e), Chapter 3, Title 25 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

“(e) Any covenants, restrictions, or conditions contained in a deed or declaration, including a Declaration under the Unit Property Act, for residential property which does not explicitly include a mechanism to amend the document, may hereafter be amended by a vote requiring the affirmative vote of 2/3 of the property owners. Covenants, restrictions, or conditions contained in a deed or declaration, including a Declaration under the Unit Property Act, for residential property that prohibit or restrict the installation of rooftop or ground mounted solar systems may be amended to allow or promote installation of rooftop or ground mounted solar systems by an affirmative vote of 2/3 of the property owners.”

Approved July 28, 2010