

REFERENCE TITLE: homeowners' associations; solar, water devices

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1358

Introduced by
Senators Mendez: Gabaldón, Miranda, Sundareshan, Terán; Representative
Salman

AN ACT

AMENDING SECTIONS 33-439 AND 33-1816, ARIZONA REVISED STATUTES; RELATING
TO REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-439, Arizona Revised Statutes, is amended to
3 read:

4 33-439. Restrictions on installing or using solar energy
5 devices or water saving devices or practices
6 invalid; exception

7 A. Any covenant, restriction or condition contained in any deed,
8 contract, security agreement or other instrument affecting the transfer or
9 sale of, or any interest in, real property ~~which~~ THAT effectively
10 prohibits ~~the installation~~ INSTALLING or ~~use of a solar energy device as~~
11 ~~defined in section 44-1761~~ USING ANY OF THE FOLLOWING is void and
12 unenforceable:

13 1. A SOLAR ENERGY DEVICE AS DEFINED IN SECTION 44-1761.

14 2. A WATER SAVING DEVICE OR INDOOR OR OUTDOOR WATER CONSERVATION
15 PRACTICE.

16 B. A deed, contract, security agreement or other instrument
17 affecting the transfer or sale of, or any interest in, real property
18 entered into before April 17, 1980 ~~shall~~ IS not ~~be~~ subject to ~~the~~
19 ~~provisions of~~ this section.

20 Sec. 2. Section 33-1816, Arizona Revised Statutes, is amended to
21 read:

22 33-1816. Solar energy or water saving devices or practices;
23 reasonable restrictions; fees and costs; notice

24 A. Notwithstanding any provision in the community documents, an
25 association shall not prohibit ~~the installation~~ INSTALLING or ~~use of~~ USING
26 ANY OF THE FOLLOWING:

27 1. A solar energy device as defined in section 44-1761.

28 2. A WATER SAVING DEVICE OR INDOOR OR OUTDOOR WATER CONSERVATION
29 PRACTICE.

30 B. An association may adopt reasonable rules regarding ~~the~~
31 ~~placement of~~ PLACING a solar energy device OR WATER SAVING DEVICE OR USING
32 A WATER CONSERVATION PRACTICE if those rules do not prevent ~~the~~
33 ~~installation~~ INSTALLING THE DEVICE, impair the functioning of the device
34 OR PRACTICE, or restrict ~~its use~~ USING THE DEVICE OR PRACTICE or adversely
35 affect the cost or efficiency of the device OR PRACTICE.

36 C. Notwithstanding any provision of the community documents: ~~—~~

37 1. The court shall award reasonable attorney fees and costs to any
38 party who substantially prevails in an action against the board of
39 directors of the association for a violation of this section.

40 2. AN ASSOCIATION SHALL PROVIDE WRITTEN NOTICE TO MEMBERS OF ANY
41 RULES ADOPTED PURSUANT TO SUBSECTION B OF THIS SECTION.