

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1387  
PROPOSED COMMITTEE SUBSTITUTE H1387-PCS30361-RL-29

Short Title: Solar Collectors on Residential Properties.

(Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE THE CURRENT LIMITATIONS ON CITY ORDINANCES, COUNTY  
ORDINANCES, AND DEED RESTRICTIONS THAT REGULATE THE  
INSTALLATION OF SOLAR COLLECTORS FOR SINGLE-FAMILY RESIDENCES  
APPLICABLE TO ALL RESIDENTIAL PROPERTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-201 reads as rewritten:

**"§ 160A-201. Limitations on regulating solar collectors.**

(a) Except as provided in subsection (c) of this section, no city ordinance shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a ~~detached single family residence,~~residential property, and no person shall be denied permission by a city to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a ~~detached single family residence,~~residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit an ordinance regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the ordinance does not have the effect of preventing the reasonable use of a solar collector for a ~~detached single family residence,~~residential property.

(c) This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:

- (1) On the facade of a structure that faces areas open to common or public access;
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces; or
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party."

**SECTION 2.** G.S. 153A-144 reads as rewritten:



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1 **"§ 153A-144. Limitations on regulating solar collectors.**

2 (a) Except as provided in subsection (c) of this section, no county ordinance shall  
3 prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar  
4 radiation as a substitute for traditional energy for water heating, active space heating and  
5 cooling, passive heating, or generating electricity for a ~~detached single family~~  
6 ~~residence-residential property~~. No person shall be denied permission by a county to install a  
7 solar collector that gathers solar radiation as a substitute for traditional energy for water  
8 heating, active space heating and cooling, passive heating, or generating electricity for a  
9 ~~detached single family residence-residential property~~. As used in this section, the term  
10 "residential property" means property where the predominant use is for residential purposes.

11 (b) This section does not prohibit an ordinance regulating the location or screening of  
12 solar collectors as described in subsection (a) of this section, provided the ordinance does not  
13 have the effect of preventing the reasonable use of a solar collector for a ~~detached single family~~  
14 ~~residence-residential property~~.

15 (c) This section does not prohibit an ordinance that would prohibit the location of solar  
16 collectors as described in subsection (a) of this section that are visible by a person on the  
17 ground:

- 18 (1) On the facade of a structure that faces areas open to common or public  
19 access;
- 20 (2) On a roof surface that slopes downward toward the same areas open to  
21 common or public access that the facade of the structure faces; or
- 22 (3) Within the area set off by a line running across the facade of the structure  
23 extending to the property boundaries on either side of the facade, and those  
24 areas of common or public access faced by the structure.

25 (d) In any civil action arising under this section, the court may award costs and  
26 reasonable attorneys' fees to the prevailing party."

27 **SECTION 3.** G.S. 22B-20 reads as rewritten:

28 **"§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.**

29 (a) The intent of the General Assembly is to protect the public health, safety, and  
30 welfare by encouraging the development and use of solar resources and by prohibiting deed  
31 restrictions, covenants, and other similar agreements that could have the ultimate effect of  
32 driving the costs of owning and maintaining a residence beyond the financial means of most  
33 owners.

34 (b) Except as provided in subsection (d) of this section, any deed restriction, covenant,  
35 or similar binding agreement that runs with the land that would prohibit, or have the effect of  
36 prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for  
37 traditional energy for water heating, active space heating and cooling, passive heating, or  
38 generating electricity for a ~~detached single family residence~~residential property on land subject  
39 to the deed restriction, covenant, or agreement is void and unenforceable. As used in this  
40 section, the term "residential property" means property where the predominant use is for  
41 residential purposes.

42 (c) This section does not prohibit a deed restriction, covenant, or similar binding  
43 agreement that runs with the land that would regulate the location or screening of solar  
44 collectors as described in subsection (b) of this section, provided the deed restriction, covenant,  
45 or similar binding agreement does not have the effect of preventing the reasonable use of a  
46 solar collector for a ~~detached single family residence-residential property~~.

47 (d) This section does not prohibit a deed restriction, covenant, or similar binding  
48 agreement that runs with the land that would prohibit the location of solar collectors as  
49 described in subsection (b) of this section that are visible by a person on the ground:

- 50 (1) On the façade of a structure that faces areas open to common or public  
51 access;

- 1 (2) On a roof surface that slopes downward toward the same areas open to  
2 common or public access that the façade of the structure faces; or  
3 (3) Within the area set off by a line running across the façade of the structure  
4 extending to the property boundaries on either side of the façade, and those  
5 areas of common or public access faced by the structure.

6 (e) In any civil action arising under this section, the court may award costs and  
7 reasonable attorneys' fees to the prevailing party."

8 **SECTION 4.** G.S. 160A-400.4 reads as rewritten:

9 **"§ 160A-400.4. Designation of historic districts.**

10 (a) Any municipal governing board may, as part of a zoning or other ordinance enacted  
11 or amended pursuant to this Article, designate and from time to time amend one or more  
12 historic districts within the area subject to the ordinance. Such ordinance may treat historic  
13 districts either as a separate use district classification or as districts which overlay other zoning  
14 districts. Where historic districts are designated as separate use districts, the zoning ordinance  
15 may include as uses by right or as conditional uses those uses found by the Preservation  
16 Commission to have existed during the period sought to be restored or preserved, or to be  
17 compatible with the restoration or preservation of the district.

18 (b) No historic district or districts shall be designated under subsection (a) of this  
19 section until:

- 20 (1) An investigation and report describing the significance of the buildings,  
21 structures, features, sites or surroundings included in any such proposed  
22 district, and a description of the boundaries of such district has been  
23 prepared, and  
24 (2) The Department of Cultural Resources, acting through the State Historic  
25 Preservation Officer or his or her designee, shall have made an analysis of  
26 and recommendations concerning such report and description of proposed  
27 boundaries. Failure of the department to submit its written analysis and  
28 recommendations to the municipal governing board within 30 calendar days  
29 after a written request for such analysis has been received by the Department  
30 of Cultural Resources shall relieve the municipality of any responsibility for  
31 awaiting such analysis, and said board may at any time thereafter take any  
32 necessary action to adopt or amend its zoning ordinance.

33 (c) The municipal governing board may also, in its discretion, refer the report and  
34 proposed boundaries under subsection (b) of this section to any local preservation commission  
35 or other interested body for its recommendations prior to taking action to amend the zoning  
36 ordinance. With respect to any changes in the boundaries of such district subsequent to its  
37 initial establishment, or the creation of additional districts within the jurisdiction, the  
38 investigative studies and reports required by subdivision (1) of subsection (b) of this section  
39 shall be prepared by the preservation commission, and shall be referred to the local planning  
40 agency for its review and comment according to procedures set forth in the zoning ordinance.  
41 Changes in the boundaries of an initial district or proposal for additional districts shall also be  
42 submitted to the Department of Cultural Resources in accordance with the provisions of  
43 subdivision (2) of subsection (b) of this section.

44 On receipt of these reports and recommendations, the municipality may proceed in the same  
45 manner as would otherwise be required for the adoption or amendment of any appropriate  
46 zoning ordinance provisions.

47 (d) The provisions of G.S. 160A-201 apply to zoning or other ordinances pertaining to  
48 historic districts, and the authority under G.S. 160A-201(b) for the ordinance to regulate the  
49 location or screening of solar collectors, may encompass requiring the use of plantings or other  
50 measures to ensure that the use of solar collectors is not incongruous with the special character  
51 of the district."

1           **SECTION 5.** This act becomes effective October 1, 2009. Section 3 of this act  
2 applies to deed restrictions, covenants, or similar binding agreements that run with the land and  
3 that are recorded on or after that date.