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HOUSE BILL 587

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO REAL PROPERTY; PROHIBITING RESTRICTIONS ON THE
INSTALLATION OR USE OF SOLAR COLLECTORS OR WATER CONSERVATION
MEASURES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-18-32 NMSA 1978 (being Laws 2007,
Chapter 232, Section 1) is amended to read:

"3-18-32. LIMITATION OF [~~COUNTY AND~~] MUNICIPAL
RESTRICTIONS ON SOLAR COLLECTORS AND WATER CONSERVATION
MEASURES.--

A. A [~~county or~~] municipality shall not restrict
the installation of a solar collector as defined pursuant to
the Solar Rights Act, except that placement of solar collectors
in historic districts may be regulated or restricted by a
[~~county or~~] municipality.

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underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 B. A ~~[covenant, restriction or condition contained~~
2 ~~in a deed, contract, security agreement or other instrument,~~
3 ~~effective after July 1, 1978, affecting the transfer, sale or~~
4 ~~use of, or an interest in, real property that effectively~~
5 ~~prohibits the installation or use of a solar collector is void~~
6 ~~and unenforceable]~~ municipality shall not restrict the
7 installation of water conservation measures, including the use
8 of rain barrels, rainwater harvesting systems, efficient
9 irrigation systems or low-water-use plants and landscape
10 design, except that water conservation measures in historic
11 districts may be regulated or restricted by a municipality. A
12 municipality may regulate any water conservation measure deemed
13 to be a threat to public health and safety."

14 SECTION 2. A new section of Chapter 4 NMSA 1978 is
15 enacted to read:

16 "[NEW MATERIAL] LIMITATION OF COUNTY RESTRICTIONS ON SOLAR
17 COLLECTORS AND WATER CONSERVATION MEASURES.--

18 A. A county shall not restrict the installation of
19 a solar collector as defined pursuant to the Solar Rights Act,
20 except that placement of solar collectors in historic districts
21 may be regulated or restricted by a county.

22 B. A county shall not restrict the installation of
23 water conservation measures, including the use of rain barrels,
24 rainwater harvesting systems, efficient irrigation systems or
25 low-water-use plants and landscape design, except that water

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1 conservation measures in historic districts may be regulated or
2 restricted by a county. A county may regulate any water
3 conservation measure deemed to be a threat to public health and
4 safety."

5 SECTION 3. A new section of Chapter 47 NMSA 1978 is
6 enacted to read:

7 "[NEW MATERIAL] RESTRICTIONS ON SOLAR COLLECTORS AND WATER
8 CONSERVATION MEASURES--FINDINGS AND PUBLIC POLICY.--

9 A. The legislature finds that:

10 (1) New Mexico often faces water shortages due
11 to the state's arid climate and water conservation measures can
12 be used to save water, especially during times of drought;

13 (2) the state's climate makes it an ideal
14 location for and the legislature has encouraged the use of
15 solar technology to produce energy;

16 (3) New Mexico residents benefit from and have
17 used solar technology and water conservation measures on their
18 private property; and

19 (4) it is in the state's best interest that
20 its residents not be limited in how solar technology and water
21 conservation measures are used on private property.

22 B. A covenant, restriction or condition contained
23 in a deed, contract, security agreement or other instrument,
24 effective after July 1, 1978, affecting the transfer, sale, use
25 of or interest in real property is void and unenforceable if it

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underscoring material = new
~~[bracketed material] = delete~~

1 prohibits the installation, restricts the use, impairs the
2 functioning or adversely affects the cost or efficiency of a
3 solar collector as defined in the Solar Rights Act.

4 C. A covenant, restriction or condition contained
5 in a deed, contract, security agreement or other instrument,
6 affecting the transfer, sale, use of or interest in real
7 property is void and unenforceable if it prohibits the
8 installation, restricts the use, impairs the functioning or
9 adversely affects the cost or efficiency of water conservation
10 measures, including the use of rain barrels, rainwater
11 harvesting systems, efficient irrigation systems, low-water-use
12 plants and turf or water conserving landscape design."

13 SECTION 4. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2011.