

# House Bill 2574

Sponsored by Representative BARNHART; Representatives LIVELY, REARDON, SMITH WARNER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits inclusion, in instrument conveying or contracting to convey real property or in declaration or bylaws of planned community or condominium, of provisions prohibiting installation and use of solar panels for obtaining solar access.

## A BILL FOR AN ACT

1  
2 Relating to solar access for residential real property; creating new provisions; and amending ORS  
3 93.270.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 93.270 is amended to read:

6 93.270. (1) A person conveying or contracting to convey fee title to real property may not in-  
7 clude in an instrument for that purpose a provision **that**:

8 (a) [*Restricting*] **Restricts** the use of the real property by any person or group of persons by  
9 reason of race, color, religion, sex, sexual orientation, national origin or disability.

10 (b) [*Restricting*] **Restricts** the use of the real property by any home or facility that is licensed  
11 under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunc-  
12 tion with treatment or training or a combination thereof.

13 (c) **Prohibits the installation and use, on residential lots, residential parcels or other**  
14 **lawfully established units of land for residential use, of solar panels for obtaining solar access**  
15 **as described in ORS 215.044 and 227.190.**

16 (2) Any provision in an instrument executed in violation of subsection (1) of this section is void  
17 and unenforceable.

18 (3) An instrument that contains a provision restricting the use of real property in a manner  
19 listed in subsection (1)(b) of this section does not give rise to any public or private right of action  
20 to enforce the restriction.

21 (4)[*(a)*] An instrument that contains a provision restricting the use of real property by requiring  
22 roofing materials with a lower fire rating than that required in the state building code established  
23 under ORS chapter 455 does not give rise to any public or private right of action to enforce the  
24 restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on  
25 public or private right of action under this [*paragraph*] **subsection** are limited solely to consider-  
26 ations of fire rating.

27 [*(b)*] (5) As used in this [*subsection,*] **section**:

28 (a) **“Lawfully established unit of land” has the meaning given that term in ORS 92.010.**

29 (b) **“Lot” has the meaning given that term in ORS 92.010.**

30 (c) **“Parcel” has the meaning given that term in ORS 92.010.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1           (d) “Wildfire hazard zones” are areas that are legally declared by a governmental agency having  
2 jurisdiction over the area to have special hazards caused by a combination of combustible natural  
3 fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over  
4 relatively long periods each year. Wildfire hazard zones shall be determined using criteria estab-  
5 lished by the State Forestry Department.

6           **SECTION 2. Section 3 of this 2015 Act is added to and made a part of ORS 94.550 to 94.783.**

7           **SECTION 3. (1) A provision in a declaration or bylaws of a planned community is void  
8 and unenforceable as a violation of the public policy to protect the public health, safety and  
9 welfare of the people of Oregon if the provision prohibits an owner from installing or using  
10 solar panels for obtaining solar access as described in ORS 215.044 and 227.190.**

11           **(2) An owner of record of real property subject to an instrument that contains a pro-  
12 vision described in this section may file a petition to remove the provision in the manner  
13 provided in ORS 93.272 for removal of a similar provision from an instrument conveying or  
14 contracting to convey real property.**

15           **SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS chapter 100.**

16           **SECTION 5. (1) A provision in a declaration or bylaws of a condominium is void and  
17 unenforceable as a violation of the public policy to protect the public health, safety and  
18 welfare of the people of Oregon if the provision prohibits a unit owner from installing or  
19 using solar panels for obtaining solar access as described in ORS 215.044 and 227.190.**

20           **(2) An owner of record of real property subject to an instrument that contains a pro-  
21 vision described in this section may file a petition to remove the provision in the manner  
22 provided in ORS 93.272 for removal of a similar provision from an instrument conveying or  
23 contracting to convey real property.**