

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

1

HOUSE BILL 1353

Short Title: Conserve Energy/Water. (Public)

Sponsors: Representatives Harrison, Samuelson, Fisher (Primary Sponsors); Faison, Goforth, Insko, Luebke, and Weiss.

Referred to: Energy and Energy Efficiency, if favorable, Water Resources and Infrastructure.

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CITIES AND COUNTIES TO ADOPT ORDINANCES THAT PROHIBIT DEED RESTRICTIONS, COVENANTS, EQUITABLE SERVITUDES, OR ANY SIMILAR BINDING AGREEMENTS THAT WOULD PROHIBIT THE INSTALLATION OF SOLAR COLLECTORS, CLOTHESLINES, RAIN BARRELS, GARDEN FENCES, OR ANY OTHER DEVICES DESIGNED TO GENERATE OR CONSERVE ENERGY THROUGH THE USE OF RENEWABLE RESOURCES OR TO CAPTURE, STORE, OR REUSE WATER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-202. Prohibiting deed restrictions or similar binding agreements that restrict energy-generating or energy- or water-saving devices.

(a) A city may by ordinance declare void and unenforceable any deed restriction, covenant, equitable servitude, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector, clothesline, rain barrel, garden fence, or any other device designed to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device where the device is proposed to be located. Such ordinance may also provide that a property owner shall not be denied permission to install any such device by any entity granted the power or right in any deed restriction, covenant, equitable servitude, or similar binding agreement to approve, forbid, control, or direct the alteration of property. An ordinance adopted pursuant to this section shall not prohibit the adoption or enforcement of any deed restriction, covenant, equitable servitude, similar binding agreement, or any rule or regulation adopted by a property owners association that is designed to ensure that any such device is installed and maintained in such a manner that it does not pose a risk to the health or safety of any person. No ordinance adopted pursuant to this section shall apply to any condominium created under Chapter 47C of the General Statutes.

(b) An ordinance adopted under this section may provide for enforcement using any of the means authorized by G.S. 160A-175. In addition, any person aggrieved by a violation of an ordinance adopted under this section may apply to a court of competent jurisdiction for equitable relief against the enforcement of any deed restriction, covenant, equitable servitude, or similar binding agreement that is prohibited by such ordinance, and the court may award costs and reasonable attorneys' fees to the prevailing party in any such action."



* H 1 3 5 3 - V - 1 *

1 **SECTION 2.** Article 6 of Chapter 153A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 153A-144.1. Prohibiting deed restrictions or similar binding agreements that restrict**
4 **energy-generating or energy- or water-saving devices.**

5 (a) A county may by ordinance declare void and unenforceable any deed restriction,
6 covenant, equitable servitude, or similar binding agreement that runs with the land that would
7 prohibit, or have the effect of prohibiting, the installation of a solar collector, clothesline, rain
8 barrel, garden fence, or any other device designed to generate or conserve energy through the
9 use of renewable resources or to capture, store, or reuse water, so long as such installation is
10 done by or on behalf of a person who otherwise has a property right to install such device
11 where the device is proposed to be located. Such ordinance may also provide that a property
12 owner shall not be denied permission to install any such device by any entity granted the power
13 or right in any deed restriction, covenant, equitable servitude, or similar binding agreement to
14 approve, forbid, control, or direct the alteration of property. An ordinance adopted pursuant to
15 this section shall not prohibit the adoption or enforcement of any deed restriction, covenant,
16 equitable servitude, similar binding agreement, or any rule or regulation adopted by a property
17 owners association that is designed to ensure that any such device is installed and maintained in
18 such a manner that it does not pose a risk to the health or safety of any person. No ordinance
19 adopted pursuant to this section shall apply to any condominium created under Chapter 47C of
20 the General Statutes.

21 (b) An ordinance adopted under this section may provide for enforcement using any of
22 the means authorized by G.S. 153A-123. In addition, any person aggrieved by a violation of an
23 ordinance adopted under this section may apply to a court of competent jurisdiction for
24 equitable relief against the enforcement of any deed restriction, covenant, equitable servitude,
25 or similar binding agreement that is prohibited by such ordinance, and the court may award
26 costs and reasonable attorneys' fees to the prevailing party in any such action."

27 **SECTION 3.** This act is effective when it becomes law.