

38-33.3-106.7. Unreasonable restrictions on energy efficiency measures - definitions.

(1) (a) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, **an association shall not effectively prohibit the installation or use of an energy efficiency measure.**

(b) As used in this section, **"energy efficiency measure" means a device or structure that reduces the amount of energy** derived from fossil fuels that is consumed by a residence or business located on the real property. "Energy efficiency measure" is further limited to include only the following types of devices or structures:

(I) An awning, shutter, trellis, armada, or other shade structure that is marketed for the purpose of reducing energy consumption;

(II) A garage or attic fan and any associated vents or louvers;

(III) An evaporative cooler;

(IV) An energy-efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar recharging panel, motion detector, or other equipment connected to the lighting device; and

(V) A retractable clothesline.

(2) Subsection (1) of this section shall not apply to:

(a) **Reasonable aesthetic provisions that govern the dimensions, placement, or external appearance of an energy efficiency measure.** In creating reasonable aesthetic provisions, common interest communities shall consider:

(I) The impact on the purchase price and operating costs of the energy efficiency measure;

(II) **The impact on the performance of the energy efficiency measure;** and

(III) The criteria contained in the governing documents of the common interest community.

(b) Bona fide safety requirements, consistent with an applicable building code or recognized safety standard, for the protection of persons and property.

(3) This section shall not be construed to confer upon any property owner the right to place an energy efficiency measure on property that is:

(a) Owned by another person;

(b) Leased, except with permission of the lessor;

(c) Collateral for a commercial loan, except with permission of the secured party; or

(d) A limited common element or general common element of a common interest community.

Source: L. 2008: Entire section added, p. 618, § 2, effective August 5.