

1 H.787

2 Introduced by Representatives Gallivan of Chittenden, Burke of Brattleboro,

3 Lanpher of Vergennes, McCarthy of St. Albans City, and

4 Wilson of Manchester

5 Referred to Committee on

6 Date:

7 Subject: Conservation and development; energy; property; condominiums;

8 weatherization

9 Statement of purpose of bill as introduced: This bill proposes to allow  
10 individuals living in a common interest community or condominium subject to  
11 deed restrictions, covenants, or binding agreements to install certain  
12 weatherization measures. The bill also would apply to other properties subject  
13 to similar deed restrictions, covenants, or binding agreements.

14 An act relating to weatherization measures in common interest communities

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 27 V.S.A. § 544 is amended to read:

17 § 544. ENERGY DEVICES BASED ON RENEWABLE RESOURCES;

18 WEATHERIZATION MEASURES

19 (a) ~~No A deed restrictions restriction, covenants covenant,~~ or similar

20 binding ~~agreements agreement~~ running with the land shall not prohibit or have

1 the effect of prohibiting solar collectors, clotheslines, or other energy devices  
2 based on renewable resources from being installed on buildings erected on the  
3 lots or parcels covered by the deed restrictions, covenants, or binding  
4 agreements. ~~A property owner may not be denied permission to install solar~~  
5 ~~collectors or other energy devices based on renewable resources by any entity~~  
6 ~~granted the power or right in any deed restriction, covenant, or similar binding~~  
7 ~~agreement to approve, forbid, control, or direct alteration of property with~~  
8 ~~respect to residential dwellings.~~ Any entity granted the authority in any deed  
9 restriction, covenant, or similar binding agreement to approve, forbid, control,  
10 or direct alteration of property with respect to residential dwellings shall not  
11 deny a property owner permission to install solar collectors or other energy  
12 devices based on renewable resources. For purposes of this subsection, that  
13 entity may determine the specific location where solar collectors may be  
14 installed on the roof within an orientation to the south or within 45° east or  
15 west of due south, provided that this determination does not impair the  
16 effective operation of the solar collectors.

17 (b) A deed restriction, covenant, or similar binding agreement running with  
18 the land shall not prohibit or have the effect of prohibiting installation of a  
19 screen door, storm window, or other weatherization measure that serves to  
20 conserve energy from being installed on buildings covered by the deed  
21 restriction, covenant, or binding agreement. Any entity granted the authority

1 in any deed restriction, covenant, or similar binding agreement to approve,  
2 forbid, control, or direct alteration of property with respect to residential  
3 dwellings shall not deny a property owner permission to install weatherization  
4 measures. Nothing in this subsection shall prevent the entity from regulating  
5 the appearance of the weatherization measure, provided that this regulation  
6 does not impair the effectiveness of the weatherization measure, or from  
7 otherwise exercising those powers provided by section 1307 of this title and  
8 27A V.S.A. § 3-102.

9 (c) In any litigation arising under the provisions of this section, the  
10 prevailing party shall be entitled to costs and reasonable attorney's fees.

11 ~~(e)~~(d) The legislative intent in enacting this section is to protect the public  
12 health, safety, and welfare by encouraging the development and use of  
13 renewable resources and weatherization measures in order to conserve and  
14 protect the value of land, buildings, and resources by preventing measures  
15 which will have the ultimate effect, whether or not intended, of driving the  
16 costs of owning and operating commercial or residential property beyond the  
17 capacity of private owners to maintain. This section shall not apply to patio  
18 railings in condominiums, cooperatives, or apartments.

19 Sec. 2. EFFECTIVE DATE

20 This act shall take effect on passage.