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## SENATE BILL NO. 320

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on February 4, 2008)

(Patron Prior to Substitute—Senator Wagner)

A BILL to amend and reenact §§ 67-700 and 67-701 of the Code of Virginia, relating to covenants restricting solar energy collection devices.

Be it enacted by the General Assembly of Virginia:

1. That §§ 67-700 and 67-701 of the Code of Virginia are amended and reenacted as follows:

§ 67-700. Definitions.

As used in this chapter:

"Community association" means an unincorporated association or corporation that owns or has under its care, custody, or control real estate subject to a recorded declaration of covenants that obligates a person, by virtue of ownership of specific real estate, to be a member of the unincorporated association or corporation.

"Restrictive covenant" means any specification in any instrument affecting title to real property in the Commonwealth.

"Solar energy collection device" means any device that facilitates the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

§ 67-701. Covenants regarding solar power.

A. Except to the extent provided in the condominium instruments, declaration, or rules and regulations duly adopted pursuant thereto, no community association shall enact any provisions restricting solar power or as provided in subsection D, any restrictive covenant included in an instrument affecting the title to real or leasehold property, that restricts the installation or use of any solar energy collection device on units or lots that are part of the development real property in the Commonwealth is declared to be void and contrary to the public policy of the Commonwealth.

B. The A community association may prohibit or restrict shall not enforce any provision of a restrictive covenant that became effective on or after July 1, 2008, that restricts the installation and use of such solar energy collection devices on the common elements or common areas of real estate that the community association owns or has under its care, custody, or control.

C. Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes a restrictive covenant that includes a provision that became effective on or after July 1, 2008, that restricts the installation or use of any solar energy collection device until the covenant has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

D. This section shall not apply with respect to any provision of a restrictive covenant that restricts the installation or use of any solar energy collection device if such provision became effective prior to July 1, 2008.