



February 12, 2024

House Committee on Local Government
Kansas State Capitol
300 SW 10th St.
Topeka, Kansas 66612

Comments Submitted Via: H.Local.Govt@house.ks.gov

RE: CAI Support for HB 2268 Prohibiting certain restrictions of residential solar energy devices.

Dear Chair Bergquist, Vice Chair Blex, Ranking Minority Member Featherston, and Representatives Amyx, Barth, Bloom, Collins, Essex, Gardner, Melton, Miller, Parshall, and Underhill,

On behalf of Community Associations Institute¹(CAI)ⁱ and approximately 154,000 Kansans living in 62,000 homes in around 2,000 community associations², thank you for the opportunity to provide written support of [HB 2268 Prohibiting certain restrictions of residential solar energy devices](#).

CAI supports HB 2268 as written, as the bill's language allows for an appropriate balance between a homeowner's right to make modifications to their property to promote energy efficiency through the installation of solar panels, and an association's right to impose reasonable rules and regulations.

[CAI Support for HB 2268 Prohibiting certain restrictions of residential solar energy devices.](#)

CAI supports environmental and energy efficiency policies that recognize and respect the governance and contractual obligations of community association residents as the best mechanism to enact sustainable environmental policies³. CAI supports legislation that allows a community to adopt and enforce reasonable rules related to the use and installation of solar

¹ [About CAI and the Community Association Housing Model](#)

CAI is the only international membership organization dedicated to the community association model of homeownership. CAI members are homeowners, association board members, managing agents and business partners who work tirelessly to improve the community association model of housing. CAI members have a keen focus on homeowner and board member education, development and enforcement of best practices and ethical standards, and raising standards through credentialing and continuing education requirements for community association professionals. CAI's more than 44,000 members are organized in more than 64 chapters.

² Foundation for Community Association Research 2022 Kansas Community Association State Facts and Figures: www.caionline.org/Advocacy/LegalArena/Laws/Documents/Facts%20%26%20Figures/StateFactsFiguresKansas.pdf

³ CAI Conservation, Sustainability, and Green Issues Public Policy: www.caionline.org/Advocacy/PublicPolicies/Pages/Conservation-Sustainability-Green-Issues.aspx



devices. Rules may include, but are not limited to, infrastructure is reasonably sized and placed, does not constitute a legitimate safety hazard, and reasonably reflects the aesthetic character of the community. Homeowners association covenants and bylaws are drafted to reflect the needs and interests of residents in the community. These rules are made by homeowners in the community to protect the community's character and property values.

HB 2268, as written, allows for the broad imposition of reasonable rules and regulations, as determined by the homeowners living in a community association, rather than listing specific issues that an association may regulate. The bill does contain language stating limitations to what would be considered a reasonable rule, but this language is broadly in line with public policies found in other states that have chosen to legislate on the matter, including Missouri and Arizona (see Appendix 2). Currently, 29 states have adopted statutory language on the presence of solar panels in community associations (see Appendix 1).

HB 2268 also preserves the right for associations to prohibit the installation of solar devices on limited common elements or common elements. In some community associations, including condominiums, housing cooperatives, and some townhome communities, the owner of the home does not own the property in which the solar device may need to be installed. For example, a condominium building roof, exterior walls, and windows are owned – and insured, maintained, and the responsibility of the condominium association. In other communities, an owner may have exclusive use of a particular common element (such as a parking space), but the property itself is still owned and maintained by the community association. CAI believes that in these instances, the association should be allowed to forbid one owner from installing a solar device on co-owned (also known as commonly owned) property, as it could cause financial burdens on all homeowners, as modifications to property owned by the association would need to be paid for by member homeowners.

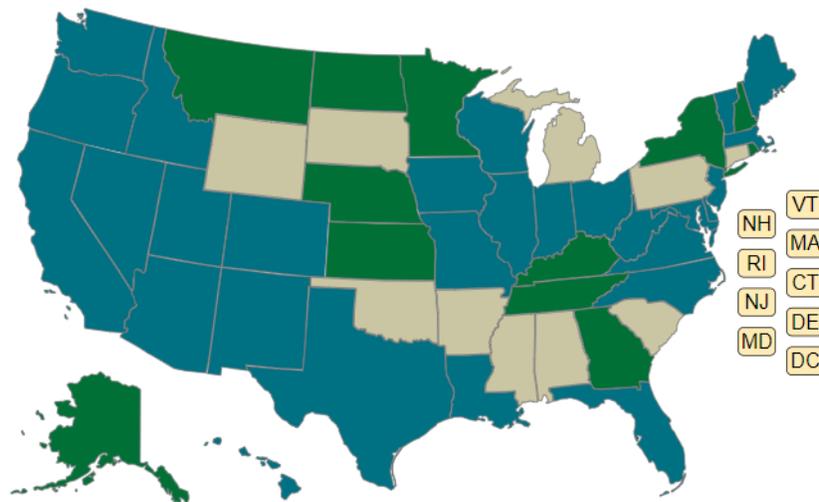
We hope the comments provided in this letter are helpful to the Committee and will assist in developing public policy that is sensible for residents living in Kansas' community associations. Please feel free to contact us to discuss these comments or any legislation impacting community association residents in Kansas. I look forward to an open discussion with your office.

Respectfully,

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APPENDIX 1

Solar Rights and Easement Legislation by State in Homeowner Associations and Common Interest Communities



States (**shaded blue**) that offer the ability to prohibit covenants or restrictions placed upon homeowners preventing the installation of solar powered panels and associated devices:

- [Arizona](#)
- [California](#)
- [Colorado](#)
- [Delaware](#)
- [District of Columbia](#)
- [Florida](#)
- [Hawaii](#)
- [Idaho](#)
- [Illinois](#)
- [Indiana](#)
- [Iowa](#)
- [Louisiana](#)
- [Maine](#)
- [Maryland](#)
- [Massachusetts](#)
- [Missouri](#)
- [Nevada](#)
- [New Jersey](#)
- [New Mexico](#)
- [North Carolina](#)
- [Ohio](#)
- [Oregon](#)
- [Texas](#)
- [Utah](#)
- [Vermont](#)
- [Virginia](#)
- [Washington](#)
- [West Virginia](#)
- [Wisconsin](#)

States (**shaded green**) with laws that protect easements and their establishment on a legal contractual basis without having an express solar rights law :



- [Alaska](#)
- [Kentucky](#)
- [Montana](#)
- [New York](#)
- [Rhode](#)
- [Georgia](#)
- [Minnesota](#)
- [Nebraska](#)
- [North Dakota](#)
- [Island](#)
- [Kansas](#)
- [New Hampshire](#)
- [Tennessee](#)

Updated December 2023.

APPENDIX 2

Solar and Community Associations Statutes

(Samples from Arizona and Missouri) – 9/18/2019

Solar Restrictions - Arizona

AZ Code 33-1816

Solar energy devices; reasonable restrictions; fees and costs

A. Notwithstanding any provision in the community documents, an association shall not prohibit the installation or use of a solar energy device as defined in section 44-176.

B. An association may adopt reasonable rules regarding the placement of a solar energy device if those rules do not prevent the installation, impair the functioning of the device or restrict its use or adversely affect the cost or efficiency of the device.

C. Notwithstanding any provision of the community documents, the court shall award reasonable attorney fees and costs to any party who substantially prevails in an action against the board of directors of the association for a violation of this section.

Solar Restrictions - Missouri

442.404.

3. (1) No deed restrictions, covenants, or similar binding agreements running with the land shall limit or prohibit, or have the effect of limiting or prohibiting, the installation of solar panels or solar collectors on the rooftop of any property or structure. (2) A homeowners' association may adopt reasonable rules, subject to any applicable statutes or ordinances, regarding the placement of solar panels or solar collectors to the extent that those rules do not prevent the installation of the device, impair the functioning of the device, restrict the use of the device, or adversely affect the cost or efficiency of the device. (3) The provisions of this subsection shall apply only with regard to rooftops that are owned, controlled, and maintained by the owner of the individual property or structure.

ⁱ Background

CAI represents the interest of homeowners, community association management companies and business that support the more than 74.1 million Americans who live in a homeowners' association, planned community or condominium. Approximately 29% of the housing stock today is in a community association, also known as

condominium, homeowners association, and housing cooperative. Community association housing plays a critical role in meeting housing needs in a time of tight state and local budgets.

Since 1973, CAI has been working with state legislatures and the federal government to provide input on sensible public policy for the community association housing model. CAI is pleased to provide specific information to the Committee to improve LB 1119.

Role & Benefit Community Association Housing

Emerging in the 1970s, community association housing was a means to address issues of land use and limited resources at the state and local level for housing development. HOAs and condominiums allowed for affordable and efficient construction of housing while concurrently limited the financial impact of such development on local and state governments. The investment in community infrastructure including roads, retention ponds, parks, club houses and amenities are borne by developers and the ongoing cost of maintenance is supported by assessments paid by residents of the community association. Amenities and infrastructure are driven by market considerations and the result is a vast array of communities that provide consumers with an array of choices in housing and lifestyles.

When purchasing a home in a community association, a resident enters a contractual arrangement which obligates them to pay assessments to their association, which is governed by a board elected by the residents. Such communities, through deed restrictions and adopted rules have provisions to enhance and maintain the property values of homes in the community. The benefits of such communities accrue to both residents, taxpayers, and local business. First, homes in community associations are worth at minimum, 5% more than homes in a traditional community. This directly benefits the purchaser, but also the larger jurisdiction through enhanced property taxes resulting from this value premium. Additionally, community association residents assess themselves to maintain the infrastructure and amenities in their community, costs that would otherwise fall on state or local governments.

More importantly, community associations provide residents with an accessible opportunity for civic involvement. Community Associations are governed by their residents, who elect representatives to serve on a board of directors. This provides a level of local governance that residents find highly responsive to their needs. 89% of association residents rate their experience as positive or neutral, and 87% believe their elected boards strive to serve the best interests of their community. In total, more than 2.5 million Americans demonstrate their civic commitment by service on a community association board each year.