CHAPTER 564A

ACCESS TO SOLAR ENERGY

564A.1 Purpose.
564A.2 Definitions.
564A.3 Designation.
564A.4 Application for solar access easement.
564A.5 Decision.
564A.6 Removal of easement.
564A.7 Solar access easements.
564A.8 Restrictive covenants.
564A.9 Assistance to local government bodies and the public.

564A.1 Purpose.

It is the purpose of this chapter to facilitate the orderly development and use of solar energy by establishing and providing certain procedures for obtaining access to solar energy.

[81 Acts, ch 184, §3]

564A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Development of property"* means construction, landscaping, growth of vegetation, or other alteration of property that interferes with the operation of a solar collector.
2. *"Dominant estate"* means that parcel of land to which the benefits of a solar access easement attach.
3. *"Servient estate"* means land burdened by a solar access easement, other than the dominant estate.
4. *"Solar access easement"* means an easement recorded under section 564A.7, the purpose of which is to provide continued access to incident sunlight necessary to operate a solar collector.
5. *"Solar access regulatory board"* means the board designated by a city council or county board of supervisors under section 564A.3 to receive and act on applications for a solar access easement or in the absence of a specific designation, the district court having jurisdiction in the area where the dominant estate is located. Notwithstanding chapter 602 the jurisdiction of the district court established in this subsection may be exercised by district associate judges.
6. *"Solar collector"* means a device or structural feature of a building that collects solar energy and that is part of a system for the collection, storage, and distribution of solar energy. For purposes of this chapter, a greenhouse is a solar collector.
7. *"Solar energy"* means energy emitted from the sun and collected in the form of heat or light by a solar collector.

[81 Acts, ch 184, §4]

564A.3 Designation.

The city council or the county board of supervisors may designate a solar access regulatory board to receive and act on applications for a solar access easement. The board designated by the city council may be a board of adjustment having jurisdiction in the city, the city council itself, or any board with at least three members. The board designated by the county board of supervisors may be a board of adjustment having jurisdiction in the county, the board of supervisors itself, or any other board with at least three members. The jurisdiction of a board designated by the city council extends to applications when the dominant estate is located in the city. The jurisdiction of a board designated by the county board of supervisors extends to applications when the dominant estate is located in the county but outside the city limits of a city. In the absence of the designation of a specific board under this section, the district court having jurisdiction in the area where the dominant estate is located shall receive and act on applications submitted under section 564A.4 and to that extent shall serve as the solar access regulatory board for purposes of this chapter. Notwithstanding chapter 602 the jurisdiction of the district court established in this section may be exercised by district associate judges.

[81 Acts, ch 184, §5]

Referred to in **§564A.2**, **§564A.4**

564A.4 Application for solar access easement.

1. An owner of property may apply to the solar access regulatory board designated under section 564A.3 for an order granting a solar access easement. The application must be filed before installation or construction of the solar collector. The application shall state the following:

a. A statement of the need for the solar access easement by the owner of the dominant estate.

b. A legal description of the dominant and servient estates.

c. The name and address of the dominant and servient estate owners of record.

d. A description of the solar collector to be used.

e. The size and location of the collector, including heights, its orientation with respect to south, and its slope from the horizontal shown either by drawings or in words.

f. An explanation of how the applicant has done everything reasonable, taking cost and efficiency into account, to design and locate the collector in a manner to minimize the impact on development of servient estates.

g. A legal description of the solar access easement which is sought and a drawing that is a spatial representation of the area of the servient estate burdened by the easement illustrating the degrees of the vertical and horizontal angles through which the easement extends over the burdened property and the points from which those angles are measured.

h. A statement that the applicant has attempted to voluntarily negotiate a solar access easement with the owner of the servient estate and has been unsuccessful in obtaining the easement voluntarily.

i. A statement that the space to be burdened by the solar access easement is not obstructed at the time of filing of the application by anything other than vegetation that would shade the solar collector.

2. Upon receipt of the application the solar access regulatory board shall determine whether the application is complete and contains the information required under subsection 1. The board may return an application for correction of any deficiencies. Upon acceptance of an application the board shall schedule a hearing. The board shall cause a copy of the application and a notice of the hearing to be served upon the owners of the servient estates in the manner provided for service of original notice and at least twenty days prior to the date of the hearing. The notice shall state that the solar access regulatory board will determine whether and to what extent a solar access easement will be granted, that the board will determine the compensation that may be awarded to the servient estate owner if the solar access easement is granted and that the servient estate owner has the right to contest the application before the board.

3. The applicant shall pay all costs incurred by the solar access regulatory board in copying and mailing the application and notice.

4. An application for a solar access easement submitted to the district court acting as the solar access regulatory board under this chapter is not subject to the small claims procedures under chapter 631.

[81 Acts, ch 184, §6]

Referred to in **§564A.3**

564A.5 Decision.

1. After the hearing on the application, the solar access regulatory board shall determine whether to issue an order granting a solar access easement. The board shall grant a solar access easement if the board finds that there is a need for the solar collector, that the space burdened by the easement was not obstructed by anything except vegetation that would shade the solar collector at the time of filing of the application, that the proposed location of the collector minimizes the impact of the easement on the development of the servient estate and that the applicant tried and failed to negotiate a voluntary easement. However, the board may refuse to grant a solar access easement upon a finding that the easement would require the removal of trees that provide shade or a windbreak to a residence on the servient estate. The board shall not grant a solar access easement upon a servient estate if the board finds that the owner, at least six months prior to the filing of the application, has made a substantial

financial commitment to build a structure that will shade the solar collector. In issuing its order granting the solar access easement, the board may modify the solar access easement applied for and impose conditions on the location of the solar collector that will minimize the impact upon the servient estate.

2. The solar access regulatory board shall grant a solar access easement only within the area that is within three hundred feet of the center of the northernmost boundary of the collector and is south of a line drawn east and west tangent to the northernmost boundary of the collector.

3. The solar access regulatory board shall determine the amount of compensation that is to be paid to the owners of the servient estate for the impairment of the right to develop the property. Compensation shall be based on the difference between the fair market value of the property prior to and after granting the solar access easement. The parties shall be notified of the board's decision within thirty days of the date of the hearing. The owner of the dominant estate shall have thirty days from the date of notification of the board's decision to deposit the compensation with the board. Upon receipt of the compensation, the board shall issue an order granting the solar access easement to the owner of the dominant estate and remit the compensation awarded to the owners of the servient estate. The owner of the dominant estate may decline to deposit the compensation with the board, and no order granting the solar access easement shall then be issued.

4. When the order granting the solar access easement is issued, the owner of the dominant estate shall have it recorded in the office of the county recorder who shall record the solar access easement and list the owner of the dominant estate as grantee and the owner of the servient estate as grantor in the deed index. The solar access easement after being recorded shall be considered an easement appurtenant in or on the servient estate.

[81 Acts, ch 184, §7]

Referred to in **§564A.6**

564A.6 Removal of easement.

1. The owner of a servient estate may apply to the solar access regulatory board or may petition the district court for an order removing a solar access easement granted by a solar access regulatory board under this chapter under any of the following conditions:

a. If the solar collector is not installed and made operational within two years of recording the easement under section 564A.5.

b. If the dominant estate owner ceases to use the solar collector for more than one year.

c. If the solar collector is destroyed or removed and not replaced within one year.

2. The procedure for filing an application with the solar access regulatory board under this section and for notice and hearings on the application shall be the same as that prescribed for an application for granting a solar access easement. An order issued by the district court or a solar access regulatory board removing a solar access easement may provide for the return by the servient estate owner of compensation paid by the dominant estate owner for the solar access easement after the deduction of reasonable expenses incurred by the servient estate owner in proceedings for the granting and removal of the easement.

[81 Acts, ch 184, §8]

2013 Acts, ch 30, §261

564A.7 Solar access easements.

1. Persons, including public bodies, may voluntarily agree to create a solar access easement. A solar access easement whether obtained voluntarily or pursuant to the order of a solar access regulatory board is subject to the same recording and conveyance requirements as other easements.

2. A solar access easement shall be created in writing and shall include the following:

a. The legal description of the dominant and servient estates.

b. A legal description of the space which must remain unobstructed expressed in terms of the degrees of the vertical and horizontal angles through which the solar access easement extends over the burdened property and the points from which these angles are measured.

3. In addition to the items required in subsection 2 the solar access easement may include, but the contents are not limited to, the following:

a. Any limitations on the growth of existing and future vegetation or the height of buildings or other potential obstructions of the solar collector.

b. Terms or conditions under which the solar access easement may be abandoned or terminated.

c. Provisions for compensating the owner of the property benefiting from the solar access easement in the event of interference with the enjoyment of the solar access easement, or for compensating the owner of the property subject to the solar access easement for maintaining that easement.

[81 Acts, ch 184, §9]
Referred to in **§564A.2**

564A.8 Restrictive covenants.

City councils and county boards of supervisors may include in ordinances relating to subdivisions a provision prohibiting deeds for property located in new subdivisions from containing restrictive covenants that include unreasonable restrictions on the use of solar collectors.

[81 Acts, ch 184, §10]

564A.9 Assistance to local government bodies and the public.

The department of natural resources shall make available information and guidelines to assist local government bodies and the public to understand and use the provisions of this chapter. The information and guidelines shall include an application form for a solar access easement, instructions and aids for preparing and recording solar access easements and model ordinances that promote reasonable access to solar energy.

[81 Acts, ch 184, §11]