

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 439

Introduced by Fischer, 43.

Read first time January 20, 2009

Committee: Natural Resources

A BILL

- 1 FOR AN ACT relating to energy; to adopt the Home Energy
- 2 Alternatives Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and
2 may be cited as the Home Energy Alternatives Act.

3 Sec. 2. The Legislature finds and declares that:

4 (1) Many homeowners and business owners throughout this
5 state find it difficult to pay for the cost of heating, cooling,
6 and lighting their homes and businesses;

7 (2) That while the cost of energy rises, alternative
8 methods to provide energy to homes and businesses has become more
9 available and less costly;

10 (3) That it is in the public interest to encourage the
11 use of renewable energy sources, including support for research,
12 development, and the prudent use of renewable sources of energy;

13 (4) Homeowners and business owners who choose to develop
14 energy alternatives for their homes and businesses lessens the
15 need for new power plants and other energy infrastructure, reduces
16 dependence on foreign types of energy, and utilizes forms of energy
17 that support the environment; and

18 (5) It serves a public purpose to provide mechanisms
19 and protections at the state level for persons to use alternative
20 energy improvements.

21 The Legislature encourages all Nebraskans, whether in
22 urban or rural areas of the state, to utilize renewable energy
23 sources in their homes and businesses.

24 Sec. 3. For purposes of the Home Energy Alternatives Act:

25 (1) Energy alternative improvement means a device, a

1 method, equipment, or material that reduces consumption of, or
2 increases efficiency in the use of, electricity or natural gas in
3 a residence or business, including, but not limited to, mechanisms
4 that utilize renewable resources;

5 (2) Political subdivision means any county, city,
6 village, or sanitary improvement district;

7 (3) Renewable resources means wind, moving water, solar
8 power, methane, and biomass; and

9 (4) Residence means the primary dwelling owned by any
10 resident or nonresident of Nebraska, including any corporation or
11 trust.

12 Sec. 4. Except as provided in section 6 of this act,
13 a covenant, restriction, easement, or other provision contained
14 in a deed or other conveyance which prohibits the development,
15 placing, or installation of an energy alternative improvement in,
16 on, or near a residence or in, on, or near a business is void as
17 against the public policy of this state. This section applies to
18 instruments executed on or after December 31, 2009.

19 Sec. 5. Except as provided in section 6 of this act,
20 any ordinance, zoning regulation, or other provision enacted by
21 a political subdivision which prohibits the placing of an energy
22 alternative improvement on residential property shall terminate on
23 December 31, 2009, as void against the public policy of this state.

24 Sec. 6. In order for a covenant, restriction, easement,
25 or other provision contained in a deed or any ordinance, zoning

1 regulation, or other provision regulating energy alternative
2 improvements to be permitted under the Home Energy Alternatives
3 Act, the grantor or the governing body of the political subdivision
4 shall declare that it is in the grantee's or the public's interest
5 to protect the health, safety, or welfare of the residents of the
6 deeded area or subdivision or political subdivision to prohibit the
7 development, placement, or installation of an energy alternative
8 improvement. The act shall be construed liberally so as to prohibit
9 any person from bringing an action to enforce the provisions of
10 any covenant, restriction, easement, or other provision contained
11 in a deed or any ordinance, zoning regulation, or other provision
12 regulating energy alternative improvements unless such action
13 is brought to protect the health, safety, or welfare of such
14 residents.