

CHAPTER 327

GOVERNMENT - STATE

HOUSE BILL 21-1284

BY REPRESENTATIVE(S) Valdez A. and Van Winkle, Bernett, Bird, Boeseucker, Cutter, Duran, Exum, Gray, Hooton, Jodeh, Lontine, McCormick, Michaelson Jenet, Mullica, Ricks, Woodrow;
also SENATOR(S) Hansen and Priola, Fenberg, Jaquez Lewis, Lee, Simpson, Winter.

AN ACT

CONCERNING MODIFICATIONS TO THE LIMITATION ON THE AGGREGATE AMOUNT OF FEES THAT MAY BE ASSESSED BY GOVERNMENTAL BODIES FOR THE INSTALLATION OF ACTIVE SOLAR ENERGY SYSTEMS, AND, IN CONNECTION THEREWITH, EXTENDING THE REPEAL DATE OF THE LIMITATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) It is critical to our long-term energy independence, sustainability, and stability that Colorado continue to foster an environment where renewable energy technologies can be deployed;

(b) Greater adoption of renewable energy technology will help Colorado reach its clean energy goals, outlined in the Polis Administration's "Roadmap to 100% Renewable Energy by 2040 and Bold Climate Action";

(c) The cost of permitting in connection with the installation of an active solar energy system can create a barrier for Coloradans and Colorado businesses to install and deploy distributed solar and energy storage;

(d) Current law governing the fees that may be charged by governmental bodies for the installation of active solar energy systems already includes guardrails to reduce these barriers, but there have been some instances in which these guardrails have been circumvented and further clarification of applicable statutory provisions is needed; and

(e) Fees associated with permits are intended to cover the costs incurred by local

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

governments in evaluating and issuing those permits and should not be used as additional sources of general fund revenue.

(2) (a) Accordingly, the general assembly further finds, determines, and declares that statutory provisions governing the fees that may be charged by governmental bodies for the installation of active solar energy systems must be further strengthened to provide clarity and transparency for homeowners and businesses when seeking to adopt these technologies by reasserting that the aggregate costs of all permitting fees associated with these applications shall not exceed \$500 for a residential permit and \$1,000 for a commercial permit.

(b) The general assembly further recognizes the important contribution energy storage provides to Colorado's energy independence, sustainability, and resilience.

(c) Existing statutory provisions governing the fees that may be charged by governmental bodies for the installation of active solar energy systems must make it clear that energy storage is an integral piece of the entire active solar energy system.

(d) The potential exists for the occasional project to be complex and for the actual costs associated with permitting to exceed the guardrails specified in the statute.

(e) Therefore, the general assembly further finds that flexibility should be provided to the permitting entity in these isolated cases to be able to demonstrate the actual costs associated with these individual permits and to allow the permitting entity to levy fees on such permits to cover these costs.

SECTION 2. In Colorado Revised Statutes, **amend** 24-48.5-113 as follows:

24-48.5-113. Limit on solar device fees - definitions - repeal. (1) ~~An agency, institution, authority, or political subdivision of the state shall:~~

(a) ~~Not charge permit, application review, or any other related or associated fees to install an active solar electric or solar thermal device or system that, in aggregate,~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AGGREGATE OF ALL CHARGES OR OTHER RELATED OR ASSOCIATED FEES THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE MAY IMPOSE OR ASSESS TO INSTALL AN ACTIVE SOLAR ENERGY SYSTEM SHALL NOT exceed:

(I) The lesser of the actual costs in issuing the permit or reviewing the application or five hundred dollars for a residential application or ~~two~~ ONE thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system; or

(II) The actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system.

(b) ~~Clearly~~ THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE SHALL CLEARLY and individually identify all fees and

taxes assessed on an application subject to this subsection (1) on the invoice.

(c) THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE MAY INCREASE ITS FEES OR OTHER CHARGES AS AUTHORIZED BY SUBSECTION (1)(a) OF THIS SECTION BY NO MORE THAN FIVE PERCENT ON AN ANNUAL BASIS UNTIL THE FIVE HUNDRED DOLLAR LIMITATION SPECIFIED IN SAID SUBSECTION (1)(a) IS ACHIEVED.

(d) IN THE CASE OF A NONRESIDENTIAL APPLICATION, ON AN INDIVIDUAL INSTALLATION BASIS ONLY, IF THE STATE OR ANY AGENCY, INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE INCURS ACTUAL COSTS FOR ISSUING THE PERMIT THAT ARE GREATER THAN ONE THOUSAND DOLLARS, THE STATE OR SUCH OTHER AGENCY, INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE IS ENTITLED TO RECOVERY OF ITS ACTUAL COSTS FOR ISSUING THE PERMIT BY SUBMITTING IN WRITING AND DISCLOSING TO THE APPLICANT FOR THE PARTICULAR PERMIT PROOF OF SUCH ACTUAL COSTS.

(e) AS USED IN THIS SUBSECTION (1), "ACTIVE SOLAR ENERGY SYSTEM" MEANS A SINGLE SYSTEM THAT CONTAINS ELECTRIC GENERATION, A THERMAL DEVICE, OR IS AN ENERGY STORAGE SYSTEM AS DEFINED IN SECTION 40-2-202 (2).

(2) This section is repealed, effective ~~July 1, 2025~~ DECEMBER 31, 2029.

SECTION 3. In Colorado Revised Statutes, 30-28-113, **amend** (1)(b)(II) as follows:

30-28-113. Regulation of size and use - districts - definitions - repeal.
(1) (b) (II) (A) ~~A county shall not charge permit, plan review, or any other related or associated fees~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AGGREGATE OF ALL CHARGES OR OTHER RELATED OR ASSOCIATED FEES A COUNTY SHALL IMPOSE OR ASSESS to install an active solar ~~electric or solar thermal device~~ or ENERGY system, ~~that, in aggregate,~~ SHALL NOT exceed the lesser of the county's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system, or that exceed the county's actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system. A COUNTY MAY INCREASE ITS FEES OR OTHER CHARGES AS AUTHORIZED BY THIS SUBSECTION (1)(b)(II) BY NO MORE THAN FIVE PERCENT ON AN ANNUAL BASIS UNTIL THE FIVE HUNDRED DOLLAR LIMITATION SPECIFIED IN THIS SUBSECTION (1)(b)(II) IS ACHIEVED. The county shall clearly and individually identify all fees and taxes assessed on an application subject to this subsection (1)(b)(II) on the invoice. The general assembly hereby finds that there is a statewide need for certainty regarding the fees that can be assessed for permitting such devices or systems, and therefore declares that this subsection (1)(b)(II) is a matter of statewide concern. This subsection (1)(b)(II) is repealed, effective ~~July 1, 2025~~ DECEMBER 31, 2029.

(B) IN THE CASE OF A NONRESIDENTIAL APPLICATION, ON AN INDIVIDUAL INSTALLATION BASIS ONLY, IF THE COUNTY INCURS ACTUAL COSTS FOR ISSUING THE PERMIT THAT ARE GREATER THAN ONE THOUSAND DOLLARS, THE COUNTY IS

ENTITLED TO RECOVERY OF ITS ACTUAL COSTS FOR ISSUING THE PERMIT BY SUBMITTING IN WRITING AND DISCLOSING TO THE APPLICANT FOR THE PARTICULAR PERMIT PROOF OF THE COUNTY'S ACTUAL COSTS.

(C) AS USED IN THIS SUBSECTION (1)(b)(II), "ACTIVE SOLAR ENERGY SYSTEM" MEANS A SINGLE SYSTEM THAT CONTAINS ELECTRIC GENERATION, A THERMAL DEVICE, OR IS AN ENERGY STORAGE SYSTEM AS DEFINED IN SECTION 40-2-202 (2).

SECTION 4. In Colorado Revised Statutes, 31-15-402, **amend** (4)(b) as follows:

31-15-602. Energy efficient building codes - legislative declaration - definitions - repeal. (4) (b) (I) (A) ~~A municipality shall not charge permit, plan review, or any other related or associated fees~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AGGREGATE OF ALL CHARGES OR OTHER RELATED OR ASSOCIATED FEES A MUNICIPALITY SHALL IMPOSE OR ASSESS to install an active solar electric or solar thermal device or system ~~that, in aggregate,~~ SHALL NOT exceed the lesser of the municipality's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system, or that exceed the municipality's actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system. A MUNICIPALITY MAY INCREASE ITS FEES OR OTHER CHARGES AS AUTHORIZED BY THIS SUBSECTION (4)(b)(I) BY NO MORE THAN FIVE PERCENT ON AN ANNUAL BASIS UNTIL THE FIVE HUNDRED DOLLAR LIMITATION SPECIFIED IN THIS SUBSECTION (4)(b)(I) IS ACHIEVED. The municipality shall clearly and individually identify all fees and taxes assessed on an application subject to this subsection (4)(b)(I) on the invoice. The general assembly hereby finds that there is a statewide need for certainty regarding the fees that can be assessed for permitting such devices or systems, and therefore declares that this subsection (4)(b) is a matter of statewide concern.

(B) IN THE CASE OF A NONRESIDENTIAL APPLICATION, ON AN INDIVIDUAL INSTALLATION BASIS ONLY, IF THE MUNICIPALITY INCURS ACTUAL COSTS FOR ISSUING THE PERMIT THAT ARE GREATER THAN ONE THOUSAND DOLLARS, THE MUNICIPALITY IS ENTITLED TO RECOVERY OF ITS ACTUAL COSTS FOR ISSUING THE PERMIT BY SUBMITTING IN WRITING AND DISCLOSING TO THE APPLICANT FOR THE PARTICULAR PERMIT PROOF OF THE MUNICIPALITY'S ACTUAL COSTS.

(C) AS USED IN THIS SUBSECTION (4)(b)(I), "ACTIVE SOLAR ENERGY SYSTEM" MEANS A SINGLE SYSTEM THAT CONTAINS ELECTRIC GENERATION, A THERMAL DEVICE, OR IS AN ENERGY STORAGE SYSTEM AS DEFINED IN SECTION 40-2-202 (2).

(II) This subsection (4)(b) is repealed, effective ~~July 1, 2025~~ DECEMBER 31, 2029.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 24, 2021