

## Real Estate Legal Alert

### The New Jersey Residential Development Solar Energy Systems Act

N.J.S.A. 52:27D-141.1 - Adopted March 31, 2009

On March 31, 2009, Governor Corzine signed into Law the New Jersey Residential Development Solar Energy Systems Act. The purpose of the Act is to encourage the use of solar power in the State in order to reduce the environmental, economic and security impacts of energy consumption associated with traditional energy production, as well as to promote "green" jobs in New Jersey for the installation, manufacture, repair and marketing of renewable energy products. "Developers," defined in the Act as any person who constructs or offers to construct a dwelling unit in a residential development, need to be aware of the Act's requirements, the time when the provisions of the Act will begin to apply, and the residential developments that are subject to the Act.

The Act requires that developers of 25 or more single-family residential dwelling units offer (as part of the negotiations with the buyer to purchase a dwelling unit) to install, or provide for the installation of solar energy systems on dwelling units. Such an offer shall only be required when the solar installation is determined to be "technically feasible" by the Commissioner of the Department of Community Affairs, in accord with Rules to be adopted by the Board of Public Utilities ("BPU") pursuant to the Administrative Procedures Act. The types of solar energy technologies encompassed by the Act are broad. The Act defines the term "solar energy system" to include any system that uses solar energy to provide all or a portion of the heating, cooling, or general energy needs of a dwelling unit.

Specifically, the Act requires that developers disclose in advertising conforming with the BPU's to-be-adopted Rules: (1) that a prospective owner may have a solar energy system installed in any dwelling unit; (2) the cost of such installation to be charged to the owner by the developer; (3) general information on the environmental and economic benefits of solar energy systems, and; (4) information regarding government incentives that may be available for the installation of solar energy systems. The Act also requires that upon the buyer's written agreement accepting the developer's offer to install or provide for the installation of a solar energy system, the developer shall install or provide for the installation of the solar energy system prior to completion of the construction of the dwelling unit.

Also included in the Act are provisions for handling costs associated with the replacement or repair of roofs or solar energy systems installed on dwelling units where such repairs and/or maintenance is the responsibility of a community association.

The Legislation requires that the BPU adopt Rules and Standards with respect to solar energy systems, including installation and system performance monitoring standards, warranties, and the criteria for determining technical feasibility. No time period has been set for when the BPU Rules and Standards must be adopted.

The Act applies to dwelling units for which construction permits are issued on or after the 90th day following the adoption of the BPU Rules and Standards.