

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Homeowners' Energy Policy Statement Act is amended by changing Sections 20, 25, 30, and 40 as follows:

(765 ILCS 165/20)

Sec. 20. Deed restrictions; covenants.

(a) No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting a solar energy system from being installed on a building erected on a lot or parcel covered by the deed restrictions, covenants, or binding agreements, if the building is subject to a homeowners' association, common interest community association, or condominium unit owners' association. A property owner may not be denied permission to install a solar energy system, or be required to utilize specific technology, including, but not limited to, solar shingles rather than traditional solar panels, by any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property. However, for purposes of this Act, the entity may determine the specific configuration of the elements of a solar energy system on a given roof face,

provided that it may not prohibit elements of the system from being installed on any roof face and that any such determination may not reduce the production of the solar energy system by more than 10%. For the purposes of this Section, "production" means the estimated annual electrical production of the solar energy system.

(b) Within 90 days after a homeowners' association, common interest community association, or condominium unit owners' association receives a request for a policy statement or an application from an association member, the association shall adopt a written ~~an~~ energy policy statement. Any energy policy statement, regardless of when adopted, shall explicitly include as the minimum standards the terms of this Section but may also include standards regarding: (i) the location, design, and architectural requirements of solar energy systems; and (ii) whether a wind energy collection, rain water collection, or composting system is allowed, and, if so, the location, design, and architectural requirements of those systems. A written energy policy statement may not condition approval of an application on approval by adjacent property owners. An association may not inquire into a property owner's energy usage, impose conditions impairing the operation of a solar energy system, impose conditions negatively impacting any component industry standard warranty, or require post-installation reporting. Nor may a property owner be denied permission to install a solar energy system based on

system ownership or financing method chosen by the property owner. Notwithstanding the foregoing, an association's written energy policy statement may impose reasonable conditions concerning the maintenance, repair, replacement, and ultimate removal of damaged or inoperable systems so long as such conditions are not more onerous than the association's analogous conditions for nonsolar projects. An association shall disclose, upon request, its written energy policy statement and shall include the statement in its homeowners' common interest community, or condominium unit owners' association declaration.

(c) Any provision of a homeowners' common interest community or condominium unit owners' declaration or energy policy statement that conflicts with this Act shall be void and unenforceable as contrary to public policy.

(Source: P.A. 102-161, eff. 7-26-21.)

(765 ILCS 165/25)

Sec. 25. Standards and requirements. A solar energy system shall meet applicable standards and requirements imposed by State and local permitting authorities other than a homeowners' association, common interest community association, or condominium unit owners' association.

(Source: P.A. 96-1436, eff. 1-1-11.)

(765 ILCS 165/30)

Sec. 30. Application for approval.

(a) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be made available in hard copy form at a property owner's request or, if the association maintains a website, through the website. An association need not utilize an application form specific to solar installations. An association may not impose any fee for submitting an application pertaining to a solar energy system above that which it assesses for any other application related to changes to property. The application shall be processed by the appropriate approving entity of the association within 30 75 days of the submission of the application. At the request of the property owner, an association may communicate with the property owner's solar energy system contractor.

(b) ~~If However, if~~ an application is submitted before a written ~~an~~ energy policy statement is adopted by an association, the application shall be processed within 120 days from the date the property owner submitted the application ~~75-day period shall not begin to run until the date that the policy is adopted.~~

(c) If an association fails to adopt a written solar energy policy statement consistent with this Act or process an application for approval within the specified time, the property owner may proceed with the installation or use of the proposed solar energy system notwithstanding any other policy

or provision in the homeowners' common interest community or condominium unit owners' association declaration. Before a property owner may proceed with such installation or use, the property owner must first give the association written notice of the alleged failure and 10 business days to cure that alleged failure. During those 10 business days, the association may only adopt the policy statement or process the application; the association may not take other action, including, but not limited to, seeking injunctive relief, during those 10 business days. In such situations, an association may not impose fines or otherwise penalize a property owner for exercising the property owner's rights under this Act.

(d) A property owner may resubmit an application for approval previously denied by an association; any such resubmitted application shall be evaluated under the changes made by this amendatory Act of the 103rd General Assembly.

(Source: P.A. 102-161, eff. 7-26-21.)

(765 ILCS 165/40)

Sec. 40. Costs; attorney's fees. In any litigation arising under this Act or involving the application of this Act, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(Source: P.A. 96-1436, eff. 1-1-11.)

Section 99. Effective date. This Act takes effect upon

Public Act 103-0296

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becoming law.