

THE HOMEOWNERS' ENERGY POLICY STATEMENT ACT

765 ILCS 165/1, et seq.

The Homeowners' Energy Policy Statement Act

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**TEXT OF THE HOMEOWNERS' ENERGY
POLICY STATEMENT ACT**

The Homeowners' Energy Policy Statement Act is contained in 765 ILCS 165, Sections 1-45, of the Illinois Compiled Statutes.

Section 1 **Short Title**

This Act may be cited as the Homeowners' Energy Policy Statement Act.

(January 1, 2012)

Section 5 **Legislative Intent**

The legislative intent in enacting this Act is to protect the public health, safety, and welfare by encouraging the development and use of solar energy systems in order to conserve and protect the value of land, buildings, and resources by preventing the adoption of measures which will have the ultimate effect, however unintended, of preventing the use of solar energy systems on any home that is subject to a homeowners' association, common interest community association, or condominium unit owners' association.

(January 1, 2011)

Section 10 **Definitions**

In this Act:

“Solar energy” means radiant energy received from the sun at wave lengths suitable for heat transfer, photosynthetic use, or photovoltaic use.

“Solar collector” means:

- (1) an assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct and indirect solar energy, specially designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid, or liquid or to use that energy directly; or
- (2) a mechanism that absorbs solar energy and converts it into electricity; or

- (3) a mechanism or process used for gathering solar energy through wind or thermal gradients; or
- (4) a component used to transfer thermal energy to a gas, solid, or liquid, or to convert it into electricity.

“Solar storage mechanism” means equipment or elements (such as piping and transfer mechanisms, containers, heat exchangers, or controls thereof, and gases, solids, liquids, or combinations thereof) that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.

“Solar energy system” means:

- (1) a complete assembly, structure, or design of solar collector, or a solar storage mechanism, which uses solar energy for generating electricity or for heating or cooling gases, solids, liquids, or other materials; and
- (2) the design, materials, or elements of a system and its maintenance, operation, and labor components, and the necessary components, if any, of supplemental conventional energy systems designed or constructed to interface with a solar energy system.

(January 1, 2011)

Section 15 Associations; Prohibitions

Notwithstanding any provision of this Act or other provision of law, the adoption of a bylaw or exercise of any power by the governing entity of a homeowners’ association, common interest community association, or condominium unit owners’ association which prohibits or has the effect of prohibiting the installation of a solar energy system is expressly prohibited.

(January 1, 2011)

Section 20 Deed Restrictions; Covenants

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 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 location where a solar energy system may be installed on the roof within an orientation to the south or within 45 degrees east or west of due south provided that the determination does not impair the effective operation of the solar energy system. Within 120 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 an energy policy statement 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. An association shall disclose, upon request, its energy policy statement and shall include the statement in its homeowners' common interest community, or condominium unit owners' association declaration.

(January 1, 2012)

Section 25 Standards and Requirements

A solar energy system shall meet applicable standards and requirements imposed by State and local permitting authorities.

(January 1, 2011)

Section 30 Application for Approval

Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed by the appropriate approving entity of the association within 90 days after the submission of the application. However, if an application is submitted before an energy policy statement is adopted by an association, the 90 day period shall not begin to run until the date that the policy is adopted.

(January 1, 2011)

Section 35 Violations

Any entity, other than a public entity, that willfully violates this Act shall be liable to the applicant for actual damages occasioned thereby and for any other consequential damages. Any entity that complies with the requirements of this Act shall not be liable to any other resident or third party for such compliance.

(January 1, 2011)

Section 40 **Costs; Attorney's Fees**

In any litigation arising under this Act, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(January 1, 2011)

Section 45 **Inapplicability**

This Act shall not apply to any building which is greater than 30 feet in height.

(January 1, 2011).