



Sen. Sara Feigenholtz

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1 AMENDMENT TO SENATE BILL 2785

2 AMENDMENT NO. _____. Amend Senate Bill 2785, AS AMENDED,
3 by inserting immediately below Section 10 the following:

4 "Section 15. The Homeowners' Energy Policy Statement Act
5 is amended by changing Sections 10, 20, and 45 as follows:

6 (765 ILCS 165/10)

7 Sec. 10. Definitions. In this Act:

8 "Solar energy" means radiant energy received from the sun
9 at wave lengths suitable for heat transfer, photosynthetic
10 use, or photovoltaic use.

11 "Solar collector" means:

12 (1) an assembly, structure, or design, including
13 passive elements, used for gathering, concentrating, or
14 absorbing direct and indirect solar energy, specially
15 designed for holding a substantial amount of useful
16 thermal energy and to transfer that energy to a gas,

1 solid, or liquid or to use that energy directly; or

2 (2) a mechanism that absorbs solar energy and converts
3 it into electricity; or

4 (3) a mechanism or process used for gathering solar
5 energy through wind or thermal gradients; or

6 (4) a component used to transfer thermal energy to a
7 gas, solid, or liquid, or to convert it into electricity.

8 "Solar storage mechanism" means equipment or elements
9 (such as piping and transfer mechanisms, containers, heat
10 exchangers, batteries, or controls thereof, and gases, solids,
11 liquids, or combinations thereof) that are utilized for
12 storing solar energy, gathered by a solar collector, for
13 subsequent use.

14 "Solar energy system" means:

15 (1) a complete assembly, structure, or design of solar
16 collector, or a solar storage mechanism, which uses solar
17 energy for generating electricity or for heating or
18 cooling gases, solids, liquids, or other materials; and

19 (2) the design, materials, or elements of a system and
20 its maintenance, operation, and labor components, and the
21 necessary components, if any, of supplemental conventional
22 energy systems designed or constructed to interface with a
23 solar energy system.

24 "Townhouse" means a privately owned single-family dwelling
25 unit that is attached to but separated from other privately
26 owned single-family dwelling units by a common party wall that

1 has no doors, windows, or other means of human passage or
2 visibility.

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

4 (765 ILCS 165/20)

5 Sec. 20. Deed restrictions; covenants.

6 (a) No deed restrictions, covenants, or similar binding
7 agreements running with the land shall prohibit or have the
8 effect of prohibiting a solar energy system from being
9 installed on a building erected on a lot or parcel covered by
10 the deed restrictions, covenants, or binding agreements, if
11 the building is subject to a homeowners' association, common
12 interest community association, or condominium unit owners'
13 association. A property owner may not be denied permission to
14 install a solar energy system, or be required to utilize
15 specific technology, including, but not limited to, solar
16 shingles rather than traditional solar panels, by any entity
17 granted the power or right in any deed restriction, covenant,
18 or similar binding agreement to approve, forbid, control, or
19 direct alteration of property. However, for purposes of this
20 Act, the entity may determine the specific configuration of
21 the elements of a solar energy system on a given roof face,
22 provided that it may not prohibit elements of the system from
23 being installed on any roof face and that any such
24 determination may not reduce the production of the solar
25 energy system by more than 10%. For the purposes of this

1 Section, "production" means the estimated annual electrical
2 production of the solar energy system.

3 (a-5) Notwithstanding the requirements of subsection (a),
4 as to townhomes as defined under Section 10 of this Act,
5 homeowners' associations and common interest community
6 associations may adopt, and include in an energy policy
7 statement of the homeowners' association or common interest
8 community association, policies that delineate reasonable
9 requirements, procedures, or processes for the purpose of
10 ensuring that common benefits or services, not including any
11 benefit that is merely superficial or aesthetic in nature, are
12 not compromised. Common benefits or services may include roof
13 warranties, roof or building maintenance or cleaning services,
14 the integrity of gas, electric, or plumbing lines or other
15 infrastructure maintained by the homeowners' association or
16 common interest community association, the security and safety
17 of community residents, or other shared services or benefits
18 that are not merely superficial or aesthetic in nature.

19 (b) Within 90 days after a homeowners' association, common
20 interest community association, or condominium unit owners'
21 association receives a request for a policy statement or an
22 application from an association member, the association shall
23 adopt a written energy policy statement. Any energy policy
24 statement, regardless of when adopted, shall explicitly
25 include as the minimum standards the terms of this Section but
26 may also include standards regarding: (i) the location,

1 design, and architectural requirements of solar energy
2 systems; and (ii) whether a wind energy collection, rain water
3 collection, or composting system is allowed, and, if so, the
4 location, design, and architectural requirements of those
5 systems. A written energy policy statement may not condition
6 approval of an application on approval by adjacent property
7 owners. An association may not inquire into a property owner's
8 energy usage, impose conditions impairing the operation of a
9 solar energy system, impose conditions negatively impacting
10 any component industry standard warranty, or require
11 post-installation reporting. Nor may a property owner be
12 denied permission to install a solar energy system based on
13 system ownership or financing method chosen by the property
14 owner. Notwithstanding the foregoing, an association's written
15 energy policy statement may impose reasonable conditions
16 concerning the maintenance, repair, replacement, and ultimate
17 removal of damaged or inoperable systems so long as such
18 conditions are not more onerous than the association's
19 analogous conditions for nonsolar projects. An association
20 shall disclose, upon request, its written energy policy
21 statement and shall include the statement in its homeowners'
22 common interest community, or condominium unit owners'
23 association declaration.

24 (c) Any provision of a homeowners' common interest
25 community or condominium unit owners' declaration or energy
26 policy statement that conflicts with this Act shall be void

1 and unenforceable as contrary to public policy.

2 (Source: P.A. 102-161, eff. 7-26-21; 103-296, eff. 7-28-23.)

3 (765 ILCS 165/45)

4 Sec. 45. Inapplicability. This Act shall not apply to any
5 building that:

6 (1) is greater than 60 feet in height; or

7 (2) has a shared roof and is subject to a homeowners'
8 association, common interest community association,
9 condominium unit owners' association.

10 As used in this Section, "shared roof" means any roof that
11 (i) serves more than one unit, including, but not limited to, a
12 contiguous roof serving adjacent units, or (ii) is part of the
13 common elements or common area. "Shared roof" does not include
14 a roof that serves a townhouse.

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