



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2174

Introduced 2/7/2023, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

765 ILCS 165/20
765 ILCS 165/25
765 ILCS 165/30
765 ILCS 165/40

Amends the Homeowners Energy Policy Statement Act. Requires any energy policy statement to explicitly include the minimum standards. Provides that a written energy policy statement may not condition approval of an application on approval by adjacent property owners. Restricts an association from inquiring into a property owner's energy usage, imposing conditions impairing the operation of a solar energy system, imposing conditions negatively impacting any component warranty, or requiring post-installation reporting. Provides that a property owner may not be denied permission to install a solar energy system based on system ownership or financing method chosen by the property owner. Allows an association's written energy policy statement to impose reasonable conditions concerning the location of on-site storage of materials and equipment during the installation process and the maintenance, repair, replacement, and ultimate removal of damaged or inoperable systems. Provides that no energy policy statement shall be valid unless recorded as required by applicable law in the office of the recorder of deeds in the county where the property is located. Requires an application for approval to be made available in hard copy form at a property owner's request or, if the association maintains a website, through the website. Provides that an application shall be processed by the appropriate approving entity of the association within 30 (rather than 75) days of the submission of the application. Provides that if an association fails to adopt a written solar energy policy statement 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. Allows a property owner to resubmit an application for approval previously denied by an association, and requires any such resubmitted application shall be evaluated under the changes made by the amendatory Act. Makes conforming and other changes. Effective immediately.

LRB103 26885 LNS 53249 b

A BILL FOR

1 AN ACT concerning civil law.

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

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

6 (765 ILCS 165/20)

7 Sec. 20. Deed restrictions; covenants.

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

1 any roof face and that any such determination may not reduce
2 the production of the solar energy system by more than 10%. For
3 the purposes of this Section, "production" means the estimated
4 annual electrical production of the solar energy system.

5 (b) Within 90 days after a homeowners' association, common
6 interest community association, or condominium unit owners'
7 association receives a request for a policy statement or an
8 application from an association member, the association shall
9 adopt a written an energy policy statement. Any energy policy
10 statement, regardless of when adopted, shall explicitly
11 include as the minimum standards the terms of this Section but
12 may also include standards regarding: (i) the location,
13 design, and architectural requirements of solar energy
14 systems; and (ii) whether a wind energy collection, rain water
15 collection, or composting system is allowed, and, if so, the
16 location, design, and architectural requirements of those
17 systems. A written energy policy statement may not condition
18 approval of an application on approval by adjacent property
19 owners. An association may not inquire into a property owner's
20 energy usage, impose conditions impairing the operation of a
21 solar energy system, impose conditions negatively impacting
22 any component warranty, or require post-installation
23 reporting. Nor may a property owner be denied permission to
24 install a solar energy system based on system ownership or
25 financing method chosen by the property owner. Notwithstanding
26 the foregoing and consistent with an association's conditions

1 pertaining to nonsolar projects, an association's written
2 energy policy statement may impose reasonable conditions
3 concerning the location of on-site storage of materials and
4 equipment during the installation process and the maintenance,
5 repair, replacement, and ultimate removal of damaged or
6 inoperable systems. An association shall disclose, upon
7 request, its written energy policy statement and shall include
8 the statement in its homeowners' common interest community, or
9 condominium unit owners' association declaration. No energy
10 policy statement shall be valid unless recorded as required by
11 applicable law in the office of the recorder of deeds in the
12 county where the property is located.

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

14 (765 ILCS 165/25)

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

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

21 (765 ILCS 165/30)

22 Sec. 30. Application for approval.

23 (a) Whenever approval is required for the installation or
24 use of a solar energy system, the application for approval

1 shall be made available in hard copy form at a property owner's
2 request or, if the association maintains a website, through
3 the website. An association need not utilize an application
4 form specific to solar installations. An association may not
5 impose any fee for submitting an application pertaining to a
6 solar energy system above that which it assesses for any other
7 application related to changes to property. The application
8 shall be processed by the appropriate approving entity of the
9 association within 30 ~~75~~ days of the submission of the
10 application. At the request of the property owner, an
11 association may communicate with the property owner's solar
12 energy system contractor.

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

19 (c) If an association fails to adopt a written solar
20 energy policy statement consistent with this Act or process an
21 application for approval within the specified time, the
22 property owner may proceed with the installation or use of the
23 proposed solar energy system notwithstanding any other policy
24 or provision in the homeowners' common interest community or
25 condominium unit owners' association declaration. In such
26 situations, an association may not impose fines or otherwise

1 penalize a property owner for exercising its rights under this
2 Act.

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

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

8 (765 ILCS 165/40)

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

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

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.