

Public Act 096-1436

HB5429 Enrolled

LRB096 18011 AJO 33383 b

AN ACT concerning civil law.

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

Section 1. Short title. This Act may be cited as the
Homeowners' Solar Rights Act.

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.

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.

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.

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. Each homeowners' association, common interest community association, or condominium unit owners' association shall adopt an energy policy statement regarding the location, design, and architectural requirements of solar energy systems within 120 days after an association receives a request for a policy statement or an application from an association member. 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.

Section 25. Standards and requirements. A solar energy system shall meet applicable standards and requirements imposed by State and local permitting authorities.

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.

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.

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.

Section 45. Inapplicability. This Act shall not apply to any building which is greater than 30 feet in height.