



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4619

Introduced 1/31/2024, by Rep. Harry Benton

SYNOPSIS AS INTRODUCED:

765 ILCS 165/5
765 ILCS 165/15
765 ILCS 165/20
765 ILCS 165/25
765 ILCS 165/30

Amends the Homeowners' Energy Policy Statement Act. Prohibits a homeowners' association, common interest community association, or condominium unit owners' association from adopting a bylaw or exercising any power that prohibits the installation of a rain water collection system or composting system. Provides that if a building is subject to a homeowners' association, common interest community association, or condominium unit owners' association, no deed restrictions, covenants, or similar binding agreements running with the land shall prohibit a rain water collection system or composting system from being installed on a building erected on a lot or parcel covered by the deed restrictions, covenants, or binding agreements. Provides that a property owner may not be denied permission to install a rain water collection system or composting 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. Provides that an entity may establish location or design requirements for rain water collection systems or composting systems. Provides that a rain water collection system or composting system shall meet application standards and requirements imposed by State and local permitting authorities. Provides that if approval is required for the installation of a rain water collection system or composting system, an application for approval shall be processed by the appropriate approving entity of the association within 90 days after the submission of the application. Makes corresponding changes.

LRB103 37562 JRC 67688 b

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 5, 15, 20, 25, and 30 as follows:

6 (765 ILCS 165/5)

7 Sec. 5. Legislative intent. The legislative intent in
8 enacting this Act is to protect the public health, safety, and
9 welfare by encouraging the development and use of solar energy
10 systems, rain water collection systems, or composting systems
11 in order to conserve and protect the value of land, buildings,
12 and resources by preventing the adoption of measures which
13 will have the ultimate effect, however unintended, of
14 preventing the use of solar energy systems, rain water
15 collection systems, or composting systems on any home that is
16 subject to a homeowners' association, common interest
17 community association, or condominium unit owners'
18 association.

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

20 (765 ILCS 165/15)

21 Sec. 15. Associations; prohibitions. Notwithstanding any
22 provision of this Act or other provision of law, the adoption

1 of a bylaw or exercise of any power by the governing entity of
2 a homeowners' association, common interest community
3 association, or condominium unit owners' association which
4 prohibits or has the effect of prohibiting the installation of
5 a solar energy system, rain water collection system, or
6 composting system is expressly prohibited.

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

8 (765 ILCS 165/20)

9 Sec. 20. Deed restrictions; covenants.

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

1 Act, the entity may: (1) determine the specific configuration
2 of the elements of a solar energy system on a given roof face,
3 provided that it may not prohibit elements of the system from
4 being installed on any roof face and that any such
5 determination may not reduce the production of the solar
6 energy system by more than 10%; and (2) establish location or
7 design requirements for rain water collection systems or
8 composting systems. For the purposes of this Section,
9 "production" means the estimated annual electrical production
10 of the solar energy system.

11 (b) Within 90 days after a homeowners' association, common
12 interest community association, or condominium unit owners'
13 association receives a request for a policy statement or an
14 application from an association member, the association shall
15 adopt a written energy policy statement. Any energy policy
16 statement, regardless of when adopted, shall explicitly
17 include as the minimum standards the terms of this Section but
18 may also include standards regarding: (i) the location,
19 design, and architectural requirements of solar energy
20 systems, rain water collection systems, or composting systems;
21 and (ii) whether a wind energy collection, ~~rain water~~
22 ~~collection, or composting system~~ is allowed, and, if so, the
23 location, design, and architectural requirements of those
24 systems. A written energy policy statement may not condition
25 approval of an application on approval by adjacent property
26 owners. An association may not inquire into a property owner's

1 energy usage, impose conditions impairing the operation of a
2 solar energy system, impose conditions negatively impacting
3 any component industry standard warranty, or require
4 post-installation reporting. Nor may a property owner be
5 denied permission to install a solar energy system based on
6 system ownership or financing method chosen by the property
7 owner. Notwithstanding the foregoing, an association's written
8 energy policy statement may impose reasonable conditions
9 concerning the maintenance, repair, replacement, and ultimate
10 removal of damaged or inoperable systems so long as such
11 conditions are not more onerous than the association's
12 analogous conditions for nonsolar projects. An association
13 shall disclose, upon request, its written energy policy
14 statement and shall include the statement in its homeowners'
15 common interest community, or condominium unit owners'
16 association declaration or rules and regulations, at the
17 discretion of the board.

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

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

23 (765 ILCS 165/25)

24 Sec. 25. Standards and requirements. A solar energy
25 system, rain water collection system, or composting system

1 shall meet applicable standards and requirements imposed by
2 State and local permitting authorities other than a
3 homeowners' association, common interest community
4 association, or condominium unit owners' association.

5 (Source: P.A. 103-296, eff. 7-28-23.)

6 (765 ILCS 165/30)

7 Sec. 30. Application for approval.

8 (a) Whenever approval is required for the installation or
9 use of a solar energy system, rain water collection system, or
10 composting system, the application for approval shall be made
11 available in hard copy form at a property owner's request or,
12 if the association maintains a website, through the website.
13 An association need not utilize an application form specific
14 to solar installations. An association may not impose any fee
15 for submitting an application pertaining to a solar energy
16 system above that which it assesses for any other application
17 related to changes to property. The application shall be
18 processed by the appropriate approving entity of the
19 association within 30 days of the submission of the
20 application. At the request of the property owner, an
21 association may communicate with the property owner's solar
22 energy system contractor.

23 (b) If an application is submitted before a written energy
24 policy statement is adopted by an association, the application
25 shall be processed within 120 days from the date the property

1 owner submitted the application.

2 (c) If an association fails to adopt a written solar
3 energy policy statement consistent with this Act or process an
4 application for approval within the specified time, the
5 property owner may proceed with the installation or use of the
6 proposed solar energy system notwithstanding any other policy
7 or provision in the homeowners' common interest community or
8 condominium unit owners' association declaration. Before a
9 property owner may proceed with such installation or use, the
10 property owner must first give the association written notice
11 of the alleged failure and 10 business days to cure that
12 alleged failure. During those 10 business days, the
13 association may only adopt the policy statement or process the
14 application; the association may not take other action,
15 including, but not limited to, seeking injunctive relief,
16 during those 10 business days. In such situations, an
17 association may not impose fines or otherwise penalize a
18 property owner for exercising the property owner's rights
19 under this Act.

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

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