



Sen. Michael Noland

**Filed: 4/15/2010**

09600HB5429sam002

LRB096 18011 AJO 40060 a

1 AMENDMENT TO HOUSE BILL 5429

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5429 by replacing  
3 everything after the enacting clause with the following:

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

6 Section 5. Legislative intent. The legislative intent in  
7 enacting this Act is to protect the public health, safety, and  
8 welfare by encouraging the development and use of solar energy  
9 systems in order to conserve and protect the value of land,  
10 buildings, and resources by preventing the adoption of measures  
11 which will have the ultimate effect, however unintended, of  
12 preventing the use of solar energy systems on homes.

13 Section 10. Definitions. In this Act:

14 "Solar energy" means radiant energy received from the sun  
15 at wave lengths suitable for heat transfer, photosynthetic use,

1 or photovoltaic use.

2 "Solar collector" means:

3 (1) an assembly, structure, or design, including  
4 passive elements, used for gathering, concentrating, or  
5 absorbing direct and indirect solar energy, specially  
6 designed for holding a substantial amount of useful thermal  
7 energy and to transfer that energy to a gas, solid, or  
8 liquid or to use that energy directly; or

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

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

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

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

20 "Solar energy system" means:

21 (1) a complete assembly, structure, or design of solar  
22 collector, or a solar storage mechanism, which uses solar  
23 energy for generating electricity or for heating or cooling  
24 gases, solids, liquids, or other materials; and

25 (2) the design, materials, or elements of a system and  
26 its maintenance, operation, and labor components, and the

1           necessary components, if any, of supplemental conventional  
2           energy systems designed or constructed to interface with a  
3           solar energy system.

4           Section 15. Associations; prohibitions. Notwithstanding  
5           any provision of this Act or other provision of law, the  
6           adoption of a bylaw or exercise of any power by the governing  
7           entity of a homeowners' association, common interest community  
8           association, or condominium unit owners' association which  
9           prohibits or has the effect of prohibiting the installation of  
10          a solar energy system is expressly prohibited.

11          Section 20. Deed restrictions; covenants. No deed  
12          restrictions, covenants, or similar binding agreements running  
13          with the land shall prohibit or have the effect of prohibiting  
14          a solar energy system from being installed on a building  
15          erected on a lot or parcel covered by the deed restrictions,  
16          covenants, or binding agreements. A property owner may not be  
17          denied permission to install a solar energy system by any  
18          entity granted the power or right in any deed restriction,  
19          covenant, or similar binding agreement to approve, forbid,  
20          control, or direct alteration of property. However, for  
21          purposes of this Act, the entity may determine the specific  
22          location where a solar energy system may be installed on the  
23          roof within an orientation to the south or within 45 degrees  
24          east or west of due south provided that the determination does

1 not impair the effective operation of the solar energy system.  
2 Each homeowners' association, common interest community  
3 association, or condominium unit owners' association shall  
4 adopt an energy policy statement regarding the location,  
5 design, and architectural requirements of solar energy systems  
6 within 120 days after an association receives a request for a  
7 policy statement or an application from an association member.  
8 An association shall disclose, upon request, its energy policy  
9 statement and shall include the statement in its homeowners',  
10 common interest community, or condominium unit owners'  
11 association declaration.

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

15 Section 30. Application for approval. Whenever approval is  
16 required for the installation or use of a solar energy system,  
17 the application for approval shall be processed by the  
18 appropriate approving entity of the association within 90 days  
19 after the submission of the application. However, if an  
20 application is submitted before an energy policy statement is  
21 adopted by an association, the 90 day period shall not begin to  
22 run until the date that the policy is adopted.

23 Section 35. Violations. Any entity, other than a public

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

6 Section 40. Costs; attorney's fees. In any litigation  
7 arising under this Act, the prevailing party shall be entitled  
8 to costs and reasonable attorney's fees.

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