



February 11, 2022

ENGROSSED HOUSE BILL No. 1196

DIGEST OF HB 1196 (Updated February 9, 2022 4:25 pm - DI 149)

Citations Affected: IC 32-25.5.

Synopsis: Homeowners associations and solar power. Provides that: (1) a homeowners association may require certain screening and preapproval procedures before an owner of a dwelling unit may install a solar energy system; and (2) a homeowners association may prohibit the installation, use, or removal of a solar energy system under certain circumstances.

Effective: Upon passage.

Speedy, Torr, Payne, Hamilton

(SENATE SPONSORS — ROGERS, FREEMAN)

January 6, 2022, read first time and referred to Committee on Judiciary.
January 13, 2022, amended, reported — Do Pass.
January 20, 2022, read second time, ordered engrossed.
January 21, 2022, engrossed.
January 24, 2022, read third time, passed. Yeas 82, nays 11.

SENATE ACTION

February 1, 2022, read first time and referred to Committee on Judiciary.
February 10, 2022, amended, reported favorably — Do Pass.

EH 1196—LS 7084/DI 101



February 11, 2022

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1196

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-25.5-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 3.5. Homeowners Association Restrictions on Solar**
5 **Energy Systems**

6 **Sec. 1. This chapter does not apply to a solar energy system that**
7 **has been:**

8 **(1) approved by a homeowners association; or**

9 **(2) installed on the dwelling unit or property of a member of**
10 **a homeowners association;**

11 **before March 14, 2022.**

12 **Sec. 2. As used in this chapter, "dwelling unit" has the meaning**
13 **set forth in IC 32-31-5-3.**

14 **Sec. 3. As used in this chapter, "solar energy system" means a**
15 **solar photovoltaic device whose primary purpose is to use solar**
16 **energy to produce electricity.**

17 **Sec. 4. (a) This section applies to a homeowner who:**

EH 1196—LS 7084/DI 101



- 1 (1) seeks to install a solar energy system on the homeowner's
 2 dwelling unit or property; and
 3 (2) is a member of a homeowners association:
 4 (A) the governing documents of which prohibit, restrict, or
 5 limit the installation of solar energy systems by members
 6 of the homeowners association; or
 7 (B) whose board of directors, architectural review
 8 committee, or architectural control committee has denied
 9 the homeowner's request to install a solar energy system
 10 for a reason not set forth in section 5 of this chapter.
- 11 (b) A homeowner to whom this section applies may petition
 12 other homeowners association members for approval to install a
 13 solar energy system on the homeowner's dwelling unit or property.
 14 A homeowner who chooses to petition other homeowners
 15 association members under this section must provide the other
 16 members with information regarding:
 17 (1) the site plan of the solar energy system to be installed,
 18 including:
 19 (A) the property boundaries;
 20 (B) a description of the dwelling unit;
 21 (C) the color of the solar energy system; and
 22 (D) any screening to be used in connection with the solar
 23 energy system, if the solar energy system is to be installed
 24 in a location other than on the roof of the homeowner's
 25 dwelling unit;
 26 (2) the vendor and installer of the solar energy system; and
 27 (3) the plans and specifications for the solar energy system, if
 28 requested by the other homeowners association members.
- 29 (c) A homeowner who chooses to petition other homeowners
 30 association members under this section must obtain signatures in
 31 an amount equal to at least:
 32 (1) the number of signatures needed to amend the covenants
 33 or other governing documents of the homeowners association;
 34 or
 35 (2) sixty-five percent (65%) of the members of the
 36 homeowners association;
 37 whichever is less. Any provisions in the homeowners association
 38 governing documents concerning voting rights and restrictions
 39 based on the number of lots owned by a particular homeowners
 40 association member apply to a petition under this section.
- 41 (d) Once the homeowner obtains the required number of
 42 signatures under subsection (c), the homeowner must present the



1 signatures and information provided in subsection (b) to the
 2 homeowners association board of directors. The board of directors,
 3 an architectural review committee, or an architectural control
 4 committee of the homeowners association may not deny the
 5 homeowner's request to install the solar energy system once the
 6 homeowner has obtained the required number of signatures, if the
 7 homeowner complied with the requirements provided in this
 8 section.

9 **Sec. 5. (a) This section applies to a homeowners association:**

10 (1) the governing documents of which prohibit, restrict, or
 11 limit the installation of solar energy systems by members of
 12 the homeowners association; or

13 (2) whose board of directors, architectural review committee,
 14 or architectural control committee seeks to:

15 (A) deny a homeowner's request to install a solar energy
 16 system; or

17 (B) require a homeowner to remove a solar energy system
 18 installed by the homeowner.

19 (b) A homeowners association may prohibit the installation or
 20 use of a solar energy system or may require the removal of a solar
 21 energy system that has been installed only if one (1) or more of the
 22 following apply:

23 (1) A court has found that the solar energy system threatens
 24 public health or safety.

25 (2) A court has found that the solar energy system violates a
 26 law.

27 (3) The solar energy system has been installed on property
 28 owned or maintained by the homeowners association.

29 (4) The solar energy system has been installed on property
 30 owned in common by the members of the homeowners
 31 association.

32 (5) The solar energy system has been installed in a location
 33 other than:

34 (A) the roof of:

35 (i) the dwelling unit of the homeowner installing the
 36 solar energy system; or

37 (ii) another structure;

38 approved by the homeowners association; or

39 (B) a fenced yard or patio owned and maintained by the
 40 homeowner.

41 (6) The solar energy system is mounted on the roof of the
 42 dwelling unit of the homeowner installing the solar energy



- 1 system and:
- 2 (A) extends above or beyond the roof of the dwelling unit
- 3 by more than six (6) inches;
- 4 (B) does not conform to the slope of the roof and has a top
- 5 edge that is not parallel to the roof line; or
- 6 (C) has a frame, support bracket, or visible piping or
- 7 wiring that is not in a silver, bronze, or black tone
- 8 commonly available in the marketplace.
- 9 (7) The solar energy system is mounted on a roof that is:
- 10 (A) owned by the homeowner; but
- 11 (B) maintained by the homeowners association.
- 12 (8) The solar energy system is installed in a fenced yard or
- 13 patio rather than on the roof of a dwelling unit and is taller
- 14 than the fence line.
- 15 (9) The solar energy system is installed in a manner that voids
- 16 material warranties.
- 17 (10) The homeowner installed the solar energy system in a
- 18 manner that differs significantly from the manner of
- 19 installation presented to the homeowners association:
- 20 (A) board of directors;
- 21 (B) architectural review committee; or
- 22 (C) architectural control committee;
- 23 if applicable.
- 24 SECTION 2. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1196 as introduced.)

TORR

Committee Vote: yeas 10, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1196, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 1, line 6, delete "applies to homeowners associations with:" and insert "**does not apply to a solar energy system that has been:**

(1) approved by a homeowners association; or

(2) installed on the dwelling unit or property of a member of a homeowners association;

before March 14, 2022."

Page 1, delete lines 7 through 12.

Page 1, line 15, delete "has the" and insert "**means a solar photovoltaic device whose primary purpose is to use solar energy to produce electricity."**

Page 1, delete line 16.

Page 1, line 17, delete "An owner of a dwelling unit who wishes to install a" and insert "**This section applies to a homeowner who:**

(1) seeks to install a solar energy system on the homeowner's dwelling unit or property; and

(2) is a member of a homeowners association:

(A) the governing documents of which prohibit, restrict, or

EH 1196—LS 7084/DI 101



limit the installation of solar energy systems by members of the homeowners association; or

(B) whose board of directors, architectural review committee, or architectural control committee has denied the homeowner's request to install a solar energy system for a reason not set forth in section 5 of this chapter.

(b) A homeowner to whom this section applies may petition other homeowners association members for approval to install a solar energy system on the homeowner's dwelling unit or property. A homeowner who chooses to petition other homeowners association members under this section must provide the other members with information regarding:

(1) the site plan of the solar energy system to be installed, including:

(A) the property boundaries;

(B) a description of the dwelling unit;

(C) the color of the solar energy system; and

(D) any screening to be used in connection with the solar energy system, if the solar energy system is to be installed in a location other than on the roof of the homeowner's dwelling unit;

(2) the vendor and installer of the solar energy system; and

(3) the plans and specifications for the solar energy system, if requested by the other homeowners association members."

Page 2, delete lines 1 through 15.

Page 2, line 16, delete "(b) The owner of the dwelling unit" and insert "(c) A homeowner who chooses to petition other homeowners association members under this section".

Page 2, line 17, delete "not less than the amount needed to amend the covenants" and insert "equal to at least:

(1) the number of signatures needed to amend the covenants or other governing documents of the homeowners association; or

(2) sixty-five percent (65%) of the members of the homeowners association;

whichever is less. Any provisions in the homeowners association governing documents concerning voting rights and restrictions based on the number of lots owned by a particular homeowners association member apply to a petition under this section."

Page 2, delete lines 18 through 22.

Page 2, line 23, delete "(c) Once the owner" and insert "(d) Once the homeowner".



Page 2, line 24, delete "(b), the owner" and insert "(c), the homeowner".

Page 2, line 25, delete "(a)" and insert "(b)".

Page 2, line 26, delete "directors for an exemption. Neither the" and insert "**directors. The board of directors, an architectural review committee, or an architectural control committee**".

Page 2, line 27, delete "homeowners association nor an architectural review committee".

Page 2, line 28, delete "deny the owner's" and insert "**not deny the homeowner's**".

Page 2, line 29, delete "owner" and insert "**homeowner**".

Page 2, line 30, delete "owner" and insert "**homeowner**".

Page 2, line 32, after "5." insert "**(a) This section applies to a homeowners association:**

(1) the governing documents of which prohibit, restrict, or limit the installation of solar energy systems by members of the homeowners association; or

(2) whose board of directors, architectural review committee, or architectural control committee seeks to:

(A) deny a homeowner's request to install a solar energy system; or

(B) require a homeowner to remove a solar energy system installed by the homeowner.

(b)".

Page 2, line 34, delete "if any" and insert "**only if one (1) or more**".

Page 3, line 6, delete "owner" and insert "**homeowner**".

Page 3, line 11, delete "owner of the dwelling unit." and insert "**homeowner.**".

Page 3, line 13, delete "owner" and insert "**homeowner**".

Page 3, line 23, delete "owner of the dwelling unit;" and insert "**homeowner;**".

Page 3, line 26, after "dwelling" insert "**unit**".

Page 3, line 30, delete "failed to comply with the requirements" and insert "**installed the solar energy system in a manner that differs significantly from the manner of installation presented to the homeowners association:**

(A) board of directors;

(B) architectural review committee; or

(C) architectural control committee;

if applicable.".

Page 3, delete line 31, begin a new paragraph and insert:



"SECTION 2. **An emergency is declared for this act.**"
and when so amended that said bill do pass.

(Reference is to HB 1196 as printed January 13, 2022.)

BROWN L, Chairperson

Committee Vote: Yeas 7, Nays 4.

