

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.

HOUSE ENROLLED ACT No. 1196

AN ACT to amend the Indiana Code concerning property.

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

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

Chapter 3.5. Homeowners Association Restrictions on Solar Energy Systems

Sec. 1. This chapter 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.

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

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

Sec. 4. (a) 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 limit the installation of solar energy systems by members**

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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.

(c) A homeowner who chooses to petition other homeowners association members under this section must obtain signatures in an amount 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.

(d) Once the homeowner obtains the required number of signatures under subsection (c), the homeowner must present the signatures and information provided in subsection (b) to the homeowners association board of directors. The board of directors, an architectural review committee, or an architectural control committee of the homeowners association may not deny the homeowner's request to install the solar energy system once the



homeowner has obtained the required number of signatures, if the homeowner complied with the requirements provided in this section.

Sec. 5. (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) A homeowners association may prohibit the installation or use of a solar energy system or may require the removal of a solar energy system that has been installed only if one (1) or more of the following apply:

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

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

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

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

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

(A) the roof of:

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

(ii) another structure;

approved by the homeowners association; or

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

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

(A) extends above or beyond the roof of the dwelling unit by more than six (6) inches;

(B) does not conform to the slope of the roof and has a top edge that is not parallel to the roof line; or



- (C) has a frame, support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace.
 - (7) The solar energy system is mounted on a roof that is:
 - (A) owned by the homeowner; but
 - (B) maintained by the homeowners association.
 - (8) The solar energy system is installed in a fenced yard or patio rather than on the roof of a dwelling unit and is taller than the fence line.
 - (9) The solar energy system is installed in a manner that voids material warranties.
 - (10) The homeowner 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.
- SECTION 2. An emergency is declared for this act.

