

Energy
Briles, Chairperson
Ramsey
Gallagher
Readinger
Rodgers

*Amend from 2515c
to Pass 4/16/81 (p. 997)*

1981

HOUSE FILE 766
BY COMMITTEE ON ENERGY

Place On Calendar

(Formerly House File 82)

Passed House, Date 4-2-81 (p. 997) Passed Senate, Date 1-29-81 (p. 1490)

Vote: Ayes 83 Nays 11 Vote: Ayes 30 Nays 13

Approved May 19, 1981

*Repassed & Amended 5-6-81 (p. 1097)
90-5*

A BILL FOR

- 1 An Act relating to access to and use of solar energy.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 766

H-3447

- 1 Amend amendment H-3354 to House File 766 as follows:
- 2 1. Page 1, by inserting after line 3 the following:
- 3 "____. Page 6, line 30, by striking the words
- 4 "relating to subdivisions".
- 5 2. By renumbering as necessary in compliance with
- 6 this amendment.

H-3447 FILED APRIL 2, 1981 BY ARNOULD of Scott
ADOPTED BY UNANIMOUS CONSENT (p. 996)

HOUSE FILE 766

H-3354

- 1 Amend House File 766 as follows:
- 2 1. Page 6, line 29, by striking the word "may"
- 3 and inserting in lieu thereof the word "shall".
- 4 2. Page 6, line 31, by striking the words "located
- 5 in new subdivisions".

H-3354 FILED MARCH 25, 1981 BY ARNOULD of Scott
Passed 4/2/81 (p. 997)

HOUSE FILE 766

H-3331

- 1 Amend House File 766 as follows:
- 2 1. Page 1, line 2, by striking the work "viable".

H-3331 FILED MARCH 23, 1981 BY HANSON of Delaware
Adopted 4/2/81 (p. 996) POFFENBERGER of Dallas
MANN of Greene

1 Section 1. The general assembly finds that:

2 1. The needs of a viable society depend upon an ample
3 supply of energy.

4 2. The current national imbalance between energy supplies
5 and demands suggests the need for the development of new
6 energy resources.

7 3. Increased national dependence upon foreign energy
8 supplies is not desirable and new alternative energy resources
9 should be developed.

10 4. National dependence upon nonrenewable energy resources
11 cannot be continued indefinitely, particularly at current
12 rates of consumption.

13 5. Solar energy is a very desirable, renewable energy
14 resource which is nonpolluting, easily developed, and generally
15 available across the state.

16 6. Virtually all of Iowa's energy needs are now being
17 met from sources beyond the borders of the state and
18 development of solar energy would reduce the flow of energy
19 dollars out of the state.

20 7. An obstacle to orderly development and use of solar
21 energy in this state is the absence of adequate laws and
22 precedents defining rights of access to solar energy.

23 8. It is therefore in the public interest and the in-
24 terest of the state to provide adequate laws which will
25 expedite the development and use of solar energy.

26 Sec. 2. It is the intent of the general assembly that
27 section 1 of this Act shall not appear in the Code of Iowa.

28 Sec. 3. NEW SECTION. PURPOSE. It is the purpose of this
29 Act to facilitate the orderly development and use of solar
30 energy by establishing and providing certain procedures for
31 obtaining access to solar energy.

32 Sec. 4. NEW SECTION. DEFINITIONS. As used in sections
33 1 through 11 of this Act, unless the context otherwise
34 requires:

35 1. "Solar access easement" means an easement recorded

1 under section 9 of this Act, the purpose of which is to provide
2 continued access to incident sunlight necessary to operate
3 a solar collector.

4 2. "Solar energy" means energy emitted from the sun and
5 collected in the form of heat or light by a solar collector.

6 3. "Solar collector" means a device or structural feature
7 of a building that collects solar energy and that is part
8 of a system for the collection, storage, and distribution
9 of solar energy. For purposes of this Act, a greenhouse is
10 a solar collector.

11 4. "Development of property" means construction, land-
12 scaping, growth of vegetation, or other alteration of property
13 that interferes with the operation of a solar collector.

14 5. "Dominant estate" means that parcel of land to which
15 the benefits of a solar access easement attach.

16 6. "Servient estate" means land burdened by a solar access
17 easement, other than the dominant estate.

18 7. "Solar access regulatory board" means the board
19 designated by a city council or county board of supervisors
20 under section 5 of this Act to receive and act on applications
21 for a solar access easement or in the absence of a specific
22 designation, the district court having jurisdiction in the
23 area where the dominant estate is located. Notwithstanding
24 chapter 602 the jurisdiction of the district court established
25 in this subsection shall be exercised by district associate
26 judges.

27 Sec. 5. NEW SECTION. DESIGNATION. The city council or
28 the county board of supervisors may designate a solar access
29 regulatory board to receive and act on applications for a
30 solar access easement. The board designated by the city
31 council may be a board of adjustment having jurisdiction
32 in the city, the city council itself, or any board with at
33 least three members. The board designated by the county board
34 of supervisors may be a board of adjustment having juris-
35 diction in the county, the board of supervisors itself, or

1 any other board with at least three members. The jurisdiction
2 of a board designated by the city council extends to applica-
3 tions when the dominant estate is located in the city. The
4 jurisdiction of a board designated by the county board of
5 supervisors extends to applications when the dominant estate
6 is located in the county but outside the city limits of a
7 city. In the absence of the designation of a specific board
8 under this section, the district court having jurisdiction
9 in the area where the dominant estate is located shall receive
10 and act on applications submitted under section 6 of this
11 Act and to that extent shall serve as the solar access
12 regulatory board for purposes of this Act. Notwithstanding
13 chapter 602 the jurisdiction of the district court estab-
14 lished in this section shall be exercised by district associate
15 judges.

16 Sec. 6. NEW SECTION. APPLICATION FOR SOLAR ACCESS
17 EASEMENT.

18 1. An owner of property may apply to the solar access
19 regulatory board designated under section 5 of this Act for
20 an order granting a solar access easement. The application
21 shall state the following:

22 a. A statement of the need for the solar access ease-
23 ment by the owner of the dominant estate.

24 b. A legal description of the dominant and servient es-
25 tates.

26 c. The name and address of the dominant and servient es-
27 tate owners of record.

28 d. A description of the solar collector to be used.

29 e. The size and location of the collector, including
30 heights, its orientation with respect to south, and its slope
31 from the horizontal shown either by drawings or in words.

32 f. An explanation of how the applicant has done everything
33 reasonable, taking cost and efficiency into account, to design
34 and locate the collector in a manner to minimize the impact
35 on development of servient estates.

1 g. A legal description of the solar access easement which
2 is sought.

3 2. Upon receipt of the application the solar access
4 regulatory board shall schedule a hearing. The board shall
5 send a copy of the application and a notice of the hearing
6 to the owners of the servient estates by restricted certified
7 mail at least twenty days prior to the date of the hearing.
8 The notice shall state that the solar access regulatory board
9 will determine whether and to what extent a solar access
10 easement will be granted, that the board will determine the
11 compensation that may be awarded to the servient estate owner
12 if the solar access easement is granted and that the servient
13 estate owner has the right to contest the application before
14 the board.

15 3. The applicant shall pay all costs incurred by the solar
16 access regulatory board in copying and mailing the application
17 and notice.

18 4. An application for a solar access easement submitted
19 to the district court acting as the solar access regulatory
20 board under this Act is not subject to the small claims
21 procedures under chapter 631.

22 Sec. 7. NEW SECTION. DECISION.

23 1. After the hearing on the application, the solar access
24 regulatory board shall determine whether to issue an order
25 granting a solar access easement. The board shall not grant
26 a solar access easement upon a servient estate if the board
27 finds that the owner, at least six months prior to the filing
28 of the application, has made a substantial financial commitment
29 to build a structure that will shade the solar collector.
30 In issuing its order granting the solar access easement, the
31 board may modify the solar access easement applied for and
32 impose conditions on the location of the solar collector that
33 will minimize the impact upon the servient estate.

34 2. The solar access regulatory board shall grant a solar
35 access easement only within the area that is within three

1 hundred feet of the center of the northernmost boundary of
2 the collector and is south of a line drawn east and west
3 tangent to the northernmost boundary of the collector.

4 3. The solar access regulatory board shall determine the
5 amount of compensation that is to be paid to the owners of
6 the servient estate for the impairment of the right to develop
7 the property. The parties shall be notified of the board's
8 decision within thirty days of the date of the hearing. The
9 owner of the dominant estate shall have thirty days from the
10 date of notification of the board's decision to deposit the
11 compensation with the board. Upon receipt of the compensation,
12 the board shall issue an order granting the solar access
13 easement to the owner of the dominant estate and remit the
14 compensation awarded to the owners of the servient estate.
15 The owner of the dominant estate may decline to deposit the
16 compensation with the board, and no order granting the solar
17 access easement shall then be issued.

18 4. When the order granting the solar access easement is
19 issued, the owner of the dominant estate shall have it recorded
20 in the office of the county recorder who shall record the
21 solar access easement and list the owner of the dominant
22 estate as grantee and the owner of the servient estate as
23 grantor in the deed index. The solar access easement after
24 being recorded shall be considered an easement appurtenant
25 prohibiting the development of the servient estate to the
26 extent provided in the order granting the solar access
27 easement.

28 Sec. 8. NEW SECTION. DEVELOPMENT OF PROPERTY. A solar
29 access easement granted by the board under section 7 of this
30 Act is not absolute and does not bar development of property
31 on servient estates. However, development of property on
32 servient estates that obstructs or diminishes a solar access
33 easement may proceed only upon the payment of reasonable
34 compensation to the dominant estate.

35 Sec. 9. NEW SECTION. SOLAR ACCESS EASEMENTS.

1 1. Persons, including public bodies, may voluntarily agree
2 to create a solar access easement. A solar access easement
3 whether obtained voluntarily or pursuant to the order of a
4 solar access regulatory board is subject to the same recording
5 and conveyance requirements as other easements.

6 2. A solar access easement shall be created in writing
7 and shall include the following:

8 a. The legal description of the dominant and servient
9 estates.

10 b. A legal description of the space which must remain
11 unobstructed expressed in terms of the degrees of the vertical
12 and horizontal angles through which the solar access easement
13 extends over the burdened property and the points from which
14 these angles are measured.

15 3. In addition to the items required in subsection 2 the
16 solar access easement may include, but the contents are not
17 limited to, the following:

18 a. Any limitations on the growth of existing and future
19 vegetation or the height of buildings or other potential ob-
20 structions of the solar collector.

21 b. Terms or conditions under which the solar access
22 easement may be abandoned or terminated.

23 c. Provisions for compensating the owner of the prop-
24 erty benefiting from the solar access easement in the event
25 of interference with the enjoyment of the solar access
26 easement, or for compensating the owner of the property subject
27 to the solar access easement for maintaining that easement.

28 Sec. 10. NEW SECTION. RESTRICTIVE COVENANTS. City coun-
29 cils and county boards of supervisors may include in ordinances
30 relating to subdivisions a provision prohibiting deeds for
31 property located in new subdivisions from containing
32 restrictive covenants that include unreasonable restrictions
33 on the use of solar collectors.

34 Sec. 11. NEW SECTION. ASSISTANCE TO LOCAL GOVERNMENT
35 BODIES AND THE PUBLIC. The energy policy council shall make

1 available information and guidelines to assist local govern-
2 ment bodies and the public to understand and use the provisions
3 of this Act. The information and guidelines shall include
4 an application form for a solar access easement, instructions
5 and aids for preparing and recording solar access easements
6 and model ordinances that promote reasonable access to solar
7 energy.

8 Sec. 12. Section 103A.8, Code 1981, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. Facilitate the development and use of
11 solar energy.

12 EXPLANATION

13 This bill provides a procedure for obtaining a solar access
14 easement. It includes provisions for recording a voluntary
15 easement for access to solar energy for a solar collector.
16 However, if a person is unable to voluntarily obtain an
17 easement from a neighboring property owner the bill provides
18 an alternative process. It allows the city council or county
19 board of supervisors to designate a solar access regulatory
20 board for their respective geographic areas to conduct a
21 hearing on an application for an easement and to decide whether
22 the easement shall be granted and the amount of compensation
23 to be paid by the applicant or dominant estate to the
24 neighboring landowner or servient estate. The board could
25 be any existing or new board with at least three members
26 including the city council or county board of supervisors
27 itself. If the city council or county board fails to designate
28 a board for their area, the responsibility for acting as the
29 solar access regulatory board automatically goes to district
30 associate judges of the district court.

31 The bill requires the energy policy council to provide
32 information including application forms for an easement and
33 assistance in preparing an easement for recording to the
34 public and local governing bodies.

35 The bill also allows cities and counties to include in

1 ordinances relating to subdivisions a provision prohibiting
2 the deeds for property in new subdivisions from containing
3 restrictive covenants imposing unreasonable restrictions on
4 the use of solar collectors. It also requires state building
5 code standards to, as far as practical, facilitate the
6 development and use of solar energy.

7 The bill is effective July 1 following enactment.

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S-3593

HOUSE FILE 766

1 Amend S-3515 to House File 766 as amended, and
2 passed by the House, as follows:
3 1. Page 1, line 43, by inserting after the word
4 "easement." the words "However, the board may refuse
5 to grant a solar access easement upon a finding that
6 the easement would require the removal of trees that
7 provide shade or a windbreak to a residence on the
8 servient estate."

S-3593 FILED

APRIL 28, 1981

Adopted 4/27/81 (p 1490)

BY GARY L. BAUGHER

DALE L. TIEDEN

BERL E. PRIEBE

SENATE AMENDMENT TO HOUSE FILE 766

3942

1 Amend House File 766 as amended and passed by the
2 House as follows:

3 1. Page 2, line 25, by striking the word "shall"
4 and inserting in lieu thereof the word "may".

5 2. Page 3, line 14, by striking the word "shall"
6 and inserting in lieu thereof the word "may".

7 3. Page 3, line 20, by inserting after the word
8 "easement." the words "The application must be filed
9 before installation or construction of the solar
10 collector."

11 4. Page 4, line 2, by inserting after the word
12 "sought" the words "and a drawing that is a spatial
13 representation of the area of the servient estate
14 burdened by the easement illustrating the degrees
15 of the vertical and horizontal angles through which
16 the easement extends over the burdened property and
17 the points from which those angles are measured."

18 5. Page 4, by inserting after line 2 the following:
19 "_____. A statement that the applicant has attempted
20 to voluntarily negotiate a solar access easement with
21 the owner of the servient estate and has been
22 unsuccessful in obtaining the easement voluntarily."

23 6. Page 4, by inserting before line 3 the follow-
24 ing:

25 "_____. A statement that the space to be burdened
26 by the solar access easement is not obstructed at
27 the time of filing of the application by anything
28 other than vegetation that would shade the solar
29 collector."

30 7. Page 4, by striking line 4 and inserting in
31 lieu thereof the words "regulatory board shall
32 determine whether the application is complete and
33 contains the information required under subsection
34 1. The board may return an application for correction
35 of any deficiencies. Upon acceptance of an application
36 the board shall schedule a hearing. The board shall".

37 8. Page 4, line 5, by striking the word "send"
38 and inserting in lieu thereof the word "cause".

39 9. Page 4, line 6, by inserting after the word
40 "to" the words "be served upon".

41 10. Page 4, lines 6 and 7, by striking the words
42 "by restricted certified mail" and inserting in lieu
43 thereof the words "in the manner provided for service
44 of original notice and".

45 11. Page 4, line 25, by inserting after the word
46 "easement." the words "The board shall grant a solar
47 access easement if the board finds that there is a
48 need for the solar collector, that the space burdened
49 by the easement was not obstructed by anything except
50 vegetation that would shade the solar collector at

1 the time of filing of the application, that the
2 proposed location of the collector minimizes the
3 impact of the easement on the development of the
4 servient estate and that the applicant tried and
5 failed to negotiate a voluntary easement. However,
6 the board may refuse to grant a solar access easement
7 upon a finding that the easement would require the
8 removal of trees that provide shade or a windbreak
9 to a residence on the servient estate."

10 12. Page 5, line 7, by inserting after the word
11 "property." the words "Compensation shall be based
12 on the difference between the fair market value of
13 the property prior to and after granting the solar
14 access easement."

15 13. Page 5, by striking lines 25 through 34 and
16 inserting in lieu thereof the words "in or on the
17 servient estate."

18 14. Page 5, by inserting before line 35 the
19 following:

20 "Sec. ____ . NEW SECTION. REMOVAL OF EASEMENT.

21 The owner of a servient estate may apply to the solar
22 access regulatory board or may petition the district
23 court for an order removing a solar access easment
24 granted by a solar access regulatory board under this
25 Act under any of the following conditions:

26 1. If the solar collector is not installed and
27 made operational within two years of recording the
28 easement under section 7.

29 2. If the dominant estate owner ceases to use
30 the solar collector for more than one year.

31 3. If the solar collector is destroyed or removed
32 and not replaced within one year.

33 The procedure for filing an application with the
34 solar access regulatory board under this section and
35 for notice and hearings on the application shall be
36 the same as that prescribed for an application for
37 granting a solar access easement. An order issued
38 by the district court or a solar access regulatory
39 board removing a solar access easement may provide
40 for the return by the servient estate owner of
41 compensation paid by the dominant estate owner for
42 the solar access easement after the deduction of
43 reasonable expenses incurred by the servient estate
44 owner in proceedings for the granting and removal
45 of the easement."

46 15. Renumber as necessary.

S-3515

1 Amend House File 766 as amended and passed by the
2 House, as follows:

3 1. Page 3, line 20, by inserting after the word
4 "easement." the words "The application must be filed
5 before installation or construction of the solar
6 collector."

7 2. Page 4, line 2, by inserting after the word
8 "sought" the words "and a drawing that is a spatial
9 representation of the area of the servient estate
10 burdened by the easement illustrating the degrees
11 of the vertical and horizontal angles through which
12 the easement extends over the burdened property and
13 the points from which those angles are measured"

14 3. Page 4, by inserting after line 2 the following:
15 "A statement that the applicant has attempted
16 to voluntarily negotiate a solar access easement with
17 the owner of the servient estate and has been
18 unsuccessful in obtaining the easement voluntarily."

19 4. Page 4, by inserting before line 3 the follow-
20 ing:

21 "A statement that the space to be burdened
22 by the solar access easement is not obstructed at
23 the time of filing of the application by anything
24 other than vegetation that would shade the solar
25 collector."

26 5. Page 4, by striking line 4 and inserting in
27 lieu thereof the words "regulatory board shall
28 determine whether the application is complete and
29 contains the information required under subsection
30 1. The board may return an application for correction
31 of any deficiencies. Upon acceptance of an application
32 the board shall schedule a hearing. The board shall".

33 6. Page 4, line 25, by inserting after the word
34 "easement." the words "The board shall grant a solar
35 access easement if the board finds that there is a
36 need for the solar collector, that the space burdened
37 by the easement was not obstructed by anything except
38 vegetation that would shade the solar collector at
39 the time of filing of the application, that the
40 proposed location of the collector minimizes the
41 impact of the easement on the development of the
42 servient estate and that the applicant tried and
43 failed to negotiate a voluntary easement."

44 7. Page 5, line 7, by inserting after the word
45 "property." the words "Compensation shall be based
46 on the difference between the fair market value of
47 the property prior to and after granting the solar
48 access easement."

49 8. Page 5, by striking lines 25 through 34 and
50 inserting in lieu thereof the words "in or on the

S-3515
Page 2

1 servient estate."

2 9. Page 5, by inserting before line 35 the
3 following:

4 "Sec. ____ NEW SECTION. REMOVAL OF EASEMENT.

5 The owner of a servient estate may apply to the solar
6 access regulatory board or may petition the district
7 court for an order removing a solar access easment
8 granted by a solar access regulatory board under this
9 Act under any of the following conditions:

10 1. If the solar collector is not installed and
11 made operational within two years of recording the
12 easement under section 7.

13 2. If the dominant estate owner ceases to use
14 the solar collector for more than one year.

15 3. If the solar collector is destroyed or removed
16 and not replaced within one year.

17 The procedure for filing an application with the
18 solar access regulatory board under this section and
19 for notice and hearings on the application shall be
20 the same as that prescribed for an application for
21 granting a solar access easement. An order issued
22 by the district court or a solar access regulatory
23 board removing a solar access easement may provide
24 for the return by the servient estate owner of
25 compensation paid by the dominant estate owner for
26 the solar access easement after the deduction of
27 reasonable expenses incurred by the servient estate
28 owner in proceedings for the granting and removal
29 of the easement."

30 10. Renumber as necessary.

S-3515 FILED

APRIL 16, 1981

*Adopted as amended by 3593
4/29/81 (p. 1490)*

BY COMMITTEE ON ENERGY

DICK RAMSEY, CHAIRPERSON

HOUSE FILE 766

S-3572

1 Amend House File 766 as amended and passed by the
2 House, as follows:

3 1. Page 2, line 25, by striking the word "shall"
4 and inserting in lieu thereof the word "may".

5 2. Page 3, line 14, by striking the word "shall"
6 and inserting in lieu thereof the word "may".

7 3. Page 4, line 5, by striking the word "send"
8 and inserting in lieu thereof the word "cause".

9 4. Page 4, line 6, by inserting after the word
10 "to" the words "be served upon".

11 5. Page 4, lines 6 and 7, by striking the words
12 "by restricted certified mail" and inserting in lieu
13 thereof the words "in the manner provided for service
14 of original notice and".

S-3572 FILED

APRIL 27, 1981

Adopted 4/29/81 (p. 1490)

BY DICK RAMSEY

HOUSE FILE 766

AN ACT

RELATING TO ACCESS TO AND USE OF SOLAR ENERGY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. The general assembly finds that:

1. The needs of a society depend upon an ample supply of energy.
2. The current national imbalance between energy supplies and demands suggests the need for the development of new energy resources.
3. Increased national dependence upon foreign energy supplies is not desirable and new alternative energy resources should be developed.
4. National dependence upon nonrenewable energy resources cannot be continued indefinitely, particularly at current rates of consumption.
5. Solar energy is a very desirable, renewable energy resource which is nonpolluting, easily developed, and generally available across the state.
6. Virtually all of Iowa's energy needs are now being met from sources beyond the borders of the state and development of solar energy would reduce the flow of energy dollars out of the state.

7. An obstacle to orderly development and use of solar energy in this state is the absence of adequate laws and precedents defining rights of access to solar energy.

8. It is therefore in the public interest and the interest of the state to provide adequate laws which will expedite the development and use of solar energy.

Sec. 2. It is the intent of the general assembly that section 1 of this Act shall not appear in the Code of Iowa.

Sec. 3. NEW SECTION. PURPOSE. It is the purpose of this Act to facilitate the orderly development and use of solar energy by establishing and providing certain procedures for obtaining access to solar energy.

Sec. 4. NEW SECTION. DEFINITIONS. As used in sections 1 through 11 of this Act, unless the context otherwise requires:

1. "Solar access easement" means an easement recorded under section 9 of this Act, the purpose of which is to provide continued access to incident sunlight necessary to operate a solar collector.
2. "Solar energy" means energy emitted from the sun and collected in the form of heat or light by a solar collector.
3. "Solar collector" means a device or structural feature of a building that collects solar energy and that is part of a system for the collection, storage, and distribution of solar energy. For purposes of this Act, a greenhouse is a solar collector.
4. "Development of property" means construction, landscaping, growth of vegetation, or other alteration of property that interferes with the operation of a solar collector.
5. "Dominant estate" means that parcel of land to which the benefits of a solar access easement attach.
6. "Servient estate" means land burdened by a solar access easement, other than the dominant estate.
7. "Solar access regulatory board" means the board designated by a city council or county board of supervisors

under section 5 of this Act to receive and act on applications for a solar access easement or in the absence of a specific designation, the district court having jurisdiction in the area where the dominant estate is located. Notwithstanding chapter 602 the jurisdiction of the district court established in this subsection may be exercised by district associate judges.

Sec. 5. NEW SECTION. DESIGNATION. The city council or the county board of supervisors may designate a solar access regulatory board to receive and act on applications for a solar access easement. The board designated by the city council may be a board of adjustment having jurisdiction in the city, the city council itself, or any board with at least three members. The board designated by the county board of supervisors may be a board of adjustment having jurisdiction in the county, the board of supervisors itself, or any other board with at least three members. The jurisdiction of a board designated by the city council extends to applications when the dominant estate is located in the city. The jurisdiction of a board designated by the county board of supervisors extends to applications when the dominant estate is located in the county but outside the city limits of a city. In the absence of the designation of a specific board under this section, the district court having jurisdiction in the area where the dominant estate is located shall receive and act on applications submitted under section 6 of this Act and to that extent shall serve as the solar access regulatory board for purposes of this Act. Notwithstanding chapter 602 the jurisdiction of the district court established in this section may be exercised by district associate judges.

Sec. 6. NEW SECTION. APPLICATION FOR SOLAR ACCESS EASEMENT.

1. An owner of property may apply to the solar access regulatory board designated under section 5 of this Act for

an order granting a solar access easement. The application must be filed before installation or construction of the solar collector. The application shall state the following:

- a. A statement of the need for the solar access easement by the owner of the dominant estate.
 - b. A legal description of the dominant and servient estates.
 - c. The name and address of the dominant and servient estate owners of record.
 - d. A description of the solar collector to be used.
 - e. The size and location of the collector, including heights, its orientation with respect to south, and its slope from the horizontal shown either by drawings or in words.
 - f. An explanation of how the applicant has done everything reasonable, taking cost and efficiency into account, to design and locate the collector in a manner to minimize the impact on development of servient estates.
 - g. A legal description of the solar access easement which is sought and a drawing that is a spatial representation of the area of the servient estate burdened by the easement illustrating the degrees of the vertical and horizontal angles through which the easement extends over the burdened property and the points from which those angles are measured.
 - h. A statement that the applicant has attempted to voluntarily negotiate a solar access easement with the owner of the servient estate and has been unsuccessful in obtaining the easement voluntarily.
 - i. A statement that the space to be burdened by the solar access easement is not obstructed at the time of filing of the application by anything other than vegetation that would shade the solar collector.
2. Upon receipt of the application the solar access regulatory board shall determine whether the application is complete and contains the information required under subsection 1.
1. The board may return an application for correction of

any deficiencies. Upon acceptance of an application the board shall schedule a hearing. The board shall cause a copy of the application and a notice of the hearing to be served upon the owners of the servient estates in the manner provided for service of original notice and at least twenty days prior to the date of the hearing. The notice shall state that the solar access regulatory board will determine whether and to what extent a solar access easement will be granted, that the board will determine the compensation that may be awarded to the servient estate owner if the solar access easement is granted and that the servient estate owner has the right to contest the application before the board.

3. The applicant shall pay all costs incurred by the solar access regulatory board in copying and mailing the application and notice.

4. An application for a solar access easement submitted to the district court acting as the solar access regulatory board under this Act is not subject to the small claims procedures under chapter 631.

Sec. 7. NEW SECTION. DECISION.

1. After the hearing on the application, the solar access regulatory board shall determine whether to issue an order granting a solar access easement. The board shall grant a solar access easement if the board finds that there is a need for the solar collector, that the space burdened by the easement was not obstructed by anything except vegetation that would shade the solar collector at the time of filing of the application, that the proposed location of the collector minimizes the impact of the easement on the development of the servient estate and that the applicant tried and failed to negotiate a voluntary easement. However, the board may refuse to grant a solar access easement upon a finding that the easement would require the removal of trees that provide shade or a windbreak to a residence on the servient estate. The board shall not grant a solar access easement upon a

servient estate if the board finds that the owner, at least six months prior to the filing of the application, has made a substantial financial commitment to build a structure that will shade the solar collector. In issuing its order granting the solar access easement, the board may modify the solar access easement applied for and impose conditions on the location of the solar collector that will minimize the impact upon the servient estate.

2. The solar access regulatory board shall grant a solar access easement only within the area that is within three hundred feet of the center of the northernmost boundary of the collector and is south of a line drawn east and west tangent to the northernmost boundary of the collector.

3. The solar access regulatory board shall determine the amount of compensation that is to be paid to the owners of the servient estate for the impairment of the right to develop the property. Compensation shall be based on the difference between the fair market value of the property prior to and after granting the solar access easement. The parties shall be notified of the board's decision within thirty days of the date of the hearing. The owner of the dominant estate shall have thirty days from the date of notification of the board's decision to deposit the compensation with the board. Upon receipt of the compensation, the board shall issue an order granting the solar access easement to the owner of the dominant estate and remit the compensation awarded to the owners of the servient estate. The owner of the dominant estate may decline to deposit the compensation with the board, and no order granting the solar access easement shall then be issued.

4. When the order granting the solar access easement is issued, the owner of the dominant estate shall have it recorded in the office of the county recorder who shall record the solar access easement and list the owner of the dominant estate as grantee and the owner of the servient estate as

grantor in the deed index. The solar access easement after being recorded shall be considered an easement appurtenant in or on the servient estate.

Sec. 8. NEW SECTION. REMOVAL OF EASEMENT. The owner of a servient estate may apply to the solar access regulatory board or may petition the district court for an order removing a solar access easement granted by a solar access regulatory board under this Act under any of the following conditions:

1. If the solar collector is not installed and made operational within two years of recording the easement under section 7.
2. If the dominant estate owner ceases to use the solar collector for more than one year.
3. If the solar collector is destroyed or removed and not replaced within one year.

The procedure for filing an application with the solar access regulatory board under this section and for notice and hearings on the application shall be the same as that prescribed for an application for granting a solar access easement. An order issued by the district court or a solar access regulatory board removing a solar access easement may provide for the return by the servient estate owner of compensation paid by the dominant estate owner for the solar access easement after the deduction of reasonable expenses incurred by the servient estate owner in proceedings for the granting and removal of the easement.

Sec. 9. NEW SECTION. SOLAR ACCESS EASEMENTS.

1. Persons, including public bodies, may voluntarily agree to create a solar access easement. A solar access easement whether obtained voluntarily or pursuant to the order of a solar access regulatory board is subject to the same recording and conveyance requirements as other easements.
2. A solar access easement shall be created in writing and shall include the following:

a. The legal description of the dominant and servient estates.

b. A legal description of the space which must remain unobstructed expressed in terms of the degrees of the vertical and horizontal angles through which the solar access easement extends over the burdened property and the points from which these angles are measured.

3. In addition to the items required in subsection 2 the solar access easement may include, but the contents are not limited to, the following:

a. Any limitations on the growth of existing and future vegetation or the height of buildings or other potential obstructions of the solar collector.

b. Terms or conditions under which the solar access easement may be abandoned or terminated.

c. Provisions for compensating the owner of the property benefiting from the solar access easement in the event of interference with the enjoyment of the solar access easement, or for compensating the owner of the property subject to the solar access easement for maintaining that easement.

Sec. 10. NEW SECTION. RESTRICTIVE COVENANTS. City councils and county boards of supervisors may include in ordinances relating to subdivisions a provision prohibiting deeds for property located in new subdivisions from containing restrictive covenants that include unreasonable restrictions on the use of solar collectors.

Sec. 11. NEW SECTION. ASSISTANCE TO LOCAL GOVERNMENT BODIES AND THE PUBLIC. The energy policy council shall make available information and guidelines to assist local government bodies and the public to understand and use the provisions of this Act. The information and guidelines shall include an application form for a solar access easement, instructions and aids for preparing and recording solar access easements and model ordinances that promote reasonable access to solar energy.

Sec. 12. Section 103A.8, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Facilitate the development and use of solar energy.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 766, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved 5/19, 1981

ROBERT D. RAY
Governor