

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated,
2 relating to property owners' associations, so as to prohibit property owners' associations from
3 creating or enforcing covenants which infringe upon a lot owner's right to install a solar
4 energy device; to provide for a short title; to provide a definition; to provide exceptions; to
5 provide for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Homeowners' Solar Bill of Rights."

9 **SECTION 2.**

10 Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to
11 property owners' associations, is amended by adding a new paragraph to Code Section
12 44-3-221, relating to definitions applicable to property owners' associations, to read as
13 follows:

14 "(19) 'Solar energy device' means equipment that uses solar radiation as a substitute for
15 traditional energy for water heating, active and passive space heating and cooling, or
16 generating electrical or mechanical power, as well as related equipment necessary for
17 collecting, storing, exchanging, conditioning, or converting solar energy to other useful
18 forms of energy."

19 **SECTION 3.**

20 Said article is further amended by adding a new Code section to read as follows:

21 "44-3-222.1.

22 (a) Except as otherwise provided in subsection (c) of this Code section, no association
23 shall prohibit or restrict a lot owner from installing or maintaining a solar energy device
24 on the lot owner's property.

- 25 (b) A provision in an instrument, or any subsidiary document adopted pursuant to an
 26 instrument, that violates subsection (a) of this Code section is void and unenforceable.
- 27 (c) An association may prohibit installation of a solar energy device that:
- 28 (1) As adjudicated by a court:
- 29 (A) Threatens the public health or safety;
- 30 (B) Violates a law; or
- 31 (C) Would conflict with a local ordinance adopted in conformity with Article 2 of
 32 Chapter 10 of this title;
- 33 (2) Is located on property owned or maintained by the association;
- 34 (3) Is located within a common area;
- 35 (4) Is located in an area on the lot owner's property other than:
- 36 (A) On the roof of the home or on the roof of another structure allowed by an
 37 instrument or other rules or regulations adopted pursuant to an instrument; or
- 38 (B) In a fenced yard or fenced patio owned and maintained by the lot owner;
- 39 (5) If mounted on a roof:
- 40 (A) Extends higher than or beyond the roof line;
- 41 (B) Is located in an area other than an area designated by the association, unless the
 42 alternate location increases the estimated annual energy production of the device, as
 43 determined by using a publicly available modeling tool provided by the National
 44 Renewable Energy Laboratory and adopted by rule or regulation of the Department of
 45 Natural Resources, by more than 10 percent above the energy production of the device
 46 if located in an area designated by the association;
- 47 (C) Does not conform to the slope of the roof or has a top edge that is not parallel to
 48 the roof line; or
- 49 (D) Has a frame, support bracket, or visible piping or wiring that is not in a silver,
 50 bronze, or black tone commonly available in the marketplace;
- 51 (6) If located in a fenced yard or fenced patio, extends higher than the fence line; or
- 52 (7) As installed, voids material warranties.
- 53 (d) No association shall require a permit or fee for the installation or continuous use of a
 54 solar energy device.
- 55 (e) This Code section shall apply to covenants running with the land that are entered into
 56 or renewed on or after the effective date of this Code section."

57 SECTION 4.

58 All laws and parts of laws in conflict with this Act are repealed.