

House Bill 961

By: Representatives Drenner of the 86<sup>th</sup>, Martin of the 47<sup>th</sup>, Amerson of the 9<sup>th</sup>, Harbin of the 118<sup>th</sup>, Hamilton of the 23<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to  
2 prohibit property owners' associations from creating or enforcing covenants which infringe  
3 upon a lot owner's right to install a solar energy device; to provide for a short title; to provide  
4 a definition; to provide exceptions; to provide for applicability; to repeal conflicting laws;  
5 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 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
11 adding a new paragraph to Code Section 44-3-221, relating to definitions applicable to  
12 property owners' associations, to read as follows:

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

18 **SECTION 3.**

19 Said title is further amended by adding a new Code section to read as follows:

20 "44-3-222.1.

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

- 24 (b) A provision in an instrument, or any subsidiary document adopted pursuant to an  
25 instrument, that violates subsection (a) of this Code section is void and unenforceable.
- 26 (c) An association may prohibit installation of a solar energy device that:
- 27 (1) As adjudicated by a court:
- 28 (A) Threatens the public health or safety;
- 29 (B) Violates a law; or
- 30 (C) Would conflict with a local ordinance adopted in conformity with Article 2 of  
31 Chapter 10 of this title;
- 32 (2) Is used for any purpose other than energy generation for consumption of the lot  
33 owner;
- 34 (3) Is located on property owned or maintained by the association;
- 35 (4) Is located within a common area;
- 36 (5) Is located in an area on the lot owner's property other than:
- 37 (A) On the roof of the home or on the roof of another structure allowed by an  
38 instrument or other rules or regulations adopted pursuant to an instrument; or
- 39 (B) In a fenced yard or fenced patio owned and maintained by the lot owner;
- 40 (6) If mounted on a roof:
- 41 (A) Extends higher than or beyond the roof line;
- 42 (B) Is located in an area other than an area designated by the association, unless the  
43 alternate location increases the estimated annual energy production of the device, as  
44 determined by using a publicly available modeling tool provided by the National  
45 Renewable Energy Laboratory and adopted by rule or regulation of the Department of  
46 Natural Resources, by more than 10 percent above the energy production of the device  
47 if located in an area designated by the association;
- 48 (C) Does not conform to the slope of the roof or has a top edge that is not parallel to  
49 the roof line; or
- 50 (D) Has a frame, support bracket, or visible piping or wiring that is not in a silver,  
51 bronze, or black tone commonly available in the marketplace;
- 52 (7) If located in a fenced yard or fenced patio, extends higher than the fence line; or
- 53 (8) As installed, voids material warranties.
- 54 (d) No association shall require a permit or fee for the installation or continuous use of a  
55 solar energy device.
- 56 (e) This Code section shall apply to any instruments entered into or renewed on or after  
57 July 1, 2012, and to any rules or regulations adopted by an association on or after  
58 July 1, 2012."

**SECTION 4.**

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

"44-5-60.1.

(a) As used in this Code section, the term 'solar energy device' means equipment that uses solar radiation as a substitute for traditional energy for water heating, active and passive space heating and cooling, or generating electrical or mechanical power, as well as related equipment necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

(b) Except as otherwise provided in subsection (d) of this Code section, no covenant running with the land shall prohibit or restrict a lot owner from installing or maintaining a solar energy device on the lot owner's property.

(c) A provision in an instrument, or any subsidiary document adopted pursuant to a covenant, that violates subsection (b) of this Code section is void and unenforceable.

(d) A homeowners' association established pursuant to a covenant running with the land may prohibit installation of a solar energy device that:

(1) As adjudicated by a court:

(A) Threatens the public health or safety;

(B) Violates a law; or

(C) Would conflict with a local ordinance adopted in conformity with Article 2 of Chapter 10 of this title;

(2) Is used for any purpose other than energy generation for consumption of the lot owner;

(3) Is located on property owned or maintained by the association;

(4) Is located on a portion of the lot owner's property or structure that the homeowners' association is required to maintain;

(5) Is located in an area on the lot owner's property other than:

(A) On the roof of the home or on the roof of another structure allowed by an instrument or other rules or regulations adopted pursuant to an instrument; or

(B) In a fenced yard or fenced patio owned and maintained by the lot owner;

(6) If mounted on a roof:

(A) Extends higher than or beyond the roof line;

(B) Is located in an area other than an area designated by the association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory and adopted by rule or regulation of the Department of Natural Resources, by more than 10 percent above the energy production of the device if located in an area designated by the association;

- 96 (C) Does not conform to the slope of the roof or has a top edge that is not parallel to  
97 the roof line; or  
98 (D) Has a frame, support bracket, or visible piping or wiring that is not in a silver,  
99 bronze, or black tone commonly available in the marketplace;  
100 (7) If located in a fenced yard or fenced patio, extends higher than the fence line; or  
101 (8) As installed, voids material warranties.  
102 (e) No homeowners' association shall require a permit or fee for the installation or  
103 continuous use of a solar energy device.  
104 (f) This Code section shall apply to any covenants running with the land entered into or  
105 renewed on or after July 1, 2012, and to any rules or regulations adopted by an association  
106 on or after July 1, 2012."

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**SECTION 5.**

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