

The House Committee on Judiciary offers the following substitute to HB 961:

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 shall be void and
 26 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 used for any purpose other than energy generation for consumption or passive
 34 heating or cooling by the lot owner;

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

36 (4) Is located within a common area;

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

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

40 (B) In a fenced yard or fenced patio owned and maintained by the lot owner and
 41 located behind the home;

42 (6) If mounted on a roof:

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

44 (B) Does not conform to the slope of the roof; or

45 (C) Has a frame, support bracket, or visible piping or wiring that is not in a silver,
 46 bronze, or black tone commonly available in the marketplace; or

47 (7) If located in a fenced yard or fenced patio, extends higher than the fence line.

48 (d) No association shall require a permit or fee for the installation or continuous use of a
 49 solar energy device.

50 (e) This Code section shall apply to any instruments entered into or renewed on or after
 51 January 1, 2013, and to any rules or regulations adopted by an association on or after
 52 January 1, 2013."

53 **SECTION 4.**

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

55 "44-5-60.1.

56 (a) As used in this Code section, the term 'solar energy device' means equipment that uses
 57 solar radiation as a substitute for traditional energy for water heating, active and passive
 58 space heating and cooling, or generating electrical or mechanical power, as well as related

59 equipment necessary for collecting, storing, exchanging, conditioning, or converting solar
 60 energy to other useful forms of energy.

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

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

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

68 (1) As adjudicated by a court:

69 (A) Threatens the public health or safety;

70 (B) Violates a law; or

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

73 (2) Is used for any purpose other than energy generation for consumption or passive
 74 heating or cooling by the lot owner;

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

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

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

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

81 (B) In a fenced yard or fenced patio owned and maintained by the lot owner and
 82 located behind the home;

83 (6) If mounted on a roof:

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

85 (B) Does not conform to the slope of the roof; or

86 (C) Has a frame, support bracket, or visible piping or wiring that is not in a silver,
 87 bronze, or black tone commonly available in the marketplace; or

88 (7) If located in a fenced yard or fenced patio, extends higher than the fence line.

89 (e) No homeowners' association shall require a permit or fee for the installation or
 90 continuous use of a solar energy device.

91 (f) This Code section shall apply to any covenants running with the land entered into or
 92 renewed on or after January 1, 2013, and to any rules or regulations adopted by an
 93 association on or after January 1, 2013."

94

SECTION 5.

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