

House Bill 355

By: Representatives Carpenter of the 4th, Tarvin of the 2nd, Washburn of the 144th, Gullett of the 19th, and Bonner of the 73rd

A BILL TO BE ENTITLED
AN ACT

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

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy."

SECTION 2.

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

"44-3-222.1.

(a) Except as otherwise provided in subsection (c) of this Code section, no association shall prohibit or restrict:

(1) A lot owner from using natural gas on the lot owner's property; or

(2) A lot owner from installing or using a solar energy device on the lot owner's property.

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

(c) An association 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 or passive heating and cooling by the lot owner;

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

(4) Is located within a common area;

(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 not prohibited by an instrument or other rules or regulations adopted pursuant to an instrument; or

(B) In a fenced yard or fenced patio screened from public view and located behind the home;

(6) If mounted on a roof:

(A) Extends higher than or beyond the highest point of the roof;

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

(C) Has a frame, support bracket, or visible piping or wiring that is not in a silver, bronze, or black color or a color which matches the color of the roof; or

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

(d) No association shall require a permit or fee for:

(1) The use of natural gas; or

(2) The installation or continuous use of a solar energy device.

(e) This Code section shall apply to any instruments entered into or renewed on or after January 1, 2024, and to any rules or regulations adopted by an association on or after January 1, 2024."

SECTION 3.

Article 3 of Chapter 5 of Title 44 of the Official Code of Georgia Annotated, relating to covenants and warranties, is 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:

(1) A lot owner from using natural gas on the lot owner's property; or

(2) A lot owner from installing or using 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 shall be 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 or passive heating and cooling by 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 not prohibited by an instrument or other rules or regulations adopted pursuant to an instrument; or

(B) In a fenced yard or fenced patio screened from public view and located behind the home;

(6) If mounted on a roof:

(A) Extends higher than or beyond the highest point of the roof;

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

(C) Has a frame, support bracket, or visible piping or wiring that is not in a silver, bronze, or black color or a color which matches the color of the roof; or

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

(e) No homeowners' association shall require a permit or fee for:

94 (1) The use of natural gas; or
95 (2) The installation or continuous use of a solar energy device.
96 (f) This Code section shall apply to any covenants running with the land created for
97 subdivisions entered into as contemplated under subsection (d) of Code Section 44-5-60
98 and on or after January 1, 2024, and to any rules or regulations adopted by an association
99 on or after January 1, 2024."

SECTION 4.

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