

House Bill 389

By: Representatives Bell of the 75th, Holland of the 54th, Sharper of the 177th, Drenner of the 85th, Frye of the 122nd, 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 condominium associations, property owners' associations, and homeowners'
3 associations from preventing property owners from installing solar energy devices on
4 common roofs or roof structures; to provide for the burden of costs for removal and
5 reinstallation of solar energy devices; to allow for repair of common roofs or roof structures;
6 to provide for definitions; to provide for applicability; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in
11 Article 3 of Chapter 3, relating to condominiums, by revising paragraphs (26.1) and (26.2)
12 of and adding a new paragraph to Code Section 44-3-71, relating to definitions, to read as
13 follows:

14 “(26.1) 'Solar energy device' means equipment that uses solar radiation as a substitute for
15 traditional energy for water heating, active or passive space heating or cooling, or
16 generating electrical or mechanical power, as well as related equipment necessary for

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17 collecting, storing, exchanging, conditioning, or converting solar radiation into other
18 forms of energy.

19 (26.2) 'Subassociation' means an association of a subcondominium.

20 (26.2)(26.3) 'Subcondominium' means the property consisting of a unit of an existing
21 condominium lawfully submitted under this article by the recordation of separate
22 condominium instruments pursuant to this article."

23 **SECTION 2.**

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

25 "44-3-118.

26 (a) No association shall prohibit or restrict a unit owner from installing, maintaining, or
27 using a solar energy device on the unit owner's roof or roof structure, even if such roof or
28 roof structure is a common element for which the association bears the cost of
29 maintenance.

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

33 (c) Except as provided in subsection (d) of this Code section, no association shall require
34 a permit or payment of a fee for the installation, maintenance, or use of a solar energy
35 device.

36 (d) In the event that roof maintenance becomes necessary after the installation of a solar
37 energy device on a roof or roof structure that is a common element for which the
38 association bears the cost of maintenance, the unit owner who installed the solar energy
39 device shall bear the costs of removal and reinstallation of the solar energy device.

40 (e) This Code section shall apply to any instruments entered into on or after January 1,
41 2026, to any renewals, modifications, or extensions of such agreements entered into on or

42 after such date, and to any rules or regulations adopted by an association on or after
43 January 1, 2026."

44 **SECTION 3.**

45 Said title is further amended in Article 6 of Chapter 3, relating to property owners'
46 associations, by adding a new paragraph to Code Section 44-3-221, relating to definitions,
47 to read as follows:

48 "(19) 'Solar energy device' means equipment that uses solar radiation as a substitute for
49 traditional energy for water heating, active or passive space heating or cooling, or
50 generating electrical or mechanical power, as well as related equipment necessary for
51 collecting, storing, exchanging, conditioning, or converting solar radiation into other
52 forms of energy."

53 **SECTION 4.**

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

55 "44-3-233.1.

56 (a) No association shall prohibit or restrict a lot owner from installing, maintaining, or
57 using a solar energy device on the lot owner's roof or roof structure, even if such roof or
58 roof structure is a common roof or roof structure for which the association bears the cost
59 of maintenance.

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

63 (c) Except as provided in subsection (d) of this Code section, no association shall require
64 a permit or payment of a fee for the installation, maintenance, or use of a solar energy
65 device.

66 (d) In the event that roof maintenance becomes necessary after the installation of a solar
67 energy device on a common roof or roof structure for which the association bears the cost
68 of maintenance, the lot owner who installed the solar energy device shall bear the costs of
69 removal and reinstallation of the solar energy device.

70 (e) This Code section shall apply to any instruments entered into on or after January 1,
71 2026, to any renewals, modifications, or extensions of such agreements entered into on or
72 after such date, and to any rules or regulations adopted by an association on or after
73 January 1, 2026."

74 **SECTION 5.**

75 Said title is further amended in Article 3 of Chapter 5, relating to covenants and warranties,
76 by adding a new Code section to read as follows:

77 "44-5-60.1.

78 (a) As used in this Code section, the term:

79 (1) 'Homeowners' association' means and includes, but is not limited to, any property
80 owners' association, community association, or other similar organization which has as
81 one of its principal purposes the preservation or promotion of its member homeowners'
82 enjoyment of their property in any residential neighborhood or community. Such term
83 is limited to a corporation or limited liability company incorporated in the State of
84 Georgia without regard to whether membership in the organization is voluntary or
85 mandatory and without regard to the number of eligible homeowners who are members.

86 (2) 'Solar energy device' means equipment that uses solar radiation as a substitute for
87 traditional energy for water heating, active or passive space heating or cooling, or
88 generating electrical or mechanical power, as well as related equipment necessary for
89 collecting, storing, exchanging, conditioning, or converting solar radiation into other
90 forms of energy.

91 (b) No covenant running with the land shall prohibit or restrict a plot owner from
92 installing, maintaining, or using a solar energy device on the plot owner's property, even
93 if such solar energy device is on a common roof or roof structure for which the
94 homeowners' association bears the cost of maintenance.

95 (c) A provision in a covenant running with the land, or any subsidiary document adopted
96 pursuant to a covenant running with the land, that violates subsection (b) of this Code
97 section shall be void and unenforceable.

98 (d) Except as provided in subsection (e) of this Code section, no homeowners' association
99 shall require a permit or payment of a fee for the installation, maintenance, or use of a solar
100 energy device.

101 (e) In the event that roof maintenance becomes necessary after the installation of a solar
102 energy device on a common roof or roof structure for which the homeowners' association
103 bears the cost of maintenance, the plot owner who installed the solar energy device shall
104 bear the costs of removal and reinstallation of the solar energy device.

105 (f) This Code section shall apply to any covenants running with the land created for
106 subdivisions, as provided for in subsection (d) of Code Section 44-5-60, entered into on or
107 after January 1, 2026, to any renewals, modifications, or extensions of such agreements
108 entered into on or after such date, and to any rules or regulations adopted by a homeowners'
109 association on or after January 1, 2026."

110

SECTION 6.

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