

House Bill 1321

By: Representatives Bell of the 75th, Holland of the 54th, and Sharper of the 177th

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 burden of costs for removal and reinstallation
5 of solar energy devices to allow for repair of common roofs or roof structures; to provide for
6 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

13 “(26.1) 'Solar energy device' means equipment that uses solar radiation as a substitute for
14 traditional energy for water heating, active or passive space heating or cooling, or
15 generating electrical or mechanical power, as well as related equipment necessary for

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

18 (26.2) 'Subassociation' means an association of a subcondominium.

19 (26.2)(26.3) 'Subcondominium' means the property consisting of a unit of an existing
20 condominium lawfully submitted under this article by the recordation of separate
21 condominium instruments pursuant to this article."

22 **SECTION 2.**

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

24 "44-3-118.

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

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

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

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

39 (e) This Code section shall apply to any instruments entered into or renewed on or after
40 January 1, 2025, and to any rules or regulations adopted by an association on or after
41 January 1, 2025."

42 **SECTION 3.**

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

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

51 **SECTION 4.**

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

53 "44-3-233.1.

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

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

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

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

68 (e) This Code section shall apply to any instruments entered into or renewed on or after
69 January 1, 2025, and to any rules or regulations adopted by an association on or after
70 January 1, 2025."

71 **SECTION 5.**

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

74 "44-5-60.1.

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

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

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

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

- 92 (c) A provision in a covenant running with the land, or any subsidiary document adopted
93 pursuant to a covenant running with the land, that violates subsection (b) of this Code
94 section shall be void and unenforceable.
- 95 (d) Except as provided in subsection (e) of this Code section, no homeowners' association
96 shall require a permit or payment of a fee for the installation, maintenance, or use of a solar
97 energy device.
- 98 (e) In the event that roof maintenance becomes necessary after the installation of a solar
99 energy device on a common roof or roof structure for which the homeowners' association
100 bears the cost of maintenance, the plot owner who installed the solar energy device shall
101 bear the costs of removal and reinstallation of the solar energy device.
- 102 (f) This Code section shall apply to any covenants running with the land created for
103 subdivisions, as provided for in subsection (d) of Code Section 44-5-60, entered into or
104 renewed on or after January 1, 2025, and to any rules or regulations adopted by a
105 homeowners' association on or after January 1, 2025."

106 **SECTION 6.**

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