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SENATE BILL NO. 697
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government)
(Patron Prior to Substitute—Senator VanValkenburg
Senate Amendments in [] - February 9, 2024

A BILL to amend and reenact § 15.2-2288.7 of the Code of Virginia, relating to solar and energy storage facilities; local regulation.

(Patron Prior to Substitute--Senator VanValkenburg)

Be it enacted by the General Assembly of Virginia:

**1. That § 15.2-2288.7 of the Code of Virginia is amended and reenacted as follows:
§ 15.2-2288.7. Local regulation of solar facilities.**

A. An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned residential shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned residential, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

B. An owner of real property zoned agricultural may install a solar facility on the roof of a residential dwelling on such property, or on the roof of another building or structure on such property, to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned agricultural and to be operated under § 56-594 or 56-594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned agricultural, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

C. An owner of real property zoned commercial, industrial, or institutional may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned commercial, industrial, or institutional shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned commercial, industrial, or institutional, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

D. An owner of real property zoned mixed-use may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted

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60 solar energy generation facility to be located on property zoned mixed-use shall be permitted, provided that
61 such installation is (a) in compliance with any height and setback requirements in the zoning district where
62 such property is located and (b) in compliance with any provisions pertaining to any local historic,
63 architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property
64 is located. Except as provided herein, any other solar facility proposed on property zoned mixed-use,
65 including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property
66 other than the property where such facilities are located, shall be subject to any applicable zoning regulations
67 of the locality.

68 E. Nothing in this section shall be construed to supersede or limit contracts or agreements between or
69 among individuals or private entities related to the use of real property, including recorded declarations and
70 covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia
71 Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in §
72 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate
73 Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant
74 to the Property Owners' Association Act (§ 55.1-1800 et seq.).

75 F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any zoning
76 classification in addition to that provided in this section. A locality may also, by ordinance, require a property
77 owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) who
78 removes solar panels to dispose of such panels in accordance with such ordinance in addition to other
79 applicable laws and regulations affecting such disposal.

80 *G. No local ordinance shall include (i) limits on the total amount, density, or size of any ground-mounted
81 solar facility or energy storage facility [~~unless~~ until such time that] the total area under panels [within the
82 locality] exceeds four percent of the total area within the [~~county~~ locality] or (ii) any prohibitions on the
83 use of solar panels that comply with generally accepted national environmental protection and product safety
84 standards such as those set forth in subdivision A 13 of § 15.2-2286, provided that such installation is in
85 compliance with any provision of a local ordinance that establishes criteria and requirements for siting. The
86 provisions of this subsection shall not apply to any site that was the subject of an application to construct a
87 solar facility or energy storage facility submitted to a locality before July 1, 2024. Nothing in this subsection
88 shall require a locality to approve an application for solar or energy storage projects or limit a locality's
89 authority to establish criteria and requirements for siting, including those related to tree [~~cover~~ canopy] and
90 stormwater management, that are otherwise in compliance with this subsection and existing local zoning
91 authority.*