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SENATE BILL NO. 697

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on February 8, 2024)

(Patron Prior to Substitute—Senator VanValkenburg)

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

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 solar energy generation facility to be located on property zoned mixed-use shall be permitted, provided that

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

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

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

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