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SENATE BILL NO. 697

Offered January 19, 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—VanValkenburg

Referred to Committee on Local Government

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 §

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59 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted
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. Any ground-mounted solar or energy storage facility, including any solar facility that is designed to*
81 *serve, or serves, the electricity or thermal needs of any property other than the property where such facility is*
82 *located, shall be permitted as a special exception pursuant to § 15.2-2288.8, provided that such installation*
83 *is in compliance with any provisions in a local ordinance that establish reasonable criteria and requirements*
84 *for siting. Reasonable criteria and requirements in a local ordinance shall not include limits on the total*
85 *amount, density, or size of solar and storage facilities that can be developed. The provisions of this*
86 *subsection shall not apply to any site that was the subject of an application to construct a solar facility*
87 *submitted to a locality before July 1, 2024.*