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SENATE BILL NO. 429

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government)
(Patron Prior to Substitute—Senator Stanley)
Senate Amendments in [] — February 7, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-2288.7, relating to local regulation of solar facilities.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2288.7 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. A 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

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

70 E. Nothing in this section shall be construed to supersede or limit contracts or agreements between
71 or among individuals or private entities related to the use of real property, including recorded
72 declarations and covenants, the provisions of condominium instruments of a condominium created
73 pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community
74 as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia
75 Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association
76 created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).

77 F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any
78 zoning classification in addition to that provided in this section. A locality may also, by ordinance,
79 require a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code
80 (§ 36-97 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance
81 in addition to other applicable laws and regulations affecting such disposal.

82 **2. That the provisions of this act with respect to ground-mounted solar energy generation facilities**
83 **shall become effective on January 1, 2019 [; however, notwithstanding any local ordinance to the**
84 **contrary, any ground-mounted solar energy generation facility existing as of January 1, 2018, shall**
85 **be deemed a legally existing nonconforming use under § 15.2-2307 of the Code of Virginia. A**
86 **zoning ordinance may provide that any ground-mounted solar energy generation facility installed**
87 **after January 1, 2018, is nonconforming but shall not provide that such facility is illegal and**
88 **subject to removal solely due to such nonconformity . Unless a locality regulates ground-mounted**
89 **solar facilities in the provisions of its zoning ordinance as a permitted principal or accessory use,**
90 **or expressly as a solar facility, a ground-mounted solar energy generation facility existing as of**
91 **January 1, 2018, shall be deemed a legally existing nonconforming use under § 15.2-2307 of the**
92 **Code of Virginia and shall not be subject to removal.]**