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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

60 otherwise, a ground-mounted solar energy generation facility to be located on property zoned mixed-use
61 shall be permitted, provided that such installation is (a) in compliance with any height and setback
62 requirements in the zoning district where such property is located and (b) in compliance with any
63 provisions pertaining to any local historic, architectural preservation, or corridor protection district
64 adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other
65 solar facility proposed on property zoned mixed-use, including any solar facility that is designed to
66 serve, or serves, the electricity or thermal needs of any property other than the property where such
67 facilities are located, shall be subject to any applicable zoning regulations 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
70 and covenants, the provisions of condominium instruments of a condominium created pursuant to the
71 Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as
72 defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia
73 Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association
74 created pursuant 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
76 zoning classification in addition to that provided in this section. A locality may also, by ordinance,
77 require a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code
78 (§ 36-97 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance
79 in addition to other 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*
81 *ground-mounted solar facility or energy storage facility unless the total area under panels exceeds four*
82 *percent of the total area within the county or (ii) any prohibitions on the use of solar panels that*
83 *comply with generally accepted national environmental protection and product safety standards such as*
84 *those set forth in subdivision A 13 of § 15.2-2286, provided that such installation is in compliance with*
85 *any provision of a local ordinance that establishes criteria and requirements for siting. The provisions*
86 *of this subsection shall not apply to any site that was the subject of an application to construct a solar*
87 *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*
89 *locality's authority to establish criteria and requirements for siting, including those related to tree cover*
90 *and stormwater management, that are otherwise in compliance with this subsection and existing local*
91 *zoning authority.*