
OLR Bill Analysis

SHB 5168 (as amended by House "A" and "C")*

AN ACT CONCERNING SOLAR INSTALLATIONS IN CONDOMINIUMS AND COOPERATIVES.

SUMMARY

This bill requires common interest communities to assess a unit owner for any increase in common expenses (e.g., maintenance, repair, or insurance costs) that result from the owner's addition, alteration, or improvement. (Common interest communities include condominiums, cooperatives, and planned communities.)

Separately, the bill prohibits enforcing any provisions in a condominium or planned community declaration or bylaws that unreasonably restrict solar generating systems (i.e., solar panels) on the roofs of single-family detached units or that otherwise conflict with the bill's solar panel requirements, beginning January 1, 2025. It also establishes (1) a solar panel approval process for unit owners and these associations to follow; (2) terms to which the unit owner must agree (e.g., to assume certain costs and indemnify the association); and (3) a period during which associations may opt out of the bill's solar panel-related requirements. In doing so, the bill repeals a current, narrower provision that restricts planned community associations (but not condominiums or cooperatives) from barring solar panels on units that do not share a roof.

The bill additionally authorizes associations to install solar panels on any common elements for all unit owners' use and develop rules for their use. It also makes minor and conforming changes.

*House Amendment "A" makes two changes in the bill's provisions on solar panels installed in associations. It (1) deems applications approved if an association requests additional information and does not issue a decision within 30 days of receiving the information and (2)

allows associations to require unit owners to remove any solar panels before selling their units if the prospective buyers do not agree to take over any solar panel leasing agreements (and correspondingly requires sellers to notify buyers of this).

*House Amendment "C" excludes cooperatives from the bill's provisions on panels installed on single-family detached units in associations.

EFFECTIVE DATE: January 1, 2025, except the provision on increases in common assessments is effective October 1, 2024.

APPROVAL PROCESS

The bill requires condominium or planned community unit owners to get their association's approval to install solar panels on single-family detached units. The unit owner must apply with the association's executive board and do so in the form and way directed by the board. Upon receiving the unit owner's application, the board must acknowledge receipt in writing within 30 days and issue a written decision within 60 days, unless it requests additional information. If the board asks the owner to provide additional information about the proposal, it has up to 30 days after receiving the information to deny it. The application is deemed approved if the board does not deny it in writing within these timeframes.

The board must process these applications in the same way applications for additions, alterations, or improvements are processed under the association's bylaws or declaration. And it may not unreasonably withhold approval if the unit owner complies with the bill's requirements.

AGREEMENT TERMS AND OWNER RESPONSIBILITIES

Under the bill, if the application is approved or deemed approved, the unit owner and association must enter a written agreement. The agreement may be recorded in the land records of the town or towns in which the association is located. The agreement must require the unit owner to:

1. comply with the declaration or bylaws regarding additions, alterations, or improvements as applicable;
2. hire a registered and insured contractor to install the solar panels who must, within 14 days after the unit owner and association execute the agreement, (a) provide a certificate of insurance for at least \$1 million of liability coverage for the association, its manager, and the unit owner; (b) provide proof of any legally required workers' compensation insurance; and (c) give the association a mechanic's lien waiver in its favor;
3. pay any installation costs (e.g., increased master policy premiums, the association's attorney's fees, fees for engineers and other professionals, and fees for permits and zoning compliance requirements);
4. indemnify other unit owners and the association, its executive board, officers, directors, and managers for any damage, loss, or financial obligation the solar panels cause; and
5. assume full responsibility, including sole financial responsibility, for maintaining, repairing, and replacing the unit's roof.

The bill makes the unit owner, or any successive owner who assumed the unit's title and the owner's duties under the bill, responsible for certain costs, including costs to:

1. repair, maintain, or replace the solar panels;
2. repair damage to the association's common elements or units due to installing, using, maintaining, repairing, removing, or replacing the panels;
3. repair the roof after the panels are removed; and
4. cover common expenses for losses due to the solar panels that are uninsured under the association's master policy.

Under the bill, the association may also assess the unit owner for any

uninsured portion of a loss (including deductibles) it incurs due to the panels. The association may do so regardless of whether it submits an insurance claim.

Regulatory Requirements

The bill explicitly requires the solar panels to comply with all applicable state, federal, and local health and safety standards and requirements.

Attorney's Fees

Under the bill, if the association initiates a legal action to enforce compliance with the written agreement or any of the bill's related requirements, the prevailing party must be awarded reasonable attorney's fees.

SUCCESSIVE OWNERS AND BUYERS

The bill requires the unit owner, or any successive owner, to disclose to any prospective buyers the (1) existence of the solar panels and any related agreements with the association; (2) unit owner's responsibilities associated with the solar panels; and (3) requirement that the buyer will own the solar panels or take over any agreement the unit owner has with the panel owner (e.g., a lease agreement), unless they are removed before the sale.

The association may require the unit owner to remove the panels before the sale if the buyer does not agree to (1) take over ownership of the solar panels or any leasing or other agreement for them; (2) be bound by the indemnification agreement; and (3) be responsible for the full costs of maintaining, repairing, and replacing the unit's roof.

OPT-OUT

Associations formed by January 1, 2025, may opt out of the bill's solar panel prohibition and requirements if they do so by December 31, 2026. To opt out, at least 75% of the association's board of directors must vote to do so. Within 30 days after the favorable vote to opt out, the association must record notice of it in the land records of the town or towns in which the association owns real property (e.g., land or

buildings).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/15/2024)

Judiciary Committee

Joint Favorable

Yea 35 Nay 0 (04/12/2024)