



House of Representatives

General Assembly

File No. 225

February Session, 2024

Substitute House Bill No. 5168

House of Representatives, April 3, 2024

The Committee on Planning and Development reported through REP. KAVROS DEGRAW of the 17th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING SOLAR INSTALLATIONS IN CONDOMINIUMS AND COOPERATIVES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-257 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2024*):

3 (a) Until the association makes a common expense assessment, the
4 declarant shall pay all common expenses. After an assessment has been
5 made by the association, assessments shall be made [at least] not less
6 than annually, based on a budget adopted [at least] not less than
7 annually by the association.

8 (b) Except for assessments under subsections (c), (d), [and] (e) and (h)
9 of this section, or as otherwise provided in this chapter, all common
10 expenses shall be assessed against all the units in accordance with the
11 allocations set forth in the declaration pursuant to subsections (a) and
12 (b) of section 47-226. The association may charge interest on any past
13 due assessment or portion thereof at the rate established by the
14 association, not exceeding eighteen per cent per year.

15 (c) To the extent required by the declaration: (1) Any common
16 expense associated with the maintenance, repair or replacement of a
17 limited common element shall be assessed against the units to which
18 that limited common element is assigned, equally, or in any other
19 proportion the declaration provides; (2) any common expense or
20 portion thereof benefiting fewer than all of the units or their owners may
21 be assessed exclusively against the units benefited; and (3) the costs of
22 insurance shall be assessed in proportion to risk and the costs of utilities
23 shall be assessed in proportion to usage.

24 (d) Assessments to pay a judgment against the association may be
25 made only against the units in the common interest community at the
26 time the judgment was rendered, in proportion to their common
27 expense liabilities.

28 (e) If any common expense is caused by the wilful misconduct, failure
29 to comply with a written maintenance standard [~~promulgated~~] adopted
30 by the association or gross negligence of any unit owner, or tenant or a
31 guest or invitee of a unit owner or tenant, the association may, after
32 notice and hearing, assess the portion of that common expense [~~in excess~~
33 of] exceeding any insurance proceeds received by the association under
34 its insurance policy, whether that portion results from the application of
35 a deductible or otherwise, exclusively against [that] such owner's unit.

36 (f) If common expense liabilities are reallocated, common expense
37 assessments and any installment thereof not yet due shall be
38 recalculated in accordance with the reallocated common expense
39 liabilities.

40 (g) No unit owner may exempt [~~himself~~] themselves from liability for
41 payment of the common expenses by waiver of the use or enjoyment of
42 any of the common elements or by abandonment of the unit against
43 which the assessments are made.

44 (h) If any addition, alteration or improvement made by, or at the
45 direction of, a unit owner results in an increase in common expenses,
46 including, but not limited to, any cost of maintenance, repair or

47 insurance, the amount of such increase shall be assessed solely against
48 the unit owned by the unit owner who caused such addition, alteration
49 or improvement to be made.

50 Sec. 2. (NEW) (*Effective January 1, 2025*) (a) For purposes of this
51 section, "single-family detached unit" means a building in a common
52 interest community that does not contain units divided by horizontal or
53 vertical boundaries that are comprised by, or are located in, common
54 walls between units.

55 (b) On and after January 1, 2025, any provision of a declaration or the
56 bylaws of an association that prohibits or unreasonably restricts the
57 installation or use of a solar power generating system on the roof of a
58 unit that is a single-family detached unit, or is otherwise in conflict with
59 the provisions of this section, shall be unenforceable. In any common
60 interest community where a unit is a parcel of land, this section shall
61 apply to any single-family detached unit constructed on such unit. This
62 section shall not apply to any unit that has vertical or horizontal
63 boundaries that are comprised by, or are located in, common walls
64 between units.

65 (c) The owner of a unit shall obtain approval to install a solar power
66 generating system under this section by submitting an application to the
67 executive board of the association in a form and manner prescribed by
68 such board. The executive board shall (1) acknowledge, in writing to the
69 unit owner, the receipt of any such application not later than thirty days
70 after such receipt, and (2) process such application in the same manner
71 as an application for an addition, alteration or improvement pursuant
72 to the declaration or bylaws of the association. The approval or denial
73 of such application shall be in writing and be issued to the unit owner
74 not later than sixty days after the date of receipt of such application.
75 Unless the executive board requests additional information from the
76 unit owner concerning the proposed installation of a solar power
77 generating system, the application shall be deemed approved sixty days
78 after the date of the executive board's receipt of the application, if the
79 executive board has not denied such application in writing. If a unit

80 owner has complied with the provisions of this section, the executive
81 board shall not unreasonably withhold approval of the unit owner's
82 application.

83 (d) If a unit owner's application to install a solar power generating
84 system is approved or deemed approved by the executive board, the
85 unit owner shall enter into a written agreement with the association,
86 which may be recorded on the land records in every town in which the
87 common interest community is located, that requires the unit owner to:

88 (1) Comply with the provisions of the declaration or bylaws
89 regarding an addition, alteration or improvement that are applicable to
90 the installation of such solar power generating system;

91 (2) Engage a registered and insured contractor to install the solar
92 power generating system who shall, within fourteen days of the
93 execution of the written agreement, (A) provide a certificate of insurance
94 that demonstrates liability insurance coverage in an amount not less
95 than one million dollars and names the association, the association's
96 manager, if any, and the unit owner as insured parties, (B) provide
97 evidence of workers' compensation insurance as may be required by
98 law, and (C) submit to the association a mechanic's lien waiver in favor
99 of the association for any work performed on behalf of such unit owner
100 concerning the installation of such solar power generating system;

101 (3) Pay any cost associated with the installation of the solar power
102 generating system, including, but not limited to, increased master policy
103 premiums, attorney's fees incurred by the association, engineering fees,
104 professional fees, permit fees and fees associated with applicable zoning
105 compliance requirements;

106 (4) Indemnify the association, the unit owners of the association and
107 the association's executive board, officers, directors and manager, as
108 applicable, for (A) any damage or loss caused by the solar power
109 generating system, and (B) any financial obligations concerning the
110 solar power generating system; and

111 (5) Assume full responsibility for the maintenance, repair and
112 replacement of the roof over the unit owner's unit at the unit owner's
113 sole expense.

114 (e) Notwithstanding the provisions of subsections (a) to (d), inclusive,
115 of this section, an association formed on or before January 1, 2025, may,
116 by an affirmative vote of not less than seventy-five per cent of the
117 association's board of directors, opt out of the provisions of said
118 subsections regarding the installation of any solar power generating
119 system, except that, on and after January 1, 2027, no association may opt
120 out of the provisions of said subsections. Any association that opts out
121 of the provisions of said subsections shall record on the land records of
122 any municipality in which the real property of such association is
123 located a notice of such affirmative vote opting out of the provisions of
124 said subdivisions not later than thirty days after such vote.

125 (f) The unit owner, or, upon the sale or other disposition of the unit
126 by such owner, any successive owner of the unit that acquires title to the
127 unit and assumes the duties imposed by any agreement entered into
128 pursuant to subsection (d) of this section, shall be responsible for:

129 (1) Any cost to repair damage to the solar power generating system,
130 common elements of the association or any unit in the association
131 resulting from the installation, use, maintenance, repair, removal or
132 replacement of the solar power generating system;

133 (2) Any cost for the maintenance, repair and replacement of the solar
134 power generating system until such system is removed;

135 (3) Any cost for the repair or restoration of the roof upon which the
136 solar power generating system was installed after such system is
137 removed;

138 (4) Any additional common expenses resulting from uninsured losses
139 related to the solar power generating system not covered by any master
140 insurance policy held by the association of unit owners; and

141 (5) Disclosing to any prospective buyer of the unit (A) the existence

142 of the solar power generating system, (B) the associated responsibilities
143 of the unit owner under this section, (C) the existence of any agreement
144 between the unit owner and the association concerning a solar power
145 generating system, and (D) the requirement that the purchaser takes
146 ownership of the solar power generating system unless it is removed
147 prior to the conveyance of the unit.

148 (g) A solar power generating system installed pursuant to this section
149 shall meet all applicable health and safety standards and requirements
150 under any state or federal law or local ordinance.

151 (h) An association may:

152 (1) Install a solar power generating system on any common elements
153 of the association for the use of all unit owners and develop appropriate
154 rules for such use;

155 (2) Require that a unit owner remove any solar power generating
156 system installed by the unit owner prior to the unit owner's sale of the
157 unit unless the purchaser of the unit agrees to (A) take ownership of the
158 solar power generating system, (B) assume responsibility for the
159 maintenance, repair and replacement of the roof over the unit owner's
160 unit at the unit owner's sole expense, and (C) assume and be bound by
161 any agreement between the unit owner and the association that
162 indemnifies the association, the unit owners of the association and the
163 association's executive board, officers, directors and manager, as
164 applicable, for any damage or losses caused by the solar power
165 generating system; and

166 (3) Assess a unit owner for any uninsured portion of a loss associated
167 with a solar power generating system, whether resulting from a
168 deductible or otherwise, regardless of whether the association submits
169 an insurance claim.

170 (i) In any action by an association seeking to enforce compliance with
171 this section, the prevailing party shall be awarded reasonable attorney's
172 fees.

173 Sec. 3. Subsections (g) to (i), inclusive, of section 47-261b of the
174 general statutes are repealed and the following is substituted in lieu
175 thereof (*Effective January 1, 2025*):

176 [(g) In the case of a common interest community that is not a
177 condominium or a cooperative, an association may not adopt or enforce
178 any rules that would have the effect of prohibiting any unit owner from
179 installing a solar power generating system on the roof of such owner's
180 unit, provided such roof is not shared with any other unit owner. An
181 association may adopt rules governing (1) the size and manner of
182 affixing, installing or removing a solar power generating system; (2) the
183 unit owner's responsibilities for periodic upkeep and maintenance of
184 such solar power generating system; and (3) a prohibition on any unit
185 owner installing a solar power generating system upon any common
186 elements of the association.]

187 [(h)] (g) An association's internal business operating procedures need
188 not be adopted as rules.

189 [(i)] (h) Each rule of the association shall be reasonable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	47-257
Sec. 2	<i>January 1, 2025</i>	New section
Sec. 3	<i>January 1, 2025</i>	47-261b(g) to (i)

Statement of Legislative Commissioners:

In Section 1(e), "promulgated" was changed to "adopted" for clarity; in Section 2(a), the first instance of "boundaries" was deleted for consistency of usage with Section 2(b); in Section 2(d), "deemed granted" was changed to "deemed approved" for internal consistency; in Section 2(d)(1), "that are applicable to the installation of such solar power generating system" was added for accuracy; and Section 2(f)(3) was rewritten for clarity and accuracy.

PD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 25 \$	FY 26 \$
All Municipalities	Potential Revenue Gain	Minimal	Minimal

Explanation

The bill prohibits unreasonable restrictions of common interest communities' declarations or bylaws that unreasonably restrict the installation of solar panels on certain types of units. This results in a potential minimal revenue gain to municipalities beginning in FY 25 for building permits fees associated with the installation of solar panels.¹

This bill results in minimal potential savings for some ratepayers. The bill provides a framework for the installation of solar panels to single family detached units in common interest ownership communities and increases accessibility to solar power generation for some residents. This creates minimal potential savings for ratepayers to the extent this bill increases solar power utilization in single family detached units.

The bill also makes other various changes to common interest communities that do not result in a fiscal impact to the state or municipalities.

¹ Each municipality sets its own fee amounts for building permits. Building permit fees often range from \$10 to \$15 per \$1,000 of construction.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of building permits fees issued.

OLR Bill Analysis

sHB 5168

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 common interest community's 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 common interest community 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.

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

APPROVAL PROCESS

The bill requires unit owners to get their association's approval to install solar panels. 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, or request additional information, within 60 days. The application is deemed approved if the board does not deny it or request more information within this timeframe.

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 common interest community 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 (1) the existence of the solar panels and any related agreements with the association, (2) the unit owner’s responsibilities associated with the solar panels, and (3) that the buyer will own the solar panels, 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 ownership of the solar panels; (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)