



# House of Representatives

## File No. 602

General Assembly

---

February Session, 2024 (Reprint of File No. 225)

Substitute House Bill No. 5168  
As Amended by House Amendment  
Schedules "A" and "C"

Approved by the Legislative Commissioner  
April 22, 2024

### **AN ACT CONCERNING SOLAR INSTALLATIONS IN CERTAIN COMMON INTEREST OWNERSHIP COMMUNITIES.**

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 Section 47-257 of the general statutes is repealed and the  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, except for a cooperative, as defined in section 47-  
53        202 of the general statutes, that does not contain units divided by  
54        horizontal or vertical boundaries that are comprised by, or are located  
55        in, common walls between units.

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

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

77 unit owner concerning the proposed installation of a solar power  
78 generating system, the application shall be deemed approved sixty days  
79 after the date of the executive board's receipt of the application, if the  
80 executive board has not denied such application in writing. If the  
81 executive board requests additional information from the unit owner  
82 concerning the proposed installation of a solar power generating  
83 system, the application shall be deemed approved thirty days after the  
84 board's receipt of such additional information if the executive board has  
85 not denied such application in writing. If a unit owner has complied  
86 with the provisions of this section, the executive board shall not  
87 unreasonably withhold approval of the unit owner's application.

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

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

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

106 (3) Pay any cost associated with the installation of the solar power  
107 generating system, including, but not limited to, increased master policy  
108 premiums, attorney's fees incurred by the association, engineering fees,

109 professional fees, permit fees and fees associated with applicable zoning  
110 compliance requirements;

111 (4) Indemnify the association, the unit owners of the association and  
112 the association's executive board, officers, directors and manager, as  
113 applicable, for (A) any damage or loss caused by the solar power  
114 generating system, and (B) any financial obligations concerning the  
115 solar power generating system; and

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

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

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

134 (1) Any cost to repair damage to the solar power generating system,  
135 common elements of the association or any unit in the association  
136 resulting from the installation, use, maintenance, repair, removal or  
137 replacement of the solar power generating system;

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

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

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

146 (5) Disclosing to any prospective buyer of the unit (A) the existence  
147 of the solar power generating system, (B) the associated responsibilities  
148 of the unit owner under this section, (C) the existence of any agreement  
149 between the unit owner and the association concerning a solar power  
150 generating system, and (D) the requirement that the purchaser takes  
151 ownership of the solar power generating system, or assumes all of the  
152 responsibilities of the unit owner under any lease agreement or other  
153 agreement between the unit owner and the owner of the solar power  
154 generating system, unless it is removed prior to the conveyance of the  
155 unit.

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

159 (h) An association may:

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

163 (2) Require that a unit owner remove any solar power generating  
164 system installed by the unit owner prior to the unit owner's sale of the  
165 unit unless the purchaser of the unit agrees to (A) take ownership of the  
166 solar power generating system, or assumes all of the responsibilities of  
167 the unit owner under any lease agreement or other agreement between  
168 the unit owner and the owner of the solar power generating system, (B)  
169 assume responsibility for the maintenance, repair and replacement of  
170 the roof over the unit owner's unit at the unit owner's sole expense, and

171 (C) assume and be bound by any agreement between the unit owner and  
172 the association that indemnifies the association, the unit owners of the  
173 association and the association's executive board, officers, directors and  
174 manager, as applicable, for any damage or losses caused by the solar  
175 power generating system; and

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

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

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

186 [(g) In the case of a common interest community that is not a  
187 condominium or a cooperative, an association may not adopt or enforce  
188 any rules that would have the effect of prohibiting any unit owner from  
189 installing a solar power generating system on the roof of such owner's  
190 unit, provided such roof is not shared with any other unit owner. An  
191 association may adopt rules governing (1) the size and manner of  
192 affixing, installing or removing a solar power generating system; (2) the  
193 unit owner's responsibilities for periodic upkeep and maintenance of  
194 such solar power generating system; and (3) a prohibition on any unit  
195 owner installing a solar power generating system upon any common  
196 elements of the association.]

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

199 [(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)



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.<sup>1</sup>

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.

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

House "A" alters the original bill by making various changes to common interest communities that does not result in a fiscal impact.

House "C" alters the original bill by exempting cooperatives from provisions of the bill which may reduce any fiscal impact associated with the bill.

***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 (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)