



General Assembly

Amendment

January Session, 2023

LCO No. 10043



Offered by:

REP. KAVROS DEGRAW, 17th Dist.

REP. CURREY, 11th Dist.

REP. LINEHAN, 103rd Dist.

To: House Bill No. 6805

File No. 410

Cal. No. 273

**"AN ACT CONCERNING SOLAR INSTALLATIONS IN
CONDOMINIUMS AND COOPERATIVES."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 47-257 of the general statutes is amended by
4 adding subsection (h) as follows (*Effective January 1, 2024*):

5 (NEW) (h) If any addition, alteration or improvement made by, or at
6 the direction of, a unit owner results in an increase in common expenses,
7 including, but not limited to, any cost of maintenance, repair or
8 insurance, the amount of such increase shall be assessed solely against
9 the unit owned by the unit owner who caused such addition, alteration
10 or improvement to be made.

11 Sec. 2. (NEW) (*Effective January 1, 2024*) (a) For purposes of this
12 section, "single-family detached unit" means a building in a common

13 interest community that does not contain units divided by horizontal
14 boundaries or vertical boundaries that are comprised by, or are located
15 in, common walls between units.

16 (b) On and after January 1, 2024, any provision of a declaration or the
17 bylaws of an association that prohibits or unreasonably restricts the
18 installation or use of a solar power generating system on the roof of a
19 unit that is a detached single-family detached unit, or is otherwise in
20 conflict with the provisions of this section, shall be unenforceable. In any
21 common interest community where a unit is a parcel of land, this section
22 shall apply to any single-family detached unit constructed on such unit.
23 This section shall not apply to any unit that has vertical boundaries that
24 are comprised by, or are located in, common walls between units.

25 (c) To obtain approval to install a solar power generating system
26 under this section, the owner of a unit shall submit an application to the
27 executive board of the association. The executive board shall (1)
28 acknowledge, in writing to the unit owner, the receipt of any such
29 application not later than thirty days after such receipt, and (2) process
30 such application in the same manner as an application for an addition,
31 alteration or improvement pursuant to the declaration or bylaws of the
32 association. The approval or denial of such application shall be in
33 writing and be issued to the unit owner not later than sixty days after
34 the date of receipt of such application. Unless the executive board
35 requests specific information from the unit owner concerning the
36 proposed installation of a solar power generating system, the
37 application shall be deemed approved if sixty days pass from the date
38 of the executive board's receipt of the application and the executive
39 board has not denied such application in writing. If a unit owner has
40 complied with the provisions of this section, the executive board shall
41 not unreasonably withhold approval of the unit owner's application.

42 (d) If a unit owner's application to install a solar power generating
43 system is granted or deemed granted by the executive board, the unit
44 owner shall enter into a written agreement with the association, which
45 may be recorded on the land records in every town in which the

46 common interest community is located, that requires the unit owner to:

47 (1) Comply with the provisions of the declaration or bylaws
48 regarding an addition, alteration or improvement;

49 (2) Engage a registered and insured contractor to install the solar
50 power generating system who shall, within fourteen days of the
51 execution of the written agreement, (A) provide a certificate of insurance
52 that demonstrates liability insurance coverage in an amount not less
53 than one million dollars and names the association, the association's
54 manager, if any, and the unit owner as insured parties and evidence of
55 workers' compensation insurance as may be required by law, and (B)
56 submit to the association a mechanic's lien waiver in favor of the
57 association for any work performed on behalf of such unit owner
58 concerning the installation of such solar power generating system;

59 (3) Pay any cost associated with the installation of the solar power
60 generating system, including, but not limited to, increased master policy
61 premiums, attorney's fees incurred by the association, engineering fees,
62 professional fees, permits and fees associated with applicable zoning
63 compliance requirements;

64 (4) Indemnify the association, the unit owners of the association and
65 the association's executive board, officers, directors and manager, as
66 applicable, for (A) any damage or losses caused by the solar power
67 generating system, or (B) any financial obligations concerning the solar
68 power generating system; and

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

72 (e) Notwithstanding the provisions of subsections (a) to (d), inclusive,
73 of this section, an association formed on or before January 1, 2024, may,
74 by an affirmative vote of not less than seventy-five per cent of the
75 association's board of directors, opt out of the provisions of said
76 subsections regarding the installation of any solar generating system,

77 except that, on and after January 1, 2026, no association may opt out of
78 the provisions of said subsections. Any association that opts out of the
79 provisions of said subsections shall record on the land records of any
80 municipality in which the real property of such association is located a
81 notice of such affirmative vote opting out of the provisions of said
82 subdivisions not more than thirty days after such vote.

83 (f) The unit owner, and each successive owner of the unit that
84 acquires the property and assumes the duties imposed by any
85 agreement pursuant to subsection (d) of this section, shall be responsible
86 for:

87 (1) Any cost to repair damage to the solar power generating system,
88 common elements of the association or units resulting from the
89 installation, use, maintenance, repair, removal or replacement of the
90 solar power generating system;

91 (2) Any cost for the maintenance, repair and replacement of the solar
92 power generating system until such system has been removed;

93 (3) Any cost for the repair or restoration of the roof after the solar
94 power generating system is removed;

95 (4) Any additional common expenses resulting from uninsured losses
96 related to the solar power generating system pursuant to any master
97 insurance policy held by the association of unit owners; and

98 (5) Disclosing to any prospective buyers regarding (A) the existence
99 of the solar power generating system, (B) the associated responsibilities
100 of the unit owner under this section, (C) the existence of any agreement
101 between the unit owner and the association concerning a solar power
102 generating system, and (D) the requirement that the purchaser accepts
103 the solar power generating system unless it is removed prior to the
104 conveyance of the unit.

105 (g) A solar power generating system installed pursuant to this section
106 shall meet all applicable health and safety standards and requirements

107 under any state or federal law or local ordinance.

108 (h) An association may:

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

112 (2) Require that a unit owner remove any solar power generating
113 system installed by the unit owner prior to the unit owner's sale of the
114 unit unless the purchaser of the unit agrees to (A) take ownership of the
115 solar power generating system, and (B) assume and be bound by any
116 agreement between the unit owner and the association that indemnifies
117 the association, the unit owners of the association and the association's
118 executive board, officers, directors and manager, as applicable, for any
119 damage or losses caused by the solar power generating system; and

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

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

127 Sec. 3. Subsections (g) to (i), inclusive, of section 47-261b of the
128 general statutes are repealed and the following is substituted in lieu
129 thereof (*Effective January 1, 2024*):

130 [(g) In the case of a common interest community that is not a
131 condominium or a cooperative, an association may not adopt or enforce
132 any rules that would have the effect of prohibiting any unit owner from
133 installing a solar power generating system on the roof of such owner's
134 unit, provided such roof is not shared with any other unit owner. An
135 association may adopt rules governing (1) the size and manner of
136 affixing, installing or removing a solar power generating system; (2) the

137 unit owner's responsibilities for periodic upkeep and maintenance of
138 such solar power generating system; and (3) a prohibition on any unit
139 owner installing a solar power generating system upon any common
140 elements of the association.]

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

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

144 Sec. 4. Subdivision (2) of subsection (b) of section 8-26a of the general
145 statutes is repealed and the following is substituted in lieu thereof
146 (*Effective October 1, 2023*):

147 (2) (A) Any construction on a vacant lot shown on a subdivision or
148 resubdivision plan approved before, on or after June 1, 2004, shall not
149 be required to conform to a change in the zoning regulations or
150 boundaries of zoning districts in a town, city or borough adopted after
151 the approval of the subdivision or resubdivision. Notwithstanding
152 subdivision (1) of this subsection, any construction on an improved lot
153 shown on a subdivision or resubdivision plan approved before, on or
154 after June 1, 2004, shall be required to conform to a zoning change
155 adopted subsequent to said lot becoming an improved lot.

156 (B) Notwithstanding the provisions of subsection (a) of section 8-25
157 or subsection (a) of section 8-26, any vacant lot that is depicted on a
158 subdivision or resubdivision plan that has been recorded on or before
159 October 1, 2023, in the land records of the municipality in which such
160 vacant lot is located, if the recorded chain of title for such vacant lot
161 references such subdivision or resubdivision plan, shall not be required
162 to conform to a change in the zoning regulations or the boundaries of
163 zoning districts in a town, city or borough that are adopted after the
164 approval or recording of the subdivision or resubdivision plan.

165 (C) Notwithstanding the provisions of subsection (a) of section 8-25
166 or subsection (a) of section 8-26, any vacant lot that is depicted on a
167 subdivision or resubdivision plan that, prior to the adoption of zoning

168 regulations, has been recorded on or before October 1, 2023, in the land
169 records of the municipality in which such vacant lot is located, shall not
170 be required to conform to a change in the zoning regulations or the
171 boundaries of zoning districts in a town, city or borough that are
172 adopted after the approval or recording of the subdivision or
173 resubdivision plan if such vacant lot conformed at any time with any
174 zoning regulations that would have applied to such vacant lot if such
175 vacant lot was depicted on a subdivision or resubdivision plan recorded
176 after the adoption of zoning regulations.

177 [(B)] (D) For purposes of this subsection, (i) a lot shall be deemed
178 vacant until the date a building permit is issued with respect thereto and
179 a foundation has been completed in accordance with such building
180 permit but shall not be deemed vacant if any structures on such lot are
181 subsequently demolished, and (ii) a lot shall be deemed improved after
182 the date a building permit is issued with respect thereto and a
183 foundation has been completed in accordance with such building
184 permit.

185 Sec. 5. (*Effective from passage*) (a) On or after July 1, 2023, no building
186 permit shall be issued for the construction or substantial alteration of a
187 swimming pool unless a barrier that complies with the requirements of
188 Section 305 of the International Swimming Pool and Spa Code portion
189 of the State Building Code is installed, or is included in the plan for such
190 construction or substantial alteration to be installed, around such pool,
191 except that no powered safety cover, as defined in Section 305 of the
192 International Swimming Pool and Spa Code, may be installed in lieu of
193 any barrier fence around such pool.

194 (b) (1) Any owner of a swimming pool that is not subject to the
195 provisions of subsection (a) of this section and that, as of July 1, 2023, is
196 surrounded by a barrier that complies with the requirements of Section
197 305 of the International Swimming Pool and Spa Code portion of the
198 State Building Code, shall maintain such barrier in compliance with said
199 section and shall not be permitted to remove such barrier except for the
200 purposes of replacing or repairing such barrier.

201 (2) Any owner of a swimming pool that is not subject to the
202 provisions of subsection (a) of this section and that, as of July 1, 2023, is
203 not surrounded by a barrier that complies with the requirements of
204 Section 305 of the International Swimming Pool and Spa Code portion
205 of the State Building Code, shall have a barrier that complies with the
206 requirements of said section installed not later than July 1, 2024.

207 (c) The provision of Section 305 of the International Swimming Pool
208 and Spa Code portion of the State Building Code that permits
209 installation of a powered safety cover that complies with ASTM F1346
210 as an exception to the requirements of said section shall have no effect
211 and shall not be construed as an exception to the requirement in
212 subsection (a) or (b) of this section for the installation and maintenance
213 of a barrier around a swimming pool that complies with the
214 requirements of said Section 305.

215 (d) The provisions of this section shall be enforced as if such
216 provisions were included within the State Building Code, except the
217 State Building Inspector may not grant variances or exemptions from,
218 or approve equivalent or alternate compliance with, the requirements of
219 this section that would (1) permit the installation of any pool cover or
220 alarm to satisfy any requirement concerning the installation and
221 maintenance of a barrier around a swimming pool, or (2) have a
222 negative impact on safety in the determination of the State Building
223 Inspector.

224 (e) On or after July 1, 2023, no certificate of compliance or other
225 approval for use shall be issued for the construction or substantial
226 alteration of a swimming pool unless a barrier that complies with the
227 requirements of Section 305 of the International Swimming Pool and Spa
228 Code portion of the State Building Code is installed around such pool,
229 except that no powered safety cover, as defined in Section 305 of the
230 International Swimming Pool and Spa Code, may be installed in lieu of
231 any barrier fence around such pool.

232 (f) As soon as practical after the effective date of this section, the

233 Department of Administrative Services shall (1) inform all local building
234 officials of the requirements of this section, and (2) conspicuously post
235 on the Internet web site of the department a notice of the provisions of
236 this section and the provisions of the State Building Code preempted by
237 the provisions of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2024</i>	47-257(h)
Sec. 2	<i>January 1, 2024</i>	New section
Sec. 3	<i>January 1, 2024</i>	47-261b(g) to (i)
Sec. 4	<i>October 1, 2023</i>	8-26a(b)(2)
Sec. 5	<i>from passage</i>	New section