

BILL ANALYSIS

Senate Research Center
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S.B. 238
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Homeowners' associations (HOA) are intended to maintain common areas in residential neighborhoods and to protect homeowners' investments in their property by enforcing certain aesthetic guidelines. In recent years, individual homeowners have become frustrated with what they perceive as unduly restrictive HOA board policies regarding the installation of solar energy devices.

This bill attempts to strike a balance between the community's interest in maintaining consistent aesthetics and the freedom of individual homeowners to make sensible investments in clean energy.

As proposed, S.B. 238 prohibits a property owners' association from imposing or enforcing a restriction against solar energy devices, except under certain circumstances, and provides that restrictions that violate the provisions of this Act are void.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 202, Property Code, by adding Section 202.010, as follows:

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) Defines, in this section, "solar energy device."

(b) Prohibits a property owners' association, except as otherwise provided by this section, from including or enforcing a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) Provides that a provision that violates Subsection (b) is void.

(d) Provides that this section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court threatens the public health or safety, or violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association; or

(4) is located in an area on the property owners' property other than on the roof of the home or in a fenced yard or patio maintained by the property owner.

SECTION 2. Provides that Section 202.010, Property Code, as added by this Act, applies to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2011.