

By: Ritter

H.B. No. 231

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of certain renewable energy technology
3 by a property owners' association.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 202, Property Code, is amended by adding
6 Section 202.008 to read as follows:

7 Sec. 202.008. REGULATION OF RENEWABLE ENERGY TECHNOLOGY.

8 (a) In this section, "renewable energy technology" means any
9 technology that relies exclusively on energy that is naturally
10 regenerated over a short period and derived from the sun, directly
11 or indirectly, or from moving water or another natural movement or
12 mechanism of the environment. The term includes a technology that
13 relies on wind, geothermal, hydroelectric, wave, or tidal energy or
14 on biomass or biomass-based waste products, including landfill gas.
15 The term does not include a technology that relies on energy derived
16 from fossil fuels, waste products from fossil fuels, or waste
17 products from inorganic sources.

18 (b) Except as otherwise provided by this section, a property
19 owners' association may not include or enforce a provision in a
20 dedicatory instrument that prohibits or restricts a property owner
21 from installing renewable energy technology.

22 (c) A provision that violates Subsection (b) is void.

23 (d) A property owners' association may determine the
24 location of the renewable energy technology if the determination

1 does not impair the effective operation of the renewable energy
2 technology.

3 (e) This section does not prohibit the inclusion or
4 enforcement of a provision in a dedicatory instrument that
5 prohibits renewable energy technology that:

6 (1) threatens the public health or safety; or

7 (2) violates a law.

8 (f) The prevailing party in an action under this section is
9 entitled to reasonable attorney's fees and costs of litigation from
10 the nonprevailing party.

11 SECTION 2. Section 202.008, Property Code, as added by this
12 Act, applies only to a dedicatory instrument that takes effect or is
13 renewed on or after the effective date of this Act. A dedicatory
14 instrument that takes effect or is renewed before the effective
15 date of this Act is governed by the law in effect immediately before
16 the effective date of this Act, and the former law is continued in
17 effect for that purpose.

18 SECTION 3. This Act takes effect September 1, 2007.