

By: Leibowitz

H.B. No. 1651

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of solar energy panels by a property owners' association.

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

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

Sec. 202.008. REGULATION OF SOLAR ENERGY PANELS. (a) In this section, "solar energy panel" means a panel device or system designed primarily to:

(1) collect solar energy, as defined by Section 2166.403, Government Code; or

(2) collect and subsequently use solar energy as thermal, mechanical, or electrical energy.

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

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

(d) This section does not restrict a property owners' association from:

(1) prohibiting the visibility of any part of a roof-mounted solar energy panel above the roof line;

(2) permitting the attachment of a solar energy panel to the slope of a roof facing a street only if:

1 (A) the solar energy panel conforms to the slope
2 of the roof; and

3 (B) the top edge of the solar energy panel is
4 parallel to the roof ridge; or

5 (3) requiring:

6 (A) a solar energy panel frame, a support
7 bracket, or any visible piping or wiring to be painted to coordinate
8 with the roofing material; or

9 (B) a property owner to shield a ground-mounted
10 solar energy panel if shielding the panel does not prohibit the
11 economic installation of the solar energy panel or degrade the
12 operational performance quality of the solar energy panel by more
13 than 10 percent.

14 (e) This section does not prohibit the inclusion or
15 enforcement of a provision in a dedicatory instrument that
16 prohibits a solar energy panel that:

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

18 (2) violates a law.

19 (f) This section does not apply to a property owners'
20 association that:

21 (1) is located in a municipality with a population of
22 more than 175,000 that is located in a county in which another
23 municipality with a population of more than one million is
24 predominantly located; and

25 (2) manages or regulates a development in which at
26 least 4,000 acres of the property is subject to a covenant,
27 condition, or restriction designating the property for commercial

1 use, multifamily dwellings, or open space.

2 SECTION 2. Section 202.008, Property Code, as added by this
3 Act, applies to a dedicatory instrument without regard to whether
4 the dedicatory instrument takes effect or is renewed before, on, or
5 after the effective date of this Act.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2007.