

BILL ANALYSIS

Senate Research Center
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S.B. 236
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Homeowners' associations (HOAs) 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.

S.B. 236 strikes 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. 236 prohibits a property owners' association from imposing or enforcing a restriction against solar energy devices, except under certain listed circumstances. S.B. 236 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 "solar energy device."

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

(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 threatens the public health or safety, violates a law, is located on property owned or maintained by the association, is located on property owned in common by the members of the association, is located in an area on the property owner's property other than on the roof of the home or in a fenced yard or patio maintained by the property owner, or is mounted on a device that is taller or more visually obtrusive than is necessary for the solar energy device to operate at not less than 90 percent of its rated efficiency.

SECTION 2. Provides that Section 202.010, Property Code, as added by this Act, applies to a deed restriction enacted before, on, or after the effective date of this Act.

SECTION 3. Effective date: January 1, 2010.