

By: Lucio III

H.B. No. 798

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of solar energy devices 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 DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(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 device.

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

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

(1) threatens the public health or safety;

(2) violates a law;

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

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

(5) is located in an area on the property owner's

1 property other than:

2 (A) on the roof of the home; or

3 (B) in a fenced yard or patio maintained by the
4 property owner; or

5 (6) is mounted on a device that is taller or more
6 visually obtrusive than is necessary for the solar energy device to
7 operate at not less than 90 percent of its rated efficiency.

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

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.