

1-1 By: West S.B. No. 236
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; March 9, 2009, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; March 9, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of solar energy devices by a property
1-9 owners' association.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 202, Property Code, is amended by adding
1-12 Section 202.010 to read as follows:

1-13 Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In
1-14 this section, "solar energy device" has the meaning assigned by
1-15 Section 171.107, Tax Code.

1-16 (b) Except as otherwise provided by this section, a property
1-17 owners' association may not include or enforce a provision in a
1-18 dedicatory instrument that prohibits or restricts a property owner
1-19 from installing a solar energy device.

1-20 (c) A provision that violates Subsection (b) is void.

1-21 (d) This section does not prohibit the inclusion or
1-22 enforcement of a provision in a dedicatory instrument that
1-23 prohibits a solar energy device that:

1-24 (1) threatens the public health or safety;

1-25 (2) violates a law;

1-26 (3) is located on property owned or maintained by the
1-27 property owners' association;

1-28 (4) is located on property owned in common by the
1-29 members of the property owners' association;

1-30 (5) is located in an area on the property owner's
1-31 property other than:

1-32 (A) on the roof of the home; or

1-33 (B) in a fenced yard or patio maintained by the
1-34 property owner; or

1-35 (6) is mounted on a device that is taller or more
1-36 visually obtrusive than is necessary for the solar energy device to
1-37 operate at not less than 90 percent of its rated efficiency.

1-38 SECTION 2. Section 202.010, Property Code, as added by this
1-39 Act, applies to a deed restriction enacted before, on, or after the
1-40 effective date of this Act.

1-41 SECTION 3. This Act takes effect January 1, 2010.

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