

By: Oliveira

H.B. No. 2524

A BILL TO BE ENTITLED

AN ACT

relating to unenforceable restrictive covenants regarding standby electric generators affecting residential homes.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.019, to read as follows:

STANDBY ELECTRIC GENERATORS.

Sec. 202.019. STANDBY ELECTRIC GENERATORS. (a) In this section "standby electric generator" means a device that converts mechanical energy to electrical energy and is:

(1) Powered by natural gas, liquefied petroleum gas, diesel fuel, bio-diesel fuel or hydrogen;

(2) Fully enclosed in an integral manufacturer supplied sound attenuating enclosure;

(3) Connected to the main electrical panel of a residence by a manual or automatic transfer switch; and,

(4) Rated for a generating capacity of not less than seven kilowatts.

(b) Except as provided by this section, a property owners' association may not adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from owning, operating, installing or maintaining a permanently installed standby electric generator.

1 (c) A property owners' association may adopt or enforce any
2 of the following dedicatory instrument provisions to regulate the
3 operation and installation of standby electric generators:

4 (1) Require a standby electric generator to be
5 installed and maintained in compliance:

6 (A) with the manufacturer's specifications;

7 (B) applicable governmental health, safety,
8 electrical codes and building codes;

9 (2) Require all electrical, plumbing and fuel line
10 connections be installed only by licensed contractors;

11 (3) Require all electrical and fuel line connections
12 be installed underground;

13 (4) Require non-integral standby electric generator
14 fuel tanks be installed and maintained to comply with applicable
15 municipal zoning ordinances and governmental health, safety,
16 electrical and building codes;

17 (5) Require the standby electric generator, its
18 electrical lines and its fuel lines, to be maintained in good
19 condition;

20 (6) Require the repair, replacement or removal of any
21 deteriorated or unsafe components of a standby electric generator,
22 including electrical or fuel lines;

23 (7) Require an owner to screen a standby electric
24 generator, if the standby electric generator is visible from the
25 street faced by the dwelling;

26 (8) Set reasonable times, consistent with
27 manufacturers' recommendations, for the periodic testing of a

1 standby electric generator;

2 (9) Prohibit the use of a standby electric generator
3 to generate all or substantially all of the electrical power to a
4 residence, except when utility generated electrical power to the
5 residence is not available or is intermittent due to causes other
6 than non-payment for utility service to the residence;

7 (10) Regulate the location of the standby electric
8 generator;

9 (11) Prohibit a property owner from locating a standby
10 electric generator on property:

11 (A) owned or maintained by the property owners'
12 association;

13 (B) owned in common by the property owner
14 association members;

15 (d) The foregoing dedicatory instrument provisions, if
16 adopted, must be reasonably applied and enforced;

17 (e) A dedicatory instrument provision that regulates the
18 location of a standby electrical generator is unenforceable if:

19 (1) it increases the cost of installing the standby
20 electric generator by more than ten percent; or,

21 (2) increases the cost of installing and connecting
22 the electrical and fuel lines for the standby electric generator by
23 more than twenty percent.

24 (f) If a dedicatory instrument requires that the
25 installation of a standby electric generator be approved prior to
26 installation, approval may not be withheld if the proposed
27 installation meets or exceeds the dedicatory instrument provisions

1 permitted by Subsection (c).

2 (g) In a hearing, action or proceeding to determine whether
3 a proposed or installed standby electric generator complies with
4 the requirements of the dedicatory instrument provisions permitted
5 by Subsection (c), the party asserting non-compliance bears the
6 burden of proof.

7 SECTION 2. Section 202.019, Property Code, as added by this
8 Act, applies to a dedicatory instrument adopted before, on, or
9 after the effective date of this Act.

10 SECTION 3. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2013.