

BILL ANALYSIS

Senate Research Center
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H.B. 939
By: Dale et al. (Taylor, Larry)
Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Homeowners residing in some areas governed by property owners' associations are currently prohibited from using standby electric generators at their homes. Interested parties have raised concerns regarding residents being unable to use medical devices and other electrical monitoring equipment after a power outage caused by a catastrophic storm or overload on the Texas power grid. H.B. 939 seeks to amend the applicable law to allow the use of certain standby electric generators.

H.B. 939 amends current law relating to unenforceable restrictive covenants regarding standby electric generators affecting residential homes.

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 202.019, as follows:

Sec. 202.019. STANDBY ELECTRIC GENERATORS. (a) Defines "standby electric generator."

(b) Prohibits a property owners' association, except as provided by this section, from adopting or enforcing 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.

(c) Authorizes a property owners' association to adopt or enforce any of the following dedicatory instrument provisions to regulate the operation and installation of standby electric generators:

(1) a dedicatory instrument provision that requires a standby electric generator to be installed and maintained in compliance with the manufacturer's specifications, and applicable governmental health, safety, electrical, and building codes.

2) a dedicatory instrument provision that requires all electrical, plumbing, and fuel line connections to be installed only by licensed contractors;

(3) a dedicatory instrument provision that requires all electrical connections to be installed in accordance with applicable governmental health, safety, electrical, and building codes;

(4) a dedicatory instrument provision that requires all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections to be installed in accordance with applicable governmental health, safety, electrical, and building codes;

(5) a dedicatory instrument provision that requires all liquefied petroleum gas fuel line connections to be installed in accordance with rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes;

(6) a dedicatory instrument provision that requires nonintegral standby electric generator fuel tanks to be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes;

(7) a dedicatory instrument provision that requires the standby electric generator and its electrical lines and fuel lines to be maintained in good condition;

(8) a dedicatory instrument provision that requires the repair, replacement, or removal of any deteriorated or unsafe component of a standby electric generator, including electrical or fuel lines;

(9) a dedicatory instrument provision that requires an owner to screen a standby electric generator if the standby electric generator is:

(A) visible from the street faced by the dwelling;

(B) located in an unfenced side or rear yard of a residence and is visible either from an adjoining residence or from adjoining property owned by the property owners' association; or

(C) located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the property owners' association;

(10) a dedicatory instrument provision that sets reasonable times, consistent with the manufacturer's recommendations, for the periodic testing of a standby electric generator;

(11) a dedicatory instrument provision that prohibits the use of a standby electric generator to generate all or substantially all of the electrical power to a residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence;

(12) a dedicatory instrument provision that regulates the location of the standby electric generator; or

(13) a dedicatory instrument provision that prohibits an owner from locating a standby electric generator on property:

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

(B) owned in common by the property owners' association members.

(d) Requires that a dedicatory instrument provision permitted by Subsection (c), if adopted, be reasonably applied and enforced.

(e) Provides that a dedicatory instrument provision that regulates the location of a standby electric generator is unenforceable if:

(1) it increases the cost of installing the standby electric generator by more than 10 percent; or

(2) it increases the cost of installing and connecting the electrical and fuel lines for the standby electric generator by more than 20 percent.

(f) Prohibits approval from being withheld if the proposed installation meets or exceeds the dedicatory instrument provisions permitted by Subsection (c), if a dedicatory instrument requires that the installation of a standby electric generator be approved before installation.

(g) Provides that if a dedicatory instrument provision requires an owner to submit an application for approval of improvements located exterior to a residence, this section does not negate the requirement, but the information required to be submitted as part of the application for the installation of a standby electric generator may not be greater or more detailed than the application for any other improvement.

(h) Provides that in a hearing, action, or proceeding to determine whether a proposed or installed standby electric generator complies with the requirements of a dedicatory instrument provision permitted by Subsection (c), the party asserting noncompliance bears the burden of proof.

(i) Provides that the installation of a standby electric generator by a licensed contractor or the acceptance of the installation of a standby electric generator, or any of its components, by a political subdivision is conclusive proof that the standby electric generator and its components were installed in compliance with Subsection (c).

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

SECTION 3. Effective date: upon passage or September 1, 2015.