

1-1 By: Dale, et al. H.B. No. 939  
 1-2 (Senate Sponsor - Taylor of Galveston)  
 1-3 (In the Senate - Received from the House May 11, 2015;  
 1-4 May 12, 2015, read first time and referred to Committee on Business  
 1-5 and Commerce; May 22, 2015, reported favorably by the following  
 1-6 vote: Yeas 8, Nays 0; May 22, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to unenforceable restrictive covenants regarding standby  
 1-21 electric generators affecting residential homes.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 202, Property Code, is amended by adding  
 1-24 Section 202.019 to read as follows:

1-25 Sec. 202.019. STANDBY ELECTRIC GENERATORS. (a) In this  
 1-26 section, "standby electric generator" means a device that converts  
 1-27 mechanical energy to electrical energy and is:

1-28 (1) powered by natural gas, liquefied petroleum gas,  
 1-29 diesel fuel, biodiesel fuel, or hydrogen;

1-30 (2) fully enclosed in an integral  
 1-31 manufacturer-supplied sound attenuating enclosure;

1-32 (3) connected to the main electrical panel of a  
 1-33 residence by a manual or automatic transfer switch; and

1-34 (4) rated for a generating capacity of not less than  
 1-35 seven kilowatts.

1-36 (b) Except as provided by this section, a property owners'  
 1-37 association may not adopt or enforce a dedicatory instrument  
 1-38 provision that prohibits, restricts, or has the effect of  
 1-39 prohibiting or restricting an owner from owning, operating,  
 1-40 installing, or maintaining a permanently installed standby  
 1-41 electric generator.

1-42 (c) A property owners' association may adopt or enforce any  
 1-43 of the following dedicatory instrument provisions to regulate the  
 1-44 operation and installation of standby electric generators:

1-45 (1) a dedicatory instrument provision that requires a  
 1-46 standby electric generator to be installed and maintained in  
 1-47 compliance with:

1-48 (A) the manufacturer's specifications; and

1-49 (B) applicable governmental health, safety,  
 1-50 electrical, and building codes;

1-51 (2) a dedicatory instrument provision that requires  
 1-52 all electrical, plumbing, and fuel line connections to be installed  
 1-53 only by licensed contractors;

1-54 (3) a dedicatory instrument provision that requires  
 1-55 all electrical connections to be installed in accordance with  
 1-56 applicable governmental health, safety, electrical, and building  
 1-57 codes;

1-58 (4) a dedicatory instrument provision that requires  
 1-59 all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line  
 1-60 connections to be installed in accordance with applicable  
 1-61 governmental health, safety, electrical, and building codes;

2-1           (5) a dedicatory instrument provision that requires  
2-2 all liquefied petroleum gas fuel line connections to be installed  
2-3 in accordance with rules and standards promulgated and adopted by  
2-4 the Railroad Commission of Texas and other applicable governmental  
2-5 health, safety, electrical, and building codes;  
2-6           (6) a dedicatory instrument provision that requires  
2-7 nonintegral standby electric generator fuel tanks to be installed  
2-8 and maintained to comply with applicable municipal zoning  
2-9 ordinances and governmental health, safety, electrical, and  
2-10 building codes;  
2-11           (7) a dedicatory instrument provision that requires  
2-12 the standby electric generator and its electrical lines and fuel  
2-13 lines to be maintained in good condition;  
2-14           (8) a dedicatory instrument provision that requires  
2-15 the repair, replacement, or removal of any deteriorated or unsafe  
2-16 component of a standby electric generator, including electrical or  
2-17 fuel lines;  
2-18           (9) a dedicatory instrument provision that requires an  
2-19 owner to screen a standby electric generator if the standby  
2-20 electric generator is:  
2-21           (A) visible from the street faced by the  
2-22 dwelling;  
2-23           (B) located in an unfenced side or rear yard of a  
2-24 residence and is visible either from an adjoining residence or from  
2-25 adjoining property owned by the property owners' association; or  
2-26           (C) located in a side or rear yard fenced by a  
2-27 wrought iron or residential aluminum fence and is visible through  
2-28 the fence either from an adjoining residence or from adjoining  
2-29 property owned by the property owners' association;  
2-30           (10) a dedicatory instrument provision that sets  
2-31 reasonable times, consistent with the manufacturer's  
2-32 recommendations, for the periodic testing of a standby electric  
2-33 generator;  
2-34           (11) a dedicatory instrument provision that prohibits  
2-35 the use of a standby electric generator to generate all or  
2-36 substantially all of the electrical power to a residence, except  
2-37 when utility-generated electrical power to the residence is not  
2-38 available or is intermittent due to causes other than nonpayment  
2-39 for utility service to the residence;  
2-40           (12) a dedicatory instrument provision that regulates  
2-41 the location of the standby electric generator; or  
2-42           (13) a dedicatory instrument provision that prohibits  
2-43 an owner from locating a standby electric generator on property:  
2-44           (A) owned or maintained by the property owners'  
2-45 association; or  
2-46           (B) owned in common by the property owners'  
2-47 association members.  
2-48           (d) A dedicatory instrument provision permitted by  
2-49 Subsection (c), if adopted, must be reasonably applied and  
2-50 enforced.  
2-51           (e) A dedicatory instrument provision that regulates the  
2-52 location of a standby electric generator is unenforceable if:  
2-53           (1) it increases the cost of installing the standby  
2-54 electric generator by more than 10 percent; or  
2-55           (2) it increases the cost of installing and connecting  
2-56 the electrical and fuel lines for the standby electric generator by  
2-57 more than 20 percent.  
2-58           (f) If a dedicatory instrument requires that the  
2-59 installation of a standby electric generator be approved before  
2-60 installation, approval may not be withheld if the proposed  
2-61 installation meets or exceeds the dedicatory instrument provisions  
2-62 permitted by Subsection (c).  
2-63           (g) If a dedicatory instrument provision requires an owner  
2-64 to submit an application for approval of improvements located  
2-65 exterior to a residence, this section does not negate the  
2-66 requirement, but the information required to be submitted as part  
2-67 of the application for the installation of a standby electric  
2-68 generator may not be greater or more detailed than the application  
2-69 for any other improvement.

