| **House Bill 362**Senate AmendmentsSection-by-Section Analysis |
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| HOUSE VERSION | SENATE VERSION (CS) | CONFERENCE |
| SECTION 1. Chapter 202, Property Code, is amended by adding Sections 202.010 and 202.011 to read as follows:Sec. 202.010. 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 Subsection (d), 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) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy device that:(1) as adjudicated by a court:(A) threatens the public health or safety; or(B) violates a law;(2) is located on property owned or maintained by the property owners' association;(3) is located on property owned in common by the members of the property owners' association;(4) is located in an area on the property owner's property other than:(A) on the roof of the home or of another structure allowed under a dedicatory instrument; or(B) in a fenced yard or patio owned and maintained by the property owner;(5) if mounted on the roof of the home:(A) extends higher than the roofline;(B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the property owners' association;(C) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or(D) has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;(6) if located in a fenced yard or patio, is taller than the fence line;(7) as installed:(B) voids material warranties; or (A) conflicts with the manufacturer's installation requirements; or (8) was installed without prior approval by a committee created in a dedicatory instrument for such purposes that provides decisions within a reasonable period or within a period specified in the dedicatory instrument.(e) A committee described by Subsection (d)(8) may not withhold approval of the installation of a solar energy device that meets or exceeds the minimum requirements of a dedicatory instrument.Sec. 202.011. REGULATION OF CERTAIN ROOFING MATERIALS. A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles that:(1) are designed primarily to:(A) be wind and hail resistant;(B) provide heating and cooling efficiencies greater than those provided by customary composite shingles; and(C) provide solar generation capabilities; and(2) when installed:(A) resemble the shingles used or otherwise authorized for use on property in the subdivision;(B) are more durable than and are of equal or superior quality to the shingles described by Paragraph (A); and(C) match the aesthetics of the property surrounding the owner's property. | SECTION 1. Chapter 202, Property Code, is amended by adding Sections 202.010 and 202.011 to read as follows:Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. 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REGULATION OF CERTAIN ROOFING MATERIALS. A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles that:(1) are designed primarily to:(A) be wind and hail resistant;(B) provide heating and cooling efficiencies greater than those provided by customary composite shingles; and(C) provide solar generation capabilities; and(2) when installed:(A) resemble the shingles used or otherwise authorized for use on property in the subdivision;(B) are more durable than and are of equal or superior quality to the shingles described by Paragraph (A); and(C) match the aesthetics of the property surrounding the owner's property. |  |
| SECTION 2. Sections 202.010 and 202.011, Property Code, as added by this Act, apply to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the effective date of this Act. | SECTION 2. Same as House version. |  |
| SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. | SECTION 3. Same as House version. |  |