

# HOUSE BILL REPORT

## SSB 5136

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### As Passed House:

April 1, 2009

**Title:** An act relating to the use of solar energy panels by members of homeowners' associations.

**Brief Description:** Regulating the use of solar energy panels by members of homeowners' associations.

**Sponsors:** Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs, Rockefeller, Fairley, Tom, Marr, Fraser, McDermott, Shin, Sheldon, McAuliffe, Jacobsen, Kline and Hatfield).

### Brief History:

#### Committee Activity:

Judiciary: 3/18/09, 3/19/09 [DP].

#### Floor Activity

Passed House: 4/1/09, 62-35.

### Brief Summary of Substitute Bill

- Prohibits homeowners' associations from impairing the ability of a homeowner to install a solar energy panel.

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## HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Flannigan, Kelley, Kirby, Ormsby and Roberts.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Ross and Warnick.

**Staff:** Courtney Barnes (786-7194)

### Background:

[Homeowners' Associations.](#)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A homeowners' association (association) is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. An association typically arises from restrictive covenants recorded by a developer against property in a subdivision. An association is managed by a board of directors, elected by the members, once the developer relinquishes control. In general, the purpose of an association is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

The Homeowners' Association Act (HOAA) was enacted by the Legislature in 1995 to "provide consistent laws regarding the formation and legal administration of homeowners' associations." Associations are governed by: (1) the HOAA, which identifies the duties and powers of an association; (2) restrictive covenants pursuant to which an association is established; and (3) bylaws, rules, and regulations adopted by a particular association. In addition, depending on how a particular association is legally organized, its activities and management may be governed by the Business Corporation Act or the Nonprofit Corporation Act.

### **Summary of Bill:**

An association may not prohibit the installation of a solar energy panel by an owner or resident on the owner's property. This prohibition does not apply to "common areas" as defined in the HOAA. Any provision in an association's governing documents that prohibits an owner from installing a solar energy panel is void and unenforceable.

"Solar energy panel" is defined as a panel device or system or combination of panel devices or systems that relies on direct sunlight as an energy source, including a panel device or system or combination of panel devices or systems that collects sunlight for use in: the heating or cooling of a structure or building; the heating or pumping of water; industrial, commercial, or agricultural processes; or the generation of electricity.

### Solar Energy Panel Requirements.

A solar energy panel must meet applicable health and safety standards and requirements imposed by state and local permitting authorities. If the panel or system is used to heat water, the panel and its installation must be certified by the solar rating certification corporation or another nationally recognized certification agency. If the panel or system is used to produce electricity, it must meet all applicable safety and performance standards established by the national electric code, the Institute of Electrical and Electronics Engineers, accredited testing laboratories, and rules of the Utilities and Transportation Commission regarding safety and reliability.

### Restrictions on Solar Energy Panels.

An association's governing documents may: (1) prohibit the visibility of any part of a roof-mounted solar energy panel above the roof line; or (2) permit the attachment of a solar energy panel to the slope of a roof facing a street only if the solar energy panel conforms to the slope of the roof and the top edge of the solar energy panel is parallel to the roof ridge. The governing documents may require the solar energy panel frame, supporting brackets, and

visible piping or wiring to be painted to coordinate with the roofing material. An owner may be required to shield a ground-mounted solar energy panel if the shielding does not prohibit the economic installation or degrade the operational performance quality by more than 10 percent.

Owners who install solar energy panels may be required to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a solar energy panel.

The governing documents may include other reasonable rules regarding the placement and manner of a solar energy panel.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill prevents homeowners' associations from prohibiting homeowners from installing solar energy panels. The details of the bill were worked through in the Senate with the help of the homeowners' association lobby.

(With concerns) The bill should be broadened to contemplate the rapid development of alternative energy technology by permitting homeowners to install more than just solar energy panels. While the intent of the bill is good, the bill allows an association to recover damages associated with the use of solar energy panels. This provision could result in unnecessary fines assessed against homeowners. The Legislature should consider adding an intent section to the bill.

(Opposed) None.

**Persons Testifying:** (In support) Senator Hobbs, prime sponsor.

(With concerns) Jeffrey Denison.

**Persons Signed In To Testify But Not Testifying:** None.