

1 **SENATE FLOOR VERSION**

2 February 20, 2014

3 SENATE BILL NO. 1649

By: Fields of the Senate

4 and

5 Wright of the House

6
7
8 An Act relating to property; prohibiting restrictive
9 covenants relating to standby electric generators;
10 defining term; prohibiting owners associations from
11 adopting or enforcing certain restrictions relating
12 to property owners owning, operating, installing or
13 maintaining permanently installed standby electric
14 generators; authorizing owners associations to adopt
15 certain standards; requiring approval of standby
16 electric generators meeting requirements; requiring
17 owners association to bear burden of proof in certain
18 action; providing for codification; and providing an
19 effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 858 of Title 60, unless there is
23 created a duplication in numbering, reads as follows:

24 A. As used in this section "standby electric generator" means a
device that converts mechanical energy to electrical energy and:

1. Is powered by natural gas, liquefied petroleum gas, diesel
fuel, bio-diesel fuel or hydrogen;

1 2. Is fully enclosed in an integral manufacturer supplied sound
2 attenuating enclosure;

3 3. Is connected to the main electrical panel of a residence by
4 a manual or automatic transfer switch; and

5 4. Is rated for a generating capacity of not less than seven
6 kilowatts.

7 B. Except as otherwise provided by subsection C of this
8 section, an owners association may not adopt or enforce a dedicatory
9 instrument provision that prohibits, restricts, or has the effect of
10 prohibiting or restricting a residential property owner from owning,
11 operating, installing or maintaining a permanently installed standby
12 electric generator.

13 C. An owners association may adopt any of the following
14 standards for the purpose of regulating the operation and
15 installation of standby electric generators. Permitted standards
16 may:

17 1. Require a standby electric generator to be installed and
18 maintained in compliance with the manufacturer's specifications;

19 2. Require a standby electric generator be installed and
20 maintained in compliance with applicable governmental health,
21 safety, electrical codes and building codes;

22 3. Require all electrical, plumbing and fuel line connections
23 be installed only by licensed contractors;

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- 1 4. Require all electrical and fuel line connections be
2 installed underground;
- 3 5. Require nonintegral standby electric generator fuel tanks be
4 installed and maintained to comply with applicable municipal zoning
5 ordinances, health, safety, electrical and building codes;
- 6 6. Require the standby electric generator, its electrical lines
7 and its fuel lines, be maintained in good condition and that any
8 deteriorated or unsafe components be repaired, replaced or removed;
- 9 7. Require a property owner to screen a standby electric
10 generator, if the standby electric generator is visible from the
11 street faced by the dwelling;
- 12 8. Set reasonable times, consistent with manufacturers'
13 recommendations, for the periodic testing of a standby electric
14 generator;
- 15 9. Prohibit the use of the standby electric generator to
16 generate all or substantially all of the electrical power to a
17 residence except when utility generated electrical power is not
18 available or is intermittent due to causes other than the property
19 owner's nonpayment for utility services;
- 20 10. Reasonably regulate the location of the standby electric
21 generator; and
- 22 11. Prohibit a property owner from locating a standby electric
23 generator on property:
- 24 a. owned or maintained by the owners association, or

1 b. owned in common by the owner association members.

2 D. The foregoing standards, if adopted, must be reasonably
3 applied and enforced.

4 E. A standard that regulates the location of a standby
5 electrical generator is void and unenforceable, if it increases the
6 cost of installing the standby electric generator by more than ten
7 percent or increases the cost of installing and connecting the
8 electrical and fuel lines for the standby electric generator by more
9 than twenty percent (20%).

10 F. If the dedicatory instruments of an owners association
11 require that the installation of a standby electric generator be
12 approved by a board or committee prior to installation, a proposed
13 installation of a standby electric generator that meets the
14 standards set forth in this section, must be approved by the board
15 or committee.

16 G. An owners association, or other complaining party, bears the
17 burden of proof in any administrative or judicial action to prove a
18 proposed or installed standby electric generator does not meet the
19 adopted standards.

20 SECTION 2. This act shall become effective November 1, 2014.

21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
22 February 20, 2014 - DO PASS