

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 36

By: Fields

4  
5 AS INTRODUCED

6 An Act relating to property; creating the Standby  
7 Electric Generator Act; providing short title;  
8 defining term; prohibiting property owners'  
9 associations from restricting standby electric  
10 generators; authorizing certain regulation of standby  
11 electric generators; requiring reasonable  
enforcement; prohibiting certain restrictions;  
stating procedures for compliance determinations;  
providing for codification; and providing an  
effective date.

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

13 SECTION 1. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 100 of Title 60, unless there is  
15 created a duplication in numbering, reads as follows;

16 This act shall be known and may be cited as the "Standby Electric  
17 Generator Act".

18 SECTION 2. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 101, of Title 60, unless there  
20 is created a duplication in numbering, reads as follows;

21 A. As used in this act, "standby electric generator" means a  
22 device that converts mechanical energy to electrical energy and is:

23 1. Powered by natural gas, liquefied petroleum gas, diesel  
24 fuel, bio-diesel fuel or hydrogen;

1       2. Fully enclosed in an integral manufacturer-supplied sound  
2 attenuating enclosure;

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

5       4. Rated for a generating capacity of not less than seven (7)  
6 kilowatts.

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

13       C. A property owners' association may adopt or enforce any of  
14 the following dedicatory instrument provisions to regulate the  
15 operation and installation of standby electric generators:

16       1. Require a standby electric generator to be installed and  
17 maintained in compliance with:

- 18           a. the manufacturer's specifications, and  
19           b. with applicable governmental health, safety,  
20           electrical codes and building codes; and

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

23       3. Require all electrical and fuel line connections be  
24 installed underground;

1       4. Require non-integral standby electric generator fuel tanks  
2 be installed and maintained to comply with applicable municipal  
3 zoning ordinances, and governmental health, safety, electrical and  
4 building codes;

5       5. Require the standby electric generator, its electrical lines  
6 and its fuel lines, be maintained in good condition;

7       6. Require the repair, replacement or removal of any  
8 deteriorated or unsafe component of a standby electric generator,  
9 including electrical or fuel lines;

10       7. Require an owner to screen a standby electric generator if  
11 the standby electric generator is:

12           a. visible from the street faced by the dwelling,

13           b. located in an unfenced side or rear yard of a  
14 residence and is visible either from an adjoining  
15 residence or from adjoining property owned by the  
16 property owners' association, or

17           c. located in a side or rear yard fenced by a wrought  
18 iron or residential aluminum fence and is visible  
19 through the fence either from an adjoining residence  
20 or from adjoining property owned by the property  
21 owners' association;

22       8. Set reasonable times, consistent with manufacturer's  
23 recommendations, for the periodic testing of a standby electric  
24 generator;

1 9. Prohibit the use of a standby electric generator to generate  
2 all or substantially all of the electrical power to a residence,  
3 except when utility generated electrical power to the residence is  
4 not available or is intermittent due to causes other than non-  
5 payment for utility services to the residence;

6 10. Regulate the location of the standby electric generator;  
7 and

8 11. Prohibit an owner from locating a standby electric  
9 generator on property:

- 10 a. owned or maintained by the owners' association, or
- 11 b. owned in common by the owners' association members.

12 D. The foregoing dedicatory instrument provisions, if adopted,  
13 must be reasonably applied and enforced.

14 E. A dedicatory instrument provision that regulates the  
15 location of a standby electrical generator is unenforceable if:

16 1. It increases the cost of installing the standby electric  
17 generator by more than ten percent (10%);

18 2. Or increases the cost of installing and connecting the  
19 electrical and fuel lines for the standby electric generator by more  
20 than twenty percent (20%).

21 F. If a dedicatory instrument requires that the installation of  
22 a standby electric generator be approved prior to installation,  
23 approval may not be withheld if the proposed installation meets or  
24

1 exceeds the dedicatory instrument provisions permitted by subsection  
2 (C).

3 G. If a dedicatory instrument provision requires an owner to  
4 submit an application for approval of improvements located exterior  
5 to a residence, this section does not negate the requirement, but  
6 the information required to be submitted as part of the application  
7 for installation of a standby electric generator may not be greater  
8 or more detailed than the application for any other improvement.

9 H. In a hearing, action or proceeding to determine whether a  
10 proposed or installed standby electric generator complies with the  
11 requirements of the dedicatory instrument provisions permitted by  
12 subsection (C), the party asserting non-compliance bears the burden  
13 of proof.

14 I. The installation of a standby electric generator by a  
15 licensed contractor or the acceptance of the installation of a  
16 standby electric generator, or any of its components, by a utility  
17 provider, governmental subdivision or department of such a  
18 governmental subdivision, is conclusive proof that a standby  
19 electric generator was installed in compliance with this section.

20 SECTION 3. This act shall become effective November 1, 2015.

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