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**SUBSTITUTE SENATE BILL 5136**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

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

READ FIRST TIME 01/30/09.

1       AN ACT Relating to the use of solar energy panels by members of  
2 homeowners' associations; and adding a new section to chapter 64.38  
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION. **Sec. 1.** A new section is added to chapter 64.38 RCW  
6 to read as follows:

7       (1) The governing documents may not prohibit the installation of a  
8 solar energy panel by an owner or resident on the owner's or resident's  
9 property as long as the solar energy panel:

10       (a) Meets applicable health and safety standards and requirements  
11 imposed by state and local permitting authorities;

12       (b) If used to heat water, is certified by the solar rating  
13 certification corporation or another nationally recognized  
14 certification agency. Certification must be for the solar energy panel  
15 and for installation; and

16       (c) If used to produce electricity, meets all applicable safety and  
17 performance standards established by the national electric code, the  
18 institute of electrical and electronics engineers, accredited testing

1 laboratories, such as underwriters laboratories, and, where applicable,  
2 rules of the utilities and transportation commission regarding safety  
3 and reliability.

4 (2) The governing documents may:

5 (a) Prohibit the visibility of any part of a roof-mounted solar  
6 energy panel above the roof line;

7 (b) Permit the attachment of a solar energy panel to the slope of  
8 a roof facing a street only if:

9 (i) The solar energy panel conforms to the slope of the roof; and

10 (ii) The top edge of the solar energy panel is parallel to the roof  
11 ridge; or

12 (c) Require:

13 (i) A solar energy panel frame, a support bracket, or any visible  
14 piping or wiring to be painted to coordinate with the roofing material;

15 (ii) An owner or resident to shield a ground-mounted solar energy  
16 panel if shielding the panel does not prohibit economic installation of  
17 the solar energy panel or degrade the operational performance quality  
18 of the solar energy panel by more than ten percent; or

19 (iii) Owners or residents who install solar energy panels to  
20 indemnify or reimburse the association or its members for loss or  
21 damage caused by the installation, maintenance, or use of a solar  
22 energy panel.

23 (3) The governing documents may include other reasonable rules  
24 regarding the placement and manner of a solar energy panel.

25 (4) For purposes of this section, "solar energy panel" means a  
26 panel device or system or combination of panel devices or systems that  
27 relies on direct sunlight as an energy source, including a panel device  
28 or system or combination of panel devices or systems that collects  
29 sunlight for use in:

30 (a) The heating or cooling of a structure or building;

31 (b) The heating or pumping of water;

32 (c) Industrial, commercial, or agricultural processes; or

33 (d) The generation of electricity.

34 (5) This section does not apply to common areas as defined in RCW  
35 64.38.010.

36 (6) This section applies retroactively to a governing document in  
37 effect on the effective date of this section. A provision in a

1 governing document in effect on the effective date of this section that  
2 is inconsistent with this section is void and unenforceable.

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