

2022 South Dakota Legislature

Senate Bill 36**AMENDMENT 36A FOR THE INTRODUCED BILL**

1 **An Act to require financial security for the decommissioning of solar facilities.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 49-41B-39 be AMENDED:**

4 **49-41B-39.** All right and title in any financial security required by the commission
5 for the decommissioning of wind turbines ~~shall~~ or solar energy facilities must be controlled
6 by the commission, in accordance with the terms of the financial security agreement or
7 instrument, until the commission by order releases the security. The financial security of
8 the person required to provide it may not be cancelled, assigned, revoked, disbursed,
9 replaced, or allowed to terminate without commission approval.

10 The commission may require, accept, hold, or enter into any agreement or
11 instrument for the provision of financial security, including any funds reserved or held by
12 any person to satisfy or guarantee the obligation of an owner of wind turbines or solar
13 energy facilities permitted under this chapter, to decommission and remove the wind
14 turbines or solar energy facilities. The form, term, and conditions of the financial security
15 are subject to the approval of the commission. The commission shall determine any claim
16 upon the financial security made by any landowner for decommissioning and removal of
17 turbines or solar energy facilities.

18 Any financial security provided under this chapter may not be pledged or used as
19 security for any other obligation of the wind turbine or solar energy facilities owner, and
20 is exempt from attachment or mesne process, from levy or sale on execution, and from
21 any other final process issued from any court on behalf of third-party creditors of the
22 owner of the wind turbines or solar energy facilities. Any commission decision based on
23 any claim made by the owner of the wind turbines or solar energy facilities for refund or
24 return of the financial security, or for actual expenses of decommissioning, or any related
25 agreements, may be appealed.

1 In any case, the commission may appear in court and defend the integrity and
2 viability of the financial security for purposes of decommissioning and removal of wind
3 turbines or solar energy facilities. The commission may not require any financial security
4 from an owner of wind turbines or solar energy facilities who is also a public utility as
5 defined in ~~subdivision 49-34A-1(12)~~ § 49-34A-1.

