



2022 South Dakota Legislature
Senate Bill 36
ENROLLED

AN ACT

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

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

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

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

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

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

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

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

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 36

2022 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2022

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2022
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 36
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State