

# An Act

ENROLLED HOUSE  
BILL NO. 1564

By: Jordan of the House

and

Schulz of the Senate

An Act relating to property; amending Section 1, Chapter 334, O.S.L. 2010 (60 O.S. Supp. 2010, Section 820.1), which relates to severance of airspace in wind or solar energy agreements; creating the Airspace Severance Restriction Act; deleting certain limitation; clarifying legal information required to be recorded for certain purposes; and declaring an emergency.

SUBJECT: Airspace Severance Restriction Act

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

SECTION 1. AMENDATORY Section 1, Chapter 334, O.S.L. 2010 (60 O.S. Supp. 2010, Section 820.1), is amended to read as follows:

Section 820.1 A. This act shall be known and may be cited as the "Airspace Severance Restriction Act".

B. It is the intent of this act to restrict the permanent severing of the airspace over any real property located in this state for the purpose of developing and operating commercial wind or solar energy conversion systems. Leasing arrangements for development of wind or solar energy conversion systems may be made only with the legally authorized owner of the surface estate pursuant to the provisions and restrictions provided by this act or otherwise provided by law. The provisions of this act shall not apply to any property owner utilizing wind or solar energy conversion systems for domestic use only.

~~B. C.~~ C. For the purposes of this act a "wind or solar energy agreement" means a lease agreement, whether or not stated in the form of a restriction, covenant, or condition, in any deed, wind or solar easement, wind or solar option or lease securing land for the study or production of wind or solar-generated energy, or any other instrument executed by or on behalf of any owner of land or airspace for the purpose of allowing another party to study the potential for, or to develop, a wind or solar energy conversion system on the land or in the airspace. A wind or solar energy agreement shall in no way be deemed to contravene, supersede, amend, modify or alter the existing powers, requirements, limitations or other provisions of statutory or common law pertaining to aviation, air transportation, air commerce or air operations, ~~nor shall any wind or solar energy agreement interfere with or supersede any entity's right to obtain easements as otherwise authorized by law.~~

~~C. D.~~ D. A wind or solar energy agreement shall run with the land benefitted and burdened and shall terminate upon the conditions stated in the wind or solar agreement.

~~D. E.~~ E. An instrument ~~creating~~ entered into subsequent to July 1, 2010, that creates a land right or an option to secure a land right in real property or the vertical space above real property for a solar energy system, for a wind or solar energy conversion system, or for wind measurement equipment, shall be created in writing, and the instrument, or related memorandum of easement, or an abstract, shall be filed, duly recorded, and indexed in the office of the county clerk in the county in which the real property subject to the instrument is located. The instrument, but not the related memorandum of easement or abstract, shall include, but not be limited to:

1. The names of the parties;
2. A legal description of the real property involved;
3. The nature of the interest created;
4. The consideration paid for the transfer;
5. A description of the improvements the developer intends to make on the real property, including, but not limited to, roads, transmission lines, substations, wind turbines and meteorological towers;

6. A description of any decommissioning security as defined in ~~Subsection A~~ subsection B of this section, or other requirements related to decommissioning; and

7. The terms or conditions, if any, under which the interest may be revised or terminated.

~~E.~~ F. No interest in any resource located on a tract of land and solely associated with the production or potential production of wind or solar-generated energy on the tract of land may be severed from the surface estate except that such rights may be leased for a definite term pursuant to the provisions of this act.

~~F.~~ G. The provisions of this ~~section~~ act shall not affect any agreements or contracts entered into pursuant to the provisions of the Oklahoma Airspace Act, Section 801 et seq. of ~~Title 60 of the Oklahoma Statutes~~ this title.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 14th day of March, 2011.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the 6th day of April, 2011.

\_\_\_\_\_  
Presiding Officer of the Senate

**OFFICE OF THE GOVERNOR**

Received by the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

**OFFICE OF THE SECRETARY OF STATE**

Received by the Secretary of State this \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
By: \_\_\_\_\_