

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 740

By: Schulz

4
5
6 AS INTRODUCED

7 An Act relating to airspace property rights; amending
8 Section 1, Chapter 334, O.S.L. 2010 (60 O.S. Supp.
9 2010, Section 820.1), which relates to airspace
10 severance; creating the Airspace Severance
11 Restriction Act; providing short title; clarifying
12 legal information required to be recorded for certain
13 purposes; and declaring an emergency.

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

15 SECTION 1. AMENDATORY Section 1, Chapter 334, O.S.L.
16 2010 (60 O.S. Supp. 2010, Section 820.1), is amended to read as
17 follows:

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

20 B. It is the intent of this act to restrict the permanent
21 severing of the airspace over any real property located in this
22 state for the purpose of developing and operating commercial wind or
23 solar energy conversion systems. Leasing arrangements for
24 development of wind or solar energy conversion systems may be made
only with the legally authorized owner of the surface estate

1 pursuant to the provisions and restrictions provided by this act or
2 otherwise provided by law. The provisions of this act shall not
3 apply to any property owner utilizing wind or solar energy
4 conversion systems for domestic use only.

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

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

23 ~~D.~~ E. An instrument ~~creating~~ entered into subsequent to July 1,
24 2010, that creates a land right or an option to secure a land right

1 in real property or the vertical space above real property for a
2 solar energy system, for a wind or solar energy conversion system,
3 or for wind measurement equipment, shall be created in writing, and
4 the instrument, or related memorandum of easement, or an abstract,
5 shall be filed, duly recorded, and indexed in the office of the
6 county clerk in the county in which the real property subject to the
7 instrument is located. The instrument, but not the related
8 memorandum of easement or abstract, shall include, but not be
9 limited to:

- 10 1. The names of the parties;
- 11 2. A legal description of the real property involved;
- 12 3. The nature of the interest created;
- 13 4. The consideration paid for the transfer;
- 14 5. A description of the improvements the developer intends to
15 make on the real property, including, but not limited to, roads,
16 transmission lines, substations, wind turbines and meteorological
17 towers;
- 18 6. A description of any decommissioning security as defined in
19 ~~Subsection A~~ subsection B of this section, or other requirements
20 related to decommissioning; and
- 21 7. The terms or conditions, if any, under which the interest
22 may be revised or terminated.

23 ~~E.~~ F. No interest in any resource located on a tract of land
24 and solely associated with the production or potential production of

1 wind or solar-generated energy on the tract of land may be severed
2 from the surface estate except that such rights may be leased for a
3 definite term pursuant to the provisions of this act.

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

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

12
13
14
15
16
17
18
19
20
21
22
23
24

53-1-718 MJM 1/20/2011 9:25:35 AM