

An Act

ENROLLED HOUSE
BILL NO. 1373

By: Boles and Crosswhite Hader
of the House

and

Green of the Senate

An Act relating to commercial solar facilities; creating the Commercial Solar Facility Decommissioning Act; defining terms; making certain agreement provisions void; providing for certain injunctive relief; stating certain provisions are not exclusive; requiring agreement contain certain provisions; requiring landowner make certain timely request; requiring certain financial assurance be delivered; stating acceptable forms of financial assurance; requiring certain amount of financial assurance; assigning certain costs to grantee; prohibiting certain cancellation of financial assurance; providing for codification; and providing an effective date.

SUBJECT: Commercial solar facilities

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820 of Title 17, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Commercial Solar Facility Decommissioning Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

As used in the Commercial Solar Facility Decommissioning Act:

1. "Generation assets" means all assets associated with the production of electricity, including generation plants, electrical interconnections of the generation plant to the transmission system, fuel contracts, fuel transportation contracts, water contracts, lands, surface or subsurface water rights, emissions-related allowances, and gas pipeline interconnections;

2. "Grantee" means a person, other than an electric utility who:

- a. leases property from a landowner, and
- b. operates a solar power facility on the property;

3. "Solar energy device" means a solar energy collector or solar energy system that provides for the collection of solar energy or the subsequent use of that energy as thermal, mechanical, or electrical energy;

4. "Solar power facility" includes:

- a. a solar energy device, and
- b. a facility or equipment, other than a facility or equipment owned by an electric utility, used to support the operation of a solar energy device, including an underground or aboveground electrical transmission or communications line, an electric transformer, a battery storage facility, an energy storage facility, telecommunications equipment, a road, a meteorological tower, or a maintenance yard; and

5. "Solar power facility agreement" means a lease agreement between a grantee and a landowner that authorizes the grantee to operate a solar power facility on the leased property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.2 of Title 17, unless there is created a duplication in numbering, reads as follows:

The Commercial Solar Facility Decommissioning Act shall apply only to a solar power facility that is a generation asset as defined in Section 2 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.3 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A provision of a solar power facility agreement that purports to waive a right or exempt a grantee from a liability or duty established by the Commercial Solar Facility Decommissioning Act is void.

B. A person who is harmed by a violation of the Commercial Solar Facility Decommissioning Act is entitled to appropriate injunctive relief to prevent further violation of the act.

C. The provisions of this section are not exclusive. The remedies provided in this section are in addition to any other procedures or remedies provided by other law.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.4 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A solar power facility agreement shall provide that the grantee is responsible for removing the grantee's solar power facilities from the landowner's property and that the grantee shall, in accordance with any other applicable laws or regulations, safely:

1. Clear, clean, and remove from the property each solar energy device, transformer, and substation;

2. For each foundation of a solar energy device, transformer, or substation installed in the ground:

a. clear, clean, and remove the foundation from the ground to a depth of at least three (3) feet below the surface grade of the land in which the foundation is installed, and

b. ensure that each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property;

3. For each buried cable, including power, fiber-optic, and communications cables, installed in the ground:

- a. clear, clean, and remove the cable from the ground to a depth of at least three (3) feet below the surface grade of the land in which the cable is installed, and
- b. ensure that each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property; and

4. Clear, clean, and remove from the property each overhead power or communications line installed by the grantee on the property at the request of the landowner.

B. The agreement shall provide that, at the request of the landowner, the grantee shall:

1. Clear, clean, and remove each road constructed by the grantee on the property; and

2. Ensure that each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property.

C. The agreement shall provide that, at the request of the landowner, if reasonable, the grantee shall:

1. Remove from the property all rocks over twelve (12) inches in diameter excavated during the decommissioning or removal process;

2. Return the property to a tillable state using scarification, V-rip, or disc methods, as appropriate; and

3. Ensure that:

a. each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property, and

b. the surface is returned as near as reasonably possible to the same condition as before the grantee dug holes or cavities, including by reseeding pastureland with native grasses prescribed by an appropriate governmental agency, if any. Noninvasive grasses

shall be allowed when reseeding native grasses is not economically feasible.

D. The landowner shall make a request under subsection B or C of this section not later than the one hundred eightieth day after the later of:

1. The date on which the solar power facility is no longer capable of generating electricity in commercial quantities; or

2. The date the landowner receives written notice of intent to decommission the solar power facility from the grantee.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.5 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A solar power facility agreement shall provide that the grantee obtain and deliver to the landowner evidence of financial assurance that conforms to the requirements of this section to secure the performance of the grantee's obligation to remove the grantee's solar power facilities located on the landowner's property as described by Section 5 of this act. Acceptable forms of financial assurance include a parent company guaranty with a minimum investment grade credit rating for the parent company issued by a major domestic credit rating agency, a letter of credit, a bond, or another form of financial assurance reasonably acceptable to the landowner.

B. The amount of the financial assurance must be at least equal to the estimated amount by which the cost of removing the solar power facilities from the landowner's property and restoring the property to as near as reasonably possible the condition of the property as of the date the agreement begins exceeds the salvage value of the solar power facilities, less any portion of the value of the solar power facilities pledged to secure outstanding debt.

C. The agreement shall provide that:

1. The estimated cost of removing the solar power facilities from the landowner's property and restoring the property to as near as reasonably possible the condition of the property as of the date the agreement begins and the estimated salvage value of the solar power facilities must be determined by an independent, third-party professional engineer licensed in this state;

2. The grantee shall deliver to the landowner an updated estimate, prepared by an independent, third-party professional engineer licensed in this state, of the cost of removal and the salvage value:

- a. on or before the tenth anniversary of the commercial operations date of the solar power facilities, and
- b. at least once every five (5) years after the commercial operations date of the solar power facilities for the remainder of the term of the agreement; and

3. The grantee is responsible for ensuring that the amount of the financial assurance remains sufficient to cover the amount required by subsection B of this section, consistent with the estimates required by this subsection.

D. The grantee is responsible for the costs of obtaining financial assurance described by this section and costs of determining the estimated removal costs and salvage value.

E. The agreement must provide that the grantee shall deliver the financial assurance not later than the earlier of:

1. The date the solar power facility agreement is terminated;
or

2. The twentieth anniversary of the commercial operations date of the solar power facilities located on the landowner's leased property.

F. For purposes of this section, "commercial operations date" means the date on which the solar power facilities are approved for participation in market operations by a regional transmission organization and does not include the generation of electrical energy or other operations conducted before that date for purposes of maintenance and testing.

G. The grantee may not cancel financial assurance before the date the grantee has completed the grantee's obligation to remove the grantee's solar power facilities located on the landowner's property in the manner provided by this act, unless the grantee provides the landowner with replacement financial assurance at the

time of or before the cancellation. In the event of a transfer of ownership of the grantee's solar power facilities, the financial security provided by the grantee shall remain in place until the date evidence of financial security meeting the requirements of this act is provided to the landowner.

SECTION 7. This act shall become effective November 1, 2025.

Passed the House of Representatives the 3rd day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 28th day of April, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____