

House Bill 300 (COMMITTEE SUBSTITUTE)

By: Representatives Kelley of the 16th, Williamson of the 112th, Stephens of the 164th, and Blackmon of the 146th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,
2 relating to generation and distribution of electricity generally, so as to provide for required
3 provisions in solar power facility agreements relative to responsibilities of grantees to
4 decommission certain solar power equipment; to provide for definitions; to provide for
5 remedies; to provide for financial assurance for required decommissioning activities; to
6 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to
11 generation and distribution of electricity generally, is amended by adding a new part to read
12 as follows:

H. B. 300 (SUB)

13 "Part 5

14 46-3-67.

15 As used in this part, the term:

16 (1) 'Commercial operations date' means the date on which a solar power facility
17 generates electrical energy for sale to an electric supplier. Such term does not include the
18 generation of electrical energy or other operations conducted before that date for purposes
19 of maintenance or testing.

20 (2) 'Electric supplier' has the same meaning as provided in Code Section 46-3-3.

21 (3) 'Financial assurance' means a surety or performance bond that:

22 (A) Renews automatically; and

23 (B) Is issued by a company that is listed on the United States Department of the
24 Treasury's List of Certified Companies and that has a financial strength rating of at least
25 an 'A' as rated by A.M. Best Company, Inc.; Moody's Investors Service, Inc.; Standard
26 and Poor's Corporation; or a similar rating agency.

27 (4) 'Grantee' means a person who leases property from a landowner and who operates a
28 solar power facility on said property.

29 (5) 'Solar energy device' means a solar energy collector or solar energy system that
30 provides for the collection of solar energy or the subsequent use of such energy as
31 thermal, mechanical, or electrical energy.

32 (6) 'Solar power facility' means a solar energy device that does not meet the definition
33 of solar technology pursuant to Code Section 46-3-62, or the integrated collection of such
34 devices, together with any equipment or other personal property and improvements under
35 common ownership that are used to support the operation of such a solar energy device
36 or solar energy devices, including, but not limited to, underground or aboveground
37 electrical transmission or communications lines, electric transformers, battery storage

38 facilities, telecommunications equipment, roads, meteorological towers, and maintenance
39 yards.

40 (7) 'Solar power facility agreement' means any lease agreement for real property in this
41 state between a grantee and a landowner that authorizes the grantee to operate a solar
42 power facility on the leased property.

43 46-3-68.

44 (a) The provisions of this part shall only apply to solar power facility agreements that are
45 executed or renewed on or after July 1, 2024.

46 (b) Any provision in a solar power facility agreement that purports to waive a right or
47 exempt a grantee from a liability or duty established by this part shall be void.

48 (c) Any person who is harmed by a violation of this part shall be entitled to appropriate
49 injunctive relief to prevent further violation of this part.

50 (d) The provisions of this Code section are not exclusive. The remedies provided in this
51 Code section are in addition to any other procedures or remedies provided by law.

52 46-3-69.

53 (a) A solar power facility agreement shall provide that the grantee shall be responsible for
54 removing the grantee's solar power facilities from the landowner's property upon the
55 termination of the lease and that the grantee shall, in accordance with any other applicable
56 laws or regulations, safely:

57 (1) Clear, clean, and remove from the property all grantee owned solar energy devices
58 and all grantee owned equipment, personal property, and improvements used to support
59 such devices;

60 (2) For each foundation of a solar energy device, transformer, or substation installed on
61 the property by the grantee:

62 (A) Clear, clean, and remove the foundation from the ground to a depth of at least three
63 feet below the surface grade of the land in which the foundation is installed; and

64 (B) Ensure that each hole or cavity created in the ground by such removal is filled with
65 soil of the same type or a similar type as the predominant soil found on the property;

66 (3) For each cable, including power, fiber-optic, and communications cables, installed
67 underground by the grantee:

68 (A) Clear, clean, and remove the cable from the ground to a depth of at least three feet
69 below the surface grade of the land in which the cable is installed; and

70 (B) Ensure that each hole or cavity created in the ground by such removal is filled with
71 soil of the same type or a similar type as the predominant soil found on the property;

72 and

73 (4) Clear, clean, and remove from the property each overhead power or communications
74 line installed on the property by the grantee.

75 (b) A solar power facility agreement shall provide that, at the request of the landowner, the
76 grantee shall:

77 (1) Clear, clean, and remove each road constructed on the property by the grantee; and

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

80 (c) A solar power facility agreement shall provide that, at the request of the landowner, the
81 grantee shall:

82 (1) Remove from the property all rocks more than 12 inches in diameter excavated
83 during the decommissioning or removal of the grantee's solar power facilities;

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

86 (3) Ensure that:

87 (A) Each hole or cavity created in the ground by such decommissioning or removal is
88 filled with soil of the same type or a similar type as the predominant soil found on the
89 property; and

90 (B) The surface is returned, as near as reasonably possible, to the same condition as
91 before the grantee dug holes or cavities, including, but not limited to, by reseeding
92 pastureland with native, naturalized, and introduced grasses and legumes prescribed by
93 an appropriate governmental agency, if any.

94 (d) A landowner shall make any request provided by a solar power facility agreement
95 pursuant to subsection (b) or (c) of this Code section no later than 12 months after the later
96 of:

97 (1) The date on which the solar power facility is no longer capable of generating
98 electricity in commercial quantities, except when such inability to generate electricity is
99 the result of an event of force majeure or when the grantee is in the process of repairing
100 the solar power facility, provided that, in either case, the solar power facility resumes
101 generating electricity in commercial quantities within 180 days;

102 (2) The date the landowner receives written notice of intent to decommission the solar
103 power facility from the grantee; or

104 (3) The date the solar power facility agreement is terminated.

105 46-3-69.1.

106 (a) A solar power facility agreement shall provide that:

107 (1) The grantee shall obtain and deliver to the landowner and record with the clerk of the
108 superior court of the county where the solar power facility is located evidence of financial
109 assurance that conforms to the requirements of this subsection to secure the performance
110 of the grantee's obligation to remove the grantee's solar power facilities located on the
111 landowner's property pursuant to Code Section 46-3-69;

112 (2) The amount of the financial assurance shall be:

- 113 (A) At least equal to the estimated cost of removing the solar power facilities from the
114 landowner's property and restoring the property to the conditions described in Code
115 Section 46-3-69:
- 116 (i) Minus the salvage value of the solar power facilities; and
117 (ii) Plus any portion of the value of the solar power facilities pledged to secure
118 outstanding debt; and
- 119 (B) Determined by an independent, third-party professional engineer licensed in this
120 state;
- 121 (3) The grantee shall deliver to the landowner an updated estimate, prepared by an
122 independent, third-party professional engineer licensed in this state, of the removal costs
123 and the salvage value of the solar power facilities:
- 124 (A) No later than 20 years after the commercial operations date of the solar power
125 facilities; and
- 126 (B) At least once every five years after the commercial operations date of the solar
127 power facilities for the remainder of the term of the agreement;
- 128 (4) The grantee shall be responsible for ensuring that the amount of the financial
129 assurance remains sufficient to cover the amount required by paragraph (2) of this
130 subsection, consistent with the estimates required by paragraph (3) of this subsection;
- 131 (5) The grantee shall be responsible for the costs of obtaining financial assurance and
132 costs of determining the estimated removal costs and salvage value; and
- 133 (6) The grantee shall deliver the financial assurance not later than the commercial
134 operations date of the solar power facilities.
- 135 (b) No county or municipal corporation shall impose on a grantee who has entered into a
136 solar power facility agreement that conforms to the requirements of this Code section
137 financial assurance requirements relating to the removal or decommissioning of solar
138 power facilities.

139 (c) No grantee shall cancel the financial assurance delivered to the landowner pursuant to
140 this Code section before the date the grantee has completed the grantee's obligation to
141 remove the grantee's solar power facilities located on the landowner's property in the
142 manner provided by this part, unless the grantee provides the landowner with replacement
143 financial assurance at the time of or before such cancellation. In the event of a transfer of
144 ownership of the grantee's solar power facilities, the financial assurance provided by the
145 grantee shall remain in place until the date on which evidence of substitute financial
146 assurance meeting the requirements of this part is provided to the landowner."

147 **SECTION 2.**

148 This Act shall become effective on July 1, 2024.

149 **SECTION 3.**

150 All laws and parts of laws in conflict with this Act are repealed.