

House Bill 300 (AS PASSED HOUSE AND SENATE)

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

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:

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; and

84 (2) Ensure that:

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

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

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

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

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

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

103 (e) The requirements of this Code section applicable to a solar power facility agreement  
104 may be waived or modified through a written, notarized agreement between the grantee and  
105 landowner. Any such agreement shall be recorded with the clerk of the superior court of  
106 the county where the solar power facility is located.

107 46-3-69.1.

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

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

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

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

149 **SECTION 2.**

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

151 **SECTION 3.**

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