

1-1 By: Springer S.B. No. 760
1-2 (In the Senate - Filed February 23, 2021; March 11, 2021,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 March 31, 2021, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 31, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the removal of solar power facilities.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. The heading to Title 6, Utilities Code, is
1-22 amended to read as follows:
1-23 TITLE 6. PRIVATE [~~WIND~~] POWER AGREEMENTS
1-24 SECTION 2. Title 6, Utilities Code, is amended by adding
1-25 Chapter 302 to read as follows:
1-26 CHAPTER 302. SOLAR POWER FACILITY AGREEMENTS
1-27 Sec. 302.0001. DEFINITIONS. In this chapter:
1-28 (1) "Grantee" means a person who:
1-29 (A) leases property from a landowner; and
1-30 (B) operates a solar power facility on the
1-31 property.
1-32 (2) "Solar energy device" has the meaning assigned by
1-33 Section 185.001.
1-34 (3) "Solar power facility" includes:
1-35 (A) a solar energy device; and
1-36 (B) a facility or equipment used to support the
1-37 operation of a solar energy device, including an underground or
1-38 aboveground electrical transmission or communications line, an
1-39 electric transformer, a battery storage facility, an energy storage
1-40 facility, telecommunications equipment, a road, a meteorological
1-41 tower, or a maintenance yard.
1-42 (4) "Solar power facility agreement" means a lease
1-43 agreement between a grantee and a landowner that authorizes the
1-44 grantee to operate a solar power facility on the leased property.
1-45 Sec. 302.0002. WAIVER VOID; REMEDIES. (a) A provision of a
1-46 solar power facility agreement that purports to waive a right or
1-47 exempt a grantee from a liability or duty established by this
1-48 chapter is void.
1-49 (b) A person who is harmed by a violation of this chapter is
1-50 entitled to appropriate injunctive relief to prevent further
1-51 violation of this chapter.
1-52 (c) The provisions of this section are not exclusive. The
1-53 remedies provided in this section are in addition to any other
1-54 procedures or remedies provided by other law.
1-55 Sec. 302.0003. REQUIRED AGREEMENT PROVISIONS ON FACILITY
1-56 REMOVAL. (a) A solar power facility agreement must provide that
1-57 the grantee is responsible for removing the grantee's solar power
1-58 facilities from the landowner's property and that the grantee
1-59 shall, in accordance with any other applicable laws or regulations,
1-60 safely:
1-61 (1) clear, clean, and remove from the property each

2-1 solar energy device, transformer, and substation;
2-2 (2) for each foundation of a solar energy device,
2-3 transformer, or substation installed in the ground:
2-4 (A) clear, clean, and remove the foundation from
2-5 the ground to a depth of at least three feet below the surface grade
2-6 of the land in which the foundation is installed; and
2-7 (B) ensure that each hole or cavity created in
2-8 the ground by the removal is filled with topsoil of the same type or
2-9 a similar type as the predominant topsoil found on the property;
2-10 (3) for each buried cable, including power,
2-11 fiber-optic, and communications cables, installed in the ground:
2-12 (A) clear, clean, and remove the cable from the
2-13 ground to a depth of at least three feet below the surface grade of
2-14 the land in which the cable is installed; and
2-15 (B) ensure that each hole or cavity created in
2-16 the ground by the removal is filled with topsoil of the same type or
2-17 a similar type as the predominant topsoil found on the property; and
2-18 (4) clear, clean, and remove from the property each
2-19 overhead power or communications line installed by the grantee on
2-20 the property.
2-21 (b) The agreement must provide that, at the request of the
2-22 landowner, the grantee shall:
2-23 (1) clear, clean, and remove each road constructed by
2-24 the grantee on the property; and
2-25 (2) ensure that each hole or cavity created in the
2-26 ground by the removal is filled with topsoil of the same type or a
2-27 similar type as the predominant topsoil found on the property.
2-28 (c) The agreement must provide that, at the request of the
2-29 landowner, if reasonable, the grantee shall:
2-30 (1) remove from the property all rocks over 12 inches
2-31 in diameter excavated during the decommissioning or removal
2-32 process;
2-33 (2) return the property to a tillable state using
2-34 scarification, V-rip, or disc methods, as appropriate; and
2-35 (3) ensure that:
2-36 (A) each hole or cavity created in the ground by
2-37 the removal is filled with topsoil of the same type or a similar
2-38 type as the predominant topsoil found on the property; and
2-39 (B) the surface is returned as near as reasonably
2-40 possible to the same condition as before the grantee dug holes or
2-41 cavities, including by reseeding pastureland with native grasses
2-42 prescribed by an appropriate governmental agency, if any.
2-43 (d) The landowner shall make a request under Subsection (b)
2-44 or (c) not later than the 180th day after the later of:
2-45 (1) the date on which the solar power facility is no
2-46 longer capable of generating electricity in commercial quantities;
2-47 or
2-48 (2) the date the landowner receives written notice of
2-49 intent to decommission the solar power facility from the grantee.
2-50 Sec. 302.0004. REQUIRED AGREEMENT PROVISIONS ON FINANCIAL
2-51 ASSURANCE. (a) A solar power facility agreement must provide that
2-52 the grantee shall obtain and deliver to the landowner evidence of
2-53 financial assurance that conforms to the requirements of this
2-54 section to secure the performance of the grantee's obligation to
2-55 remove the grantee's solar power facilities located on the
2-56 landowner's property as described by Section 302.0003. Acceptable
2-57 forms of financial assurance include a parent company guaranty with
2-58 a minimum investment grade credit rating for the parent company
2-59 issued by a major domestic credit rating agency, a letter of credit,
2-60 a bond, or another form of financial assurance acceptable to the
2-61 landowner.
2-62 (b) The amount of the financial assurance must be at least
2-63 equal to the estimated amount by which the cost of removing the
2-64 solar power facilities from the landowner's property and restoring
2-65 the property to as near as reasonably possible the condition of the
2-66 property as of the date the agreement begins exceeds the salvage
2-67 value of the solar power facilities, less any portion of the value
2-68 of the solar power facilities pledged to secure outstanding debt.
2-69 (c) The agreement must provide that:

3-1 (1) the estimated cost of removing the solar power
3-2 facilities from the landowner's property and restoring the property
3-3 to as near as reasonably possible the condition of the property as
3-4 of the date the agreement begins and the estimated salvage value of
3-5 the solar power facilities must be determined by an independent,
3-6 third-party professional engineer licensed in this state;

3-7 (2) the grantee must deliver to the landowner an
3-8 updated estimate, prepared by an independent, third-party
3-9 professional engineer licensed in this state, of the cost of
3-10 removal and the salvage value at least once every five years for the
3-11 remainder of the term of the agreement; and

3-12 (3) the grantee is responsible for ensuring that the
3-13 amount of the financial assurance remains sufficient to cover the
3-14 amount required by Subsection (b), consistent with the estimates
3-15 required by this subsection.

3-16 (d) The grantee is responsible for the costs of obtaining
3-17 financial assurance described by this section and costs of
3-18 determining the estimated removal costs and salvage value.

3-19 (e) The agreement must provide that the grantee shall
3-20 deliver the financial assurance not later than the earlier of:

3-21 (1) the date the solar power facility agreement is
3-22 terminated; or

3-23 (2) the 10th anniversary of the commercial operations
3-24 date of the solar power facilities located on the landowner's
3-25 leased property.

3-26 (f) For purposes of this section, "commercial operations
3-27 date" means the date on which the solar power facilities are
3-28 approved for participation in market operations by a regional
3-29 transmission organization and does not include the generation of
3-30 electrical energy or other operations conducted before that date
3-31 for purposes of maintenance and testing.

3-32 (g) The grantee may not cancel financial assurance before
3-33 the date the grantee has completed the grantee's obligation to
3-34 remove the grantee's solar power facilities located on the
3-35 landowner's property in the manner provided by this chapter, unless
3-36 the grantee provides the landowner with replacement financial
3-37 assurance at the time of or before the cancellation. In the event
3-38 of a transfer of ownership of the grantee's solar power facilities,
3-39 the financial security provided by the grantee shall remain in
3-40 place until the date evidence of financial security meeting the
3-41 requirements of this chapter is provided to the landowner.

3-42 SECTION 3. Chapter 302, Utilities Code, as added by this
3-43 Act, applies only to a solar power facility agreement entered into
3-44 on or after the effective date of this Act. A solar power facility
3-45 agreement entered into before the effective date of this Act is
3-46 governed by the law as it existed immediately before that date, and
3-47 that law is continued in effect for that purpose.

3-48 SECTION 4. This Act takes effect September 1, 2021.

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