

AN ACT

ENTITLED, An Act to establish certain provisions regarding financial security for the decommissioning of wind turbines.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 49-41B be amended by adding a NEW SECTION to read:

All right and title in any financial security required by the commission for the decommissioning of wind turbines shall be controlled by the commission in accordance with the terms of the financial security agreement or instrument until the commission by order releases the security. The financial security of the person required to provide it may not be cancelled, assigned, revoked, disbursed, replaced, or allowed to terminate without commission approval.

The commission may require, accept, hold, or enter into any agreement or instrument for the provision of financial security, including any funds reserved or held by any person to satisfy or guarantee the obligation of an owner of wind turbines permitted under this chapter, to decommission and remove the wind turbines. The form, term, and conditions of the financial security are subject to the approval of the commission. The commission shall determine any claim upon the financial security made by any landowner for decommissioning and removal of turbines.

Any financial security provided under this chapter may not be pledged or used as security for any other obligation of the wind turbine owner, and is exempt from attachment or mesne process, from levy or sale on execution, and from any other final process issued from any court on behalf of third party creditors of the owner of the wind turbines. Any commission decision based on any claim made by the owner of the wind turbines for refund or return of the financial security, or for actual expenses of decommissioning, or any related agreements may be appealed.

In any case, the commission may appear in court and defend the integrity and viability of the financial security for purposes of decommissioning and removal of wind turbines. The commission

may not require any financial security from an owner of wind turbines who is also a public utility as defined in subdivision 49-34A-1(12).