

## LEGISLATIVE BILL 568

Approved by the Governor May 22, 2009

Introduced by Dubas, 34; Haar, 21; Mello, 5.

FOR AN ACT relating to real estate; to amend section 66-911.01, Reissue Revised Statutes of Nebraska; to provide requirements and conditions for wind agreements; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 to 4 of this act:

(1) Decommissioning security means a security instrument that is posted or given prior to construction by the wind developer to ensure sufficient funding is available for removal of a wind energy conversion system and reclamation at the end of the useful life of such a system; and

(2) Wind agreement means a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, wind easement, wind option, or lease or lease option securing land for the study or production of wind-generated energy or any other instrument executed by or on behalf of any owner of land or air space for the purpose of allowing another party to study the potential for, or to develop, a wind energy conversion system as defined in section 66-909.02 on the land or in the air space.

Sec. 2. A wind agreement shall run with the land benefited and burdened and shall terminate upon the conditions stated in the wind agreement, except that the initial term of a wind agreement shall not exceed forty years. A wind agreement shall terminate if development of a wind energy conversion system as defined in section 66-909.02 has not commenced within ten years after the effective date of the wind agreement, except that this period may be extended by mutual agreement of the parties to the wind agreement.

Sec. 3. A wind agreement shall comply with section 66-911.01.

Sec. 4. No interest in any resource located on a tract of land and associated with the production or potential production of wind-generated energy on the tract of land may be severed from the surface estate.

Sec. 5. Section 66-911.01, Reissue Revised Statutes of Nebraska, is amended to read:

66-911.01 An instrument creating a lease land right or an option to lease secure a land right in real property or the vertical space above real property for a solar energy system, ~~or~~ for a wind energy conversion system, or for wind measurement equipment shall be created in writing, and the instrument, or an abstract, shall be filed, duly recorded, and indexed in the office of the register of deeds of the county in which the real property subject to the easement instrument is located. ~~An instrument creating a lease or an option to lease real property or the vertical space above real property for wind measuring equipment may be created in writing and may be filed, duly recorded, and indexed in the office of the register of deeds of the county in which the real property subject to the easement is located. Such lease or lease option document~~ The instrument shall include, but the contents are not limited to:

- (1) The names of the parties;
- (2) A legal description of the real property involved;
- (3) The nature of the interest created;
- (4) The consideration paid for the transfer; and

(5) A description of the improvements the developer intends to make on the real property, including, but not limited to: Roads; transmission lines; substations; wind turbines; and meteorological towers;

(6) A description of any decommissioning security as defined in section 1 of this act or local requirements related to decommissioning; and

~~(5)~~ (7) The terms or conditions, if any, under which the interest may be revised or terminated.

Sec. 6. Original section 66-911.01, Reissue Revised Statutes of Nebraska, is repealed.