

SENATE FILE NO. SF0022

Wind energy property rights.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to property; providing wind energy rights
2 are real property appurtenant to the surface estate;
3 defining terms; providing for wind energy agreements;
4 specifying requirements for agreements; specifying
5 applicability of act; providing for reversion of interests;
6 and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 34-27-101 through 34-27-107 are
11 created to read:

12

13

CHAPTER 27

14

WIND ENERGY RIGHTS

15

16 **34-27-101. Short title.**

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1 This act may be cited as the "Wind Energy Rights Act."

2

3 **34-27-102. Definitions.**

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5 (a) As used in this act:

6

7 (i) "Wind energy agreement" means a lease,
8 license, easement or other agreement, whether by grant or
9 reservation, to develop or participate in the income from
10 or the development of wind powered generation;

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12 (ii) "Wind energy developer" means the owner of
13 the surface estate or the lessee, easement holder, licensee
14 or contracting party under a wind energy agreement;

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16 (iii) "Wind energy right" means a property right
17 in the development of wind powered generation;

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19 (iv) "This act" means W.S. 34-27-101 through
20 34-27-107.

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22 **34-27-103. Declaration of wind energy rights.**

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1 (a) Wind energy rights shall be regarded as an
2 interest in real property and appurtenant to the surface
3 estate. All incidents of ownership regarding executive
4 rights, rents, royalties and development shall be exercised
5 by the owner of the surface estate.

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7 (b) Wind energy rights shall not be severed from the
8 surface estate, except that wind energy may be developed
9 pursuant to a wind energy agreement.

10

11 (c) A wind energy agreement is an interest in real
12 property. A wind energy agreement or a notice or memorandum
13 evidencing a wind energy agreement shall:

14

15 (i) Be recorded in the office of the county
16 clerk where the land subject to the agreement is located;
17 and

18

19 (ii) Shall include a description of the land
20 subject to the agreement.

21

22 (d) After a wind energy agreement has terminated, the
23 surface owner may request the wind energy developer to
24 record a release of the wind energy agreement in the office

1 of the county clerk where the land subject to the wind
2 energy agreement is located. The request shall be in
3 writing and delivered to the wind energy developer by
4 personal service or registered mail at the wind energy
5 developer's last known address. The wind energy developer
6 shall record the release within twenty (20) days after
7 receipt of the request. If the wind energy developer fails
8 to record the release within twenty (20) days after the
9 receipt of the request, the wind energy developer shall be
10 liable to the surface owner for all damages caused by the
11 wind energy developer's failure. A copy of the written
12 request shall have the same force and effect as the
13 original in an action for damages.

14

15 (e) Wind energy becomes personalty at the point of
16 conversion into electricity.

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18 (f) Nothing in this act shall alter, amend, diminish
19 or invalidate wind energy agreements or conveyances made or
20 entered into prior to April 1, 2011 provided that a
21 contract, lease, memorandum or other notice evidencing the
22 acquisition, conveyance or reservation of the wind energy
23 rights is recorded in accordance with subsection (c) of
24 this section no later than July 1, 2011.

1

2 **34-27-104. Dominance of mineral estate.**

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4 Nothing in this act shall be construed to change the common
5 law as of April 1, 2011 as it relates to the rights
6 belonging to, or the dominance of, the mineral estate.

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8 **34-27-105. Compensation for taking of wind energy**
9 **rights.**

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11 Nothing in this act diminishes the right of the owner of
12 the surface estate to receive compensation for the taking
13 of wind energy rights incidental to the exercise of eminent
14 domain, regardless of whether the owner has entered into a
15 wind energy agreement.

16

17 **34-27-106. No restriction on transfer of wind energy**
18 **agreement.**

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20 Nothing in this act shall be construed to restrict the
21 transfer of a wind energy agreement, including the transfer
22 of the surface owner's right to receive payments under the
23 wind energy agreement.

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1 34-27-107. Reversion of easements.