

HB1105\_L.009

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Local Government.

HB12-1105 be amended as follows:

- 1 Amend reengrossed bill, page 3, line 1, strike everything after  
2 "LOCATED."
- 3 Page 3, strike lines 2 through 4 and substitute "THE WIND ENERGY  
4 AGREEMENT OR NOTICE OR MEMORANDUM EVIDENCING A WIND ENERGY  
5 AGREEMENT MUST INCLUDE THE NAME OF THE OWNER OF THE SURFACE  
6 ESTATE, THE NAME OF THE LESSEE, EASEMENT HOLDER, LICENSEE, OR  
7 CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT, AND THE  
8 LEGAL DESCRIPTION OF THE PROPERTY. THE WIND ENERGY AGREEMENT OR  
9 NOTICE OR MEMORANDUM EVIDENCING A WIND ENERGY AGREEMENT MUST  
10 BE INDEXED IN BOTH THE GRANTOR AND GRANTEE INDICES UNDER THE  
11 NAME OF THE OWNER OF THE SURFACE ESTATE AND THE LESSEE,  
12 EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND  
13 ENERGY AGREEMENT."
- 14 Page 3, line 5, after "(3)" insert "(a)".
- 15 Page 3, line 7, after "AGREEMENT" insert "OR NOTICE OR MEMORANDUM  
16 EVIDENCING A WIND ENERGY AGREEMENT".
- 17 Page 3, line 9, after "LOCATED." insert "THE RELEASE MUST INCLUDE THE  
18 NAME OF THE OWNER OF THE SURFACE ESTATE, THE NAME OF THE LESSEE,  
19 EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND  
20 ENERGY AGREEMENT, THE LEGAL DESCRIPTION OF THE PROPERTY, AND THE  
21 ORIGINAL RECEPTION NUMBER OR BOOK AND PAGE NUMBER OF THE WIND  
22 ENERGY AGREEMENT. THE RELEASE MUST BE INDEXED IN BOTH THE  
23 GRANTOR AND GRANTEE INDICES UNDER THE NAME OF THE OWNER OF THE  
24 SURFACE ESTATE AND THE LESSEE, EASEMENT HOLDER, LICENSEE, OR  
25 CONTRACTING PARTY UNDER THE WIND ENERGY AGREEMENT."
- 26 Page 3, line 10, after "ESTATE" insert "OR THE OWNER'S DESIGNEE".
- 27 Page 3, strike lines 11 and 12 and substitute "AND DELIVER IT  
28 PERSONALLY OR BY CERTIFIED MAIL, FIRST CLASS POSTAGE PREPAID,  
29 RETURN RECEIPT REQUESTED, TO THE WIND ENERGY".
- 30 Page 3, line 15, strike everything after "REQUEST."



1 Page 3, strike lines 16 through 21 and substitute:

2 "(b) THE WIND ENERGY DEVELOPER SHALL RECORD THE RELEASE  
3 WITHIN NINETY DAYS AFTER THE RECEIPT OF THE REQUEST. IF THE WIND  
4 ENERGY DEVELOPER FAILS TO RECORD THE RELEASE WITHIN NINETY DAYS  
5 AFTER THE RECEIPT OF THE REQUEST, THE WIND ENERGY DEVELOPER IS  
6 LIABLE TO THE OWNER OF THE SURFACE ESTATE FOR ANY DAMAGES  
7 CAUSED BY THE WIND ENERGY DEVELOPER'S FAILURE TO RECORD THE  
8 RELEASE. A COPY OF THE WRITTEN REQUEST HAS THE SAME FORCE AND  
9 EFFECT AS THE ORIGINAL REQUEST IN AN ACTION FOR DAMAGES."

10 Page 4, strike lines 7 through 16 and substitute:

11 "**38-30.7-104. Reversion of easements.** (1) UNLESS THE OWNER  
12 OF THE SURFACE ESTATE AND WIND ENERGY DEVELOPER OTHERWISE  
13 AGREE, ALL EASEMENT INTERESTS ACQUIRED AFTER JULY 1, 2012, FOR THE  
14 PURPOSE OF PRODUCING WIND ENERGY REVERT TO THE OWNER OF THE  
15 SURFACE ESTATE IF WIND ENERGY PRODUCTION HAS CEASED FOR A  
16 CONTINUOUS PERIOD OF FIFTEEN YEARS OR IF THE GENERATION OF  
17 ELECTRICITY BY A TURBINE HAS NOT COMMENCED WITHIN FIFTEEN YEARS  
18 AFTER THE EXECUTION OF A WIND ENERGY AGREEMENT. REVERSION OF AN  
19 INTEREST UNDER THIS SECTION DOES NOT TRANSFER ANY OBLIGATION TO  
20 RESTORE OR RECLAIM THE SURFACE ESTATE.

21 (2) THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING  
22 PARTY UNDER THE WIND ENERGY AGREEMENT SHALL RECORD IN THE  
23 OFFICE OF THE COUNTY CLERK AND RECORDER WHERE THE LAND SUBJECT  
24 TO THE WIND ENERGY AGREEMENT IS LOCATED AN AFFIDAVIT STATING  
25 THAT THE GENERATION OF ELECTRICITY BY A TURBINE HAS COMMENCED.  
26 IF NO SUCH AFFIDAVIT IS RECORDED, THEN THE WIND ENERGY AGREEMENT  
27 EXPIRES BY ITS OWN TERMS. IF NO TERMS ARE GIVEN, THE WIND ENERGY  
28 AGREEMENT EXPIRES NO MORE THAN FIFTEEN YEARS AFTER THE  
29 EXECUTION OF THE WIND ENERGY AGREEMENT. THE AFFIDAVIT MUST  
30 INCLUDE THE NAME OF THE OWNER OF THE SURFACE ESTATE, THE NAME OF  
31 THE LESSEE, EASEMENT HOLDER, LICENSEE, OR CONTRACTING PARTY  
32 UNDER THE WIND ENERGY AGREEMENT, THE LEGAL DESCRIPTION OF THE  
33 PROPERTY, AND THE ORIGINAL RECEPTION NUMBER OR BOOK AND PAGE  
34 NUMBER OF THE WIND ENERGY AGREEMENT. THE AFFIDAVIT MUST BE  
35 INDEXED IN BOTH THE GRANTOR AND GRANTEE INDICES UNDER THE NAME  
36 OF THE OWNER OF THE SURFACE ESTATE AND THE LESSEE, EASEMENT  
37 HOLDER, LICENSEE, OR CONTRACTING PARTY UNDER THE WIND ENERGY  
38 AGREEMENT."

\*\* \*\*