

19105606D

SENATE BILL NO. 1091

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 23, 2019)

(Patron Prior to Substitute—Senator Reeves)

A BILL to amend the Code of Virginia by adding a section numbered 15.2-2241.2, relating to site plan approval; decommissioning certified solar energy equipment, facilities, or devices.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2241.2 as follows:

§ 15.2-2241.2. *Bonding provisions for decommissioning of certified solar energy equipment, facilities, or devices.*

A. A public utility as defined in § 56-265.1 shall be exempt from the provisions of this section.

B. As used in this section, unless the context requires a different meaning:

"Certified solar energy equipment, facilities, or devices" means any property, including real or personal property, equipment, facilities, or devices, designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.

"Decommission" means the removal and proper disposal of certified solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to § 15.2-2232. "Decommission" includes the reasonable restoration of the surface of the real property upon which such equipment, facilities, or devices are located, including soil stabilization and revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, and devices.

"Surface of the real property" includes the first three feet of depth of the soil on the real property.

C. As a condition of approval of a site plan, any locality shall require an owner or developer of real property subject to this section to enter into a written agreement to decommission certified solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning, and (ii) the locality shall require such owner or developer to provide financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a licensed professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which includes the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner or developer, and an annual inflation factor.