

Insights: Alerts

North Carolina's House Bill 130: Energy Choice/Solar Decommissioning Requirement - Now in Effect

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As we predicted, North Carolina's House Bill 130 became law on midnight, June 24, 2023, as a result of Governor Roy Cooper electing not to take action on the ratified house bill. Ben Smith [highlights the important facts](#) of this legal alert in this 4-minute video.

Our previous alert set out the [significant two-pronged legislation](#), which will meaningfully affect energy policies in the state of HB 130.

The first prong of HB 130 restricts North Carolina cities and counties from enacting any ordinance that either (1) has the effect of prohibiting any energy service based on the type of service or (2) has the effect of prohibiting the sale, purchase, and installation of "white goods." This means, for example, that a city or county in North Carolina cannot prevent the use of natural gas in private homes or businesses or ban the purchase of a natural gas-powered range cooktop. Governor Cooper vetoed a bill with similar language in 2021, but in 2023, with a Republican supermajority potentially overriding any such veto, Governor Cooper did not veto HB 130.

The second prong of HB 130 addresses utility-scale solar decommissioning, providing a roadmap for solar developers, the North Carolina Department of Environmental Quality (DEQ), and the North Carolina Utilities Commission (NCUC) regarding end-of-life plans for a solar facility. For the first time under North Carolina law at the state level, the responsibilities associated with decommissioning a solar facility are in statute. The law allows for local ordinances (of which many currently exist) that are more restrictive than the state law and allows landlords and tenants to provide more stringent decommissioning requirements (and in the case of the condition of the property upon return, less stringent).

The [timing of the requirements](#) on solar developers is complicated, which we discussed in more detail at the time legislation was ratified.

Solar developers building in North Carolina will be required to register and provide updated factual details related to end-of-life data every five years on their solar facilities (in accordance with rules to be developed by DEQ), and submit decommissioning plans and financial assurance at the beginning of construction of a project. DEQ is tasked with maintaining the solar facility registration list for the solar projects. Additionally, the NCUC is required under the new law to keep an annually updated list of solar installations. The Department of Commerce is also charged with identifying existing incentives and grant programs that may be used to encourage research

and development on recycling and reuse of PV modules and to facilitate growth of North Carolina's PV module recycling and reuse industry.

Review our previous alert for a [thorough analysis](#) of the legislation.

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