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# So, you want to START A SOLAR CO-OP?

In Alberta, cooperatives or “co-ops” are part of our historical DNA. From the United Farmers of Alberta to Servus Credit Union, Albertans have always been drawn to the co-op system. In 2021, Albertans are now looking to combine co-ops with a venture into renewable energy.

In particular, Alberta is starting to see a proliferation of solar co-ops. This guide will take a closer look at what a solar co-op is and

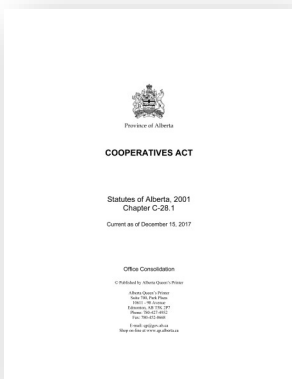
how you can go about getting more involved. Note that these guides are not a substitute for independent legal advice and are intended to provide summary information helpful to those interested in learning more about solar co-ops.

## What is a co-op?

The Alberta Community & Co-operative Association defines a co-op as “a

business owned and run by its members; who use and benefit from its goods or services.”<sup>1</sup> While co-ops may take many forms, each relies on this basic concept. This structure can be used to create retail enterprises such as Mountain Equipment Co-op,<sup>2</sup> financial institutions such as Servus Credit Union, and utility companies such as Alberta Co-operative Energy, as just a few examples.

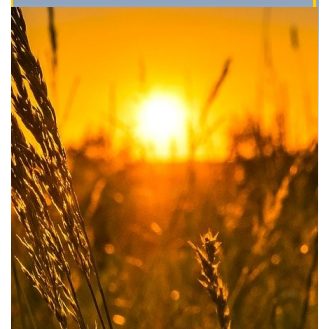
## What legislation should I pay attention to?



The *Cooperatives Act* governs the majority of co-op types in Alberta with the notable exception of rural utility co-ops.<sup>3</sup> This Act sets out the rules and requirements for the creation and management of most co-ops in the province including the incorporation process, the creation of

bylaws, how names can be chosen, membership rules, and more.

Rural utility co-ops are the exception as they are governed under the *Rural Utilities Act*.<sup>4</sup> These are co-ops tasked with the delivery of public utilities including, but not limited to, electricity.



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# What type of co-op could I use to develop solar power?

There are two main co-op structures that could be used to set up a solar co-op in Alberta: an opportunity development co-op and a rural utility co-op. The focus of this document will be on opportunity development cooperatives because, as of publication, solar co-ops in Alberta have chosen the opportunity development route and this is the cooperative type most likely to be beneficial for future solar co-ops.

provides other information for parties interested in setting up this type of co-op including forms for creating articles of incorporation,<sup>11</sup> bylaw requirements,<sup>12</sup> and more.<sup>13</sup>

Opportunity development co-ops allow for investments in many forms including through RRSP and TFSA eligible shares.<sup>14</sup> This flexibility allows them to be applicable to more individuals and to generate more wealth for community projects.

Though these vehicles are not yet as common in the Albertan renewable energy sector, solar co-ops have more of a footing in other provinces. For example, in Ontario, the solar co-op SolarShare began investments in solar projects in the province in 2010.<sup>15</sup> SolarShare offers investments in solar energy projects across the province. To join, Ontario residents must make a minimum \$1,000 investment and from there they receive a bond certificate and semi-annual interest payments.<sup>16</sup> Projects funded by this co-op range in size from 10 kW rural systems to 600 kW industrial arrays.<sup>17</sup>

There are two main types of co-op structure that can be used to set up a solar co-op in Alberta: an opportunity development co-op and a rural utility co-op.

## Opportunity Development Cooperatives:

An opportunity development co-op is an investment vehicle that acts similarly to a private investment corporation while focusing on one community and the investments that will benefit that community.<sup>5</sup> It is formed by community members and is registered with the provincial government as a for-profit entity.<sup>6</sup>

Once an opportunity development co-op has been established, the co-op can work directly with project proponents to develop and advance business opportunities that are in need of an investment. Investments can be made through debt financing including loans or through equity financing including land, equipment, or co-ownership.<sup>7</sup> Investment is beneficial to members because it affords them the opportunity to influence development in their community, invest in something that they will personally have a chance to use, and earn money.<sup>8</sup>

Requirements for opportunity development co-ops, including membership, bylaws, and naming rules, are set out in the *Cooperatives Act*<sup>9</sup> and accompanying *Cooperatives Regulation*.<sup>10</sup> The Government of Alberta also

## What needs to be included in the bylaws?

The *Cooperatives Act* sets out the details required for an opportunity development co-op. Highlights from the Act and associated Regulation are set out below.

To create a co-op, there must be a minimum of 3 directors, 2/3 of which must be resident of Canada and articles of incorporation must be properly filed.<sup>18</sup>



1. Alberta Community & Co-Operative Association, "What is a co-operative?" online: <https://www.acca.coop/about-coops>.
2. Note that in 2020 Mountain Equipment Co-Op was sold and is no longer operating as a member owned cooperative.
3. *Cooperatives Act*, RSA 2001, c C-28.1, s 3 [*Cooperatives Act*].
4. *Rural Utilities Act*, RSA 2000, c R-21 [*Rural Utilities Act*].
5. Alberta Community & Co-Operative Association, "Community Energy: Co-operative Toolkit" (March 2017) at 20 online: <https://nadc.ca/media/17627/community-energy-co-op-toolkit.pdf> [Community Energy: Co-operative Toolkit].
6. *Ibid* at 43.

7. *Ibid* at 43.
8. *Ibid* at 25.
9. *Cooperatives Regulation*, Alta Reg 55/2002 [*Cooperatives Regulation*].
10. *Ibid*.
11. Service Alberta, "Summary of Articles of Incorporation – Cooperatives Act ss 4, 5 & 269(3)" online: <https://coopcreator.ca/wp-content/uploads/2019/01/Alberta-articles.pdf>.
12. Service Alberta, "Bylaw Requirements Reference Guide – Cooperatives Act" (April 2002) online: <https://open.alberta.ca/dataset/8062f5e1-7de6-40df-a54b-44f1cdab76a7/>.

Specifically, articles of incorporation must include:<sup>19</sup>

- the name of the co-op;
- the location of the registered office;
- the name and address of the incorporators;
- the number of directors;
- any relevant restrictions on business;
- whether the co-op will be incorporated with or without share capital;
- the number of membership shares and whether that number will be limited;
- whether membership shares will be issued with or without a par value;
- any loan repayment details;
- the maximum dividend; and
- details regarding investment shares, including whether they will be issued.

The Act also sets out naming requirements, specifically that the name of a co-op must include one of the following words: co-op, cooperative, united, pool, or similar and can be in either French or English.<sup>20</sup> Even more details regarding name choice are set out in the *Cooperatives Regulation*.<sup>21</sup>

Once incorporated, the Act makes it clear that membership is available to any persons who can use the services of the co-op and take on any responsibilities and terms of membership.<sup>22</sup> Once membership is established, each member is entitled to one vote and cannot vote by proxy.<sup>23</sup> If membership is owned jointly, the holders of a jointly held membership collectively have one vote.<sup>24</sup> Generally, members will also provide the capital required by the co-op through the purchase of membership shares.<sup>25</sup>

In addition to the articles of incorporation, co-ops must file bylaws setting out details about their governance and structure. The Act requires that these bylaws include information about members such as:<sup>26</sup>

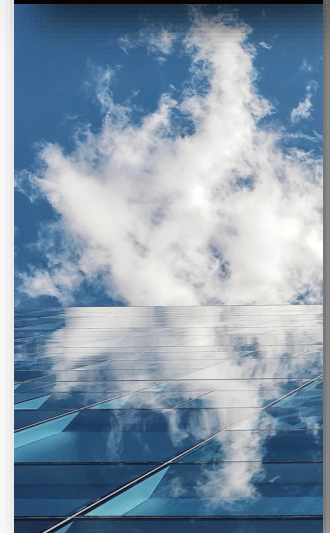
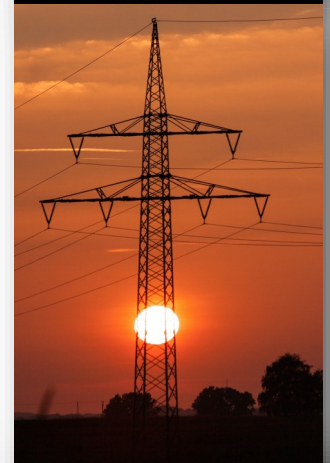
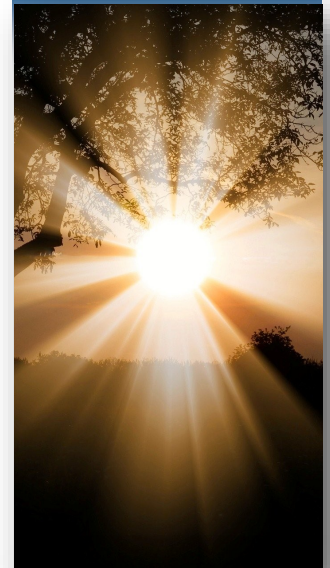
- whether members can be represented by delegates;
- the division of members into classes, including qualifications for membership in each class;
- any conditions precedent to membership in a class;
- details about transferring between or withdrawing from a class; and
- information about how classes can be changed and when membership ends.

The bylaws must also specify that disputes will be referred to an arbitrator.<sup>27</sup>

In addition, the Regulation states that bylaws must contain certain provisions including the:<sup>28</sup>

- procedure to become a member;
- rights and obligations of members, including any required fees;
- details about transferring a member's interest;
- selection, qualifications, terms of office and removal of directors;
- distribution of any surplus funds; and
- terms and conditions on which membership may be terminated.

Both members and directors can create and make changes to bylaws; however, directors must ensure that any bylaws they create do not contradict member created bylaws.<sup>29</sup>



[resource/6cc1bb40-f00f-483a-ae40-48a9e72b39c9/download/bylaw\\_requirements.pdf](https://www.alberta.ca/incorporate-an-alberta-cooperative.aspx).

13. Service Alberta, "Incorporate an Alberta Cooperative" online: <https://www.alberta.ca/incorporate-an-alberta-cooperative.aspx>.

14. Community Energy: Co-operative Toolkit, *supra* note 5 at 20.

15. SolarShare, "About Us" online: <https://www.solarbonds.ca/about/about-us>.

16. Solar Share, "FAQs" online: <https://www.solarbonds.ca/about-investing/faq's>.

17. SolarShare, "Solar Projects" online: <https://www.solarbonds.ca/all-projects/all-projects>.

18. *Cooperatives Act*, *supra* note 3, ss 50 & 51.

19. *Ibid*, s 5.

20. *Ibid*, s 16.

21. *Cooperatives Regulation*, *supra* note 9.

22. *Cooperatives Act*, *supra* note 3, s 2(1)(a).

23. *Ibid*, ss 2(1)(b)&(c).

24. *Cooperatives Regulation*, *supra* note 9, s 37.

25. *Cooperatives Act*, *supra* note 3, s 2(1)(f).

26. *Ibid*, s 9.

27. *Ibid*, s 9.



# What are my options for share offerings?

## Membership Shares

Co-ops can choose to generate both capital and membership through the issuance of membership shares.

Membership shares can be divided into one or more classes; however, they can only be issued to co-op members.<sup>30</sup> These shares can also be issued with or without a par value.<sup>31</sup> If shares are issued without par value, share details need to be included in the articles.<sup>32</sup> Regardless of whether a par value is included, the minimum issuing amount must also be set out in the bylaws.<sup>33</sup> Once issued, membership shares confer equal rights to all shareholders including the right to receive dividends and any property of the co-op remaining upon dissolution.<sup>34</sup>

If no membership shares are issued, membership capital can be issued in the form of member loans, as set out in the articles of the co-op.<sup>35</sup>

## Investment Shares

In addition to membership shares, the articles of a co-op may also allow for investment shares, which may be issued to both members and non-members.<sup>36</sup> Details about these investment shares must be included in the articles including the number of share classes, if any; and the preferences, rights, conditions, restrictions, limitations, and prohibitions attaching to each class of share.<sup>37</sup>

Notably, subject to the articles, no right to vote at a meeting of the members attaches to an investment share.<sup>38</sup> However, articles may provide that an investment shareholder does have the right to vote at an election of directors or may even be authorized to elect a fixed number of directors.<sup>39</sup> If this is

authorized under the articles, investment shareholders cannot elect more than 20% of directors.<sup>40</sup>

Investment shares must be in registered form and must be issued without a par value.<sup>41</sup>

## How can I raise co-op funds?

Initially, co-ops have a number of options to raise money including many of the regular business routes like bank loans, Kickstarter campaigns, and the sale of shares. As stated above, two types of shares can be issued, membership shares which may only be issued to members and investment shares which may be issued to any person at any time, for money or services as needed.<sup>42</sup>

Further, unless otherwise prevented in the bylaws, articles, or other agreement, directors may borrow money and give debt obligations and guarantees, without member approval.<sup>43</sup>

## Utility co-operatives:

Utility co-ops are those co-ops that have as their principal objective, the job of supplying utilities to rural areas.<sup>44</sup> They are governed by the *Rural Utilities Act* and, like opportunity development co-ops, utility co-ops are governed by bylaws,<sup>45</sup> require members,<sup>46</sup> have an elected Board of Directors,<sup>47</sup> and hold yearly AGMs.<sup>48</sup> One of the main differences; however, is that utility co-ops only apply for projects intended to supply rural utilities.

There are already a number of these utility co-ops in Alberta. For example, we have 37 Rural Electrification Associations, 170 water co-ops, and 82 gas co-ops.<sup>49</sup>

Utility co-ops are those co-ops that have as their principal objective, the job of supplying utilities to rural areas.



28. *Cooperatives Regulation*, *supra* note 9, s 45.

29. *Cooperatives Act*, *supra* note 3, s 10.

30. *Ibid*, s 101.

31. Par value is the stated value per share.

32. *Cooperatives Act*, *supra* note 3, s 104.

33. *Ibid*, s 102(1).

34. *Ibid*, s 102(3).

35. *Ibid*, s 100.

36. *Ibid*, s 108(1) (a).

37. *Ibid*, s 108(1).

38. *Ibid*, s 108(3).

39. *Ibid*, s 108(4).

40. *Ibid*, s 108(5).

41. *Ibid*, s 109.

42. *Ibid*, s 117.

43. *Ibid*, s 119.

44. *Rural Utilities Act*, *supra* note 4, s 3(1).

45. *Ibid*, s 9.

46. *Ibid*, s 10.

47. *Ibid*, s 13.

# I want to learn more!

## Check out these resources...

So, you want to start a solar co-op?

### 1. Co-op Creator

This website, which was created by the Saskatchewan based group *Co-operatives First* is a great resource for groups looking to start a co-op.<sup>50</sup>

The site offers free resources for those parties interested in starting their own co-op.<sup>51</sup> It includes articles about the early stages of co-op creation, through incorporation, business plans, financing, and more. The site walks interested parties through the co-op creation process and provides resources specific to Alberta including sample Alberta bylaws and guides for filing articles of incorporation. The site can be found at: <https://coopcreator.ca/>

### 2. Alberta Community & Co-operative Association

The Alberta Community & Co-operative Association ("ACCA") is an Alberta based provincial co-operative trade association focused on working with government, business, and municipalities to create a stronger system for co-ops in Alberta.<sup>52</sup> The ACCA functions as a not-for profit organization that offers courses, individual communication lessons, and workshops for groups and individuals interested in setting up a co-op. Free resources are also available on their website.<sup>53</sup>

The ACCA also offers a membership program for Alberta co-ops. Through this membership, co-ops receive resources and support and become part of a network of co-ops that the ACCA claims is worth \$61.2bn.<sup>54</sup> Notably, one of the newest benefits available to ACCA members is reduced rate legal advice from two lawyers who work with the ACCA.<sup>55</sup> The ACCA website can be found at: <https://www.acca.coop/>

### 3. "Incorporate an Alberta cooperative" with the Government of Alberta

The Government of Alberta provides a general overview of the incorporation process for a co-op. Specifically, it sets out the \$100 incorporation fee, connects interested parties with the Alberta Name Search service provider, sets out the requirements for Articles of Incorporation, and includes links to relevant forms.

Although basic, this site provides an important starting point and connects readers with necessary government documents. The Government of Alberta information can be found at: <https://www.alberta.ca/incorporate-an-alberta-cooperative.aspx>

### 4. "Information Guide on Co-operatives" with the Government of Canada

Innovation, Science and Economic Development Canada released a guide on co-ops in Canada which includes basic information about co-ops and links to provincial legislation.

This is a helpful guide for those interested in starting a co-op that may span provincial borders and those who are looking to learn more about federal legislation including the *Canada Cooperatives Act*.<sup>56</sup> It provides a basic overview including defining what a co-op is, how it is differentiated from other business forms, the structure of a co-op, and more.

Government of Canada information can be found at: [https://www.ic.gc.ca/eic/site/106.nsf/eng/h\\_00073.html](https://www.ic.gc.ca/eic/site/106.nsf/eng/h_00073.html)



48. *Ibid*, s 12.

49. Alberta Community & Co-Operative Association, "Types of Co-operatives" online: <https://www.acca.coop/co-op-types>.

50. Co-operatives First, "Who we are" online: <https://cooperativesfirst.com/who-we-are/>.

51. Co-op Creator, "Resources" online: <https://coopcreator.ca/resources/>.

52. Alberta Community & Co-operative Association, "About" online: <https://www.acca.coop/aboutacca>.

53. Alberta Community & Co-operative Association, "Resources" online: <https://www.acca.coop/coopresources>.

54. Alberta Community & Co-operative Association, "About" online:

<https://www.acca.coop/home-top?rq=61.2>.

55. Alberta Community & Co-operative Association, Newsletter, "Autonomy and Independence" (June 2020) online: <https://myemail.constantcontact.com/ACCA-Board-meeting-updates--new-legal-services--operational-plan-updates--and-webinars-to-watch-at-your-leisure.html?soid=1133558650596&aid=-5Hu51Q1QS4>.

56. *Canada Cooperatives Act*, SC 1998, c 1.

57. Bow Valley Green Energy Cooperative, "Welcome to Bow Valley Green Energy" online: <https://www.bvgreenenergy.org/>.

58. Bow Valley Green Energy Cooperative, "FAQs" online: <https://www.bvgreenenergy.org/bvgrec-faq>.

# Are there any solar co-ops operating in Alberta?

**YES!** Although still very new, here are a few co-ops that focus on solar power projects.

Note: Most of these co-ops are still in the early stages of development and seem to all have been incorporated in the style of an opportunity development co-op under the *Cooperatives Act*.

## 1. Bow Valley Green Energy Cooperative

Bow Valley Green Energy Cooperative touts itself as a renewable energy co-op based out of Canmore.<sup>57</sup> It is a for profit investment opportunity through which members can invest in renewable energy projects in their community.<sup>58</sup> Projects are limited to those that fall within the size limits of the *Micro-Generation Regulation*, which allows projects up to a maximum of 5MW.<sup>59</sup>

The Bow Valley Green Energy Cooperative will determine which projects to invest in while members will have all of the rights associated with co-op membership such as voting for the bylaws and electing the Board of Directors.

The co-op recently began work on two projects. The first was a collaborative agreement with Ralph Connor Memorial Church in Canmore and the second is a similar agreement entered into in December 2020 with St Michaels Anglican Church.

If you want to learn more, check out their site at: <https://www.bvgreenenergy.org/>

## 2. Solar Power Investment Cooperative of Edmonton (SPICE)

SPICE is an Edmonton based opportunity development co-op founded in 2012 that is working towards future investments in solar projects in the city.

As an organization, SPICE has indicated that they are interested in investing in community generation projects, as defined under the *Small Scale Generation Regulation*.<sup>60</sup> In an update posted on May 4, 2020, they announced their receipt of a Community Generation Capacity Building Program grant from Energy Efficiency Alberta<sup>61</sup> and that they are working to use this grant for community solar programs and the creation of a community benefits agreement.<sup>62</sup>

The site for SPICE can be found at: <https://joinspice.ca/>



59. *Micro-Generation Regulation*, Alta Reg 27/2008, s 1 (e).

60. *Small Scale Generation Regulation*, Alta Reg 194/2018, s 1 (d).

61. On June 11, 2020, the Government of Alberta announced that they will be dissolving Energy Efficiency Alberta by September 30, 2020.

62. Solar Power Investment Cooperative of Edmonton, Newsletter,

"Community Generation Work Continues" (4 May 2020) online: <https://joinspice.ca/2020/05/04/community-generation-work-continues/>.

63. Peace Energy Cooperative, "About Us" online: <https://peaceenergy.ca/about-us/>.

64. Peace Energy Cooperative, New Office Media Release, "Peace River

### 3. Peace Energy Cooperative

The Peace Energy Cooperative began in British Columbia in 2002 and initially focused on wind power projects in the Peace region.<sup>63</sup> Since that time, the Cooperative has expanded into Alberta, opening an office in Peace River.<sup>64</sup>

In 2019, Peace Energy Cooperative applied for a Municipal Community Generation Challenge grant through Alberta Innovates in the hopes of building a solar farm in Peace River.<sup>65</sup> Despite not receiving the grant, Peace Energy Cooperative has indicated that they will try to fund the project themselves and they hope to build a 2MW grid-tied solar farm combined with agrivoltaics.<sup>66</sup>

For more information, check out their website at: <https://peaceenergy.ca/>



### 4. Alberta Solar Co-op

The Alberta Solar Co-op is a Calgary based co-op focused on investing in solar projects in the community.<sup>67</sup> The co-op received a Community Energy Capacity Building Program grant but no news has been posted about the grant and associated projects since 2018.<sup>68</sup>

The Alberta Solar Co-op website focuses on introducing Albertans to the fact that Alberta has high photovoltaic potential and is therefore an excellent location for solar energy production.

Thus far, no announcements have been made about further projects.

For more information, the Alberta Solar Co-op website can be found at: <https://albertasolarcoop.com/>

So, you want to start a solar co-op?

The Alberta Solar Co-op website introduces Albertans to the fact that Alberta has a very high photovoltaic ("PV") power potential and is therefore an excellent location for solar power production.



Office Opens" (1 June 2020) online: <https://peaceenergy.ca/peace-river-office-opens/>.

65. Peace Energy Cooperative, ACEP Media Release, "Peace River Solar Farm Takes Shape" (1 June 2020) online: <https://peaceenergy.ca/peace-river-solar-farm-takes-shape/>.

66. *Ibid.*

67. Alberta Solar Co-op, "About our Co-op" online: [https://](https://albertasolarcoop.com/about-our-coop)

[albertasolarcoop.com/about-our-coop](https://albertasolarcoop.com/about-our-coop).

68. Vilasini P. Pillay, "Alberta Community Generation Program to launch in Fall 2019" (27 November 2018) *Alberta Solar Co-op Blog* online: <https://albertasolarcoop.com/blog>.

# About the Environmental Law Centre

Find us online:  
[elc.ab.ca](http://elc.ab.ca)



*The Environmental Law Centre (ELC) has been seeking strong and effective environmental laws since it was founded in 1982. The ELC is dedicated to providing credible, comprehensive and objective legal information regarding natural resources, energy and environmental law, policy and regulation in Alberta. The ELC's mission is to advocate for laws that will sustain ecosystems and ensure a healthy environment and to engage citizens in the law's creation and enforcement. Our vision is a society where laws secure an environment that sustains current and future generations and supports ecosystem health.*

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## Sun and the Law Resources from the Environmental Law Centre

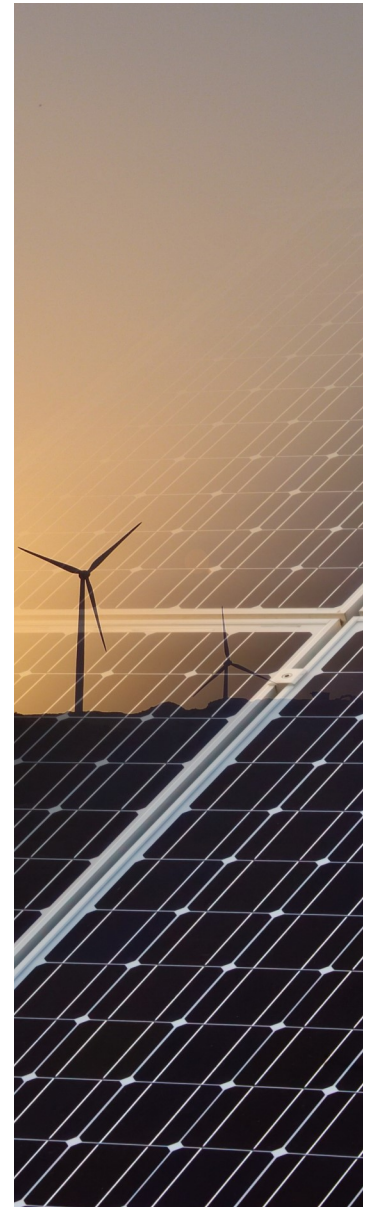
The Environmental Law Centre has created three topical guides for Albertans interested in getting involved in the solar industry.

These guides can be found here:

- [So, you want to start a solar co-op?](#)
- [So, you want to lease your condo's roof to a solar company?](#)
- [So, you want to lease your property to a solar company?](#)

In addition to these topical guides, the Environmental Law Centre has released a report on legal considerations for solar energy generation in Alberta:

Here Comes the Sun: Solar Law in Alberta provides Albertans with access to information about how the law impacts and guides the development of solar energy systems in the province. While solar power may be fast growing, it still only makes up a very small fraction of the Alberta electricity grid. This report identifies barriers to future growth and makes recommendations for improvement. Find out more at the ELC website at [elc.ab.ca](http://elc.ab.ca)



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