

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0301.01 Duane Gall

SENATE BILL 09-051

SENATE SPONSORSHIP

Carroll M.,

HOUSE SPONSORSHIP

Levy,

Senate Committees

Local Government and Energy
Appropriations

House Committees

Transportation & Energy

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO FACILITATE THE FINANCING OF**
102 **ENERGY-EFFICIENT STRUCTURES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

- Amends the "Colorado Clean Energy Finance Program Act" to:
- ! Specifically include credit unions among the lenders that may make loans under the program; and
 - ! Specifically include renewable energy developers and installers of solar panels and other renewable energy generation equipment among the contractors that may be certified under the program.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unam ended
March 30, 2009

HOUSE
Am ended 2nd Reading
March 26, 2009

SENATE
3rd Reading Unam ended
March 4, 2009

SENATE
Am ended 2nd Reading
March 3, 2009

Authorizes the governor's energy office, as administrator of the Colorado clean energy finance program, to develop and license the use of a "Clean & Green Colorado" logo and marketing materials for use by lenders and certified contractors under the program.

Clarifies that funding under the "Colorado Clean Energy Development Authority Act" is available for energy efficiency improvements to apartment buildings. Removes an existing cap on the amount of loans. Increases the cap on the amount of loans guaranteed by the state treasurer by \$10 million, from a maximum of \$30 million to a maximum of \$40 million.

Requires landlords to allow energy audits of rental properties if so requested by a tenant, at the tenant's expense.

Creates a "Renewable Energy Suppliers Act", substantially similar to the existing "Geothermal Heat Suppliers Act", to authorize and encourage the installation of renewable energy generation equipment on property owned by others, in exchange for future purchases of energy under power purchase agreements, assignments of utility rebates under the existing renewable energy standard statute, or both.

Directs the public utilities commission to require utilities to set aside a portion of their annual budget for rebates under the standard rebate offer program of "Amendment 37" for low-income utility customers.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Renewable Energy Financing Act of 2009".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 finds, determines, and declares that:

6 (a) With the passage of "Amendment 37" in 2004, Colorado
7 moved to the forefront among states committed to reducing carbon
8 emissions and building a new energy economy;

9 (b) The heating and cooling of buildings accounts for a major
10 portion of Colorado's energy usage;

11 (c) Solar electric, solar heating and cooling, and other distributed
12 energy technologies offer the opportunity to greatly diversify Colorado's
13 energy portfolio while reducing transmission costs;

1 (d) The installation of solar panels, insulation of existing
2 buildings, and incorporation of "green" building technology in new
3 buildings presents new opportunities for employment and business
4 development; and

5 (e) Encouraging energy-wise investment by individuals and
6 businesses statewide will have long-term beneficial effects on Colorado's
7 economy and quality of life.

8

9 **SECTION 3.** Article 38.7 of title 24, Colorado Revised Statutes,
10 is amended BY THE ADDITION OF A NEW SECTION to read:

11 **24-38.7-101.5. Legislative declaration.** THE GENERAL ASSEMBLY
12 FINDS, DETERMINES, AND DECLARES THAT ENERGY-EFFICIENCY
13 IMPROVEMENTS FOR EXISTING BUILDINGS IS ONE OF THE WISEST
14 INVESTMENTS THAT ANY INDIVIDUAL OR BUSINESS CAN MAKE. HOWEVER,
15 MANY COLORADANS MAY BE UNDER THE MISTAKEN IMPRESSION THAT THE
16 COST OF SUCH IMPROVEMENTS IS OUT OF REACH FOR THEM OR THAT
17 FINANCING WOULD BE DIFFICULT TO OBTAIN. THEREFORE, THE GENERAL
18 ASSEMBLY ENCOURAGES ALL COLORADANS TO INVESTIGATE THE
19 POSSIBILITY OF FINANCING ENERGY-EFFICIENCY IMPROVEMENTS BY
20 CONTACTING THEIR CURRENT LENDERS, INCLUDING BANKS, MORTGAGE
21 LENDERS, CREDIT UNIONS, AND OTHER FINANCIAL INSTITUTIONS. NOTHING
22 IN THIS ARTICLE IS INTENDED TO AFFECT LENDING REQUIREMENTS OR
23 LIMITATIONS, NOR TO ALTER THE SCOPE OF LENDING, AS CURRENTLY
24 DEFINED BETWEEN BANKS AND CREDIT UNIONS OR OTHER LENDERS.

25 **SECTION 4.** The introductory portion to 24-38.7-102 and
26 24-38.7-102 (2), (3), and (4), Colorado Revised Statutes, are amended to
27 read:

1 **24-38.7-102. Definitions.** As used in this article PART 1, unless
2 the context otherwise requires:

3 (2) "Certified contractor" means:

4 (a) A contractor, including but not limited to a general, heating,
5 air conditioning, or lighting contractor, certified by the program
6 administrator to market the program to potential qualified borrowers and
7 make clean energy improvements that may be financed by clean energy
8 loans; AND

9 (b) A MANUFACTURER OR DEALER OF MANUFACTURED HOMES, AS
10 DEFINED IN SECTION 24-32-3302, WHO IS CERTIFIED BY THE PROGRAM
11 ADMINISTRATOR TO MARKET THE PROGRAM TO POTENTIAL QUALIFIED
12 BORROWERS AND MAKE CLEAN ENERGY IMPROVEMENTS THAT MAY BE
13 FINANCED BY CLEAN ENERGY LOANS.

14 (3) "Clean energy improvement" means:

15 (a) Any repair of or addition or improvement to residential real
16 property completed by or under the supervision of a certified contractor
17 that improves the energy efficiency of the property or replaces all or a
18 portion of the energy from nonrenewable sources used in connection with
19 the property with energy from renewable sources; ~~and~~

20 (b) ANY INSTALLATION OF, OR CONNECTION WITH, EQUIPMENT
21 THAT PRODUCES OR CONDUCTS RECYCLED ENERGY OR RENEWABLE
22 ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124, C.R.S., OR SOLAR
23 HEATING AND COOLING SYSTEMS, FOR USE ON RESIDENTIAL OR
24 COMMERCIAL REAL PROPERTY IF SUCH INSTALLATION OR CONNECTION IS
25 COMPLETED BY OR UNDER THE SUPERVISION OF A CERTIFIED CONTRACTOR.

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27 (4) "Clean energy loan" means a loan in a maximum amount of

1 twelve thousand five hundred dollars originated by a participating public
2 lender or a participating private lender, INCLUDING BUT NOT LIMITED TO
3 A BANK OR MORTGAGE LENDER, to a qualified borrower for the purpose
4 of financing one or more clean energy improvements to the borrower's
5 primary residence, RENTAL PROPERTY, OR PLACE OF BUSINESS; except that,
6 if the qualified borrower is a nonprofit corporation or local government
7 housing authority that provides units in a multi-unit housing project as
8 homes to individuals or families who meet the income qualifications of
9 first tier or second tier qualified borrowers, the maximum amount of a
10 loan shall be twelve thousand five hundred dollars multiplied by the
11 number of units in the multi-unit housing project provided to the
12 individuals or families.

13 **SECTION 5.** 24-38.7-103 (1) (c), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

15 **24-38.7-103. Governor's energy office - powers and duties -**
16 **program - fund created.** (1) The Colorado clean energy finance
17 program is hereby created. The office shall oversee the program and the
18 program administrator and shall, in addition to exercising any other
19 powers and performing any other duties specified in this article:

20 (c) Develop and operate or contract with the program
21 administrator for the development and operation of a quality assurance,
22 measurement, and verification program to:

23 (III) AUTHORIZE PARTICIPATING LENDERS, CERTIFIED
24 CONTRACTORS, AND QUALIFIED BORROWERS ON WHOSE PROPERTY CLEAN
25 ENERGY IMPROVEMENTS ARE MADE TO USE THE "COLORADO CLEAN &
26 GREEN" LOGO OR OTHER LOGO AND MARKETING MATERIALS PREPARED IN
27 ACCORDANCE WITH SECTION 24-38.7-105.

1 **SECTION 6.** 24-38.7-103 (3) (d), Colorado Revised Statutes, is
2 amended to read:

3 **24-38.7-103. Governor's energy office - powers and duties -**
4 **program - fund created.** (3) (d) The state treasurer may invest up to a
5 total amount of ~~thirty~~ FORTY million dollars of state moneys in bonds or
6 notes issued by participating public or private lenders for the purpose of
7 funding clean energy loans UNDER THIS PART 1 AND UNDER PART 2 OF THIS
8 ARTICLE during the 2008-09, 2009-10, and 2010-11 fiscal years subject
9 to the limitation that FOLLOWING CONDITIONS:

10 (I) The state treasurer may invest no more than ~~ten~~ FIFTEEN
11 million dollars during the 2008-09 fiscal year and no more than a total
12 amount of ~~twenty~~ TWENTY-FIVE million dollars during the 2008-09 and
13 2009-10 fiscal years; AND

14 (II) SUCH INVESTMENTS SHALL BE SUBJECT TO THE STATE
15 TREASURER'S DISCRETION AND SHALL COMPLY WITH THE QUALIFICATIONS
16 FOR STATE INVESTMENTS LISTED IN SECTION 24-36-113.

17 **SECTION 7.** Article 38.7 of title 24, Colorado Revised Statutes,
18 is amended BY THE ADDITION OF A NEW SECTION to read:

19 **24-38.7-105. Administration - "Colorado Clean & Green"**
20 **designation - cash funding.** (1) THE OFFICE, OR THE ADMINISTRATOR
21 UNDER THE DIRECTION OF THE OFFICE, MAY PRODUCE OR CAUSE TO BE
22 PRODUCED A SUITABLE DESIGN OR DRAWING, REFERRED TO IN THIS
23 SECTION AS THE "LOGO", TO BE USED IN THE MARKETING OF CLEAN
24 ENERGY LOANS AND CLEAN ENERGY IMPROVEMENTS. THE LOGO MAY, BUT
25 IS NOT REQUIRED TO, CONTAIN THE SLOGAN "COLORADO CLEAN &
26 GREEN" OR OTHER WORDS OR SYMBOLS AS THE OFFICE IN ITS DISCRETION
27 MAY DEEM APPROPRIATE.

1 (2) THE TITLE TO THE LOGO AND COPYRIGHTS FOR ALL MARKETING
2 MATERIALS USING THE LOGO SHALL AT ALL TIMES REMAIN IN AND BE
3 RESERVED TO THE OFFICE.

4 (3) THE LOGO, OR ANY REPRODUCTION, COPY, OR FACSIMILE
5 THEREOF, MAY NOT BE USED IN ANY ADVERTISING, DISPLAY, LABELING, OR
6 IDENTIFICATION WITHOUT PRIOR WRITTEN PERMISSION FROM THE OFFICE.

7 (4) A LENDER, CERTIFIED CONTRACTOR, OR QUALIFIED BORROWER
8 THAT COMPLIES WITH THIS ARTICLE AND THE OFFICE'S QUALIFICATIONS
9 FOR USE OF THE LOGO SHALL BE PERMITTED TO USE THE LOGO IN
10 ADVERTISING, LABELING, OR MARKETING OF PRODUCTS AND SERVICES.

11 (5) THE COST OF THE DESIGN AND PRODUCTION OF THE LOGO
12 SHALL BE RECOVERED THROUGH LICENSE FEES. THE OFFICE OR
13 ADMINISTRATOR MAY CONDITION THE DESIGN AND PRODUCTION OF THE
14 LOGO ON THE RECEIPT OF GIFTS, GRANTS, DONATIONS, OR ADVANCE
15 DEPOSITS IN AN AMOUNT SUFFICIENT TO DEFRAY THE COSTS OF DESIGN
16 AND PRODUCTION.

17 **SECTION 8. Article 38.7 of title 24, Colorado Revised Statutes,**
18 **is amended BY THE ADDITION OF A NEW PART to read:**

19 **PART 2**

20 **THIRD-PARTY COMMERCIAL**

21 **SOLAR ENERGY INSTALLATIONS**

22 **24-38.7-201. Legislative declaration. THIS PART 2 IS INTENDED**
23 **TO COMPLEMENT PART 1 OF THIS ARTICLE BY FACILITATING CLEAN ENERGY**
24 **LOANS FOR LARGER-SCALE COMMERCIAL, INDUSTRIAL, AND**
25 **INSTITUTIONAL INSTALLATIONS OF SOLAR HEATING OR COOLING AND**
26 **SOLAR ELECTRIC GENERATION FACILITIES, WHICH HOLD GREAT POTENTIAL**
27 **FOR CLEAN ENERGY DEVELOPMENT BUT IN WHICH THE SIZE LIMITATIONS,**

1 ECONOMIC INCENTIVES, AND INDUSTRY PRACTICES APPLICABLE TO SMALL
2 RESIDENTIAL INSTALLATIONS EITHER CANNOT BE DUPLICATED OR ARE NOT
3 ECONOMICALLY FEASIBLE.

4 **24-38.7-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "CLEAN ENERGY IMPROVEMENT" MEANS AN INSTALLATION OF
7 SOLAR HEATING, SOLAR COOLING, OR SOLAR ELECTRIC GENERATION
8 EQUIPMENT AND ANY RELATED CONTROLS, METERS, WIRING, AND OTHER
9 FACILITIES ON COMMERCIAL, INDUSTRIAL, OR GOVERNMENT-OWNED REAL
10 PROPERTY.

11 (2) "CLEAN ENERGY LOAN" MEANS A LOAN ORIGINATED BY A
12 PARTICIPATING PUBLIC LENDER OR A PARTICIPATING PRIVATE LENDER,
13 INCLUDING BUT NOT LIMITED TO A BANK OR MORTGAGE LENDER, FOR THE
14 PURPOSE OF FINANCING ONE OR MORE CLEAN ENERGY IMPROVEMENTS TO
15 COMMERCIAL, INDUSTRIAL, OR GOVERNMENT-OWNED REAL PROPERTY,
16 SUBJECT TO THE FOLLOWING CONDITIONS:

17 (a) THE LOAN MAY, BUT NEED NOT, BE TO AN INDEPENDENT THIRD
18 PARTY RATHER THAN TO THE OWNER OF THE PROPERTY OR TO A PUBLIC
19 UTILITY.

20 (b) THE LOAN MAY BE FOR A FIXED TERM OF TWENTY YEARS.

21 (c) THE LOAN MAY BE A FULLY ASSUMABLE, NONRECOURSE LOAN
22 AND MAY NOT BE SUBJECT TO ANY PREPAYMENT PENALTY.

23 (d) THE AMOUNT OF THE LOAN MAY EXCEED THE AMOUNT STATED
24 IN SECTION 24-38.7-102 (4).

25 (3) "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE.

26 (4) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY, DISTRICT,
27 AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE AUTHORIZED

1 TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING, OR HOUSING
2 REHABILITATION LOANS. "PUBLIC LENDER" INCLUDES, WITHOUT
3 LIMITATION, THE COLORADO HOUSING AND FINANCE AUTHORITY.

4 **24-38.7-203. Governor's energy office - administrator - state**
5 **treasurer - powers and duties - statement of intent.** (1) THE OFFICE
6 AND THE ADMINISTRATOR SHALL ADMINISTER THIS PART 2 SUBSTANTIALLY
7 IN ACCORDANCE WITH PART 1 OF THIS ARTICLE, EXCEPT WITH REGARD TO:

8 (a) THE DEFINITIONS OF TERMS COMMON TO BOTH PART 1 OF THIS
9 ARTICLE AND THIS PART 2, AS SUCH DEFINITIONS ARE MODIFIED IN THIS
10 PART 2; AND

11 (b) PROVISIONS THAT, IN THE JUDGMENT AND DISCRETION OF THE
12 OFFICE, THE ADMINISTRATOR, AND THE STATE TREASURER, ARE
13 APPROPRIATE ONLY IN THE CONTEXT OF SMALL RESIDENTIAL
14 INSTALLATIONS UNDER PART 1 OF THIS ARTICLE..

15 (2) THE PROVISIONS OF PART 1 OF THIS ARTICLE AND OF ARTICLE
16 36 OF THIS TITLE CONCERNING THE TYPE AND QUALITY OF INVESTMENTS
17 MADE BY THE STATE TREASURER SHALL CONTINUE TO APPLY. THE
18 GENERAL ASSEMBLY INTENDS THAT THE EXTENSION OF THE PROGRAM
19 UNDER THIS PART 2 BE ACCOMPLISHED AS SEAMLESSLY AS POSSIBLE,
20 WITHIN EXISTING APPROPRIATIONS, AND WITH MINIMAL DISRUPTION TO
21 THE CURRENT PRACTICES OF THE OFFICE, THE ADMINISTRATOR, AND THE
22 STATE TREASURER.

23 **SECTION 9.** 29-3-103 (10) (m), Colorado Revised Statutes, is
24 amended to read:

25 **29-3-103. Definitions.** As used in this article, unless the context
26 otherwise requires:

27 (10) "Project" means any land, building, or other improvement

1 and all real or personal properties, and any undivided or other interest in
2 any of the foregoing, except inventories and raw materials, whether or not
3 in existence, suitable or used for or in connection with any of the
4 following:

5 (m) Capital improvements to existing SINGLE-FAMILY residential,
6 MULTI-FAMILY RESIDENTIAL, commercial, or industrial structures, to
7 retrofit such structures for significant energy savings or installation of
8 solar or other alternative electrical energy-producing improvements to
9 serve that structure or other structures on contiguous property under
10 common ownership.

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13 **SECTION 10.** 40-1-103 (2), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **40-1-103. Public utility defined.** (2) (c) THE SUPPLY OF
16 ELECTRICITY OR HEAT TO A CONSUMER OF THE ELECTRICITY OR HEAT
17 FROM SOLAR GENERATING EQUIPMENT LOCATED ON THE SITE OF THE
18 CONSUMER'S PROPERTY, WHICH EQUIPMENT IS OWNED OR OPERATED BY AN
19 ENTITY OTHER THAN THE CONSUMER, SHALL NOT SUBJECT THE OWNER OR
20 OPERATOR OF THE ON-SITE SOLAR GENERATING EQUIPMENT TO
21 REGULATION AS A PUBLIC UTILITY BY THE COMMISSION IF THE SOLAR
22 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE
23 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF
24 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS
25 PARAGRAPH (C), THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS
26 PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO
27 INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC

1 THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY
2 RIGHTS-OF-WAY.

3 SECTION 11. 40-2-124 (1) (c) (II), (1) (e), and (1) (f) (V),
4 Colorado Revised Statutes, are amended, and the said 40-2-124 is further
5 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

6 **40-2-124. Renewable energy standard - definitions - net**
7 **metering.** (1) Each provider of retail electric service in the state of
8 Colorado, other than municipally owned utilities that serve forty thousand
9 customers or less, shall be considered a qualifying retail utility. Each
10 qualifying retail utility, with the exception of cooperative electric
11 associations that have voted to exempt themselves from commission
12 jurisdiction pursuant to section 40-9.5-104 and municipally owned
13 utilities, shall be subject to the rules established under this article by the
14 commission. No additional regulatory authority of the commission other
15 than that specifically contained in this section is provided or implied. In
16 accordance with article 4 of title 24, C.R.S., on or before October 1, 2007,
17 the commission shall revise or clarify existing rules to establish the
18 following:

19 (c) Electric resource standards:

20 (II) (A) Of the amounts in subparagraph (I) of THIS paragraph (c),
21 of this subsection (1), at least four percent shall be derived from solar
22 electric generation technologies. At least one-half of this four percent
23 shall be derived from solar electric technologies located on-site at
24 customers' facilities.

25 (B) SOLAR GENERATING EQUIPMENT LOCATED ON-SITE AT
26 CUSTOMER'S FACILITIES SHALL BE SIZED TO SUPPLY NO MORE THAN ONE
27 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF

1 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS
2 SUB-SUBPARAGRAPH (B), THE CONSUMER'S "SITE" SHALL INCLUDE ALL
3 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT
4 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,
5 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY
6 RIGHTS-OF-WAY.

7 [REDACTED]
8 [REDACTED]

9 (e) A standard rebate offer program, UNDER WHICH:

10 (I) Each qualifying retail utility, except for cooperative electric
11 associations and municipally owned utilities, shall make available to its
12 retail electricity customers a standard rebate offer of a minimum of two
13 dollars per watt for the installation of eligible solar electric generation on
14 customers' premises up to a maximum of one hundred kilowatts per
15 installation. Such offer shall allow the customer's retail electricity
16 consumption to be offset by the solar electricity generated. To the extent
17 that solar electricity generation exceeds the customer's consumption
18 during a billing month, such excess electricity shall be carried forward as
19 a credit to the following month's consumption. To the extent that solar
20 electricity generation exceeds the customer's consumption during a
21 calendar year, the customer shall be reimbursed by the qualifying retail
22 utility at its average hourly incremental cost of electricity supply over the
23 prior twelve-month period UNLESS THE CUSTOMER MAKES A ONE-TIME
24 ELECTION, IN WRITING, TO REQUEST THAT THE EXCESS ELECTRICITY BE
25 CARRIED FORWARD AS A CREDIT FROM MONTH TO MONTH INDEFINITELY
26 UNTIL THE CUSTOMER TERMINATES SERVICE WITH THE QUALIFYING RETAIL
27 UTILITY, AT WHICH TIME NO PAYMENT SHALL BE REQUIRED FROM THE

1 QUALIFYING RETAIL UTILITY FOR ANY REMAINING EXCESS ELECTRICITY
2 SUPPLIED BY THE CUSTOMER. The qualifying retail utility shall not apply
3 unreasonably burdensome interconnection requirements in connection
4 with this standard rebate offer. Electricity generated under this program
5 shall be eligible for the qualifying retail utility's compliance with this
6 article.

7 (II) SALES OF ELECTRICITY TO A CONSUMER MAY BE MADE BY THE
8 OWNER OR OPERATOR OF THE SOLAR ELECTRIC GENERATION FACILITIES
9 LOCATED ON THE SITE OF THE CONSUMER'S PROPERTY IF THE SOLAR
10 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE
11 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF
12 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS
13 SUBPARAGRAPH (II), THE CONSUMER'S SITE SHALL INCLUDE ALL
14 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT
15 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,
16 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY
17 RIGHTS-OF-WAY. IF THE SOLAR ELECTRIC GENERATION FACILITY IS NOT
18 OWNED BY THE CONSUMER, THEN THE QUALIFYING RETAIL UTILITY SHALL
19 NOT BE REQUIRED BY THE COMMISSION TO PAY FOR THE RENEWABLE
20 ENERGY CREDITS GENERATED BY THE FACILITY ON ANY BASIS OTHER THAN
21 A METERED BASIS. THE OWNER OR OPERATOR OF THE SOLAR ELECTRIC
22 GENERATION FACILITY SHALL PAY THE COST OF INSTALLING THE
23 PRODUCTION METER.

24 (III) THE QUALIFYING RETAIL UTILITY MAY ESTABLISH ONE OR
25 MORE STANDARD OFFERS TO PURCHASE RENEWABLE ENERGY CREDITS
26 GENERATED FROM THE ELIGIBLE SOLAR ELECTRIC GENERATION ON THE
27 CUSTOMER'S PREMISES SO LONG AS THE GENERATION MEETS THE SIZE AND

1 LOCATION REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH (e) AND SO LONG AS THE GENERATION IS FIVE HUNDRED
3 KILOWATTS OR LESS IN SIZE. WHEN ESTABLISHING THE STANDARD OFFERS,
4 THE PRICES FOR RENEWABLE ENERGY CREDITS SHOULD BE SET AT LEVELS
5 SUFFICIENT TO ENCOURAGE INCREASED CUSTOMER-SITED SOLAR
6 GENERATION IN THE SIZE RANGES COVERED BY EACH STANDARD OFFER,
7 BUT AT LEVELS THAT WILL STILL ALLOW THE QUALIFYING RETAIL UTILITY
8 TO COMPLY WITH THE ELECTRIC RESOURCE STANDARDS SET FORTH IN
9 PARAGRAPH (c) OF THIS SUBSECTION (1) WITHOUT EXCEEDING THE RETAIL
10 RATE IMPACT LIMIT IN PARAGRAPH (g) OF THIS SUBSECTION (1). THE
11 COMMISSION SHALL ENCOURAGE QUALIFYING RETAIL UTILITIES TO DESIGN
12 SOLAR PROGRAMS THAT ALLOW CONSUMERS OF ALL INCOME LEVELS TO
13 OBTAIN THE BENEFITS OFFERED BY SOLAR ELECTRICITY GENERATION AND
14 SHALL ALLOW PROGRAMS THAT ARE DESIGNED TO EXTEND PARTICIPATION
15 TO CUSTOMERS IN MARKET SEGMENTS THAT HAVE NOT BEEN RESPONDING
16 TO THE STANDARD OFFER PROGRAM.

17 (1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
18 CONTRARY, PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION SHALL
19 NOT APPLY TO A MUNICIPALLY OWNED UTILITY OR TO A COOPERATIVE
20 ELECTRIC ASSOCIATION.

21 (f) Policies for the recovery of costs incurred with respect to these
22 standards for qualifying retail utilities that are subject to rate regulation
23 by the commission. These policies shall provide incentives to qualifying
24 retail utilities to invest in eligible energy resources in the state of
25 Colorado. Such policies shall include:

26 (V) If the commission approves the terms and conditions of an
27 eligible energy resource contract between the qualifying retail utility and

1 another party, the contract and its terms and conditions shall be deemed
2 to be a prudent investment, and the commission shall approve retail rates
3 sufficient to recover all just and reasonable costs associated with the
4 contract. All contracts for acquisition of eligible energy resources shall
5 have a minimum term of twenty years; except that the contract term may
6 be shortened at the sole discretion of the seller. All contracts for the
7 acquisition of renewable energy credits from solar electric technologies
8 located on site at customer facilities shall also have a minimum term of
9 twenty years; EXCEPT THAT SUCH CONTRACTS FOR SYSTEMS OF BETWEEN
10 ONE HUNDRED KILOWATTS AND ONE MEGAWATT MAY HAVE A DIFFERENT
11 TERM IF MUTUALLY AGREED TO BY THE PARTIES.

12 **SECTION 12. Act subject to petition - effective date -**
13 **applicability.** (1) This act shall take effect September 1, 2009.

14 (2) However, if a referendum petition is filed against this act or
15 an item, section, or part of this act during the 90-day period after final
16 adjournment of the general assembly that is allowed for submitting a
17 referendum petition pursuant to article V, section 1 (3) of the state
18 constitution, then the act, item, section, or part, shall not take effect unless
19 approved by the people at a biennial regular general election and shall
20 take effect on the date specified in subsection (1) or on the date of the
21 official declaration of the vote thereon by proclamation of the governor,
22 whichever is later.

23 (3) The provisions of this act shall apply to agreements entered
24 into on or after the applicable effective date of this act.