

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

**INTRODUCED**

LLS NO. 09-0301.01 Duane Gall

**SENATE BILL 09-051**

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**SENATE SPONSORSHIP**

**Carroll M.,**

**HOUSE SPONSORSHIP**

**Levy,**

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**Senate Committees**  
Local Government and Energy

**House Committees**

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**A BILL FOR AN ACT**

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

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**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.*

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.

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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 **SECTION 3.** 24-38.7-102 (3) and (4), Colorado Revised Statutes,  
9 are amended, and the said 24-38.7-102 is further amended BY THE  
10 ADDITION OF A NEW SUBSECTION, to read:

11 **24-38.7-102. Definitions.** As used in this article, unless the  
12 context otherwise requires:

13 (3) "Clean energy improvement" means:

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

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

25 (4) "Clean energy loan" means a loan ~~in a maximum amount of~~  
26 ~~twelve thousand five hundred dollars~~ originated by a participating public  
27 lender or a participating private lender, INCLUDING BUT NOT LIMITED TO

1 A BANK, CREDIT UNION, OR MORTGAGE LENDER, to a qualified borrower  
2 for the purpose of financing one or more clean energy improvements to  
3 the borrower's primary residence ~~except that, if the qualified borrower is~~  
4 ~~a nonprofit corporation or local government housing authority that~~  
5 ~~provides units in a multi-unit housing project as homes to individuals or~~  
6 ~~families who meet the income qualifications of first tier or second tier~~  
7 ~~qualified borrowers, the maximum amount of a loan shall be twelve~~  
8 ~~thousand five hundred dollars multiplied by the number of units in the~~  
9 ~~multi-unit housing project provided to the individuals or families OR~~  
10 PLACE OF BUSINESS.

11 (11.5) "RENEWABLE ENERGY DEVELOPER" MEANS:

12 (a) A GEOTHERMAL HEAT SUPPLIER, AS DEFINED IN SECTION  
13 40-40-103, C.R.S.; AND

14 (b) A RENEWABLE ENERGY SUPPLIER, AS DEFINED IN SECTION  
15 40-41-103, C.R.S.

16 **SECTION 4.** 24-38.7-103 (1) (c), Colorado Revised Statutes, is  
17 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

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

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

26 (III) AUTHORIZE PARTICIPATING LENDERS AND CERTIFIED  
27 CONTRACTORS TO USE THE "CLEAN & GREEN COLORADO" LOGO AND

1     MARKETING MATERIALS PREPARED IN ACCORDANCE WITH SECTION  
2     24-38.7-105.

3             **SECTION 5.** 24-38.7-103 (3) (d), Colorado Revised Statutes, is  
4     amended to read:

5             **24-38.7-103. Governor's energy office - powers and duties -**  
6     **program - fund created.** (3) (d) The state treasurer may invest up to a  
7     total amount of ~~thirty~~ FORTY million dollars of state moneys in bonds or  
8     notes issued by participating public or private lenders for the purpose of  
9     funding clean energy loans during the 2008-09, 2009-10, and 2010-11  
10    fiscal years subject to the limitation that the state treasurer may invest no  
11    more than ~~ten~~ FIFTEEN million dollars during the 2008-09 fiscal year and  
12    no more than a total amount of ~~twenty~~ TWENTY-FIVE million dollars  
13    during the 2008-09 and 2009-10 fiscal years.

14            **SECTION 6.** Article 38.7 of title 24, Colorado Revised Statutes,  
15    is amended BY THE ADDITION OF A NEW SECTION to read:

16            **24-38.7-105. Administration - "Colorado Clean & Green"**  
17    **designation - cash funding.** (1) THE OFFICE, OR THE ADMINISTRATOR  
18    UNDER THE DIRECTION OF THE OFFICE, MAY PRODUCE OR CAUSE TO BE  
19    PRODUCED A SUITABLE DESIGN OR DRAWING, WHICH SHALL BE KNOWN AS  
20    THE "COLORADO CLEAN & GREEN" LOGO, ALSO REFERRED TO IN THIS  
21    SECTION AS THE "LOGO", TO BE USED IN THE MARKETING OF CLEAN  
22    ENERGY LOANS AND CLEAN ENERGY IMPROVEMENTS.

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

26            (3) THE LOGO, OR ANY REPRODUCTION, COPY, OR FACSIMILE  
27    THEREOF, MAY NOT BE USED IN ANY ADVERTISING, DISPLAY, LABELING, OR

1 IDENTIFICATION WITHOUT PRIOR WRITTEN PERMISSION FROM THE OFFICE.

2 (4) A LENDER OR CERTIFIED CONTRACTOR THAT COMPLIES WITH  
3 THIS ARTICLE AND THE OFFICE'S QUALIFICATIONS FOR USE OF THE LOGO  
4 SHALL BE PERMITTED TO USE THE LOGO IN ADVERTISING, LABELING, OR  
5 MARKETING OF PRODUCTS AND SERVICES.

6 (5) THE COST OF THE DESIGN AND PRODUCTION OF THE LOGO  
7 SHALL BE RECOVERED THROUGH LICENSE FEES. THE OFFICE OR  
8 ADMINISTRATOR MAY CONDITION THE DESIGN AND PRODUCTION OF THE  
9 LOGO ON THE RECEIPT OF GIFTS, GRANTS, DONATIONS, OR ADVANCE  
10 DEPOSITS IN AN AMOUNT SUFFICIENT TO DEFRAY THE COSTS OF DESIGN  
11 AND PRODUCTION.

12 **SECTION 7.** 29-3-103 (10) (m), Colorado Revised Statutes, is  
13 amended to read:

14 **29-3-103. Definitions.** As used in this article, unless the context  
15 otherwise requires:

16 (10) "Project" means any land, building, or other improvement  
17 and all real or personal properties, and any undivided or other interest in  
18 any of the foregoing, except inventories and raw materials, whether or not  
19 in existence, suitable or used for or in connection with any of the  
20 following:

21 (m) Capital improvements to existing SINGLE-FAMILY residential,  
22 MULTI-FAMILY RESIDENTIAL, commercial, or industrial structures, to  
23 retrofit such structures for significant energy savings or installation of  
24 solar or other alternative electrical energy-producing improvements to  
25 serve that structure or other structures on contiguous property under  
26 common ownership.

27 **SECTION 8.** 38-12-505, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **38-12-505. Uninhabitable residential premises.** (4) WITHIN  
3 ONE MONTH BEFORE OR AFTER THE TENANT'S INITIAL MOVE-IN DATE, AND  
4 AT LEAST ONCE PER YEAR THEREAFTER, AT THE TENANT'S REQUEST, THE  
5 LANDLORD SHALL ALLOW AN ENERGY AUDIT TO BE PERFORMED ON THE  
6 DWELLING UNIT BY A PUBLIC UTILITY SERVING THE PROPERTY OR BY AN  
7 INDEPENDENT CONTRACTOR. THE COST, IF ANY, OF AN ENERGY AUDIT  
8 REQUESTED BY A TENANT UNDER THIS SUBSECTION (4) SHALL BE THE  
9 RESPONSIBILITY OF THE TENANT.

10 **SECTION 9.** 40-1-103 (2) (a), Colorado Revised Statutes, is  
11 amended to read:

12 **40-1-103. Public utility defined.** (2) (a) EXCEPT AS OTHERWISE  
13 PROVIDED IN ARTICLE 41 OF THIS TITLE, every cooperative electric  
14 association, or nonprofit electric corporation or association, and every  
15 other supplier of electric energy, whether supplying electric energy for the  
16 use of the public or for the use of its own members, is hereby declared to  
17 be affected with a public interest and to be a public utility and to be  
18 subject to the jurisdiction, control, and regulation of the commission and  
19 to the provisions of articles 1 to 7 of this title.

20 **SECTION 10.** Title 40, Colorado Revised Statutes, is amended  
21 BY THE ADDITION OF A NEW ARTICLE to read:

22 **ARTICLE 41**

23 **Renewable Energy Suppliers**

24 **40-41-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY  
25 BE CITED AS THE "RENEWABLE ENERGY SUPPLIERS ACT".

26 **40-41-102. Legislative declaration.** THE GENERAL ASSEMBLY  
27 HEREBY DECLARES THAT CUSTOMER-SITED RENEWABLE ENERGY

1 GENERATION IS A VALUABLE, INDIGENOUS RESOURCE, THE DEVELOPMENT  
2 OF WHICH WILL ENHANCE LOCAL ECONOMIES, AND THAT IT IS IN THE  
3 PUBLIC INTEREST OF THE STATE TO PROMOTE THE DEVELOPMENT OF  
4 CUSTOMER-SITED RENEWABLE ENERGY GENERATION SYSTEMS, INCLUDING,  
5 WITHOUT LIMITATION, THOSE SYSTEMS OWNED, INSTALLED,  
6 CONSTRUCTED, OR FINANCED BY THIRD-PARTY DEVELOPERS FOR  
7 RESIDENTIAL AND COMMERCIAL PROPERTY OWNERS WHO SEEK TO  
8 PURCHASE ENERGY ON A PER-KILOWATT-HOUR OR OTHER PER-UNIT BASIS  
9 UNDER POWER PURCHASE AGREEMENTS OR TO AVAIL THEMSELVES OF THE  
10 BENEFITS OF STANDARD REBATE OFFERS FROM QUALIFYING RETAIL  
11 UTILITIES UNDER SECTION 40-2-124. THEREFORE, IT IS THE POLICY OF THIS  
12 STATE TO REMOVE THE BARRIERS TO SUCH DEVELOPMENT THAT MIGHT  
13 RESULT FROM THE IMPOSITION OF COMPREHENSIVE REGULATION BY THE  
14 PUBLIC UTILITIES COMMISSION OR UNREASONABLY RESTRICTIVE POLICIES  
15 OF QUALIFYING RETAIL UTILITIES.

16 **40-41-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF  
19 THE STATE OF COLORADO.

20 (2) "CUSTOMER" MEANS A CUSTOMER-GENERATOR, AS DEFINED IN  
21 SECTION 40-2-124.

22 (3) "RENEWABLE ENERGY" MEANS ELECTRIC OR THERMAL ENERGY  
23 DERIVED FROM RENEWABLE ENERGY RESOURCES, INCLUDING THOSE  
24 DEFINED IN SECTION 40-2-124, WITH THE EXCEPTION OF GEOTHERMAL  
25 HEAT.

26 (4) "RENEWABLE ENERGY SUPPLIER" MEANS ANY PERSON OR  
27 ENTITY THAT:

1 (a) INSTALLS, OR CAUSES TO BE INSTALLED, EQUIPMENT OR  
2 FACILITIES FOR THE GENERATION FOR RETAIL SALE OF ELECTRICITY OR  
3 HEAT GENERATED FROM RENEWABLE ENERGY SOURCES IF SUCH  
4 EQUIPMENT OR FACILITIES ARE OR WILL BE INSTALLED ON THE PROPERTY  
5 OF A CUSTOMER; OR

6 (b) FOR COMPENSATION, INCLUDING WITHOUT LIMITATION PROFITS  
7 EARNED THROUGH THE SALE OF ENERGY PER KILOWATT-HOUR OR OTHER  
8 UNIT OF ENERGY, ARRANGES, FACILITATES, COORDINATES, AGGREGATES,  
9 BROKERS, OR PROMOTES THE INSTALLATION OF EQUIPMENT OR FACILITIES  
10 FOR THE GENERATION OF RENEWABLE ENERGY ON PROPERTY OF  
11 CUSTOMERS.

12 **40-41-104. Public utility status - exceptions.** (1) RENEWABLE  
13 ENERGY SUPPLIERS ARE FOUND TO BE AFFECTED WITH A PUBLIC INTEREST  
14 AND SUBJECT TO THE LIMITED JURISDICTION AND REGULATION OF THE  
15 COMMISSION AS DESCRIBED IN THIS ARTICLE ONLY.

16 (2) RENEWABLE ENERGY SUPPLIERS THAT SELL ENERGY AT  
17 WHOLESALE TO OTHER ENTITIES, WHICH IN TURN RESELL THE ENERGY, ARE  
18 EXEMPT FROM THE PROVISIONS OF THIS ARTICLE.

19 (3) MUNICIPAL AND COUNTY RENEWABLE ENERGY SUPPLIERS  
20 ACTING ALONE, TOGETHER, OR IN CONCERT WITH PRIVATE PARTIES ARE  
21 EXEMPT FROM THE PROVISIONS OF THIS ARTICLE AND ANY OTHER  
22 PROVISIONS THAT MIGHT SUBJECT SUCH ENTITIES TO THE JURISDICTION OF  
23 THE COMMISSION, EXCEPT AS TO SERVICE PROVIDED OUTSIDE OF THEIR  
24 BOUNDARIES.

25 **40-41-105. Operating permits.** (1) THE COMMISSION SHALL  
26 ESTABLISH A SYSTEM OF OPERATING PERMITS FOR RENEWABLE ENERGY  
27 SUPPLIERS. BEFORE COMMENCING CONSTRUCTION OF DISTRIBUTION

1 FACILITIES, A RENEWABLE ENERGY SUPPLIER SHALL OBTAIN AN OPERATING  
2 PERMIT FROM THE COMMISSION. AN OPERATING PERMIT:

3 (a) MAY NOT BE DENIED BECAUSE THE AREA THAT THE APPLICANT  
4 PROPOSES TO SERVE IS ALREADY BEING SERVED BY A GAS OR ELECTRIC  
5 UTILITY;

6 (b) MAY NOT CONVEY AN EXCLUSIVE RIGHT TO SUPPLY  
7 RENEWABLE ENERGY IN THE AREA THAT THE APPLICANT PROPOSES TO  
8 SERVE;

9 (c) SHALL DESCRIBE THE AREA THE APPLICANT INTENDS TO SERVE  
10 AND THE NATURE OF SUCH SERVICE; AND

11 (d) SHALL REQUIRE THE APPLICANT TO ENTER INTO A CONTRACT  
12 WITH EACH CUSTOMER IN ACCORDANCE WITH SUBSECTION (2) OF THIS  
13 SECTION.

14 (2) THE CONTRACT, OF WHICH ONLY THE FORM AND SCOPE ARE  
15 SUBJECT TO COMMISSION REVIEW, SHALL SPECIFY AT LEAST:

16 (a) THE PERIOD OF TIME DURING WHICH SERVICE WILL BE  
17 PROVIDED;

18 (b) THE RATES OR THE METHOD FOR DETERMINING RATES TO BE  
19 CHARGED DURING THE TERM OF THE CONTRACT, AS NEGOTIATED BY THE  
20 PARTIES AND NOT SUBJECT TO COMMISSION APPROVAL;

21 (c) THE RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO  
22 OWNERSHIP AND MAINTENANCE OF THE COMPONENTS OF THE RENEWABLE  
23 ENERGY GENERATION SYSTEM; AND

24 (d) THAT THE RENEWABLE ENERGY SUPPLIER WILL SUBMIT TO THE  
25 COMPLAINT PROCEDURES CONTAINED IN SECTION 40-6-108.

26 (3) THE COMMISSION'S ISSUANCE OF AN OPERATING PERMIT SHALL  
27 BE CONDITIONED ON THE COMMISSION'S FINDINGS THAT:

1 (a) THE APPLICANT IS FINANCIALLY SOUND, WILLING, AND ABLE TO  
2 PROVIDE THE PROPOSED SERVICES; AND

3 (b) THE APPLICANT HAS MADE AN ADEQUATE SHOWING THAT THE  
4 RENEWABLE ENERGY SUPPLY AND DISTRIBUTION SYSTEM APPEARS  
5 REASONABLY CAPABLE OF DELIVERING THE PROPOSED SERVICES.

6 **40-41-106. Continuing review.** THE COMMISSION HAS  
7 CONTINUING AUTHORITY OVER RENEWABLE ENERGY SUPPLIERS TO  
8 ENFORCE THE PROVISIONS OF THIS ARTICLE AND TO ENSURE THAT A  
9 RENEWABLE ENERGY SUPPLIER ADHERES TO THE CONDITIONS OF ITS  
10 OPERATING PERMIT.

11 **SECTION 11.** The introductory portion to 40-2-124 (1) and  
12 40-2-124 (1) (e), Colorado Revised Statutes, are amended to read:

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

26 (e) A standard rebate offer program, AS FOLLOWS:

27 (I) Each qualifying retail utility, except for cooperative electric

1 associations and municipally owned utilities, shall make available to its  
2 retail electricity customers a standard rebate offer of a minimum of two  
3 dollars per watt for the installation of eligible solar electric generation on  
4 customers' premises up to a maximum of one hundred kilowatts per  
5 installation. Such offer shall allow the customer's retail electricity  
6 consumption to be offset by the solar electricity generated.

7 (II) To the extent that solar electricity generation exceeds the  
8 customer's consumption during a billing month, such excess electricity  
9 shall be carried forward as a credit to the following month's consumption.  
10 To the extent that solar electricity generation exceeds the customer's  
11 consumption during a calendar year OR, AT THE CUSTOMER'S OPTION, A  
12 DIFFERENT TWELVE-MONTH PERIOD, the customer shall be reimbursed by  
13 the qualifying retail utility at its average hourly incremental cost of  
14 electricity supply over the prior twelve-month period. THE COMMISSION  
15 MAY ADOPT RULES GOVERNING THE CALCULATION AND ADMINISTRATION  
16 OF REIMBURSEMENTS UNDER THIS SUBPARAGRAPH (II).

17 (III) A PORTION OF THE QUALIFYING RETAIL UTILITY'S ANNUAL  
18 BUDGET FOR REBATES UNDER THIS PARAGRAPH (e), WHICH SHALL BE AT  
19 LEAST TEN PERCENT AND NOT MORE THAN TWENTY-FIVE PERCENT AS  
20 DETERMINED BY THE COMMISSION, SHALL BE SET ASIDE FOR REBATES TO  
21 CUSTOMERS WHO QUALIFY FOR LOW-INCOME ENERGY ASSISTANCE UNDER  
22 SECTION 40-8.7-109. ADVANCES FROM RENEWABLE ENERGY SUPPLIERS,  
23 AS DEFINED IN SECTION 40-41-103, SHALL NOT BE INCLUDED IN SUCH  
24 CUSTOMERS' INCOME FOR PURPOSES OF DETERMINING THEIR ELIGIBILITY  
25 FOR LOW-INCOME ENERGY ASSISTANCE. IF THE PORTION OF THE UTILITY'S  
26 ANNUAL BUDGET FOR REBATES TO LOW-INCOME CUSTOMERS, AS SPECIFIED  
27 BY THE COMMISSION, EXCEEDS THE AMOUNT NEEDED TO PROVIDE REBATES

1 TO THE LOW-INCOME CUSTOMERS WHO SUBMITTED APPLICATIONS, THE  
2 UTILITY MAY MAKE REBATE FUNDS AVAILABLE TO OTHER CUSTOMERS ON  
3 A SEMIANNUAL BASIS.

4 (IV) The qualifying retail utility shall not apply unreasonably  
5 burdensome interconnection requirements in connection with this  
6 standard rebate offer.

7 (V) AN INTERCONNECTION AGREEMENT BETWEEN A QUALIFYING  
8 RETAIL UTILITY AND A CUSTOMER-GENERATOR:

9 (A) SHALL NOT BE CONDITIONED UPON OWNERSHIP OF A BUILDING  
10 OR OTHER PROPERTY ON WHICH RENEWABLE ENERGY GENERATION  
11 EQUIPMENT IS OR WILL BE INSTALLED; AND

12 (B) MAY LIMIT THE SIZE OR CAPACITY OF RENEWABLE ENERGY  
13 GENERATION EQUIPMENT TO NOT LESS THAN ONE HUNDRED TWENTY  
14 PERCENT OF THE CUSTOMER-GENERATOR'S ANNUAL ENERGY NEEDS.

15 (VI) Electricity generated under this program shall be eligible for  
16 the qualifying retail utility's compliance with this article.

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

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

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