

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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

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.*

SENATE
Amended 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 (2) The general assembly further finds, determines, and declares
9 that:

10 (a) The industrial and commercial sectors of our economy
11 represent an even greater potential for the expansion of customer-sited
12 solar electric generation technology than does the residential sector;
13 however, at present, the need to participate in a competitive bidding
14 process acts as a barrier to development in these sectors.

15 (b) Therefore, the general assembly supports the adoption of a
16 standard program offer by qualified retail utilities for customer-sited solar
17 electric generation facilities between one hundred kilowatts and one
18 megawatt to encourage the installation of more systems than would
19 otherwise occur under the existing competitive bidding process.

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

22 **24-38.7-101.5. Legislative declaration.** THE GENERAL ASSEMBLY
23 FINDS, DETERMINES, AND DECLARES THAT ENERGY-EFFICIENCY
24 IMPROVEMENTS FOR EXISTING BUILDINGS IS ONE OF THE WISEST
25 INVESTMENTS THAT ANY INDIVIDUAL OR BUSINESS CAN MAKE. HOWEVER,
26 MANY COLORADANS MAY BE UNDER THE MISTAKEN IMPRESSION THAT THE
27 COST OF SUCH IMPROVEMENTS IS OUT OF REACH FOR THEM OR THAT

1 FINANCING WOULD BE DIFFICULT TO OBTAIN. THEREFORE, THE GENERAL
2 ASSEMBLY ENCOURAGES ALL COLORADANS TO INVESTIGATE THE
3 POSSIBILITY OF FINANCING ENERGY-EFFICIENCY IMPROVEMENTS BY
4 CONTACTING THEIR CURRENT LENDERS, INCLUDING BANKS, MORTGAGE
5 LENDERS, CREDIT UNIONS, AND OTHER FINANCIAL INSTITUTIONS. NOTHING
6 IN THIS ARTICLE IS INTENDED TO AFFECT LENDING REQUIREMENTS OR
7 LIMITATIONS, NOR TO ALTER THE SCOPE OF LENDING, AS CURRENTLY
8 DEFINED BETWEEN BANKS AND CREDIT UNIONS OR OTHER LENDERS.

9 **SECTION 4.** The introductory portion to 24-38.7-102 and
10 24-38.7-102 (3) and (4), Colorado Revised Statutes, are amended to read:

11 **24-38.7-102. Definitions.** As used in this article PART 1, unless
12 the 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., OR SOLAR
22 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

26 (4) "Clean energy loan" means a loan in a maximum amount of
27 twelve thousand five hundred dollars originated by a participating public

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

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

14 **24-38.7-103. Governor's energy office - powers and duties -**
15 **program - fund created.** (1) The Colorado clean energy finance
16 program is hereby created. The office shall oversee the program and the
17 program administrator and shall, in addition to exercising any other
18 powers and performing any other duties specified in this article:

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

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

27 **SECTION 6.** 24-38.7-103 (3) (d), Colorado Revised Statutes, is

1 amended to read:

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

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

13 (II) OF THESE AMOUNTS, IN THE STATE TREASURER'S DISCRETION
14 AND SUBJECT TO THE QUALIFICATIONS FOR STATE INVESTMENTS LISTED IN
15 SECTION 24-36-113 AND THE AVAILABILITY OF PROJECTS IN WHICH TO
16 INVEST, CLEAN ENERGY LOANS UNDER PART 2 OF THIS ARTICLE MAY
17 COMPRISE UP TO TEN MILLION DOLLARS PER YEAR DURING THE 2008-09
18 FISCAL YEAR AND A TOTAL OF UP TO FIFTEEN MILLION DOLLARS DURING
19 THE 2009-10 AND 2010-11 FISCAL YEARS.

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

22 **24-38.7-105. Administration - "Colorado Clean & Green"**
23 **designation - cash funding.** (1) THE OFFICE, OR THE ADMINISTRATOR
24 UNDER THE DIRECTION OF THE OFFICE, MAY PRODUCE OR CAUSE TO BE
25 PRODUCED A SUITABLE DESIGN OR DRAWING, REFERRED TO IN THIS
26 SECTION AS THE "LOGO", TO BE USED IN THE MARKETING OF CLEAN
27 ENERGY LOANS AND CLEAN ENERGY IMPROVEMENTS. THE LOGO MAY, BUT

1 IS NOT REQUIRED TO, CONTAIN THE SLOGAN "COLORADO CLEAN &
2 GREEN" OR OTHER WORDS OR SYMBOLS AS THE OFFICE IN ITS DISCRETION
3 MAY DEEM APPROPRIATE.

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

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

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

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

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

22 PART 2

23 THIRD-PARTY COMMERCIAL

24 SOLAR ELECTRIC INSTALLATIONS

25 **24-38.7-201. Legislative declaration. THIS PART 2 IS INTENDED**
26 **TO COMPLEMENT PART 1 OF THIS ARTICLE BY FACILITATING CLEAN ENERGY**
27 **LOANS FOR LARGER-SCALE COMMERCIAL, INDUSTRIAL, AND**

1 INSTITUTIONAL INSTALLATIONS OF SOLAR ELECTRIC GENERATION
2 FACILITIES, WHICH HOLD GREAT POTENTIAL FOR CLEAN ENERGY
3 DEVELOPMENT BUT IN WHICH THE SIZE LIMITATIONS, ECONOMIC
4 INCENTIVES, AND INDUSTRY PRACTICES APPLICABLE TO SMALL
5 RESIDENTIAL INSTALLATIONS EITHER CANNOT BE DUPLICATED OR ARE NOT
6 ECONOMICALLY FEASIBLE.

7 **24-38.7-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

1 (4) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY, DISTRICT,
2 AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE AUTHORIZED
3 TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING, OR HOUSING
4 REHABILITATION LOANS. "PUBLIC LENDER" INCLUDES, WITHOUT
5 LIMITATION, THE COLORADO HOUSING AND FINANCE AUTHORITY.

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

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

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

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

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

27 **29-3-103. Definitions.** As used in this article, unless the context

1 otherwise requires:

2 (10) "Project" means any land, building, or other improvement
3 and all real or personal properties, and any undivided or other interest in
4 any of the foregoing, except inventories and raw materials, whether or not
5 in existence, suitable or used for or in connection with any of the
6 following:

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

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

17 **40-1-103. Public utility defined.** (2) (c) THE SUPPLY OF
18 ELECTRICITY OR HEAT TO A CONSUMER OF THE ELECTRICITY OR HEAT
19 FROM SOLAR GENERATING EQUIPMENT LOCATED ON THE SITE OF THE
20 CONSUMER'S PROPERTY, WHICH EQUIPMENT IS OWNED OR OPERATED BY AN
21 ENTITY OTHER THAN THE CONSUMER, SHALL NOT SUBJECT THE OWNER OR
22 OPERATOR OF THE ON-SITE SOLAR GENERATING EQUIPMENT TO
23 REGULATION AS A PUBLIC UTILITY BY THE COMMISSION IF THE SOLAR
24 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE
25 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF
26 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS
27 PARAGRAPH (c), THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS

1 PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO
2 INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC
3 THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY
4 RIGHTS-OF-WAY.

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

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

22 (c) Electric resource standards:

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

1 (B) SOLAR GENERATING EQUIPMENT LOCATED ON-SITE AT
2 CUSTOMER'S FACILITIES SHALL BE SIZED TO SUPPLY NO MORE THAN ONE
3 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF
4 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS
5 SUB-SUBPARAGRAPH (B), THE CONSUMER'S "SITE" SHALL INCLUDE ALL
6 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT
7 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,
8 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY
9 RIGHTS-OF-WAY.

10 (d) (I) A system of tradable renewable energy credits that may be
11 used by a qualifying retail utility to comply with this standard. The
12 commission shall also analyze the effectiveness of utilizing any regional
13 system of renewable energy credits in existence at the time of its
14 rule-making process and determine whether the system is governed by
15 rules that are consistent with the rules established for this article. The
16 commission shall not restrict the qualifying retail utility's ownership of
17 renewable energy credits if the qualifying retail utility complies with the
18 electric resource standard of paragraph (c) of this subsection (1) and does
19 not exceed the retail rate impact established by paragraph (g) of this
20 subsection (1).

21 (II) IN THE SYSTEM OF RENEWABLE ENERGY CREDITS, THE
22 COMMISSION SHALL INCLUDE PROVISIONS FOR A STANDARD OFFER OF
23 CREDITS FOR CUSTOMER-SITED GENERATION BETWEEN ONE HUNDRED
24 KILOWATTS AND ONE MEGAWATT LOCATED IN COLORADO.

25 (III) WHEN ESTABLISHING INCENTIVES FOR THE STANDARD OFFER
26 DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), THE
27 COMMISSION SHALL TAKE INTO ACCOUNT THE FOLLOWING FACTORS:

1 (A) INCENTIVES SHOULD BE SET AT A COMPETITIVE LEVEL
2 SUFFICIENT TO ENCOURAGE INCREASED CONSTRUCTION OF
3 CUSTOMER-SITED GENERATION IN THIS SIZE RANGE; AND

4 (B) INCENTIVES SHOULD NOT BE SO HIGH AS TO COMPROMISE THE
5 ABILITY OF A QUALIFYING RETAIL UTILITY TO COMPLY WITH THE
6 PORTFOLIO STANDARD WITHOUT EXCEEDING THE RETAIL RATE IMPACT
7 ESTABLISHED BY PARAGRAPH (g) OF THIS SUBSECTION (1).

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

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

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

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

23 (III) THE COMMISSION SHALL ENCOURAGE QUALIFYING RETAIL
24 UTILITIES TO DESIGN SOLAR PROGRAMS THAT ALLOW CONSUMERS OF ALL
25 INCOME LEVELS TO OBTAIN THE BENEFITS OFFERED BY SOLAR ELECTRICITY
26 GENERATION AND SHALL ALLOW PROGRAMS THAT ARE DESIGNED TO
27 EXTEND PARTICIPATION TO CUSTOMERS IN MARKET SEGMENTS THAT HAVE

1 NOT BEEN RESPONDING TO THE STANDARD REBATE OFFER PROGRAM.

2 (1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
3 CONTRARY, PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION SHALL
4 NOT APPLY TO A MUNICIPALLY OWNED UTILITY OR TO A COOPERATIVE
5 ELECTRIC ASSOCIATION.

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

11 (V) If the commission approves the terms and conditions of an
12 eligible energy resource contract between the qualifying retail utility and
13 another party, the contract and its terms and conditions shall be deemed
14 to be a prudent investment, and the commission shall approve retail rates
15 sufficient to recover all just and reasonable costs associated with the
16 contract. All contracts for acquisition of eligible energy resources shall
17 have a minimum term of twenty years; except that the contract term may
18 be shortened at the sole discretion of the seller. All contracts for the
19 acquisition of renewable energy credits from solar electric technologies
20 located on site at customer facilities shall also have a minimum term of
21 twenty years; EXCEPT THAT SUCH CONTRACTS FOR SYSTEMS OF BETWEEN
22 ONE HUNDRED KILOWATTS AND ONE MEGAWATT MAY HAVE A DIFFERENT
23 TERM IF MUTUALLY AGREED TO BY THE PARTIES.

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

26 (2) However, if a referendum petition is filed against this act or
27 an item, section, or part of this act during the 90-day period after final

1 adjournment of the general assembly that is allowed for submitting a
2 referendum petition pursuant to article V, section 1 (3) of the state
3 constitution, then the act, item, section, or part, shall not take effect unless
4 approved by the people at a biennial regular general election and shall
5 take effect on the date specified in subsection (1) or on the date of the
6 official declaration of the vote thereon by proclamation of the governor,
7 whichever is later.

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