

## CHAPTER 157

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**PUBLIC UTILITIES**

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**SENATE BILL 09-051**

BY SENATOR(S) Carroll M., Foster, Gibbs, Groff, Heath, Hodge, Hudak, Keller, Morse, Newell, Romer, Schwartz, Shaffer B., Tapia, White, Williams, Boyd;  
also REPRESENTATIVE(S) Levy, Apuan, Ferrandino, Fischer, Frangas, Green, Hullinghorst, Kefalas, Kerr A., Labuda, Merrifield, Middleton, Miklosi, Primavera, Ryden, Scanlan, Schafer S., Solano, Todd, Vigil.

**AN ACT****CONCERNING MEASURES TO FACILITATE THE FINANCING OF ENERGY-EFFICIENT STRUCTURES.**

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

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

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

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

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

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

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

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

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

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

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

(2) "Certified contractor" means:

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

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

(3) "Clean energy improvement" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART 2  
THIRD-PARTY COMMERCIAL  
SOLAR ENERGY INSTALLATIONS

**24-38.7-201. Legislative declaration.** THIS PART 2 IS INTENDED TO COMPLEMENT PART 1 OF THIS ARTICLE BY FACILITATING CLEAN ENERGY LOANS FOR LARGER-SCALE COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL INSTALLATIONS OF SOLAR HEATING OR COOLING AND SOLAR ELECTRIC GENERATION FACILITIES, WHICH HOLD GREAT POTENTIAL FOR CLEAN ENERGY DEVELOPMENT BUT IN WHICH THE SIZE LIMITATIONS, ECONOMIC INCENTIVES, AND INDUSTRY PRACTICES APPLICABLE TO SMALL RESIDENTIAL INSTALLATIONS EITHER CANNOT BE DUPLICATED OR ARE NOT ECONOMICALLY FEASIBLE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Project" means any land, building, or other improvement and all real or

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

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

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

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

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

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

(c) Electric resource standards:

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

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

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

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

(I) Each qualifying retail utility, except for cooperative electric associations and municipally owned utilities, shall make available to its retail electricity customers a standard rebate offer of a minimum of two dollars per watt for the installation of eligible solar electric generation on customers' premises up to a maximum of one hundred kilowatts per installation. Such offer shall allow the customer's retail electricity consumption to be offset by the solar electricity generated. To the extent that solar electricity generation exceeds the customer's consumption during a billing month, such excess electricity shall be carried forward as a credit to the following month's consumption. To the extent that solar electricity generation exceeds the customer's consumption during a calendar year, the customer shall be reimbursed by the qualifying retail utility at its average hourly incremental cost of electricity supply over the prior twelve-month period UNLESS THE CUSTOMER MAKES A ONE-TIME ELECTION, IN WRITING, TO REQUEST THAT THE EXCESS ELECTRICITY BE CARRIED FORWARD AS A CREDIT FROM MONTH TO MONTH INDEFINITELY UNTIL THE CUSTOMER TERMINATES SERVICE WITH THE QUALIFYING RETAIL UTILITY, AT WHICH TIME NO PAYMENT SHALL BE REQUIRED FROM THE QUALIFYING RETAIL UTILITY FOR ANY REMAINING EXCESS ELECTRICITY SUPPLIED BY THE CUSTOMER. The qualifying retail utility shall not apply unreasonably burdensome interconnection requirements in connection with this standard rebate offer. Electricity generated under this program shall be eligible for the qualifying retail utility's compliance with this article.

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

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

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

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

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

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

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

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



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

Approved: April 22, 2009