CHAPTER 196
[ENERGY RESOURCES]

Part I. General Provisions

Section

Part II. Energy Efficiency in State Facilities

Part III. Other Provisions

Part IV. Green Infrastructure Loans

Note

L 2014, c 218, §8 purports to amend this chapter.

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

"PART I. GENERAL PROVISIONS

Note

Photovoltaic rebate program (repealed June 30, 2013). L 2008, c 151.

Cross References

Renewable energy facility siting process, see chapter 201N.

§196-1 Findings and declaration of necessity. The legislature finds that:

(1) The global demand for petroleum and its derivatives has resulted in a significant and fundamental market escalation in oil prices, has caused severe economic hardships throughout the State, and threatens to impair the public health, safety, and welfare.

The State of Hawaii, with its near total dependence on imported fossil fuel, is particularly vulnerable to dislocations in the global energy market. This situation can be changed, as there are few places in the world so generously endowed with natural energy: geothermal, solar radiation, ocean temperature differential, wind, biomass, waves, and currents, which are all potential non-polluting power sources;

(2) There is a real need for comprehensive strategic planning in the effort towards achieving full use of Hawaii's energy resources and the most effective allocation of energy resources throughout the State. Planning is necessary and desirable in order that the State may recognize and declare the major problems and opportunities in the field of energy resources. Both short-range and long-range planning will permit the articulation of:

(A) Broad policies, goals, and objectives;

(B) Criteria for measuring and evaluating accomplishments of objectives;
(C) Identification and implementation of programs that will carry out such objectives; and
(D) A determination of requirements necessary for the optimum development of Hawaii's energy resources.

Such planning efforts will identify present conditions and major problems relating to energy resources, their exploration, development, production, and distribution. It will show the projected nature of the situation and rate of change, present conditions for the foreseeable future based on a projection of current trends in the development of energy resources in Hawaii, and include initiatives designed to fundamentally change how Hawaii consumes energy by accelerating the production of renewable and alternative energy, increasing energy efficiency, developing and adopting new technologies, and ensuring the State's energy security;

(3) The State requires an in-depth understanding of the causes and effects of any transitional issues and trends related to changes in the State's energy resources, systems, and markets;

(4) There are many agencies of the federal, state, and county governments in Hawaii, as well as many private agencies and a broad set of non-governmental entities, engaged in, or expressing an interest in, various aspects of the exploration, research, distribution, transportation, storage, conservation, and production of all forms of energy resources in Hawaii. Some of these agencies include the University of Hawaii; the department of land and natural resources; the department of business, economic development, and tourism; the division of consumer advocacy; the public utilities commission; the state emergency management agency; the federal energy office; and various county agencies, as well as Hawaii's energy and energy-related companies; and

(5) There is an ongoing need in this State to coordinate the efforts of statewide industry and government energy interests; maintain the technical capability and adequate capacity to quantitatively and qualitatively evaluate, analyze, develop, and coordinate implementation of private and public sector energy planning efforts; recommend market-based policies to develop Hawaii's energy resources, systems, and markets; establish and coordinate

programs to preserve and protect the State's energy security, maintain a robust energy emergency preparedness program, and effectuate the conservation of energy resources to provide for the equitable distribution thereof; and to formulate plans for the development and use of alternative energy sources. There is a need for coordination, capability, and capacity, so that there will be maximum conservation and use of energy resources in the State. [L 1974, c 237, §1; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 2006, c 96, §5; am L 2009, c 153, §2; L 2014, c 111, §28]

" **[§196-1.5 Priority permitting process for renewable energy projects.]** All agencies shall provide priority handling and processing for all state permits required for renewable energy projects.

For purposes of this section, "agencies" means any executive department, independent commission, board, bureau, office, or other establishment of the State, or any quasi-public institution that is supported in whole or in part by state funds. [L 2007, c 205, §3]

Cross References

For similar provisions, see §§46-19.4 and 226-18(c)(10).

" **§196-2 Definitions.** As used in this chapter, unless the context requires otherwise:

"Commission" means the public utilities commission.

"Coordinator" means the energy resources coordinator.

"Distributor" means:

(1) Every person who refines, manufactures, produces, or compounds fuel in the State and sells it at wholesale or retail, or who uses it directly in the manufacture of products or for the generation of power;

(2) Every person who imports or causes to be imported into the State, or exports or causes to be exported from the State, any fuel;

(3) Every person who acquires fuel through exchanges with another distributor; and

(4) Every person who purchases fuel for resale at wholesale or retail rates from any person described in paragraph (1), (2), or (3).

"Electricity" means all electrical energy produced by combustion of any fuel, or generated or produced using wind, the

sun, geothermal heat, ocean water, falling water, currents, and waves, or any other source.

"Energy" means work or heat that is, or may be, produced from any fuel or source whatsoever.

"Energy resources" means fuel, and also includes all electrical or thermal energy produced by combustion of any fuel, or generated or produced using wind, the sun, geothermal heat, ocean water, falling water, currents, waves, or any other source.

"Fuel" means fuels, whether liquid, solid, or gaseous, commercially usable for energy needs, power generation, and fuels manufacture, that may be manufactured, grown, produced, or imported into the State or that may be exported therefrom, including petroleum and petroleum products and gases to include all fossil fuel-based gases, coal tar, vegetable ferments, biomass, municipal solid waste, biofuels, hydrogen, agricultural products used as fuels and as feedstock to produce fuels, and all fuel alcohols.

"Townhouse" means a series of individual houses, having architectural unity and a common wall between each unit. [L 1974, c 237, §2; am L 1993, c 15, §1; am L 2009, c 153, §3]

" **§196-3 Energy resources coordinator.** The director of business, economic development, and tourism shall serve as energy resources coordinator. [L 1974, c 237, §3; am L 1978, c 136, §1; am L 1991, c 31, §1]

" **§196-4 Powers and duties.** Subject to the approval of the governor, the coordinator shall:

(1) Formulate plans, including objectives, criteria to measure accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the optimum development of Hawaii's energy resources;

(2) Conduct systematic analysis of existing and proposed energy resource programs, evaluate the analysis conducted by government agencies and other organizations and recommend programs that represent the most effective allocation of resources for the development of energy resources;

(3) Formulate and recommend specific proposals, as necessary, for conserving energy resources, including the allocation and distribution thereof;

(4) Assist public and private agencies in implementing energy conservation and efficiency programs, the development of indigenous energy resources, and related measures;

(5) Coordinate the State's energy programs with those of the federal government, other state governments, governments of nations with interest in common energy resources, and the political subdivisions of the State;
(6) Develop programs to encourage private and public exploration, research, and development of indigenous energy resources that will benefit the State;
(7) Conduct public education programs to inform the public of the energy resources situation, as it may exist, from time to time and of the government actions taken;
(8) Serve as consultant to the governor, public agencies, and private industry on energy-related matters;
(9) Contract for services when required for the implementation of this chapter;
(10) Review proposed state actions that the coordinator finds to have significant effect on the State's energy objectives and report to the governor their effect on the energy program, and perform other services as may be required by the governor and the legislature;
(11) Prepare and submit an annual report and other reports as may be requested to the governor and to the legislature on the implementation of this chapter and all matters related to energy resources;
(12) Formulate a systematic process, including the development of requirements, to identify geographic areas that are rich with renewable energy resource potential that can be developed in a cost-effective and environmentally benign manner and designate these areas as renewable energy zones;
(13) Develop and recommend incentives, plans, and programs to encourage the development of renewable energy resource projects within the renewable energy zones;
(14) Assist public and private agencies in identifying utility transmission projects or infrastructure required to accommodate and facilitate the development of renewable energy resources;
(15) Assist public and private agencies, in coordination with the department of budget and finance, in accessing the use of special purpose revenue bonds to finance the engineering, design, and construction of transmission projects and infrastructure that are deemed critical to the development of renewable energy resources;
(16) Develop the criteria or requirements for identifying and qualifying specific transmission projects and infrastructure that are critical to the development of

renewable energy resources, including providing assistance in accessing the use of special purpose revenue bonds to finance the projects or infrastructure;

(17) Develop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets, both in-state and those to which Hawaii is directly tied, particularly in relation to the State's economy, and to recommend, develop proposals for, and assess the effectiveness of policy and regulatory decisions, and conduct energy emergency planning; and

(18) Adopt rules for the administration of this chapter pursuant to chapter 91. [L 1974, c 237, §4; am L 1978, c 136, §2; gen ch 1985; am L 2009, c 153, §4 and c 155, §5]

Cross References

County development of alternative energy resources, see §46-19.

" **[§196-5] Gas appliances with pilot light prohibited; exemptions.** (a) No new residential type gas appliance that is equipped with a pilot light shall be sold or installed in the State after June 30, 1980. Gas appliances sold after June 30, 1980, shall be equipped with an intermittent ignition system or other ignition devices in lieu of gas pilot lights.

(b) Beginning ninety days after May 30, 1978, the energy resources coordinator or its successor entity shall notify, in writing, all retail sellers of gas appliances doing business in the State of the provisions of this section.

(c) The provisions of this section shall not apply to any hot water heaters with pilot lights or to any gas appliance which can be conclusively demonstrated by the equipment manufacturer, to the satisfaction of the energy resources coordinator or its successor entity, that the gas pilot device in the appliance:

(1) Has a substantial lower life cycle cost than an electric ignition or other alternate ignition system;

(2) Is more energy efficient than available alternatives; or

(3) Is necessary to safeguard public health and safety.

(d) The provisions of this section shall not apply to people living in areas that are served with unreliable electric service or where it is not available.

(e) As used in this section:

(1) "Gas appliance" includes any new residential type heater, refrigerator, stove, range, dishwasher, dryer, air conditioner, decorative fireplace, or other similar devices;
(2) "Intermittent ignition device" means an ignition device which is activated only when the gas appliance is in operation; and
(3) "Pilot light" means any gas operated device that remains continually operated or lighted in order to ignite a gas appliance to normal operation. [L 1978, c 137, §2]

Revision Note

"May 30, 1978" substituted for "the effective date of this Act".

" **§196-6 Energy efficient storage hot water heaters.** (a) No new storage hot water heater which is not certified as meeting the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., as set forth as the current ASHRAE 90 Standard, shall be sold or installed in the State after June 1, 1985; provided, however, that nothing contained herein shall prevent sales from being made in the State for use outside the State.

(b) Any violation of subsection (a) shall be a misdemeanor; provided a fine of not less than $50 nor more than $500 shall be imposed, and all fines shall be imposed consecutively. Each storage hot water heater sold in violation of this section shall constitute a separate offense. [L 1984, c 124, §1; am L 2009, c 153, §5]

" **§196-6.5 Solar water heater system required for new single-family residential construction.** (a) On or after January 1, 2010, no building permit shall be issued for a new single-family dwelling that does not include a solar water heater system that meets the standards established pursuant to section 269-44, unless the coordinator approves a variance. A variance application shall only be accepted if submitted by an architect or mechanical engineer licensed under chapter 464, who attests that:
(1) Installation is impracticable due to poor solar resource;
(2) Installation is cost-prohibitive based upon a life cycle cost-benefit analysis that incorporates the average residential utility bill and the cost of the

new solar water heater system with a life cycle that does not exceed fifteen years;

(3) A renewable energy technology system, as defined in section 235-12.5, is substituted for use as the primary energy source for heating water; or

(4) A demand water heater device approved by Underwriters Laboratories, Inc., is installed; provided that at least one other gas appliance is installed in the dwelling. For the purposes of this paragraph, "demand water heater" means a gas-tankless instantaneous water heater that provides hot water only as it is needed.

(b) A request for a variance shall be submitted to the coordinator on an application prescribed by the coordinator and shall include a description of the location of the property and justification for the approval of a variance using the criteria established in subsection (a). A variance shall be deemed approved if not denied within thirty working days after receipt of the variance application. The coordinator shall publicize:

(1) All applications for a variance within seven days after receipt of the variance application; and

(2) The disposition of all applications for a variance within seven days of the determination of the variance application.

(c) The director of business, economic development, and tourism may adopt rules pursuant to chapter 91 to impose and collect fees to cover the costs of administering variances under this section. The fees, if any, shall be deposited into the energy security special fund established under section 201-12.8.

(d) Nothing in this section shall preclude any county from establishing procedures and standards required to implement this section.

(e) Nothing in this section shall preclude participation in any utility demand-side management program or public benefits fee program under part VII of chapter 269. [L 2008, c 204, §2; am L 2009, c 155, §14; am L 2010, c 175, §1]

Note

Photovoltaic rebate program (repealed June 30, 2013). L 2008, c 151.

" **§196-7 Placement of solar energy devices.** (a) Notwithstanding any law to the contrary, no person shall be prevented by any covenant, declaration, bylaws, restriction, deed, lease, term, provision, condition, codicil, contract, or similar binding agreement, however worded, from installing a solar energy device on any single-family residential dwelling or

townhouse that the person owns. Any provision in any lease, instrument, or contract contrary to the intent of this section shall be void and unenforceable.

(b) Every private entity shall adopt rules by December 31, 2006, that provide for the placement of solar energy devices, and revise those rules as necessary by July 1, 2011. The rules shall facilitate the placement of solar energy devices and shall not impose conditions or restrictions that render the device more than twenty-five per cent less efficient or increase the cost of installation, maintenance, and removal of the device by more than fifteen per cent. No private entity shall assess or charge any homeowner any fees for the placement of any solar energy device.

(c) Any person may place a solar energy device on any single-family residential dwelling or townhouse unit owned by that person, provided that:

(1) The device is in compliance with the rules and specifications adopted pursuant to subsection (b);

(2) The device is registered with the private entity of record within thirty days of installation; and

(3) If the device is placed on a common element or limited common element as defined by a project's declaration, the homeowner shall first obtain the consent of the private entity; provided further that such consent shall be given if the homeowner agrees in writing to:

(A) Comply with the private entity's design specification for the installation of the device;

(B) Engage a duly licensed contractor to install the device; and

(C) Within fourteen days of approval of the solar device by the private entity, provide a certificate of insurance naming the private entity as an additional insured on the homeowner's insurance policy.

(d) If a solar energy device is placed on a common element or limited common element:

(1) The owner and each successive owner of the single-family residential dwelling or townhouse unit on which the device is placed shall be responsible for any costs for damages to the device, the common elements, limited common elements, and any adjacent units, arising or resulting from the installation, maintenance, repair, removal, or replacement of the device. The repair, maintenance, removal, and replacement responsibilities shall be assumed by each successive owner until the solar energy device has been removed from the common elements or limited

common elements. The owner and each successive owner shall at all times have and maintain a policy of insurance covering the obligations of the owner under this paragraph and shall name the private entity as an additional insured under said policy; and

(2) The owner and any successive owner of the single-family residential dwelling or townhouse unit on which the device is placed shall be responsible for removing the solar energy device if reasonably necessary or convenient for the repair, maintenance, or replacement of the common elements or limited common elements.

(e) If there is an existing contractor's guarantee or manufacturer's labor or material warranty on the roof, roofing membrane, or roofing material on a roof that is a common element or limited common element, the contractor that installs a solar energy device on the roof shall notify the private entity in writing that the installation of a solar energy device may affect or void the roofing guarantees or warranties. If the private entity chooses to forgo the roofing guarantee or warranty, the contractor that installs a solar energy device shall obtain that decision in writing. Otherwise, the contractor that installs a solar energy device shall obtain the roofing manufacturer's written approval for that project and follow the roofing manufacturer's written instructions for waterproofing roof penetrations for the specific roofing material or coordinate the waterproofing with the contractor that issued the guarantee or warranty. If the penetrations for the installation of a solar energy device are waterproofed by the roofing contractor that provided the existing guarantee or warranty, the roofing contractor shall maintain the existing guarantee or warranty; provided that if either the roofing contractor's guaranty or the roofing manufacturer's warranty is no longer in effect, the contractor who installs the solar energy device and waterproofs the penetrations in accordance with this section shall apply the contractor's or lessor's standard labor and workmanship warranty. The homeowner shall provide the private entity with a copy of the applicable guarantee or warranty.

(f) For the purposes of this section:

"Private entity" means any association of homeowners, community association, condominium association, cooperative, or any other non-governmental entity with covenants, bylaws, and administrative provisions with which the homeowner's compliance is required.

"Solar energy device" means any identifiable facility, equipment, apparatus, or the like, including a photovoltaic cell application, that is applicable to a single-family residential

dwelling or townhouse and makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for generation; provided that "solar energy device" shall not include skylights or windows. [L 1992, c 268, §1; am L 2005, c 157, §2; am L 2010, c 201, §2; am L 2014, c 106, §2]

" **[§196-7.5] Placement of electric vehicle charging system.** (a) Notwithstanding any law to the contrary, no person shall be prevented by any covenant, declaration, bylaw, restriction, deed, lease, term, provision, condition, codicil, contract, or similar agreement, however worded, from installing an electric vehicle charging system on or near the parking stall of any multi-family residential dwelling or townhouse that the person owns. Any provision in any lease, instrument, or contract contrary to the intent of this section shall be void and unenforceable.

(b) Every private entity may adopt rules that reasonably restrict the placement and use of electric vehicle charging systems for the purpose of charging electrical vehicles in the parking stalls of any multi-family residential dwelling or townhouse; provided that those restrictions shall not prohibit the placement or use of electric vehicle charging systems altogether. No private entity shall assess or charge any homeowner any fees for the placement of any electric vehicle charging system; provided that the private entity may require reimbursement for the cost of electricity used by such electric vehicle charging system.

(c) Any person may place an electric vehicle charging system on or near the parking stall of any multi-family residential dwelling or townhouse unit owned by that person; provided that:

(1) The system is in compliance with any rules and specifications adopted pursuant to subsection (b);

(2) The system is registered with the private entity of record within thirty days of installation;

(3) If the system is placed on a common element or limited common element as defined by a project's declaration, the homeowner shall first obtain the consent of the private entity; provided further that such consent shall be given if the homeowner agrees in writing to:

(A) Comply with the private entity's design specification for the installation of the system;

(B) Engage a duly licensed contractor to install the system; and

(C) Within fourteen days of approval of the system by the private entity, provide a certificate of

insurance naming the private entity as an additional insured on the homeowner's insurance policy.

(d) If an electric vehicle charging system is placed on a common element or limited common element:

(1) The owner and each successive owner of the parking stall on which or near where the system is placed shall be responsible for any costs for damages to the system, common elements, limited common elements, and any adjacent units, arising or resulting from the installation, maintenance, repair, removal, or replacement of the system. The repair, maintenance, removal, and replacement responsibilities shall be assumed by each successive owner until the electric vehicle charging system has been removed from the common elements or limited common elements. The owner and each successive owner shall at all times have and maintain a policy of insurance covering the obligations of the owner under this paragraph and shall name the private entity as an additional insured under the policy; and

(2) The owner and any successive owner of the parking stall on which or near where the system is placed shall be responsible for removing the electric vehicle charging system if reasonably necessary or convenient for the repair, maintenance, or replacement of the common elements or limited common elements.

(e) For the purpose of this section:

"Electric vehicle charging system" means a system that is designed in compliance with Article 625 of the National Electrical Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging system may include several charge points simultaneously connecting several electric vehicles to the system.

"Private entity" means any association of homeowners, community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, and administrative provisions with which a homeowner's compliance is required. [L 2010, c 186, §1]

" **§196-8 REPEALED.** L 2006, c 96, §14.

Note

L 2006, c 240, §3 purports to amend this section.

" **[§196-8.5] Placement of clotheslines.** (a) Notwithstanding any law to the contrary, no person shall be prevented by any covenant, declaration, bylaws, restriction, deed, lease, term, provision, condition, codicil, contract, or similar binding agreement, however worded, from installing a clothesline on any single-family residential dwelling or townhouse that the person owns. Any provision in any lease, instrument, or contract contrary to the intent of this section shall be void and unenforceable.

(b) Every private entity may adopt rules that reasonably restrict the placement and use of clotheslines for the purpose of drying clothes on the premises of any single-family residential dwelling or townhouse; provided that those restrictions do not prohibit the use of clotheslines altogether. No private entity shall assess or charge any homeowner any fees for the placement of any clothesline.

(c) For the purposes of this section:

"Clothesline" means a rope, cord, wire, or similar device on which laundry is hung to dry.

"Private entity" means any association of homeowners, community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, and administrative provisions with which the homeowner's compliance is required. [L 2009, c 192, §2]

" **[§196-9] Energy efficiency and environmental standards for state facilities, motor vehicles, and transportation fuel.** (a) Each agency is directed to implement, to the extent possible, the following goals during planning and budget preparation and program implementation.

(b) With regard to buildings and facilities, each agency shall:

(1) Design and construct buildings meeting the Leadership in Energy and Environmental Design silver or two green globes rating system or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, except when the guideline, standard, or system interferes or conflicts with the use of the building or facility as an emergency shelter;

(2) Incorporate energy-efficiency measures to prevent heat gain in residential facilities up to three stories in height to provide R-19 or equivalent on roofs, R-11 or equivalent in walls, and high-performance windows to minimize heat gain and, if air conditioned, minimize cool air loss. R-value is the constant time rate resistance to heat flow through a unit area of a body

induced by a unit temperature difference between the surfaces. R-values measure the thermal resistance of building envelope components such as roof and walls. The higher the R-value, the greater the resistance to heat flow. Where possible, buildings shall be oriented to maximize natural ventilation and day-lighting without heat gain and to optimize solar for water heating. This provision shall apply to new residential facilities built using any portion of state funds or located on state lands;

(3) Install solar water heating systems where it is cost-effective, based on a comparative analysis to determine the cost-benefit of using a conventional water heating system or a solar water heating system. The analysis shall be based on the projected life cycle costs to purchase and operate the water heating system. If the life cycle analysis is positive, the facility shall incorporate solar water heating. If water heating entirely by solar is not cost-effective, the analysis shall evaluate the life cycle, cost-benefit of solar water heating for preheating water. If a multi-story building is centrally air conditioned, heat recovery shall be employed as the primary water heating system. Single family residential clients of the department of Hawaiian home lands and any agency or program that can take advantage of utility rebates shall be exempted from the requirements of this paragraph so they may continue to qualify for utility rebates for solar water heating;

(4) Implement water and energy efficiency practices in operations to reduce waste and increase conservation;

(5) Incorporate principles of waste minimization and pollution prevention, such as reducing, revising, and recycling as a standard operating practice in programs, including programs for waste management in construction and demolition projects and office paper and packaging recycling programs;

(6) Use life cycle cost-benefit analysis to purchase energy efficient equipment such as ENERGY STAR products and use utility rebates where available to reduce purchase and installation costs; and

(7) Procure environmentally preferable products, including recycled and recycled-content, bio-based, and other resource-efficient products and materials.

(c) With regard to motor vehicles and transportation fuel, each agency shall:

(1) Comply with Title 10, Code of Federal Regulations, Part 490, Subpart C, "Mandatory State Fleet Program", if applicable;
(2) Comply with all applicable state laws regarding vehicle purchases;
(3) Once federal and state vehicle purchase mandates have been satisfied, purchase the most fuel-efficient vehicles that meet the needs of their programs; provided that life cycle cost-benefit analysis of vehicle purchases shall include projected fuel costs;
(4) Purchase alternative fuels and ethanol blended gasoline when available;
(5) Evaluate a purchase preference for biodiesel blends, as applicable to agencies with diesel fuel purchases;
(6) Promote efficient operation of vehicles;
(7) Use the most appropriate minimum octane fuel; provided that vehicles shall use 87-octane fuel unless the owner's manual for the vehicle states otherwise or the engine experiences knocking or pinging;
(8) Beginning with fiscal year 2005-2006 as the baseline, collect and maintain, for the life of each vehicle acquired, the following data:
    (A) Vehicle acquisition cost;
    (B) United States Environmental Protection Agency rated fuel economy;
    (C) Vehicle fuel configuration, such as gasoline, diesel, flex-fuel gasoline/E85, and dedicated propane;
    (D) Actual in-use vehicle mileage;
    (E) Actual in-use vehicle fuel consumption; and
    (F) Actual in-use annual average vehicle fuel economy; and
(9) Beginning with fiscal year 2005-2006 as the baseline with respect to each agency that operates a fleet of thirty or more vehicles, collect and maintain, in addition to the data in paragraph (8), the following:
    (A) Information on the vehicles in the fleet, including vehicle year, make, model, gross vehicle weight rating, and vehicle fuel configuration;
    (B) Fleet fuel usage, by fuel;
    (C) Fleet mileage; and
    (D) Overall annual average fleet fuel economy and average miles per gallon of gasoline and diesel.

[L 2006, c 96, §4]

" **[§196-10] Hawaii renewable hydrogen program.** There is established, within the department of business, economic development, and tourism, a Hawaii renewable hydrogen program to manage the State's transition to a renewable hydrogen economy. The program shall design, implement, and administer activities that include:

(1) Strategic partnerships for the research, development, testing, and deployment of renewable hydrogen technologies;

(2) Engineering and economic evaluations of Hawaii's potential for renewable hydrogen use and near-term project opportunities for the State's renewable energy resources;

(3) Electric grid reliability and security projects that will enable the integration of a substantial increase of electricity from renewable energy resources on the island of Hawaii;

(4) Hydrogen demonstration projects, including infrastructure for the production, storage, and refueling of hydrogen vehicles;

(5) A statewide hydrogen economy public education and outreach plan focusing on the island of Hawaii, to be developed in coordination with Hawaii's public education institutions;

(6) Promotion of Hawaii's renewable hydrogen resources to potential partners and investors;

(7) A plan, for implementation during the years 2007 to 2010, to more fully deploy hydrogen technologies and infrastructure capable of supporting the island of Hawaii's energy needs, including:

(A) Expanded installation of hydrogen production facilities;

(B) Development of integrated energy systems, including hydrogen vehicles;

(C) Construction of additional hydrogen refueling stations; and

(D) Promotion of building design and construction that fully incorporates clean energy assets, including reliance on hydrogen-fueled energy generation;

(8) A plan, for implementation during the years 2010 to 2020, to transition the island of Hawaii to a hydrogen-fueled economy and to extend the application of the plan throughout the State; and

(9) Evaluation of policy recommendations to:

(A) Encourage the adoption of hydrogen-fueled vehicles;

(B) Continually fund the hydrogen investment capital special fund; and
(C) Support investment in hydrogen infrastructure, including production, storage, and dispensing facilities. [L 2006, c 240, §6]

Cross References

Hydrogen investment capital special fund, see §211F-5.7.

" **[§196-10.5] Hawaii clean energy initiative program.** (a) There is established within the department of business, economic development, and tourism, a Hawaii clean energy initiative program to manage the State's transition to a clean energy economy. The clean energy program shall design, implement, and administer activities that include:

(1) Strategic partnerships for the research, development, testing, deployment, and permitting of clean and renewable technologies;
(2) Engineering and economic evaluations of Hawaii's potential for near-term project opportunities for the State's renewable energy resources;
(3) Electric grid reliability and security projects that will enable the integration of a substantial increase of electricity from renewable-energy resources;
(4) A statewide clean energy public education and outreach plan to be developed in coordination with Hawaii's institutions of public education;
(5) Promotion of Hawaii's clean and renewable resources to potential partners and investors;
(6) A plan, to be implemented from 2011 to 2030, to transition the State to a clean energy economy; and
(7) A plan, to be implemented from 2011 to 2030, to assist each county in transitioning to a clean energy economy.

(b) Prior to the initiation of any activities authorized under subsection (a), the department of business, economic development, and tourism shall develop a plan of action with the intent of promoting effective prioritization and focusing of efforts consistent with the State's energy programs and objectives.

(c) The department of business, economic development, and tourism shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the status and progress of new and existing clean energy initiatives. The report shall also include:

(1) The spending plan of the Hawaii clean energy initiative program;
(2) All expenditures of energy security special fund moneys; and
(3) The targeted markets of the expenditures, including reasons for selecting those markets, the persons to be served, specific objectives of the program, and program expenditures, including measurable outcomes. [L 2010, c 73, §8]

Note

Establishing positions to manage energy projects funded by federal grants; reports to the legislature. L 2010, c 73, §9.

"[PART II.] ENERGY EFFICIENCY IN STATE FACILITIES

§196-11 Definitions. As used in this part:

"Acquisition" means acquiring by contract supplies or services, including construction, by and for the use of the State through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, or evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

"Agency" means any executive department, independent commission, board, bureau, office, or other establishment of the State, or any quasi-public institution that is supported in whole or in part by state funds.

"Commissioning" means a quality-oriented process, which takes place during design and construction, for achieving, verifying, and documenting that the performance of facilities, systems, and assemblies meets defined objectives and criteria with regards to energy conservation design strategies and the energy performance of buildings.

"Energy performance contract" shall have the same meaning as in section 36-41(d), and shall additionally include commissioning and retro-commissioning.

"ENERGY STAR" means a labeling program introduced by the United States Environmental Protection Agency in 1992 as a voluntary labeling program designed to identify and promote energy-efficient products, in order to reduce carbon dioxide emissions.

"Exempt facility" or "exempt mobile equipment" means a facility or mobile equipment for which an agency utilizes criteria established by the energy resources coordinator to determine that compliance with this part is not practical.

"Facility" means a building or buildings or similar structure owned or leased by, or otherwise under the jurisdiction of, an agency.

"Life-cycle cost-effective" means the life-cycle costs of a product, project, or measure that are estimated to be equal to or less than the base case, i.e., current or standard practice or product.

"Life-cycle costs" means the sum of the present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs, and disposal costs, over the lifetime of the project, product, or measure.

"Mobile equipment" means any state-owned vessel, aircraft, or off-road vehicle.

"Renewable energy" means energy produced by solar, energy conserved by passive solar design/daylighting, ocean thermal, wind, wave, geothermal, waste-to-energy, or biomass power.

"Renewable energy technology" means technology that uses renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities. The term includes the use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design/daylighting.

"Retro-commissioning" means a quality-oriented process, which takes place after systems have been placed in operation, for achieving, verifying, and documenting that the performance of facilities, systems, and assemblies perform as closely as possible to defined performance criteria, with regards to energy conservation design strategies and the energy performance of buildings.

"Source energy" means the energy that is used at a site and consumed in producing and delivering energy to a site, including power generation, transmission, and distribution losses, and that is used to perform a specific function, such as space conditioning, lighting, or water heating.

"Utility" means a public utility as defined in section 269-1. Utility includes federally owned nonprofit producers, county organizations, and investor or privately owned producers regulated by the state or federal government, cooperatives owned by members and providing services mostly to their members, and other nonprofit state and county agencies serving in this capacity.

"Utility energy-efficiency service" means demand-side management services provided by a utility to improve the

efficiency of use of the commodity, such as electricity and gas being distributed. Services may include energy efficiency and renewable energy project auditing, financing, design, installation, operation, maintenance, and monitoring. [L 2002, c 77, pt of §9; am L 2007, c 157, §§1, 2]

" **§§196-12 to 17 REPEALED.** L 2006, c 96, §§15 to 20.

" **§196-18 REPEALED.** L 2008, c 25, §1.

" **[§196-19] Life-cycle cost analysis.** Agencies shall use life-cycle cost analysis in making decisions about their investments in products, services, construction, and other projects to lower the State's costs and to reduce energy and water consumption. Where appropriate, agencies shall consider the life-cycle costs of combinations of projects, particularly to encourage bundling of energy efficiency projects with renewable energy projects.

Agencies shall retire inefficient equipment on an accelerated basis where replacement results in lower life-cycle costs. Agencies that minimize life-cycle costs with efficiency measures shall be recognized in their scorecard evaluations established under section 196-17(a). [L 2002, c 77, pt of §9]

Note

Section 196-17(a) referred to in text is repealed.

" **§196-20 REPEALED.** L 2006, c 96, §21.

" **§196-21 Financing mechanisms.** (a) Agencies shall maximize their use of available alternative financing contracting mechanisms, including energy-savings contracts, when life-cycle cost-effective, to reduce energy use and cost in their facilities and operations. Energy-savings contracts shall include:

(1) Energy performance contracts;

(2) Municipal lease and purchase financing; and

(3) Utility energy-efficiency service contracts.

Energy-savings contracts shall provide significant opportunities for making state facilities more energy efficient at no net cost to taxpayers.

(b) Agencies that perform energy efficiency and renewable energy system retrofitting may continue to receive budget appropriations for energy expenditures at an amount that will not fall below the pre-retrofitting energy budget but will rise in proportion to any increase in the agency's overall budget for

the duration of the performance contract or project payment term. A portion of the moneys saved through efficiency and renewable energy system retrofitting shall be set aside to pay for any costs directly associated with administering energy efficiency and renewable energy system retrofitting programs incurred by the agency.

(c) Notwithstanding any law to the contrary relating to the award of public contracts, any agency desiring to enter into an energy performance contract shall do so in accordance with the following provisions:

(1) The agency shall issue a public request for proposals, advertised in the same manner as provided in chapter 103D, concerning the provision of energy-efficiency services or the design, installation, operation, and maintenance of energy equipment. The request for proposals shall contain terms and conditions relating to submission of proposals, evaluation, and selection of proposals, financial terms, legal responsibilities, and other matters as may be required by law and as the agency determines appropriate;

(2) Upon receiving responses to the request for proposals, the agency shall select the most qualified proposal or proposals and may base its determination on the basis of the experience and qualifications of the proposers, the technical approach, the financial arrangements, the overall benefits to the agency, or other factors determined by the agency to be relevant and appropriate;

(3) The agency thereafter may negotiate and enter into an energy performance contract with the person or company whose proposal is selected as the most qualified based on the criteria established by the agency;

(4) The term of any energy performance contract entered into pursuant to this section shall not exceed twenty years;

(5) Any energy performance contract may provide that the agency ultimately shall receive title to the energy system being financed under the contract; and

(6) Any energy performance contract shall provide that total payments shall not exceed total savings. [L 2002, c 77, pt of §9; am L 2006, c 96, §7; am L 2007, c 157, §3]

" **§196-22 State energy projects.** State energy projects may be implemented under this chapter with the approval of the comptroller and the director of finance or their designees. In addition, this section shall be construed to provide the

greatest possible flexibility to agencies in structuring agreements so that economic benefits and existing energy incentives may be used and maximized, and financing and other costs to agencies may be minimized. The specific terms of energy performance contracting under section 36-41 may be altered if deemed advantageous to the agency and approved by the director of finance and the comptroller. [L 2002, c 77, pt of §9; am L 2004, c 216, §21; am L 2006, c 96, §8; am L 2007, c 157, §4]

" **§196-23 Energy efficient products.** (a) Agencies shall select, when life-cycle cost-effective, ENERGY STAR and other energy efficient products when acquiring energy-using products. For product groups where ENERGY STAR labels are not yet available, agencies may select products that are in the upper twenty-five per cent of energy efficiency as designated by the United States Department of Energy, Office of Energy Efficiency and Renewable Energy, federal energy management program.

(b) Agencies shall incorporate energy-efficient criteria consistent with designated energy-efficiency levels into product specification language developed for all purchasing procedures.

(c) The State shall consider the creation of financing agreements with private sector suppliers to provide private funding to offset higher up-front costs of efficient products.

(d) Agencies entering into leases, including the renegotiation or extension of existing leases, shall:

(1) Incorporate lease provisions that encourage energy and water efficiency wherever life-cycle cost-effective. Build-to-suit lease solicitations shall contain criteria encouraging sustainable design and development, energy efficiency, and verification of facility performance;

(2) Include a preference for facilities having an ENERGY STAR building label in their selection criteria for acquiring leased facilities; and

(3) Encourage lessors to apply for an ENERGY STAR building label and to explore and implement projects that will reduce costs to the State, including projects carried out through the lessors' energy-savings contracts. [L 2002, c 77, pt of §9; am L 2006, c 96, §9]

" **§§196-24 to 29 REPEALED.** L 2006, c 96, §§22 to 27.

" **[§196-30] Public buildings; benchmarks; retro-commissioning guidelines; energy savings performance contracts.** (a) By December 31, 2010, each state department with responsibilities for the design and construction of public

buildings and facilities shall benchmark every existing public building that is either larger than five thousand square feet or uses more than eight thousand kilowatt-hours of electricity or energy per year and shall use the benchmark as a basis for determining the State's investment in improving the efficiency of its own building stock. Benchmarking shall be conducted using the ENERGY STAR portfolio management or equivalent tool. The energy resources coordinator shall provide training to affected departments on the ENERGY STAR portfolio management or equivalent tool.

(b) Public buildings shall be retro-commissioned no less often than every five years. The energy resources coordinator shall establish retro-commissioning guidelines by January 1, 2010.

(c) Departments may enter into energy savings performance contracts with a third party to cover the capital costs of energy-efficiency measures and distributed generation provided the terms of the energy savings performance contracts conform to the benchmark standard. The comptroller may review and exempt specific projects as appropriate to take into account cost-effectiveness.

Energy savings performance contracts shall be executed according to state guidelines issued by the comptroller, and the contracts shall be reviewed by the comptroller. To expedite energy savings performance contracting for public buildings, the department of accounting and general services shall develop a master energy savings performance contracts agreement that any department may use to contract with an energy savings performance contracts provider for energy-efficiency and renewable energy services.

(d) For existing public buildings that undergo a major retrofit or renovation, the department or departments responsible for design and construction shall make investments in efficiency; provided that the cost of the measures shall be recouped within twenty years. [L 2009, c 155, pt of §11]

"[PART III. OTHER PROVISIONS]

[§196-41] State support for achieving renewable portfolio standards. (a) The department of land and natural resources and department of business, economic development, and tourism shall facilitate the private sector's development of renewable energy projects by supporting the private sector's attainment of the renewable portfolio standards in section 269-92. Both departments shall provide meaningful support in areas relevant to the mission and functions of each department as provided in

this section, as well as in other areas the directors of each department may deem appropriate.

(b) The department of land and natural resources shall:

(1) Develop and publish a catalog by December 31, 2006, and every five years thereafter, of potential sites for the development of renewable energy; and

(2) Work with electric utility companies and with other renewable energy developers on all applicable planning and permitting processes to expedite the development of renewable energy resources.

(c) The department of business, economic development, and tourism shall:

(1) Develop a program to maximize the use of renewable energy and cost-effective conservation measures by state government agencies;

(2) Work with federal agencies to develop as much research, development and demonstration funding, and technical assistance as possible to support Hawaii in its efforts to achieve its renewable portfolio standards; and

(3) Biennially, beginning in January 2006, issue a progress report to the governor and legislature. [L 2004, c 95, pt of §2]

Revision Note

Section was enacted as an addition to chapter 269, but is renumbered to this chapter pursuant to §23G-15.

Cross References

Renewable portfolio standards, see §§269-91 to 269-96.

" **§196-42 State support for achieving alternate fuels standards.** The State shall facilitate the development of alternate fuels and support the attainment of a statewide alternate fuels standard of ten per cent of highway fuel demand to be provided by alternate fuels by 2010, fifteen per cent by 2015, twenty per cent by 2020, and thirty per cent by 2030. For purposes of the alternate fuels standard, ethanol produced from cellulosic materials shall be considered the equivalent of two and one-half gallons of noncellulosic ethanol. "Alternate fuels" shall have the same meaning as contained in 10 Code of Federal Regulations Part 490; provided that it shall also include liquid or gaseous fuels produced from renewable feedstocks such as organic wastes, or from water using

electricity from renewable energy sources. [L 2006, c 240, §5; am L 2010, c 175, §2]

"[PART IV.] GREEN INFRASTRUCTURE LOANS

[§196-61] Definitions. As used in this part:

"Authority" means the Hawaii green infrastructure authority as established under section 196-63.

"Bond" means any bond, note, and other evidence of indebtedness that is issued by the State pursuant to part X of chapter 269.

"Clean energy technology" means any technology as defined in section 269-121(b).

"Department" means the department of business, economic development, and tourism, or any successor by law.

"Director" means the director of business, economic development, and tourism, or the director's designee.

"Financing order" means the same as defined in section 269-161.

"Financing party" means the same as defined in section 269-161.

"Green infrastructure bond fund" means the special fund created pursuant to section 196-67.

"Green infrastructure charge" means the on-bill charges for the use and services of the loan program, including the repayment of loans made under the loan program, as authorized by the public utilities commission to be imposed on electric utility customers.

"Green infrastructure costs" means costs incurred or to be incurred by the electric utility customers to pay for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure including, without limitation, the purchase or installation of green infrastructure equipment, programs, and services authorized by the loan program.

"Green infrastructure equipment" means infrastructure improvements, equipment, and personal property to be installed to deploy clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure.

"Green infrastructure fee" means the same as defined in section 269-161.

"Green infrastructure loan program order" means the same as defined in section 269-161.

"Green infrastructure property" means the same as defined in section 269-161.

"Green infrastructure special fund" means the special fund created pursuant to section 196-65.

"Loan program" and "green infrastructure loans" means the program established by this part and loans made to finance the purchase or installation of green infrastructure equipment for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services as authorized by the public utilities commission using the proceeds of bonds or other proceeds. [L 2013, c 211, pt of §2]

" **[§196-62] Hawaii green infrastructure loan program.** There is established a Hawaii green infrastructure loan program, which shall be a loan program as defined under section 39-51. The program shall be administered by the authority on behalf of the department in a manner consistent with chapter 39, part III. This loan program may include loans made to private entities, whether corporations, partnerships, limited liability companies, or other persons, which entities may lease or provide green infrastructure equipment to electric utility customers, as well as direct loans to electric utility customers, on terms approved by the authority. [L 2013, c 211, pt of §2]

" **[§196-63] Hawaii green infrastructure authority.** There is established the Hawaii green infrastructure authority as an instrumentality of the State comprising five members. The director, the director of finance, and the energy program administrator of the department shall be members of the authority. The governor shall appoint the other two members, pursuant to section 26-34. The director shall be the chairperson of the authority. The authority shall be placed within the department for administrative purposes, pursuant to section 26-35; provided that until the authority is duly constituted, the department may exercise all powers reserved to the authority and shall perform all responsibilities of the authority. [L 2013, c 211, pt of §2]

" **[§196-64] Functions, powers, and duties of the authority.** (a) In the performance of, and with respect to the functions, powers, and duties vested in the authority by this part, the authority, as directed by the director and in accordance with a green infrastructure loan program order or orders under section 269-171 or an annual plan submitted by the authority pursuant to this section, as approved by the public utilities commission may:

(1) Make loans and expend funds to finance the purchase or installation of green infrastructure equipment for

clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services;

(2) Hold and invest moneys in the green infrastructure special fund in investments as permitted by law and in accordance with approved investment guidelines established in one or more orders issued by the public utilities commission pursuant to section 269-171;

(3) Hire employees necessary to perform its duties, including an executive director. The executive director shall be appointed by the authority, and the employees' positions, including the executive director's position, shall be exempt from chapter 76;

(4) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that are necessary and proper for the implementation of the loan program;

(5) Enter into contracts for the administration of the loan program, without the necessity of complying with chapter 103D;

(6) Establish loan program guidelines to be approved in one or more orders issued by the public utilities commission pursuant to section 269-171 to carry out the purposes of this part;

(7) Be audited at least annually by a firm of independent certified public accountants selected by the authority, and provide the results of this audit to the department and the public utilities commission; and

(8) Perform all functions necessary to effectuate the purposes of this part.

(b) The authority shall submit to the public utilities commission an annual plan for review and approval no later than ninety days prior to the start of each fiscal year. The annual plan submitted by the authority shall include the authority's projected operational budget for the succeeding fiscal year. [L 2013, c 211, pt of §2]

" **[§196-65] Hawaii green infrastructure special fund.** (a) There is established the Hawaii green infrastructure special fund into which shall be deposited:

(1) The proceeds of bonds net of issuance costs and reserves or overcollateralization amounts;

(2) Green infrastructure charges received for the use and services of the loan program, including the repayment of loans made under the loan program;

(3) All other funds received by the department or the authority and legally available for the purposes of the green infrastructure special fund;
(4) Interest earnings on all amounts in the green infrastructure special fund; and
(5) Such other moneys as shall be permitted by an order of the public utilities commission.

The Hawaii green infrastructure special fund shall not be subject to section 37-53. Any amounts received from green infrastructure charges or any other net proceeds earned from the allocation, use, expenditure, or other disposition of amounts approved by the public utilities commission and deposited or held in the Hawaii green infrastructure special fund in excess of amounts necessary for the purposes of subsection (b) shall be credited to electric utility customers as provided in a green infrastructure loan program order or orders. Funds that are transferred back to the electric utility in order to credit electric utility customers under this subsection shall not be considered revenue of the electric utility and shall not be subject to state or county taxes.

(b) Moneys in the Hawaii green infrastructure special fund may be used, subject to the approval of the public utilities commission, for the purposes of:
(1) Making green infrastructure loans;
(2) Paying administrative costs of the Hawaii green infrastructure loan program;
(3) Paying any other costs related to the Hawaii green infrastructure loan program; or
(4) Paying financing costs, as defined in section 269-161, to the extent permitted by the public utilities commission in a financing order issued pursuant to section 269-163.

(c) The authority may invest funds held in the Hawaii green infrastructure special fund in investments as permitted by law, and in accordance with approved investment guidelines established in one or more orders issued by the public utilities commission pursuant to section 269-171. All amounts in the Hawaii green infrastructure special fund shall be exempt from all taxes and surcharges imposed by the State or the counties. [L 2013, c 211, pt of §2]

" **[§196-66] Use of Hawaii green infrastructure special fund; application.** (a) The authority shall apply to the public utilities commission for one or more orders to effectuate the Hawaii green infrastructure loan program, pursuant to section 269-170.

Nothing herein shall preclude the department from applying for a financing order, pursuant to section 269-162, prior to the issuance of an order or orders to effectuate the Hawaii green infrastructure loan program under section 269-171, nor from requesting consolidation of the proceeding for a financing order with such a loan program implementation order.

(b) An application shall be submitted by the authority to the public utilities commission in accordance with section 269-170.

(c) In accordance with an approved green infrastructure loan program order or orders, the authority shall utilize the proceeds of bonds and other amounts deposited in the Hawaii green infrastructure special fund pursuant to [section] 196-65, or to the extent permitted by a financing order, to pay financing costs, as defined in section 269-161.

(d) Within the order or orders issued by the public utilities commission under section 269-171, the authority shall obtain approval from the public utilities commission requiring the electric utilities to serve as agents to bill and collect the green infrastructure charge imposed to repay green infrastructure costs and transfer all green infrastructure charges collected to the authority on behalf of the department. Notwithstanding anything to the contrary, electric utilities shall not be obligated to bill, collect, or remit green infrastructure charges from nonutility customers. [L 2013, c 211, pt of §2]

" **[§196-67] Hawaii green infrastructure bond fund.** (a) There is established the Hawaii green infrastructure bond fund as a special fund into which all proceeds of the green infrastructure fee established pursuant to section 269-166 and any other proceeds of green infrastructure property shall be paid. The Hawaii green infrastructure bond fund may also receive other moneys as the department may determine and as provided in a financing order, including, without limitation, green infrastructure charges.

(b) Moneys in the Hawaii green infrastructure bond fund shall be impressed with the lien created by, and shall be used solely for purposes set forth in, section 269-164. Upon payment or defeasance of all bonds and financing costs, moneys in the fund, at the direction of the department, may be transferred into the Hawaii green infrastructure special fund established pursuant to section 196-65 or other purpose as the department shall specify.

(c) The Hawaii green infrastructure bond fund shall be audited at least annually by a firm of independent certified public accountants selected by the department, and the results

of this audit shall be provided to the department and the public utilities commission.

(d) Pursuant to section 39-68, the department shall appoint a trustee to receive, hold, and disburse all amounts required to be held in the Hawaii green infrastructure bond fund upon terms and conditions as set forth in a certificate, indenture, or trust agreement.

The Hawaii green infrastructure bond fund shall not be subject to section 37-53. [L 2013, c 211, pt of §2]

" **[§196-68] Compliance with revenue bond law.** For purposes of assuring conformity of and compliance with part III of chapter 39, it is determined as follows:

(1) For purposes of section 39-51, "revenues" shall include the green infrastructure fee and the proceeds of green infrastructure property; "loan program" shall include the loan program authorized under section 196-62; and "undertaking" shall include financing of the loan program through the issuance of green infrastructure revenue bonds;

(2) In addition and supplemental to any covenants recognized under section 39-60, any resolution, certificate, or indenture approved by the department may have additional or alternative covenants as may be consistent with this chapter, and the department may enter into a trust indenture, servicing agreement, or other financing documents having terms and conditions consistent with the financing order issued under section 269-163;

(3) In addition and supplemental to the power to impose rates, rentals, fees, or charges required under section 39-61, the department shall impose, adjust, and collect the green infrastructure fee as provided in section 269-166 and the financing order issued pursuant thereto; and

(4) In addition and supplemental to the uses specified in section 39-62, the green infrastructure fee shall be applied as provided in this chapter, the financing order, the certificate issued by the department, and any financing documents executed by the department in connection with the bonds. [L 2013, c 211, pt of §2]

" **[§196-69] Reporting; annual report.** The authority shall submit a report to the legislature on the authority's activities in administering the loan program no later than twenty days prior to the convening of each regular session beginning with the regular session of 2015. The report shall include a

description and uses of the loan program; summary information and analytical data concerning the implementation of the loan program; summary information and analytical data concerning deployment of clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services; and repayments made or credits provided to electric utility customers under this part or chapter 269, part X. [L 2013, c 211, pt of §2]

" **[§196-70] Severability.** If any provision of this part is held to be invalid or is superseded, replaced, repealed, or expires for any reason:

(1) That occurrence shall not affect any action allowed under this part that is taken prior to that occurrence by the public utilities commission, an electric utility, the department, the authority, a bondholder, or any financing party, and any such action shall remain in full force and effect; and

(2) The validity and enforceability of the rest of this part shall remain unaffected. [L 2013, c 211, pt of §2]