

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE ENROLLED ACT No. 1261

AN ACT to amend the Indiana Code concerning renewable energy.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-8.8-10, AS AMENDED BY P.L.151-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 10. (a) As used in this chapter "renewable energy resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:
 - (A) Agricultural crops.
 - (B) Agricultural wastes and residues.
 - (C) Wood and wood wastes, including the following:
 - (i) Wood residues.
 - (ii) Forest thinnings.
 - (iii) Mill residue wood.
 - (iv) ~~Waste from clean construction and demolition.~~
 - (D) Animal wastes.
 - (E) Animal byproducts.**
 - ~~(F)~~ **(F) Aquatic plants.**
 - (G) Algae.**

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- (6) Hydropower from existing dams.
- (7) Fuel cells.
- (8) Energy from waste to energy facilities.
- (9) Energy storage systems.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

- (1) Tires.
- (2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.

SECTION 2. IC 15-11-2-3, AS AMENDED BY P.L.71-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. The department shall do the following:

- (1) Provide administrative and staff support for the following:
 - (A) The state fair board for purposes of carrying out the director's duties under IC 15-13-5.
 - (B) The Indiana corn marketing council for purposes of administering the duties of the director under IC 15-15-12.
 - (C) The Indiana organic peer review panel under IC 15-15-8.
 - (D) The Indiana dairy industry development board for purposes of administering the duties of the director under IC 15-18-5.
 - (E) The Indiana land resources council under IC 15-12-5.
 - (F) The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.
 - (G) The Indiana grain indemnity corporation under IC 26-4-3.
 - (H) The division.
 - (I) The ~~E85 fueling station~~ **agricultural biomass infrastructure** grant program under IC 15-11-11.
- (2) Administer the election of state fair board members under IC 15-13-5.
- (3) Administer state programs and laws promoting agricultural trade.
- (4) Administer state livestock or agriculture marketing grant programs.
- (5) Administer economic development efforts for agriculture by doing the following:
 - (A) Promoting value added agricultural resources.
 - (B) Marketing Indiana agriculture to businesses internationally.

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- (C) Assisting Indiana agricultural businesses with developing partnerships with the Indiana economic development corporation.
- (D) Soliciting private funding for selective economic development and trade initiatives.
- (E) Providing for the orderly economic development and growth of Indiana's agricultural economy.
- (F) Facilitating the use of biomass **(as defined in IC 15-11-11-0.7)** and algae production systems to generate renewable energy.

SECTION 3. IC 15-11-11-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 0.3. As used in this chapter, "biofuels" means biomass converted into liquid or gaseous fuels.**

SECTION 4. IC 15-11-11-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 0.7. As used in this chapter, "biomass" means agriculturally based sources of renewable energy, including the following:**

- (1) **Agricultural crops.**
- (2) **Agricultural wastes and residues.**
- (3) **Wood and wood byproducts, including the following:**
 - (A) **Wood residue.**
 - (B) **Forest thinning.**
 - (C) **Mill residue wood.**
- (4) **Animal wastes.**
- (5) **Animal byproducts.**
- (6) **Aquatic plants.**
- (7) **Algae.**

The term does not include waste from construction and demolition.

SECTION 5. IC 15-11-11-3, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 3. As used in this chapter, "location" refers to one (1) or more parcels of land that:**

- (1) have a common access to a public highway; and
- (2) are or would appear to the reasonable ~~person~~ **individual** making an observation from a public highway to be part of the same business.

SECTION 6. IC 15-11-11-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 4.3. As**

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used in this chapter, "person" means:

- (1) an individual;
- (2) an agricultural producer;
- (3) a partnership;
- (4) a corporation;
- (5) a limited liability company; or
- (6) an unincorporated association.

SECTION 7. IC 15-11-11-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 4.7. As used in this chapter, "project" refers to the production or distribution of biofuels through the use of a renewable energy system infrastructure.**

SECTION 8. IC 15-11-11-5, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 5. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred:**

- (1) after June 30, 2007, to do either of the following:
 - (+) (A) Purchase any part of a renewable fuel compatible fueling station for the purpose of:
 - (A) (i) installing the new renewable fuel compatible fuel station at a location on which a fueling station is not located; or
 - (B) (ii) converting an existing fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.
 - (-) (B) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants; or
- (2) after December 31, 2009, for the installation of a renewable energy system infrastructure that uses commercial technologies to produce or distribute biofuels. It does not include a cost or expense for:
 - (A) research and development;
 - (B) land acquisition;
 - (C) agricultural tillage equipment;
 - (D) salaries; or
 - (E) other noninfrastructure purposes determined ineligible by the department.

SECTION 9. IC 15-11-11-7, AS ADDED BY P.L.91-2008,

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SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 7. (a) Subject to subsection (c), the department may award a grant under this chapter to a person or unit that:

- (1) makes a qualified investment and
- ~~(2)~~ places the qualified investment in service in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles;
- or**
- (2) places a qualified investment in service in Indiana for the production or distribution of biofuels.**

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the department and the office of energy and defense development.

(c) The department may not award more than one (1) grant under this chapter for a:

- (1) renewable fuel compatible fueling station at a location; or**
- (2) project.**

SECTION 10. IC 15-11-11-8, AS ADDED BY P.L.91-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 8. (a) Subject to ~~subsection~~ **subsections (b) and (c)**, the department and the office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter for a **renewable fuel compatible fueling station at a location** may not exceed the lesser of the following:

- (1) The amount of the grant recipient's qualified investment for the location.
- (2) Twenty thousand dollars (\$20,000).

(c) A grant awarded under this chapter for a project must be awarded on a competitive basis and may not exceed the lesser of:

- (1) fifty percent (50%) of the grant recipient's qualified investment for the project; or**
- (2) one hundred thousand dollars (\$100,000).**

~~(c)~~ **(d)** The amount of a grant awarded under this chapter for a location **or project** may be less than the amount of the grant recipient's qualified investment for the location **or project**.

SECTION 11. IC 15-11-11-11, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 11. (a) The ~~E85 fueling station~~ **agricultural biomass infrastructure** grant fund is established to provide grants under this chapter.

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(b) The fund consists of appropriations from the general assembly.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

SECTION 12. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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