

STATE OF NEW YORK

7805--A

2019-2020 Regular Sessions

IN ASSEMBLY

May 23, 2019

Introduced by M. of A. CUSICK, PAULIN -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to municipal sustainable energy loan programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 119-ff of the general municipal law, as added by
2 chapter 497 of the laws of 2009, subdivision 6 as amended by chapter 320
3 of the laws of 2017, is amended to read as follows:

4 § 119-ff. Definitions. For purposes of this article:

5 1. "Authority" means the New York state energy research and develop-
6 ment authority, as defined by subdivision two of section eighteen
7 hundred fifty-one of the public authorities law, or its successor.

8 2. "Credit support" means and includes direct loans, letters of cred-
9 it, loan guarantees, and insurance products; and the purchase of or
10 commitment to purchase, or the sale of or commitment to sell, debt
11 instruments, including subordinated securities.

12 3. "Energy audit" means a formal evaluation of the energy consumption
13 of a permanent building or structural improvement to real property,
14 conducted by a contractor certified by the authority, or certified by a
15 certifying entity approved by the authority for purposes of this arti-
16 cle, for the purpose of identifying appropriate energy efficiency
17 improvements that could be made to or incorporated into the construction
18 of the property. A municipal corporation may, by local law, provide for
19 the certification of such contractors based upon criteria at least as
20 stringent as the state-wide criteria for certification adopted by the
21 authority for purposes of this article.

22 4. "Energy efficiency improvement" means [~~and includes~~] any improve-
23 ment to real property, whether as a component of the new construction of
24 a building or as the renovation or retrofitting of [~~a~~] an existing

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 building to reduce energy consumption, such as window and door replace-
2 ment, lighting, caulking, weatherstripping, air sealing, insulation, and
3 heating and cooling system upgrades, energy controls, energy recovery
4 systems and similar improvements, determined to be cost-effective pursu-
5 ant to criteria established by the authority. However, "energy efficien-
6 cy improvement" shall not include [~~lighting measures or~~] household
7 appliances and other items or equipment that are not permanently fixed
8 to real property.

9 5. "Municipal corporation" means a county, town, city or village.

10 6. "Real property" means any property, an interest in which is or is
11 eligible to be recorded or registered on municipal land ownership
12 records by the possessor of such interest.

13 7. "Renewable energy system" means an energy generating system for the
14 generation of electric or thermal energy, to be used primarily at such
15 property, except when the owner of real property is a commercial entity,
16 by means of solar thermal, solar photovoltaic, wind, geothermal, anaero-
17 bic digester gas-to-electricity systems, fuel cell technologies, or
18 other renewable energy technology approved by the authority not includ-
19 ing the combustion or pyrolysis of solid waste.

20 [~~7-~~] 8. "Renewable energy system feasibility study" means a written
21 study, conducted by a contractor certified by the authority, or certi-
22 fied by a certifying entity approved by the authority for purposes of
23 this article, for the purpose of determining the feasibility of install-
24 ing a renewable energy system. A municipal corporation may, by local
25 law, provide for the certification of such contractors based upon crite-
26 ria at least as stringent as the state-wide criteria for certification
27 adopted by the authority for purposes of this article.

28 § 2. Section 119-gg of the general municipal law, as added by chapter
29 497 of the laws of 2009, subdivisions 1 and 6 as amended by chapter 320
30 of the laws of 2017, is amended to read as follows:

31 § 119-gg. Sustainable energy loan program. 1. The legislative body of
32 any municipal corporation may, by local law, establish a sustainable
33 energy loan program using federal grant assistance or federal credit
34 support or monies from the state of New York or any state authority as
35 defined by section two of the public authorities law available for this
36 purpose.

37 2. Such program may [~~make~~] provide loans to the owners of real proper-
38 ty located within the municipal corporation to finance the installation
39 of renewable energy systems and energy efficiency improvements, related
40 energy audits and renewable energy system feasibility studies, and the
41 verification of the installation of such systems and improvements. No
42 [~~municipal corporation~~] program shall [~~make~~] provide such a loan to an
43 owner of property that has [~~received~~] been provided a loan from another
44 [~~municipal corporation pursuant to this article~~] program in the same
45 municipality.

46 3. Each such local law establishing [~~the~~] a sustainable energy loan
47 program shall provide for the criteria for making such loans and the
48 terms and conditions for repayment of such loans. [~~The~~] Each sustaina-
49 ble energy loan program shall use such lists of cost effective energy
50 efficiency improvements for different building types as are approved by
51 the authority.

52 4. The municipal corporation shall verify and report on the installa-
53 tion and performance of renewable energy systems and energy efficiency
54 improvements financed by the loan program in such form and manner as the
55 authority may [~~establish~~] require.

1 5. Every loan made under the sustainable energy loan program shall be
2 repaid over a term not to exceed the weighted average of the useful life
3 of such systems and improvements as determined by the municipal corpo-
4 ration. The municipal corporation shall ~~[set]~~ require that each program
5 loan have a fixed rate of interest for the repayment of the principal
6 amount of each loan at the time the loan is made.

7 6. a. ~~[For loans made to an owner of real property that is a commer-~~
8 ~~cial entity, not for profit organization, or entity other than an indi-~~
9 ~~vidual]~~ Except as set forth in paragraph b of this subdivision, the
10 municipal corporation shall have the authority to impose requirements on
11 the maximum amount that may be borrowed through such loan, which may
12 consider factors including but not limited to the property value,
13 projected savings, project cost, and existing indebtedness secured by
14 such property.

15 b. For loans made to ~~[an owner of real property who is an individual]~~
16 a person for a residential building with two units or less, the princi-
17 pal amount of each such loan, excluding interest, shall not exceed the
18 lesser of ten percent of the appraised real property value which, in the
19 case of new construction, may be based on the appraised real property
20 value of the real property as it is to be improved, or the actual cost
21 of installing the renewable energy system and energy efficiency improve-
22 ments, including the costs of necessary equipment, materials, and labor,
23 the costs of each related energy audit and renewable energy system
24 feasibility study, and the cost of verification of such renewable energy
25 system and energy efficiency improvements.

26 7. No such loan shall be made for energy efficiency improvements
27 unless determined to be appropriate through an energy audit, and no such
28 loan shall be made for a renewable energy system unless determined to be
29 feasible through a renewable energy system feasibility study.

30 8. The loan made under the sustainable energy loan program shall
31 constitute a lien upon the real property benefitted by such loan.

32 9. The municipal corporation may require the loan made under the
33 sustainable energy loan program to be repaid by the property owner
34 through a charge on the real property benefitted by such loan. Such
35 charge shall be on the real property and shall be levied and collected
36 at the same time and in the same manner as municipal taxes, or as other-
37 wise provided [that such] by local law. Such charge shall be separately
38 listed on the tax bill, and ~~[provided further that in the event such~~
39 ~~charge should not be]~~ if not paid in a timely manner, no other municipal
40 corporation shall be required to credit or otherwise guarantee the
41 amount of such unpaid charge to the municipal corporation which author-
42 ized the loan, notwithstanding any provision of law to the contrary.

43 § 3. This act shall take effect immediately.