

# STATE OF NEW YORK

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7362

2021-2022 Regular Sessions

## IN ASSEMBLY

May 6, 2021

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Introduced by M. of A. THIELE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority, in relation to the utility debt securitization authority; and in relation to permitting the issuance of securitized restructuring bonds to finance system resiliency costs; and to amend the public authorities law, in relation to certain contracts by the Long Island power authority

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

1 Section 1. Legislative findings. The legislature hereby finds and  
2 determines that the establishment of the utility debt securitization  
3 authority under part B of chapter 173 of the laws of 2013, as amended,  
4 permitted the issuance of securitized restructuring bonds on favorable  
5 terms which resulted in lower aggregate distribution, transmission and  
6 transition charges to Long Island ratepayers, compared to other avail-  
7 able alternatives, and the purposes of such act will be further advanced  
8 by amending such act to permit the issuance of additional such bonds  
9 subject to a limit on the outstanding principal amount thereof and to  
10 allow such bonds to be issued to refund bonds of the utility debt secu-  
11 ritization authority. The legislature finds and determines that improve-  
12 ments to the transmission and distribution system of the Long Island  
13 Power Authority to increase resiliency and better withstand the effects  
14 of climate change are necessary, and that issuance of securitized  
15 restructuring bonds by the Utility Debt Securitization Authority may  
16 allow the funding of such improvements on more favorable terms than if  
17 such bonds were issued by the Long Island Power Authority. The legisla-  
18 ture hereby further finds and determines that it is in the interest of  
19 Long Island ratepayers for the comptroller to exercise oversight over

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

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1 the issuance of securitized restructuring bonds and contracts entered  
2 into on behalf of the service provider.

3 § 2. Subdivision 2 of section 2 of part B of chapter 173 of the laws  
4 of 2013 relating to the issuance of securitized restructuring bonds to  
5 refinance the outstanding debt of the Long Island power authority, is  
6 amended to read as follows:

7 2. "Approved restructuring costs" means, to the extent approved as  
8 such under a restructuring cost financing order, (a) costs of purchas-  
9 ing, redeeming or defeasing a portion of outstanding debt of the author-  
10 ity or the restructuring bond issuer, including bonds and notes issued  
11 by the authority or the restructuring bond issuer, debt issued by the  
12 New York state energy research and development authority for the benefit  
13 of the LILCO; (b) costs of terminating interest rate swap contracts and  
14 other financial contracts entered into by or for the benefit of the  
15 authority and related to debt obligations of the authority; (c) rebate,  
16 yield reduction payments and any other amounts payable to the United  
17 States Treasury or to the Internal Revenue Service to preserve or  
18 protect the federal tax-exempt status of outstanding debt obligations of  
19 the authority; [~~and~~] (d) upfront financing costs associated with  
20 restructuring bonds; and (e) system resiliency costs.

21 § 3. Subdivision 11 of section 2 of part B of chapter 173 of the laws  
22 of 2013 relating to the issuance of securitized restructuring bonds to  
23 refinance the outstanding debt of the Long Island power authority, as  
24 amended by section 2-a of part W of chapter 58 of the laws of 2015, is  
25 amended to read as follows:

26 11. "Restructuring bonds" means bonds or other evidences of indebt-  
27 edness that are issued pursuant to an indenture or other agreement of  
28 the restructuring bond issuer under a restructuring cost financing order  
29 (a) the proceeds of which are used, directly or indirectly, to recover,  
30 finance, or refinance approved restructuring costs, (b) that are direct-  
31 ly or indirectly secured by, or payable from, restructuring property,  
32 and (c) that have a term no longer than thirty years [~~and (d) that have~~  
33 ~~a final scheduled maturity date no later than the final scheduled matu-~~  
34 ~~rity date of the authority bonds purchased, redeemed or defeased with~~  
35 ~~the proceeds of such restructuring bonds~~].

36 § 4. Section 2 of part B of chapter 173 of the laws of 2013 relating  
37 to the issuance of securitized restructuring bonds to refinance the  
38 outstanding debt of the Long Island power authority, is amended by  
39 adding a new subdivision 17-a to read as follows:

40 17-a. "System resiliency costs" means, to the extent approved as such  
41 under a restructuring cost financing order, costs of rebuilding, improv-  
42 ing or constructing transmission and distribution system assets to  
43 increase resiliency of such assets, better withstand changes in climate,  
44 absorb impacts from outage-inducing events, and recover quickly from  
45 outages including but not limited to, improvements to and replacement of  
46 poles and wires, moving power lines underground, raising substations,  
47 constructing flood barriers, and system automation and costs of purchas-  
48 ing, redeeming or defeasing debt of the authority incurred to finance  
49 such costs or reimbursing the authority for amounts already spent on  
50 such costs.

51 § 5. Subdivision 1 of section 3 of part B of chapter 173 of the laws  
52 of 2013 relating to the issuance of securitized restructuring bonds to  
53 refinance the outstanding debt of the Long Island power authority, is  
54 amended to read as follows:

55 1. Standard. The authority may, subject to approval of the comptroller  
56 in consultation with the department of public service, prepare a

1 restructuring cost financing order (a) for the purpose of issuing  
2 restructuring bonds to refinance outstanding debt of the authority or  
3 the restructuring bond issuer based on a finding that such bond issuance  
4 is expected to result in savings to consumers of electric transmission  
5 and distribution services in the service area on a net present value  
6 basis; or (b) for the purpose of issuing restructuring bonds to finance  
7 system resiliency costs based on a finding that funding of such system  
8 resiliency costs by the issuer would result in lower costs to consumers  
9 of electric transmission and distribution services in the service area  
10 on a net present value basis than funding of such costs by the  
11 authority.

12 § 6. Paragraph (a) of subdivision 1 of section 4 of part B of chapter  
13 173 of the laws of 2013 relating to the issuance of securitized restruc-  
14 turing bonds to refinance the outstanding debt of the Long Island power  
15 authority, as amended by section 3 of part W of chapter 58 of the laws  
16 of 2015, is amended to read as follows:

17 (a) For the purpose of effectuating the purposes declared in section  
18 one of this act, there is hereby created a special purpose corporate  
19 municipal instrumentality of the state to be known as "utility debt  
20 securitization authority", which shall be a body corporate and politic,  
21 a political subdivision of the state, and a public benefit corporation,  
22 exercising essential governmental and public powers for the good of the  
23 public. Such restructuring bond issuer shall not be created or organ-  
24 ized, and its operations shall not be conducted, for the purpose of  
25 making a profit. No part of the revenues or assets of such restructuring  
26 bond issuer shall inure to the benefit of or be distributable to its  
27 trustees or officers or any other private persons, except as herein  
28 provided for actual services rendered. ~~[The aggregate principal amount~~  
29 ~~of restructuring bonds authorized to be issued by restructuring bond~~  
30 ~~issuers created pursuant to this act shall not exceed]~~ No more than four  
31 billion five hundred million dollars aggregate principal amount of  
32 restructuring bonds issued by restructuring bond issuers created pursu-  
33 ant to this act shall be outstanding at any time. For the purposes of  
34 this section, restructuring bonds shall not be deemed to be outstanding  
35 if they have matured or if they have been paid or redeemed or provision  
36 for payment or redemption of such bonds shall have been made.

37 § 7. Subparagraphs (i) and (iv) of paragraph (a) of subdivision 2 of  
38 section 4 of part B of chapter 173 of the laws of 2013 relating to the  
39 issuance of securitized restructuring bonds to refinance the  
40 outstanding debt of the Long Island power authority, subparagraph (i) as  
41 amended and subparagraph (iv) as added by section 4 of part W of chapter  
42 58 of the laws of 2015, are amended to read as follows:

43 (i) issue the restructuring bonds contemplated by a restructuring cost  
44 financing order, and use the proceeds thereof to purchase or acquire,  
45 and to own, hold and use restructuring property or to pay or fund  
46 upfront financing costs ~~[provided, however, that the restructuring bond~~  
47 ~~issuer shall not issue restructuring bonds for the purpose of refunding~~  
48 ~~other restructuring bond]~~;

49 (iv) [only] issue restructuring bonds of which the final scheduled  
50 maturity date of any series of restructuring bonds shall be no later  
51 than ~~[the final scheduled maturity date of the authority bonds to be~~  
52 ~~purchased, redeemed or defeased with the proceeds of such restructuring~~  
53 ~~bonds]~~ thirty years from the date of issuance of such restructuring  
54 bonds.

1 § 8. Subdivision 2 of section 1020-cc of the public authorities law,  
2 as added by section 11 of part A of chapter 173 of the laws of 2013,  
3 is amended to read as follows:

4 2. The authority and service provider shall provide to the state comp-  
5 troller on March thirty-first and September thirtieth of each year a  
6 report documenting each contract in excess of two hundred fifty thousand  
7 dollars per year entered into with a third party and related to manage-  
8 ment and operation services associated with the authority's electric  
9 transmission and distribution system, including the name of the third  
10 party, the contract term and a description of services or goods to be  
11 procured, and post such report on each of their websites. All contracts  
12 in excess of five hundred thousand dollars entered into between the  
13 service provider and third parties are [~~not~~] subject to the requirements  
14 of subdivision one of this section, unless such contracts are entered  
15 into for the procurement of goods, services or both goods and services  
16 made to meet emergencies arising from unforeseen causes or to effect  
17 repairs to critical infrastructure that are necessary to avoid a delay  
18 in the delivery of critical services that could compromise the public  
19 welfare.

20 § 9. This act shall take effect immediately.