

# STATE OF NEW YORK

9170

## IN ASSEMBLY

February 12, 2024

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

AN ACT to amend the public authorities law, in relation to establishing the green affordable pre-electrification program

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "green affordable pre-electrification fund" (GAP fund).

3 § 2. Legislative intent. The legislature finds that a significant  
4 portion of the state's residential buildings are old and in disrepair.  
5 This limits the eligibility of low- and moderate-income households for  
6 residential energy efficiency, electrification, weatherization, instal-  
7 lation of insulation, and resiliency programs (empower+). These programs  
8 often do not cover the costs associated with renovations that would make  
9 such homes eligible for such programs. Given the limitation of these  
10 programs to help make these homes eligible, there is a critical need to  
11 fund such improvements if the state is to comprehensively reduce emis-  
12 sions from residential buildings and achieve our climate goals.

13 § 3. The public authorities law is amended by adding a new section  
14 1872-b to read as follows:

15 § 1872-b. Green affordable pre-electrification program. 1. Defi-  
16 nitions. For the purposes of this section:

17 (a) "Home" shall mean a residential dwelling which is owner or tenant  
18 occupied.

19 (b) "Eligible applicant" shall mean an owner or tenant of a residen-  
20 tial building who would be ineligible for, or who has been denied, any  
21 local, state or federal incentives, grants or loans for improvements or  
22 projects relating to climate change adaptation and resiliency due to  
23 structural deficiencies or code violations which make the building or  
24 property ineligible or unsuitable for such improvements or projects. The  
25 authority may also include as an eligible applicant; a city, town or  
26 village; a housing development fund company incorporated pursuant to  
27 article eleven of the private housing finance law which has as one of  
28 its primary purposes the improvement of housing; a municipal housing

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

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1 authority created pursuant to the public housing law; a public benefit  
2 corporation formed to assist particular municipalities with their hous-  
3 ing, community development or renewal needs; or a county, provided,  
4 however, that the county acts as an administrator of a program under  
5 which projects are constructed, rehabilitated or improved by other  
6 eligible applicants or acts in any other capacity as permitted by law.

7 (c) "Financial awards" shall mean incentives, grants or loans, as  
8 determined appropriate by the authority.

9 (d) "Eligible rehabilitation projects" shall mean any work necessary  
10 to bring a structure into compliance with applicable building codes and  
11 regulations or other improvements needed to make the building eligible  
12 for local, state, or federal programs, incentives, grants, or loans  
13 related to implementing home improvements relating to climate change  
14 adaptation and resiliency, including, but not limited to, energy effi-  
15 ciency, electrification, weatherization, or the installation of insu-  
16 lation. Projects under this section shall not include the installation,  
17 repair, or updating of equipment which uses fossil fuels including, but  
18 not limited to, gasoline, natural gas, diesel, home heating oil, or  
19 coal.

20 2. General and administrative provisions. The authority shall promul-  
21 gate rules and regulations for the administration of this section, in  
22 consultation with the division of housing and community renewal, to  
23 provide financial and technical assistance for the completion of eligi-  
24 ble rehabilitation projects. Such rules and regulations shall include  
25 provisions concerning the eligibility of grantees for state financial  
26 awards; funding criteria and the funding determination process; super-  
27 vision and evaluation of the awardees; and such other matters not incon-  
28 sistent with the purposes and provisions of this section as the authori-  
29 ty shall deem necessary. The authority may provide technical services  
30 and assistance, or contract to provide technical services and assist-  
31 ance, to awardees to facilitate compliance with the provisions and  
32 intent of this section which may include, but shall not be limited to,  
33 construction skills training, home inspection, financial packaging, and  
34 engineering and architectural services necessary for the preparation of  
35 proposals for entering into contracts or for the continued operation of  
36 projects.

37 3. Green rehabilitation contracts. (a) Subject to available appropri-  
38 ations, the authority is hereby authorized to enter into contracts with  
39 eligible applicants to provide financial awards for the completion of  
40 eligible rehabilitation projects, subject to the terms and conditions of  
41 this section. Any financial award received by a municipality hereunder  
42 shall not be deemed to be municipal funds. Recipients of financial  
43 awards shall utilize funds provided pursuant to this section solely to  
44 cover or reduce the cost of eligible rehabilitation projects. No more  
45 than fifty percent of the total amount appropriated pursuant to this  
46 section in any fiscal year shall be allocated to homes located within a  
47 single municipality.

48 (b) The authority shall streamline the application process by incorpo-  
49 rating the green affordable pre-electrification program into the eligi-  
50 bility section of existing program applications offered by the authori-  
51 ty.

52 (c) Applicants may apply to the green affordable pre-electrification  
53 program concurrently with other existing programs upon the applicant's  
54 provision of information detailing eligible rehabilitation projects that  
55 would cause the applicant to be denied funding under other existing  
56 programs. Notwithstanding any section of law to the contrary, such

1 concurrent application or the provision of a financial award by the  
2 authority shall not be cause to deny the application for funding under  
3 other existing programs.

4 (d) Financial awards provided pursuant to this section shall cover one  
5 hundred percent of associated costs for owners or tenants with incomes  
6 up to eighty percent of the state median income, and seventy-five  
7 percent of associated costs for owners or tenants with incomes between  
8 eighty-one and one hundred fifty percent of the area median income,  
9 whichever is greater. Notwithstanding the foregoing, the authority may  
10 cap total financial awards for each project pursuant to the following  
11 schedule:

12 (i) For a residential building with up to four dwelling units: (A) a  
13 maximum award of forty thousand dollars per unit where owners or tenants  
14 have incomes up to eighty percent of the state or the area median  
15 income, whichever is greater; and (B) a maximum award of thirty-five  
16 thousand dollars per unit where owners or tenants have incomes between  
17 eighty-one and one hundred fifty percent of the state or the area median  
18 income, whichever is greater;

19 (ii) For a residential building with more than four but less than  
20 fifty dwelling units: (A) a maximum award of twenty-five thousand  
21 dollars per unit where owners or tenants have incomes up to eighty  
22 percent of the state or the area median income, whichever is greater;  
23 and (B) a maximum award of twenty thousand dollars per unit where owners  
24 or tenants have incomes between eighty-one and one hundred fifty percent  
25 of the state or the area median income, whichever is greater; and

26 (iii) For a residential building with more than fifty dwelling units a  
27 maximum award of fifteen thousand dollars per unit where owners or  
28 tenants have incomes up to one hundred fifty percent of the state or the  
29 area median income, whichever is greater.

30 (e) The authority may cap total financial awards for each project.

31 (f) The eligible applicant shall be responsible to secure all neces-  
32 sary descriptions of expenses for eligible projects and associated  
33 costs.

34 (g) Eligible rehabilitation projects, if not completed by a not-for-  
35 profit corporation, may be completed by a private contractor who has  
36 agreed to limit their profit in accordance with a formula established by  
37 the authority.

38 (h) The authority shall prioritize the contracting of financial awards  
39 to projects located within an area which is an environmental justice  
40 community, blighted, deteriorated or deteriorating, or has a blighting  
41 influence on the surrounding area, or is in danger of becoming a slum or  
42 a blighted area because of the existence of substandard, insanitary,  
43 deteriorating or deteriorated conditions, aged housing stock, or vacant  
44 non-residential property, or other factors indicating an inability or  
45 unwillingness of the private sector unaided to cause the rehabilitation  
46 of homes for which financial awards under this section are provided.

47 (i) The authority shall provide applicants with a list of conditions  
48 that must be met prior to entering into a contract pursuant to this  
49 section. Within fifteen working days of receipt by the authority of all  
50 documents in satisfaction of the list, the authority shall notify the  
51 applicant of the sufficiency or insufficiency of the documentation.  
52 After satisfaction by the applicant of all conditions required by the  
53 authority, and a determination of eligibility, the authority shall enter  
54 into the contract within forty-five working days of satisfaction of such  
55 conditions provided, however, that sufficient funding is available.

1 (j) In the case of projects that receive financial awards of over  
2 forty thousand dollars, the authority may establish restrictions on the  
3 sale of the residence or its subunits to qualified low-income homebuyers  
4 for a period of at least sixty years, but no more than ninety-nine  
5 years, and the authority may ensure this restriction by use of deed  
6 restrictions, community land trusts, or limited-equity cooperative  
7 ownership structures.

8 (k) In determining financial awards pursuant to this section, the  
9 authority shall give preference to applications based upon the extent to  
10 which the proposed rehabilitation project will:

11 (i) serve the lowest income households in the applicable region and is  
12 designed to continue to be affordable to such households for a substan-  
13 tial period of time;

14 (ii) leverage private and other public investment so as to reduce the  
15 amount of assistance provided pursuant to this section which is neces-  
16 sary to complete such projects;

17 (iii) contribute to the rehabilitation of the neighborhood or communi-  
18 ty in which the program is located;

19 (iv) not directly displace current low- and moderate-income residents  
20 of such neighborhood or community;

21 (v) be undertaken and completed in a timely fashion; and

22 (vi) utilize innovative, cost-effective design techniques and building  
23 materials which enable the deconstruction of structures and reuse or  
24 recycling of such deconstructed materials, and which reduce  
25 construction, rehabilitation, or operating costs.

26 (l) The authority shall provide for the review, at periodic intervals  
27 not less than annually, of the performance of contracted applicants and  
28 related rehabilitation projects receiving financial awards pursuant to  
29 this section. Such review shall, among other things, be for the purposes  
30 of ascertaining conformity to contractual provisions, the financial  
31 integrity and efficiency of awardees and the evaluation of their activ-  
32 ities. Contracts entered into pursuant to this section may be termi-  
33 nated, funds may be withheld and unspent funds recaptured by the author-  
34 ity upon a finding of substantial nonperformance or breach by the  
35 awardee of its obligations under its contract.

36 (m) No contract made pursuant to this section shall be less than forty  
37 thousand dollars with respect to a home owned or occupied by residents  
38 earning less than eighty-one percent of area median income or state  
39 median income, whichever is greater.

40 4. Reporting. No later than September first following the first fiscal  
41 year commencing after the effective date of this section, and each  
42 September first thereafter, the authority shall prepare a report on the  
43 green affordable pre-electrification program pursuant to this section  
44 and submit such report to the governor, the temporary president of the  
45 senate, and the speaker of the assembly. Such report shall include, but  
46 not be limited to: the total number of applicants, the numbers of appli-  
47 cants accepted and rejected, and the number of applications pending for  
48 that fiscal year; the total number and value of financial awards  
49 disbursed; the identification of barriers to the utilization of finan-  
50 cial awards and proposed solutions for the removal of those barriers to  
51 effectuate disbursement of financial awards.

52 5. Labor standards. The authority shall establish a quality control,  
53 corrective action, and inspection process to ensure that work quality is  
54 acceptable and durable. Any contractor performing work under this  
55 section shall verify that they have entered into a labor peace agreement  
56 with a bona fide labor organization that is actively engaged in repres-

1 enting or attempting to represent the applicant's employees and the  
2 maintenance of such a labor peace agreement shall be an ongoing material  
3 condition of receiving funds from the authority.

4 § 4. Severability. If any clause, sentence, paragraph, subdivision,  
5 section or part of this act shall be adjudged by any court of competent  
6 jurisdiction to be invalid, such judgment shall not affect, impair, or  
7 invalidate the remainder thereof, but shall be confined in its operation  
8 to the clause, sentence, paragraph, subdivision, section or part thereof  
9 directly involved in the controversy in which such judgment shall have  
10 been rendered. It is hereby declared to be the intent of the legislature  
11 that this act would have been enacted even if such invalid provisions  
12 had not been included herein.

13 § 5. This act shall take effect immediately.