

Twentieth Extraordinary Session

S E N A T E - A S S E M B L Y

November 10, 2009

IN SENATE -- Introduced by Sens. THOMPSON, AUBERTINE, BRESLIN, STACHOWSKI, VALESKY, C. JOHNSON, FOLEY, PARKER -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Sweeney, Cahill, Englebright, Hevesi, Lupardo, Silver) -- (at request of the Governor) -- read once and referred to the Committee on Energy

AN ACT to amend the general municipal law, in relation to authorizing municipalities to create a municipal sustainable energy loan program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general municipal law is amended by adding a new article 5-L to read as follows:

3 ARTICLE 5-L

4 MUNICIPAL SUSTAINABLE ENERGY LOAN PROGRAM

5 SECTION 119-EE. LEGISLATIVE FINDINGS AND DECLARATION.

6 119-FF. DEFINITIONS.

7 119-GG. SUSTAINABLE ENERGY LOAN PROGRAM.

8 S 119-EE. LEGISLATIVE FINDINGS AND DECLARATION. THE LEGISLATURE FINDS  
9 AND DECLARES THAT IT IS THE POLICY OF THE STATE TO ACHIEVE STATEWIDE  
10 ENERGY EFFICIENCY AND RENEWABLE ENERGY GOALS, REDUCE GREENHOUSE GAS  
11 EMISSIONS AND MITIGATE THE EFFECT OF GLOBAL CLIMATE CHANGE, AND ADVANCE  
12 A CLEAN ENERGY ECONOMY; AND THAT TO ACHIEVE SUCH POLICY AND GOALS THE  
13 STATE MUST PROMOTE THE DEPLOYMENT OF RENEWABLE ENERGY SYSTEMS AND ENERGY  
14 EFFICIENCY MEASURES THROUGHOUT THE STATE; AND THAT MUNICIPALITIES WOULD  
15 FULFILL AN IMPORTANT PUBLIC PURPOSE BY PROVIDING LOANS TO PROPERTY  
16 OWNERS FOR THE INSTALLATION OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFI-  
17 CIENCY MEASURES.

18 S 119-FF. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

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

1 1. "AUTHORITY" MEANS THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-  
2 MENT AUTHORITY, AS DEFINED BY SUBDIVISION TWO OF SECTION EIGHTEEN  
3 HUNDRED FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW, OR ITS SUCCESSOR.

4 2. "CREDIT SUPPORT" MEANS AND INCLUDES DIRECT LOANS, LETTERS OF CRED-  
5 IT, LOAN GUARANTEES, AND INSURANCE PRODUCTS; AND THE PURCHASE OF OR  
6 COMMITMENT TO PURCHASE, OR THE SALE OF OR COMMITMENT TO SELL, DEBT  
7 INSTRUMENTS, INCLUDING SUBORDINATED SECURITIES.

8 3. "ENERGY AUDIT" MEANS A FORMAL EVALUATION OF THE ENERGY CONSUMPTION  
9 OF A PERMANENT BUILDING OR STRUCTURAL IMPROVEMENT TO REAL PROPERTY,  
10 CONDUCTED BY A CONTRACTOR CERTIFIED BY THE AUTHORITY, OR CERTIFIED BY A  
11 CERTIFYING ENTITY APPROVED BY THE AUTHORITY FOR PURPOSES OF THIS ARTI-  
12 CLE, FOR THE PURPOSE OF IDENTIFYING APPROPRIATE ENERGY EFFICIENCY  
13 IMPROVEMENTS THAT COULD BE MADE TO THE PROPERTY. IN ANY CITY WITH A  
14 POPULATION OF ONE MILLION OR MORE, THE CITY MAY, BY LOCAL LAW, PROVIDE  
15 FOR THE CERTIFICATION OF SUCH CONTRACTORS BASED UPON CRITERIA AT LEAST  
16 AS STRINGENT AS THE STATE-WIDE CRITERIA FOR CERTIFICATION ADOPTED BY THE  
17 AUTHORITY FOR PURPOSES OF THIS ARTICLE.

18 4. "ENERGY EFFICIENCY IMPROVEMENT" MEANS AND INCLUDES ANY RENOVATION  
19 OR RETROFITTING OF A BUILDING TO REDUCE ENERGY CONSUMPTION, SUCH AS  
20 WINDOW AND DOOR REPLACEMENT, LIGHTING, CAULKING, WEATHERSTRIPPING, AIR  
21 SEALING, INSULATION, AND HEATING AND COOLING SYSTEM UPGRADES, AND SIMI-  
22 LAR IMPROVEMENTS, DETERMINED TO BE COST-EFFECTIVE PURSUANT TO CRITERIA  
23 ESTABLISHED BY THE AUTHORITY. HOWEVER, "ENERGY EFFICIENCY IMPROVEMENT"  
24 SHALL NOT INCLUDE LIGHTING MEASURES OR HOUSEHOLD APPLIANCES THAT ARE NOT  
25 PERMANENTLY FIXED TO REAL PROPERTY.

26 5. "MUNICIPAL CORPORATION" MEANS A COUNTY, TOWN, CITY OR VILLAGE.

27 6. "RENEWABLE ENERGY SYSTEM" MEANS AN ENERGY GENERATING SYSTEM FOR THE  
28 GENERATION OF ELECTRIC OR THERMAL ENERGY, TO BE USED PRIMARILY AT SUCH  
29 PROPERTY, BY MEANS OF SOLAR THERMAL, SOLAR PHOTOVOLTAIC, WIND, GEOTHER-  
30 MAL, ANAEROBIC DIGESTER GAS-TO-ELECTRICITY SYSTEMS, FUEL CELL TECHNOLO-  
31 GIES, OR OTHER RENEWABLE ENERGY TECHNOLOGY APPROVED BY THE AUTHORITY NOT  
32 INCLUDING THE COMBUSTION OR PYROLYSIS OF SOLID WASTE.

33 7. "RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY" MEANS A WRITTEN STUDY,  
34 CONDUCTED BY A CONTRACTOR CERTIFIED BY THE AUTHORITY, OR CERTIFIED BY A  
35 CERTIFYING ENTITY APPROVED BY THE AUTHORITY FOR PURPOSES OF THIS ARTI-  
36 CLE, FOR THE PURPOSE OF DETERMINING THE FEASIBILITY OF INSTALLING A  
37 RENEWABLE ENERGY SYSTEM. IN ANY CITY WITH A POPULATION OF ONE MILLION  
38 OR MORE, THE CITY MAY, BY LOCAL LAW, PROVIDE FOR THE CERTIFICATION OF  
39 SUCH CONTRACTORS BASED UPON CRITERIA AT LEAST AS STRINGENT AS THE  
40 STATE-WIDE CRITERIA FOR CERTIFICATION ADOPTED BY THE AUTHORITY FOR  
41 PURPOSES OF THIS ARTICLE.

42 S 119-GG. SUSTAINABLE ENERGY LOAN PROGRAM. 1. THE LEGISLATIVE BODY OF  
43 ANY MUNICIPAL CORPORATION MAY, BY LOCAL LAW, ESTABLISH A SUSTAINABLE  
44 ENERGY LOAN PROGRAM USING FEDERAL GRANT ASSISTANCE OR FEDERAL CREDIT  
45 SUPPORT AVAILABLE FOR THIS PURPOSES.

46 2. SUCH PROGRAM MAY MAKE LOANS TO THE OWNERS OF REAL PROPERTY LOCATED  
47 WITHIN THE MUNICIPAL CORPORATION TO FINANCE THE INSTALLATION OF RENEWA-  
48 BLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS, RELATED ENERGY  
49 AUDITS AND RENEWABLE ENERGY SYSTEM FEASIBILITY STUDIES, AND THE VERIFI-  
50 CATION OF THE INSTALLATION OF SUCH SYSTEMS AND IMPROVEMENTS. NO MUNICI-  
51 PAL CORPORATION SHALL MAKE SUCH A LOAN TO AN OWNER OF PROPERTY THAT HAS  
52 RECEIVED A LOAN FROM ANOTHER MUNICIPAL CORPORATION PURSUANT TO THIS  
53 ARTICLE.

54 3. EACH SUCH LOCAL LAW ESTABLISHING THE SUSTAINABLE ENERGY LOAN  
55 PROGRAM SHALL PROVIDE FOR THE CRITERIA FOR MAKING SUCH LOANS AND THE  
56 TERMS AND CONDITIONS FOR REPAYMENT OF SUCH LOANS. THE SUSTAINABLE ENER-

1 GY LOAN PROGRAM SHALL USE SUCH LISTS OF COST EFFECTIVE ENERGY EFFICIENCY  
2 IMPROVEMENTS FOR DIFFERENT BUILDING TYPES AS ARE APPROVED BY THE AUTHOR-  
3 ITY.

4 4. THE MUNICIPAL CORPORATION SHALL VERIFY AND REPORT ON THE INSTALLA-  
5 TION AND PERFORMANCE OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY  
6 IMPROVEMENTS FINANCED BY THE LOAN PROGRAM IN SUCH FORM AND MANNER AS THE  
7 AUTHORITY MAY ESTABLISH.

8 5. EVERY LOAN MADE UNDER THE SUSTAINABLE ENERGY LOAN PROGRAM SHALL BE  
9 REPAID OVER A TERM NOT TO EXCEED THE WEIGHTED AVERAGE OF THE USEFUL LIFE  
10 OF SUCH SYSTEMS AND IMPROVEMENTS AS DETERMINED BY THE MUNICIPAL CORPO-  
11 RATION. THE MUNICIPAL CORPORATION SHALL SET A FIXED RATE OF INTEREST  
12 FOR THE REPAYMENT OF THE PRINCIPAL AMOUNT OF EACH LOAN AT THE TIME THE  
13 LOAN IS MADE.

14 6. THE PRINCIPAL AMOUNT OF EACH SUCH LOAN, EXCLUDING INTEREST, SHALL  
15 NOT EXCEED THE LESSER OF TEN PERCENT OF THE APPRAISED REAL PROPERTY  
16 VALUE OR THE ACTUAL COST OF INSTALLING THE RENEWABLE ENERGY SYSTEM AND  
17 ENERGY EFFICIENCY IMPROVEMENTS, INCLUDING THE COSTS OF NECESSARY EQUIP-  
18 MENT, MATERIALS, AND LABOR, THE COSTS OF EACH RELATED ENERGY AUDIT AND  
19 RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY, AND THE COST OF VERIFICATION  
20 OF SUCH RENEWABLE ENERGY SYSTEM AND ENERGY EFFICIENCY IMPROVEMENTS.

21 7. NO SUCH LOAN SHALL BE MADE FOR ENERGY EFFICIENCY IMPROVEMENTS  
22 UNLESS DETERMINED TO BE APPROPRIATE THROUGH AN ENERGY AUDIT, AND NO SUCH  
23 LOAN SHALL BE MADE FOR A RENEWABLE ENERGY SYSTEM UNLESS DETERMINED TO BE  
24 FEASIBLE THROUGH A RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY.

25 8. THE LOAN MADE UNDER THE SUSTAINABLE ENERGY LOAN PROGRAM SHALL  
26 CONSTITUTE A LIEN UPON THE REAL PROPERTY BENEFITTED BY SUCH LOAN.

27 9. THE MUNICIPAL CORPORATION MAY REQUIRE THE LOAN MADE UNDER THE  
28 SUSTAINABLE ENERGY LOAN PROGRAM TO BE REPAID BY THE PROPERTY OWNER  
29 THROUGH A CHARGE ON THE REAL PROPERTY BENEFITTED BY SUCH LOAN. SUCH  
30 CHARGE SHALL BE ON THE REAL PROPERTY AND SHALL BE LEVIED AND COLLECTED  
31 AT THE SAME TIME AND IN THE SAME MANNER AS MUNICIPAL TAXES, PROVIDED  
32 THAT SUCH CHARGE SHALL BE SEPARATELY LISTED ON THE TAX BILL, AND  
33 PROVIDED FURTHER THAT IN THE EVENT SUCH CHARGE SHOULD NOT BE PAID IN A  
34 TIMELY MANNER, NO OTHER MUNICIPAL CORPORATION SHALL BE REQUIRED TO CRED-  
35 IT OR OTHERWISE GUARANTEE THE AMOUNT OF SUCH UNPAID CHARGE TO THE MUNIC-  
36 IPAL CORPORATION WHICH AUTHORIZED THE LOAN, NOTWITHSTANDING ANY  
37 PROVISION OF LAW TO THE CONTRARY.

38 S 2. This act shall take effect immediately.