S T A T E O F N E W Y O R K

S. 4 A. 4

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:

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

ARTICLE 5-L

MUNICIPAL SUSTAINABLE ENERGY LOAN PROGRAM

SECTION 119-EE. LEGISLATIVE FINDINGS AND DECLARATION.

119-FF. DEFINITIONS.

119-GG. SUSTAINABLE ENERGY LOAN PROGRAM.

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

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

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

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

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

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

6. "RENEWABLE ENERGY SYSTEM" MEANS AN ENERGY GENERATING SYSTEM FOR THE GENERATION OF ELECTRIC OR THERMAL ENERGY, TO BE USED PRIMARILY AT SUCH PROPERTY, BY MEANS OF SOLAR THERMAL, SOLAR PHOTOVOLTAIC, WIND, GEOTHERMAL, ANAEROBIC DIGESTER GAS-TO-ELECTRICITY SYSTEMS, FUEL CELL TECHNOLOGIES, OR OTHER RENEWABLE ENERGY TECHNOLOGY APPROVED BY THE AUTHORITY NOT INCLUDING THE COMBUSTION OR PYROLYSIS OF SOLID WASTE.

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

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

2. SUCH PROGRAM MAY MAKE LOANS TO THE OWNERS OF REAL PROPERTY LOCATED WITHIN THE MUNICIPAL CORPORATION TO FINANCE THE INSTALLATION OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS, RELATED ENERGY AUDITS AND RENEWABLE ENERGY SYSTEM FEASIBILITY STUDIES, AND THE VERIFICATION OF THE INSTALLATION OF SUCH SYSTEMS AND IMPROVEMENTS. NO MUNICIPAL CORPORATION SHALL MAKE SUCH A LOAN TO AN OWNER OF PROPERTY THAT HAS RECEIVED A LOAN FROM ANOTHER MUNICIPAL CORPORATION PURSUANT TO THIS ARTICLE.

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

GY LOAN PROGRAM SHALL USE SUCH LISTS OF COST EFFECTIVE ENERGY EFFICIENCY IMPROVEMENTS FOR DIFFERENT BUILDING TYPES AS ARE APPROVED BY THE AUTHORITY.

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

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

6. THE PRINCIPAL AMOUNT OF EACH SUCH LOAN, EXCLUDING INTEREST, SHALL NOT EXCEED THE LESSER OF TEN PERCENT OF THE APPRAISED REAL PROPERTY VALUE OR THE ACTUAL COST OF INSTALLING THE RENEWABLE ENERGY SYSTEM AND ENERGY EFFICIENCY IMPROVEMENTS, INCLUDING THE COSTS OF NECESSARY EQUIPMENT, MATERIALS, AND LABOR, THE COSTS OF EACH RELATED ENERGY AUDIT AND RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY, AND THE COST OF VERIFICATION OF SUCH RENEWABLE ENERGY SYSTEM AND ENERGY EFFICIENCY IMPROVEMENTS.

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

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

9. THE MUNICIPAL CORPORATION MAY REQUIRE THE LOAN MADE UNDER THE SUSTAINABLE ENERGY LOAN PROGRAM TO BE REPAID BY THE PROPERTY OWNER THROUGH A CHARGE ON THE REAL PROPERTY BENEFITTED BY SUCH LOAN. SUCH CHARGE SHALL BE ON THE REAL PROPERTY AND SHALL BE LEVIED AND COLLECTED AT THE SAME TIME AND IN THE SAME MANNER AS MUNICIPAL TAXES, PROVIDED THAT SUCH CHARGE SHALL BE SEPARATELY LISTED ON THE TAX BILL, AND PROVIDED FURTHER THAT IN THE EVENT SUCH CHARGE SHOULD NOT BE PAID IN A TIMELY MANNER, NO OTHER MUNICIPAL CORPORATION SHALL BE REQUIRED TO CREDIT OR OTHERWISE GUARANTEE THE AMOUNT OF SUCH UNPAID CHARGE TO THE MUNICIPAL CORPORATION WHICH AUTHORIZED THE LOAN, NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY.

S 2. This act shall take effect immediately.