

Third Extraordinary Session

I N S E N A T E

December 3, 2010

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law, the public authorities law, the real property law, the lien law, the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to green jobs-green New York on-bill financing

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

- 1 Section 1. Subdivision 2 of section 18-a of the public service law is
2 amended by adding a new paragraph (h) to read as follows:
3 (H) ON-BILL FINANCING CHARGES BILLED PURSUANT TO SECTION SIXTY-SIX-M
4 OF THIS CHAPTER SHALL BE EXCLUDED FROM ANY DETERMINATION OF AN ENTITY'S
5 GROSS OPERATING REVENUES DERIVED FROM INTRASTATE UTILITY OPERATIONS FOR
6 PURPOSES OF THIS SECTION.
7 S 2. Section 42 of the public service law is amended by adding a new
8 subdivision 3 to read as follows:
9 3. THE RIGHTS AND RESPONSIBILITIES OF RESIDENTIAL CUSTOMERS PARTIC-
10 IPATING IN GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PURSUANT TO
11 SECTION SIXTY-SIX-M OF THIS CHAPTER SHALL BE SUBSTANTIALLY COMPARABLE TO
12 THOSE OF GAS AND ELECTRIC CUSTOMERS NOT PARTICIPATING IN SUCH FINANCING,
13 AND CHARGES FOR ON-BILL FINANCING SHALL BE TREATED AS CHARGES FOR UTILI-
14 TY SERVICE FOR THE PURPOSE OF THIS ARTICLE, PROVIDED THAT:
15 (A) ALL DETERMINATIONS AND SAFEGUARDS RELATED TO THE TERMINATION AND
16 RECONNECTION OF SERVICE SHALL APPLY TO ON-BILL FINANCING CHARGES BILLED
17 BY A UTILITY PURSUANT TO SUCH SECTION;
18 (B) IN THE EVENT THAT THE RESPONSIBILITY FOR MAKING UTILITY PAYMENTS
19 HAS BEEN ASSUMED BY OCCUPANTS OF A MULTIPLE DWELLING PURSUANT TO SECTION
20 THIRTY-THREE OF THIS ARTICLE OR BY OCCUPANTS OF A TWO-FAMILY DWELLING
21 PURSUANT TO SECTION THIRTY-FOUR OF THIS ARTICLE, SUCH OCCUPANTS SHALL

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

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NOT BE BILLED FOR ANY ARREARS OF ON-BILL FINANCING CHARGES OR ANY PROSPECTIVE ON-BILL FINANCING CHARGES, WHICH SHALL REMAIN THE RESPONSIBILITY OF THE INCURRING CUSTOMER;

(C) DEFERRED PAYMENT AGREEMENTS PURSUANT TO SECTION THIRTY-SEVEN OF THIS ARTICLE SHALL BE AVAILABLE TO CUSTOMERS PARTICIPATING IN ON-BILL FINANCING ON THE SAME TERMS AS OTHER CUSTOMERS, AND THE UTILITY SHALL RETAIN THE SAME DISCRETION TO DEFER TERMINATION OF SERVICE AS FOR ANY OTHER DELINQUENT CUSTOMER;

(D) WHERE A CUSTOMER HAS A BUDGET BILLING PLAN OR LEVELIZED PAYMENT PLAN PURSUANT TO SECTION THIRTY-EIGHT OF THIS ARTICLE, THE UTILITY SHALL RECALCULATE THE PAYMENTS UNDER SUCH PLAN TO REFLECT THE PROJECTED EFFECTS OF INSTALLING ENERGY EFFICIENCY MEASURES AS SOON AS PRACTICABLE AFTER RECEIPT OF INFORMATION ON THE ENERGY AUDIT AND QUALIFIED ENERGY EFFICIENCY SERVICES SELECTED;

(E) ON-BILL FINANCING CHARGES SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION FORTY-ONE OF THIS ARTICLE;

(F) LATE PAYMENT CHARGES ON UNPAID ON-BILL FINANCING CHARGES SHALL BE DETERMINED AS PROVIDED IN THIS SECTION, OR AS OTHERWISE CONSENTED TO BY THE CUSTOMER IN THE AGREEMENT FOR GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING AND ANY SUCH CHARGES SHALL BE REMITTED TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY;

(G) NOTWITHSTANDING THE PROVISIONS OF SECTION FORTY-THREE OF THIS ARTICLE, WHEN A COMPLAINT IS RELATED SOLELY TO WORK PERFORMED UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM OR TO THE APPROPRIATE AMOUNT OF ON-BILL FINANCING CHARGES, THE UTILITY SHALL ONLY BE REQUIRED TO INFORM THE CUSTOMER OF THE COMPLAINT HANDLING PROCEDURES OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, WHICH SHALL RETAIN RESPONSIBILITY FOR HANDLING SUCH COMPLAINTS, AND SUCH COMPLAINTS SHALL NOT BE DEEMED TO BE COMPLAINTS ABOUT UTILITY SERVICE IN ANY OTHER COMMISSION ACTION OR PROCEEDING; AND

(H) BILLING INFORMATION PROVIDED PURSUANT TO SECTION FORTY-FOUR OF THIS ARTICLE SHALL INCLUDE INFORMATION ON GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING CHARGES, INCLUDING THE BASIS FOR SUCH CHARGES, AND ANY INFORMATION OR INSERTS PROVIDED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY RELATED THERETO. IN ADDITION, AT LEAST ANNUALLY THE AUTHORITY SHALL PROVIDE THE UTILITY WITH INFORMATION FOR INCLUSION OR INSERTION IN THE CUSTOMER'S BILL THAT SETS FORTH THE AMOUNT AND DURATION OF REMAINING ON-BILL FINANCING CHARGES AND THE AUTHORITY'S CONTACT INFORMATION AND PROCEDURES FOR RESOLVING CUSTOMER COMPLAINTS WITH SUCH CHARGES.

S 3. Paragraph (d) of subdivision 6 of section 65 of the public service law, as added by chapter 204 of the laws of 2010, is amended to read as follows:

(d) for installation of capital improvements and fixtures to promote energy efficiency upon the request and consent of the customer, INCLUDING BUT NOT LIMITED TO THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES FOR CUSTOMERS PARTICIPATING IN GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PURSUANT TO SECTION SIXTY-SIX-M OF THIS ARTICLE.

S 4. The public service law is amended by adding a new section 66-m to read as follows:

S 66-M. GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING. 1.(A) THE COMMISSION SHALL REQUIRE EACH GAS AND ELECTRIC CORPORATION TO FILE TARIFFS TO PROVIDE FOR THE BILLING AND COLLECTION OF ON-BILL CHARGES FOR PAYMENT OF OBLIGATIONS OF ITS CUSTOMERS TO THE GREEN JOBS-GREEN NEW YORK REVOLVING LOAN FUND ESTABLISHED PURSUANT TO TITLE NINE-A OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW. TO THE EXTENT PRACTICABLE, GAS AND

1 ELECTRIC CORPORATIONS SHALL UTILIZE EXISTING ELECTRONIC DATA INTERCHANGE
2 INFRASTRUCTURE OR OTHER EXISTING BILLING INFRASTRUCTURE TO IMPLEMENT
3 THEIR BILLING AND COLLECTION RESPONSIBILITIES UNDER THIS SECTION. TO THE
4 MAXIMUM EXTENT PRACTICABLE, ELECTRIC AND GAS CORPORATIONS SHALL UTILIZE
5 FUNDING AVAILABLE FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-
6 MENT AUTHORITY TO DEFRAY ANY COSTS ASSOCIATED WITH ELECTRONIC DATA
7 INTERCHANGE IMPROVEMENTS OR OTHER COSTS OF INITIATING AND IMPLEMENTING
8 THIS PROGRAM. WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION,
9 THE COMMISSION SHALL REQUIRE ALL ELECTRIC AND GAS CORPORATIONS TO FILE
10 TARIFFS TO IMPLEMENT BILLING AND COLLECTION SERVICES FOR GREEN
11 JOBS-GREEN NEW YORK FINANCING CHARGES FOR ELIGIBLE CUSTOMERS WITHIN
12 THEIR SERVICE TERRITORIES. WITHIN ONE HUNDRED FIFTY DAYS OF THE EFFEC-
13 TIVE DATE OF THIS SECTION AND CONSISTENT WITH THE REQUIREMENTS OF THE
14 STATE ADMINISTRATIVE PROCEDURE ACT, THE COMMISSION SHALL TAKE FINAL
15 ACTION ON SUCH TARIFFS AND SHALL PROVIDE THAT BILLING AND COLLECTION
16 SERVICES UNDER SUCH TARIFFS SHALL COMMENCE AS SOON AS PRACTICABLE THERE-
17 AFTER.

18 (B) TO ENSURE PROPER PROGRAM DESIGN AND IMPLEMENTATION, EACH ELECTRIC
19 AND GAS CORPORATION SHALL INITIALLY LIMIT THE NUMBER OF CUSTOMERS WHO
20 PAY A GREEN JOBS-GREEN NEW YORK ON-BILL CHARGE AT ANY GIVEN TIME TO NO
21 MORE THAN ONE HALF OF ONE PERCENT OF ITS TOTAL CUSTOMERS, ON A FIRST
22 COME, FIRST SERVED BASIS. PRIOR TO REACHING SUCH LIMIT, THE NEW YORK
23 STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL PETITION THE
24 COMMISSION TO REVIEW SAID LIMIT, AND THE COMMISSION SHALL INCREASE SUCH
25 LIMIT UNLESS THE COMMISSION FINDS THAT THE PROGRAM HAS CAUSED SIGNIF-
26 ICANT HARM TO THE ELECTRIC OR GAS COMPANY OR ITS RATEPAYERS.

27 (C) THE COMMISSION MAY SUSPEND AN ELECTRIC OR GAS CORPORATION'S OFFER-
28 ING OF THE ON-BILL FINANCE CHARGE PROVIDED THAT THE COMMISSION MAKES A
29 FINDING THAT THERE IS A SIGNIFICANT INCREASE IN UTILITY SERVICE DISCON-
30 NECTIONS THAT THE COMMISSION DETERMINES IS DIRECTLY RELATED TO THE
31 ON-BILL CHARGE, OR A FINDING OF OTHER GOOD CAUSE.

32 (D) THE ON-BILL CHARGE SHALL BE COLLECTED ON THE BILL FROM THE CUSTOM-
33 ER'S ELECTRIC CORPORATION UNLESS THE QUALIFIED ENERGY EFFICIENCY
34 SERVICES AT THAT CUSTOMER'S PREMISES RESULT IN MORE PROJECTED ENERGY
35 SAVINGS ON THE CUSTOMER'S GAS BILL THAN THE ELECTRIC BILL, IN WHICH CASE
36 THE ON-BILL CHARGE SHALL BE COLLECTED ON THE CUSTOMER'S GAS CORPORATION
37 BILL.

38 2. TARIFFS FOR THE COLLECTION AND BILLING OF ON-BILL CHARGES SHALL
39 PROVIDE:

40 (A) THAT BILLING AND COLLECTION SERVICES SHALL BE AVAILABLE TO ALL
41 CUSTOMERS WHO HAVE MET THE STANDARDS ESTABLISHED BY THE NEW YORK STATE
42 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR PARTICIPATION IN THE
43 ON-BILL FINANCING MECHANISM UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM
44 AND HAVE EXECUTED AN AGREEMENT FOR THE PERFORMANCE OF QUALIFIED ENERGY
45 EFFICIENCY SERVICES UNDER SUCH PROGRAM; PROVIDED, HOWEVER, THAT FOR
46 RESIDENTIAL PROPERTIES ANY SUCH CUSTOMER MUST HOLD PRIMARY OWNERSHIP OR
47 REPRESENT THE PRIMARY OWNER OR OWNERS OF THE PREMISES AND HOLD PRIMARY
48 METER ACCOUNT RESPONSIBILITY OR REPRESENT THE PRIMARY HOLDER OR HOLDERS
49 OF METER ACCOUNT RESPONSIBILITY FOR ALL METERS TO WHICH SUCH ON-BILL
50 FINANCING CHARGES WILL APPLY;

51 (B) THAT THE RESPONSIBILITIES OF THE ELECTRIC OR GAS CORPORATION ARE
52 LIMITED TO PROVIDING BILLING AND COLLECTION SERVICES FOR ON-BILL CHARGES
53 AS DIRECTED BY THE AUTHORITY;

54 (C) THAT THE RIGHTS AND RESPONSIBILITIES OF RESIDENTIAL CUSTOMERS
55 PAYING ON-BILL CHARGES SHALL BE GOVERNED BY THE PROVISIONS OF ARTICLE
56 TWO OF THIS CHAPTER;

(D) UNLESS FULLY SATISFIED PRIOR TO SALE OR TRANSFER, THAT (I) THE ON-BILL CHARGES FOR ANY SERVICES PROVIDED AT THE CUSTOMER'S PREMISES SHALL SURVIVE CHANGES IN OWNERSHIP, TENANCY OR METER ACCOUNT RESPONSIBILITY, AND (II) THAT ARREARS IN ON-BILL FINANCING CHARGES AT THE TIME OF ACCOUNT CLOSURE OR METER TRANSFER SHALL REMAIN THE RESPONSIBILITY OF THE INCURRING CUSTOMER, UNLESS EXPRESSLY ASSUMED BY A SUBSEQUENT PURCHASER OF THE PROPERTY SUBJECT TO SUCH ON-BILL CHARGES;

(E) THAT UNDERPAYMENTS OF BILLS SHALL BE ALLOCATED BETWEEN ON-BILL FINANCING CHARGES AND OTHER CHARGES IN THE SAME PROPORTION SUCH CHARGES COMPRISE OF THE OVERALL BILL TOTAL;

(F) BILLING AND COLLECTION SERVICES SHALL BE AVAILABLE WITHOUT REGARD TO WHETHER THE ENERGY OR FUEL DELIVERED BY THE UTILITY IS THE CUSTOMER'S PRIMARY ENERGY SOURCE;

(G) UNLESS OTHERWISE PRECLUDED BY LAW, PARTICIPATION IN THE GREEN JOBS-GREEN NEW YORK PROGRAM SHALL NOT AFFECT A CUSTOMER'S ELIGIBILITY FOR ANY REBATE OR INCENTIVE OFFERED BY A UTILITY; AND

(H) ANY OTHER PROVISIONS NECESSARY TO PROVIDE FOR THE BILLING AND COLLECTION OF ON-BILL CHARGES.

3. THE COMMISSION SHALL NOT APPROVE ANY APPLICATION FOR THE CONVERSION TO SUBMETERING OF ANY MASTER METER WHICH IS SUBJECT TO ANY ON-BILL FINANCING CHARGES.

S 5. Sections 1020-hh, 1020-ii and 1020-jj of the public authorities law, as renumbered by chapter 433 of the laws of 2009, are renumbered sections 1020-ii, 1020-jj and 1020-kk and a new section 1020-hh is added to read as follows:

S 1020-HH. GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING. 1. WITHIN ONE HUNDRED FIFTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL ESTABLISH A PROGRAM TO PROVIDE FOR THE BILLING AND COLLECTION OF ON-BILL CHARGES FOR PAYMENT OF OBLIGATIONS OF ITS CUSTOMERS TO THE GREEN JOBS-GREEN NEW YORK REVOLVING LOAN FUND ESTABLISHED PURSUANT TO TITLE NINE-A OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW. SUCH PROGRAM SHALL BE CONSISTENT WITH THE STANDARDS SET FORTH IN SUBDIVISION THREE OF SECTION FORTY-TWO AND SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW. TO THE MAXIMUM EXTENT PRACTICABLE, FUNDING AVAILABLE FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL BE UTILIZED TO DEFRAY ANY COSTS ASSOCIATED WITH ELECTRONIC DATA INTERCHANGE IMPROVEMENTS OR OTHER COSTS OF INITIATING AND IMPLEMENTING THIS PROGRAM. BILLING AND COLLECTION SERVICES UNDER SUCH TARIFFS SHALL COMMENCE AS SOON AS PRACTICABLE AFTER ESTABLISHMENT OF THE PROGRAM.

2. THE AUTHORITY MAY SUSPEND ITS OFFERING OF THE ON-BILL FINANCE CHARGE PROVIDED THAT THE AUTHORITY MAKES A FINDING THAT THERE IS A SIGNIFICANT INCREASE IN UTILITY SERVICE DISCONNECTIONS THAT THE AUTHORITY DETERMINES IS DIRECTLY RELATED TO THE ON-BILL CHARGE, OR A FINDING OF OTHER GOOD CAUSE.

S 6. Section 1896 of the public authorities law, as added by chapter 487 of the laws of 2009, is amended to read as follows:

S 1896. Green jobs-green New York revolving loan fund. 1. (a) There is hereby created a green jobs-green New York revolving loan fund. The revolving loan fund shall consist of:

(i) all moneys made available for the purpose of the revolving loan fund pursuant to section eighteen hundred ninety-nine-a of this title;

(ii) payments of principal and interest, INCLUDING ANY LATE PAYMENT CHARGES, made pursuant to loan or financing agreements entered into with the authority or its designee pursuant to this section; and

(iii) any interest earned by the investment of moneys in the revolving loan fund.

(b) The revolving loan fund shall consist of two accounts:

(i) one account which shall be maintained for monies to be made available to provide loans to finance the cost of approved qualified energy efficiency services for residential structures and multi-family structures, and

(ii) one account which shall be maintained for monies made available to provide loans to finance the cost of approved qualified energy efficiency services for non-residential structures. The initial balance of the residential account established in [clause] SUBPARAGRAPH (i) of this paragraph shall represent at least fifty percent of the total balance of the two accounts. The authority shall not commingle the monies of the revolving loan fund with any other monies of the authority or held by the authority, nor shall the authority commingle the monies between accounts. Payments of principal, interest and fees shall be deposited into the account created and maintained for the appropriate type of eligible project.

(c) In administering such program, the authority is authorized and directed to:

(i) use monies made available for the revolving loan fund to achieve the purposes of this section by section eighteen hundred ninety-nine-a of this title, including but not limited to making loans available for eligible projects;

(ii) enter into contracts with one or more program implementers to perform such functions as the authority deems appropriate; [and]

(iii) ESTABLISH AN ON-BILL FINANCING MECHANISM FOR REPAYMENT OF LOANS FOR THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES FOR ELIGIBLE PROJECTS PROVIDED THAT SUCH ON-BILL FINANCING MECHANISM SHALL PROVIDE FOR THE UTILIZATION OF ANY ON-BILL FINANCING PROGRAMS ESTABLISHED PURSUANT TO SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW AND SECTION ONE THOUSAND TWENTY-HH OF THIS CHAPTER;

(IV) ESTABLISH STANDARDS FOR CUSTOMER PARTICIPATION IN SUCH ON-BILL FINANCING MECHANISM, INCLUDING STANDARDS FOR RELIABLE UTILITY BILL PAYMENT, CURRENT GOOD STANDING ON ANY MORTGAGE OBLIGATIONS, AND SUCH ADDITIONAL STANDARDS AS THE AUTHORITY DEEMS NECESSARY; PROVIDED THAT IN ORDER TO PROVIDE BROAD ACCESS TO ON-BILLING FINANCING THE AUTHORITY MAY MAINTAIN DIFFERENT STANDARDS FOR DIFFERENT CATEGORIES OF CUSTOMERS WHICH SHALL BE PRUDENT AND, TO THE FULLEST EXTENT PRACTICABLE, SHALL INCLUDE PARTICIPATION BY CUSTOMERS WHO ARE LESS LIKELY TO HAVE ACCESS TO TRADITIONAL SOURCES OF FINANCING; AND

(V) exercise such other powers as are necessary for the proper administration of the program, INCLUDING AT THE DISCRETION OF THE AUTHORITY, ENTERING INTO AGREEMENTS WITH APPLICANTS AND WITH SUCH STATE OR FEDERAL AGENCIES AS NECESSARY TO DIRECTLY RECEIVE REBATES AND GRANTS AVAILABLE FOR ELIGIBLE PROJECTS AND APPLY SUCH FUNDS TO REPAYMENT OF APPLICANT LOAN OBLIGATIONS.

2. (a) The authority shall provide financial assistance in the form of loans for the performance of qualified energy efficiency services for eligible projects on terms and conditions established by the authority.

(b) Loans made by the authority pursuant to this section shall be subject to the following limitations:

(i) eligible projects shall meet cost effectiveness standards developed by the authority;

(ii) loans shall not exceed thirteen thousand dollars per applicant for approved qualified energy efficiency services for residential structures, and twenty-six thousand dollars per applicant for approved qualified energy efficiency services for non-residential structures,

PROVIDED, HOWEVER, THAT THE AUTHORITY MAY PERMIT A LOAN IN EXCESS OF SUCH AMOUNTS IF THE TOTAL COST OF ENERGY EFFICIENCY MEASURES FINANCED BY SUCH LOAN WILL ACHIEVE A PAYBACK PERIOD OF FIFTEEN YEARS OR LESS, BUT IN NO EVENT SHALL ANY SUCH LOAN EXCEED TWENTY-FIVE THOUSAND DOLLARS PER APPLICANT FOR RESIDENTIAL STRUCTURES AND FIFTY THOUSAND DOLLARS PER APPLICANT FOR NON-RESIDENTIAL STRUCTURES; and for multi-family structures loans shall be in amounts determined by the authority, provided, however, that the authority shall assure that a significant number of residential structures are included in the program; [and]

(iii) NO FEES OR PENALTIES SHALL BE CHARGED OR COLLECTED FOR PREPAYMENT OF ANY SUCH LOAN; AND

(IV) loans shall be at interest rates determined by the authority to be no higher than necessary to make the provision of the qualified energy efficiency services feasible.

In determining whether to make a loan, and the amount of any loan that is made, the authority is authorized to consider whether the applicant or borrower has received, or is eligible to receive, financial assistance and other incentives from any other source for the qualified energy efficiency services which would be the subject of the loan. IN DETERMINING WHETHER A LOAN WILL ACHIEVE A PAYBACK PERIOD OF FIFTEEN YEARS OR LESS PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AUTHORITY MAY CONSIDER THE AMOUNT OF THE LOAN TO BE REDUCED BY THE AMOUNT OF ANY REBATES FOR QUALIFIED ENERGY EFFICIENCY SERVICES RECEIVED BY THE APPLICANT OR BY THE AUTHORITY ON BEHALF OF AN APPLICANT.

(c) Applications for financial assistance pursuant to this section shall be reviewed and evaluated by the authority or its designee pursuant to eligibility and qualification requirements and criteria established by the authority. The authority shall establish standards for (i) qualified energy efficiency services, and (ii) measurement and verification of energy savings. Such standards shall meet or exceed the standards used by the authority for similar programs in existence on the effective date of this section.

(d) The amount of a fee paid for an energy audit provided under section eighteen hundred ninety-five of this title may be added to the amount of a loan that is made under this section to finance the cost of an eligible project conducted in response to such energy audit. In such a case, the amount of the fee may be reimbursed from the fund to the borrower.

(E) THE AUTHORITY SHALL SECURE LOANS FOR THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES THAT UTILIZE ON-BILL FINANCING THROUGH A LIEN FILED AGAINST THE SUBJECT REAL PROPERTY. SUBSEQUENT PURCHASERS OF THE REAL PROPERTY SHALL NOT BE REQUIRED TO PAY THE ON-BILL CHARGES UNLESS SAID LIEN IS ACTUALLY FILED ON OR BEFORE THE CLOSING OF TITLE.

(F) IN ESTABLISHING AN ON-BILL FINANCING MECHANISM:

(I) THE COST-EFFECTIVENESS OF AN ELIGIBLE PROJECT SHALL BE EVALUATED SOLELY ON THE BASIS OF THE COSTS AND PROJECTED SAVINGS TO THE APPLYING CUSTOMER, USING STANDARD ENGINEERING ASSESSMENTS AND PRIOR BILLING DATA AND USAGE PATTERNS;

(II) THE AUTHORITY SHALL ESTABLISH A PROCESS FOR RECEIPT AND RESOLUTION OF CUSTOMER COMPLAINTS CONCERNING ON-BILL CHARGES AND FOR ADDRESSING DELAYS AND DEFAULTS IN CUSTOMER PAYMENTS; AND

(III) THE AUTHORITY MAY LIMIT THE AVAILABILITY OF LIGHTING MEASURES OR HOUSEHOLD APPLIANCES THAT ARE NOT PERMANENTLY AFFIXED TO REAL PROPERTY.

3. THE AUTHORITY SHALL EVALUATE THE COST-EFFECTIVENESS OF THE ON-BILL FINANCING MECHANISM ON AN ON-GOING BASIS. (A) IN CONDUCTING SUCH EVALUATION, THE AUTHORITY SHALL REQUEST EACH CUSTOMER TO PROVIDE:

(I) INFORMATION ON ENERGY USAGE AND/OR PERMISSION TO COLLECT INFORMATION ON ENERGY USAGE FROM UTILITIES AND OTHER RETAIL VENDORS, INCLUDING BUT NOT LIMITED TO INFORMATION REQUIRED TO BE FURNISHED TO CONSUMERS UNDER ARTICLE SEVENTEEN OF THE ENERGY LAW;

(II) INFORMATION ON OTHER SOURCES OF ENERGY USED IN THE CUSTOMER'S PREMISES; AND

(III) INFORMATION ON ANY IMPROVEMENTS OR MODIFICATIONS TO THE PREMISES THAT MAY SIGNIFICANTLY AFFECT ENERGY USAGE.

(B) AT A MINIMUM THE AUTHORITY SHALL COLLECT AND MAINTAIN INFORMATION FOR DATES PRIOR TO THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES, TO ESTABLISH A BASELINE, AND FOR DATES COVERING A SUBSEQUENT TIME PERIOD TO MEASURE THE EFFECTIVENESS OF SUCH MEASURES. SUCH DATA SHALL BE CORRELATED WITH INFORMATION FROM THE ENERGY AUDIT AND ANY OTHER RELEVANT INFORMATION, INCLUDING INFORMATION ON LOCAL WEATHER CONDITIONS, AND SHALL BE USED TO EVALUATE THE ON-BILL FINANCING PROGRAM AND TO IMPROVE THE ACCURACY OF PROJECTIONS OF COST-EFFECTIVENESS ON AN ON-GOING BASIS. AN ANALYSIS OF SUCH DATA SHALL BE INCLUDED IN THE ANNUAL REPORT PREPARED PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-NINE OF THIS TITLE.

(C) ALL INFORMATION COLLECTED BY THE AUTHORITY SHALL BE CONFIDENTIAL AND SHALL BE USED EXCLUSIVELY FOR THE PURPOSES OF THIS SUBDIVISION.

S 7. Subdivision 3 of section 1899 of the public authorities law, as added by chapter 487 of the laws of 2009, is amended to read as follows:

3. The status of the authority's activities and outcomes related to section eighteen hundred ninety-six of this title. Such report shall include, but not be limited to: (a) the number of persons who have applied for and received financial assistance through the revolving loan fund; (b) the revolving loan fund account balances; (c) the number of loans in default; [and] (d) the amount and nature of the costs incurred by the authority for the activities described in paragraph (c) of subdivision one of section eighteen hundred ninety-six of this title; AND (E) THE AUTHORITY'S ACTIVITIES AND OUTCOMES RELATED TO ESTABLISHING AN ON-BILL FINANCING MECHANISM, INCLUDING THE NUMBER OF PERSONS WHO HAVE APPLIED FOR AND WHO HAVE RECEIVED FINANCIAL ASSISTANCE THAT UTILIZES ON-BILL FINANCING AND THE RESULTS OF THE EVALUATION PROGRAM PERFORMED PURSUANT TO SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED NINETY-SIX OF THIS TITLE;

S 8. Section 242 of the real property law is amended by adding a new subdivision 4 to read as follows:

4. DISCLOSURE PRIOR TO THE SALE OF REAL PROPERTY TO WHICH A GREEN JOBS-GREEN NEW YORK ON-BILL CHARGE APPLIES. (A) ANY PERSON, FIRM, COMPANY, PARTNERSHIP OR CORPORATION OFFERING TO SELL REAL PROPERTY WHICH IS SUBJECT TO A GREEN JOBS-GREEN NEW YORK ON-BILL CHARGE PURSUANT TO TITLE NINE-A OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW SHALL PROVIDE WRITTEN NOTICE TO THE PROSPECTIVE PURCHASER OR THE PROSPECTIVE PURCHASER'S AGENT, STATING AS FOLLOWS: "THIS PROPERTY IS SUBJECT TO A GREEN JOBS-GREEN NEW YORK ON-BILL CHARGE". SUCH NOTICE SHALL ALSO STATE THE TOTAL AMOUNT OF THE ORIGINAL CHARGE, THE PAYMENT SCHEDULE AND THE APPROXIMATE REMAINING BALANCE, A DESCRIPTION OF THE ENERGY EFFICIENCY SERVICES PERFORMED, INCLUDING IMPROVEMENTS TO THE PROPERTY, AND AN EXPLANATION OF THE BENEFIT OF THE GREEN JOBS-GREEN NEW YORK QUALIFIED ENERGY EFFICIENCY SERVICES. SUCH NOTICE SHALL BE PROVIDED BY THE SELLER PRIOR TO ACCEPTING A PURCHASE OFFER.

(B) ANY PROSPECTIVE OR ACTUAL PURCHASER WHO HAS SUFFERED A LOSS DUE TO A VIOLATION OF THIS SUBDIVISION IS ENTITLED TO RECOVER ANY ACTUAL DAMAGES INCURRED FROM THE PERSON OFFERING TO SELL OR SELLING SAID REAL PROPERTY.

S 9. Subdivision 4 of section 2 of the lien law, as amended by chapter 925 of the laws of 1982, is amended to read as follows:

4. Improvement. The term "improvement," when used in this chapter, includes the demolition, erection, alteration or repair of any structure upon, connected with, or beneath the surface of, any real property and any work done upon such property or materials furnished for its permanent improvement, and shall also include any work done or materials furnished in equipping any such structure with any chandeliers, brackets or other fixtures or apparatus for supplying gas or electric light and shall also include the drawing by any architect or engineer or surveyor, of any plans or specifications or survey, which are prepared for or used in connection with such improvement and shall also include the value of materials actually manufactured for but not delivered to the real property, and shall also include the reasonable rental value for the period of actual use of machinery, tools and equipment and the value of compressed gases furnished for welding or cutting in connection with the demolition, erection, alteration or repair of any real property, and the value of fuel and lubricants consumed by machinery operating on the improvement, or by motor vehicles owned, operated or controlled by the owner, or a contractor or subcontractor while engaged exclusively in the transportation of materials to or from the improvement for the purposes thereof and shall also include the performance of real estate brokerage services in obtaining a lessee for a term of more than three years of all or any part of real property to be used for other than residential purposes pursuant to a written contract of brokerage employment or compensation; AND SHALL ALSO INCLUDE THE PROVISION OF FINANCING THROUGH AN ON-BILL FINANCING MECHANISM FOR THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM ESTABLISHED BY TITLE NINE-A OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW.

S 10. Subdivision 1 of section 10 of the lien law, as amended by chapter 288 of the laws of 2000, is amended to read as follows:

1. Notice of lien may be filed at any time during the progress of the work and the furnishing of the materials, or, within eight months after the completion of the contract, or the final performance of the work, or the final furnishing of the materials, dating from the last item of work performed or materials furnished; provided, however, that where the improvement is related to real property improved or to be improved with a single family dwelling, the notice of lien may be filed at any time during the progress of the work and the furnishing of the materials, or, within four months after the completion of the contract, or the final performance of the work, or the final furnishing of the materials, dating from the last item of work performed or materials furnished, PROVIDED HOWEVER, THAT IN THE CASE OF A LIEN FILED BY THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT AUTHORITY TO SECURE FINANCING THROUGH AN ON-BILL FINANCING MECHANISM FOR PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM ESTABLISHED BY TITLE NINE-A OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW, THE NOTICE OF LIEN MAY ONLY BE FILED AFTER COMMENCEMENT OF THE QUALIFIED ENERGY EFFICIENCY SERVICES; except that in the case of a lien by a real estate broker, the notice of lien may be filed only after the performance of the brokerage services and execution of lease by both lessor and lessee and only if a copy of the alleged written agreement of employment or compensation is annexed to the notice of lien, provided that where the payment pursuant to the written agreement of employment or compensation is to be made in installments, then a notice of lien may be filed within eight months after the final payment is due, but in no event

1 later than a date five years after the first payment was made. For
2 purposes of this section, the term "single family dwelling" shall not
3 include a dwelling unit which is a part of a subdivision that has been
4 filed with a municipality in which the subdivision is located when at
5 the time the lien is filed, such property in the subdivision is owned by
6 the developer for purposes other than his personal residence. For
7 purposes of this section, "developer" shall mean and include any private
8 individual, partnership, trust or corporation which improves two or more
9 parcels of real property with single family dwellings pursuant to a
10 common scheme or plan. The notice of lien must be filed in the clerk's
11 office of the county where the property is situated. If such property is
12 situated in two or more counties, the notice of lien shall be filed in
13 the office of the clerk of each of such counties. The county clerk of
14 each county shall provide and keep a book to be called the "lien dock-
15 et," which shall be suitably ruled in columns headed "owners,"
16 "lienors," "lienor's attorney," "property," "amount," "time of filing,"
17 "proceedings had," in each of which he shall enter the particulars of
18 the notice, properly belonging therein. The date, hour and minute of the
19 filing of each notice of lien shall be entered in the proper column.
20 Except where the county clerk maintains a block index, the names of the
21 owners shall be arranged in such book in alphabetical order. The validi-
22 ty of the lien and the right to file a notice thereof shall not be
23 affected by the death of the owner before notice of the lien is filed.

24 S 11. Subparagraph (g) of paragraph 1 of subdivision g of section
25 26-405 of the administrative code of the city of New York, as amended by
26 chapter 749 of the laws of 1990, is amended to read as follows:

27 (g) There has been since July first, nineteen hundred seventy, a major
28 capital improvement required for the operation, preservation or mainte-
29 nance of the structure. A MAJOR CAPITAL IMPROVEMENT SHALL NOT INCLUDE AN
30 ELIGIBLE PROJECT UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM BY THE NEW
31 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, ESTABLISHED PURSU-
32 ANT TO TITLE NINE-A OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW. An
33 adjustment under this subparagraph [(g)] shall be in an amount suffi-
34 cient to amortize the cost of the improvements pursuant to this subpara-
35 graph [(g)] over a seven-year period; or

36 S 12. Paragraph 6 of subdivision c of section 26-511 of the adminis-
37 trative code of the city of New York, as amended by chapter 116 of the
38 laws of 1997, is amended to read as follows:

39 (6) provides criteria whereby the commissioner may act upon applica-
40 tions by owners for increases in excess of the level of fair rent
41 increase established under this law provided, however, that such crite-
42 ria shall provide (a) as to hardship applications, for a finding that
43 the level of fair rent increase is not sufficient to enable the owner to
44 maintain approximately the same average annual net income (which shall
45 be computed without regard to debt service, financing costs or manage-
46 ment fees) for the three year period ending on or within six months of
47 the date of an application pursuant to such criteria as compared with
48 annual net income, which prevailed on the average over the period nine-
49 teen hundred sixty-eight through nineteen hundred seventy, or for the
50 first three years of operation if the building was completed since nine-
51 teen hundred sixty-eight or for the first three fiscal years after a
52 transfer of title to a new owner provided the new owner can establish to
53 the satisfaction of the commissioner that he or she acquired title to
54 the building as a result of a bona fide sale of the entire building and
55 that the new owner is unable to obtain requisite records for the fiscal
56 years nineteen hundred sixty-eight through nineteen hundred seventy

1 despite diligent efforts to obtain same from predecessors in title and
2 further provided that the new owner can provide financial data covering
3 a minimum of six years under his or her continuous and uninterrupted
4 operation of the building to meet the three year to three year compar-
5 ative test periods herein provided; and (b) as to completed building-
6 wide major capital improvements, for a finding that such improvements
7 are deemed depreciable under the Internal Revenue Code and that the cost
8 is to be amortized over a seven-year period, based upon cash purchase
9 price exclusive of interest or service charges. A MAJOR CAPITAL
10 IMPROVEMENT SHALL NOT INCLUDE AN ELIGIBLE PROJECT UNDER THE GREEN JOBS-
11 GREEN NEW YORK PROGRAM BY THE NEW YORK STATE ENERGY RESEARCH AND DEVEL-
12 OPMENT AUTHORITY, ESTABLISHED PURSUANT TO TITLE NINE-A OF ARTICLE EIGHT
13 OF THE PUBLIC AUTHORITIES LAW. Notwithstanding anything to the contrary
14 contained herein, no hardship increase granted pursuant to this para-
15 graph shall, when added to the annual gross rents, as determined by the
16 commissioner, exceed the sum of, (i) the annual operating expenses, (ii)
17 an allowance for management services as determined by the commissioner,
18 (iii) actual annual mortgage debt service (interest and amortization) on
19 its indebtedness to a lending institution, an insurance company, a
20 retirement fund or welfare fund which is operated under the supervision
21 of the banking or insurance laws of the state of New York or the United
22 States, and (iv) eight and one-half percent of that portion of the fair
23 market value of the property which exceeds the unpaid principal amount
24 of the mortgage indebtedness referred to in subparagraph (iii) of this
25 paragraph. Fair market value for the purposes of this paragraph shall be
26 six times the annual gross rent. The collection of any increase in the
27 stabilized rent for any apartment pursuant to this paragraph shall not
28 exceed six percent in any year from the effective date of the order
29 granting the increase over the rent set forth in the schedule of gross
30 rents, with collectability of any dollar excess above said sum to be
31 spread forward in similar increments and added to the stabilized rent as
32 established or set in future years;

33 S 13. Paragraph 3 of subdivision d of section 6 of section 4 of chap-
34 ter 576 of the laws of 1974 constituting the emergency tenant protection
35 act of nineteen seventy-four, as amended by chapter 749 of the laws of
36 1990, is amended to read as follows:

37 (3) there has been since January first, nineteen hundred seventy-four
38 a major capital improvement required for the operation, preservation or
39 maintenance of the structure. A MAJOR CAPITAL IMPROVEMENT SHALL NOT
40 INCLUDE AN ELIGIBLE PROJECT UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM
41 BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, ESTAB-
42 LISHED PURSUANT TO TITLE 9-A OF ARTICLE 8 OF THE PUBLIC AUTHORITIES LAW.
43 An adjustment under this paragraph shall be in an amount sufficient to
44 amortize the cost of the improvements pursuant to this paragraph over a
45 seven-year period, or

46 S 14. The second undesignated paragraph of paragraph (a) of subdivi-
47 sion 4 of section 4 of chapter 274 of the laws of 1946, constituting the
48 emergency housing rent control law, as amended by chapter 21 of the laws
49 of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is
50 amended to read as follows:

51 No application for adjustment of maximum rent based upon a sales price
52 valuation shall be filed by the landlord under this subparagraph prior
53 to six months from the date of such sale of the property. In addition,
54 no adjustment ordered by the commission based upon such sales price
55 valuation shall be effective prior to one year from the date of such
56 sale. Where, however, the assessed valuation of the land exceeds four

1 times the assessed valuation of the buildings thereon, the commission
2 may determine a valuation of the property equal to five times the equal-
3 ized assessed valuation of the buildings, for the purposes of this
4 subparagraph. The commission may make a determination that the valuation
5 of the property is an amount different from such equalized assessed
6 valuation where there is a request for a reduction in such assessed
7 valuation currently pending; or where there has been a reduction in the
8 assessed valuation for the year next preceding the effective date of the
9 current assessed valuation in effect at the time of the filing of the
10 application. Net annual return shall be the amount by which the earned
11 income exceeds the operating expenses of the property, excluding mort-
12 gage interest and amortization, and excluding allowances for obsoles-
13 cence and reserves, but including an allowance for depreciation of two
14 per centum of the value of the buildings exclusive of the land, or the
15 amount shown for depreciation of the buildings in the latest required
16 federal income tax return, whichever is lower; provided, however, that
17 (1) no allowance for depreciation of the buildings shall be included
18 where the buildings have been fully depreciated for federal income tax
19 purposes or on the books of the owner; or (2) the landlord who owns no
20 more than four rental units within the state has not been fully compen-
21 sated by increases in rental income sufficient to offset unavoidable
22 increases in property taxes, fuel, utilities, insurance and repairs and
23 maintenance, excluding mortgage interest and amortization, and excluding
24 allowances for depreciation, obsolescence and reserves, which have
25 occurred since the federal date determining the maximum rent or the date
26 the property was acquired by the present owner, whichever is later; or
27 (3) the landlord operates a hotel or rooming house or owns a cooperative
28 apartment and has not been fully compensated by increases in rental
29 income from the controlled housing accommodations sufficient to offset
30 unavoidable increases in property taxes and other costs as are allocable
31 to such controlled housing accommodations, including costs of operation
32 of such hotel or rooming house, but excluding mortgage interest and
33 amortization, and excluding allowances for depreciation, obsolescence
34 and reserves, which have occurred since the federal date determining the
35 maximum rent or the date the landlord commenced the operation of the
36 property, whichever is later; or (4) the landlord and tenant voluntarily
37 enter into a valid written lease in good faith with respect to any hous-
38 ing accommodation, which lease provides for an increase in the maximum
39 rent not in excess of fifteen per centum and for a term of not less than
40 two years, except that where such lease provides for an increase in
41 excess of fifteen per centum, the increase shall be automatically
42 reduced to fifteen per centum; or (5) the landlord and tenant by mutual
43 voluntary written agreement agree to a substantial increase or decrease
44 in dwelling space or a change in the services, furniture, furnishings or
45 equipment provided in the housing accommodations; provided that an owner
46 shall be entitled to a rent increase where there has been a substantial
47 modification or increase of dwelling space or an increase in the
48 services, or installation of new equipment or improvements or new furni-
49 ture or furnishings provided in or to a tenant's housing accommodation.
50 The permanent increase in the maximum rent for the affected housing
51 accommodation shall be one-fortieth of the total cost incurred by the
52 landlord in providing such modification or increase in dwelling space,
53 services, furniture, furnishings or equipment, including the cost of
54 installation, but excluding finance charges provided further that an
55 owner who is entitled to a rent increase pursuant to this clause shall
56 not be entitled to a further rent increase based upon the installation

1 of similar equipment, or new furniture or furnishings within the useful
2 life of such new equipment, or new furniture or furnishings. The owner
3 shall give written notice to the commission of any such adjustment
4 pursuant to this clause; or (6) there has been, since March first, nine-
5 teen hundred fifty, an increase in the rental value of the housing
6 accommodations as a result of a substantial rehabilitation of the build-
7 ing or housing accommodation therein which materially adds to the value
8 of the property or appreciably prolongs its life, excluding ordinary
9 repairs, maintenance and replacements; or (7) there has been since March
10 first, nineteen hundred fifty, a major capital improvement required for
11 the operation, preservation or maintenance of the structure. A MAJOR
12 CAPITAL IMPROVEMENT SHALL NOT INCLUDE AN ELIGIBLE PROJECT UNDER THE
13 GREEN JOBS-GREEN NEW YORK PROGRAM BY THE NEW YORK STATE ENERGY RESEARCH
14 AND DEVELOPMENT AUTHORITY, ESTABLISHED PURSUANT TO TITLE 9-A OF ARTICLE
15 8 OF THE PUBLIC AUTHORITIES LAW; or (8) there has been since March
16 first, nineteen hundred fifty, in structures containing more than four
17 housing accommodations, other improvements made with the express consent
18 of the tenants in occupancy of at least seventy-five per centum of the
19 housing accommodations, provided, however, that no adjustment granted
20 hereunder shall exceed fifteen per centum unless the tenants have agreed
21 to a higher percentage of increase, as herein provided; or (9) there has
22 been, since March first, nineteen hundred fifty, a subletting without
23 written consent from the landlord or an increase in the number of adult
24 occupants who are not members of the immediate family of the tenant, and
25 the landlord has not been compensated therefor by adjustment of the
26 maximum rent by lease or order of the commission or pursuant to the
27 federal act; or (10) the presence of unique or peculiar circumstances
28 materially affecting the maximum rent has resulted in a maximum rent
29 which is substantially lower than the rents generally prevailing in the
30 same area for substantially similar housing accommodations.

31 S 15. This act shall take effect immediately; provided, however, that
32 the amendments to section 26-405 of the city rent and rehabilitation law
33 made by section eleven of this act shall remain in full force and effect
34 only as long as the public emergency requiring the regulation and
35 control of residential rents and evictions continues, as provided in
36 subdivision 3 of section 1 of the local emergency housing rent control
37 act; provided further that the amendments to section 26-511 of the rent
38 stabilization law of nineteen hundred sixty-nine made by section twelve
39 of this act shall expire on the same date as such law expires and shall
40 not affect the expiration of such law as provided under section 26-520
41 of such law, as from time to time amended; provided further that the
42 amendments to section 6 of the emergency tenant protection act of nine-
43 teen seventy-four made by section thirteen of this act shall expire on
44 the same date as such act expires and shall not affect the expiration of
45 such act as provided in section 17 of chapter 576 of the laws of 1974,
46 as from time to time amended; and further provided that the amendment to
47 section 4 of the emergency housing rent control law made by section
48 fourteen of this act shall expire on the same date as such law expires
49 and shall not affect the expiration of such law as provided in subdivi-
50 sion 2 of section 1 of chapter 274 of the laws of 1946.