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

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I N A S S E M B L Y

June 24, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Sweeney, Cahill, Englebright) -- (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 the municipal sustainable energy financing program

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

Section 1. The article heading of article 5-L of the general municipal law, as added by chapter 497 of the laws of 2009, is amended to read as follows:

MUNICIPAL SUSTAINABLE ENERGY [LOAN] FINANCING PROGRAM

S 2. Section 119-ee of the general municipal law, as added by chapter 497 of the laws of 2009, is amended to read as follows:

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 AND FINANCING of renewable energy systems and energy efficiency measures throughout the state; and that [municipalities] MUNICIPAL CORPORATIONS would fulfill an important public purpose by providing [loans] AND/OR ARRANGING TO PROVIDE FINANCING to property owners for the installation of renewable energy systems and energy efficiency measures, WHICH MAY BE FURTHERED BY THE PARTICIPATION OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AS HEREIN PROVIDED.

ESTABLISHING THE MEANS TO PROMOTE THE DEPLOYMENT OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY MEASURES THROUGHOUT THE STATE WILL FOSTER NOT ONLY A CLEAN ENERGY ECONOMY, LEADING TO THE DEVELOPMENT OF NEW INDUSTRIES AND NEW JOBS, BUT ALSO A CLEANER ENVIRONMENT. THE REDUCTION IN ENERGY DEMAND THAT WILL RESULT FROM THE DEPLOYMENT OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY MEASURES WILL: (A) HELP AVOID FUTURE ENERGY SHORTAGES; AND (B) ENABLE THE STATE AND MUNICIPAL CORPORATIONS TO

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

LBD12288-02-0

RELY LESS ON SOURCES OF ENERGY THAT HAVE A DETRIMENTAL EFFECT ON AIR QUALITY, TO IMPROVE THE CLEANLINESS OF THE AIR IN THE STATE AND THEREBY TO CONTRIBUTE TO THE HEALTH AND WELL-BEING OF THE PEOPLE OF THE STATE.

TO ACHIEVE SUCH POLICY GOALS, THE LEGISLATURE FINDS THAT IT IS NECESSARY FOR THE STATE TO FACILITATE THE FINANCING OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS. FOR MANY BUILDING OWNERS, TRADITIONAL SOURCES OF FINANCING ARE EITHER TOO EXPENSIVE OR SIMPLY UNAVAILABLE TO PAY FOR THE COSTS OF INSTALLING RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS. WIDESPREAD DEPLOYMENT OF SUCH MEASURES CAN ONLY BE ACHIEVED WITH READILY AVAILABLE, COST-EFFECTIVE FINANCING TO MEET THE NEED FOR SUCH INITIAL CAPITAL INVESTMENTS.

THE LEGISLATURE DECLARES THAT IT IS NECESSARY FOR THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND MUNICIPAL CORPORATIONS TO PLAY A CRITICAL ROLE IN FULFILLING THIS IMPORTANT PUBLIC PURPOSE BY PROVIDING COST-EFFECTIVE FINANCING TO PROPERTY OWNERS FOR THE LARGE-SCALE INSTALLATION OF SUCH RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY MEASURES, FOR THE IMMEDIATE PROTECTION OF THE PUBLIC INTEREST AND FOR THE IMPLEMENTATION OF THE STATE'S GREENHOUSE GAS REDUCTION PLANS; AND THAT THE PROVISIONS OF THIS ARTICLE ARE NECESSARY AND APPROPRIATE TO ACCOMPLISH THESE SIGNIFICANT AND LEGITIMATE PUBLIC PURPOSES.

S 3. Section 119-ff of the general municipal law, as added by chapter 497 of the laws of 2009, is amended to read as follows:

S 119-ff. Definitions. For purposes of this article:

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. "BOND" MEANS A BOND, NOTE OR OTHER EVIDENCE OF INDEBTEDNESS, ISSUED TO FINANCE OR REFINANCE A SUSTAINABLE ENERGY FINANCING PROGRAM OR ANY PORTION THEREOF.

3. "Credit support" means and includes EQUITY CONTRIBUTIONS, direct loans, letters OR LINES 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; AND RESERVE OR OVER COLLATERALIZATION ACCOUNTS, SURETY BONDS AND OTHER MECHANISMS DESIGNED TO PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE FINANCINGS.

[3] 4. "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. A municipal corporation 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] 5. "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. WITH RESPECT TO ONE TO FOUR FAMILY RESIDENTIAL PROPERTIES, THE TERM "ENERGY EFFICIENCY IMPROVEMENT" MAY INCLUDE ANY HEALTH AND SAFETY RELATED REPAIRS THAT ARE REQUIRED TO BE MADE IN CONJUNCTION WITH OTHER ENERGY EFFICIENCY IMPROVEMENTS IN ORDER TO CONFORM WITH THE STANDARDS OF THE CERTIFYING ENTITY DESCRIBED IN SUBDIVISION FOUR OF THIS SECTION. However, "energy efficiency improve-

ment" shall not include lighting measures or household appliances that are not permanently fixed to real property. IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS, SUCH CITY MAY, BY LOCAL LAW, OR BY RULE PROMULGATED PURSUANT TO SUCH LOCAL LAW, ESTABLISH SUCH CRITERIA, AS WELL AS LISTS OF COST-EFFECTIVE ENERGY EFFICIENCY IMPROVEMENTS, AS DETERMINED TO BE APPROPRIATE FOR ITS SUSTAINABLE ENERGY FINANCING PROGRAM.

6. "FINANCING" MEANS AND INCLUDES PROVIDING FUNDS FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS AS PRESCRIBED IN THIS ARTICLE.

7. "GREEN JOBS - GREEN NEW YORK FUND" MEANS: THE FUND ESTABLISHED PURSUANT TO SUBDIVISION EIGHTEEN OF SECTION EIGHTEEN HUNDRED FIFTY-FOUR OF THE PUBLIC AUTHORITIES LAW.

8. "ISSUER" MEANS THE ISSUER OF A BOND.

[5] 9. "Municipal corporation" means a county, town, city or village.

[6] 10. "Renewable energy system" means an energy generating system, PERMANENTLY FIXED TO REAL PROPERTY, 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. IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS, SUCH CITY MAY, BY LOCAL LAW, OR BY RULE PROMULGATED PURSUANT TO SUCH LOCAL LAW, APPROVE OTHER RENEWABLE ENERGY TECHNOLOGY NOT INCLUDING THE COMBUSTION OR PYROLYSIS OF SOLID WASTE, AS DETERMINED TO BE APPROPRIATE.

[7] 11. "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. A municipal corporation 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 4. Section 119-gg of the general municipal law, as added by chapter 497 of the laws of 2009, is amended to read as follows:

S 119-gg. Sustainable energy [loan] FINANCING program. 1. The legislative body of any municipal corporation may, by local law, establish a sustainable energy [loan] FINANCING program using [federal grant assistance or], WITHOUT LIMITATION, FEDERAL GRANT ASSISTANCE, federal credit support OR ANY OTHER GRANTS available for this purpose; AND FOR MUNICIPAL CORPORATIONS WITH THE POWER TO ENFORCE DELINQUENT TAX LIENS, USING PROCEEDS FROM BONDS ISSUED BY THE AUTHORITY, OR ANY OTHER GRANTS, OTHER MONIES, INCLUDING, WITHOUT LIMITATION, AUTHORITY MONIES HELD IN THE GREEN JOBS - GREEN NEW YORK FUND, OR CREDIT SUPPORT MADE AVAILABLE BY THE AUTHORITY.

2. Such program may [make loans] PROVIDE FINANCING to the owners of real property located within the municipal corporation [to finance] FOR 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 OR PROVIDE FOR such [a loan] FINANCING to an owner of property that has received [a loan] FINANCING from OR PROVIDED FOR BY another municipal corporation pursuant to this article FOR THE SAME ENERGY EFFICIENCY IMPROVEMENT OR RENEWABLE ENERGY SYSTEM.

3. Each such local law establishing the sustainable energy [loan] FINANCING program shall provide for the criteria for making such [loans] FINANCING AVAILABLE and the terms and conditions for repayment of such [loans] FINANCING, CONSISTENT WITH THIS ARTICLE. The sustainable energy [loan] FINANCING program shall use such lists of cost effective energy efficiency improvements for different building types as are approved by the authority, OR IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS, AS ARE ESTABLISHED BY SUCH CITY BY LOCAL LAW, OR BY RULE PROMULGATED PURSUANT TO SUCH LOCAL LAW.

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] FINANCING program in such form and manner as the authority may establish. IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS, SUCH CITY MAY, BY LOCAL LAW OR BY RULE PROMULGATED PURSUANT TO SUCH LOCAL LAW, ESTABLISH A SYSTEM FOR VERIFYING AND REPORTING ON THE INSTALLATION AND PERFORMANCE OF RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS FINANCED BY ITS PROGRAM.

5. Every [loan] FINANCING made OR PROVIDED under the sustainable energy [loan] FINANCING 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 OR BY THE AUTHORITY PURSUANT TO AGREEMENT WITH THE MUNICIPAL CORPORATION. The municipal corporation shall set a fixed rate of interest for the TIMELY repayment of the principal amount of each [loan] FINANCING at the time the [loan is made] FINANCING IS COMPLETED.

6. The principal amount of each such [loan] FINANCING BY THE MUNICIPAL CORPORATION, excluding interest, shall not exceed the lesser of ten percent of the [appraised real property] FAIR MARKET value OF THE SUBJECT REAL PROPERTY, AS DETERMINED BY THE MUNICIPAL CORPORATION OR BY THE AUTHORITY PURSUANT TO AGREEMENT WITH THE MUNICIPAL CORPORATION, or the actual cost of installing the renewable energy system and energy efficiency improvements[, including]. FINANCINGS PROVIDED PURSUANT TO THIS ARTICLE MAY INCLUDE 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, ISSUANCE COSTS OF BONDS, THE COSTS OF CREDIT SUPPORT AND ALL OTHER RELATED TRANSACTION AND ADMINISTRATION COSTS.

7. No such [loan] FINANCING shall be made for energy efficiency improvements unless determined to be appropriate through an energy audit, and no such [loan] FINANCING 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.] (A) A CHARGE IMPOSED PURSUANT TO THIS ARTICLE SHALL BE AND BECOME A LIEN ON THE BENEFITTED PROPERTY AT THE SAME TIME AND IN THE SAME MANNER AS MUNICIPAL TAXES. SUCH LIEN SHALL HAVE A PRIORITY OVER ALL OTHER LIENS AND ENCUMBRANCES ON THE PROPERTY, EXCEPT FOR LIENS SECURING TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS SUCH LIEN SHALL BE SUBORDINATE TO THE LIEN OF TAXES, ASSESSMENTS, SEWER RENTS, SEWER SURCHARGES AND WATER RENTS, AND THE INTEREST AND CHARGES THEREON, AND ON PARITY WITH ANY LIEN ARISING FROM THE NONPAYMENT OF ANY OTHER CHARGES OF SUCH CITY.

9. UPON THE ISSUANCE OF FINANCING PURSUANT TO THIS SECTION, A NOTICE STATING THE EXISTENCE, DURATION AND AMOUNT THEREOF SHALL BE RECORDED BY THE MUNICIPAL OFFICER RESPONSIBLE FOR ADMINISTERING THIS PROGRAM, OR HIS OR HER DESIGNEE, WITH THE APPROPRIATE RECORDING OFFICER AS DEFINED BY SECTION TWO HUNDRED NINETY OF THE REAL PROPERTY LAW, WHO SHALL BE ENTITLED TO CHARGE SUCH FEE FOR SUCH RECORDING AS MAY BE AUTHORIZED BY SECTION EIGHT THOUSAND TWENTY-ONE OF THE CIVIL PRACTICE LAW AND RULES OR ANY APPLICABLE LOCAL LAW.

[9.] 10. The municipal corporation may require [the loan] ANY FINANCING made under the sustainable energy [loan] FINANCING program to be repaid by the property owner through a charge on the real property benefitted by such [loan] FINANCING. 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] FINANCING, notwithstanding any provision of law to the contrary. EXCEPT AS PROVIDED HEREIN, ALL PROVISIONS OF STATE AND LOCAL LAWS REGARDING THE ENFORCEMENT AND COLLECTION OF UNPAID REAL PROPERTY TAXES OF THE MUNICIPAL CORPORATION SHALL APPLY TO THE ENFORCEMENT AND COLLECTION OF SUCH UNPAID CHARGES. ANY MUNICIPAL CORPORATION MAY ENTER INTO AGREEMENTS WITH ANOTHER MUNICIPAL CORPORATION AND THE AUTHORITY RELATING TO THE ADMINISTRATIVE FUNCTIONS OF THE FINANCING PROGRAM INCLUDING, BUT NOT LIMITED TO, INCORPORATING REPAYMENT CHARGES ON TAX BILLS, DETERMINING FAIR MARKET VALUES, PROVIDING NOTIFICATIONS WHEN SUCH CHARGES HAVE NOT BEEN PAID AND COLLECTING UNPAID CHARGES; BUT NO TOWN, VILLAGE OR CITY SHALL BE AUTHORIZED TO ENTER INTO ANY SUCH AGREEMENT WITH ANY COUNTY OTHER THAN THE COUNTY IN WHICH SUCH TOWN, CITY OR VILLAGE IS LOCATED.

11. EACH MUNICIPAL SUSTAINABLE ENERGY FINANCING PROGRAM SHALL PRESCRIBE PROCESSES AND PROCEDURES TO PROVIDE UPFRONT DISCLOSURE OF ALL TERMS AND CONDITIONS OF A FINANCING, INCLUDING (A) EFFECTS ASSOCIATED WITH FAILING TO PAY THE CHARGE, (B) EFFECTS OF TRANSFERRING OWNERSHIP OF THE PROPERTY, (C) THE APPROXIMATE MONTHLY AND YEARLY PAYMENT CHARGES ASSOCIATED WITH THE FINANCING AND THE ESTIMATED MONTHLY ENERGY AND YEARLY ENERGY SAVINGS FROM INSTALLATION OF THE RELATED ENERGY EFFICIENCY IMPROVEMENT AND RENEWABLE ENERGY SYSTEM, BASED ON ENERGY USAGE AND PRICING AT THE TIME OF FINANCING, AND (D) NOTIFICATION TO THE AFFECTED MORTGAGEES OF THE CHARGE AND THE LIEN AS PRESCRIBED BY SUBDIVISION EIGHT OF THIS SECTION AND AN OPPORTUNITY FOR SUCH MORTGAGEES TO BE HEARD ON THE FINANCING'S COMPLIANCE WITH THIS ARTICLE.

12. EACH MUNICIPAL SUSTAINABLE ENERGY FINANCING PROGRAM SHALL INCLUDE A NON-ACCELERATION PROVISION SO THAT FAILURE TO PAY A PROGRAM CHARGE SHALL NOT CAUSE ACCELERATION OF FUTURE SCHEDULED CHARGES; BUT THIS SUBDIVISION SHALL NOT PROHIBIT AGREEMENT BETWEEN THE PROPERTY OWNER AND A SUBSEQUENT PURCHASER OF THE PROPERTY ON THE ALLOCATION AND TIMING OF PAYMENT OF OVERDUE AND FUTURE SCHEDULED CHARGES BETWEEN SUCH PROPERTY OWNER AND SUBSEQUENT PURCHASER AS THEY DEEM APPROPRIATE. EACH SUCH PROGRAM SHALL ALSO REQUIRE OWNERS OF BENEFITTED PROPERTY TO PROVIDE NOTICE OF A FINANCING UNDER THIS ARTICLE TO ANY SUBSEQUENT PURCHASER PRIOR TO CONVEYANCE OF SUCH PROPERTY.

13. EACH MUNICIPAL SUSTAINABLE ENERGY FINANCING PROGRAM SHALL BE LIMITED TO: (A) A MAXIMUM FINANCING AMOUNT THAT DOES NOT RESULT IN THE AMOUNT OF THE PROPERTY OWNER'S TOTAL DEBT ON THE PROPERTY, INCLUDING THE

AMOUNT FINANCED, EXCEEDING NINETY PERCENT OF THE FAIR MARKET VALUE OF THE PROPERTY, AS DETERMINED BY THE MUNICIPAL CORPORATION OR BY THE AUTHORITY PURSUANT TO AGREEMENT WITH THE MUNICIPAL CORPORATION, (B) REAL PROPERTY THAT HAS NO OUTSTANDING TAXES OR INVOLUNTARY LIENS, AND (C) INSTALLED ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS THAT HAVE A SAVINGS-TO-INVESTMENT RATIO GREATER THAN ONE (AS DEFINED IN GUIDANCE TO BE ISSUED BY THE AUTHORITY).

14. FINANCINGS SHALL ONLY BE AVAILABLE TO PROPERTY OWNERS THAT (A) HAVE NOT FAILED TO PAY PROPERTY TAXES DURING THE INTEREST-FREE PERIOD MORE THAN ONCE IN THE PAST THREE YEARS, OR ONCE SINCE THE PURCHASE OF THE PROPERTY IF LESS THAN THREE YEARS, AND (B) HAVE NOT FILED FOR OR DECLARED BANKRUPTCY DURING THE PREVIOUS SEVEN YEARS; AND NOTHING CONTAINED HEREIN SHALL PROHIBIT A MUNICIPAL CORPORATION OR THE AUTHORITY FROM ESTABLISHING ADDITIONAL ELIGIBILITY CRITERIA.

15. IN ORDER TO IMPLEMENT THE SUSTAINABLE ENERGY FINANCING PROGRAM, THE AUTHORITY AND ANY MUNICIPAL CORPORATION WITH THE POWER TO ENFORCE DELINQUENT TAX LIENS MAY ENTER INTO A CONTRACT UPON SUCH TERMS AND CONDITIONS AS THE AUTHORITY AND SUCH MUNICIPAL CORPORATION SHALL DEEM APPROPRIATE. SUCH CONTRACT MAY PROVIDE FOR THE AUTHORITY TO PROVIDE FUNDING FOR FINANCINGS PURSUANT TO THIS SECTION AND FOR THE MUNICIPAL CORPORATION TO TRANSFER OR ASSIGN TO THE AUTHORITY OR ITS DESIGNEE ANY FUNDS RECEIVED BY THE MUNICIPAL CORPORATION AS A RESULT OF CHARGES IMPOSED ON OWNERS OF REAL PROPERTY PURSUANT TO THIS SECTION. SUCH CONTRACT SHALL NOT OBLIGATE THE MUNICIPAL CORPORATION TO MAKE ANY PAYMENTS FOR ANY SUCH FINANCING BEYOND THE FUNDS RECEIVED BY THE MUNICIPAL CORPORATION AS A RESULT OF SUCH CHARGES IMPOSED ON OWNERS OF REAL PROPERTY OR TO APPROPRIATE FUNDS FOR SUCH PURPOSE. SUCH CONTRACT MAY ALSO PROVIDE FOR THE REIMBURSEMENT OF COSTS FROM ONE PARTY TO THE OTHER.

16. THE MUNICIPAL CORPORATION MAY ENTER INTO SUCH CONTRACTS WITH THIRD PARTIES INCLUDING BUT NOT LIMITED TO OTHER MUNICIPAL CORPORATIONS AS MAY BE NECESSARY OR APPROPRIATE TO IMPLEMENT THE SUSTAINABLE ENERGY FINANCING PROGRAM UPON TERMS AND CONDITIONS DEEMED APPROPRIATE BY SUCH MUNICIPAL CORPORATION, PROVIDED THAT SUCH TERMS AND CONDITIONS ARE CONSISTENT WITH ALL OF THE STANDARDS AND REQUIREMENTS SET FORTH IN THIS ARTICLE.

17. NOTHING IN THIS ARTICLE SHALL PREVENT A TOWN FROM ELECTING TO PROCEED UNDER SECTION TWO HUNDRED NINE-I OF THE TOWN LAW.

S 5. The general municipal law is amended by adding two new sections 119-hh and 119-ii to read as follows:

S 119-HH. PROGRAM IN A CITY OF ONE MILLION OR MORE. WITH RESPECT TO ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE PERSONS:

1. THE CITY MAY PROVIDE CREDIT SUPPORT FOR THE PROGRAM AND MAY CAUSE THE INCORPORATION OF ONE OR MORE CORPORATIONS UNDER THE NOT-FOR-PROFIT CORPORATION LAW, OR THE ORGANIZATION OF OTHER ENTITIES, TO PROVIDE ASSISTANCE TO SUCH CITY IN THE IMPLEMENTATION OF A SUSTAINABLE ENERGY FINANCING PROGRAM, AND SUCH ASSISTANCE SHALL BE DEEMED TO LESSEN THE BURDEN OF GOVERNMENT AND CONSTITUTE ACTION IN THE PUBLIC INTEREST; THE CITY MAY CAUSE THE ISSUANCE OF BONDS BY SUCH CORPORATION OR OTHER ENTITY AS ISSUER.

2. THE STATE DOES HEREBY PLEDGE AND AGREE WITH THE HOLDERS OF ANY ISSUE OF BONDS SECURED BY SUCH A PLEDGE THAT THE STATE WILL NOT LIMIT OR ALTER THE RIGHTS VESTED BY THIS ARTICLE IN THE CITY OR AN ISSUER OR OTHER ENTITY DESCRIBED IN SUBDIVISION ONE OF THIS SECTION TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH SUCH HOLDERS PURSUANT TO THIS ARTICLE, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF SUCH HOLDERS OR THE SECURITY FOR SUCH BONDS, UNTIL SUCH BONDS, TOGETHER WITH THE INTEREST THEREON AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR

PROCEEDING BY OR ON BEHALF OF SUCH HOLDERS, ARE FULLY PAID AND DISCHARGED. NOTHING CONTAINED IN THIS ARTICLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF THE STATE TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER STATUTES IMPOSING OR RELATING TO TAXES OR FEES, OR APPROPRIATIONS RELATING THERETO. NEITHER THE AUTHORITY NOR THE CITY NOR ANY CORPORATION ESTABLISHED BY THE CITY NOR ANY OTHER MUNICIPALITY OR ENTITY SHALL INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR AGREEMENT WITH HOLDERS OF ANY BONDS ISSUED UNDER THIS ARTICLE ANY PROVISION WHICH PROVIDES THAT A DEFAULT OCCURS AS A RESULT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE EXERCISING ITS RIGHT TO AMEND, MODIFY, OR REPEAL OR OTHERWISE ALTER ANY STATUTE IMPOSING OR RELATING TO TAXES, FEES, OR APPROPRIATIONS RELATING THERETO. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO OBLIGATE THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE TO MAKE ANY PAYMENTS OR IMPOSE ANY TAXES TO SATISFY THE DEBT SERVICE OBLIGATIONS OF ANY OF THE AUTHORITY, THE CITY, ANY CORPORATION ESTABLISHED BY THE CITY, OR ANY OTHER MUNICIPALITY OR ENTITY.

3. THE BONDS ARE HEREBY MADE SECURITIES IN WHICH ALL PUBLIC OFFICERS AND BODIES OF THE STATE AND ALL PUBLIC CORPORATIONS, MUNICIPALITIES AND MUNICIPAL SUBDIVISIONS, ALL INSURANCE COMPANIES AND ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL BANKS, BANKERS, TRUST COMPANIES, SAVINGS BANKS AND SAVINGS ASSOCIATIONS INCLUDING SAVINGS AND LOAN ASSOCIATIONS, BUILDING AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL ADMINISTRATORS, CONSERVATORS, GUARDIANS, EXECUTORS, TRUSTEES AND OTHER FIDUCIARIES, AND ALL OTHER PERSONS WHATSOEVER WHO ARE NOW OR MAY HEREAFTER BE AUTHORIZED TO INVEST IN BONDS OR IN OTHER OBLIGATIONS OF THE STATE, MAY PROPERLY AND LEGALLY INVEST FUNDS, INCLUDING CAPITAL, IN THEIR CONTROL OR BELONGING TO THEM. THE BONDS ARE ALSO HEREBY MADE SECURITIES WHICH MAY BE DEPOSITED WITH AND MAY BE RECEIVED BY ALL PUBLIC OFFICERS AND BODIES OF THE STATE AND ALL MUNICIPALITIES AND PUBLIC CORPORATIONS FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THE STATE IS NOW OR MAY HEREAFTER BE AUTHORIZED.

4. (A) IT IS HEREBY DETERMINED THAT THIS ARTICLE AND THE CARRYING OUT OF ITS PURPOSES ARE IN ALL RESPECTS FOR THE BENEFIT OF THE PEOPLE OF THE STATE AND FOR A PUBLIC PURPOSE. ACCORDINGLY, THE CITY OR AN ISSUER OR OTHER ENTITY DESCRIBED IN SUBDIVISION ONE OF THIS SECTION SHALL BE REGARDED AS PERFORMING AN ESSENTIAL GOVERNMENTAL FUNCTION IN THE EXERCISE OF THE POWERS CONFERRED UPON IT PURSUANT TO THIS ARTICLE AND SHALL NOT BE REQUIRED TO PAY ANY FEES, TAXES, SPECIAL AD VALOREM LEVIES OR ASSESSMENTS OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, FRANCHISE TAXES, SALES TAXES OR OTHER TAXES, UPON OR WITH RESPECT TO ANY PROPERTY OWNED BY IT, OR UPON THE USES THEREOF, OR UPON OR WITH RESPECT TO ITS ACTIVITIES OR OPERATIONS IN FURTHERANCE OF THE POWERS CONFERRED UPON IT PURSUANT TO THIS ARTICLE, OR UPON OR WITH RESPECT TO ANY RENTALS, RATES, CHARGES, FEES, REVENUES OR OTHER INCOME RECEIVED BY IT. PROVIDED THAT THE AUTHORITY, THE CITY AND ANY ENTITY CREATED PURSUANT TO THIS ARTICLE SHALL BE REQUIRED TO REGISTER WITH THE COMMISSIONER OF TAXATION AND FINANCE UNDER SECTION ELEVEN HUNDRED THIRTY-FOUR OF THE TAX LAW, COLLECT SALES AND COMPENSATING USE TAXES ON ITS SALES OF PROPERTY AND SERVICES OF A KIND ORDINARILY SOLD BY PRIVATE PERSONS, AND COMPLY WITH THE OTHER PROVISIONS OF ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THE TAX LAW APPLICABLE TO SUCH SALES.

(B) THE BONDS TOGETHER WITH THE INCOME THEREFROM SHALL AT ALL TIMES BE EXEMPT FROM TAXATION.

(C) THE STATE HEREBY COVENANTS WITH THE PURCHASERS AND WITH ALL SUBSEQUENT HOLDERS AND TRANSFEREES OF BONDS, IN CONSIDERATION OF THE ACCEPT-

ANCE OF AND PAYMENT FOR THE BONDS, THAT THE BONDS AND THE INCOME THEREFROM AND ALL REVENUES, MONIES, AND OTHER PROPERTY PLEDGED TO PAY OR TO SECURE THE PAYMENT OF SUCH BONDS SHALL AT ALL TIMES BE FREE FROM TAXATION PROVIDED THAT THIS PARAGRAPH SHALL NOT CONSTITUTE AN EXEMPTION OR EXCLUSION APPLICABLE TO TRANSACTION OR EXCISE TAXES, INCLUDING BUT NOT LIMITED TO SALES AND COMPENSATING USE TAXES OR EXCISE TAXES.

5. NOTWITHSTANDING ANY PROVISION OF THE UNIFORM COMMERCIAL CODE TO THE CONTRARY, ANY PLEDGE OF OR OTHER SECURITY INTEREST IN REVENUES, MONEYS, ACCOUNTS, CONTRACT RIGHTS, GENERAL INTANGIBLES OR OTHER PERSONAL PROPERTY MADE OR CREATED PURSUANT TO THIS ARTICLE SHALL BE VALID, BINDING AND PERFECTED FROM THE TIME WHEN SUCH PLEDGE IS MADE OR OTHER SECURITY INTEREST ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF THE COLLATERAL OR FURTHER ACT, AND THE LIEN OF ANY SUCH PLEDGE OR OTHER SECURITY INTEREST SHALL BE VALID, BINDING AND PERFECTED AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE PLEDGOR IRRESPECTIVE OF WHETHER OR NOT SUCH PARTIES HAVE NOTICE THEREOF. NO INSTRUMENT BY WHICH SUCH A PLEDGE OR SECURITY INTEREST IS CREATED NOR ANY FINANCING STATEMENT NEED BE RECORDED OR FILED.

6. WHETHER OR NOT THE BONDS ARE OF SUCH FORM AND CHARACTER AS TO BE NEGOTIABLE INSTRUMENTS UNDER THE TERMS OF THE UNIFORM COMMERCIAL CODE, THE BONDS ARE HEREBY MADE NEGOTIABLE INSTRUMENTS WITHIN THE MEANING OF AND FOR ALL THE PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO THE PROVISIONS OF THE BONDS FOR REGISTRATION.

S 119-II. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION, OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION, OR PART THEREOF INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

S 6. This act shall take effect immediately.