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

4490--A

2011-2012 Regular Sessions

I N S E N A T E

April 6, 2011

Introduced by Sens. MAZIARZ, GRISANTI, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, the public authorities law, the real property 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 establishing the green jobs-green New York on-bill financing program

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

Section 1. Subdivision 2 of section 18-a of the public service law is amended by adding a new paragraph (h) to read as follows:

(H) ON-BILL FINANCING CHARGES BILLED PURSUANT TO SECTION SIXTY-SIX-M OF THIS CHAPTER SHALL BE EXCLUDED FROM ANY DETERMINATION OF A UTILITY COMPANY'S GROSS OPERATING REVENUES DERIVED FROM INTRASTATE UTILITY OPERATIONS FOR PURPOSES OF THIS SECTION.

S 2. Section 33 of the public service law is amended by adding a new subdivision 6 to read as follows:

6. IN THE EVENT THAT THE RESPONSIBILITY FOR MAKING UTILITY PAYMENTS HAS BEEN ASSUMED BY OCCUPANTS OF A MULTIPLE DWELLING PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, SUCH OCCUPANTS SHALL NOT BE BILLED FOR ANY ARREARS OF ON-BILL FINANCING CHARGES BILLED AS SET FORTH IN SECTION SIXTY-SIX-M OF THIS CHAPTER, WHICH SHALL REMAIN THE RESPONSIBILITY OF THE INCURRING CUSTOMER.

S 3. Section 34 of the public service law is amended by adding a new subdivision 3-a to read as follows:

3-A. IN THE EVENT THAT AN OCCUPANT OF A TWO-FAMILY DWELLING MAKES A UTILITY PAYMENT PURSUANT TO SUBDIVISION THREE OF THIS SECTION, SUCH OCCUPANTS SHALL NOT BE BILLED FOR ANY ARREARS OF ON-BILL FINANCING CHARGES BILLED AS SET FORTH IN SECTION SIXTY-SIX-M OF THIS CHAPTER, WHICH SHALL REMAIN THE RESPONSIBILITY OF THE INCURRING CUSTOMER.

S 4. Subdivision 1 of section 41 of the public service law, as added by chapter 713 of the laws of 1981, is amended to read as follows:

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

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1. Notwithstanding any other provision of law, EXCEPT SECTION SIXTY-SIX-M OF THIS CHAPTER, no utility corporation or municipality may charge a residential customer for gas or electric service which was rendered more than six months prior to the mailing of the first bill to the customer for such service unless the failure of the corporation or municipality to bill sooner was not due to the neglect of the corporation or municipality or was due to the culpable conduct of the customer. If the customer remains liable for such service, the utility shall permit payments to be made under an installment payment plan, provided, however, that the utility or municipality may require prompt payment if the non-billing resulted from the culpable conduct of the customer. Any such installment payment plan may provide for a downpayment of up to one-half of the amounts due from the customer, or three months average billing, whichever is less.

S 5. Section 42 of the public service law is amended by adding a new subdivision 3 to read as follows:

3. THE RIGHTS AND RESPONSIBILITIES OF RESIDENTIAL CUSTOMERS PARTICIPATING IN GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PURSUANT TO SECTION SIXTY-SIX-M OF THIS CHAPTER SHALL BE SUBSTANTIALLY COMPARABLE TO THOSE OF GAS AND ELECTRIC CUSTOMERS NOT PARTICIPATING IN SUCH FINANCING, AND CHARGES FOR ON-BILL FINANCING SHALL BE TREATED AS CHARGES FOR UTILITY SERVICE FOR THE PURPOSE OF THIS ARTICLE, PROVIDED THAT:

(A) ALL DETERMINATIONS AND SAFEGUARDS RELATED TO THE TERMINATION AND RECONNECTION OF SERVICE SHALL APPLY TO ON-BILL FINANCING CHARGES BILLED BY A UTILITY COMPANY PURSUANT TO SUCH SECTION;

(B) IN THE EVENT THAT THE RESPONSIBILITY FOR MAKING UTILITY PAYMENTS HAS BEEN ASSUMED BY OCCUPANTS OF A MULTIPLE DWELLING PURSUANT TO SECTION THIRTY-THREE OF THIS ARTICLE OR BY OCCUPANTS OF A TWO-FAMILY DWELLING PURSUANT TO SECTION THIRTY-FOUR OF THIS ARTICLE, SUCH OCCUPANTS SHALL 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 COMPANY 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 COMPANY SHALL RECALCULATE THE PAYMENTS UNDER SUCH PLAN TO REFLECT THE 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) 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;

(F) 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 COMPANY 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

(G) 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 COMPANY 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 6. Section 43 of the public service law is amended by adding a new subdivision 4 to read as follows:

4. WHEN A COMPLAINT IS RECEIVED BY THE UTILITY COMPANY THAT IS RELATED TO WORK PERFORMED UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM OR TO THE APPROPRIATE AMOUNT OF ON-BILL FINANCING CHARGES, THE UTILITY COMPANY 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 SOLE 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. THE UTILITY COMPANY SHALL NOT TERMINATE, DISCONNECT OR SUSPEND THE CUSTOMER'S SERVICE FOR NON-PAYMENT OF THE ON-BILL FINANCING CHARGES DURING THE PENDENCY OF THE COMPLAINT AND UNTIL FIFTEEN DAYS AFTER THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY INFORMS THE UTILITY COMPANY THAT THE COMPLAINT HAS BEEN RESOLVED.

S 7. 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 8. 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 PROGRAM. 1. (A) THE COMMISSION SHALL REQUIRE EACH UTILITY COMPANY 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 MAXIMUM EXTENT PRACTICABLE, UTILITY COMPANIES SHALL UTILIZE EXISTING ELECTRONIC DATA INTERCHANGE INFRASTRUCTURE OR OTHER EXISTING BILLING INFRASTRUCTURE TO IMPLEMENT THEIR BILLING AND COLLECTION RESPONSIBILITIES UNDER THIS SECTION.

(B) EXCEPT AS PARTICIPATION MAY BE LIMITED BY PARAGRAPH (G) OF THIS SUBDIVISION, THIS PROGRAM SHALL BE AVAILABLE TO CUSTOMERS WHO HAVE MET THE STANDARDS ESTABLISHED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR PARTICIPATION IN THE ON-BILL FINANCING MECHANISM UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM AND WHO HAVE EXECUTED A WRITTEN AGREEMENT FOR THE DELIVERY OF QUALIFIED ENERGY EFFICIENCY SERVICES UNDER SUCH PROGRAM AND A NOTE OBLIGATING THE CUSTOMER TO REPAY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR FUNDS LOANED TO THE CUSTOMER FOR SUCH QUALIFIED ENERGY EFFICIENCY SERVICES;

PROVIDED, HOWEVER, THAT SUCH CUSTOMERS MUST BE THE UTILITY COMPANY'S CUSTOMER OF RECORD TO WHICH SUCH ON-BILL FINANCING CHARGES WILL APPLY.

(C) FOLLOWING THE EXPIRATION OF THE CANCELLATION PERIOD PROVIDED IN SUBDIVISION FOUR OF SECTION EIGHTEEN HUNDRED NINETY-SIX OF THE PUBLIC AUTHORITIES LAW, THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL IDENTIFY TO THE APPROPRIATE UTILITY COMPANY EACH CUSTOMER WHO HAS RECEIVED A LOAN TO BE REPAID THROUGH THE ON-BILL FINANCING MECHANISM AND THE AMOUNT OF EACH MONTHLY LOAN REPAYMENT INSTALLMENT. EACH UTILITY COMPANY SHALL BILL ITS CUSTOMER THAT HAS OBTAINED A GREEN JOBS-GREEN NEW YORK LOAN FOR ENERGY EFFICIENCY IMPROVEMENTS FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY THE AMOUNT DUE AS THE ON-BILL FINANCING CHARGES, COMPRISING THE MONTHLY INSTALLMENT ON SUCH LOAN AND ANY LATE PAYMENT CHARGES THEREON DESIGNATED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY. AT THE UTILITY COMPANY'S OPTION, THE ON-BILL FINANCING CHARGES MAY BE BILLED SEPARATELY.

(D) THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL DETERMINE WHETHER THE CUSTOMER'S UTILITY COMPANY WILL BILL THE ON-BILL FINANCING CHARGES BASED ON THE RELATIVE DOLLAR VALUES OF THE PROJECTED ENERGY SAVINGS BY ENERGY TYPE. BILLING AND COLLECTION SERVICES SHALL BE AVAILABLE WITHOUT REGARD TO WHETHER THE ENERGY OR FUEL DELIVERED BY THE UTILITY COMPANY IS THE CUSTOMER'S PRIMARY ENERGY SOURCE. THE ON-BILL FINANCING CHARGES SHALL BE COLLECTED ON BILLS FROM THE CUSTOMER'S ELECTRIC CORPORATION UNLESS THE QUALIFIED ENERGY EFFICIENCY SERVICES AT THE CUSTOMER'S PREMISES RESULTS IN MORE PROJECTED ENERGY SAVINGS ON THE CUSTOMER'S GAS BILL THAN ON THE ELECTRIC BILL, IN WHICH CASE THE ON-BILL FINANCING CHARGES SHALL BE COLLECTED ONLY ON THE CUSTOMER'S GAS CORPORATION BILLS.

(E) GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING, IMPLEMENTATION PLAN. (I) FOR THE PURPOSES OF CARRYING OUT THE REQUIREMENTS OF THIS SECTION, THE COMMISSION SHALL ISSUE AN ORDER MANDATING A COLLABORATIVE PROCESS BETWEEN THE COMMISSION, THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND UTILITY COMPANIES, TO DEVELOP THE RULES, REGULATIONS AND PRACTICES REQUIRED BY SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN ADDITION TO THE PROCESS AND RULES FOR ONGOING RECOVERY. SUCH COLLABORATIVE PROCESS SHALL LAST NINETY DAYS, AFTER WHICH TIME UTILITY COMPANIES SHALL SUBMIT A FINAL IMPLEMENTATION PLAN TO THE COMMISSION WITHIN THIRTY DAYS. THE COMMISSION SHALL THEREAFTER APPROVE, DENY OR MODIFY SUCH PLAN WITHIN SIXTY DAYS. IF A PLAN IS DISAPPROVED, THE UTILITY COMPANY WILL HAVE THIRTY DAYS TO MEET THE REQUIREMENTS OF APPROVAL. FOLLOWING APPROVAL, UTILITY COMPANIES SHALL IMPLEMENT THE PROGRAM WITHIN EIGHT MONTHS. NOT LESS THAN ONE MONTH BEFORE THE DEADLINE FOR COMPLIANCE WITH IMPLEMENTATION OF THE PROGRAM, A UTILITY COMPANY MAY REQUEST IN WRITING THAT THE COMMISSION GRANT, FOR GOOD CAUSE, AN EXTENSION OF TIME, NOT TO EXCEED TWO MONTHS, IN ORDER FOR SUCH UTILITY COMPANY TO IMPLEMENT THE PROGRAM. THE COMMISSION SHALL APPROVE OR DENY SUCH REQUEST WITHIN FIVE BUSINESS DAYS, AND SHALL SPECIFY THE LENGTH OF THE ADDITIONAL TIME PROVIDED, UP TO TWO MONTHS, HOWEVER ONLY ONE EXTENSION OF TIME MAY BE APPROVED BY THE COMMISSION.

(II) THE COMMISSION SHALL, IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND UTILITY COMPANIES, PROMULGATE RULES AND REGULATIONS THAT ESTABLISH BUSINESS PRACTICES TO BE EMPLOYED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND UTILITY COMPANIES IN ADMINISTERING THE ON-BILL FINANCING PROGRAM INCLUDING, BUT NOT LIMITED TO: BILLING, PAYMENT PROCESSING, COLLECTION OF ON-BILL FINANCING CHARGES, NOTICE OF TERMINATION REQUIREMENTS, CONDI-

TIONS UNDER WHICH UTILITY COMPANIES MAY APPLY TO THE COMMISSION FOR ANY ONGOING COST RECOVERY, AND CONDITIONS UPON WHICH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY MAY AUTHORIZE THE REINSTATEMENT OF SERVICE OR THE OPENING OF A NEW UTILITY ACCOUNT BY A CUSTOMER WHOSE UTILITY ACCOUNT HAS BEEN TERMINATED FOR NONPAYMENT OF ON-BILL FINANCING CHARGES. RULES AND REGULATIONS PROMULGATED BY THE COMMISSION CONCERNING ANY REQUEST FOR ONGOING COST RECOVERY SHALL DIRECT UTILITY COMPANIES TO FILE INFORMATION BEFORE THE COMMISSION FOR CONSIDERATION OF THE REQUEST, AND THE COMMISSION SHALL MAINTAIN ITS RIGHT TO APPROVE, DENY OR MODIFY SUCH REQUEST.

(F) IN ADMINISTERING THE GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PROGRAM, THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY IS DIRECTED TO MAKE REIMBURSEMENTS TO UTILITY COMPANIES FOR REASONABLE AND NECESSARY COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PROGRAM.

(G) EACH UTILITY COMPANY SHALL LIMIT THE NUMBER OF CUSTOMERS WHO PARTICIPATE IN THE GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PROGRAM TO NO MORE THAN ONE AND ONE-HALF PERCENT OF ITS TOTAL CUSTOMERS. THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY MAY, FOLLOWING A REVIEW OF THE PROGRAM OVER A PERIOD OF NOT LESS THAN THIRTY-SIX MONTHS, BASED UPON DATA FROM THE REPORTING REQUIREMENT OF SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED NINETY-NINE OF THE PUBLIC AUTHORITIES LAW, PETITION THE COMMISSION TO INCREASE THE NUMBER OF CUSTOMERS WHO MAY PARTICIPATE IN THE GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PROGRAM TO NOT MORE THAN TWO AND ONE-HALF PERCENT OF EACH UTILITY'S TOTAL CUSTOMERS.

(H) THE COMMISSION MAY SUSPEND OR TERMINATE A UTILITY COMPANY'S OFFERING OF THE ON-BILL FINANCE CHARGE PROVIDED THAT THE COMMISSION MAKES A FINDING THAT THERE IS A SIGNIFICANT INCREASE IN UTILITY SERVICE DISCONNECTIONS THAT THE COMMISSION DETERMINES IS DIRECTLY RELATED TO THE ON-BILL CHARGE, OR A FINDING OF OTHER GOOD CAUSE.

(I) FIFTEEN PERCENT OF THE ENERGY SAVINGS REALIZED FROM CAPITAL IMPROVEMENTS AND FIXTURES FINANCED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY LOANS UNDER THE GREEN JOBS-GREEN NEW YORK LOAN PROGRAM PURSUANT TO SUBDIVISION TWO OF SECTION EIGHTEEN HUNDRED NINETY-SIX OF THE PUBLIC AUTHORITIES LAW, IN THE UTILITY COMPANIES' SERVICE TERRITORIES SHALL BE CREDITED TO THE APPROPRIATE ELECTRIC CORPORATION'S AND/OR GAS CORPORATION'S ENERGY SAVINGS TARGETS ESTABLISHED BY THE COMMISSION IN THE ENERGY EFFICIENCY PORTFOLIO STANDARD PROCEEDING.

(J) UTILITY COMPANIES MAY TERMINATE UTILITY SERVICE FOR NON-PAYMENT OF SUCH ON-BILL FINANCING CHARGES SUBJECT TO THE RIGHTS OF THE CUSTOMER ESTABLISHED UNDER ARTICLE TWO OF THE PUBLIC SERVICE LAW EXCEPT THE RIGHT TO HAVE PAYMENT OF ARREARS OF INSTALLMENTS OF ON-BILL FINANCING CHARGES SUBJECT TO A DEFERRED PAYMENT AGREEMENT UNDER SECTION THIRTY-SEVEN OF THIS CHAPTER.

(K) THE RESPONSIBILITIES OF THE UTILITY COMPANY SHALL BE LIMITED SOLELY TO PROVIDING BILLING, PAYMENT PROCESSING, AND COLLECTION SERVICES FOR ON-BILL CHARGES AS DIRECTED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

(L) A CUSTOMER REMITTING LESS THAN THE TOTAL AMOUNT DUE FOR ELECTRIC AND/OR GAS SERVICES AND ON-BILL FINANCING CHARGES SHALL HAVE SUCH PARTIAL PAYMENT FIRST APPLIED AS PAYMENT FOR ELECTRIC AND/OR GAS SERVICES AND ANY REMAINING AMOUNT WILL BE APPLIED TO THE ON-BILL FINANCING CHARGE, WHETHER SUCH CHARGE IS INCLUDED ON THE UTILITY BILL OR BILL SEPARATELY.

(M) WHEN THE CUSTOMER'S UTILITY ACCOUNT AT THE UTILITY COMPANY IS CLOSED, THE BALANCE OF THE CUSTOMER'S GREEN JOBS-GREEN NEW YORK LOAN INCLUDING ANY CHARGES IN ARREARS SHALL BE DUE AND OWING, AND COLLECTION SHALL BE THE RESPONSIBILITY OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY. AFTER THE CUSTOMER'S UTILITY ACCOUNT AT THE UTILITY COMPANY IS CLOSED, ALL PAYMENT PROCESSING AND COLLECTION SERVICES FOR ON-BILL CHARGES SHALL BE CONDUCTED BY OR ON BEHALF OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY IN A MANNER CONSISTENT WITH THE RIGHTS, DUTIES AND OBLIGATIONS OF EVERY UTILITY COMPANY SUBJECT TO THE JURISDICTION OF THE COMMISSION UNDER THIS ARTICLE, AND ARTICLES TWO AND FOUR-A OF THIS CHAPTER.

(N) UNLESS OTHERWISE PRECLUDED BY LAW, PARTICIPATION IN THE GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PROGRAM SHALL NOT AFFECT A CUSTOMER'S ELIGIBILITY FOR ANY REBATE OR INCENTIVE OFFERED BY A UTILITY COMPANY. UTILITY COMPANIES MAY MAKE AVAILABLE TO CUSTOMERS WHO RECEIVED GREEN JOBS-GREEN NEW YORK ON-BILL FINANCING PROGRAM LOANS ANY REBATES FOR ELIGIBLE ENERGY EFFICIENCY MEASURES AVAILABLE TO CUSTOMERS WHO DO NOT RECEIVE SUCH LOANS.

(O) THE COMMISSION SHALL NOT APPROVE ANY APPLICATION FOR THE CONVERSION TO SUBMETERING OF ANY MASTER METER THAT IS SUBJECT TO ANY ON-BILL FINANCING CHARGES.

2. (A) QUALIFIED ENERGY EFFICIENCY SERVICES REPAID THROUGH AN ON-BILL RECOVERY MECHANISM SHALL BE CONSIDERED A SPECIAL ENERGY PROJECT PURSUANT TO SECTION EIGHTEEN HUNDRED FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW. THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL SECURE EVERY LOAN ISSUED FOR SUCH SERVICES THAT ARE TO BE REPAID THROUGH AN ON-BILL RECOVERY MECHANISM WITH A MORTGAGE UPON THE REAL PROPERTY THAT IS IMPROVED BY SUCH SERVICES. SUCH MORTGAGE SHALL BE RECORDED PURSUANT TO SECTION TWO HUNDRED NINETY-ONE-D OF THE REAL PROPERTY LAW.

(B) ALL TERMS AND PROVISIONS OF A GREEN JOBS-GREEN NEW YORK MORTGAGE PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT AND SUBORDINATE TO THE LIEN OF ANY MORTGAGE OR MORTGAGES BY A BANK, CREDIT UNION OR OTHER INSTITUTIONAL LENDER. WHEN A SUBSEQUENT PURCHASER OF THE PROPERTY IS GRANTED A MORTGAGE, THE GREEN JOBS-GREEN NEW YORK MORTGAGE SHALL BE SUBORDINATE TO THE TERMS OF THAT MORTGAGE.

(C) THE MORTGAGEE SHALL NOT RETAIN ANY RIGHT TO ENFORCE PAYMENT OR FORECLOSE UPON THE PROPERTY.

(D) THE GREEN JOBS-GREEN NEW YORK MORTGAGE SHALL BE EXEMPT FROM STATE MORTGAGE RECORDING TAXES AND LOCAL RECORDING TAXES.

S 9. 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 RECOVERY. 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 RECOVERY 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 THIS CHAPTER. 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 SHALL COMMENCE AS SOON AS PRACTICABLE AFTER ESTABLISHMENT OF THE PROGRAM.

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

S 10. 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 RECOVERY MECHANISM FOR REPAYMENT OF LOANS FOR THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES FOR ELIGIBLE PROJECTS IN THE FORM OF A CHARGE APPEARING ON THE PARTICIPATING CUSTOMER'S UTILITY BILL PROVIDED THAT SUCH ON-BILL RECOVERY MECHANISM SHALL PROVIDE FOR THE UTILIZATION OF ANY ON-BILL RECOVERY 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;

(V) PROVIDE ALL CUSTOMERS WHO ENTER INTO A LOAN PURSUANT TO THIS TITLE WITH ADEQUATE DISCLOSURES AS PROVIDED FOR IN SUBDIVISION FOUR OF THIS SECTION; AND

(vi) 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) 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 INFORMATION ON ANY IMPROVEMENTS OR MODIFICATIONS TO THE PREMISES, USE OF THE PREMISES OR ENERGY CONSUMING APPLIANCES OR EQUIPMENT OF ANY TYPE 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 PERSONALLY IDENTIFIABLE INFORMATION COLLECTED BY THE AUTHORITY SHALL BE CONFIDENTIAL. THE AUTHORITY SHALL COLLECT AND AGGREGATE AND PUBLISH ON THE AUTHORITY WEBSITE SUCH INFORMATION AS DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION IN A MANNER THAT WILL FACILITATE THE OPEN TRANSMISSION OF INFORMATION REGARDING THE BEST PRACTICES OF QUALIFIED ENERGY EFFICIENCY SERVICES.

(D) QUALIFIED ENERGY EFFICIENCY SERVICES REPAID THROUGH AN ON-BILL RECOVERY MECHANISM SHALL BE CONSIDERED A SPECIAL ENERGY PROJECT PURSUANT TO SECTION EIGHTEEN HUNDRED FIFTY-ONE OF THIS ARTICLE. THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL SECURE EVERY LOAN ISSUED FOR SUCH SERVICES THAT ARE TO BE REPAID THROUGH AN ON-BILL RECOVERY MECHANISM WITH A MORTGAGE UPON THE REAL PROPERTY THAT IS IMPROVED BY SUCH SERVICES. SUCH MORTGAGE SHALL BE RECORDED PURSUANT TO SECTION TWO HUNDRED NINETY-ONE-D OF THE REAL PROPERTY LAW.

(E) ALL TERMS AND PROVISIONS OF A GREEN JOBS-GREEN NEW YORK MORTGAGE PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT AND SUBORDINATE TO THE LIEN OF ANY MORTGAGE OR MORTGAGES BY A BANK, CREDIT UNION OR OTHER INSTITUTIONAL LENDER. WHEN A SUBSEQUENT PURCHASER OF THE PROPERTY IS GRANTED A MORTGAGE, THE GREEN JOBS-GREEN NEW YORK MORTGAGE SHALL BE SUBORDINATE TO THE TERMS OF THAT MORTGAGE.

4. (A) ANY PERSON, FIRM, COMPANY, PARTNERSHIP, OR CORPORATION INCLUDING, BUT NOT LIMITED TO, THE AUTHORITY, OFFERING TO PROVIDE CUSTOMERS WITH A LOAN FOR THE PURPOSES OF UNDERTAKING AN ENERGY-EFFICIENT PROJECT

PURSUANT TO THE PROGRAM SHALL PROVIDE, IN WRITING, TO SUCH CUSTOMER, IN CLEAR AND CONSPICUOUS TERMS: (I) THE FINANCIAL AND LEGAL OBLIGATIONS, RISKS, IMPACTS, AND CONSEQUENCES OF ACCEPTING SUCH LOAN RESPONSIBILITIES, INCLUDING THE OBLIGATION TO PROVIDE OR CONSENT TO THE CUSTOMER'S UTILITY COMPANY PROVIDING THE AUTHORITY INFORMATION ON THE SOURCES AND QUANTITIES OF ENERGY USED IN THE CUSTOMER'S PREMISES AND ANY IMPROVEMENTS OR MODIFICATIONS TO THE PREMISES, USE OF THE PREMISES OR ENERGY CONSUMING APPLIANCES OR EQUIPMENT OF ANY TYPE THAT MAY SIGNIFICANTLY AFFECT ENERGY USAGE; (II) NOTIFICATION THAT THE ON-BILL FINANCING CHARGE WILL BE BILLED BY SUCH CUSTOMER'S UTILITY COMPANY AND THAT FAILURE TO PAY SUCH ON-BILL FINANCING CHARGE MAY RESULT IN THE CUSTOMER'S HAVING ITS ELECTRICITY AND/OR GAS TERMINATED FOR NON-PAYMENT, PROVIDED THAT SUCH UTILITY COMPANY FOLLOWS THE REQUIREMENTS OF ARTICLE TWO OF THE PUBLIC SERVICE LAW WITH RESPECT TO RESIDENTIAL CUSTOMERS; (III) NOTIFICATION THAT INCURRING SUCH LOAN TO UNDERTAKE ENERGY-EFFICIENCY PROJECTS MAY NOT RESULT IN LOWER MONTHLY ENERGY COSTS OVER TIME, BASED ON ADDITIONAL FACTORS THAT CONTRIBUTE TO MONTHLY ENERGY COSTS; (IV) THE PROGRAM IS OPERATED BY THE AUTHORITY AND IT IS THE SOLE RESPONSIBILITY OF THE AUTHORITY TO HANDLE CONSUMER INQUIRIES AND COMPLAINTS RELATED TO THE OPERATION AND LENDING ASSOCIATED WITH THE PROGRAM, PROVIDED FURTHER THAT THE AUTHORITY SHALL PROVIDE A MECHANISM TO RECEIVE SUCH CONSUMER INQUIRIES AND COMPLAINTS.

(B) ANY PERSON ENTERING INTO A GREEN JOBS-GREEN NEW YORK LOAN SHALL HAVE THE RIGHT TO CANCEL ANY CONTRACT FOR CAPITAL IMPROVEMENTS AND FIXTURES TO PROMOTE ENERGY EFFICIENCY PURSUANT TO THE PROGRAM ESTABLISHED BY SECTION EIGHTEEN HUNDRED NINETY-SIX OF THIS TITLE UNTIL MIDNIGHT OF THE FIFTH BUSINESS DAY FOLLOWING THE DAY ON WHICH SUCH PERSON SIGNS SUCH CONTRACT.

S 11. The opening paragraph of section 1899 of the public authorities law, as added by chapter 487 of the laws of 2009, is amended to read as follows:

No later than October first, two thousand ten and October first of each year thereafter, the president of the authority shall issue an annual report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate [and], the minority leader of the assembly, THE PUBLIC SERVICE COMMISSION AND THE PARTICIPATING UTILITY COMPANIES concerning the authority's activities related to the green jobs - green New York program created pursuant to this title. Such report shall include, but not be limited to the following information:

S 12. 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; (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; (F) THE AMOUNT EXPENDED BY THE AUTHORITY IN SUPPORT OF THE

PROGRAM AND THE PURPOSES FOR WHICH SUCH FUNDS HAVE BEEN EXPENDED; (G) THE NUMBER OF CUSTOMERS PARTICIPATING IN THE PROGRAM, SEPARATELY STATING THE NUMBER OF RESIDENTIAL AND NON-RESIDENTIAL CUSTOMERS AND THE AMOUNTS FINANCED; (H) THE NUMBER OF PROGRAM PARTICIPANTS WHO ARE IN ARREARS IN THEIR UTILITY ACCOUNTS FOR ELECTRIC AND/OR GAS SERVICE; (I) THE NUMBER OF PROGRAM PARTICIPANTS WHO ARE IN ARREARS IN THEIR ON-BILL FINANCING CHARGE PAYMENTS; (J) THE NUMBER OF PROGRAM PARTICIPANTS WHOSE UTILITY SERVICE HAS BEEN TERMINATED FOR NON-PAYMENT; (K) A DESCRIPTION OF THE GEOGRAPHIC DISTRIBUTION OF LOANS MADE; (L) AN ESTIMATE OF THE ENERGY SAVINGS RESULTING FROM THIS PROGRAM; AN ESTIMATE OF THE AVERAGE PROJECT COST IN EACH COUNTY IN THE STATE; AND (M) IN CONSULTATION WITH THE DEPARTMENT OF LABOR, AN ESTIMATE OF THE NUMBER OF JOBS CREATED AS A DIRECT RESULT OF THIS PROGRAM, BY REGION AND JOB TYPE.

S 13. 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) PRIOR TO THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE FOR REAL PROPERTY THAT HAS A GREEN JOBS-GREEN NEW YORK MORTGAGE OBLIGATION, THE PROSPECTIVE GRANTOR SHALL PRESENT TO THE PROSPECTIVE GRANTEE A DISCLOSURE NOTICE WHICH STATES THE FOLLOWING: "THIS DISCLOSURE NOTICE IS INTENDED TO INFORM PROSPECTIVE PURCHASERS THAT THE REAL PROPERTY THEY ARE ABOUT TO ACQUIRE IS SUBJECT TO A GREEN JOBS-GREEN NEW YORK MORTGAGE." 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.

(B) ANY PROSPECTIVE OR ACTUAL PURCHASER WHO HAS SUFFERED A LOSS DUE TO A VIOLATION OF THIS SUBDIVISION SHALL BE ENTITLED TO RECOVER ANY ACTUAL DAMAGES INCURRED FROM THE SELLER OF SAID REAL PROPERTY.

(C) WHERE THE PURCHASER RECEIVES THE GREEN JOBS-GREEN NEW YORK LOAN DISCLOSURE PURSUANT TO THIS SUBDIVISION PRIOR TO THE SIGNING BY THE PURCHASER OF A BINDING CONTRACT OF SALE FOR THE PURCHASE OF RESIDENTIAL REAL PROPERTY, ANY PERSON WHO IS LICENSED AS A REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER OR REAL ESTATE SALESPERSON UNDER SECTION FOUR HUNDRED FORTY-A OF THIS CHAPTER AND WHO IS ACTING IN A FIDUCIARY CAPACITY FOR EITHER A BUYER OR A SELLER OF RESIDENTIAL REAL PROPERTY SHALL HAVE FULFILLED THEIR DISCLOSURE OBLIGATION PURSUANT TO THIS SUBDIVISION AND SHALL NOT BE REQUIRED TO PROVIDE ANY FURTHER INFORMATION TO THE BUYER OR SELLER OF THE RESIDENTIAL REAL PROPERTY REGARDING INFORMATION RELATING TO THE GREEN JOBS-GREEN NEW YORK LOAN PROGRAM PURSUANT TO SUBDIVISION TWO OF SECTION EIGHTEEN HUNDRED NINETY-SIX OF THE PUBLIC AUTHORITIES LAW.

S 14. Section 1891 of the public authorities law is amended by adding a new subdivision 16 to read as follows:

16. "RURAL ELECTRIC COOPERATIVE" MEANS A RURAL ELECTRIC COOPERATIVE ESTABLISHED PURSUANT TO THE RURAL ELECTRIC COOPERATIVE LAW.

S 15. Subdivision 1 of section 1894 of the public authorities law, as added by chapter 487 of the laws of 2009, is amended to read as follows:

1. The authority shall issue one or more program opportunity notices or requests for proposals to solicit applications from partnerships or consortia comprised of constituency-based organizations which can connect community members to the program, including facilitating awareness of the program and enrollment, and (a) distribution utilities, (b) contractors that have signed enforceable agreements to meet standards

set by the authority, including standards for local hiring and pre-apprenticeship and apprenticeship and other labor-management training program participation, (c) workforce development organizations that will recruit unemployed individuals, and provide training and job placement in conjunction with contractors pursuant to section eighteen hundred ninety-seven of this title; and/or (d) organized trades and their certification or apprenticeship programs. The authority shall specifically solicit applications that propose to demonstrate the feasibility of innovative financing mechanisms, including but not limited to applications undertaken in partnership with distribution utilities that propose to demonstrate the feasibility of on-bill financing. The public service commission and other appropriate agencies are authorized to coordinate with the authority and applicants in developing and implementing proposed demonstrations of innovative financing mechanisms. NOTWITHSTANDING THE FOREGOING, THE AUTHORITY SHALL, IN COOPERATION WITH RURAL ELECTRIC COOPERATIVES, DEVELOP AND ISSUE ONE OR MORE PROGRAM OPPORTUNITY NOTICES OR REQUESTS FOR PROPOSALS TO SOLICIT APPLICATIONS FOR FUNDING UNDER THIS PROGRAM FROM RURAL ELECTRIC COOPERATIVES THAT PROPOSE TO: PROMOTE ENERGY EFFICIENCY, ENERGY CONSERVATION AND THE INSTALLATION OF CLEAN ENERGY TECHNOLOGIES; REDUCE ENERGY CONSUMPTION AND ENERGY COSTS; REDUCE GREENHOUSE GAS EMISSIONS; SUPPORT SUSTAINABLE COMMUNITY DEVELOPMENT; OR CREATE GREEN JOB OPPORTUNITIES.

S 16. Subparagraph (g) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

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

S 17. Paragraph 6 of subdivision c of section 26-511 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide (a) as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and

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

S 18. Paragraph 3 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 749 of the laws of 1990, is amended to read as follows:

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

S 19. The second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 21 of the laws of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is amended to read as follows:

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

may determine a valuation of the property equal to five times the equalized assessed valuation of the buildings, for the purposes of this subparagraph. The commission may make a determination that the valuation of the property is an amount different from such equalized assessed valuation where there is a request for a reduction in such assessed valuation currently pending; or where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application. Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that

(1) no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; or

(2) the landlord who owns no more than four rental units within the state has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the property was acquired by the present owner, whichever is later; or

(3) the landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or

(4) the landlord and tenant voluntarily enter into a valid written lease in good faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent not in excess of fifteen per centum and for a term of not less than two years, except that where such lease provides for an increase in excess of fifteen per centum, the increase shall be automatically reduced to fifteen per centum; or

(5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be one-fortieth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is

entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or

(6) there has been, since March first, nineteen hundred fifty, an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodation therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; or

(7) there has been since March first, nineteen hundred fifty, a major capital improvement required for the operation, preservation or maintenance of the structure. A MAJOR CAPITAL IMPROVEMENT SHALL NOT INCLUDE AN ELIGIBLE PROJECT UNDER THE GREEN JOBS-GREEN NEW YORK PROGRAM BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, ESTABLISHED PURSUANT TO TITLE 9-A OF ARTICLE 8 OF THE PUBLIC AUTHORITIES LAW; or

(8) there has been since March first, nineteen hundred fifty, in structures containing more than four housing accommodations, other improvements made with the express consent of the tenants in occupancy of at least seventy-five per centum of the housing accommodations, provided, however, that no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as herein provided; or

(9) there has been, since March first, nineteen hundred fifty, a subletting without written consent from the landlord or an increase in the number of adult occupants who are not members of the immediate family of the tenant, and the landlord has not been compensated therefor by adjustment of the maximum rent by lease or order of the commission or pursuant to the federal act; or

(10) the presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is substantially lower than the rents generally prevailing in the same area for substantially similar housing accommodations.

S 20. This act shall take effect immediately; provided, however, that the amendments to section 26-405 of the city rent and rehabilitation law, made by section sixteen of this act, shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act; provided further that the amendments to section 26-511 of the rent stabilization law of nineteen hundred sixty-nine, made by section seventeen of this act, shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law; provided further that the amendments to section 6 of the emergency tenant protection act of nineteen seventy-four, made by section eighteen of this act, shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974; and further provided that the amendments to section 4 of the emergency housing rent control law, made by section nineteen of this act, shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946.