

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

7006

2011-2012 Regular Sessions

I N A S S E M B L Y

April 7, 2011

Introduced by M. of A. CAHILL -- read once and referred to the Committee
on Energy

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 green jobs-green
New York on-bill recovery

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 RECOVERY CHARGES BILLED PURSUANT TO SECTION SIXTY-SIX-M OF
4 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 RECOVERY 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 ON-BILL
13 RECOVERY, AND CHARGES FOR ON-BILL RECOVERY SHALL BE TREATED AS CHARGES
14 FOR UTILITY 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 RECOVERY 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
22 NOT BE BILLED FOR ANY ARREARS OF ON-BILL RECOVERY CHARGES OR ANY

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

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1 PROSPECTIVE ON-BILL RECOVERY CHARGES, WHICH SHALL REMAIN THE RESPONSIBILITY OF THE INCURRING CUSTOMER;

2
3 (C) DEFERRED PAYMENT AGREEMENTS PURSUANT TO SECTION THIRTY-SEVEN OF THIS ARTICLE SHALL BE AVAILABLE TO CUSTOMERS PARTICIPATING IN ON-BILL RECOVERY 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;

8 (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;

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

16 (F) LATE PAYMENT CHARGES ON UNPAID ON-BILL RECOVERY CHARGES SHALL BE DETERMINED AS PROVIDED IN THIS SECTION, AND ANY SUCH CHARGES SHALL BE REMITTED TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY;

20 (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 RECOVERY 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

29 (H) BILLING INFORMATION PROVIDED PURSUANT TO SECTION FORTY-FOUR OF THIS ARTICLE SHALL INCLUDE INFORMATION ON GREEN JOBS-GREEN NEW YORK ON-BILL RECOVERY 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 RECOVERY CHARGES AND THE AUTHORITY'S CONTACT INFORMATION AND PROCEDURES FOR RESOLVING CUSTOMER COMPLAINTS WITH SUCH CHARGES.

39 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:

42 (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 RECOVERY PURSUANT TO SECTION SIXTY-SIX-M OF THIS ARTICLE.

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

49 S 66-M. GREEN JOBS-GREEN NEW YORK ON-BILL RECOVERY. 1. (A) THE COMMISSION SHALL REQUIRE EACH GAS AND ELECTRIC CORPORATION TO FILE TARIFFS 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 THE PUBLIC AUTHORITIES LAW. TO THE EXTENT PRACTICABLE, GAS AND ELECTRIC CORPORATIONS SHALL UTILIZE EXISTING ELECTRONIC DATA INTERCHANGE INFRASTRUCTURE OR OTHER EXISTING BILLING INFRA-

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

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

25 (C) THE COMMISSION MAY SUSPEND AN ELECTRIC OR GAS CORPORATION'S OFFER
26 OF THE ON-BILL RECOVERY CHARGE PROVIDED THAT THE COMMISSION, AFTER
27 CONDUCTING A HEARING AS PROVIDED IN SECTION TWENTY OF THIS CHAPTER,
28 MAKES A FINDING THAT: (I) THERE IS A SIGNIFICANT INCREASE IN UTILITY
29 SERVICE ARREARS OR DISCONNECTIONS THAT THE COMMISSION DETERMINES IS
30 DIRECTLY RELATED TO THE ON-BILL RECOVERY CHARGE, OR (II) OTHER GOOD
31 CAUSE.

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

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

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

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

(D) UNLESS FULLY SATISFIED PRIOR TO SALE OR TRANSFER, THAT (I) THE ON-BILL RECOVERY 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 RECOVERY 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 RECOVERY CHARGES;

(E) THAT UNDERPAYMENTS OF BILLS SHALL BE ALLOCATED BETWEEN ON-BILL RECOVERY 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 RECOVERY 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 RECOVERY 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 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 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 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 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

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

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

4 (i) one account which shall be maintained for monies to be made avail-
5 able to provide loans to finance the cost of approved qualified energy
6 efficiency services for residential structures and multi-family struc-
7 tures, and

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

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

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

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

27 (iii) ESTABLISH AN ON-BILL RECOVERY MECHANISM FOR REPAYMENT OF LOANS
28 FOR THE PERFORMANCE OF QUALIFIED ENERGY EFFICIENCY SERVICES FOR ELIGIBLE
29 PROJECTS IN THE FORM OF A CHARGE APPEARING ON THE PARTICIPATING CUSTOM-
30 ER'S UTILITY BILL PROVIDED THAT SUCH ON-BILL RECOVERY MECHANISM SHALL
31 PROVIDE FOR THE UTILIZATION OF ANY ON-BILL RECOVERY PROGRAMS ESTABLISHED
32 PURSUANT TO SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW AND SECTION
33 ONE THOUSAND TWENTY-HH OF THIS CHAPTER;

34 (IV) ESTABLISH STANDARDS FOR CUSTOMER PARTICIPATION IN SUCH ON-BILL
35 RECOVERY MECHANISM, INCLUDING STANDARDS FOR RELIABLE UTILITY BILL
36 PAYMENT, CURRENT GOOD STANDING ON ANY MORTGAGE OBLIGATIONS, ALTERNATIVE
37 MEASURES OF CREDIT WORTHINESS AND SUCH ADDITIONAL STANDARDS AS THE
38 AUTHORITY DEEMS NECESSARY; PROVIDED THAT IN ORDER TO PROVIDE BROAD
39 ACCESS TO ON-BILL RECOVERY, THE AUTHORITY SHALL INCLUDE PARTICIPATION BY
40 CUSTOMERS WHO ARE LESS LIKELY TO HAVE ACCESS TO TRADITIONAL SOURCES OF
41 FINANCING; AND

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

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

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

53 (i) eligible projects shall meet cost effectiveness standards devel-
54 oped by the authority;

55 (ii) loans shall not exceed thirteen thousand dollars per applicant
56 for approved qualified energy efficiency services for residential struc-

1 tures, and twenty-six thousand dollars per applicant for approved quali-
2 fied energy efficiency services for non-residential structures,
3 PROVIDED, HOWEVER, THAT THE AUTHORITY MAY PERMIT A LOAN IN EXCESS OF
4 SUCH AMOUNTS IF THE TOTAL COST OF ENERGY EFFICIENCY MEASURES FINANCED BY
5 SUCH LOAN WILL ACHIEVE A PAYBACK PERIOD OF FIFTEEN YEARS OR LESS, BUT IN
6 NO EVENT SHALL ANY SUCH LOAN EXCEED TWENTY-FIVE THOUSAND DOLLARS PER
7 APPLICANT FOR RESIDENTIAL STRUCTURES AND FIFTY THOUSAND DOLLARS PER
8 APPLICANT FOR NON-RESIDENTIAL STRUCTURES; and for multi-family struc-
9 tures loans shall be in amounts determined by the authority, provided,
10 however, that the authority shall assure that a significant number of
11 residential structures are included in the program; [and]

12 (iii) NO FEES OR PENALTIES SHALL BE CHARGED OR COLLECTED FOR PREPAY-
13 MENT OF ANY SUCH LOAN; AND

14 (IV) loans shall be at interest rates determined by the authority to
15 be no higher than necessary to make the provision of the qualified ener-
16 gy efficiency services feasible.

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

27 (c) Applications for financial assistance pursuant to this section
28 shall be reviewed and evaluated by the authority or its designee pursu-
29 ant to eligibility and qualification requirements and criteria estab-
30 lished by the authority. The authority shall establish standards for (i)
31 qualified energy efficiency services, and (ii) measurement and verifica-
32 tion of energy savings. Such standards shall meet or exceed the stand-
33 ards used by the authority for similar programs in existence on the
34 effective date of this section.

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

41 (E) IN ESTABLISHING AN ON-BILL RECOVERY MECHANISM:

42 (I) THE COST-EFFECTIVENESS OF AN ELIGIBLE PROJECT SHALL BE EVALUATED
43 SOLELY ON THE BASIS OF THE COSTS AND PROJECTED SAVINGS TO THE APPLYING
44 CUSTOMER, USING STANDARD ENGINEERING ASSESSMENTS AND PRIOR BILLING DATA
45 AND USAGE PATTERNS; PROVIDED HOWEVER THAT BASED UPON THE MOST RECENT
46 CUSTOMER DATA AVAILABLE, ON AN ANNUALIZED BASIS, THE MONTHLY ON-BILL
47 REPAYMENT AMOUNT FOR A PACKAGE OF MEASURES SHALL NOT EXCEED ONE-TWELFTH
48 OF THE SAVINGS PROJECTED TO RESULT FROM THE INSTALLATION OF THE MEASURES
49 PROVIDED FURTHER THAT NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT OR
50 PREVENT CUSTOMERS WHOSE PRIMARY HEATING ENERGY SOURCE IS FROM DELIVERA-
51 BLE FUELS FROM PARTICIPATING IN THE PROGRAM;

52 (II) THE AUTHORITY SHALL ESTABLISH A PROCESS FOR RECEIPT AND RESOL-
53 UTION OF CUSTOMER COMPLAINTS CONCERNING ON-BILL RECOVERY CHARGES AND FOR
54 ADDRESSING DELAYS AND DEFAULTS IN CUSTOMER PAYMENTS; AND

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

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

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

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

10 (III) INFORMATION ON ANY IMPROVEMENTS OR MODIFICATIONS TO THE PREMISES
11 THAT MAY SIGNIFICANTLY AFFECT ENERGY USAGE INCLUDING INFORMATION REGARD-
12 ING ENERGY USAGE PRIOR TO AND SUBSEQUENT TO ANY QUALIFIED ENERGY EFFI-
13 CIENCY SERVICES COMPLETED.

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

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

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

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

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

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

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

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

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

21 S 9. Subparagraph (g) of paragraph 1 of subdivision g of section
22 26-405 of the administrative code of the city of New York, as amended by
23 chapter 749 of the laws of 1990, is amended to read as follows:

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

33 S 10. Paragraph 6 of subdivision c of section 26-511 of the adminis-
34 trative code of the city of New York, as amended by chapter 116 of the
35 laws of 1997, is amended to read as follows:

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

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

30 S 11. Paragraph 3 of subdivision d of section 6 of section 4 of chap-
31 ter 576 of the laws of 1974 constituting the emergency tenant protection
32 act of nineteen seventy-four, as amended by chapter 749 of the laws of
33 1990, is amended to read as follows:

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

43 S 12. The second undesignated paragraph of paragraph (a) of subdivi-
44 sion 4 of section 4 of chapter 274 of the laws of 1946, constituting the
45 emergency housing rent control law, as amended by chapter 21 of the laws
46 of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is
47 amended to read as follows:

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

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

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

28 S 13. This act shall take effect immediately; provided, however, that
29 the amendments to section 26-405 of the city rent and rehabilitation law
30 made by section nine of this act shall remain in full force and effect
31 only as long as the public emergency requiring the regulation and
32 control of residential rents and evictions continues, as provided in
33 subdivision 3 of section 1 of the local emergency housing rent control
34 act; provided further that the amendments to section 26-511 of the rent
35 stabilization law of nineteen hundred sixty-nine made by section ten of
36 this act shall expire on the same date as such law expires and shall not
37 affect the expiration of such law as provided under section 26-520 of
38 such law, as from time to time amended; provided further that the amend-
39 ments to section 6 of the emergency tenant protection act of nineteen
40 seventy-four made by section eleven of this act shall expire on the same
41 date as such act expires and shall not affect the expiration of such act
42 as provided in section 17 of chapter 576 of the laws of 1974, as from
43 time to time amended; and further provided that the amendments to
44 section 4 of the emergency housing rent control law made by section
45 twelve of this act shall expire on the same date as such law expires and
46 shall not affect the expiration of such law as provided in subdivision 2
47 of section 1 of chapter 274 of the laws of 1946.