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I N S E N A T E

May 12, 2016

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to establishing the gas energy system linked deposit program

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

1 Section 1. The state finance law is amended by adding a new article 17
2 to read as follows:

3 ARTICLE XVII

4 GAS ENERGY SYSTEM LINKED DEPOSIT PROGRAM ACT

5 SECTION 250. SHORT TITLE.

6 251. DEFINITIONS.

7 252. ESTABLISHMENT AND PURPOSE; GAS ENERGY SYSTEM LINKED DEPOSIT
8 PROGRAM AUTHORIZATION.

9 253. LINKED LOANS.

10 254. LINKED LOANS INTEREST RATE; LIMITATION ON LENDER'S FEES.

11 255. APPLICATION PROCEDURE.

12 256. EARLY MATURITY.

13 257. MONITORING AND REPORTING.

14 258. RULES AND REGULATIONS.

15 S 250. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
16 THE "GAS ENERGY SYSTEM LINKED DEPOSIT PROGRAM ACT".

17 S 251. DEFINITIONS. WHEN USED IN THIS ARTICLE, UNLESS THE CONTEXT
18 CLEARLY INDICATES OTHERWISE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOW-
19 ING MEANINGS:

20 1. "CORPORATION" MEANS THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-
21 MENT AUTHORITY, AS CONTINUED BY SECTION EIGHTEEN HUNDRED FIFTY-TWO OF
22 THE PUBLIC AUTHORITIES LAW.

23 2. "ELIGIBLE BORROWER" MEANS ANY RECIPIENT WHO IS AN OWNER OF A SINGLE
24 FAMILY RESIDENTIAL DWELLING, OR AN OWNER OF A MULTI-FAMILY RESIDENTIAL
25 DWELLING, OR AN OWNER OF A COMMERCIAL PROPERTY, WHICH UNDERTAKES AN
26 ELIGIBLE PROJECT TO PURCHASE AND INSTALL A GAS ENERGY SYSTEM.

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

LBD14749-01-6

1 3. "ELIGIBLE PROJECT" SHALL MEAN A PROJECT TO PURCHASE AND INSTALL A
2 GAS ENERGY SYSTEM IN CONNECTION WITH THE CONVERSION TO NATURAL GAS WHICH
3 RESULTS IN A GREENHOUSE GAS REDUCTION.

4 4. "GAS ENERGY SYSTEM" MEANS THE EQUIPMENT WHICH PROVIDES HEATING AND
5 MAY ALSO INCLUDE COOLING AND/OR HOT WATER THROUGH NATURAL GAS CONVERTED
6 TO ENERGY.

7 5. "LENDER" MEANS ANY STATE OR FEDERALLY-CHARTERED SAVINGS BANK,
8 SAVINGS AND LOAN ASSOCIATION, FEDERAL SAVINGS BANK, FEDERAL SAVINGS AND
9 LOAN ASSOCIATION, OR COMMERCIAL BANK OR TRUST COMPANY DESIGNATED BY THE
10 CORPORATION TO PARTICIPATE IN THE PROGRAM.

11 6. "LINKED DEPOSIT" MEANS FINANCIAL ASSISTANCE UNDERTAKEN BY THE
12 CORPORATION FOR THE CONSTRUCTION OF AN ELIGIBLE PROJECT THROUGH A DEPOS-
13 IT ELIGIBLE TO BE HELD BY SUCH INSTITUTION, PLACED WITH A LENDER BY THE
14 CORPORATION BEARING INTEREST AT THE LINKED DEPOSIT INTEREST RATE,
15 PROVIDED THE LENDER HAS AGREED TO:

16 (A) LEND THE EQUIVALENT VALUE OF SUCH DEPOSIT TO AN ELIGIBLE BORROWER
17 AT THE LINKED LOAN INTEREST RATE; AND

18 (B) PERMIT THE DEPOSIT TO BE COMPRISED OF A SERIES OF CERTIFICATES OF
19 DEPOSIT EACH BEARING AN INTEREST RATE EQUAL TO THE LINKED DEPOSIT INTER-
20 EST RATE FIXED AT THE TIME THE ORIGINAL LINKED DEPOSIT IS PLACED.

21 EACH LINKED DEPOSIT SHALL BE CONTINUOUSLY AND FULLY SECURED BY DIRECT
22 OBLIGATIONS OF THE STATE OR THE UNITED STATES OF AMERICA OR BY OBLI-
23 GATIONS THE PRINCIPAL AND INTEREST ON WHICH ARE GUARANTEED BY THE STATE
24 OR THE UNITED STATES OF AMERICA.

25 THIS ARTICLE AND RELATED STATUTES THAT REFER TO THIS ARTICLE DO NOT
26 GRANT SAVINGS BANKS, SAVINGS AND LOAN ASSOCIATIONS, FEDERAL SAVINGS
27 BANKS, OR FEDERAL SAVINGS AND LOAN ASSOCIATIONS ELIGIBILITY TO ACCEPT
28 PUBLIC FUNDS OR PUBLIC MONEYS FROM PUBLIC ENTITIES FOR INVESTMENT
29 PURPOSES. A LINKED DEPOSIT IS INTENDED TO ENABLE A LENDER TO MAKE A
30 LINKED LOAN TO AN ELIGIBLE BORROWER AND SUCH DEPOSIT EARNS A YIELD LOWER
31 THAN POSTED RATES IN ORDER TO ACCOMPLISH THE GOALS OF THIS ARTICLE.

32 7. "LINKED DEPOSIT INTEREST RATE" MEANS A FIXED RATE OF INTEREST WHICH
33 IS BELOW THE MARKET RATE.

34 8. "LINKED LOAN" MEANS A LOAN FOR PURPOSES OF AN ELIGIBLE PROJECT, IN
35 AN AMOUNT EQUAL TO A LINKED DEPOSIT AND BEARING INTEREST AT THE LINKED
36 LOAN INTEREST RATE.

37 9. "LINKED LOAN INTEREST RATE" MEANS A FIXED RATE BELOW THE FIXED
38 INTEREST RATE THE LENDER WOULD HAVE CHARGED FOR THE LOAN IN THE ABSENCE
39 OF A LINKED DEPOSIT BASED ON ITS USUAL CREDIT CONSIDERATIONS.

40 10. "PROGRAM" MEANS THE GAS ENERGY SYSTEM LINKED DEPOSIT PROGRAM ACT.

41 11. "RECIPIENT" MEANS ANY PERSON WHO IS A RESIDENTIAL OR COMMERCIAL
42 UTILITY CUSTOMER UNDERTAKING AN ELIGIBLE PROJECT.

43 S 252. ESTABLISHMENT AND PURPOSE; GAS ENERGY SYSTEM LINKED DEPOSIT
44 PROGRAM AUTHORIZATION. THE GAS ENERGY SYSTEM LINKED DEPOSIT PROGRAM IS
45 HEREBY CREATED. THE PURPOSE OF THIS PROGRAM IS TO ENCOURAGE AND ASSIST
46 ELIGIBLE BORROWERS WITHIN THE STATE TO UNDERTAKE ELIGIBLE PROJECTS THAT
47 RESULT IN THE REDUCTION OF GREENHOUSE GASES. THE CORPORATION IS HEREBY
48 AUTHORIZED TO USE FUNDS IN THE GREEN BANK ESTABLISHED BY A PUBLIC
49 SERVICE COMMISSION ORDER ISSUED DECEMBER NINETEENTH, TWO THOUSAND THIR-
50 TEEN, CASE 13-M-0412 AND CAPITALIZED MOST RECENTLY PURSUANT TO AN ORDER
51 OF THE PUBLIC SERVICE COMMISSION AUTHORIZING THE CLEAN ENERGY FUND
52 FRAMEWORK, CASE 13-M-0412, AND HELD BY THE CORPORATION NOT TO EXCEED
53 TWENTY MILLION DOLLARS PER FISCAL YEAR FOR THE GAS ENERGY SYSTEM LINKED
54 DEPOSIT PROGRAM.

55 S 253. LINKED LOANS. LINKED LOANS SHALL BE MADE BY LENDERS, PURSUANT
56 TO THE PROGRAM, ONLY TO ELIGIBLE BORROWERS IN CONNECTION WITH ELIGIBLE

1 PROJECTS. THE CREDIT DECISION FOR MAKING A LINKED LOAN SHALL BE MADE
2 SOLELY BY THE LENDER.

3 S 254. LINKED LOANS INTEREST RATE; LIMITATION ON LENDER'S FEES. 1.
4 LINKED LOANS SHALL BEAR INTEREST AT THE LINKED LOAN INTEREST RATE. LEND-
5 ERS SHALL CERTIFY TO THE CORPORATION THAT THE LINKED LOAN INTEREST RATE
6 IS BELOW THE INTEREST RATE THE LENDER WOULD HAVE CHARGED FOR THE LOAN IN
7 THE ABSENCE OF A LINKED DEPOSIT.

8 2. LENDERS WHO MAKE LINKED LOANS SHALL NOT BE ENTITLED TO CHARGE ANY
9 DISCOUNT, POINTS, ORIGINATION FEES, HANDLING FEES, SERVICE CHARGES,
10 REFINANCING FEES OR PENALTIES OR ANY CHARGE OTHER THAN THOSE NORMALLY
11 CHARGED AND IN SUCH AMOUNTS NORMALLY CHARGED BY THE LENDER FOR LOANS OF
12 THE TYPE BEING MADE WITHOUT REGARD TO THE PROGRAM.

13 S 255. APPLICATION PROCEDURE. 1. THE CORPORATION SHALL PROVIDE AN
14 APPLICATION FORM TO LENDERS FOR LINKED DEPOSITS. SUCH FORM SHALL REFLECT
15 THE QUALIFYING INFORMATION AS DEVELOPED BY THE CORPORATION FOR ELIGIBLE
16 BORROWERS. THE LENDER SHALL FORWARD THE COMPLETED APPLICATION, ITS
17 CRITERIA FOR FINDING THAT THE BORROWER IS CREDITWORTHY, AND THE INTEREST
18 RATE CERTIFICATION REQUIRED PURSUANT TO SECTION TWO HUNDRED FIFTY-THREE
19 OF THIS ARTICLE, TO THE CORPORATION WHICH SHALL EVALUATE EACH APPLICA-
20 TION BASED UPON THE AVAILABILITY OF FUNDS FOR THE LINKED DEPOSIT.

21 2. IF THE LINKED LOAN APPLICATION RECEIVES THE APPROVAL OF THE CORPO-
22 RATION AND ANY OTHER APPROVALS REQUIRED BY STATE OR FEDERAL LAW, THE
23 CORPORATION SHALL DEPOSIT FUNDS WITH THE LENDER PURSUANT TO THE TERMS OF
24 A WRITTEN DEPOSIT AGREEMENT AS THE CORPORATION AND LENDER SHALL DETER-
25 MINE.

26 S 256. EARLY MATURITY. UNLESS OTHERWISE AGREED TO BY THE CORPORATION,
27 THE LINKED DEPOSIT SHALL AUTOMATICALLY MATURE ON THE THIRTIETH CALENDAR
28 DAY AFTER THE OCCURRENCE OF ANY EVENT, MONETARY OR NON-MONETARY, WHICH,
29 WHETHER DECLARED BY THE LENDER OR NOT, CONSTITUTES A DEFAULT UNDER ANY
30 TERM OR TERMS OF THE LINKED LOAN AND SUCH DEFAULT REMAINS UNCURED AS OF
31 SUCH THIRTY CALENDAR DAYS. UPON EARLY REPAYMENT OF A LINKED LOAN, THE
32 LINKED DEPOSIT SHALL AUTOMATICALLY MATURE WITH PAYMENT DUE TO THE CORPO-
33 RATION ON OR BEFORE THE LAST DAY OF THE MONTH IN WHICH PREPAYMENT
34 OCCURS.

35 S 257. MONITORING AND REPORTING. 1. THE CORPORATION SHALL REQUIRE
36 PERIODIC REPORTS OR OTHER INFORMATION THE CORPORATION DEEMS NECESSARY
37 FROM LENDERS AND BORROWERS ON THE STATUS OF THE LINKED LOAN AND THE
38 ELIGIBLE PROJECTS TO ENSURE COMPLIANCE WITH THE PROVISIONS AND THE
39 INTENT OF THIS ARTICLE.

40 2. ON AN ANNUAL BASIS COMMENCING AFTER THE DATE OF THE FIRST LOAN, THE
41 CORPORATION SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
42 SENATE AND THE SPEAKER OF THE ASSEMBLY A REPORT REGARDING THE ACTIVITIES
43 OF THE PROGRAM. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO THE
44 NUMBER AND TYPE OF LINKED LOANS AND THE AMOUNT THEREOF, THE NUMBER, THE
45 TYPE AND LOCATION OF LENDERS MAKING LINKED LOANS AND OF BORROWERS
46 RECEIVING LINKED LOANS, THE GEOGRAPHIC LOCATION OF SUCH LENDERS AND
47 BORROWERS, AND AN ESTIMATE OF THE GREENHOUSE GAS BENEFITS GENERATED BY
48 SUCH PROGRAM.

49 S 258. RULES AND REGULATIONS. THE CORPORATION MAY PROMULGATE RULES AND
50 REGULATIONS NECESSARY AND REASONABLE FOR THE OPERATION OF SUCH PROGRAM.

51 S 2. This act shall take effect immediately.