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

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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:

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

ARTICLE XVII

GAS ENERGY SYSTEM LINKED DEPOSIT PROGRAM ACT

SECTION 250. SHORT TITLE.
251. DEFINITIONS.
252. ESTABLISHMENT AND PURPOSE; GAS ENERGY SYSTEM LINKED DEPOSIT PROGRAM AUTHORIZATION.
253. LINKED LOANS.
254. LINKED LOANS INTEREST RATE; LIMITATION ON LENDER'S FEES.
255. APPLICATION PROCEDURE.
256. EARLY MATURITY.
257. MONITORING AND REPORTING.
258. RULES AND REGULATIONS.

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

S 251. DEFINITIONS. WHEN USED IN THIS ARTICLE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

2. "ELIGIBLE BORROWER" MEANS ANY RECIPIENT WHO IS AN OWNER OF A SINGLE FAMILY RESIDENTIAL DWELLING, OR AN OWNER OF A MULTI-FAMILY RESIDENTIAL DWELLING, OR AN OWNER OF A COMMERCIAL PROPERTY, WHICH UNDERTAKES AN 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.

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

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

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

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

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

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

EACH LINKED DEPOSIT SHALL BE CONTINUOUSLY AND FULLY SECURED BY DIRECT OBLIGATIONS OF THE STATE OR THE UNITED STATES OF AMERICA OR BY OBLIGATIONS THE PRINCIPAL AND INTEREST ON WHICH ARE GUARANTEED BY THE STATE OR THE UNITED STATES OF AMERICA.

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

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

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

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

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

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

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

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

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

S 254. LINKED LOANS INTEREST RATE; LIMITATION ON LENDER'S FEES. 1. LINKED LOANS SHALL BEAR INTEREST AT THE LINKED LOAN INTEREST RATE. LENDERS SHALL CERTIFY TO THE CORPORATION THAT THE LINKED LOAN INTEREST RATE IS BELOW THE INTEREST RATE THE LENDER WOULD HAVE CHARGED FOR THE LOAN IN THE ABSENCE OF A LINKED DEPOSIT.

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

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

2. IF THE LINKED LOAN APPLICATION RECEIVES THE APPROVAL OF THE CORPORATION AND ANY OTHER APPROVALS REQUIRED BY STATE OR FEDERAL LAW, THE CORPORATION SHALL DEPOSIT FUNDS WITH THE LENDER PURSUANT TO THE TERMS OF A WRITTEN DEPOSIT AGREEMENT AS THE CORPORATION AND LENDER SHALL DETERMINE.

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

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

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

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

S 2. This act shall take effect immediately.