STATE OF NEW YORK

6523

2019-2020 Regular Sessions

IN SENATE

June 14, 2019

Introduced by Sens. PARKER, HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general municipal law, in relation to municipal sustainable energy loan programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 119-ff of the general municipal law, as added by chapter 497 of the laws of 2009, subdivision 6 as amended by chapter 320 of the laws of 2017, is amended to read as follows:

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

1. "Authority" means the New York state energy research and development authority, as defined by subdivision two of section eighteen hundred fifty-one of the public authorities law, or its successor.

2. "Credit support" means and includes direct loans, letters of credit, loan guarantees, and insurance products; and the purchase of or commitment to purchase, or the sale of or commitment to sell, debt instruments, including subordinated securities.

3. "Energy audit" means a formal evaluation of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority for purposes of this article, for the purpose of identifying appropriate energy efficiency improvements that could be made to **or incorporated into the construction of** the property. A municipal corporation may, by local law, provide for the certification of such contractors based upon criteria at least as stringent as the state-wide criteria for certification adopted by the authority for purposes of this article.

4. "Energy efficiency improvement" means [~~and includes~~] any **improvement to real property, whether as a component of the new construction of a building or as the** renovation or retrofitting of [~~a~~] **an existing** building to reduce energy consumption, such as window and door replace-

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

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ment, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, **energy controls, energy recovery systems** and similar improvements, determined to be cost-effective pursuant to criteria established by the authority. However, "energy efficiency improvement" shall not include [~~lighting measures or~~] household appliances **and other items or equipment** that are not permanently fixed to real property.

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

6. **"Real property" means any property, an interest in which is or is eligible to be recorded or registered on municipal land ownership records by the possessor of such interest.**

7. "Renewable energy system" means an energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the owner of real property is a commercial entity, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the authority not including the combustion or pyrolysis of solid waste.

[~~7.~~] **8.** "Renewable energy system feasibility study" means a written study, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority for purposes of this article, for the purpose of determining the feasibility of installing a renewable energy system. A municipal corporation may, by local law, provide for the certification of such contractors based upon criteria at least as stringent as the state-wide criteria for certification adopted by the authority for purposes of this article.

§ 2. Section 119-gg of the general municipal law, as added by chapter 497 of the laws of 2009, subdivisions 1 and 6 as amended by chapter 320 of the laws of 2017, is amended to read as follows:

§ 119-gg. Sustainable energy loan program. 1. The legislative body of any municipal corporation may, by local law, establish a sustainable energy loan program using federal grant assistance or federal credit support or monies from the state of New York or any state authority as defined by section two of the public authorities law available for this purpose.

2. Such program may [~~make~~] **provide** loans to the owners of real property located within the municipal corporation to finance the installation of renewable energy systems and energy efficiency improvements, related energy audits and renewable energy system feasibility studies, and the verification of the installation of such systems and improvements. No [~~municipal corporation~~] **program** shall [~~make~~] **provide** such a loan to an owner of property that has [~~received~~] **been provided** a loan from another [~~municipal corporation pursuant to this article~~] **program in the same municipality**.

3. Each such local law establishing [~~the~~] **a** sustainable energy loan program shall provide for the criteria for making such loans and the terms and conditions for repayment of such loans. [~~The~~] **Each** sustainable energy loan program shall use such lists of cost effective energy efficiency improvements for different building types as are approved by the authority.

4. The municipal corporation shall verify and report on the installation and performance of renewable energy systems and energy efficiency improvements financed by the loan program in such form and manner as the authority may [~~establish~~] **require**.

5. Every loan made under the sustainable energy loan program shall be repaid over a term not to exceed the weighted average of the useful life

of such systems and improvements as determined by the municipal corporation. The municipal corporation shall [~~set~~] **require that each program loan have** a fixed rate of interest for the repayment of the principal amount of each loan at the time the loan is made.

6. a. [~~For loans made to an owner of real property that is a commercial entity, not-for-profit organization, or entity other than an individual~~] **Except as set forth in paragraph b of this subdivision**, the municipal corporation shall have the authority to impose requirements on the maximum amount that may be borrowed through such loan, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.

b. For loans made to [~~an owner of real property who is an individual~~] **a person for a residential building with two units or less**, the principal amount of each such loan, excluding interest, shall not exceed the lesser of ten percent of the appraised real property value **which, in the case of new construction, may be based on the appraised real property value of the real property as it is to be improved,** or the actual cost of installing the renewable energy system and energy efficiency improvements, including the costs of necessary equipment, materials, and labor, the costs of each related energy audit and renewable energy system feasibility study, and the cost of verification of such renewable energy system and energy efficiency improvements.

7. No such loan shall be made for energy efficiency improvements unless determined to be appropriate through an energy audit, and no such loan shall be made for a renewable energy system unless determined to be feasible through a renewable energy system feasibility study.

8. The loan made under the sustainable energy loan program shall constitute a lien upon the real property benefitted by such loan.

9. The municipal corporation may require the loan made under the sustainable energy loan program to be repaid by the property owner through a charge on the real property benefitted by such loan. Such charge shall be on the real property and shall be levied and collected at the same time and in the same manner as municipal taxes, **or as otherwise** provided [~~that such~~] **by local law. Such** charge shall be separately listed on the tax bill, and [~~provided further that in the event such charge should not be~~] **if not** paid in a timely manner, no other municipal corporation shall be required to credit or otherwise guarantee the amount of such unpaid charge to the municipal corporation which authorized the loan, notwithstanding any provision of law to the contrary.

§ 3. This act shall take effect immediately.