

STATE OF NEW YORK

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2021-2022 Regular Sessions

IN SENATE

April 29, 2021

Introduced by Sens. KAMINSKY, GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority, in relation to the utility debt securitization authority; and in relation to permitting the issuance of securitized restructuring bonds to finance system resiliency costs

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

1 Section 1. Legislative findings. The legislature hereby finds and
2 determines that the establishment of the utility debt securitization
3 authority under part B of chapter 173 of the laws of 2013, as amended,
4 permitted the issuance of securitized restructuring bonds on favorable
5 terms which resulted in lower aggregate distribution, transmission and
6 transition charges to Long Island ratepayers, compared to other avail-
7 able alternatives, and the purposes of such act will be further advanced
8 by amending such act to permit the issuance of additional such bonds
9 subject to a limit on the outstanding principal amount thereof and to
10 allow such bonds to be issued to refund bonds of the utility debt secu-
11 ritization authority. The legislature finds and determines that improve-
12 ments to the transmission and distribution system of the Long Island
13 Power Authority to increase resiliency and better withstand the effects

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

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1 of climate change are necessary, and that issuance of securitized
2 restructuring bonds by the Utility Debt Securitization Authority may
3 allow the funding of such improvements on more favorable terms than if
4 such bonds were issued by the Long Island Power Authority. The legisla-
5 ture hereby further finds and determines that it is in the interest of
6 Long Island ratepayers for the comptroller to exercise oversight over
7 the issuance of securitized restructuring bonds and contracts entered
8 into on behalf of the service provider.

9 § 2. Subdivision 2 of section 2 of part B of chapter 173 of the laws
10 of 2013 relating to the issuance of securitized restructuring bonds to
11 refinance the outstanding debt of the Long Island power authority, is
12 amended to read as follows:

13 2. "Approved restructuring costs" means, to the extent approved as
14 such under a restructuring cost financing order, (a) costs of purchas-
15 ing, redeeming or defeasing a portion of outstanding debt of the author-
16 ity or the restructuring bond issuer, including bonds and notes issued
17 by the authority or the restructuring bond issuer, debt issued by the
18 New York state energy research and development authority for the benefit
19 of the LILCO; (b) costs of terminating interest rate swap contracts and
20 other financial contracts entered into by or for the benefit of the
21 authority and related to debt obligations of the authority; (c) rebate,
22 yield reduction payments and any other amounts payable to the United
23 States Treasury or to the Internal Revenue Service to preserve or
24 protect the federal tax-exempt status of outstanding debt obligations of
25 the authority; ~~[and]~~ (d) upfront financing costs associated with
26 restructuring bonds; and (e) system resiliency costs.

27 § 3. Subdivision 11 of section 2 of part B of chapter 173 of the laws
28 of 2013 relating to the issuance of securitized restructuring bonds to
29 refinance the outstanding debt of the Long Island power authority, as
30 amended by section 2-a of part W of chapter 58 of the laws of 2015, is
31 amended to read as follows:

32 11. "Restructuring bonds" means bonds or other evidences of indebt-
33 edness that are issued pursuant to an indenture or other agreement of
34 the restructuring bond issuer under a restructuring cost financing order
35 (a) the proceeds of which are used, directly or indirectly, to recover,
36 finance, or refinance approved restructuring costs, (b) that are direct-
37 ly or indirectly secured by, or payable from, restructuring property,
38 (c) that have a term no longer than thirty years and (d) that have a
39 final scheduled maturity date no later than the final scheduled maturity
40 date of the authority bonds or the bonds of the restructuring bond
41 issuer purchased, redeemed or defeased with the proceeds of such
42 restructuring bonds, provided, however that bonds or other evidences of
43 indebtedness that are issued to finance system resiliency costs other
44 than the costs of purchasing, redeeming or defeasing debt of the author-
45 ity or the bonds of the restructuring bond issuer incurred to finance
46 system resiliency costs may have a term of up to thirty years.

47 § 4. Section 2 of part B of chapter 173 of the laws of 2013 relating
48 to the issuance of securitized restructuring bonds to refinance the
49 outstanding debt of the Long Island power authority, is amended by
50 adding a new subdivision 17-a to read as follows:

51 17-a. "System resiliency costs" means, to the extent approved as such
52 under a restructuring cost financing order, costs of rebuilding, improv-
53 ing or constructing transmission and distribution system assets to
54 increase resiliency of such assets, better withstand changes in climate,
55 absorb impacts from outage-inducing events, and recover quickly from
56 outages including but not limited to, improvements to and replacement of

poles and wires, moving power lines underground, raising substations, constructing flood barriers, and system automation and costs of purchasing, redeeming or defeasing debt of the authority incurred to finance such costs or reimbursing the authority for amounts already spent on such costs.

§ 5. Subdivision 1 of section 3 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority, is amended to read as follows:

1. Standard. The authority may, in consultation with the department of public service, prepare a restructuring cost financing order (a) for the purpose of issuing restructuring bonds to refinance outstanding debt of the authority or the restructuring bond issuer based on a finding that such bond issuance is expected to result in savings to consumers of electric transmission and distribution services in the service area on a net present value basis; or (b) for the purpose of issuing restructuring bonds to finance system resiliency costs based on a finding that funding of such system resiliency costs by the issuer would result in lower costs to consumers of electric transmission and distribution services in the service area on a net present value basis than funding of such costs by the authority.

§ 6. Paragraph (a) of subdivision 1 of section 4 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority, as amended by section 3 of part W of chapter 58 of the laws of 2015, is amended to read as follows:

(a) For the purpose of effectuating the purposes declared in section one of this act, there is hereby created a special purpose corporate municipal instrumentality of the state to be known as "utility debt securitization authority", which shall be a body corporate and politic, a political subdivision of the state, and a public benefit corporation, exercising essential governmental and public powers for the good of the public. Such restructuring bond issuer shall not be created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of such restructuring bond issuer shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered. The aggregate principal amount of restructuring bonds authorized to be issued by restructuring bond issuers created pursuant to this act shall not exceed ~~[four]~~ eight billion ~~[five hundred million]~~ dollars.

§ 7. Subparagraphs (i) and (iv) of paragraph (a) of subdivision 2 of section 4 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority, subparagraph (i) as amended and subparagraph (iv) as added by section 4 of part W of chapter 58 of the laws of 2015, are amended to read as follows:

(i) issue the restructuring bonds contemplated by a restructuring cost financing order, and use the proceeds thereof to purchase or acquire, and to own, hold and use restructuring property or to pay or fund upfront financing costs ~~[provided, however, that the restructuring bond issuer shall not issue restructuring bonds for the purpose of refunding other restructuring bond]~~;

(iv) only issue restructuring bonds of which the final scheduled maturity date of any series of restructuring bonds shall be no later than the final scheduled maturity date of the authority bonds or the bonds of

1 the restructuring bond issuer to be purchased, redeemed or defeased with
2 the proceeds of such restructuring bonds, provided, however, that bonds
3 or other evidences of indebtedness that are issued to finance system
4 resiliency costs other than the costs of purchasing, redeeming or
5 defeasing debt of the authority or the bonds of the restructuring bond
6 issuer incurred to finance system resiliency costs may have a term of up
7 to thirty years.

8 § 8. This act shall take effect immediately.