STATE OF NEW YORK

8535

IN SENATE

February 9, 2024

Introduced by Sen. GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, in relation to establishing the green affordable pre-electrification program

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

Section 1. Short title. This act shall be known and may be cited as the "green affordable pre-electrification fund" (GAP fund).

§ 2. Legislative intent. The legislature finds that a significant portion of the state's residential buildings are old and in disrepair. This limits the eligibility of low- and moderate-income households for residential energy efficiency, electrification, weatherization, installation of insulation, and resiliency programs (empower+). These programs often do not cover the costs associated with renovations that would make such homes eligible for such programs. Given the limitation of these programs to help make these homes eligible, there is a critical need to fund such improvements if the state is to comprehensively reduce emissions from residential buildings and achieve our climate goals.

§ 3. The public authorities law is amended by adding a new section 1872-b to read as follows:

§ 1872-b. Green affordable pre-electrification program. 1. Definitions. For the purposes of this section:

(a) "Home" shall mean a residential dwelling which is owner or tenant occupied.

(b) "Eligible applicant" shall mean an owner or tenant of a residential building who would be ineligible for, or who has been denied, any local, state or federal incentives, grants or loans for improvements or projects relating to climate change adaptation and resiliency due to structural deficiencies or code violations which make the building or property ineligible or unsuitable for such improvements or projects. The authority may also include as an eligible applicant; a city, town or village; a housing development fund company incorporated pursuant to article eleven of the private housing finance law which has as one of

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

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its primary purposes the improvement of housing; a municipal housing authority created pursuant to the public housing law; a public benefit corporation formed to assist particular municipalities with their housing, community development or renewal needs; or a county, provided, however, that the county acts as an administrator of a program under which projects are constructed, rehabilitated or improved by other eligible applicants or acts in any other capacity as permitted by law.

(c) "Financial awards" shall mean incentives, grants or loans, as determined appropriate by the authority.

(d) "Eligible rehabilitation projects" shall mean any work necessary to bring a structure into compliance with applicable building codes and regulations or other improvements needed to make the building eligible for local, state, or federal programs, incentives, grants, or loans related to implementing home improvements relating to climate change adaptation and resiliency, including, but not limited to, energy efficiency, electrification, weatherization, or the installation of insulation. Projects under this section shall not include the installation, repair, or updating of equipment which uses fossil fuels including, but not limited to, gasoline, natural gas, diesel, home heating oil, or coal.

2. General and administrative provisions. The authority shall promulgate rules and regulations for the administration of this section, in consultation with the division of housing and community renewal, to provide financial and technical assistance for the completion of eligible rehabilitation projects. Such rules and regulations shall include provisions concerning the eligibility of grantees for state financial awards; funding criteria and the funding determination process; supervision and evaluation of the awardees; and such other matters not inconsistent with the purposes and provisions of this section as the authority shall deem necessary. The authority may provide technical services and assistance, or contract to provide technical services and assistance, to awardees to facilitate compliance with the provisions and intent of this section which may include, but shall not be limited to, construction skills training, home inspection, financial packaging, and engineering and architectural services necessary for the preparation of proposals for entering into contracts or for the continued operation of projects.

3. Green rehabilitation contracts. (a) Subject to available appropriations, the authority is hereby authorized to enter into contracts with eligible applicants to provide financial awards for the completion of eligible rehabilitation projects, subject to the terms and conditions of this section. Any financial award received by a municipality hereunder shall not be deemed to be municipal funds. Recipients of financial awards shall utilize funds provided pursuant to this section solely to cover or reduce the cost of eligible rehabilitation projects. No more than fifty percent of the total amount appropriated pursuant to this section in any fiscal year shall be allocated to homes located within a single municipality.

(b) The authority shall streamline the application process by incorporating the green affordable pre-electrification program into the eligibility section of existing program applications offered by the authority.

(c) Applicants may apply to the green affordable pre-electrification program concurrently with other existing programs upon the applicant's provision of information detailing eligible rehabilitation projects that would cause the applicant to be denied funding under other existing

programs. Notwithstanding any section of law to the contrary, such concurrent application or the provision of a financial award by the authority shall not be cause to deny the application for funding under other existing programs.

(d) Financial awards provided pursuant to this section shall cover one hundred percent of associated costs for owners or tenants with incomes up to eighty percent of the state median income, and seventy-five percent of associated costs for owners or tenants with incomes between eighty-one and one hundred fifty percent of the area median income, whichever is greater. Notwithstanding the foregoing, the authority may cap total financial awards for each project pursuant to the following schedule:

(i) For a residential building with up to four dwelling units: (A) a maximum award of forty thousand dollars per unit where owners or tenants have incomes up to eighty percent of the state or the area median income, whichever is greater; and (B) a maximum award of thirty-five thousand dollars per unit where owners or tenants have incomes between eighty-one and one hundred fifty percent of the state or the area median income, whichever is greater;

(ii) For a residential building with more than four but less than fifty dwelling units: (A) a maximum award of twenty-five thousand dollars per unit where owners or tenants have incomes up to eighty percent of the state or the area median income, whichever is greater; and (B) a maximum award of twenty thousand dollars per unit where owners or tenants have incomes between eighty-one and one hundred fifty percent of the state or the area median income, whichever is greater; and

(iii) For a residential building with more than fifty dwelling units a maximum award of fifteen thousand dollars per unit where owners or tenants have incomes up to one hundred fifty percent of the state or the area median income, whichever is greater.

(e) The authority may cap total financial awards for each project.

(f) The eligible applicant shall be responsible to secure all necessary descriptions of expenses for eligible projects and associated costs.

(g) Eligible rehabilitation projects, if not completed by a not-for-profit corporation, may be completed by a private contractor who has agreed to limit their profit in accordance with a formula established by the authority.

(h) The authority shall prioritize the contracting of financial awards to projects located within an area which is an environmental justice community, blighted, deteriorated or deteriorating, or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of the existence of substandard, insanitary, deteriorating or deteriorated conditions, aged housing stock, or vacant non-residential property, or other factors indicating an inability or unwillingness of the private sector unaided to cause the rehabilitation of homes for which financial awards under this section are provided.

(i) The authority shall provide applicants with a list of conditions that must be met prior to entering into a contract pursuant to this section. Within fifteen working days of receipt by the authority of all documents in satisfaction of the list, the authority shall notify the applicant of the sufficiency or insufficiency of the documentation. After satisfaction by the applicant of all conditions required by the authority, and a determination of eligibility, the authority shall enter into the contract within forty-five working days of satisfaction of such conditions provided, however, that sufficient funding is available.

(j) In the case of projects that receive financial awards of over forty thousand dollars, the authority may establish restrictions on the sale of the residence or its subunits to qualified low-income homebuyers for a period of at least sixty years, but no more than ninety-nine years, and the authority may ensure this restriction by use of deed restrictions, community land trusts, or limited-equity cooperative ownership structures.

(k) In determining financial awards pursuant to this section, the authority shall give preference to applications based upon the extent to which the proposed rehabilitation project will:

(i) serve the lowest income households in the applicable region and is designed to continue to be affordable to such households for a substantial period of time;

(ii) leverage private and other public investment so as to reduce the amount of assistance provided pursuant to this section which is necessary to complete such projects;

(iii) contribute to the rehabilitation of the neighborhood or community in which the program is located;

(iv) not directly displace current low- and moderate-income residents of such neighborhood or community;

(v) be undertaken and completed in a timely fashion; and

(vi) utilize innovative, cost-effective design techniques and building materials which enable the deconstruction of structures and reuse or recycling of such deconstructed materials, and which reduce construction, rehabilitation, or operating costs.

(l) The authority shall provide for the review, at periodic intervals not less than annually, of the performance of contracted applicants and related rehabilitation projects receiving financial awards pursuant to this section. Such review shall, among other things, be for the purposes of ascertaining conformity to contractual provisions, the financial integrity and efficiency of awardees and the evaluation of their activities. Contracts entered into pursuant to this section may be terminated, funds may be withheld and unspent funds recaptured by the authority upon a finding of substantial nonperformance or breach by the awardee of its obligations under its contract.

(m) No contract made pursuant to this section shall be less than forty thousand dollars with respect to a home owned or occupied by residents earning less than eighty-one percent of area median income or state median income, whichever is greater.

4. Reporting. No later than September first following the first fiscal year commencing after the effective date of this section, and each September first thereafter, the authority shall prepare a report on the green affordable pre-electrification program pursuant to this section and submit such report to the governor, the temporary president of the senate, and the speaker of the assembly. Such report shall include, but not be limited to: the total number of applicants, the numbers of applicants accepted and rejected, and the number of applications pending for that fiscal year; the total number and value of financial awards disbursed; the identification of barriers to the utilization of financial awards and proposed solutions for the removal of those barriers to effectuate disbursal of financial awards.

5. Labor standards. The authority shall establish a quality control, corrective action, and inspection process to ensure that work quality is acceptable and durable. Any contractor performing work under this section shall verify that they have entered into a labor peace agreement with a bona fide labor organization that is actively engaged in repres-

enting or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of receiving funds from the authority.

§ 4. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect immediately.