

# STATE OF NEW YORK

7631

2023-2024 Regular Sessions

## IN ASSEMBLY

May 25, 2023

Introduced by M. of A. STERN -- read once and referred to the Committee on Energy

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

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

1 Section 1. Section 119-ee of the general municipal law, as added by  
2 chapter 497 of the laws of 2009, is amended to read as follows:

3 § 119-ee. Legislative findings and declaration. The legislature finds  
4 and declares, and as reaffirmed in the New York state climate leadership  
5 and community protection act, that it is the policy of the state to  
6 achieve statewide energy efficiency and renewable energy goals, reduce  
7 economy-wide greenhouse gas emissions and mitigate the effect of global  
8 climate change, and advance a clean energy economy; and that to achieve  
9 such policy and goals the state must promote the deployment of renewable  
10 energy systems [~~and~~], energy efficiency measures, water efficiency meas-  
11 ures, and resiliency improvements throughout the state; that measures to  
12 achieve reductions in energy use, reduce emissions, and scale distrib-  
13 uted solar energy and beneficial electrical equipment in residential and  
14 commercial buildings, specifically have been identified as critical  
15 areas for investment to achieve these goals; and that municipalities  
16 would fulfill an important public purpose by [~~providing~~] facilitating  
17 market-based financing loans to property owners for the installation of  
18 renewable energy systems [~~and~~], energy efficiency measures, water effi-  
19 ciency measures, and resiliency improvements.

20 § 2. Section 119-ff of the general municipal law, as amended by chap-  
21 ter 184 of the laws of 2020, is amended to read as follows:

22 § 119-ff. Definitions. For purposes of this article:

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

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

LBD10455-03-3

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

5 3. "Energy audit" means a formal evaluation of the energy consumption  
6 or carbon intensity of a permanent building or structural improvement to  
7 real property, conducted by a contractor certified by the authority, or  
8 certified by a certifying entity approved by the authority for purposes  
9 of this article, for the purpose of identifying appropriate energy effi-  
10 ciency improvements that could be made to or incorporated into the  
11 construction of the property and determining the useful life of such  
12 improvements. An energy audit may document ancillary improvements and  
13 related costs that are required for the energy efficiency improvements  
14 to proceed and further shall document expected energy savings, secondary  
15 or societal benefits such as reductions in greenhouse gas emissions, and  
16 any other environmental, economic and public health co-benefits, includ-  
17 ing those enumerated in the scoping plans and related values created  
18 pursuant to article seventy-five of the environmental conservation law.

19 A municipal corporation may, by local law, provide for the certification  
20 of such qualifying contractors based upon criteria at least as stringent  
21 as the [~~state-wide~~] statewide criteria for certification adopted by the  
22 authority for purposes of this article.

23 4. "Energy efficiency improvement" means any improvement to real prop-  
24 erty, whether as a component of the new construction of a building or as  
25 the renovation or retrofitting of an existing building designed to a.  
26 reduce energy consumption[~~, such as window and door replacement, light-~~  
27 ~~ing, caulking, weatherstripping, air sealing, insulation, and heating~~  
28 ~~and cooling system upgrades, and similar improvements, determined to be~~  
29 ~~cost-effective pursuant to criteria established by the authority] or  
30 greenhouse gas emissions, b. exceed required energy code requirements at  
31 the time of project permitting, or c. meet another building design stan-  
32 dard for energy or carbon performance as deemed appropriate by the  
33 authority. However, "energy efficiency improvement" shall not include  
34 [~~lighting measures or~~] household appliances that are not permanently  
35 fixed to real property.~~

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

37 6. "Qualifying contractor" means a contractor certified by the author-  
38 ity, or certified by a certifying entity approved by the authority for  
39 purposes of this article, and retained by the owner of real property or  
40 their designee.

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

44 [~~7-~~] 8. "Renewable energy system" means an energy generating system  
45 for the generation of electric or thermal energy, to be used primarily  
46 at such property, except when the owner of real property is a commercial  
47 entity, by means of solar thermal, solar photovoltaic, wind, geothermal,  
48 anaerobic digester gas-to-electricity systems, fuel cell technologies,  
49 or other renewable energy technology approved by the authority not  
50 including the combustion or pyrolysis of solid waste.

51 [~~8-~~] 9. "Renewable energy system feasibility study" means a written  
52 study, conducted by a contractor certified by the authority, or certi-  
53 fied by a certifying entity approved by the authority for purposes of  
54 this article, for the purpose of determining the feasibility of install-  
55 ing a renewable energy system and the useful life of such system. A  
56 renewable energy system feasibility study may document ancillary

1 improvements and related costs that are required for the renewables  
2 energy system to proceed and further shall document expected energy  
3 savings, secondary or societal benefits such as reductions in greenhouse  
4 gas emissions, and any other environmental, economic and public health  
5 co-benefits, including those enumerated in the scoping plans and related  
6 values created pursuant to article seventy-five of the environmental  
7 conservation law. A municipal corporation may, by local law, provide for  
8 the certification of such qualifying contractors based upon criteria at  
9 least as stringent as the [~~state-wide~~] statewide criteria for certifi-  
10 cation adopted by the authority for purposes of this article.

11 10. "Resiliency improvement" means improvements to real property,  
12 whether as a component of the new construction of a building or as the  
13 renovation or retrofitting of an existing building, designed to increase  
14 the resilience of a qualifying property, including air quality, flood  
15 mitigation, stormwater management, beneficial electrification, energy  
16 storage and microgrids, alternative vehicle charging infrastructure,  
17 fire or wind resistance or inundation adaptation.

18 11. "Resiliency feasibility study" means a written study conducted by  
19 a contractor certified by the authority, or certified by a certifying  
20 entity approved by the authority for purposes of this article, for the  
21 purpose of determining the feasibility of installing a resiliency  
22 improvement and the useful life of such improvement. A resiliency feasi-  
23 bility study may document ancillary improvements and related costs that  
24 are required for the renewables energy system to proceed and further  
25 shall document expected cost savings for the subject real property,  
26 secondary or societal benefits such as enhanced community resiliency,  
27 and any other environmental, economic and public health co-benefits,  
28 including those enumerated in the scoping plans and related values  
29 created pursuant to article seventy-five of the environmental conserva-  
30 tion law. A municipal corporation may, by local law, provide for the  
31 certification of such qualifying contractors based upon criteria at  
32 least as stringent as the statewide criteria for certification adopted  
33 by the authority for purposes of this article.

34 12. "Water efficiency improvement" means any improvement to real prop-  
35 erty, whether as a component of the new construction of a building or as  
36 the renovation and retrofitting of an existing building, to reduce water  
37 consumption and promote water conservation and storage, such as lo-flow  
38 devices, restrictors, water recapture and recycling systems, and rain-  
39 fall capture and storage systems.

40 13. "Water efficiency study" means a written study, conducted by a  
41 contractor certified by the authority, or certified by a certifying  
42 entity approved by the authority for purposes of this article, for the  
43 purpose of determining the feasibility of installing water efficiency  
44 improvements and the useful life of such improvements. A water efficien-  
45 cy study may document ancillary improvements and related costs that are  
46 required for the renewables energy system to proceed and further shall  
47 document expected water savings, secondary or societal benefits such as  
48 recapture, recycling, and storage, and any other environmental, econom-  
49 ic, and public health co-benefits, including those enumerated in the  
50 scoping plans and related values created pursuant to article seventy-  
51 five of the environmental conservation law. A municipal corporation may,  
52 by local law, provide for the certification of such qualifying contrac-  
53 tors based upon criteria at least as stringent as the statewide criteria  
54 for certification adopted by the authority for purposes of this article.

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

4 § 119-gg. Sustainable energy loan program. 1. The legislative body of  
5 any municipal corporation may, by local law, establish a sustainable  
6 energy loan program using federal grant assistance or federal credit  
7 support or monies from the state of New York or any state authority as  
8 defined by section two of the public authorities law available for this  
9 purpose.

10 2. Such program may ~~make~~ facilitate loans to the owners of real  
11 property located within the municipal corporation to finance the instal-  
12 lation of renewable energy systems ~~and~~, energy efficiency improve-  
13 ments, water efficiency improvements, resiliency improvements, related  
14 energy audits and renewable energy system feasibility studies, water  
15 efficiency studies, and resiliency improvement feasibility studies, and  
16 the verification of the installation of such systems and improvements.  
17 No municipal corporation shall make such a loan to an owner of property  
18 that has received a loan from another municipal corporation pursuant to  
19 this article.

20 3. Each such local law establishing the sustainable energy loan  
21 program shall provide for the criteria for making such loans and the  
22 terms and conditions for repayment of such loans. ~~[The sustainable energy~~  
23 ~~loan program shall use such lists of cost effective energy efficiency~~  
24 ~~improvements for different building types as are approved by the author-~~  
25 ~~ity.]~~

26 4. The municipal corporation shall verify and report on the installa-  
27 tion and performance of renewable energy systems ~~and~~, energy efficien-  
28 cy improvements, water efficiency improvements, and resiliency improve-  
29 ments financed by the loan program in such form and manner as the  
30 authority may establish.

31 5. ~~[Every]~~ Notwithstanding subdivision three of this section, every  
32 loan made under the sustainable energy loan program shall be repaid over  
33 a term not to exceed the weighted average of the useful life of such  
34 systems and improvements as determined by the ~~[municipal corporation,~~  
35 ~~The municipal corporation shall set]~~ qualifying contractor in the  
36 related energy audit, renewable energy system feasibility study, water  
37 efficiency study, or resiliency improvement feasibility study and there  
38 shall be a fixed rate of interest for the repayment of the principal  
39 amount of each loan at the time the loan is made.

40 6. Notwithstanding subdivision three of this section:

41 a. For loans made to an owner of real property that is a commercial  
42 entity, not-for-profit organization, or entity other than an individual,  
43 ~~[the municipal corporation shall have the authority to impose require-~~  
44 ~~ments on the maximum amount that may be borrowed through such loan,~~  
45 ~~which may consider factors including but not limited to the property~~  
46 ~~value, projected savings, project cost, and existing indebtedness~~  
47 ~~secured by such property]~~ at the time of execution of a loan, the prin-  
48 cipal amount of such loan, excluding interest, shall not exceed the  
49 lesser of thirty-five percent of the appraised real property value, as  
50 stabilized or as complete, or the actual cost of installing renewable  
51 energy systems, energy efficiency improvements, water efficiency meas-  
52 ures and resiliency improvements, including the costs of necessary  
53 equipment, materials, and labor, financing costs, the costs of each  
54 related energy audit and renewable energy system, water efficiency  
55 study, and resiliency improvement feasibility study, and the cost of

1 verification of such renewable energy system and energy efficiency,  
2 water efficiency, and resiliency improvements.

3 b. For loans made to an owner of real property who is an individual,  
4 the principal amount of each such loan, excluding interest, shall not  
5 exceed the lesser of ten percent of the appraised real property value or  
6 the actual cost of installing the renewable energy system [~~and~~], energy  
7 efficiency improvements, water efficiency measures and resiliency  
8 improvements, including the costs of necessary equipment, materials, and  
9 labor, financing costs, the costs of each related energy audit [~~and~~],  
10 renewable energy system feasibility study, water efficiency study, and  
11 resiliency improvement feasibility study, and the cost of verification  
12 of such renewable energy system and energy efficiency, water efficien-  
13 cy, and resiliency improvements.

14 c. At the time of execution of a loan, the principal amount of each  
15 such loan, excluding interest, plus any other debt secured by the real  
16 property, shall not exceed ninety percent of the appraised real property  
17 value, as stabilized or as complete.

18 d. The owner of a commercial real property shall provide the municipal  
19 corporation with the written consent, executed by each holder of a mort-  
20 gage or deed of trust on the property securing indebtedness on the real  
21 property at the time of execution of a loan, indicating consent to the  
22 lien placed on the real property pursuant to subdivision eight of this  
23 section and that it does not constitute an event of default under the  
24 mortgage or deed of trust.

25 7. No such loan shall be made for energy efficiency improvements  
26 unless determined to be appropriate through an energy audit, [~~and~~] no  
27 such loan shall be made for a renewable energy system unless determined  
28 to be feasible through a renewable energy system feasibility study, no  
29 such loan shall be made for water efficiency measures unless determined  
30 to be appropriate through a water efficiency study, and no loan shall be  
31 made for resiliency improvements unless determined to be feasible  
32 through a resiliency feasibility study. Upon receipt of a certification  
33 from a qualifying contractor conducting the energy audit, renewable  
34 energy feasibility study, water efficiency study, or resiliency feasi-  
35 bility study that the proposed improvements are appropriate and satisfy  
36 the criteria set forth by the authority, a municipal corporation shall  
37 allow the financing of the full cost of improvements and related financ-  
38 ing and ancillary costs that are the subject of the certification,  
39 subject only to the limits set forth in subdivision six of this section.

40 8. The loan made under the sustainable energy loan program shall  
41 constitute a lien upon the real property benefitted by such loan prior  
42 to all liens other than liens for real property taxes, municipal charg-  
43 es, or any other municipal liens.

44 9. The municipal corporation may require the loan made under the  
45 sustainable energy loan program to be repaid by the property owner  
46 through a charge on the real property benefitted by such loan. Such  
47 charge shall be on the real property and shall be levied and collected  
48 at the same time and in the same manner as municipal taxes, provided  
49 that such charge shall be separately listed on the tax bill, and  
50 provided further that in the event such charge should not be paid in a  
51 timely manner, no other municipal corporation shall be required to cred-  
52 it or otherwise guarantee the amount of such unpaid charge to the munic-  
53 ipal corporation which authorized the loan, notwithstanding any  
54 provision of law to the contrary. To the extent any such charge is not  
55 paid when due, the delinquent charge may be enforced or foreclosed to  
56 the extent of any unpaid installment payments. In any event of enforce-

1 ment, including foreclosure, the balance of the lien shall not acceler-  
2 ate and shall survive judgment. The proceeds received in an action to  
3 enforce an unpaid or delinquent charge shall be paid first to outstand-  
4 ing real property taxes, municipal charges, or other municipal liens.

5 § 4. The New York state energy research and development authority  
6 shall publish revised guidelines for energy efficiency improvements and  
7 renewable energy systems in accordance with this act within 120 days of  
8 the effective date of this act, and shall publish guidelines for water  
9 efficiency and resiliency improvements within 360 days of the effective  
10 date of this act. Such revised guidelines shall be effective as soon as  
11 adopted, however each sustainable energy loan program may process appli-  
12 cations received prior to the adoption date pursuant to existing guide-  
13 lines published by the authority. Notwithstanding the foregoing, each  
14 sustainable energy loan program may apply the revised guidelines to  
15 energy efficiency improvements, renewable energy systems, water effi-  
16 ciency improvements, and resiliency improvements placed in service on  
17 the subject real property within three years of the date of the  
18 execution of a loan made under the sustainable energy loan program.  
19 Prior to publishing guidelines, the authority shall conduct public meet-  
20 ings to provide opportunities for public comment.

21 § 5. This act shall take effect immediately.