

# STATE OF NEW YORK

5974

2023-2024 Regular Sessions

## IN SENATE

March 24, 2023

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

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:

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

LBD10455-01-3

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

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

8 3. "Energy audit" means a formal evaluation of the energy consumption  
9 of a permanent building or structural improvement to real property,  
10 conducted by a contractor certified by the authority, or certified by a  
11 certifying entity approved by the authority for purposes of this arti-  
12 cle, for the purpose of identifying appropriate energy efficiency  
13 improvements that could be made to or incorporated into the construction  
14 of the property and determining the useful life of such improvements. An  
15 energy audit shall document expected energy savings, secondary or socie-  
16 tal benefits such as reductions in greenhouse gas emissions, and any  
17 other environmental, economic and public health co-benefits, including  
18 those enumerated in the scoping plans and related values created pursu-  
19 ant to article seventy-five of the environmental conservation law. A  
20 municipal corporation may, by local law, provide for the certification  
21 of such qualifying contractors based upon criteria at least as stringent  
22 as the [~~state-wide~~] statewide criteria for certification adopted by the  
23 authority for purposes of this article.

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

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

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

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

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

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

renewable energy system feasibility study shall document expected energy savings, secondary or societal benefits such as reductions in greenhouse gas emissions, and any other environmental, economic and public health co-benefits, including those enumerated in the scoping plans and related values created pursuant to article seventy-five of the environmental conservation law. A municipal corporation may, by local law, provide for the certification of such qualifying contractors based upon criteria at least as stringent as the [~~state-wide~~] statewide criteria for certification adopted by the authority for purposes of this article.

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

11. "Resiliency 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 resiliency improvement and the useful life of such improvement. A resiliency feasibility study shall document expected cost savings for the subject real property, secondary or societal benefits such as enhanced community resiliency, and any other environmental, economic and public health co-benefits, including those enumerated in the scoping plans and related values created pursuant to article seventy-five of the environmental conservation law. A municipal corporation may, by local law, provide for the certification of such qualifying contractors based upon criteria at least as stringent as the statewide criteria for certification adopted by the authority for purposes of this article.

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

13. "Water efficiency 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 water efficiency improvements and the useful life of such improvements. A water efficiency study shall document expected water savings, secondary or societal benefits such as recapture, recycling, and storage, and any other environmental, economic, and public health co-benefits, including those enumerated in the scoping plans and related values created pursuant to article seventy-five of the environmental conservation law. A municipal corporation may, by local law, provide for the certification of such qualifying contractors based upon criteria at least as stringent as the statewide criteria for certification adopted by the authority for purposes of this article.

§ 3. 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

1 support or monies from the state of New York or any state authority as  
2 defined by section two of the public authorities law available for this  
3 purpose.

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

14 3. Each such local law establishing the sustainable energy loan  
15 program shall provide for the criteria for making such loans and the  
16 terms and conditions for repayment of such loans. ~~[The sustainable ener-~~  
17 ~~gy loan program shall use such lists of cost effective energy efficiency~~  
18 ~~improvements for different building types as are approved by the author-~~  
19 ~~ity.]~~

20 4. The municipal corporation shall verify and report on the installa-  
21 tion and performance of renewable energy systems ~~[and]~~, energy efficien-  
22 cy improvements, water efficiency improvements, and resiliency improve-  
23 ments financed by the loan program in such form and manner as the  
24 authority may establish.

25 5. ~~[Every]~~ Notwithstanding subdivision three of this section, every  
26 loan made under the sustainable energy loan program shall be repaid over  
27 a term not to exceed the weighted average of the useful life of such  
28 systems and improvements as determined by the ~~[municipal corporation.~~  
29 ~~The municipal corporation shall set]~~ related energy audit, renewable  
30 energy system feasibility study, water efficiency study, or resiliency  
31 improvement feasibility study and there shall be a fixed rate of inter-  
32 est for the repayment of the principal amount of each loan at the time  
33 the loan is made.

34 6. Notwithstanding subdivision three of this section:

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

52 b. For loans made to an owner of real property who is an individual,  
53 the principal amount of each such loan, excluding interest, shall not  
54 exceed the lesser of ten percent of the appraised real property value or  
55 the actual cost of installing the renewable energy system ~~[and]~~, energy  
56 efficiency improvements, water efficiency measures and resiliency

1 improvements, including the costs of necessary equipment, materials, and  
2 labor, financing costs, the costs of each related energy audit [~~and~~],  
3 renewable energy system feasibility study, water efficiency study, and  
4 resiliency improvement feasibility study, and the cost of verification  
5 of such renewable energy system and energy efficiency, water efficien-  
6 cy, and resiliency improvements.

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

11 d. The owner of a commercial real property shall provide the municipal  
12 corporation with the written consent, executed by each holder of a mort-  
13 gage or deed of trust on the property securing indebtedness on the real  
14 property at the time of execution of a loan, indicating consent to the  
15 lien placed on the real property pursuant to subdivision eight of this  
16 section and that it does not constitute an event of default under the  
17 mortgage or deed of trust.

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

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

37 9. The municipal corporation may require the loan made under the  
38 sustainable energy loan program to be repaid by the property owner  
39 through a charge on the real property benefitted by such loan. Such  
40 charge shall be on the real property and shall be levied and collected  
41 at the same time and in the same manner as municipal taxes, provided  
42 that such charge shall be separately listed on the tax bill, and  
43 provided further that in the event such charge should not be paid in a  
44 timely manner, no other municipal corporation shall be required to cred-  
45 it or otherwise guarantee the amount of such unpaid charge to the munic-  
46 ipal corporation which authorized the loan, notwithstanding any  
47 provision of law to the contrary. To the extent any such charge is not  
48 paid when due, the delinquent charge may be enforced or foreclosed to  
49 the extent of any unpaid installment payments. In any event of enforce-  
50 ment, including foreclosure, the balance of the lien shall not acceler-  
51 ate and shall survive judgment. The proceeds received in an action to  
52 enforce an unpaid or delinquent charge shall be paid first to outstand-  
53 ing real property taxes, municipal charges, or other municipal liens.

54 § 4. The New York state energy research and development authority  
55 shall publish revised guidelines for energy efficiency improvements and  
56 renewable energy systems in accordance with this act within 120 days of

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