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IN ASSEMBLY

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Introduced by M. of A. KELLES, BURDICK, ROSENTHAL, DAVILA, LEVENBERG, MAMDANI, MITAYNES, RAGA, SHRESTHA, FORREST, TAPIA, GALLAGHER, SIMON, SCHIAVONI -- read once and referred to the Committee on Corporations, Authorities and Commissions

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:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "green affordable pre-electrification fund" (GAP fund).
3 § 2. Legislative intent. The legislature finds that a significant
4 portion of the state's residential buildings are old and in disrepair.
5 This limits the suitability and eligibility of low- and moderate-income
6 households for residential energy efficiency, electrification, weatheri-
7 zation, installation of insulation, and resiliency programs. There is a
8 critical need to identify and remediate environmental hazards like mold,
9 lead-based paint, and friable asbestos, water intrusion, indoor air
10 pollution, and other hazards before insulation and air sealing to ensure
11 that any renovations to the home do not create or exacerbate toxic
12 conditions. These programs often do not cover the costs associated with
13 renovations that would make such homes eligible for such programs. Given
14 the limitation of these programs to help make these homes eligible,
15 there is a critical need to fund such improvements if the state is to
16 comprehensively reduce emissions from residential buildings and achieve
17 our climate goals. This need was recognized by the State Climate Action
18 Council in their 2022 Final Scoping Plan, which stated: "The State
19 should create a new Retrofit and Electrification Readiness Fund for LMI
20 (low-moderate income) households, affordable housing, rent regulated
21 housing, public housing, and residential buildings in Disadvantaged
22 Communities to cover costs of non-energy building improvements that are

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

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1 necessary to install energy measures and broadband installation costs
2 when funding energy projects."

3 § 3. The public authorities law is amended by adding a new section
4 1872-b to read as follows:

5 § 1872-b. Green affordable pre-electrification program. 1. Defi-
6 nitions. For the purposes of this section:

7 (a) "Residential building" shall mean a residential dwelling which is
8 owner or tenant occupied.

9 (b) "Eligible applicant" shall mean an owner or tenant of a residen-
10 tial building who would be ineligible for, or who has been denied, any
11 local, state or federal incentives, assistance, subsidies, grants or
12 loans for improvements or projects relating to energy savings, green-
13 house gas emissions reductions, climate change adaptation and resiliency
14 due to structural deficiencies, health hazards, or code violations which
15 make the building or property ineligible or unsuitable for such improve-
16 ments or projects. The authority may also include as an eligible appli-
17 cant; a city, town or village; a housing development fund company incor-
18 porated pursuant to article eleven of the private housing finance law
19 which has as one of its primary purposes the improvement of housing; a
20 municipal housing authority created pursuant to the public housing law;
21 a public benefit corporation formed to assist particular municipalities
22 with their housing, community development or renewal needs; or a county,
23 provided, however, that the county acts as an administrator of a program
24 under which projects are constructed, rehabilitated or improved by other
25 eligible applicants or acts in any other capacity as permitted by law.

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

28 (d) "Eligible rehabilitation projects" shall mean any work necessary
29 to bring a complete structure or unit of a structure, where appropriate,
30 into compliance with applicable building codes and regulations or other
31 improvements, including but not limited to repairs, upgrades, removal or
32 mitigation of health hazards, such as mold, lead, asbestos, radon or
33 tests, replacement of insulation, air sealing, ventilation systems,
34 septic and plumbing systems, roof repairs or replacements, water intru-
35 sion mitigation, foundation repair, wall repair, moisture control, elec-
36 trical upgrades, correcting potential electrical hazards, and safe
37 repair or removal of fossil fuel systems which are needed to enable
38 participation in local, state, or federal programs, incentives, grants,
39 or loans for implementing home improvements regarding climate change
40 adaptation, mitigation and resiliency or economic efficiency, including,
41 but not limited to, energy efficiency, electrification, weatherization,
42 or the installation of insulation. Projects under this section may also
43 include measures needed to make the dwelling accessible to individuals
44 with disabilities when those measures are combined with other qualifying
45 measures. Projects under this section shall not include the installa-
46 tion, or updating of equipment which uses fossil fuels including, but
47 not limited to, gasoline, natural gas, diesel, home heating oil, or
48 coal.

49 2. General and administrative provisions. The authority shall promul-
50 gate rules and regulations for the administration of this section, in
51 consultation with the division of housing and community renewal, to
52 provide financial and technical assistance for the completion of eligi-
53 ble rehabilitation projects. Such rules and regulations shall include
54 provisions concerning the eligibility of grantees for state financial
55 awards; funding criteria and the funding determination process; super-
56 vision and evaluation of the awardees; and such other matters not incon-

1 sistent with the purposes and provisions of this section as the authori-
2 ty shall deem necessary. The rules and regulations shall require
3 awardees to conduct, through NYSERDA-approved contractors, an inspection
4 and risk assessment to determine if the home contains any hazardous
5 condition due to the presence of lead-based paint, mold, or friable
6 asbestos. The inspection and risk assessment may be paid for with the
7 financial award if the official reports are provided to the authority.
8 The authority may provide technical services and assistance, or contract
9 to provide technical services and assistance, to awardees to facilitate
10 compliance with the provisions and intent of this section which may
11 include, but shall not be limited to, construction skills training, home
12 inspection, financial packaging, and engineering and architectural
13 services necessary for the preparation of proposals for entering into
14 contracts or for the continued operation of projects.

15 3. Green rehabilitation contracts. (a) Subject to available appropri-
16 ations, the authority is hereby authorized to enter into contracts with
17 eligible applicants to provide financial awards for the completion of
18 eligible rehabilitation projects, subject to the terms and conditions of
19 this section. Any financial award received by a municipality hereunder
20 shall not be deemed to be municipal funds. Recipients of financial
21 awards shall utilize funds provided pursuant to this section solely to
22 cover or reduce the cost of eligible rehabilitation projects. Such
23 funds as may be appropriated shall be equitably divided across the
24 state's ten regions, including western New York, the finger lakes, the
25 southern tier, central New York, the Mohawk valley, the capital region,
26 mid-Hudson region, New York City, Long Island, and the north country.
27 Awards shall be made with the goal of prioritizing disadvantaged commu-
28 nities, as defined in section 75-0101 of the environmental conservation
29 law and using criteria developed by the climate justice working group
30 pursuant to section 75-0111 of the environmental conservation law, to
31 receive no less than forty percent of the overall amount awarded.

32 (b) The authority shall streamline the application process by incorpo-
33 rating the green affordable pre-electrification program into the eligi-
34 bility section of existing program applications offered by the authori-
35 ty.

36 (c) Applicants may apply to the green affordable pre-electrification
37 program concurrently with other existing programs upon the applicant's
38 provision of information detailing eligible rehabilitation projects that
39 would cause the applicant to be denied funding under other existing
40 programs. Notwithstanding any section of law to the contrary, such
41 concurrent application or the provision of a financial award by the
42 authority shall not be cause to deny the application for funding under
43 other existing programs.

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

52 (i) For a residential building with up to four dwelling units: (A) a
53 maximum award of forty thousand dollars multiplied by the number of
54 units in the building where owners or tenants have incomes up to eighty
55 percent of the state or the area median income, whichever is greater;
56 and (B) a maximum award of thirty-five thousand dollars multiplied by

1 the number of units in the building where owners or tenants have incomes
2 between eighty-one and one hundred fifty percent of the state or the
3 area median income, whichever is greater;

4 (ii) For a residential building with more than four but less than
5 fifty dwelling units: (A) a maximum award of twenty-five thousand
6 dollars multiplied by the number of units in the building where owners
7 or tenants have incomes up to eighty percent of the state or the area
8 median income, whichever is greater; and (B) a maximum award of twenty
9 thousand dollars multiplied by the number of units in the building where
10 owners or tenants have incomes between eighty-one and one hundred fifty
11 percent of the state or the area median income, whichever is greater;
12 and

13 (iii) For a residential building with more than fifty dwelling units a
14 maximum award of fifteen thousand dollars multiplied by the number of
15 units in the building where owners or tenants have incomes up to one
16 hundred fifty percent of the state or the area median income, whichever
17 is greater.

18 (e) The authority may cap total financial awards for each project or
19 each individual improvement within a project to ensure that each neces-
20 sary improvement is made, as long as the cap does not create a singular
21 obstacle to the project moving forward.

22 (f) The authority shall provide an answer to the applicant within
23 sixty days after it receives the application, stating whether or not the
24 applicant is eligible for funding, or if more information is needed to
25 determine eligibility. The authority shall also state the cap amounts
26 for each project or each improvement within each project in its
27 response.

28 (g) The eligible applicant shall be responsible to secure all neces-
29 sary descriptions of expenses for eligible projects and associated
30 costs.

31 (h) Eligible rehabilitation projects, if not completed by a not-for-
32 profit corporation, may be completed by a NYSERDA-approved private
33 contractor headquartered in New York state or within ten miles of the
34 border of New York state with another state. The authority shall estab-
35 lish cost control measures such as per-measure payment formulas to
36 ensure prices charged by contractors are reasonable.

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

46 (j) The authority shall compile a list of eligible contractors organ-
47 ized by region to facilitate projects under this program.

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

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

8 (m) For all projects that receive financial awards, the following
9 restrictions shall apply and be in force for a period of not less than
10 five years: (i) the owner of a building assisted with GAP funds may not
11 raise the rent of any units more than three percent annually in the
12 building or the current maximum rent increases set forth in local rent
13 stabilization law, whichever is lower; and (ii) an owner of a building
14 assisted with GAP funds may not evict, harass, or involuntarily remove
15 any tenant in a weatherized unit, unless the tenant is found to be in
16 violation of the lease terms agreed upon by the tenant and landlord;

17 (n) The owner and the authority shall be jointly responsible for
18 informing tenants in a building about any upcoming project for which GAP
19 funds have been awarded and which will impact them and of informing
20 tenants about the building owner agreement with the state made pursuant
21 to the award of GAP funds for the project. The authority shall provide
22 owners with templates for a tenant synopsis and notification to be
23 placed in common areas of the building. The notification shall summarize
24 work that will occur in the building, any specific work to be performed
25 in the tenant's unit, the timing of the work and the owner agreement
26 with the state. The tenant synopsis shall explain that rent increases
27 are restricted for five years following the granting of the award of GAP
28 funds, and that such restrictions bind successive owners if the building
29 is sold. The tenant synopsis shall list the conditions under which the
30 owner may increase the rent and other rights tenants have, including the
31 ability to file a claim in court against improper rent increases and the
32 right to view a copy of the owner agreement for the building where the
33 tenant resides. The owner shall be required to attest, in writing that
34 they have provided a tenant synopsis to each tenant and posted appropri-
35 ate notices in common areas of the building, and shall provide a list of
36 tenant addresses to the authority so that the authority can also send a
37 copy of the tenant synopsis to all residents of the building.

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

41 (i) serve the lowest income households in disadvantaged communities or
42 communities in which buildings are deteriorated or deteriorating, or
43 have an injurious influence on the surrounding area, or are in danger of
44 becoming a deteriorating area because of the existence of substandard,
45 unsanitary, aged housing stock or vacant non-residential properties or
46 other factors indicating an inability or unwillingness of the private
47 sector, unaided, to cause the rehabilitation of homes, and which are
48 designed to continue to be affordable to such households for a substan-
49 tial period of time;

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

53 (iii) contribute to the rehabilitation of the neighborhood or communi-
54 ty in which the program is located;

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

1 (v) be undertaken and completed in a timely fashion; and
2 (vi) utilize innovative, cost-effective design techniques and building
3 materials which enable the deconstruction of structures and reuse or
4 recycling of such deconstructed materials, and which reduce
5 construction, rehabilitation, or operating costs.

6 (p) No more than five percent of funds under this program shall be
7 allocated to any single building per year.

8 (q) The authority shall provide for the review, at periodic intervals
9 not less than annually, of the performance of contracted applicants and
10 related rehabilitation projects receiving financial awards pursuant to
11 this section. Such review shall, among other things, be for the purposes
12 of ascertaining conformity to contractual provisions, the financial
13 integrity and efficiency of awardees and the evaluation of their activ-
14 ities. Contracts entered into pursuant to this section may be termi-
15 nated, funds may be withheld and unspent funds recaptured by the author-
16 ity upon a finding of substantial nonperformance or breach by the
17 awardee of its obligations under its contract.

18 4. Reporting. No later than September first following the first fiscal
19 year commencing after the effective date of this section, and each
20 September first thereafter, the authority shall prepare a report on the
21 green affordable pre-electrification program pursuant to this section
22 and submit such report to the governor, the temporary president of the
23 senate, and the speaker of the assembly. Such report shall include, but
24 not be limited to: (a) the total number of applicants to relevant
25 programs for which eligible applicants under this section would apply,
26 as defined under paragraph (b) of subdivision one of this section; (b)
27 the number of applications pending for that fiscal year; (c) the total
28 number and value of financial awards disbursed and the nonprofits and
29 private contractors which received such award; (d) the number of recipi-
30 ents of funds under this program who entered into and completed other
31 relevant programs; (e) complaints by tenants and homeowners relating to
32 projects completed under this program; and (f) the identification of
33 barriers to the utilization of financial awards and proposed solutions
34 for the removal of those barriers to effectuate disbursement of financial
35 awards.

36 5. Labor standards. The authority shall establish a quality control,
37 corrective action, and inspection process to ensure that work quality is
38 acceptable and durable. Any contractor performing work under this
39 section shall verify that they have entered into a labor peace agreement
40 with a bona fide labor organization that is actively engaged in repres-
41 enting or attempting to represent the applicant's employees and the
42 maintenance of such a labor peace agreement shall be an ongoing material
43 condition of receiving funds from the authority. Any projects funded
44 pursuant to this section shall be performed in accordance with the
45 provisions of articles eight and nine of the labor law.

46 6. Funding. Funding for the green affordable pre-electrification
47 program shall consist of all revenue received pursuant to an appropri-
48 ation therefor, and any other monies appropriated, credited or trans-
49 ferred from any other source pursuant to law. Nothing in this section
50 shall be deemed to prevent the state from receiving grants, gifts or
51 bequests for the purposes of this program.

52 § 4. Severability. If any clause, sentence, paragraph, subdivision,
53 section or part of this act shall be adjudged by any court of competent
54 jurisdiction to be invalid, such judgment shall not affect, impair, or
55 invalidate the remainder thereof, but shall be confined in its operation
56 to the clause, sentence, paragraph, subdivision, section or part thereof

1 directly involved in the controversy in which such judgment shall have
2 been rendered. It is hereby declared to be the intent of the legislature
3 that this act would have been enacted even if such invalid provisions
4 had not been included herein.
5 § 5. This act shall take effect immediately.