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Introduced by M. of A. STERN, COLTON, SHIMSKY, HEVESI, KELLES, SIMONE, ROSENTHAL, BURDICK, SHRESTHA, SCHIAVONI, LEVENBERG, SLATER -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Energy in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 that it is the policy of the state to achieve statewide
5 energy efficiency and renewable energy goals, reduce greenhouse gas
6 emissions and mitigate the effect of global climate change, and advance
7 a clean energy economy; and that to achieve such policy and goals the
8 state must promote the deployment of renewable energy systems and energy
9 efficiency measures throughout the state; and that municipalities would
10 fulfill an important public purpose by providing loans to property
11 owners for the installation of renewable energy systems and energy effi-
12 ciency measures. Municipalities could also fulfill a public purpose by
13 providing loans to commercial property owners for the installation of
14 qualifying water improvements, qualifying resiliency improvements, and,
15 in a city with a population of one million or more, the use of low
16 carbon intensity building components.

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

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

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1 § 119-ff. Definitions. For purposes of this article:

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

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

9 3. "Energy audit" means a formal evaluation of the energy consumption
10 of a permanent building or structural improvement to real property,
11 conducted by a qualifying contractor [~~certified by the authority, or~~
12 ~~certified by a certifying entity approved by the authority for purposes~~
13 ~~of this article,~~] for the purpose of identifying appropriate energy
14 efficiency improvements that could be made to or incorporated into the
15 construction of the property. [~~A municipal corporation may, by local~~
16 ~~law, provide for the certification of such contractors based upon crite-~~
17 ~~ria at least as stringent as the state-wide criteria for certification~~
18 ~~adopted by the authority for purposes of this article.~~]

19 4. "Energy efficiency improvement" means any improvement to real prop-
20 erty, whether as a component of the new construction of a building or as
21 the renovation or retrofitting of an existing building to reduce energy
22 consumption[~~, such as window and door replacement, lighting, caulking,~~
23 ~~weatherstripping, air sealing, insulation, and heating and cooling~~
24 ~~system upgrades, and similar improvements,~~] or greenhouse gas emissions
25 as determined [~~to be cost-effective pursuant to criteria established~~] by
26 the authority, which shall at a minimum include considerations of cost-
27 effectiveness. However, "energy efficiency improvement" shall not
28 include lighting measures or household appliances that are not perma-
29 nently fixed to real property.

30 5. "Feasibility study" means a written study of energy needs, water
31 usage or needs, or resiliency needs, conducted by a qualifying contrac-
32 tor for the purpose of identifying appropriate and feasible permanent
33 building or structural improvement to real property of renewable energy
34 systems, qualifying water improvements, qualifying resiliency improve-
35 ments or, in relation to real property located within a city with a
36 population of one million or more an evaluation of carbon or greenhouse
37 gas reduction needs for low carbon intensity building component improve-
38 ments, that could be made to or incorporated into the construction of
39 the property.

40 6. "Low carbon intensity building component improvement" means any
41 permanently affixed improvement to real property, whether as a component
42 of the new construction of a building or as the renovation or retrofit-
43 ting of an existing building, to reduce the carbon or other greenhouse
44 gas emissions of those components or the improved property, as deter-
45 mined by the authority, which in addition to any expected energy
46 savings, reductions in greenhouse gas emissions, and any other environ-
47 mental, economic, and public health benefits, shall at a minimum include
48 considerations of cost-effectiveness. However, "low carbon intensity
49 building components" shall not include measures that are not permanently
50 fixed to real property.

51 7. "Municipal corporation" means a county, town, city or village.

52 8. "Qualifying water improvement" means any improvement to real prop-
53 erty, whether as a component of the new construction of a building or as
54 the renovation and retrofitting of an existing building, to reduce water
55 consumption, promote water conservation and storage, manage stormwater,
56 resist flooding, and mitigate contamination in potable water systems, as

1 determined by the authority, which in addition to any expected energy
2 savings, reductions in greenhouse gas emissions, and any other environ-
3 mental, economic, and public health benefits, shall at a minimum include
4 considerations of cost-effectiveness. However, "qualifying water
5 improvements" shall not include measures that are not permanently fixed
6 to real property.

7 [~~6.~~] 9. "Real property" means any property, an interest in which is or
8 is eligible to be recorded or registered on municipal land ownership
9 records by the possessor of such interest.

10 [~~7.~~] 10. "Renewable energy system" means an energy generating system
11 for the generation of electric or thermal energy, to be used primarily
12 at such property, except when the owner of real property is a commercial
13 entity, by means of solar thermal, solar photovoltaic, wind, geothermal,
14 anaerobic digester gas-to-electricity systems, fuel cell technologies,
15 or other renewable energy technology approved by the authority not
16 including the combustion or pyrolysis of solid waste or the installation
17 of energy storage, microgrids, or vehicle charging infrastructure.

18 [~~8. "Renewable energy system feasibility study" means a written study,~~
19 ~~conducted by a contractor certified by the authority, or certified by a~~
20 ~~certifying entity approved by the authority for purposes of this arti-~~
21 ~~cle, for the purpose of determining the feasibility of installing a~~
22 ~~renewable energy system. A municipal corporation may, by local law,~~
23 ~~provide for the certification of such contractors based upon criteria at~~
24 ~~least as stringent as the state-wide criteria for certification adopted~~
25 ~~by the authority for purposes of this article.]~~

26 11. "Greenhouse gas emissions" means all emissions, attributable to
27 any permanent building or structural improvement to real property, of
28 "greenhouse gases" as defined in subdivision seven of section 75-0101 of
29 the environmental conservation law.

30 12. "Qualifying contractor" means a contractor that is: (a) certified
31 by the authority, or certified by a certifying entity approved by the
32 authority for purposes of this article, or (b) certified by a munici-
33 pality pursuant to local law that incorporates criteria at least as
34 stringent as the statewide criteria for certification adopted by the
35 authority, to conduct an energy audit and a feasibility study.

36 13. "Qualifying resiliency improvements" means improvements to real
37 property, a component of the new construction of a building, or the
38 renovation or retrofitting of an existing building, that is designed to
39 enhance the ability of the building to withstand or recover quickly from
40 disruption from the current and future hazards of extreme weather
41 events, including but not limited to floods, high winds, tornados,
42 extreme temperature, heavy rainfall, sea level rise and wildfires, as
43 determined by the authority, which in addition to any expected energy
44 savings, reductions in greenhouse gas emissions, and any other environ-
45 mental, economic, and public health benefits, shall at a minimum include
46 considerations of cost-effectiveness. However, "qualifying resiliency
47 improvements" shall not include measures that are not permanently fixed
48 to real property.

49 § 3. Section 119-gg of the general municipal law, as added by chapter
50 497 of the laws of 2009, subdivisions 1 and 6 as amended by chapter 320
51 of the laws of 2017, is amended to read as follows:

52 § 119-gg. Sustainable energy loan program. 1. The legislative body of
53 any municipal corporation may, by local law, establish a sustainable
54 energy loan program using federal grant assistance or federal credit
55 support or monies from the state of New York or any state authority as

1 defined by section two of the public authorities law available for this
2 purpose.

3 2. Such program may make loans to the owners of real property located
4 within the municipal corporation to finance the installation of renewa-
5 ble energy systems [~~and~~], energy efficiency improvements, qualifying
6 water improvements, and qualifying resiliency improvements, and if such
7 real property is located within a city with a population of one million
8 or more, low carbon intensity building components, related energy audits
9 and [~~renewable energy system~~] feasibility studies, and the verification
10 of the installation of such systems and improvements. No municipal
11 corporation shall make such a loan to an owner of property that has
12 received a loan from another municipal corporation pursuant to this
13 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.

17 a. The sustainable energy loan program shall use such lists of [~~cost~~
18 ~~effective~~] energy efficiency improvements for different building types
19 as are approved by the authority.

20 b. The qualifying water improvements, qualifying resiliency improve-
21 ments, and if such real property is located within a city with a popu-
22 lation of one million or more, low carbon intensity building components,
23 shall use such lists for commercial building types as are approved by
24 the authority.

25 c. Each such local law may provide criteria for qualifying contractors
26 that may conduct energy audits or feasibility studies in the munici-
27 pality, provided that such criteria are at least as stringent as the
28 criteria established by the authority.

29 4. The municipal corporation shall verify and report on the installa-
30 tion and performance of renewable energy systems [~~and~~], energy efficien-
31 cy improvements, qualifying water improvements, and qualifying resilien-
32 cy improvements, and, if applicable low carbon intensity building
33 component improvements, financed by the loan program in such form and
34 manner as the authority may establish.

35 5. Every loan made under the sustainable energy loan program shall be
36 repaid over a term not to exceed the weighted average of the useful life
37 of such systems and improvements as determined by the municipal corpo-
38 ration. The municipal corporation shall [~~set~~] approve a fixed rate of
39 interest for the repayment of the principal amount of each loan at the
40 time the loan is made.

41 6. 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.

48 b. For loans made to an owner of real property who is an individual,
49 the principal amount of each such loan, excluding interest, shall not
50 exceed the lesser of ten percent of the appraised real property value or
51 the actual cost of installing the renewable energy system and energy
52 efficiency improvements, including the costs of necessary equipment,
53 materials, and labor, the costs of each related energy audit and renewa-
54 ble energy system feasibility study, and the cost of verification of
55 such renewable energy system and energy efficiency improvements.

1 c. For loans to an owner of real property that is a commercial entity,
2 the principal amount of such loan, excluding interest, shall, in no
3 event, exceed thirty-five percent of the appraised real property value
4 inclusive of the financed improvements as established by an appraisal
5 accepted by the municipal corporation; provided, however, that the total
6 debt on any such real property after the execution of a loan pursuant to
7 this article shall not exceed ninety percent of the appraised real prop-
8 erty, inclusive of the financed improvements as established by an
9 appraisal accepted by the municipal corporation.

10 d. For all loans, the owner of the real property shall provide the
11 municipal corporation, prior to approval of such loan, with the written
12 consent of each holder of a mortgage, lien, or deed of trust on such
13 real property, including consent to the charge and lien placed on the
14 real property pursuant to this article, the priority of such lien, and
15 if applicable, a statement that the charge and lien does not constitute
16 an event of default under the mortgage or deed of trust.

17 7. No such loan shall be made for energy efficiency improvements
18 unless determined to be appropriate through an energy audit, and no such
19 loan shall be made for a renewable energy system, qualifying water
20 improvements, or qualifying resiliency improvements or, if such real
21 property is located within a city with a population of one million or
22 more, low carbon intensity building component improvements, unless
23 determined to be feasible through a [~~renewable energy system~~] feasibil-
24 ity study; provided, however, that no such loan shall be made for a
25 qualifying low-carbon intensity improvement without an appropriate engi-
26 neering study in accordance with criteria developed by the authority.

27 8. An energy audit shall comply with all requirements established by
28 the authority and shall document: (a) improvements and related costs
29 that are required for the energy efficiency improvements to proceed; and
30 (b) expected energy savings, any expected reductions in greenhouse gas
31 emissions, and any other environmental, economic and public health bene-
32 fits expected from the installation of the improvements, including those
33 enumerated in the scoping plans and related values created pursuant to
34 article seventy-five of the environmental conservation law; and (c) any
35 other criteria the authority may specify.

36 9. A feasibility study shall comply with all requirements established
37 by the authority and shall document: (a) improvements and related costs
38 that are required for the renewable energy system, qualifying water
39 improvements, or qualifying resiliency improvements or, if such real
40 property is located within a city with a population of one million or
41 more persons, low carbon intensity building component improvements, to
42 proceed; and (b) expected energy savings, any expected reductions in
43 greenhouse gas emissions, and any other environmental, economic and
44 public health benefits expected from the installation of the improve-
45 ments; and (c) any other criteria the authority may specify.

46 10. The loan made under the sustainable energy loan program shall
47 constitute a lien upon the real property benefitted by such loan.

48 [~~9-~~] 11. The municipal corporation may require the loan made under the
49 sustainable energy loan program to be repaid by the property owner
50 through a charge on the real property benefitted by such loan. Such
51 charge shall be on the real property, shall be payable by the property
52 owner regardless of tax-paying or tax-exempt status, and shall be levied
53 and collected at the same time and in [~~the same~~] a manner [~~as~~] consist-
54 ent with the manner generally applied to municipal taxes[~~7~~]; provided
55 that such charge shall be separately listed on the tax bill, and
56 provided further that in the event such charge should not be paid in a

1 timely manner, no other municipal corporation shall be required to cred-
2 it or otherwise guarantee the amount of such unpaid charge to the munic-
3 ipal corporation which authorized the loan, notwithstanding any
4 provision of law to the contrary.

5 § 4. The New York state energy research and development authority is
6 authorized to develop, update, or revise, and make public all relevant
7 guidelines, criteria, or other requirements related to the implementa-
8 tion and administration of article 5-L of the general municipal law, as
9 amended by this act; provided, further that, no municipal corporation
10 shall issue or approve a new sustainable energy loan including a quali-
11 fying water improvement, qualifying resiliency improvement, or low
12 carbon intensity building components as defined by such article prior to
13 the publication of such updated program guidelines, criteria, or other
14 requirements.

15 § 5. This act shall take effect immediately; provided, however, that
16 sections one, two, and three of this act shall take effect on the one
17 hundred twentieth day after it shall have become a law. Effective imme-
18 diately, the addition, amendment and/or repeal of any rule or regulation
19 necessary for the implementation of this act on its effective date are
20 authorized to be made and completed on or before such effective date.