STATE OF NEW YORK

3315--A

2025-2026 Regular Sessions

IN SENATE

January 24, 2025

Introduced by Sens. GONZALEZ, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, JACKSON, KRUEGER, SALAZAR, SANDERS, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the private housing finance 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. The private housing finance law is amended by adding a new article 33 to read as follows:

ARTICLE 33

GREEN AFFORDABLE PRE-ELECTRIFICATION PROGRAM

Section 1300. Short title.

1301. Legislative intent.

1302. Green affordable pre-electrification program.

1303. Severability.

§ 1300. Short title. This article shall be known and may be cited as the "green affordable pre-electrification fund" (GAP fund).

§ 1301. Legislative intent. The legislature finds that a significant portion of the state's residential buildings are old and in disrepair. This limits the suitability and eligibility of low- and moderate-income households for residential energy efficiency, electrification, weatherization, installation of insulation, and resiliency programs. There is a critical need to identify and remediate environmental hazards like mold, lead-based paint, and friable asbestos, water intrusion, indoor air pollution, and other hazards before insulation and air sealing to ensure that any renovations to the home do not create or exacerbate toxic conditions. These programs often do not cover the costs associated with

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

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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. This need was recognized by the state climate action council in their two thousand twenty-two final scoping plan, which stated: "The state should create a new retrofit and electrification readiness fund for LMI (low-moderate income) households, affordable housing, rent regulated housing, public housing, and residential buildings in disadvantaged communities to cover costs of non-energy building improvements that are necessary to install energy measures and broadband installation costs when funding energy projects."

§ 1302. Green affordable pre-electrification program. 1. Definitions. For the purposes of this article:

(a) "Residential building" 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, assistance, subsidies, grants or loans for improvements or projects relating to energy savings, greenhouse gas emissions reductions, climate change adaptation and resiliency due to structural deficiencies, health hazards, or code violations which make the building or property ineligible or unsuitable for such improvements or projects. The division may also include as an eligible applicant; a city, town or village; a housing development fund company incorporated pursuant to article eleven of this chapter which has as one of its primary purposes the improvement of housing; a limited-profit housing company incorporated pursuant to article two of this chapter; a limited dividend housing company incorporated pursuant to article four of this chapter; a redevelopment company incorporated pursuant to article five of this chapter; 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 division.

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

(e) "Division" means the division of housing and community renewal.

2. General and administrative provisions. (a) The division shall promulgate rules and regulations for the administration of this section, in consultation with the New York state energy research and development authority, 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 division shall deem necessary.

(b) The rules and regulations shall require awardees to conduct an inspection and risk assessment to determine if the home contains any hazardous condition due to the presence of lead-based paint, mold, or friable asbestos. The inspection and risk assessment may be paid for with the financial award if the official reports are provided to the division.

(c) The division 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.

(d) The division may designate and contract with awardees to provide awards to individual owners and tenants in accordance with the provisions of this article. Up to ten percent of the funds appropriated may be used by the commissioner and awardees for administrative expenses attributable to administering the green affordable pre-electrification program.

3. Green rehabilitation contracts. (a) Subject to appropriations therefor, the division 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. Such funds as may be appropriated shall be equitably divided across the state's ten regions, including western New York, the finger lakes, the southern tier, central New York, the Mohawk valley, the capital region, mid-Hudson region, New York City, Long Island, and the north country. Awards shall be made with the goal of prioritizing disadvantaged communities, as defined in section 75-0101 of the environmental conservation law and using criteria developed by the climate justice working group pursuant to section 75-0111 of the environmental conservation law, to receive no less than forty percent of the overall amount awarded.

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

(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 division shall not be cause to deny the application for funding under other existing programs.

(d) The division shall provide an answer to the applicant within sixty days after it receives an application, stating whether or not the applicant is eligible for funding, if more information is needed to determine eligibility, and whether such funding has been awarded.

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

(f) Eligible rehabilitation projects, if not completed by a not-for-profit corporation, may be completed by a division-approved private contractor headquartered in New York state or within ten miles of the border of New York state with another state. The division shall establish cost control measures such as per-measure payment formulas to ensure prices charged by contractors are reasonable.

(g) The division shall prioritize the contracting of financial awards to projects located within an area which is a disadvantaged community as defined in section 75-0101 of the environmental conservation law, 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, unsanitary, 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.

(h) The division shall compile a list of eligible contractors organized by region to facilitate projects under this program.

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

(j) For all projects with rental units that receive financial awards, an owner shall enter into an agreement with the division to adhere to the following requirements for a period of no less than five years: (i) the owner of a building assisted with funds pursuant to this article may not pass along the cost of improvements made with such funds in the form of a rent increase; (ii) an owner of a building assisted with funds pursuant to this article may not evict, harass, or involuntarily remove any tenant in a weatherized unit building whose owner has entered into an agreement with the state pursuant to this article, except for causes provided in section two hundred sixteen of the real property law; and (iii) the duration of the period for which an agreement between an owner and the division shall be in effect shall be determined by the division and be commensurate with the award amount.

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

(i) serve the lowest income households in disadvantaged communities or communities in which buildings are deteriorated or deteriorating, or have an injurious influence on the surrounding area, or are in danger of becoming a deteriorating area because of the existence of substandard, unsanitary, aged housing stock or vacant non-residential properties or other factors indicating an inability or unwillingness of the private sector, unaided, to cause the rehabilitation of homes, and which are 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 appropriated 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) No more than five percent of funds under this program shall be allocated to any single building per year.

(m) The division 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.

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 division 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: (a) the total number of applicants to relevant programs for which eligible applicants under this section would apply, as defined under paragraph (b) of subdivision one of this section; (b) the number of applications pending for that fiscal year; (c) the total number and value of financial awards disbursed and the nonprofits and private contractors which received such award, including the number of awarded projects completed; (d) the number of recipients of funds under this program who entered into and completed other relevant programs; (e) complaints by tenants and homeowners relating to projects completed under this program, along with a summary of the issues identified from all the complaints received; and (f) 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. Standards. The division shall establish a quality control, corrective action, and inspection process to ensure that work quality is acceptable and durable.

6. Funding. Funding for the green affordable pre-electrification program shall consist of funding appropriated for such a purpose.

§ 1303. Severability. If any clause, sentence, paragraph, subdivision or section of this article 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 or section 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 article would have been enacted even if such invalid provisions had not been included herein.

§ 2. This act shall take effect immediately.