§ 1896. Green jobs-green New York revolving loan fund. 1. (a) There is hereby created a green jobs-green New York revolving loan fund. The revolving loan fund shall consist of:

(i) all moneys made available for the purpose of the revolving loan fund pursuant to section eighteen hundred ninety-nine-a of this title;

(ii) payments of principal and interest, including any late payment charges, made pursuant to loan or financing agreements entered into with the authority or its designee pursuant to this section; and

(iii) any interest earned by the investment of moneys in the revolving loan fund.

(b) The revolving loan fund shall consist of two accounts:

(i) one account which shall be maintained for monies to be made available to provide loans to finance the cost of approved qualified energy efficiency services for residential structures and multi-family structures, and

(ii) one account which shall be maintained for monies made available to provide loans to finance the cost of approved qualified energy efficiency services for non-residential structures. The initial balance of the residential account established in subparagraph (i) of this paragraph shall represent at least fifty percent of the total balance of the two accounts. The authority shall not commingle the monies of the revolving loan fund with any other monies of the authority or held by the authority, nor shall the authority commingle the monies between accounts. Payments of principal, interest and fees shall be deposited into the account created and maintained for the appropriate type of eligible project.

(c) In administering such program, the authority is authorized and directed to:

(i) use monies made available for the revolving loan fund to achieve the purposes of this section by section eighteen hundred ninety-nine-a of this title, including but not limited to making loans available for eligible projects;

(ii) enter into contracts with one or more program implementers to perform such functions as the authority deems appropriate;

(iii) establish an on-bill recovery mechanism for repayment of loans for the performance of qualified energy efficiency services for eligible projects provided that such on-bill recovery mechanism shall provide for

the utilization of any on-bill recovery programs established pursuant to section sixty-six-m of the public service law and section one thousand twenty-hh of this chapter;

(iv) establish standards for customer participation in such on-bill recovery mechanism, including standards for reliable utility bill payment, current good standing on any mortgage obligations, and such additional standards as the authority deems necessary; provided that in order to provide broad access to on-bill recovery, the authority shall, to the fullest extent practicable, consider alternative measures of creditworthiness that are prudent in order to include participation by customers who are less likely to have access to traditional sources of financing;

(v) to the extent feasible, make available on a pro rata basis, based on the number of electric customers within the utility service territory, to combination electric and gas corporations that offer on-bill recovery pursuant to section sixty-six-m of the public service law and the Long Island power authority, up to five hundred thousand dollars to defray costs directly associated with changing or upgrading billing systems to accommodate on-bill recovery charges;

(vi) within thirty days of closing of a loan to a customer, pay a fee of one hundred dollars per loan to the combination electric and gas corporation in whose service territory such customer is located or to the Long Island power authority if such customer is located in the service territory of that authority to help defray the costs that are directly associated with implementing the program;

(vii) within thirty days of closing of a loan to a customer, pay a servicing fee of one percent of the loan amount to the combination electric and gas corporation in whose service territory such customer is located or to the Long Island power authority if such customer is located in the service territory of that authority to help defray the costs that are directly associated with the program; and

(viii) exercise such other powers as are necessary for the proper administration of the program, including at the discretion of the authority, entering into agreements with applicants and with such state or federal agencies as necessary to directly receive rebates and grants available for eligible projects and apply such funds to repayment of applicant loan obligations.

2. (a) The authority shall provide financial assistance in the form of loans for the performance of qualified energy efficiency services for eligible projects on terms and conditions established by the authority.

(b) Loans made by the authority pursuant to this section shall be subject to the following limitations:

(i) eligible projects shall meet cost effectiveness standards developed by the authority;

(ii) loans shall not exceed thirteen thousand dollars per applicant for approved qualified energy efficiency services for residential structures, and twenty-six thousand dollars per applicant for approved qualified energy efficiency services for non-residential structures, provided, however, that the authority may permit a loan in excess of such amounts if the total cost of energy efficiency measures financed by such loan will achieve a payback period of fifteen years or less, but in no event shall any such loan exceed twenty-five thousand dollars per applicant for residential structures and fifty thousand dollars per applicant for non-residential structures; and for multi-family structures loans shall be in amounts determined by the authority, provided, however, that the authority shall assure that a significant number of residential structures are included in the program;

(iii) no fees or penalties shall be charged or collected for prepayment of any such loan; and

(iv) loans shall be at interest rates determined by the authority to be no higher than necessary to make the provision of the qualified energy efficiency services feasible.

In determining whether to make a loan, and the amount of any loan that is made, the authority is authorized to consider whether the applicant or borrower has received, or is eligible to receive, financial assistance and other incentives from any other source for the qualified energy efficiency services which would be the subject of the loan. In determining whether a loan will achieve a payback period of fifteen years or less pursuant to subparagraph (ii) of this paragraph, the authority may consider the amount of the loan to be reduced by the amount of any rebates for qualified energy efficiency services received by the applicant or by the authority on behalf of an applicant.

(c) Applications for financial assistance pursuant to this section shall be reviewed and evaluated by the authority or its designee pursuant to eligibility and qualification requirements and criteria established by the authority. The authority shall establish standards for (i) qualified energy efficiency services, and (ii) measurement and verification of energy savings. Such standards shall meet or exceed the standards used by the authority for similar programs in existence on the effective date of this section.

(d) The amount of a fee paid for an energy audit provided under section eighteen hundred ninety-five of this title may be added to the amount of a loan that is made under this section to finance the cost of an eligible project conducted in response to such energy audit. In such a case, the amount of the fee may be reimbursed from the fund to the borrower.

(e) In establishing an on-bill recovery mechanism:

(i) the cost-effectiveness of an eligible project shall be evaluated solely on the basis of the costs and projected savings to the applying customer, using standard engineering assessments and prior billing data and usage patterns; provided however that based upon the most recent customer data available, on an annualized basis, the monthly on-bill repayment amount for a package of measures shall not exceed one-twelfth of the savings projected to result from the installation of the measures provided further that nothing herein shall be construed to prohibit or prevent customers whose primary heating energy source is from deliverable fuels from participating in the program;

(ii) the authority shall establish a process for receipt and resolution of customer complaints concerning on-bill recovery charges and for addressing delays and defaults in customer payments; and

(iii) the authority may limit the availability of lighting measures or household appliances that are not permanently affixed to real property.

(f) Prior to or at the closing of each loan made pursuant to this section, the authority shall cause a notice to be provided to each customer receiving such loan stating, in clear and conspicuous terms:

(i) the financial and legal obligations and risks of accepting such loan responsibilities, including the obligation to provide or consent to the customer's utility providing the authority information on the sources and quantities of energy used in the customer's premises and any

improvements or modifications to the premises, use of the premises or energy consuming appliances or equipment of any type that may significantly affect energy usage;

(ii) that the on-bill recovery charge will be billed by such customer utility company and that failure to pay such on-bill recovery charge may result in the customer having his or her electricity and/or gas terminated for non-payment, provided that such utility company follows the requirements of article two of the public service law with respect to residential customers;

(iii) that incurring such loan to undertake energy-efficiency projects may not result in lower monthly energy costs over time, based on additional factors that contribute to monthly energy costs;

(iv) that the program is operated by the authority and it is the sole responsibility of the authority to handle consumer inquiries and complaints related to the operation and lending associated with the program, provided further that the authority shall provide a mechanism to receive such consumer inquiries and complaints.

(g) Any person entering into a loan agreement pursuant to this section shall have the right to cancel any such loan agreement until midnight of the fifth business day following the day on which such person signs such agreement provided the loan proceeds have not yet been disbursed.

3. The authority shall evaluate the cost-effectiveness of the on-bill recovery mechanism on an on-going basis. (a) In conducting such evaluation, the authority shall request each customer to provide:

(i) information on energy usage and/or permission to collect information on energy usage from utilities and other retail vendors, including but not limited to information required to be furnished to consumers under article seventeen of the energy law;

(ii) information on other sources of energy used in the customer's premises; and

(iii) information on any improvements or modifications to the premises that may significantly affect energy usage.

(b) At a minimum the authority shall collect and maintain information for dates prior to the performance of qualified energy efficiency services, to establish a baseline, and for dates covering a subsequent time period to measure the effectiveness of such measures. Such data

shall be correlated with information from the energy audit and any other relevant information, including information on local weather conditions, and shall be used to evaluate the on-bill recovery program and to improve the accuracy of projections of cost-effectiveness on an on-going basis. An analysis of such data shall be included in the annual report prepared pursuant to section eighteen hundred ninety-nine of this title.

(c) All information collected by the authority shall be confidential and shall be used exclusively for the purposes of this subdivision.

4. Qualified energy efficiency services that have been paid for in whole or in part with the proceeds of a loan under this title shall be considered a special energy project pursuant to section eighteen hundred fifty-one of this article.

5. (a) For each loan issued for qualified energy efficiency services that is to be repaid through an on-bill recovery mechanism, the New York state energy research and development authority shall record, pursuant to article nine of the real property law, in the office of the appropriate recording officer, a declaration with respect to the property improved by such services of the existence of the loan and stating the total amount of the loan, the term of the loan, and that the loan is being repaid through a charge on an electric or gas meter associated with the property. The declaration shall further state that it is being filed pursuant to this section and, unless fully satisfied prior to sale or transfer of the property, the loan repayment utility meter charge shall survive changes in ownership, tenancy, or meter account responsibility and, until fully satisfied, shall constitute the obligation of the person responsible for the meter account. Such declaration shall not constitute a mortgage and shall not create any security interest or lien on the property. Upon satisfaction of the loan, the authority shall file a declaration of repayment pursuant to article nine of the real property law.

(b) The recording officer shall record such declarations in the same book, provided under section three hundred fifteen of the real property law, in which such recording officer records deeds.