

## **LOCAL LAW NO. “D”FOR 2016**

### **A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM IN THE COUNTY OF ALBANY**

Introduced: 2/9/16

By Messrs. Bullock, Clenahan, Ward, Commisso, Beston, Ms. Chapman, Messrs. Clay, Domalewicz, Ethier, Feeney, Fein, Higgins, Reinhardt, Signoracci, Mss. McLean Lane, Cunningham, Lekakis, Messrs. Burgdorf, Crouse, Dawson, Drake, Grimm, Hogan, A. Joyce, R. Joyce, Mackey, Mauriello, Mayo, Ms. McKnight, Messrs. Mendick, Miller, O'Brien, Simpson, Smith, Stevens, Touchette, Tunny and Ms. Willingham:

BE IT ENACTED by the Albany County Legislature as follows:

#### Section 1. Legislative Intent.

The Legislature finds that it is the policy of both Albany County and New York State to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy.

The Legislature finds that it can fulfill this policy by providing Property Assessed Clean Energy ("PACE") financing to property owners for the installation of renewable energy systems and energy efficiency measures.

The Legislature finds that the Energize NY program provides a PACE program for New York State counties.

The Legislature finds that this Local Law will establish an Energize NY/PACE program that will allow the Energy Improvement Corporation ("EIC"), a non-profit, local development corporation, acting on behalf of Albany County to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds.

The Legislature finds that Albany County is authorized to implement this Energize NY Albany County Benefit Financing Program pursuant to Article 5-L of the New York General Municipal Law.

Therefore, the purpose of this Local law is to help fulfill the important public purpose of increasing energy efficiency and renewable energy.

## Section 2. Title

This Local Law shall be known as the “Energize NY Benefit Financing Program Law of Albany County.”

## Section 3. Definitions

As used in this Local Law, the following terms shall have the meanings indicated:

(A) "Authority" means The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

(B) "EIC" means the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of Albany County to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this Local Law) and providing for repayment of such funds from monies collected by the tax collector as a charge to be levied on the real property and collected in the same manner and same form as the County taxes.

(C) "Energy Audit" means a formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

(D) "Energy Efficiency Improvement" means any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

(E) "Qualified Property Owner" means an owner of residential or commercial real property located within the boundaries of Albany County that is determined to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this Local Law.

(F) "Renewable Energy System" means an energy generating system for the generation of electric or thermal energy, to be used primarily at such property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy

technology approved by the Authority not including the combustion or pyrolysis of solid waste.

(G) "Renewable Energy System 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 the purpose of determining the feasibility of installing a renewable energy system.

#### Section 4. Establishment of an Energize NY Benefit Financing Program.

(A) An Energize NY Benefit Financing Program is hereby established by Albany County whereby EIC acting on its behalf, may provide funds to Albany County Qualified Property Owners in accordance with the procedures set forth under this Local Law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.

(B) The funds provided shall not exceed the lesser of ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

#### Section 5. Procedures for eligibility.

A) Any property owner in Albany County may submit application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at Albany County offices.

B) Every application submitted by a property owner shall be reviewed by EIC acting on behalf of Albany County, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in subsection A of section 6 this Local Law. EIC may also request further information from the property owner where necessary to aid in its determination.

C) If a positive determination on an application is made by EIC acting on behalf of Albany County, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 7 of this Local Law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

## Section 6. Application criteria.

A) Upon the submission of an application, EIC acting on behalf of Albany County shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- 1) The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective by the Authority;
- 2) The proposed Energy Efficiency Improvements and/or Renewable Energy Systems will generate an estimated annual cost savings greater than the annual charge payments;
- 3) Sufficient funds are available to provide to the property owner;
- 4) The property owner is current in payments on any existing mortgage;
- 5) The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- 6) Such additional criteria, not inconsistent with the criteria set forth above, as Albany County, or EIC acting on its behalf, may set from time to time.

## Section 7. Opt-in, Energize Finance Agreement

A) A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an Energize Finance Agreement made by and between the Qualified Property Owner and EIC acting on behalf of Albany County.

B) Upon execution of the Energize Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of Albany County, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of section 8 of this Local Law have been met.

C) The Energize Finance Agreement shall include the terms and conditions of repayment set forth under section 9 of this Local Law.

Section 8. Energy audit, renewable energy system feasibility study.

A) No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 3 of this Local Law.

B) No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 3 of this Local Law.

C) The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

Section 9. Terms and conditions of repayment.

The Energize Finance Agreement between the Qualified Property Owner and EIC acting on behalf of Albany County, shall set forth the terms and conditions of repayment in accordance with the following:

A) The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their County tax bill and shall be levied and collected at the same time and in the same manner as property taxes, provided that such charge shall be separately listed on the tax bill. Albany County shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the County tax due date.

B) The term of such repayment shall be determined at the time the Energize Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of Albany County.

C) The rate of interest for the charge shall be fixed by EIC acting on behalf of Albany County at the time the Energize Finance Agreement is executed by the property owner and EIC.

D) The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

Section 10. Verification and report.

A) EIC shall be responsible for verifying and reporting to Albany County on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such program.

B) Albany County shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 11. Effective Date.

This Local Law shall take effect upon filing with the Secretary of State.

*Referred to Audit and Finance Committee. 2/9/16*

*Favorable Recommendation - Audit and Finance Committee. 4/27/16*

*On roll call vote the following voted in favor: Messrs. Beston, Bullock, Burgdorf, Ms. Chapman, Messrs. Clay, Clenahan, Commisso, Crouse, Ms. Cunningham, Messrs. Dawson, Domalewicz, Drake, Ethier, Feeney, Fein, Grimm, Higgins, Hogan, A. Joyce, R. Joyce, Ms. Lekakis, Messrs. Mackey, Mauriello, Mayo, Mss. McKnight, McLean Lane, Messrs. Mendick, Miller, O'Brien, Signoracci, Simpson, Smith, Stevens, Touchette, Tunny, Ward and Ms. Willingham – 37.*

*Those opposed: - 0.*

*Local Law was adopted. 5/9/16*