

Intro. Res. No. 1891-2017
Introduced by Legislator Krupski

Laid on Table 11/8/2017

**RESOLUTION NO. 1037 -2017, ADOPTING LOCAL LAW
NO. 3 -2018, A LOCAL LAW TO IMPROVE AND STRENGTHEN
THE SUSTAINABLE ENERGY LOAN PROGRAM**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on November 8, 2017, a proposed local law entitled, "**A LOCAL LAW TO IMPROVE AND STRENGTHEN THE SUSTAINABLE ENERGY LOAN PROGRAM**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 3 -2018, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO IMPROVE AND STRENGTHEN THE
SUSTAINABLE ENERGY LOAN PROGRAM**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted Local Law No. 38-2015, pursuant to provisions of New York General Municipal Law, to establish a Sustainable Energy Loan Program. This program authorized the Energy Improvement Corporation ("EIC"), a local development corporation acting on behalf of the County, to make funds available to qualified property owners for the installation of renewable energy systems and energy-efficiency measures.

This Legislature further finds that the New York State Legislature recently amended certain provisions of the municipal sustainable energy loan program to "eliminate barriers that have been identified that have prevented the program from reaching its full potential."

This Legislature finds that the amendments to the program, enacted as Chapter 320 of the 2017 Laws of the State of New York, seek to encourage net metered and community solar projects, will allow the County program to use monies available from the State or any State authority, and will permit a more flexible loan standard for commercial properties.

Therefore, the purpose of this law is to amend the County's Sustainable Energy Loan Program in conformity with changes recently enacted to the New York State enabling legislation.

Section 2. Amendments.

Chapter 444 of the SUFFOLK COUNTY CODE is hereby amended as follows:

**CHAPTER 444
ENERGY EFFICIENCY**

Article I. Sustainable Energy Loan Program

§ 444-1. Legislative intent.

This Legislature hereby finds and determines that it is the policy of both the County of Suffolk and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of [the] global climate change and advance a clean-energy economy. This Legislature also finds and determines that Suffolk County can further these policy goals by [facilitating] providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy-efficiency measures. This Legislature further finds and determines that this article would establish a program that will allow the Energy Improvement Corporation, a local development corporation, acting on behalf of the County of Suffolk, pursuant to the Municipal Agreement to be entered into between the County and Energy Improvement Corporation ("EIC") pursuant to Article 5-G of the New York General Municipal Law, 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 thereby fulfilling the purpose of this loan and fulfilling an important public purpose. This Legislature also finds that the County of Suffolk is authorized to implement this sustainable energy loan program, known as "Energize NY Benefit Financing Program," pursuant to Article [5-L]5-G of the New York General Municipal Law. Therefore, the purpose of this article is to establish a sustainable energy loan program in the County of Suffolk.

§ 444-2. Definitions.

* * * * *

EIC

The Energy Improvement Corporation, a local development corporation, duly organized under § 1411 of the Not-For-Profit Corporation Law, authorized hereby on behalf of the County to implement the Energize NY Benefit Financing Program by providing qualified property owners (as defined in this article) and providing for repayment of such funds from monies collected by the County tax [collector]collecting officer as a charge to be levied on the real property and collected in the same manner and same form as the County property taxes.

* * * * *

RENEWABLE ENERGY SYSTEM

An energy-generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the qualified property owner is a commercial entity in which case the system may be used for other properties in addition to the subject 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.

* * * * *

§ 444-3. Establishment of program.

- A. An Energize NY Benefit Financing Program is hereby established by the County, whereby EIC, acting on its behalf, pursuant to the Municipal Agreement, may provide funds to qualified property owners in accordance with the procedures set forth under this article, 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. For funds provided to a qualified property owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including, but not limited to, the property value, projected savings, project costs, and existing indebtedness secured by such property.
- [B.]C. For financings made to a qualified property owner who is an individual, [T]the funds provided shall not exceed the lesser of (i) 10% of the appraised value of the real property where the renewable energy systems and/or energy-efficiency improvements will be located, or (ii) 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.

* * * *

§ 444-5. Applicable criteria.

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

- A. The proposed energy-efficiency improvement and/or renewable energy systems are determined to be cost effective based on guidelines issued by the Authority;
- B. [The proposed energy-efficiency improvement and/or renewable energy systems will generate an estimated annual cost savings greater than the annual charge payments;] The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of renewable energy systems and energy efficiency improvements, to be installed on the property as determined by EIC;
- [C.]D. Sufficient funds are available from EIC to provide financing to the property owner;
- [D.]E. The property owner is current in payments on any existing mortgage;
- [E.]F. 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
- [F.]G. Such additional criteria, not inconsistent with the criteria set forth above, as the County, or EIC acting on its behalf, may set from time to time.

§ 444-6. Opt-in; Energize NY finance agreements.

- A. A qualified property owner may participate in the Energize NY Benefit Financing Program through the execution of an Energize NY Finance Agreement made by and between the qualified property owner and EIC, acting on behalf of the County (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the qualified property owner shall be eligible to receive funds from EIC, acting on behalf of the County, for the acquisition, construction, and installation of qualifying renewable energy systems and energy-efficiency improvements; provided the requirements of § 444-7 off this article have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under § 444-8 of this article.

* * * *

§ 444-8. Terms and conditions of repayment.

The Energize NY Finance Agreement between the qualified property owner and EIC, acting on behalf of the 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 his/her real property tax bill and shall be levied and collected at the same time and in the same manner as County property taxes, provided that such charge shall be separately listed on the tax bill. The County shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the [County real property tax due date] date of payment is due to be made to the County.
- B. The term of such repayment shall be determined at the time the Energize NY 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 the County.
- C. The rate of interest for the charge shall be fixed by EIC, acting on behalf of the County, at the time the Energize NY 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 as set forth in Article 5-L of the General Municipal Law 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 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: December 5, 2017

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: December 20, 2017

After a public hearing duly held on December 18, 2017
Filed with the Secretary of State on January 18, 2018