

LOCAL LAW NO. 7-17
CHAUTAUQUA COUNTY

A LOCAL LAW ESTABLISHING A SUSTAINABLE ENERGY LOAN PROGRAM
IN THE COUNTY OF CHAUTAUQUA

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

Section 1. Title

This Local Law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the County of Chautauqua” and shall read as follows:

Section 2. Legislative Findings, Intent and Purpose, Authority

a. It is the policy of both the County of Chautauqua and the State of New York 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 County Legislature finds that it can fulfill this policy by providing clean energy financing to property owners for the installation of renewal energy systems and energy efficiency measures. This Local Law establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation acting on behalf of the 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, thereby fulfilling the purposes of this Local Law and fulfilling an important public purpose.

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

Section 3. Definitions

For purposes of this Local Law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated.

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of Section Eighteen Hundred Fifty-one (§1851(2)) of the Public Authorities Law, or its successor.

County – Chautauqua County, State of New York.

EIC – The Energy Improvement Corporation, a local development corporation, duly organized under Section Fourteen Hundred Eleven (§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 funds to Qualified Property Owners (as defined in this Local

Law), and providing for repayment of such funds from monies collected by the County tax collector as a charge to be levied on the real property and collected in the same manner and same form as the County property taxes.

Energy Audit – 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.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weather stripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority. Energy efficiency improvement shall not include lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of the County that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility as set forth under this Local Law.

Renewable Energy System – 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.

Renewable Energy System Feasibility Study – 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 the County, whereby EIC, acting on the County’s behalf, may provide funds to 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 (10%) 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 the County may submit an application to EIC on such forms as prepared by EIC and made available to property owners on the website of EIC and at County offices.

b. Every application submitted by a property owner shall be reviewed by EIC, which shall make a positive or negative determination on such application based upon the criteria for making a financing as enumerated in subsection a of Section 6 of 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, 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 procedures set forth under Section 7 of this Local Law; provided, however, 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

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

a. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective by the Authority;

b. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems will generate an estimated annual cost savings greater than the annual charge payments;

c. Sufficient funds are available to provide to the property owner;

d. The property owner is current in payments on any existing mortgage;

e. 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 (3) years; and

f. 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.

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.

b. Upon execution of the Energize Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC for the acquisition, construction, and installation of qualifying Renewable Energy Systems and/or 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.

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.

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 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 Qualified Property Owner as a charge on their real property tax bill and shall be levied and collected at the same time and in the same manner as County 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 thirty (30) days of the County real property tax due date.

b. The term of such repayment shall be determined at the time the Energize Finance Agreement is executed by the Qualified Property Owner and EIC; provided, however, that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC.

c. The rate of interest for the charge shall be fixed by EIC at the time the Energize Finance Agreement is executed by the Qualified 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 the County on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such program.

b. The 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. 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 12. SEQRA Determination

The County Legislature, pursuant to the State Environmental Quality Review Act (SEQRA), 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) as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection.

Section 13. Effective Date

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

Sponsored by: Legislator Odell

Emailed to Legislators: 6/16/17

Adopted by Legislature: 6/28/17

Public Hearing Held by County Executive: 7/17/17

Sent to State: 7/18/17

R/C Vote: 18 Yes; 1 Absent

State Date Filed: 7/21/17