

# **Local Law Number 2 Of 2018**

## **County Of Ulster**

### **A Local Law Amending Local Law 6 of 2014, To Improve And Strengthen The Sustainable Energy Loan Program**

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

#### **SECTION 1. LEGISLATIVE FINDINGS AND INTENT.**

The Ulster County Legislature hereby finds and determines that the County of Ulster enacted Local Law No. 6 of 2014 (codified as Chapter 190 of the Code of the County of Ulster), 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 of Ulster, to make funds available to qualified property owners for the installation of renewable energy systems and energy-efficiency measures.

The Ulster County 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.”

The Ulster County 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 of Ulster’s 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 of Ulster’s Sustainable Energy Loan Program in conformity with changes recently enacted to the New York State enabling legislation.

#### **SECTION 2. Section 2 of Local Law 6 of 2014 is hereby amended to read as follows:**

SECTION 2. Legislative intent and purpose.

- A. It is the policy of both the County of Ulster 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 of Ulster finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable 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 of Ulster pursuant to the municipal agreement to be entered into between the County of Ulster and the EIC **pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”)**, 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 section and fulfilling an important public purpose.

- B. The County of Ulster is authorized to implement this Energize NY Benefit Financing Program pursuant to **the Municipal Home Rule Law** and Article 5-L of the New York General Municipal Law.
- C. This Local Law shall be known and may be cited as the "Energize NY Benefit Financing Program Law of the County of Ulster."

**SECTION 3. The definitions of “EIC” and “Renewable Energy System” in Section 3 of Local Law No. 6 of 2014 are hereby amended to read as follows:**

**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 funds to qualified property owners (as defined in this chapter) and providing for repayment of such funds from monies collected by the County **tax collecting officer** as a charge to be levied on the real property and collected in the same manner and same form as the County 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.

**SECTION 4. Section 4 of Local Law No. 6 of 2014 is hereby amended to read as follows:**

**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 its behalf **pursuant to the Municipal Agreement**, 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. 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 cost, and existing indebtedness secured by such property.**
- C. **For financings made to a Qualified Property Owner who is an individual, 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.**

**SECTION 5. Paragraph B of Section 5 of Local Law No. 6 of 2014 is hereby amended to read as follows:**

- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the County, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 6 of this Local Law. EIC may also request

further information from the property owner, where necessary, to aid in its determination.

**SECTION 6. Section 6 of Local Law No. 6 of 2014 is hereby amended to read as follows:**

**SECTION 6. Application criteria.**

Upon the 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 a financing:

- A.** The proposed energy efficiency improvements and/or renewable energy systems are determined to be cost effective **based on guidelines issued** by the Authority;
- B.** 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;
- D.** Sufficient funds are available **from EIC** to provide **financing** to the property owner;
- E.** The property owner is current in payments on any existing mortgage;
- 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
- 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.

**SECTION 7. Section 7 of Local Law No. 6 of 2014 is hereby amended to read as follows:**

**SECTION 7. Energize NY Finance Agreement.**

- 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 section 8 of this Local Law have been met.
- C. The **Energize NY Finance Agreement** shall include the terms and conditions of repayment set forth under section 9 of this Local Law.

**SECTION 8. Section 9 of Local Law No. 6 of 2014 is hereby amended to read as follows:**

**SECTION 9. Terms and conditions 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 or her 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 30 days of **the date the 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 9. EFFECTIVE DATE.**

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

**Adopted by the County Legislature: May 15, 2018**

**Approved by the County Executive: June 13, 2018**

**Filed with New York State Department of State: June 25, 2018**