

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Busti

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DEC 15 2016

DEPARTMENT OF STATE

Local Law No. 5 of the year 2016

A local law to Establish A Sustainable Energy Loan Program in the Town of Busti
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Busti

as follows:

Please see attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**TOWN OF BUSTI
LOCAL LAW NO. 5 FOR THE YEAR 2016**

A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM IN THE TOWN OF BUSTI

Be it enacted by the Town of Board of the Town of Busti, County of Chautauqua and State of New York, as follows:

SECTION 1. NEW CHAPTER REGARDING THE ENERGIZE NY FINANCING PROGRAM

The Town of Busti Code is hereby amended to add a new Chapter 242, entitled "Energize NY Benefit Financing Program", which shall provide as follows:

CHAPTER 242: ENERGIZE NY BENEFIT FINANCING PROGRAM

§242-1 Legislative Findings; Intent and Purpose; Authority.

- A. It is the policy of both the Town of Busti 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 Town of Busti 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 chapter establishes a program that will allow the Energy Improvement Corporation ("EIC"), a local development corporation, acting on behalf of the Town of Busti, 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 chapter and fulfilling an important public purpose.
- B. The Town of Busti is authorized to implement this Energize NY Benefit Financing Program pursuant to Article 5-L of the New York General Municipal Law.
- C. This chapter shall be known and may be cited as the "Energize NY Benefit Financing Program Law of the Town of Busti"

§242-2 Definitions.

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

- A. **Authority** - 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** - 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 the Town of Busti 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 Town of Busti tax collector as a charge to be levied on the real property and collected in the same manner and same form as the Town of Busti taxes.

- C. **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.
- D. **Energy Efficiency Improvement** - 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** - An owner of residential or commercial real property located within the boundaries of the Town of Busti that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this chapter.
- F. **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,
- G. **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.

§242-3 Establishment of an Energize NY Benefit Financing Program.

- A. An Energize NY Benefit Financing Program is hereby established by the Town of Busti, whereby EIC acting on its behalf, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this chapter, 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.

§242-4. Procedures for Eligibility.

- A. Any property owner in the Town of Busti 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 the Town of Busti offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the Town of Busti, 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 242-5 of this chapter. 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 the Town of Busti, 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 242-6 of this chapter; 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.

§242-5 Application Criteria.

- A. Upon the submission of an application, EIC, acting on behalf of the Town of Busti, 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 of 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 the Town of Busti or EIC, acting on its behalf, may set from time, to time.

§242-6. 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 the behalf of the Town of Busti.

- B. Upon execution of the Energize Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of the Town of Busti, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 242-7 of this chapter have been met.
- C. The Energize Finance Agreement shall include the terms and conditions of repayment set forth under Section 242-8 of this chapter.

§242-7. 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 242-2.
- 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 242-2.
- 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.

§242-8. Terms and Conditions of Repayment.

The Energize Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the Town of Busti, 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 Town of Busti tax bill and shall be levied and collected at the same time and in the same manner as Town of Busti property taxes, provided that such charge shall be separately listed on the tax bill. The Town of Busti shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the Town of Busti 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 the Town of Busti.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the Town of Busti 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.

§242-9. Verification and report

- A. EIC shall be responsible for verifying and reporting to the Town of Busti on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such program.
- B. The Town of Busti 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 2. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 3. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2016 of the (County)(City)(Town)(Village) of Busti was duly passed by the Town Board on December 5 2016, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

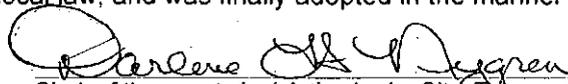
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: December 7, 2016

(Seal)