

“An Act Relative to energy efficiency of residential properties” Final language with amendment

SECTION 56. Section 7 of chapter 44 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after paragraph (3B) the following paragraph:-

(3C) For a revolving loan fund established under section 53E  $\frac{3}{4}$  to assist in development of renewable energy and energy conservation projects on privately held buildings, property or facilities within the city or town, 20 years.

SECTION 57. Said chapter 44, as so appearing, is hereby further amended by inserting after section 53E  $\frac{1}{2}$  the following section:-

Section 53E  $\frac{3}{4}$ . (a) Notwithstanding the provisions of section fifty-three or any other general or special law to the contrary, a city or town may establish a revolving fund to be known as the Energy Revolving Loan Fund, in this section called the fund. The purpose of the fund is to provide loans to owners of privately held real property in the city or town for energy conservation and renewable energy projects on their properties so as to prioritize energy efficiency as the first step toward reducing greenhouse gas emissions associated with buildings.

(b) The fund shall be established by ordinance or by-law. Before adoption of the ordinance or by-law, the select board, town council or the city council, as the case may be, shall conduct a public hearing on the question of its adoption. The ordinance or by-law shall designate an administrator for the fund and may provide for any rules, regulations and procedures for administration of the fund and eligibility for loans the city or town considers necessary or proper to carry out the purposes of this section. The administrator may consult with the green communities division, established in section 10 of chapter 25A in developing such regulations, rules, and procedures for administration of the fund. **The green communities division shall develop advisory standards, after appropriate hearings, that prioritize a list of eligible energy efficiency and renewable energy measures to be recommended for use by municipalities adopting this law.** The fund administrator may be a board, department or officer, or may consist of 1 or more members from 1 or more boards, departments or officers, of the city or town. Any city or town which is a member of a regional planning commission may enter into a cooperative agreement with said commission to perform as administrator for the fund.

(c) As authorized by section 4A of chapter 40, two or more municipalities may, in a city by vote of the city council thereof, and in a town by vote of the board of selectmen thereof, enter into an agreement to jointly establish and administer a common fund.

(d) The fund administrator shall have the following duties and powers:-

(1) to make loans to owners of real estate to finance or refinance the costs of energy conservation and renewable energy projects on their properties; provided no loan shall be made unless an energy audit of the property has been conducted on or after July 2, 2008] and any energy conservation measures established by the fund administrator for participation in the program have been implemented;

(2) to execute and deliver on behalf of the city or town all loan agreements and other instruments necessary or proper to make the loan and secure its repayment;

(3) to record the notice of the agreement required by subsection (f) and any other loan instruments;

(4) to apply for and accept grants or gifts for purposes of the fund; and

(5) to exercise any other powers or perform any other duties the city or town may grant by ordinance or by-law to carry out the purposes of the section.

(e) The treasurer shall be the custodian of the fund, which shall be maintained as a separate account, and into which shall be placed:-

(1) all monies appropriated and proceeds from bonds issued under paragraph (3C) of section 7 for purposes of providing loans to private property owners for energy conservation and renewable energy projects;

(2) all funds received from the commonwealth or any other source for those purposes;

(3) all repayments of the loans made to property owners under this section, and any reserve or other required payments made by the owners in connection with the loans; and

(4) any other amounts required to be credited to the fund by any law.

The treasurer may invest the monies in the manner authorized by section 55, and any interest earned thereon shall be credited to and become part of the fund.

The treasurer shall, not later than June 30 of each year, certify in writing to the fund administrator and auditor or similar officer in cities, or the town accountant in towns having that officer, the principal and interest due in the next fiscal year on any bonds issued under paragraph (3C) of section 7 and not otherwise provided for, and the amount certified shall be reserved for payment of that debt service without further appropriation. Loans may be made from the fund by the fund administrator without further appropriation, subject to this section; provided, however, that no loans shall be made or liabilities incurred in excess of the unreserved fund balance, nor made unless approved in accordance with sections 52 and 56 of chapter 41.

(f) Whenever the city or town enters into a loan agreement with a property owner under this section, a notice of the agreement shall be recorded as a betterment and be subject to the provisions of chapter 80 relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, the lien shall take effect by operation of law on the day immediately following the due date of the assessment or apportioned part of the assessment and the assessment may bear interest at a rate determined by the city or town treasurer by agreement with the owner at the time the agreement is entered into between the city or town and the property owner. In addition to remedies available under chapter 80, the property owner shall be personally liable for the repayment of the total costs incurred by the city or town under this section; provided, however, that upon assumption of the personal obligation by a purchaser or other transferee of all of the original owner's interest in the property at the time of conveyance and the recording of the assumption, the owner shall be relieved of the personal liability.

A betterment loan agreement between an owner and a city or town under this section shall not be considered a breach of limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property.

Notwithstanding any provision of chapter 183A to the contrary, the organization of unit owners of a condominium may enter into a betterment loan agreement under this section to finance an energy conservation and renewable energy project provided that the project comprises part of the common areas and facilities. The agreement shall: (i) be approved by a majority of the unit owners benefited by the project; (ii) include an identification of the units and unit owners subject to the agreement and the percentages, as set forth in the master deed, of the undivided interests of the respective units in the common area and facilities; and (iii) include a statement by an officer or trustee of the organization of unit owners certifying that the required number of unit owners have approved the agreement. As between the affected unit owners and the city or town, the certification shall be conclusive evidence of the authority of the organization of unit owners to enter into the agreement. A notice of the agreement shall be recorded as a betterment in the registry of deeds or registry district of the land court where the master deed is recorded and shall be otherwise subject to the provisions of chapter 80 as provided for in this section. The assessment under the agreement may be charged or assessed to the organization of units owners but shall not constitute an assessment of common expenses. Instead, the allocable share of the assessment, prorated on the basis of the percentage interests of the benefited units in the common areas and facilities, shall attach as a lien only to the units identified in the recorded notice and benefited by the project and the owners of those units shall also be personally liable for their allocable share of the assessment as provided for in this section. Words defined in section 1 of said chapter 183A and used in this paragraph have the same meanings as appearing in said chapter 183A.

(g) The fund administrator shall file annually no later than June 30 a report detailing the amount of money in the fund, loans made, and repayments received, and shall also include the types of projects financed. The report shall be filed with the chief executive officer of the city or town, the executive office of administration and finance, the joint committee on municipalities and regional government, the senate and house committees on ways and means, and the clerks of the senate and the House of Representatives.