



Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 26-10
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ENERGY REVOLVING LOAN FUND
[\(G.L. c. 44, § 53E3/4\)](#)

This Informational Guideline Release (IGR) informs local officials about [G.L. c. 44, § 53E3/4](#) which allows cities and towns to establish an Energy Revolving Loan Fund to borrow funds to provide loans to owners of privately held real property in the city or town for energy conservation and renewable energy projects on their private property.

ENERGY REVOLVING LOAN FUND
(G.L. c. 44, § 53E3/4)

SUMMARY:

Section 36 of [Chapter 188 of the Acts of 2010](#) added [G.L. c. 44, § 53E3/4](#) which allows cities and towns to create an Energy Revolving Loan Fund (“Fund”). [G.L. c. 44, § 53E3/4](#). The Energy Revolving Loan Fund allows cities and towns to borrow funds to provide loans to owners of privately held real property in the city or town for energy conservation and renewable energy projects on their private properties. Cities and towns may borrow for up to 20 years to fund the loans and shall account for the same in a revolving fund. [G.L. c. 44, § 7\(2\)](#). The program must be authorized by bylaw or ordinance and the loans are repaid by inclusion on the property owner’s property tax bill in the same manner as a betterment.

GUIDELINES:

I. IMPLEMENTATION OF THE ENERGY REVOLVING LOAN FUND

A. ADOPTION

The Energy Revolving Loan Fund must be established by ordinance or bylaw. Before adoption of the ordinance or bylaw, the selectboard, town council or the city council must conduct a public hearing on the question of its adoption.

B. REQUIREMENTS OF BYLAW OR ORDINANCE

The ordinance or bylaw must designate an administrator for the Fund and may provide for rules, regulations and procedures for administration of the Fund and eligibility for loans that the city or town considers necessary or proper. For example, the ordinance or bylaw may set the term and interest rate parameters for the loan provided to the property owner. Additionally, the administrator can be a person, group of people, or local board of the city or town or, if applicable, the regional planning commission pursuant to a cooperative agreement. Cities and towns may also enter into an intermunicipal agreement to have a jointly managed fund by vote of the City Council or Selectboard of each member city or town.

C. POWERS OF THE FUND ADMINISTRATOR

The Fund administrator has the power and duty to:

- (1) make loans to owners of real property to finance or refinance the costs of energy conservation and renewable energy projects on their properties; provided, however, that 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 required agreement 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 that the city or town may grant by ordinance or bylaw to carry out this section.

The Fund administrator must also file annually, not 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.

D. ENERGY CONSERVATION AND RENEWABLE ENERGY PROJECTS

The statute does not define what constitutes a qualifying energy conservation or renewable energy project. However, the intent of the statute is to “prioritize energy efficiency as the first step toward reducing greenhouse gas emissions associated with buildings.” As such, cities and towns have significant latitude in providing loans that meet this standard. Examples of qualifying projects may include the installation, repair or replacement of solar panels, the installation, repair or replacement of electric car chargers, the removal of oil tanks, the transition from gas to electric power, providing for new insulation, providing for more energy efficient doors and/or windows, the installation, repair or replacement of energy efficient furnaces and cooling units, to name a few. The statutory language also suggests that a loan could be provided for the cost of feasibility studies or engineering or architectural services for plans and specifications for any proposed project (for a period of 5 years if issued before any other debt relating to the project is authorized). [G.L. c. 44, § 7\(7\)](#).

E. CUSTODIAN

The treasurer of the governmental unit is the custodian of the Fund and must be bonded in any additional amounts required to protect fund assets.

F. FUND MONIES

The following monies are credited to the Fund:

1. All monies appropriated and all proceeds from bonds issued under clause 3C of the first paragraph of section 7 for purpose 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 by 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 of the governmental unit, as custodian of the Fund, may accept gifts, grants and other contributions to the Fund.

G. FUND INVESTMENT/INTEREST

The city or town treasurer may invest the monies in the manner authorized in [G.L. c. 44, § 55](#) and any interest earned thereon shall be credited to and become part of the Fund.

II. ACCOUNTING OF THE ENERGY REVOLVING LOAN FUND

A. YEAR-END BALANCES

The accounting officer must establish and maintain a separate account for the Fund monies. The balance of the Fund carries over from year to year, unless the bylaw or ordinance that created the Fund is repealed. If a bylaw or ordinance creating the Fund is repealed, the balance in the fund reverts to surplus revenue at the close of the fiscal year after all other obligations have been satisfied.

B. EXPENDITURES

Loans are made from the Fund are made without further appropriation but no loans can be made or liabilities incurred in excess of the unreserved fund balance.

III. ENERGY REVOLVING LOAN FUND TAXPAYER AGREEMENT

The city or town must enter into an agreement with the property owner in order to give the property owner a qualifying loan. A notice of the agreement must be recorded as a betterment. As a betterment, the loan is subject to [G.L. c. 80](#) relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments. For particulars concerning the same, please see [IGR 2021-1](#).

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. 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. It is recommended that the interest rate be consistent and exceeds the rate at which the city or town will be repaying any borrowing incurred for the purpose of providing the loan.

In addition to remedies available under said [G.L. c. 80](#), the property owner is personally liable for the repayment of the total costs incurred by the city or town. However, 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 will be relieved of the personal liability.

An organization of unit owners of a condominium may also enter into a betterment loan agreement to finance an energy conservation and renewable energy project, provided that the project comprises part of the common areas and facilities. Such agreement must:

- (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.

In the case of a condominium, a notice of the agreement must be recorded as a betterment in the registry of deeds or registry district of the land court where the master deed is recorded. The assessment under the agreement shall be charged or assessed directly to the benefited unit owners and if unpaid shall be added to the annual tax bill for their units. 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.