

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the agriculture and markets law and the state finance law, in relation to establishing the AgJobs NY program; and making an appropriation therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The agriculture and markets law is amended by adding a new
2 section 298 to read as follows:

3 S 298. AGJOBS NY PROGRAM. 1. THERE IS HEREBY ESTABLISHED, IN THE
4 DEPARTMENT, THE AGJOBS NY PROGRAM WHICH SHALL BE AN AGRICULTURE REVOLV-
5 ING LOAN PROGRAM. THE PURPOSE OF THE PROGRAM SHALL BE TO STIMULATE THE
6 EXPANSION AND ASSIST IN THE RETENTION OF AGRIBUSINESS IN THE STATE IN
7 ORDER TO CREATE NEW JOBS AND RETAIN EXISTING JOBS THROUGH THE PROVISION
8 OF LOW INTEREST FINANCING COSTS DIRECTLY RELATED TO AGRIBUSINESS OPER-
9 ATIONS. THE PROGRAM SHALL PROVIDE LOW INTEREST LOANS FROM THE MONIES IN
10 THE AGJOBS NY REVOLVING LOAN FUND, ESTABLISHED PURSUANT TO SECTION NINE-
11 TY-NINE-U OF THE STATE FINANCE LAW, TO AGRICULTURAL PRODUCERS AND AGRI-
12 CULTURAL ENTERPRISES:

13 A. TO ACQUIRE AND INSTALL NEW OR USED MACHINERY AND EQUIPMENT, OR
14 UPGRADE EXISTING MACHINERY AND EQUIPMENT, AND PAY RELATED ENGINEERING
15 AND INSTALLATION COSTS DIRECTLY RELATED TO BUSINESS OPERATIONS;

16 B. TO ACQUIRE A NEW OR EXISTING FACILITY DIRECTLY RELATED TO BUSINESS
17 OPERATIONS; OR

18 C. FOR OPERATIONAL COSTS, INCLUDING, BUT NOT LIMITED TO, SERVICES OR
19 CONSUMABLE GOODS, NECESSARY TO PRODUCE AN AGRICULTURAL COMMODITY.

20 2. FOR THE PURPOSES OF THIS SECTION:

21 A. "AGRICULTURAL COMMODITY" SHALL HAVE THE SAME MEANING AS IS ASCRIBED
22 TO SUCH TERM PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED NINETY-
23 THREE OF THIS CHAPTER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 B. "AGRICULTURAL ENTERPRISE" MEANS A BUSINESS ENTITY ENGAGED IN:

2 (I) THE MANUFACTURE, DEVELOPMENT OR PREPARATION FOR SALE OF ONE OR
3 MORE AGRICULTURAL COMMODITIES, WHICH ADDS VALUE TO SUCH COMMODITIES; OR
4 (II) THE CONVERSION OF AN AGRICULTURAL COMMODITY INTO A MARKETABLE
5 FORM, INCLUDING BUT NOT LIMITED TO LIVESTOCK BY SLAUGHTERING, AND FRUITS
6 AND VEGETABLES BY PACKAGING, FREEZING AND/OR ANY OTHER PROCESSING.

7 C. "AGRICULTURAL PRODUCER" MEANS A BUSINESS ENTITY ENGAGED IN THE
8 MANAGEMENT AND USE OF A NORMAL AGRICULTURAL OPERATION FOR THE PRODUCTION
9 OF AN AGRICULTURAL COMMODITY. AN AGRICULTURAL PRODUCER MAY BE INVOLVED
10 IN THE PRODUCTION, HARVESTING OR PREPARATION OF AGRICULTURAL COMMODITIES
11 FOR MARKET. EVERY AGRICULTURAL PRODUCER SHALL:

12 (I) OPERATE ITS BUSINESS ON TEN OR MORE CONTIGUOUS ACRES OF LAND; OR
13 (II) HAVE AN ANTICIPATED ANNUAL GROSS INCOME OF NOT LESS THAN TEN
14 THOUSAND DOLLARS.

15 D. "PROGRAM" MEANS THE AGJOBS NY PROGRAM ESTABLISHED IN THIS SECTION.

16 3. ANY MONIES OF THE FUND SHALL BE DIVIDED AS FOLLOWS:

17 A. FIFTY PERCENT OF SUCH MONIES SHALL BE GRANTED TO LOANS FOR CAPITAL
18 PURPOSES; AND

19 B. FIFTY PERCENT OF SUCH MONIES SHALL BE GRANTED TO LOANS FOR OPERA-
20 TIONAL PURPOSES.

21 4. NO AGRICULTURAL ENTERPRISE OR AGRICULTURAL PRODUCER SHALL BE ELIGI-
22 BLE FOR A LOW INTEREST LOAN PURSUANT TO THIS SECTION UNLESS SUCH ENTER-
23 PRISE OR PRODUCER PROVIDES EVIDENCE SATISFACTORY TO THE COMMISSIONER
24 THAT IT AND ITS PRINCIPALS ARE NOT IN ARREARS IN THE PAYMENT OF ALL
25 FEDERAL, STATE AND LOCAL TAXES; PROVIDED, HOWEVER, THAT, IF SUCH AN
26 ARREARS EXISTS, AN AGRICULTURAL ENTERPRISE OR AGRICULTURAL PRODUCER
27 SHALL BE ELIGIBLE FOR A LOAN PURSUANT TO THIS SECTION IF IT HAS ENTERED
28 INTO AND IS IN FULL COMPLIANCE WITH AN AGREEMENT WITH THE APPROPRIATE
29 TAXING AUTHORITY PROVIDING FOR THE PAYMENT OF SUCH ARREARS.

30 5. AN AGRICULTURAL ENTERPRISE OR AGRICULTURAL PRODUCER MAY APPLY FOR A
31 LOAN PURSUANT TO THE PROGRAM BY FILING AN APPLICATION WITH THE DEPART-
32 MENT, IN SUCH MANNER AND FORM AS SHALL BE DETERMINED BY THE COMMISSION-
33 ER.

34 6. NO LOAN FOR CAPITAL PURPOSES GRANTED BY THE DEPARTMENT PURSUANT TO
35 THIS SECTION SHALL EXCEED THREE HUNDRED THOUSAND DOLLARS OR ONE-HALF OF
36 THE TOTAL ELIGIBLE PROJECT COST, WHICHEVER SHALL BE LESS. PROVIDED,
37 FURTHER, NO APPLICANT SHALL RECEIVE MORE THAN THREE HUNDRED THOUSAND
38 DOLLARS IN FINANCING PURSUANT TO THIS SECTION DURING ANY PERIOD OF
39 TWELVE MONTHS FOR THE AGGREGATE OF ALL ELIGIBLE PROJECTS UNDERTAKEN BY
40 SUCH APPLICANT.

41 A. NO LOAN FOR CAPITAL PURPOSES SHALL BE GRANTED UNLESS ONE-HALF OR
42 MORE OF THE COSTS OF THE ELIGIBLE PROJECT ARE PAID BY A PRIVATE SOURCE
43 AND/OR PRIVATE FINANCING; PROVIDED THAT ALL SUCH PRIVATE FINANCING SHALL
44 HAVE A TERM EQUAL TO OR GREATER THAN THE TERM OF THE FINANCING GRANTED
45 PURSUANT TO THE PROGRAM.

46 B. ELIGIBLE MACHINERY AND EQUIPMENT PROJECT CAPITAL COSTS SHALL
47 INCLUDE, BUT NOT BE LIMITED TO, THE COSTS OF ACQUISITION, DELIVERY AND
48 INSTALLATION THEREOF. PROVIDED, THAT, WITH REGARD TO THE ACQUISITION OF
49 MACHINERY AND EQUIPMENT, SUCH COSTS SHALL BE DEEMED TO BE ELIGIBLE EVEN
50 IF THE MACHINERY OR EQUIPMENT IS USED. THE COSTS OF MOBILE EQUIPMENT
51 SHALL BE ELIGIBLE ONLY IF IT IS NOT TITLED OR REGISTERED FOR HIGHWAY
52 USE.

53 C. ELIGIBLE LAND AND BUILDING PROJECT COSTS SHALL BE DIRECTLY RELATED
54 TO:

55 (I) THE PURCHASE OR RENOVATION OF REAL PROPERTY, OR THE INSTALLATION
56 OF MACHINERY AND/OR EQUIPMENT UPON REAL PROPERTY; OR

1 (II) ANY BUILDING OR CONSTRUCTION RELATED TO THE BUSINESS OPERATIONS
2 OF THE APPLICANT INCLUDING, BUT NOT LIMITED TO, ACQUISITION, SITE PREPA-
3 RATION AND TESTING, UTILITIES, SITE MAPPING, REHABILITATION, ARCHITEC-
4 TURAL, LANDSCAPING, LEGAL AND OTHER RELATED COSTS.

5 D. EVERY LOAN FOR CAPITAL PURPOSES GRANTED PURSUANT TO THIS SECTION
6 SHALL BE SECURED BY A FIRST LIEN, HAVING PRIORITY OVER ALL OTHER LIENS,
7 AGAINST THE REAL PROPERTY, STRUCTURES, BUILDINGS, MACHINERY, EQUIPMENT,
8 ACCOUNTS RECEIVABLE AND/OR INVENTORY OF THE RECIPIENT OF SUCH LOAN.

9 E. (I) LOANS FOR REAL PROPERTY HAVE A TERM OF FIFTEEN YEARS.

10 (II) LOANS FOR MACHINERY AND EQUIPMENT SHALL HAVE A TERM OF NOT MORE
11 THAN TEN YEARS, BUT NOT LONGER THAN THE USEFUL LIFE OF THE MACHINERY OR
12 EQUIPMENT FINANCED.

13 F. EVERY LOAN GRANTED PURSUANT TO THIS SECTION SHALL BE AT A FIXED
14 RATE OF INTEREST OF THREE PERCENT; PROVIDED, THAT THE COMMISSIONER MAY
15 PROVIDE FOR A REDUCED RATE OF INTEREST FOR ELIGIBLE PROJECTS WITHIN
16 AREAS THAT HAVE BEEN INCLUDED IN A NATURAL DISASTER DECLARATION ISSUED
17 NOT MORE THAN TWO YEARS PRIOR TO THE APPLICATION FOR SUCH LOAN.

18 7. NO LOAN FOR OPERATIONAL PURPOSES GRANTED BY THE DEPARTMENT SHALL
19 EXCEED FIFTY THOUSAND DOLLARS.

20 A. ELIGIBLE APPLICANTS FOR LOANS FOR OPERATIONAL PURPOSES SHALL HAVE A
21 DEBT TO ASSET RATIO OF FORTY PERCENT OR GREATER.

22 B. LOANS FOR AGRICULTURAL COMMODITIES MUST BE PLANTED AND HARVESTED
23 WITHIN THE TERM OF THE LOAN.

24 C. LIVESTOCK IS ELIGIBLE IF PURCHASED WITHIN THE TERM OF THE LOAN.

25 D. EVERY LOAN FOR OPERATIONAL COSTS PURSUANT TO THIS SECTION SHALL BE
26 AT A FIXED RATE OF FIVE PERCENT; PROVIDED THAT THE COMMISSIONER MAY
27 PROVIDE FOR A REDUCED RATE OF INTEREST FOR ELIGIBLE PROJECTS WITHIN
28 AREAS THAT HAVE BEEN INCLUDED IN A NATURAL DISASTER DECLARATION ISSUED
29 NOT MORE THAN TWO YEARS PRIOR TO THE APPLICATION FOR SUCH LOAN.

30 S 2. The state finance law is amended by adding a new section 99-u to
31 read as follows:

32 S 99-U. AGJOBS NY REVOLVING LOAN FUND. 1. THERE IS HEREBY ESTABLISHED
33 IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS
34 THE "AGJOBS NY REVOLVING LOAN FUND".

35 2. THE FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR ITS PURPOSE,
36 ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW, AND ALL MONEYS
37 REQUIRED BY SECTION TWO HUNDRED NINETY-EIGHT OF THE AGRICULTURE AND
38 MARKETS LAW TO BE REPAYED ON ANY AGJOBS NY REVOLVING LOAN, INCLUDING ALL
39 MONEYS RECEIVED BY THE FUND OR DONATED TO IT.

40 3. MONEYS OF THE FUND, WHEN ALLOCATED, SHALL BE MADE AVAILABLE TO THE
41 DEPARTMENT OF AGRICULTURE AND MARKETS TO IMPLEMENT THE PROVISIONS OF
42 SECTION TWO HUNDRED NINETY-EIGHT OF THE AGRICULTURE AND MARKETS LAW. UP
43 TO FIFTY THOUSAND DOLLARS MAY BE USED TO PAY THE EXPENSES, INCLUDING
44 PERSONAL SERVICES, AND MAINTENANCE AND OPERATION, IN CONNECTION WITH THE
45 ADMINISTRATION OF LOANS PURSUANT TO SUCH SECTION.

46 S 3. The sum of fifty million dollars (\$50,000,000), or so much there-
47 of as may be necessary, is hereby appropriated to the AgJobs NY revolv-
48 ing loan fund established by section 99-u of the state finance law, as
49 added by section two of this act, out of any moneys in the state treas-
50 ury in the general fund to the credit of the state purposes account, not
51 otherwise appropriated, and made immediately available. Such moneys
52 shall be payable on the audit and warrant of the comptroller on vouchers
53 or approved by the commissioner of agriculture and markets in the manner
54 prescribed by law.

55 S 4. This act shall take effect immediately.