S T A T E O F N E W Y O R K

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I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. SCARBOROUGH, GABRYSZAK, CAMARA, CASTRO, McDONOUGH, MILLMAN, STEVENSON, SCHIMMINGER, JAFFEE, ROBINSON, WEISENBERG, COOK, ROBERTS, WEPRIN, BARRON -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CRESPO, CROUCH, GIBSON, GUNTHER, P. LOPEZ, MAGEE, MARKEY, MILLER, THIELE, WRIGHT -- read once and referred to the Committee on Small Business

AN ACT to amend the New York state urban development corporation act, in relation to creating the small business energy loan program

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

Section 1. The legislature hereby finds and declares that the state's chronically high energy costs are often cited as a key factor for why New York-based businesses and New York-made products are not competitive in national and global markets. The legislature further finds that the state's economic expansion is tied to the growth and development of small businesses. By reducing a primary cost component in a rapidly growing sector of the state's economy, those businesses are rendered more competitive, and thus help to better secure New York-based jobs. In addition, thriving businesses and communities will augment the tax base, which in distressed communities is disproportionately lower than in other areas of the state.

Therefore, the legislature seeks to provide funds to reduce high energy costs, via a zero or low interest loan, or loan interest rate reduction program for energy efficiency projects to stimulate the growth and development of small businesses and jobs in New York state.

S 2. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-v to read as follows:

S 16-V. SMALL BUSINESS ENERGY LOAN PROGRAM. 1. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION:

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

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(A) "AUTHORITY" SHALL MEAN THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AS DEFINED IN SECTION 1851 OF THE PUBLIC AUTHORITIES LAW.

(B) "ECONOMICALLY DISTRESSED AREAS" SHALL MEAN AREAS AS DETERMINED BY THE CORPORATION, MEETING CRITERIA INDICATIVE OF ECONOMIC DISTRESS, INCLUDING CONSIDERATION OF UNEMPLOYMENT RATE; RATE OF EMPLOYMENT CHANGE; NUMBERS AND PERCENTAGES OF LOW-INCOME PERSONS; PER CAPITA INCOME AND PER CAPITA REAL PROPERTY WEALTH; SUCH OTHER INDICATORS OF DISTRESS AS THE CORPORATION SHALL DETERMINE. ECONOMICALLY DISTRESSED AREAS MAY INCLUDE DESIGNATIONS SUCH AS CITIES, MUNICIPALITIES, BLOCK NUMBERING AREAS, AND CENSUS TRACTS.

(C) "LOAN FUND" SHALL MEAN THE SMALL BUSINESS ENERGY LOAN FUND ESTABLISHED PURSUANT TO THIS SECTION.

(D) "SMALL BUSINESSES" SHALL MEAN BUSINESSES WHICH MEET THE FOLLOWING CRITERIA: (I) INDEPENDENTLY OWNED AND OPERATED, AND NOT DOMINANT IN THEIR FIELD, (II) HEADQUARTERED IN NEW YORK STATE, WITH PRINCIPAL BUSINESS OPERATIONS LOCATED IN NEW YORK STATE, AND (III) EMPLOYS ONE HUNDRED OR LESS PERSONS.

2. (A) THE CORPORATION, WITH THE ASSISTANCE OF THE AUTHORITY, SHALL ESTABLISH A SMALL BUSINESS ENERGY LOAN FUND TO PROVIDE ZERO OR LOW INTEREST LOANS AND LOAN INTEREST RATE REDUCTIONS TO SMALL BUSINESSES IN ECONOMICALLY DISTRESSED AREAS FOR ENERGY EFFICIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

(B) IN ORDER TO BE ELIGIBLE TO PARTICIPATE IN THIS LOAN PROGRAM, SMALL BUSINESSES IN ECONOMICALLY DISTRESSED AREAS MUST HAVE AN ENERGY AUDIT PROVIDED THROUGH THE AUTHORITY'S ENERGY AUDIT PROGRAM THAT HELPS SMALL BUSINESSES MAKE INFORMED ELECTRICAL ENERGY DECISIONS AND IMPLEMENT ENERGY EFFICIENCY STRATEGIES. TECHNOLOGIES IDENTIFIED IN SUCH AUDIT SHALL BECOME ELIGIBLE TECHNOLOGIES FOR WHICH MONIES FOR THE LOAN FUND MAY BE AVAILABLE.

3. (A) THE CORPORATION SHALL, WITHIN AVAILABLE APPROPRIATIONS, PROVIDE FINANCIAL ASSISTANCE FROM THE LOAN FUND TO ELIGIBLE SMALL BUSINESSES IN ECONOMICALLY DISTRESSED AREAS.

(B) THE CORPORATION IS AUTHORIZED TO PROVIDE ZERO OR LOW INTEREST LOANS FROM THE LOAN FUND FOR ELIGIBLE IMPROVEMENTS. TO BE ELIGIBLE FOR SUCH LOANS, A SMALL BUSINESS IN AN ECONOMICALLY DISTRESSED AREA SHALL IDENTIFY AN ELIGIBLE IMPROVEMENT PROJECT AND PROVIDE NECESSARY DOCUMENTATION.

(C) (I) THE CORPORATION IS AUTHORIZED TO PROVIDE LOAN INTEREST RATE REDUCTIONS FROM THE LOAN FUND FOR ELIGIBLE IMPROVEMENTS. TO BE ELIGIBLE FOR AN INTEREST RATE REDUCTION, A SMALL BUSINESS IN AN ECONOMICALLY DISTRESSED AREA SHALL: (1) IDENTIFY AN ELIGIBLE IMPROVEMENT PROJECT AND PROVIDE NECESSARY DOCUMENTATION, AND (2) RECEIVE A LOAN COMMITMENT FROM A PARTICIPATING LENDER, INCLUDING BANKS, CREDIT UNIONS, COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, AND FARM CREDIT ASSOCIATIONS.

(II) THE CORPORATION IS AUTHORIZED TO BUY DOWN THE PARTICIPATING LENDER'S INTEREST RATE BY UP TO FOUR HUNDRED BASIS POINTS OR FOUR PERCENT THROUGH THE LOAN FUND. SUCH INTEREST RATE REDUCTIONS SHALL BE AVAILABLE FOR THE LESSER OF TEN YEARS OR THE LIFE OF THE LOAN.

(D) LOANS PROVIDED BY THE CORPORATION OR ISSUED BY A PARTICIPATING LENDER SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

4. ENERGY EFFICIENCY IMPROVEMENTS ELIGIBLE FOR ZERO OR LOW INTEREST LOANS OR LOAN INTEREST RATE REDUCTIONS THROUGH THE LOAN FUND SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) PRE-QUALIFIED MEASURES THAT ARE PROVEN COST EFFECTIVE INVESTMENTS WHICH REDUCE ENERGY USE;

(B) CUSTOM MEASURES THAT PAY FOR THEMSELVES IN TEN YEARS THROUGH REDUCED ENERGY USE;

(C) PROCESS IMPROVEMENT MEASURES THAT REDUCE MANUFACTURING ENERGY USE ON A COST-PER-UNIT BASIS; AND

(D) RENEWABLE TECHNOLOGIES THAT USE THE SUN, WIND, WATER OR GROUND TO GENERATE HEAT OR POWER.

5. APPLICATIONS FOR ASSISTANCE PURSUANT TO THIS SECTION SHALL BE REVIEWED AND EVALUATED BY THE CORPORATION IN COOPERATION WITH THE AUTHORITY PURSUANT TO ELIGIBILITY REQUIREMENTS AND CRITERIA SET FORTH IN THE RULES AND REGULATIONS PROMULGATED BY THE CORPORATION.

6. THE CORPORATION AND THE AUTHORITY SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE IDENTIFYING THE NUMBER OF BUSINESSES ASSISTED THROUGH THE LOAN FUND PROGRAM, AND THE TYPES OF IMPROVEMENTS IMPLEMENTED AND ENERGY COST SAVINGS REALIZED BY THE SMALL BUSINESSES ASSISTED BY THIS PROGRAM.

S 3. Paragraph (m) of subdivision 1 of section 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 467 of the laws of 2011, is amended and a new paragraph (o) is added to read as follows:

(m) Assistance to businesses that conduct basic, applied or translational research that leads to the development of products that improve human health or agriculture and that require approval by the federal food and drug administration, in order to create or expand facilities, in accordance with good manufacturing practice regulations, that will create or retain more than fifty jobs. For purposes of this paragraph, good manufacturing practice regulations refers to those regulations promulgated by the United States Food and Drug Administration under the authority of the Federal Food, Drug and Cosmetic Act[.];

(O) LOANS, LOAN GUARANTEES, INTEREST SUBSIDY GRANTS AND DIRECT GRANTS TO SMALL BUSINESSES UNDER SECTION SIXTEEN-V OF THIS ACT FOR ENERGY EFFICIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

S 4. This act shall take effect immediately, provided, however, that the amendments to section 16-m of the urban development corporation act made by section three of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith.