

2587--A

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. SCARBOROUGH, CAMARA, McDONOUGH, MILLMAN, SCHIM-MINGER, JAFFEE, ROBINSON, WEISENBERG, COOK, ROBERTS, WEPRIN, SKARTADOS -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CRESPO, CROUCH, GUNTHER, P. LOPEZ, MAGEE, MARKEY, MILLER, THIELE, WRIGHT -- read once and referred to the Committee on Small Business -- recommitted to the Committee on Small Business in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

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

3 (A) "AUTHORITY" SHALL MEAN THE NEW YORK STATE ENERGY RESEARCH AND
4 DEVELOPMENT AUTHORITY AS DEFINED IN SECTION 1851 OF THE PUBLIC AUTHORI-
5 TIES LAW.

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

14 (C) "LOAN FUND" SHALL MEAN THE SMALL BUSINESS ENERGY LOAN FUND ESTAB-
15 LISHED PURSUANT TO THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 S 3. Paragraph (m) of subdivision 1 of section 16-m of section 1 of
19 chapter 174 of the laws of 1968, constituting the New York state urban
20 development corporation act, as added by chapter 467 of the laws of
21 2011, is amended and a new paragraph (o) is added to read as follows:

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

31 (O) LOANS, LOAN GUARANTEES, INTEREST SUBSIDY GRANTS AND DIRECT GRANTS
32 TO SMALL BUSINESSES UNDER SECTION SIXTEEN-W OF THIS ACT FOR ENERGY EFFI-
33 CIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

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