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IN ASSEMBLY

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Introduced by M. of A. KOLB, HAWLEY, GIGLIO, RAIA, MALLIOTAKIS, STEC, BRABENEC, BLANKENBUSH, DiPIETRO, NORRIS, B. MILLER, JOHNS, ASHBY -- Multi-Sponsored by -- M. of A. FRIEND, McDONOUGH, M. L. MILLER -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the executive law, the state finance law, the arts and cultural affairs law, the economic development law, the environmental conservation law, the public authorities law, the general municipal law, the banking law, the facilities development corporation act, the New York state medical care facilities finance agency act and the New York state urban development corporation act, in relation to promoting veteran owned business enterprises

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "veteran owned business enterprise act".

§ 2. The article heading of article 15-A of the executive law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

PARTICIPATION BY MINORITY GROUP MEMBERS, VETERANS AND WOMEN WITH RESPECT TO STATE CONTRACTS

§ 3. Subdivisions 1 and 9 of section 310 of the executive law, as added by chapter 261 of the laws of 1988, are amended and a new subdivision 24 is added to read as follows:

1. "Certified business" shall mean a business verified as a minority, honorably discharged veteran or women-owned business enterprise pursuant to section three hundred fourteen of this article. For purposes of this section "veteran discharged or released under conditions other than dishonorable" shall mean those conditions defined by title 38 code of federal regulations section 3.12.

9. "Utilization plan" shall mean a plan prepared by a contractor and submitted in connection with a proposed state contract. The utilization plan shall identify certified minority, honorably discharged veteran or

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

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1 women-owned business enterprises, if known, that have committed to
2 perform work in connection with the proposed state contract as well as
3 any such enterprises, if known, which the contractor intends to use in
4 connection with the contractor's performance of the proposed state
5 contract. The plan shall specifically contain a list, including the
6 name, address and telephone number, of each certified enterprise with
7 which the contractor intends to subcontract.

8 24. "Honorably discharged veteran owned business enterprise" shall
9 mean a business enterprise, including a sole proprietorship, partnership
10 or corporation that is:

11 (a) at least fifty-one percent owned by one or more United States
12 citizens or permanent resident aliens who are honorably discharged
13 veterans;

14 (b) an enterprise in which the ownership interest of such honorably
15 discharged veterans is real, substantial and continuing;

16 (c) an enterprise in which such honorably discharged veteran's owner-
17 ship has and exercises the authority to control independently the day-
18 to-day business decisions of the enterprise;

19 (d) an enterprise authorized to do business in this state and inde-
20 pendently owned and operated.

21 (e) Honorably discharged veteran shall mean a person who served in the
22 active military, naval, or air service during a period of war as defined
23 in paragraph (f) of this subdivision, or who was a recipient of the
24 armed forces expeditionary medal, navy expeditionary medal, marine corps
25 expeditionary medal, or global war on terrorism expeditionary medal, and
26 who was discharged or released therefrom under other than dishonorable
27 conditions, as documented according to rules and regulations of the
28 division of military and naval affairs.

29 (f) For the purposes of this article, service during time of war is
30 defined by section 3.2 of title 38 of the code of federal regulations.

31 § 4. Subdivision 1 and paragraphs (a), (d), (e) and (f) of subdivision
32 3 of section 311 of the executive law, subdivision 1 and paragraphs (d)
33 and (e) of subdivision 3 as amended by chapter 55 of the laws of 1992
34 and paragraphs (a) and (f) of subdivision 3 as added by chapter 261 of
35 the laws of 1988, are amended to read as follows:

36 1. The head of the division of minority and women's business develop-
37 ment shall be the director who shall be appointed by the governor and
38 hold office at the pleasure of the commissioner. It shall be the duty of
39 the director of the division of minority and women's business develop-
40 ment to assist the governor in the formulation and implementation of
41 laws and policies relating to minority, honorably discharged veteran and
42 women-owned business enterprises.

43 (a) to encourage and assist contracting agencies in their efforts to
44 increase participation by minority, honorably discharged veteran and
45 women-owned business enterprises on state contracts and subcontracts so
46 as to facilitate the award of a fair share of such contracts to them;

47 (d) to review periodically the practices and procedures of each
48 contracting agency with respect to compliance with the provisions of
49 this article, and to require them to file periodic reports with the
50 division of minority and women's business development as to the level of
51 minority, honorably discharged veteran and women-owned business enter-
52 prises participation in the awarding of agency contracts for goods and
53 services;

54 (e) on January first of each year report to the governor and the
55 chairpersons of the senate finance and assembly ways and means commit-
56 tees on the level of minority, honorably discharged veteran and women-

1 owned business enterprises participating in each agency's contracts for
2 goods and services and on activities of the office and effort by each
3 contracting agency to promote employment of minority group members,
4 honorably discharged veterans and women, and to promote and increase
5 participation by certified businesses with respect to state contracts
6 and subcontracts so as to facilitate the award of a fair share of state
7 contracts to such businesses. The comptroller shall assist the division
8 in collecting information on the participation of certified business for
9 each contracting agency. Such report may recommend new activities and
10 programs to effectuate the purposes of this article;

11 (f) to prepare and update periodically a directory of certified minor-
12 ity, honorably discharged veteran and women-owned business enterprises
13 which shall, wherever practicable, be divided into categories of labor,
14 services, supplies, equipment, materials and recognized construction
15 trades and which shall indicate areas or locations of the state where
16 such enterprises are available to perform services;

17 § 5. Section 313 of the executive law, as amended by chapter 175 of
18 the laws of 2010, is amended to read as follows:

19 § 313. Opportunities for minority, honorably discharged veteran and
20 women-owned business enterprises. 1. Goals and requirements for agencies
21 and contractors. Each agency shall structure procurement procedures for
22 contracts made directly or indirectly to minority, honorably discharged
23 veteran and women-owned business enterprises, in accordance with the
24 findings of the two thousand ten disparity study, consistent with the
25 purposes of this article, to attempt to achieve the following results
26 with regard to total annual statewide procurement:

27 (a) construction industry for certified minority-owned business enter-
28 prises: fourteen and thirty-four hundredths percent;

29 (b) construction industry for certified women-owned business enter-
30 prises: eight and forty-one hundredths percent;

31 (c) construction related professional services industry for certified
32 minority-owned business enterprises: thirteen and twenty-one hundredths
33 percent;

34 (d) construction related professional services industry for certified
35 women-owned business enterprises: eleven and thirty-two hundredths
36 percent;

37 (e) non-construction related services industry for certified minori-
38 ty-owned business enterprises: nineteen and sixty hundredths percent;

39 (f) non-construction related services industry for certified women-
40 owned business enterprises: seventeen and forty-four hundredths percent;

41 (g) commodities industry for certified minority-owned business enter-
42 prises: sixteen and eleven hundredths percent;

43 (h) commodities industry for certified women-owned business enter-
44 prises: ten and ninety-three hundredths percent;

45 (i) overall agency total dollar value of procurement for certified
46 minority-owned business enterprises: sixteen and fifty-three hundredths
47 percent;

48 (j) overall agency total dollar value of procurement for certified
49 women-owned business enterprises: twelve and thirty-nine hundredths
50 percent; and

51 (k) overall agency total dollar value of procurement for certified
52 minority, women-owned business enterprises: twenty-eight and ninety-two
53 hundredths percent.

54 1-a. The director shall ensure that each state agency has been
55 provided with a copy of the two thousand ten disparity study.

1 1-b. Each agency shall develop and adopt agency-specific goals based
2 on the findings of the two thousand ten disparity study.

3 2. The director shall promulgate rules and regulations pursuant to the
4 goals established in subdivision one of this section that provide meas-
5 ures and procedures to ensure that certified minority, honorably
6 discharged veteran and women-owned businesses shall be given the oppor-
7 tunity for maximum feasible participation in the performance of state
8 contracts and to assist in the agency's identification of those state
9 contracts for which minority, honorably discharged veteran and women-
10 owned certified businesses may best bid to actively and affirmatively
11 promote and assist their participation in the performance of state
12 contracts so as to facilitate the agency's achievement of the maximum
13 feasible portion of the goals for state contracts to such businesses.

14 2-a. The director shall promulgate rules and regulations that will
15 accomplish the following:

16 (a) provide for the certification and decertification of minority,
17 honorably discharged veteran and women-owned business enterprises for
18 all agencies through a single process that meets applicable require-
19 ments;

20 (b) require that each contract solicitation document accompanying each
21 solicitation set forth the expected degree of minority, honorably
22 discharged veteran and women-owned business enterprise participation
23 based, in part, on:

24 (i) the potential subcontract opportunities available in the prime
25 procurement contract; and

26 (ii) the availability, as contained within the study, of certified
27 minority, honorably discharged veteran and women-owned business enter-
28 prises to respond competitively to the potential subcontract opportu-
29 nities;

30 (c) require that each agency provide a current list of certified
31 minority business enterprises to each prospective contractor;

32 (d) allow a contractor that is a certified minority-owned, honorably
33 discharged veteran-owned or women-owned business enterprise to use the
34 work it performs to meet requirements for use of certified minority-
35 owned, honorably discharged veteran-owned or women-owned business enter-
36 prises as subcontractors;

37 (e) provide for joint ventures, which a bidder may count toward meet-
38 ing its minority, honorably discharged veteran and women-owned business
39 enterprise participation;

40 (f) consistent with subdivision six of this section, provide for
41 circumstances under which an agency may waive obligations of the
42 contractor relating to minority, honorably discharged veteran and
43 women-owned business enterprise participation;

44 (g) require that an agency verify that minority, honorably discharged
45 veteran and women-owned business enterprises listed in a successful bid
46 are actually participating to the extent listed in the project for which
47 the bid was submitted;

48 (h) provide for the collection of statistical data by each agency
49 concerning actual minority, honorably discharged veteran and women-owned
50 business enterprise participation; and

51 (i) require each agency to consult the most current disparity study
52 when calculating agency-wide and contract specific participation goals
53 pursuant to this article.

54 3. Solely for the purpose of providing the opportunity for meaningful
55 participation by certified businesses in the performance of state
56 contracts as provided in this section, state contracts shall include

1 leases of real property by a state agency to a lessee where: the terms
2 of such leases provide for the construction, demolition, replacement,
3 major repair or renovation of real property and improvements thereon by
4 such lessee; and the cost of such construction, demolition, replacement,
5 major repair or renovation of real property and improvements thereon
6 shall exceed the sum of one hundred thousand dollars. Reports to the
7 director pursuant to section three hundred fifteen of this article shall
8 include activities with respect to all such state contracts. Contracting
9 agencies shall include or require to be included with respect to state
10 contracts for the acquisition, construction, demolition, replacement,
11 major repair or renovation of real property and improvements thereon,
12 such provisions as may be necessary to effectuate the provisions of this
13 section in every bid specification and state contract, including, but
14 not limited to: (a) provisions requiring contractors to make a good
15 faith effort to solicit active participation by enterprises identified
16 in the directory of certified businesses provided to the contracting
17 agency by the office; (b) requiring the parties to agree as a condition
18 of entering into such contract, to be bound by the provisions of section
19 three hundred sixteen of this article; and (c) requiring the contractor
20 to include the provisions set forth in paragraphs (a) and (b) of this
21 subdivision in every subcontract in a manner that the provisions will be
22 binding upon each subcontractor as to work in connection with such
23 contract. Provided, however, that no such provisions shall be binding
24 upon contractors or subcontractors in the performance of work or the
25 provision of services that are unrelated, separate or distinct from the
26 state contract as expressed by its terms, and nothing in this section
27 shall authorize the director or any contracting agency to impose any
28 requirement on a contractor or subcontractor except with respect to a
29 state contract.

30 4. In the implementation of this section, the contracting agency shall
31 (a) consult the findings contained within the disparity study evidencing
32 relevant industry specific availability of certified businesses;

33 (b) implement a program that will enable the agency to evaluate each
34 contract to determine the appropriateness of the goal pursuant to subdivi-
35 sion one of this section;

36 (c) consider where practicable, the severability of construction
37 projects and other bundled contracts; and

38 (d) consider compliance with the requirements of any federal law
39 concerning opportunities for minority, honorably discharged veteran and
40 women-owned business enterprises which effectuates the purpose of this
41 section. The contracting agency shall determine whether the imposition
42 of the requirements of any such law duplicate or conflict with the
43 provisions hereof and if such duplication or conflict exists, the
44 contracting agency shall waive the applicability of this section to the
45 extent of such duplication or conflict.

46 5. (a) Contracting agencies shall administer the rules and regulations
47 promulgated by the director in a good faith effort to meet the maximum
48 feasible portion of the agency's goals adopted pursuant to this article
49 and the regulations of the director. Such rules and regulations: shall
50 require a contractor to submit a utilization plan after bids are opened,
51 when bids are required, but prior to the award of a state contract;
52 shall require the contracting agency to review the utilization plan
53 submitted by the contractor and to post the utilization plan and any
54 waivers of compliance issued pursuant to subdivision six of this section
55 on the website of the contracting agency within a reasonable period of
56 time as established by the director; shall require the contracting agen-

cy to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority, honorably discharged veteran and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority, honorably discharged veteran and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section in the event a contractor is failing or has failed to comply with the minority, honorably discharged veteran and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such deficiencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of

1 appeals of the state of New York shall be subject to the same prefer-
2 ence.

3 6. Where it appears that a contractor cannot, after a good faith
4 effort, comply with the minority, honorably discharged veteran and
5 women-owned business enterprise participation requirements set forth in
6 a particular state contract, a contractor may file a written application
7 with the contracting agency requesting a partial or total waiver of such
8 requirements setting forth the reasons for such contractor's inability
9 to meet any or all of the participation requirements together with an
10 explanation of the efforts undertaken by the contractor to obtain the
11 required minority, honorably discharged veteran and women-owned business
12 enterprise participation. In implementing the provisions of this
13 section, the contracting agency shall consider the number and types of
14 minority, honorably discharged veteran and women-owned business enter-
15 prises located in the region in which the state contract is to be
16 performed, the total dollar value of the state contract, the scope of
17 work to be performed and the project size and term. If, based on such
18 considerations, the contracting agency determines there is not a reason-
19 able availability of contractors on the list of certified business to
20 furnish services for the project, it shall issue a waiver of compliance
21 to the contractor. In making such determination, the contracting agency
22 shall first consider the availability of other business enterprises
23 located in the region and shall thereafter consider the financial abili-
24 ty of minority, honorably discharged veteran and women-owned businesses
25 located outside the region in which the contract is to be performed to
26 perform the state contract.

27 7. For purposes of determining a contractor's good faith effort to
28 comply with the requirements of this section or to be entitled to a
29 waiver therefrom the contracting agency shall consider:

30 (a) whether the contractor has advertised in general circulation
31 media, trade association publications, and minority-focus, veteran-focus
32 and women-focus media and, in such event, (i) whether or not certified
33 minority, honorably discharged veteran or women-owned businesses which
34 have been solicited by the contractor exhibited interest in submitting
35 proposals for a particular project by attending a pre-bid conference;
36 and

37 (ii) whether certified businesses which have been solicited by the
38 contractor have responded in a timely fashion to the contractor's solic-
39 itations for timely competitive bid quotations prior to the contracting
40 agency's bid date; and

41 (b) whether there has been written notification to appropriate certi-
42 fied businesses that appear in the directory of certified businesses
43 prepared pursuant to paragraph (f) of subdivision three of section three
44 hundred eleven of this article; and

45 (c) whether the contractor can reasonably structure the amount of work
46 to be performed under subcontracts in order to increase the likelihood
47 of participation by certified businesses.

48 8. In the event that a contracting agency fails or refuses to issue a
49 waiver to a contractor as requested within twenty days after having made
50 application therefor pursuant to subdivision six of this section or if
51 the contracting agency denies such application, in whole or in part, the
52 contractor may file a complaint with the director pursuant to section
53 three hundred sixteen of this article setting forth the facts and
54 circumstances giving rise to the contractor's complaint together with a
55 demand for relief. The contractor shall serve a copy of such complaint
56 upon the contracting agency by personal service or by certified mail,

1 return receipt requested. The contracting agency shall be afforded an
2 opportunity to respond to such complaint in writing.

3 9. If, after the review of a contractor's minority, honorably
4 discharged veteran and women owned business utilization plan or review
5 of a periodic compliance report and after such contractor has been
6 afforded an opportunity to respond to a notice of deficiency issued by
7 the contracting agency in connection therewith, it appears that a
8 contractor is failing or refusing to comply with the minority, honorably
9 discharged veteran and women-owned business participation requirements
10 as set forth in the state contract and where no waiver from such
11 requirements has been granted, the contracting agency may file a written
12 complaint with the director pursuant to section three hundred sixteen of
13 this article setting forth the facts and circumstances giving rise to
14 the contracting agency's complaint together with a demand for relief.
15 The contracting agency shall serve a copy of such complaint upon the
16 contractor by personal service or by certified mail, return receipt
17 requested. The contractor shall be afforded an opportunity to respond to
18 such complaint in writing.

19 § 6. Section 317 of the executive law, as added by chapter 261 of the
20 laws of 1988, is amended to read as follows:

21 § 317. Superseding effect of article with respect to state law. The
22 provisions of this article shall supersede any other provision of state
23 law, which expressly implements or mandates an equal employment opportu-
24 nity program or a program for securing participation by minority, honor-
25 ably discharged veteran and women-owned business enterprises, concerning
26 action to be taken by any party to a state contract, to which the
27 provisions of this article apply; provided, however, that the provisions
28 of any state law, not as hereinabove superseded, which expressly imple-
29 ment or mandate such programs shall remain unimpaired by the provisions
30 of this article, except that the provisions of any such law shall be
31 construed as if the provisions of subdivisions five, six, seven and
32 eight of section three hundred thirteen and section three hundred
33 sixteen of this article were fully set forth therein and made applicable
34 only to complaints of violations under such provisions of law occurring
35 on or after September first, nineteen hundred eighty-eight; provided,
36 further, that nothing contained in this article shall be construed to
37 limit, impair, or otherwise restrict any state agency's authority or
38 discretionary power in effect prior to the enactment of this article to
39 establish or continue, by rule, regulation or resolution, an equal
40 opportunity program or a program for securing participation of minority,
41 honorably discharged veteran and women-owned business enterprises with
42 regard to banking relationships, the issuance of insurance policies or
43 contracts for the sale of bonds, notes or other securities; and,
44 provided further, that nothing contained in the immediately preceding
45 proviso shall be construed to create, impair, alter, limit, modify,
46 enlarge, abrogate or restrict any agency's authority or discretionary
47 power with respect to an equal opportunity program or a program for
48 securing participation of minority, honorably discharged veteran and
49 women-owned enterprises.

50 § 7. Section 136-b of the state finance law, as added by chapter 261
51 of the laws of 1988, is amended to read as follows:

52 § 136-b. Selection of underwriters by state agencies. Whenever a state
53 agency, as defined in article fifteen-A of the executive law, sells its
54 bonds, notes or other securities at a private sale, in selecting one or
55 more underwriters to purchase such securities the state agency shall
56 consider, among other things, the participation of firms certified

1 pursuant to such article as minority, honorably discharged veteran or
2 women-owned firms and the ability of other firms under consideration to
3 work with minority, honorably discharged veteran and women-owned busi-
4 ness enterprises so as to promote and assist participation by such
5 enterprises.

6 § 8. Paragraphs (b) and (d) of subdivision 2 of section 139-i of the
7 state finance law, as amended by chapter 531 of the laws of 1993, are
8 amended to read as follows:

9 (b) include in all bid documents provided to potential bidders a
10 statement that information concerning the availability of New York state
11 subcontractors and suppliers is available from the New York state
12 department of economic development, which shall include the directory of
13 certified minority and women-owned businesses, and it is the policy of
14 New York state to encourage the use of New York state subcontractors and
15 suppliers, and to promote the participation of minority, honorably
16 discharged veteran and women-owned businesses, where possible, in the
17 procurement of goods and services.

18 (d) adopt policies to promote the participation by New York state
19 business enterprises and New York state residents in procurement
20 contracts, with the cooperation of the department of economic develop-
21 ment and the community services division of the department of labor
22 including, but not limited to, providing through cooperative efforts
23 with contractors for the notification of New York state business enter-
24 prises of opportunities to participate as subcontractors and suppliers
25 on procurement contracts in an amount estimated to be equal to or great-
26 er than one million dollars and for the notification of New York state
27 residents of employment opportunities arising in New York state out of
28 procurement contracts in an amount estimated to be equal to or greater
29 than one million dollars; and promulgating procedures which will assure
30 compliance by contractors with such notification. Once awarded the
31 contract, such contractors shall document their efforts to encourage the
32 participation of New York state business enterprises as suppliers and
33 subcontractors on procurement contracts equal to or greater than one
34 million dollars. Documented efforts by a successful contractor shall
35 consist of and be limited to showing that such contractor has ~~[(a)]~~ (i)
36 solicited bids, in a timely and adequate manner, from New York state
37 business enterprises including certified minority, honorably discharged
38 veteran and women-owned business, or ~~[(b)]~~ (ii) contacted the New York
39 state department of economic development to obtain listings of New York
40 state business enterprises, or ~~[(c)]~~ (iii) placed notices for subcon-
41 tractors and suppliers in newspapers, journals and other trade publica-
42 tions distributed in New York state, or ~~[(d)]~~ (iv) participated in
43 bidder outreach conferences. If the contractor determines that New York
44 state business enterprises are not available to participate on the
45 contract as subcontractors or suppliers, the contractor shall provide a
46 statement indicating the method by which such determination was made. If
47 the contractor does not intend to use subcontractors on the contract,
48 the contractor shall provide a statement verifying such intent. Such
49 contractors shall also provide notification to New York state residents
50 of employment opportunities through listing any such positions with the
51 community services division, or providing for such notification in such
52 manner as is consistent with existing collective bargaining contracts or
53 agreements. On or before the effective date of this section, each state
54 agency or department shall submit such policies to the division of the
55 budget and copies thereof to the department of audit and control, the

1 department of economic development, the senate finance committee and the
2 assembly ways and means committee.

3 § 9. Subdivision 5, paragraph (e) of subdivision 11, paragraph (e) of
4 subdivision 12 and paragraph (a) of subdivision 16 of section 213 of the
5 state finance law, subdivision 5, paragraph (e) of subdivision 11 and
6 paragraph (e) of subdivision 12 as added by chapter 705 of the laws of
7 1993 and paragraph (a) of subdivision 16 as amended by section 2 of part
8 HH of chapter 59 of the laws of 2013, are amended to read as follows:

9 5. "Certified [~~minority~~] minority, honorably discharged veteran or
10 women-owned business" means any [~~minority~~] minority, honorably
11 discharged veteran or women-owned business enterprise as defined in
12 section three hundred ten of the executive law and certified pursuant to
13 section three hundred fourteen of the executive law.

14 (e) any certified [~~minority~~] minority, honorably discharged veteran
15 or women-owned business seeking financing necessary to carry out a
16 procurement contract with an agency or authority or other entity of the
17 state or federal government; or

18 (e) for certified [~~minority~~] minority, honorably discharged veteran
19 and women-owned businesses, projects to provide financing necessary to
20 carry out a procurement contract with an agency or authority or other
21 entity of the state or federal government.

22 (a) for a linked deposit made in connection with a linked loan to a
23 certified business in an empire zone or to an eligible business located
24 in a highly distressed area or to an eligible business that is defined
25 in paragraph (b-1) of subdivision eleven of this section that is located
26 in a renewal community or defined in paragraph (b-2) of such subdivision
27 that is located in an empowerment zone or defined in paragraph (b-3) of
28 such subdivision that is located in an enterprise community, or a quali-
29 fying technology or innovation business as defined in paragraph (g) of
30 subdivision eleven of this section, respectively for eligible projects
31 defined in paragraph (c) of subdivision twelve of this section or a
32 certified [~~minority~~] minority, honorably discharged veteran or women-
33 owned business enterprise for an eligible project defined in paragraph
34 (e) of subdivision twelve of this section or to a defense industry
35 manufacturer for a project defined in paragraph (d) of subdivision
36 twelve of this section, a fixed rate of interest which is three hundred
37 basis points below the lender's posted four year certificate of deposit
38 rate or, if the lender does not offer a four year certificate of depos-
39 it, is three hundred basis points below the average statewide rate for
40 four year certificates of deposit as determined by the commissioner of
41 economic development;

42 § 10. Subdivision 1 of section 218 of the state finance law, as
43 amended by section 1 of part U of chapter 58 of the laws of 2012, is
44 amended to read as follows:

45 1. Linked loans made to certified businesses in empire zones or to
46 eligible businesses in highly distressed areas or to eligible businesses
47 that are defined in paragraph (b-1) of subdivision eleven of section two
48 hundred thirteen of this article that are located in a renewal community
49 or defined in paragraph (b-2) of such subdivision that are located in an
50 empowerment zone or defined in paragraph (b-3) of such subdivision that
51 are located in an enterprise community, respectively for eligible
52 projects defined in paragraph (c) of subdivision twelve of section two
53 hundred thirteen of this article or to [~~minority~~] minority, honorably
54 discharged veteran or women-owned business enterprises for an eligible
55 project defined in paragraph (e) of subdivision twelve of section two
56 hundred thirteen of this article or to a defense industry manufacturer

1 for a project defined in paragraph (d) of subdivision twelve of section
2 two hundred thirteen of this article or to an eligible business pursuant
3 to paragraph (a) of subdivision eleven of section two hundred thirteen
4 of this article that produces products defined in subdivision two of
5 section three hundred one of the agriculture and markets law for an
6 eligible project as defined in paragraph (b) of subdivision twelve of
7 section two hundred thirteen of this article shall bear interest at a
8 fixed rate equal to three percentage points below the fixed interest
9 rate the lender would have charged for the loan in the absence of a
10 linked deposit based on its usual credit considerations. All other
11 linked loans shall bear interest at a fixed rate equal to two percentage
12 points below the fixed interest rate the lender would have charged for
13 the loan in the absence of a linked deposit based on its usual credit
14 considerations. Lenders shall certify to the commissioner of economic
15 development that the rate to be charged on a linked loan is two percent-
16 age points or three percentage points, as the case may be, below the
17 interest rate the lender would have charged for the loan in the absence
18 of a linked deposit.

19 § 11. Paragraph (c) of subdivision 12 of section 3.07 of the arts and
20 cultural affairs law, as amended by chapter 255 of the laws of 1988, is
21 amended to read as follows:

22 (c) (i) In the performance of projects pursuant to this section,
23 minority, honorably discharged veteran and women-owned business enter-
24 prises shall be given the opportunity for meaningful participation. For
25 purposes hereof, minority business enterprise shall mean any business
26 enterprise which is at least fifty-one per centum owned by, or in the
27 case of a publicly owned business, at least fifty-one per centum of the
28 stock or other voting interest is owned by citizens or permanent resi-
29 dent aliens who are Black, Hispanic, Asian, American Indian, Pacific
30 Islander, or Alaskan native, and such ownership interest is real,
31 substantial and continuing and has the authority to independently
32 control the day to day business decisions of the entity for at least one
33 year; honorably discharged veteran owned business enterprise shall mean
34 the same as provided in subdivision twenty-four of section three hundred
35 ten of the executive law; and women-owned business enterprise shall mean
36 any business enterprise which is at least fifty-one per centum owned by,
37 or in the case of a publicly owned business, at least fifty-one per
38 centum of the stock to other voting interests of which is owned by citi-
39 zens or permanent resident aliens who are women, and such ownership
40 interest is real, substantial and continuing and has the authority to
41 independently control the day to day business decisions of the entity
42 for at least one year.

43 The provisions of this subdivision shall not be construed to limit the
44 ability of any minority business enterprise to bid on any contract.

45 (ii) In order to implement the requirements and objectives of this
46 section, the council shall request, as appropriate, the assistance of
47 other state agencies to monitor the contractors' compliance with
48 provisions hereof, provide assistance in obtaining competing qualified
49 minority, honorably discharged veteran and women-owned business enter-
50 prises to perform contracts proposed to be awarded, and take other
51 appropriate measures to improve the access of minority, honorably
52 discharged veteran and women-owned business enterprises to these
53 contracts.

54 § 12. Subdivision 2 of section 115 of the economic development law, as
55 added by chapter 55 of the laws of 1992, is amended to read as follows:

2. "Technical assistance" shall mean assistance and services designed to improve the efficiency, effectiveness and viability of a minority, honorably discharged veteran or women-owned business enterprise, including, but not limited to, management assistance, problem solving, the development of business and marketing plans, market analysis, financial planning, regulatory compliance, safety and security measures, export assistance, procurement assistance, application assistance, state program assistance, referral to private and public financing sources, contracting assistance, and other forms of assistance which the commissioner deems necessary and appropriate.

§ 13. Section 118 of the economic development law, as added by chapter 55 of the laws of 1992 and subdivision 7 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

§ 118. Power and duties. In addition to the power and duties conferred by section one hundred sixteen of this article, the division shall have the additional power and duty to:

1. Coordinate with all state agencies performing functions affecting the operations of minority business enterprises, honorably discharged veteran owned business enterprises and women-owned business enterprises, as such terms are defined in section two hundred ten of this chapter;

2. Receive complaints and inquiries of operators of minority, honorably discharged veteran and women-owned business enterprises and refer them to the appropriate federal, state or local agency for appropriate action on such complaints;

3. Solicit recommendations from the operators of minority, honorably discharged veteran and women-owned business enterprises for improving existing state programs and refer such recommendations to the governor, the legislature and appropriate state agencies or authorities;

4. Advise and make recommendations to the commissioner and the legislature on matters affecting the minority, honorably discharged veteran and women-owned business enterprises of the state and promote and encourage the protection of the legitimate interests of minority, honorably discharged veteran and women-owned business enterprises within the state;

5. Conduct investigations, research, studies and analyses of matters affecting the interests of minority, honorably discharged veteran and women-owned business enterprises;

6. Study the implementation of the laws affecting minority, honorably discharged veteran and women-owned business enterprises and recommend to the commissioner new laws and amendments of laws for the benefit of minority, honorably discharged veteran and women-owned business enterprises; and review pending legislation affecting minority, honorably discharged veteran and women-owned business enterprises and report its findings to the commissioner;

7. Provide technical assistance and information to minority, honorably discharged veteran and women-owned business enterprises in the state on economic development programs administered by the department, including, but not limited to: (a) the empire zones program, established pursuant to article eighteen-B of the general municipal law, (b) the industrial effectiveness program, established pursuant to article seven of this chapter, (c) the economic development skills training program, established pursuant to article eight of this chapter, and (d) the entrepreneurial assistance program, established pursuant to article nine of this chapter;

8. Provide technical assistance and information to minority, honorably discharged veteran and women-owned business enterprises in the state on economic development programs administered by agencies other than the department, including, but not limited to programs administered by the urban development corporation, the job development authority and the science and technology foundation;

9. Be responsible for conducting minority, honorably discharged veteran and women-owned business enterprise assistance programs and for coordinating the activities of all other state agencies acting within the scope of this section; and

10. Carry out the activities to implement the minority, honorably discharged veteran and women-owned business enterprise assistance programs, to the extent practicable, within amounts appropriated therefor by ~~the~~:

(a) collecting and maintaining information identifying certified minority, honorably discharged veteran and women-owned business enterprises within New York state;

(b) collecting, maintaining, and providing information to potential users identifying existing contracting and procurement opportunities within and outside New York state;

(c) maintaining, providing and marketing a compilation of existing programs providing assistance for minority, honorably discharged veteran and women-owned business enterprises;

(d) identifying special needs and problems facing minority, honorably discharged veteran and women-owned business enterprises within New York state;

(e) contacting institutions, organizations and commercial enterprises that are potential consumers of minority, honorably discharged veteran and women-owned business products and services; urging their expanded consumption of such goods and services;

(f) facilitating the establishment of minority, honorably discharged veteran and women-owned business enterprises; and

(g) providing information concerning local and regional opportunities for minority, honorably discharged veteran and women-owned business enterprises.

§ 14. Section 210 of the economic development law is amended by adding a new subdivision 7 to read as follows:

7. "Honorably discharged veteran owned business enterprise" means the same as defined in subdivision twenty-four of section three hundred ten of the executive law.

§ 15. Paragraphs (b) and (i) of subdivision 1 of section 231 of the economic development law, as amended by chapter 352 of the laws of 2009, are amended to read as follows:

(b) to provide outreach to businesses, with attention to small and medium-sized businesses, including minority, honorably discharged veteran and women-owned business enterprises, for financial and technical assistance offered by state economic development agencies, authorities, or other economic entities;

(i) to provide information and assistance in the certification of minority, honorably discharged veteran and women-owned business enterprises;

§ 16. Section 52-0113 of the environmental conservation law, as added by chapter 512 of the laws of 1986, is amended to read as follows:

§ 52-0113. Minority, honorably discharged veteran and women-owned business enterprise program.

1 1. a. In the performance of projects pursuant to this article
2 minority, honorably discharged veteran and women-owned business enter-
3 prises shall be given the opportunity for meaningful participation. The
4 department or the office shall establish measures and procedures to
5 secure meaningful participation and identify those contracts and items
6 of work for which minority, honorably discharged veteran and women-owned
7 business enterprises may best bid to actively and affirmatively promote
8 and assist their participation in the projects, so as to facilitate the
9 award of a fair share of contracts to such enterprises; provided, howev-
10 er, that nothing in this article shall be construed to limit the ability
11 of the department or office to assure that qualified minority, honorably
12 discharged veteran and women-owned business enterprises may participate
13 in the program.

14 For purposes [~~hereof~~] of this article, minority business enterprise
15 shall mean any business enterprise which is at least fifty-one per
16 centum owned by, or in the case of a publicly owned business, at least
17 fifty-one per centum of the stock of which is owned by citizens or
18 permanent resident aliens who are Black, Hispanic, Asian or American
19 Indian, Pacific Islander or Alaskan natives and such ownership interest
20 is real, substantial and continuing and have the authority to independ-
21 ently control the day to day business decisions of the entity for at
22 least one year; honorably discharged veteran owned business enterprise
23 shall mean the same as defined in subdivision twenty-four of section
24 three hundred ten of the executive law; and women-owned business enter-
25 prise shall mean any business enterprise which is at least fifty-one per
26 centum owned by, or in the case of a publicly owned business, at least
27 fifty-one per centum of the stock of which is owned by citizens or
28 permanent resident aliens who are women, and such ownership interest is
29 real, substantial and continuing and have the authority to independently
30 control the day to day business decisions of the entity for at least one
31 year.

32 The provisions of this paragraph shall not be construed to limit the
33 ability of any minority, honorably discharged veteran or women-owned
34 business enterprise to bid on any contract.

35 b. In the implementation of this section, the department or the office
36 shall consider compliance by any contractor with the requirements of any
37 federal, state, or local law concerning minority, honorably discharged
38 veteran and women-owned business enterprises, which may effectuate the
39 requirements of this section. If the department or the office determines
40 that by virtue of the imposition of the requirements of any such law, in
41 respect to capital project contracts, the provisions thereof duplicate
42 or conflict with such law, the department may waive the applicability of
43 this section to the extent of such duplication or conflict.

44 c. Nothing in this section shall be deemed to require that overall
45 state and federal requirements for participation of minority, honorably
46 discharged veteran and women-owned business enterprises in programs
47 authorized under this article be applied without regard to local circum-
48 stances to all projects or in all communities.

49 2. In order to implement the requirements and objectives of this
50 section, the department and the office shall establish procedures to
51 monitor the contractors' compliance with provisions hereof, provide
52 assistance in obtaining competing qualified minority, honorably
53 discharged veteran and women-owned business enterprises to perform
54 contracts proposed to be awarded, and take other appropriate measures to
55 improve the access of minority, honorably discharged veteran and women-
56 owned business enterprises to these contracts.

§ 17. Subparagraph (i) of paragraph (b), the opening paragraph of paragraph (c), paragraphs (i) and (j) and subparagraphs (ii) and (iii) of paragraph (n) of subdivision 3 of section 2879 of the public authorities law, subparagraph (i) of paragraph (b) as amended, paragraphs (i) and (j) as added, and subparagraphs (ii) and (iii) of paragraph (n) as relettered by chapter 174 of the laws of 2010, the opening paragraph of paragraph (c) as amended by chapter 564 of the laws of 1988, and paragraph (n) as amended by chapter 531 of the laws of 1993 are amended and a new paragraph (e-1) is added to read as follows:

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from small business concerns or those certified as minority, honorably discharged veteran or women-owned business enterprises, or goods or technology that are recycled or remanufactured, in an amount not to exceed two hundred thousand dollars without a formal competitive process;

An identification of those areas or types of contracts for which minority, honorably discharged veteran or women-owned business enterprises may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises. For the purposes of this section, a minority business enterprise means any business enterprise, including a sole proprietorship, partnership or corporation that is:

(e-1) For purposes of this section, "honorably discharged veteran owned business enterprise" means the same as defined in subdivision twenty-four of section three hundred ten of the executive law.

(i) The establishment of appropriate goals for participation by minority, honorably discharged veteran or women-owned business enterprises in procurement contracts awarded by the corporation and for the utilization of minority, honorably discharged veteran and women-owned enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation. Statewide numerical participation target goals shall be established by each authority based on the findings of the two thousand ten disparity study.

(j) Requirements to conduct procurements in a manner that will enable the corporation to achieve the maximum feasible portion of the goals established pursuant to paragraph (i) of this subdivision and that eliminates barriers to participation by minority, honorably discharged veteran and women-owned business enterprises in the corporation's procurements. Such procurement requirements shall include the following:

(A) Measures and procedures to ensure that certified businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the corporation's identification of those state contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the corporation's achievement of the maximum feasible portion of the goals for state contracts to such businesses;

(B) Provisions designating the division of minority, honorably discharged veteran and women-owned business development to certify and decertify minority, honorably discharged veteran and women-owned business enterprises for all corporations through a single process that meets applicable state and federal requirements;

(C) A requirement that each contract solicitation document accompanying each solicitation set forth the expected degree of minority, honorably discharged veteran and women-owned business enterprise participation based, in part, on:

I. the potential subcontract opportunities available in the prime procurement contract; and

II. the availability of certified minority, honorably discharged veteran and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(D) A requirement that each corporation provide a current list of certified minority business enterprises to each prospective contractor;

(E) Provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority, honorably discharged veteran and women-owned business enterprise portion of the joint venture;

(F) Provisions under which the corporation may waive obligations of the contractor relating to minority, honorably discharged veteran and women-owned business enterprise participation after a showing of good faith efforts to comply with the requirements of this act pursuant to the waiver provisions contained in subdivision six of section three hundred thirteen of the executive law;

(G) A requirement that the corporation verify that minority, honorably discharged veteran and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(H) In the implementation of this section, the contracting corporation shall:

I. consider, where practicable, the severability of construction projects and other bundled contracts;

II. implement a program that will enable the corporation to evaluate each contract to determine the appropriateness of the goal pursuant to paragraph (i) of this subdivision;

III. consider compliance with the requirements of any federal law concerning opportunities for minority, honorably discharged veteran and women-owned business enterprises which effectuates the purpose of this section; and

IV. consult the most recent disparity study pursuant to article fifteen-A of the executive law.

(ii) with the cooperation of the department of economic development and through cooperative efforts with contractors, providing for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts let by the corporation in an amount estimated to be equal to or greater than one million dollars and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract such contractors shall document their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has (a) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority, honorably discharged veteran and women-owned business, or (b) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or (c) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New

York state, or (d) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent; and

(iii) except for procurement contracts for which the corporation would be expending funds received from another state, the corporation shall include in all bid documents provided to potential bidders a statement that information concerning the availability of New York state subcontractors and suppliers is available from the New York state department of economic development, which shall include the directory of certified minority, honorably discharged veteran and women-owned businesses, and it is the policy of New York state to encourage the use of New York state subcontractors and suppliers, and to promote the participation of minority, honorably discharged veteran and women-owned businesses where possible, in the procurement of goods and services; and

§ 18. Section 957 of the general municipal law is amended by adding a new subdivision (u) to read as follows:

(u) "Honorably discharged veteran owned business enterprise" shall mean the same as defined in subdivision twenty-four of section three hundred ten of the executive law.

§ 19. Subdivisions (g) and (t) of section 959 of the general municipal law, as amended by section 3 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(g) Coordinate, with the local empire zone administrative board and state agencies and authorities, the provision of business development programs and services for each empire zone in order to stimulate the creation and development of new small businesses, including new small minority-owned, honorably discharged veteran-owned and women-owned business enterprises, and may request and shall receive from any department, division, board, bureau, commission, agency or public authority of the state such assistance as may be necessary;

(t) Coordinate with the urban development corporation the creation of a special category of assistance for zones within the regional economic development partnership program, which will make available economic development assistance grants for zone programs and activities, including, but not limited to, planning, service coordination, and local institutional capacity building for human resource development necessary for economic revitalization; planning and development of small business incubators; job placement and preparedness programs for zones residents; education and training programs for zone businesses; child care programs and projects supportive of business development; technical assistance for minority, honorably discharged veteran and women-owned business development; training for zone officials; business and tourism development and marketing programs; and other innovative programs and activities in support of economic and community development within the zones;

§ 20. Paragraph (x) of subdivision (b) of section 961 of the general municipal law, as added by chapter 708 of the laws of 1993, is amended to read as follows:

(x) identify financial commitments the applicant will make to the zone for activities, including, but not limited to, marketing of the zone for business development, human resource services for zone residents and businesses, and services for small ~~[and]~~, minority, honorably discharged veteran and women-owned businesses;

§ 21. Subdivision (j) of section 962 of the general municipal law, as amended by chapter 624 of the laws of 1990 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(j) a description of activities designed to ensure the meaningful participation of minority-owned, honorably discharged veteran-owned and women-owned business enterprises in empire zone development activities;

§ 22. Paragraphs (iii) and (xii) of subdivision (a) of section 963 of the general municipal law, as amended by chapter 708 of the laws of 1993, as further amended by section 15 of part GG of chapter 63 of the laws of 2000 and such subdivision as relettered by section 7 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(iii) undertake efforts to ensure meaningful participation by minority-owned, honorably discharged veteran-owned and women-owned business enterprises in empire zone activities;

(xii) provide within the zone, or contract with a new or existing community-based local development corporation or entity to provide, strategic economic development planning for the zone, marketing and promotion of the zone, assistance to companies in applying for available benefits, preparation of applications for financing assistance and other technical assistance services; coordination of the delivery of state and local programs within the zones; and operation of such other economic development assistance programs in furtherance of the empire zone development plan as may be appropriate. Provided, however, within the amount appropriated therefor and allocated by the director of the budget, the commissioner, through annual administrative contracts, shall, to the maximum extent feasible, make equally available financial support, through contracts or other means, to assist with the administrative expenses of the local zone administrative bodies or community-based development organizations. No funds shall be made available for this purpose unless the amount to be provided has been matched by private or governmental sources, other than state sources, in amounts at least equalling that to be provided by the state. Such matching funds shall be earmarked and used exclusively for the local administration of the zone program or for activities of the zone program. At least fifty percent of such matching funds shall be in cash, provided that the commissioner may waive this requirement for communities with populations of twenty-five thousand or less, and provided, further, that any amounts appropriated for minority, honorably discharged veteran and women-owned business development within the zones shall be distributed by the commissioner pursuant to a competitive proposal solicitation process.

§ 23. Subdivision (c) of section 964 of the general municipal law, as amended by chapter 708 of the laws of 1993 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(c) Each empire zone capital corporation shall, to the maximum extent feasible, undertake measures and procedures to ensure meaningful participation by minority-owned, honorably discharged veteran-owned and women-owned business enterprises in the activities and investments of such corporation. Each such corporation shall additionally, to the maximum extent feasible, undertake measures and procedures to ensure meaningful participation by locally owned business enterprises in the activities and investments of such corporation.

§ 24. Subparagraph 7 of paragraph f of subdivision 3 of section 970-r of the general municipal law, as amended by section 1 of part U of chapter 58 of the laws of 2018, is amended to read as follows:

(7) the financial commitments the applicant will make to the brown-field opportunity area for activities including, but not limited to, marketing of the area for business development, human resource services for residents and businesses in the brownfield opportunity area, and services for small ~~[and]~~, minority, honorably discharged veteran and women-owned businesses.

§ 25. Subdivision 33 of section 454 of the banking law, as amended by chapter 679 of the laws of 2003, is amended to read as follows:

33. Notwithstanding any other provision of this article to the contrary, to participate in the ~~[minority]~~ minority, honorably discharged veteran and women-owned business development and lending program, as established in section ~~[16-c]~~ sixteen-c of section ~~[1]~~ one of chapter ~~[174]~~ one hundred seventy-four of the laws of ~~[1968]~~ nineteen hundred sixty-eight, constituting the urban development corporation act, to the extent that such program allows participation by credit unions.

§ 26. Section 9-b of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 58 of the laws of 1987, is amended to read as follows:

§ 9-b. Minority, honorably discharged veteran and women-owned business enterprise program. 1. (a) Minority, honorably discharged veteran and women-owned business enterprises shall be given the opportunity for meaningful participation in all contracts executed by the corporation pursuant to the provisions of this act other than contracts the cost of which is borne solely by a municipality or municipalities. The corporation shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority, honorably discharged veteran and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the corporation to assure that qualified minority, honorably discharged veteran and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; honorably discharged veteran business enterprise shall mean the same as defined in subdivision 24 of section 310 of the executive law; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority, honorably discharged veteran or women-owned business enterprise to bid on any contract.

(b) In the implementation of this section, the corporation shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority, honorably discharged

1 veteran and women-owned business enterprises, which may effectuate the
2 requirements of this section. If the corporation determines that by
3 virtue of the imposition of the requirements of any such law, in respect
4 to contracts, the provisions thereof duplicate or conflict with this
5 section, the corporation may waive the applicability of this section to
6 the extent of such duplication or conflict.

7 (c) Nothing in this section shall be deemed to require that overall
8 state and federal requirements for participation of minority, honorably
9 discharged veteran and women-owned business enterprises in programs
10 authorized under this act be applied without regard to local circum-
11 stances to all projects or in all communities.

12 2. In order to implement the requirements and objectives of this
13 section, the corporation shall establish procedures to monitor the
14 contractors' compliance with provisions hereof, provide assistance in
15 obtaining competing qualified minority, honorably discharged veteran and
16 women-owned business enterprises to perform contracts proposed to be
17 awarded, and take other appropriate measures to improve the access of
18 minority, honorably discharged veteran and women-owned business enter-
19 prises to these contracts.

20 § 27. Section 16-b of section 1 of chapter 392 of the laws of 1973,
21 constituting the New York state medical care facilities finance agency
22 act, as added by chapter 58 of the laws of 1987, is amended to read as
23 follows:

24 § 16-b. Minority, honorably discharged veteran and women-owned busi-
25 ness enterprise program. 1. a. In the performance of projects pursuant
26 to this act minority, honorably discharged veteran and women-owned busi-
27 ness enterprises shall be given the opportunity for meaningful partic-
28 ipation. The agency shall establish measures and procedures to secure
29 meaningful participation and identify those contracts and items of work
30 for which minority, honorably discharged veteran and women-owned busi-
31 ness enterprises may best bid to actively and affirmatively promote and
32 assist their participation in the projects, so as to facilitate the
33 award of a fair share of contracts to such enterprises; provided, howev-
34 er, that nothing in this act shall be construed to limit the ability of
35 the agency to assure that qualified minority, honorably discharged
36 veteran and women-owned business enterprises may participate in the
37 program. For purposes hereof, minority business enterprise shall mean
38 any business enterprise which is at least fifty-one per centum owned by,
39 or in the case of a publicly owned business, at least fifty-one per
40 centum of the stock of which is owned by citizens or permanent resident
41 aliens who are Black, Hispanic, Asian or American Indian, Pacific Islan-
42 der or Alaskan natives and such ownership interest is real, substantial
43 and continuing and have the authority to independently control the day
44 to day business decisions of the entity for at least one year; honorably
45 discharged veteran business enterprise shall mean the same as defined in
46 subdivision 24 of section 310 of the executive law; and women-owned
47 business enterprise shall mean any business enterprise which is at least
48 fifty-one per centum owned by, or in the case of a publicly owned busi-
49 ness, at least fifty-one per centum of the stock of which is owned by
50 citizens or permanent resident aliens who are women, and such ownership
51 interest is real, substantial and continuing and have the authority to
52 independently control the day to day business decisions of the entity
53 for at least one year.

54 The provisions of this paragraph shall not be construed to limit the
55 ability of any minority, honorably discharged veteran or women-owned
56 business enterprise to bid on any contract.

b. In the implementation of this section, the agency shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority, honorably discharged veteran and women-owned business enterprises, which may effectuate the requirements of this section. If the department or the office determines that by virtue of the imposition of the requirements of any such law, in respect to contracts, the provisions thereof duplicate or conflict with this act, the agency may waive the applicability of this section to the extent of such duplication or conflict.

c. Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority, honorably discharged veteran and women-owned business enterprises in programs authorized under this act be applied without regard to local circumstances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the agency shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, honorably discharged veteran and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, honorably discharged veteran and women-owned business enterprises to these contracts.

§ 28. Paragraph (c) of subdivision 10 of section 16-a of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 477 of the laws of 2002, is amended to read as follows:

(c) of minority, honorably discharged veteran or women-owned enterprises or enterprises owned by dislocated workers, such workers as defined in the Workforce Investment Act (P.L. 105-220); and

§ 29. Section 16-c of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, subdivision 1 as amended by section 1 of part AA of chapter 55 of the laws of 2014, subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, paragraph (i) of subdivision 2 and paragraph (d) of subdivision 3 as added by chapter 474 of the laws of 2017, and subparagraphs (i) and (ii) of paragraph (i) of subdivision 2 and paragraph (e) of subdivision 3 as amended by chapter 378 of the laws of 2018, is amended to read as follows:

§ 16-c. [~~Minority~~] Minority, honorably discharged veteran and women-owned business development and lending program.

(1) [~~Minority~~] Minority, honorably discharged veteran and women-owned business development and lending program. (a) There is hereby created a [~~minority~~] minority, honorably discharged veteran and women-owned business development and lending program for the purpose of providing financial and technical assistance to minority, honorably discharged veteran and women-entrepreneurs.

(b) For the purposes of this section the following words or terms shall mean as follows:

(i) "minority-owned business enterprise" or "minority-owned business" shall mean the same as "minority business enterprise" as defined in subdivision [~~three~~] 3 of section [~~two hundred ten~~] 210 of the economic development law.

(ii) "women-owned business enterprise" or "women-owned business" shall mean the same as "women-owned business enterprise" as defined in subdi-

vision ~~[five]~~ 5 of section ~~[two hundred ten]~~ 210 of the economic development law.

(iii) "honorably discharged veteran business enterprise" shall mean the same as defined in subdivision 24 of section 310 of the executive law.

(iv) "incubator" shall mean a facility providing low-cost space, technical assistance and support services, including, but not limited to, central services shared by tenants of the facility, to ~~[minority-]~~ minority, honorably discharged veteran and women-owned business enterprises.

(c) Assistance shall not be provided under this section for:

(i) the purchase or rehabilitation of real property for speculative purposes;

(ii) payment of any tax or employee benefit arrearage;

(iii) residential construction, renovation or development construction, except for assistance to minority, honorably discharged veteran and women contractors under subdivision four of this section;

(iv) educational institutions and proprietary education firms, except licensed child care facilities;

(v) hospitals or residential health care facilities;

(vi) overnight lodging facilities;

(vii) refinancing of debt or equity invested in an enterprise or project.

(d) The corporation is authorized to:

(i) establish programs in conjunction with locally, and community based entities to decentralize lending for small loans and loans to start up ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses;

(ii) establish a comprehensive program for minority, honorably discharged veteran and women contractors, which may include assistance through loans, bonding assistance and technical assistance;

(iii) establish a program to provide loans to established ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses and for ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses, including loans to such businesses seeking to acquire or expand a franchise;

(iv) provide loan guarantees to financial institutions and make linked deposits into federally and state chartered credit unions for the purpose of encouraging private financial institutions to make loans to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses;

(v) establish a program to create incubators to assist small and high risk ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses to grow and prosper;

(vi) promote equity investment in ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses;

(vii) establish a comprehensive technical assistance program in cooperation with the department of economic development to assist ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses and potential minority, honorably discharged veteran and women-entrepreneurs; and

(viii) notwithstanding any provision of law to the contrary, establish a ~~[minority-]~~ minority, honorably discharged veteran and women-owned business investment fund to provide critical financial support to foster the development of new and emerging ideas and products of ~~[minority-]~~ minority, honorably discharged veteran and women-owned busi-

ness enterprises as well as to promote the long-term financial performance and success of early stage enterprises that are ~~[minority-]~~ minority, honorably discharged veteran and women-owned start-ups. The selection of an eligible applicant and beneficiary companies for the ~~[minority-]~~ minority, honorably discharged veteran and women-owned business investment fund shall be selected by the process established pursuant to subdivisions ~~[two]~~ 2 through ~~[four]~~ 4 of section ~~[sixteen-u]~~ 16-u of this act. ~~[Minority-]~~ Minority, honorably discharged veteran or women-owned business enterprises who participate in such ~~[minority-]~~ minority, honorably discharged veteran and women-owned business investment fund under this subdivision shall not be precluded from qualifying for any other assistance, grant or loan made available from the state.

(2) Minority, honorably discharged veteran and women revolving loan trust fund. For the purpose of establishing programs in conjunction with locally and community based entities to decentralize lending for small loans and loans to start up ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses, the corporation shall establish minority, honorably discharged veteran and women revolving loan trust fund accounts and related administrative expenses trust fund accounts.

(a) Each minority, honorably discharged veteran and women revolving loan trust fund account shall be administered by one or more of the following types of entities that provide services to community businesses and have as one of their primary purposes the provision of services and assistance to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses:

(i) empire zone capital corporations established pursuant to section ~~[nine hundred sixty four]~~ 964 of the general municipal law;

(ii) community-based local development corporations or industrial development agencies that serve a municipality in which an empire zone has been established pursuant to article ~~[eighteen-B]~~ 18-B of the general municipal law and have as their primary purpose assistance to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses located or to be located in such empire zone; or

(iii) local and community development corporations, industrial development agencies, or other not-for-profit entities, representative of the community.

(b) To be eligible to administer a minority, honorably discharged veteran and women revolving loan trust fund account, the entity must also: (i) have staff with sufficient expertise to analyze applications for financial assistance, to regularly monitor financial assistance to clients, and to provide management or technical assistance to clients; and (ii) have established a loan committee composed of six or more persons experienced in business management, commercial lending or in the operation of a for-profit business, at least one-half of whom shall be experienced in commercial lending, at least one-third of whom shall be minority persons and at least one-third of whom shall be women. Such loan committee shall review every application, determine the feasibility of the proposed project and the likelihood of repayment of the requested financing and shall recommend to the governing body of the entity such action on the application as the loan committee deems appropriate. The corporation shall identify entities eligible to administer minority, honorably discharged veteran and women revolving loan trust fund accounts through a competitive statewide request for proposal process.

(c) Any entity selected to administer a minority, honorably discharged veteran and women revolving loan trust fund account shall be eligible to draw funds from the account as needed to provide the following types of

1 financial assistance to [~~minority~~] minority, honorably discharged
2 veteran and women-owned businesses upon certification to and acceptance
3 by the corporation that such assistance complies with rules and regu-
4 lations promulgated by the corporation: (i) working capital loans,
5 provided that the amount of the loan does not exceed thirty-five thou-
6 sand dollars and the term of the loan does not exceed five years; and
7 (ii) loans for the acquisition and/or improvement of real property and
8 for the acquisition of machinery and equipment provided that the amount
9 of the loan does not exceed fifty thousand dollars and the term of the
10 loan does not exceed the useful life of the equipment or property.

11 (d) (i) Notwithstanding any provision of law to the contrary, the
12 corporation may establish an administrative expenses trust fund account
13 for the benefit of each entity selected to administer a minority, honor-
14 ably discharged veteran and women revolving loan trust fund account. The
15 initial deposit of funds to an administrative expenses trust fund
16 account shall be an amount determined by the corporation but shall not
17 exceed twenty-five thousand dollars.

18 (ii) An entity selected to administer a minority, honorably discharged
19 veteran and women revolving loan trust fund account may use the funds in
20 the administrative expenses trust fund account for costs incurred by it
21 in the start up and administration of the financial assistance program
22 authorized pursuant to this subdivision.

23 (iii) The corporation shall deposit into each administrative expenses
24 trust fund account:

25 (A) all income earned from the moneys on deposit in the corresponding
26 minority, honorably discharged veteran and women revolving loan trust
27 fund account during the first year of the entity's administration of
28 said account; and

29 (B) beginning with its second year in administering a minority, honor-
30 ably discharged veteran and women revolving loan trust fund account,
31 said amounts may be used for costs incurred by the entity in administer-
32 ing the minority, honorably discharged veteran and women revolving loan
33 trust fund account; and

34 (C) repayments of interest on loans made from the corresponding minor-
35 ity, honorably discharged veteran and women revolving loan trust fund
36 account.

37 (iv) Funds from the administrative expenses trust fund account may be
38 used for costs incurred at any time by an administering entity in its
39 administration of a minority, honorably discharged veteran and women
40 revolving loan trust fund account pursuant to this section.

41 (v) Funds deposited in an administrative expenses trust fund account
42 shall be disbursed by the corporation to the entity that administers the
43 corresponding minority, honorably discharged veteran and women revolving
44 loan trust fund account on a periodic basis and shall be expended by the
45 entity in accordance with an annual budget and any updates of same,
46 approved by the corporation.

47 (e) Any entity selected to administer a minority, honorably discharged
48 veteran and women revolving loan trust fund account shall pay to the
49 corporation for deposit any repayments received in connection with
50 financial assistance provided from its account. Payments consisting of
51 the repayment of the principal amount of a loan shall be deposited by
52 the corporation into the minority, honorably discharged veteran and
53 women revolving loan trust fund account from which the loan was made.
54 The interest earned by the corporation from the investment of moneys in
55 each minority, honorably discharged veteran and women revolving loan
56 trust fund account during and after the second year of a selected enti-

ty's administration of said account shall be deposited by the corporation into the corresponding minority, honorably discharged veteran and women revolving loan trust fund account and used to provide the financial assistance to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses as authorized pursuant to this section.

(f) The provisions of subdivisions ~~[eight]~~ 8, ~~[nine]~~ 9, and ~~[fourteen]~~ 14 through ~~[nineteen]~~ 19 of section ~~[sixteen-a]~~ 16-a of this act pertaining to the regional revolving loan trust fund shall also be applicable to the minority, honorably discharged veteran and women revolving loan trust fund, provided that: where the term "regional corporation" appears therein it shall be interpreted to mean an entity selected to administer a minority, honorably discharged veteran and women revolving loan trust fund account, and "regional revolving ~~[loans]~~ loan trust fund" shall mean a minority, honorably discharged veteran and women revolving loan trust fund, and where the term "this section" appears therein it shall mean this section ~~[sixteen-c]~~ 16-c.

(g) The corporation may provide funds from an appropriation for the ~~[minority-]~~ minority, honorably discharged veteran and women-owned business development and lending program to any entity selected to administer a minority, honorably discharged veteran and women revolving loan trust fund for the purposes of recapitalizing such account and the entity's corresponding administrative expenses trust fund account following an evaluation by the corporation of the entity's administration and use of such accounts.

(h) Notwithstanding any provision of law to the contrary, the corporation shall establish a minority, honorably discharged veteran and women revolving loan trust fund to pay into such fund any moneys made available to the corporation for such fund from any source, including moneys appropriated by the state and any income earned by, or increment to, the account due to the investment thereof, or any repayment of moneys advanced from the fund. The corporation shall not commingle the moneys of such fund with any moneys held in trust by the corporation, except for investment purposes.

(i) Notwithstanding any other provisions of this subdivision, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section ~~[sixteen-t]~~ 16-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and restrictions set forth under this subdivision, to provide financial assistance to eligible businesses as defined in subdivisions ~~[three]~~ 3 and ~~[five]~~ 5 of section ~~[two-hundred-ten]~~ 210 of the economic development law. Outstanding expenses, loans and other obligations executed prior to the effective date of this paragraph shall be subject to the terms and conditions of the original contract or contracts.

(i) The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

(ii) Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under subparagraph (i) of this paragraph in aggregate form omitting borrower identifiable information.

(3) Micro-loan program. (a) For the purposes of this subdivision "micro-loan" shall mean a loan of under seven thousand five hundred dollars.

(b) The corporation shall, pursuant to requests for proposals, enter into agreements for other types of locally, community or regionally administered loan programs than those set forth in subdivision two of this section, including micro-loan programs to be administered by local development corporations, local industrial development organizations, municipalities and not-for-profit organizations, to provide micro-loans to small and high risk ~~[minority]~~ minority, honorably discharged veteran and women-owned businesses located within their respective service areas, provided that loan review committees are established by such administering entity, including women, honorably discharged veteran and minority persons experienced in business management, business development, commercial lending, entrepreneurship, or in the operation of a for-profit business.

(c) Agreements entered into pursuant to paragraph (b) of this subdivision shall be governed by paragraphs (d) through (h) of subdivision ~~[two]~~ 2 of this section, and minority, honorably discharged veteran and women revolving loan trust fund accounts and administrative expenses trust fund accounts shall be established in a similar fashion for entities selected to administer micro-loan funds pursuant to this subdivision.

(d) Notwithstanding any other provisions of this subdivision, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section ~~[sixteen-t]~~ 16-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and restrictions set forth under this subdivision, to provide financial assistance to eligible businesses as defined in subdivisions ~~[three]~~ 3 and ~~[five]~~ 5 of section ~~[two-hundred-ten]~~ 210 of the economic development law. Outstanding expenses, loans and other obligations executed prior to the effective date of this paragraph shall be subject to the terms and conditions of the original contract or contracts.

(e)(i) The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

(ii) Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under subparagraph (i) of this paragraph in aggregate form omitting borrower identifiable information.

(4) Minority, honorably discharged veteran and women contracting program. For the purpose of establishing a comprehensive program to assist minority, honorably discharged veteran and women contractors, the corporation may provide loans, loan guarantees, technical assistance and bonding assistance, the corporation may enter into cooperative agreements with cities, counties, municipalities, authorities, agencies, federally and state chartered credit unions in New York state and federally insured banking organizations and financial institutions for such purposes.

(a) To be eligible for a contractor loan, the borrower must have either (i) a construction contract with, or a contract to provide goods

1 or services to, a governmental entity or authority, (ii) a subcontract
2 on a government-sponsored construction contract, (iii) a contract or
3 subcontract on a [~~government-sponsored~~] government-sponsored residential
4 project, or (iv) a contract or subcontract on a construction project
5 previously approved by the corporation pursuant to section [~~ten~~] 10 of
6 this act.

7 (b) The corporation shall provide technical assistance specifically
8 oriented to minority, honorably discharged veteran and women-owned
9 government contractors as part of its comprehensive technical assistance
10 program.

11 (c) The corporation is authorized to provide assistance through the
12 creation of, or assistance to, a minority, honorably discharged veteran
13 and women bonding guarantee program to enable minority, honorably
14 discharged veteran and women contractors and subcontractors to meet
15 payment or performance bonding requirements.

16 (i) Through such program, assistance in the form of working capital
17 loans and loan guarantees pursuant to subdivision [~~six~~] 6 of this
18 section may also be provided to minority, honorably discharged veteran
19 and women contractors and subcontractors who have secured contracts by
20 participating in the program.

21 (ii) The corporation shall either establish criteria for the bonding
22 guarantee program and for any required escrow funds which shall include
23 detailed provisions for eligibility; or if the corporation is providing
24 assistance to a program other than one established by the corporation,
25 review and approve the criteria established for such other program.

26 (5) Direct financial assistance for [~~minority~~] minority, honorably
27 discharged veteran and women-owned businesses. For the purpose of estab-
28 lishing a program to provide direct financial assistance to [~~minority~~]
29 minority, honorably discharged veteran and women-owned businesses, the
30 corporation is authorized to provide assistance in the form of:

31 (a) Business development loans and loan guarantees pursuant to subdivi-
32 sion [~~six~~] 6 of this section to eligible enterprises for the acquisi-
33 tion or improvement of real property, machinery, equipment or working
34 capital, provided that to be eligible for a business development loan,
35 the borrowers must have been in business for at least three years and
36 provided that the loans must be in an amount equal to or in excess of
37 fifty thousand dollars;

38 (b) Franchise loans to eligible enterprises seeking to acquire or
39 expand franchises of nationally recognized corporations, provided that
40 disbursements by the corporation of such loans shall be conditioned on
41 obtaining such franchises;

42 (c) Equity assistance for eligible minority, honorably discharged
43 veteran and women-owned enterprises to match equity contributions to
44 such enterprises by financial institutions and community development
45 equity capital funds, provided, however, that such assistance shall be
46 targeted to start-up and early stage enterprises in the manufacturing,
47 retail and service sectors located in economically distressed areas.

48 (6) Deposits and loan guarantees. For the purpose of encouraging
49 private financial institutions to make loans to eligible enterprises
50 pursuant to this section for any of the eligible projects pursuant to
51 subdivisions [~~four~~] 4 and [~~five~~] 5 of this section, the corporation is
52 authorized to:

53 (a) Make linked deposits of funds into federally and state chartered
54 credit unions in New York state, in order to encourage such organiza-
55 tions to make small loans to minority, honorably discharged veteran and
56 women-owned businesses; and

(b) Provide loan guarantees to private financial institutions for loans made to eligible [~~minority~~] minority, honorably discharged veteran and women-owned businesses pursuant to this subdivision for eligible projects, provided that the guarantee shall be at least fifty percent backed by funds of the corporation. Any such loan guaranteed by the corporation shall be made to borrowers that are approved by the corporation and substantially meet the underwriting criteria the credit union or financial institution customarily applies to similar borrowers for similar loans supported by similar guarantees, and no guaranteed loan funds shall be disbursed until the corporation has received, reviewed and concurred, in writing, with the recommendation of the credit union or banking or financial institution to make a loan.

(7) Minority, honorably discharged veteran and women small business incubator program.

(a) The corporation shall establish a minority and women small business incubator program for the purpose of providing financial support for the creation of incubators to nurture minority, honorably discharged veteran and women-owned business enterprises with growth potential.

(b) Under this subdivision the corporation is authorized to provide low-interest loans and grants for construction financing and permanent financing of up to seventy-five percent of project costs up to a maximum of six hundred fifty thousand dollars per project, provided that the total amount of grant assistance provided pursuant to this paragraph shall not exceed twenty percent of an appropriation provided for the purposes of this section.

(c) Incubator projects eligible for such assistance shall involve the renovation or reconstruction of existing facilities or the acquisition of equipment, except that construction shall be allowable in cases in which an applicant can demonstrate to the satisfaction of the corporation that an existing facility is unavailable in the area to be served by the new incubator facility.

(d) Incubator projects are not eligible to receive loans for the purpose of covering operating costs or supplying incubator support services, except that incubators in their first eighteen months of operation may receive one-time grants not to exceed forty thousand dollars, which costs may include administrative costs of employing a resident administrator/advisor to the incubator, provided that the corporation shall not expend a sum greater than two hundred fifty thousand dollars in any one state fiscal year, or so much as may be specifically appropriated for this purpose.

(e) Eligible incubator projects shall be required to demonstrate to the corporation's satisfaction:

(i) public or private support and involvement sufficient to complete the renovation of existing facilities or the construction of new facilities and the acquisition of equipment;

(ii) significant community support for the project;

(iii) the existence of prospective tenants for such incubator space;

(iv) demand for such incubator space, which may include evidence of the unavailability of suitable space for prospective tenants at appropriate rental or lease costs in the community in which such prospective tenants are located; and

(v) the inability of the project to occur without financial assistance from the corporation.

(f) The corporation shall establish criteria for eligibility for funding for incubator projects, including but not limited to the following:

(i) the project must be designed to provide low-cost space and support services to incubator tenants, coordination with other sources of assistance and flexible leasing arrangements for tenants;

(ii) the project sponsors must provide a management plan and a business plan for operating the incubator satisfactory to the corporation; and

(iii) the project gives preference for incubator space and assistance to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses which currently receive, or have received, assistance from the corporation pursuant to this section and to incubator projects proposed to be located in economically distressed areas.

(8) ~~[Minority-]~~ Minority, honorably discharged veteran and women-owned business technical assistance program. (a) The corporation shall establish a comprehensive technical assistance program within the minority, honorably discharged veteran and women business development office, in cooperation with the department of economic development's division of ~~[minority-]~~ minority, honorably discharged veteran and women-business development established pursuant to article ~~[four-A]~~ 4-A of the economic development law, to provide technical assistance to ~~[minority-]~~ minority, honorably discharged veteran and women-owned business enterprises and to prospective ~~[minority-]~~ minority, honorably discharged veteran and women-business entrepreneurs through third party service providers, which assistance shall include, but not be limited to:

(i) technical assistance in development and execution of business plans, including the formation of, acquisition of, management of, or diversification of a ~~[minority-]~~ minority, honorably discharged veteran or women-owned business enterprise;

(ii) technical assistance with applications for obtaining funds from public and private financing sources;

(iii) technical assistance in the development of a working capital budget;

(iv) referrals to other providers of technical assistance to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses and minority, honorably discharged veteran and women entrepreneurs, where appropriate, including the entrepreneurial assistance program established pursuant to article ~~[nine]~~ 9 of the economic development law; and

(v) technical assistance through education programs directed primarily at women, honorably discharged veteran and minority entrepreneurs.

(b) Technical assistance may be provided through direct corporate support, through grants to or contracts with service providers or governmental entities, and ~~[minority-]~~ minority, honorably discharged veteran and women-owned business enterprises and individuals.

(9) Priorities. The corporation shall give priority to applications for assistance pursuant to this section in which the business seeking such assistance indicates a commitment to first consider persons eligible to participate in federal job training partnership act (P.L. 97-300) programs.

(10) Non-application of certain provisions. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance or projects authorized pursuant to this section.

(11) Rules and regulations. The corporation shall, assisted by the commissioner of economic development and in consultation with the department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act. Such rules and regulations shall be consistent with the program plan required by subdi-

1 vision [~~nineteen~~] 19 of section [~~one hundred~~] 100 of the economic devel-
2 opment law. No funds shall be disbursed under this program until such
3 rules and regulations have been reviewed and approved by the corpo-
4 ration. All assistance and projects funded under this program shall be
5 funded in accordance with the rules and regulations in effect on the
6 date the completed application for such assistance shall be received by
7 the corporation.

8 (12) Minority, honorably discharged veteran and women business devel-
9 opment and lending account. Notwithstanding any provision of law to the
10 contrary, the corporation shall establish within the treasury of the
11 corporation a minority, honorably discharged veteran and women business
12 development and lending account, and shall pay into such account any
13 moneys which may be made available to the corporation for this purpose
14 from any source including, but not limited to, moneys appropriated by
15 the state and any repayment of principal and interest on loans made by
16 the corporation pursuant to the [~~minority~~] minority, honorably
17 discharged veteran and women-owned business development and lending
18 program. Funds in the minority, honorably discharged veteran and women
19 business development and lending account, including funds from the
20 repayment of principal and interest on loans made by the corporation,
21 may be used for any form of assistance authorized hereunder. The amounts
22 deposited in the minority, honorably discharged veteran and women busi-
23 ness development and lending account may not be interchanged with any
24 other account, but may be commingled with any other account for invest-
25 ment purposes. All loans disbursed by the corporation shall be repaid
26 into the account. The corporation shall enter into a written agreement
27 with the director of the budget for repayment, to the state comptroller
28 to the credit of the capital projects fund, of all moneys in the account
29 after a period of time to be determined by the corporation and the
30 director of the budget. The corporation shall transfer to the minority,
31 honorably discharged veteran and women business development and lending
32 account: all moneys appropriated or reappropriated by New York state for
33 the minority, honorably discharged veteran and women revolving loan
34 trust fund that have not been committed prior to the effective date of
35 the appropriation for the program in the current fiscal year, or become
36 uncommitted subsequent to the effective date of the program's appropri-
37 ation for the current fiscal year; and all repayments of principal and
38 interest on loans made by the corporation which are currently on deposit
39 in, or payable to, the minority, honorably discharged veteran and women
40 business development and lending account.

41 (13) Standardization. The corporation shall streamline the review and
42 approval process for projects and wherever possible standardize all
43 relevant attendant documentation and legal documents.

44 (14) Approval cycle. The corporation shall approve eligible loans or
45 grants on at least a four-month cycle and shall give priority consider-
46 ation to the comparative degree of economic distress within the areas in
47 which the project is located. Other factors to be considered by the
48 corporation shall include the impact of the project on the employment
49 and economic condition of the community and the financial feasibility of
50 the project.

51 (15) Repayment. Notwithstanding the provisions of section [~~forty-a~~]
52 40-a of the state finance law and any other general or special law, no
53 written agreement under this program shall require repayment at any time
54 or on any terms inconsistent with the provisions of this act or the New
55 York state project finance agency act; except, however, that the corpo-

ration may make grants to projects using funds appropriated for this purpose and that the repayment provision may not apply to such grants.

(16) Reports. The chairman of the corporation shall submit to the director of the budget, the speaker of the assembly and the temporary president of the senate an evaluation of the effectiveness of the program prepared by an entity independent of the corporation. The corporation shall select the program evaluator through a request for proposal process. Such evaluation shall determine whether the assistance provided has enhanced the economic condition of assisted companies or communities, and shall make recommendation for improvements which would make the program more effective. Such evaluation shall be submitted by September first, nineteen hundred ninety-five and September first every two years thereafter.

§ 30. Subparagraphs (viii) and (x) of paragraph (e) of subdivision 7 of section 16-d of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, are amended to read as follows:

(viii) export, marketing, procurement and subcontracting assistance to small and medium-sized industrial firms, including ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses, and to flexible manufacturing networks, and programs to assist regional and multi-county business marketing and procurement programs;

(x) business planning, management assistance and counseling, and financial packaging assistance to small and medium-sized industrial firms, including ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses, flexible manufacturing networks, and new enterprises and small businesses, including the establishment of neighborhood-based business service centers designed to deliver comprehensive technical assistance to new and small businesses in specific communities and neighborhoods;

§ 31. Clause (B) of subparagraph (i) of paragraph (h) of subdivision 8 of section 16-d of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(B) community based local development corporations, industrial development agencies, or other not-for-profit entities which serve a municipality in which an empire zone has been established and which, as one of their primary purposes, provide services and assistance to business enterprises located or to be located in such empire zone, including ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses;

§ 32. Subparagraph (vi) of paragraph (c) of subdivision 10 of section 16-e of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, is amended to read as follows:

(vi) management and procurement assistance to small business, including ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses;

§ 33. Paragraph (d) of subdivision 18 of section 16-e of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, is amended to read as follows:

(d) The participation of ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses;

§ 34. The opening paragraph, paragraph (a) and the opening paragraph and subparagraph (iv) of paragraph (b) of subdivision 1 of section 16-f of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, are amended to read as follows:

There is hereby created a state bonding guarantee assistance program to enable small businesses, ~~[and] minority-owned,~~ honorably discharged veteran-owned and women-owned business enterprises, certified as a minority-owned, honorably discharged veteran-owned or women-owned business enterprise pursuant to article ~~[fifteen-A]~~ 15-A of the executive law, to meet payment and/or performance bonding requirements by providing additional financial backing needed to induce a surety company to issue a bond for construction projects, including but not limited to, government sponsored, transportation related construction projects. For purposes of this section, the term small business shall have the same meaning as defined in section ~~[one hundred thirty-one]~~ 131 of the economic development law. Such program shall give preference to minority-owned, honorably discharged veteran-owned and women-owned business enterprises and shall:

(a) Make available funds to surety companies providing bonds to small businesses ~~[and minority-owned],~~ minority-owned, honorably discharged veteran-owned or women-owned business enterprises in an amount equal to a percentage not to exceed fifty percent of the face value of bonds issued by the surety.

Provide technical assistance in completing bonding applications for small businesses ~~[and],~~ minority-owned, honorably discharged veteran-owned or women-owned business enterprises seeking to become eligible for bonding in preparation for bidding on construction projects, including transportation related projects. The corporation shall provide and may refer such businesses to the department of economic development for technical assistance as such businesses may need, including but not limited to:

(iv) assistance from the regional offices of the department of economic development, pursuant to article ~~[eleven]~~ 11 of the economic development law, and the entrepreneurial assistance program, pursuant to article ~~[nine]~~ 9 of such law, and any other such program receiving state funds from this act or the department of economic development or any other state agency that is intended to provide technical assistance to small businesses ~~[and],~~ minority-owned, honorably discharged veteran-owned and women-owned small business enterprises.

§ 35. Subparagraph (i) of paragraph (c) of subdivision 2 of section 16-k of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 103 of the laws of 2011, is amended to read as follows:

(i) provide a plan to the corporation or its agent for the marketing of the capital access program to small businesses, including those in highly distressed areas and to ~~[minority-]~~ minority, honorably discharged veteran and women-owned businesses, with appropriate lending objectives identified by the financial institution for such areas and businesses;

§ 36. Paragraph (g) 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 section 1 of part N of chapter 84 of the laws of 2002, is amended to read as follows:

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including ~~[minority-]~~

1 minority, honorably discharged veteran and women-owned business enter-
2 prises through flexible financing programs, including, but not limited
3 to, loan loss reserve and revolving loan programs, working capital
4 loans, working capital loan guarantees, or other flexible financing
5 programs that leverage traditional financing;

6 § 37. Paragraph 1 of subdivision (c) of section 30 of section 1 of
7 chapter 174 of the laws of 1968, constituting the New York state urban
8 development corporation act, as amended by chapter 732 of the laws of
9 1990, is amended to read as follows:

10 (1) In addition to any other requirements imposed by the act or other-
11 wise regarding evaluations of programs administered by the corporation,
12 each evaluation shall include an analysis of the job creation effect of
13 such program, the number of small businesses that received assistance,
14 the number of minority, honorably discharged veteran and women-owned
15 firms that received assistance, the number of projects undertaken in
16 distressed and highly distressed communities, and, if applicable, the
17 repayment experience of borrowers of funds from the corporation.

18 § 38. Paragraph 2 of subdivision (e) of section 30-a 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 section 2 of part M1 of chapter
21 62 of the laws of 2003, is amended to read as follows:

22 (2) require projects to be financed out of the empire state economic
23 development fund be approved generally in amounts which are proportional
24 to amounts appropriated for the urban and community development program,
25 and the minority, honorably discharged veteran and women-owned business
26 development and lending program;

27 § 39. The section heading, the opening paragraph of subdivision 1, the
28 opening paragraph of subdivision 2, paragraph (a) of subdivision 3 and
29 subdivisions 4 and 5 of section 38 of section 1 of chapter 174 of the
30 laws of 1968, constituting the New York state urban development corpo-
31 ration act, as amended by chapter 169 of the laws of 1994, are amended
32 to read as follows:

33 Small business [~~and~~], minority-owned, honorably discharged veteran-
34 owned and women-owned business enterprises transportation capital
35 assistance and guaranteed loan program.

36 To provide financial assistance to small business [~~and~~], minority-
37 owned, honorably discharged veteran-owned and women-owned business
38 enterprises engaged in government sponsored, transportation related
39 construction projects, the corporation shall establish a small business
40 [~~and~~], minority-owned, honorably discharged veteran-owned and women-
41 owned business enterprise transportation capital assistance revolving
42 loan fund which shall provide loans or loan guarantees to small business
43 [~~and~~], minority-owned, honorably discharged veteran-owned and women-
44 owned business enterprises. For purposes of this section:

45 Such loans, or loan guarantees for loans made by federally and state
46 chartered credit institutions, financial institutions, and federally
47 insured banking organizations to small business [~~and~~], minority-owned,
48 honorably discharged veteran-owned and women-owned business enterprises,
49 shall be used to:

50 (a) To be eligible for such loans or loan guarantees (i) a minority-
51 owned, honorably discharged veteran-owned or women-owned business enter-
52 prise must be certified as a minority-owned, honorably discharged veter-
53 an-owned or women-owned business enterprise pursuant to article 15-A of
54 the executive law; and (ii) a small business or a minority-owned, honor-
55 ably discharged veteran-owned or women-owned business enterprise shall

1 have a contract or sub-contract to provide goods or services related to
2 a government sponsored, transportation related construction project.

3 4. The corporation shall give preference to minority-owned, honorably
4 discharged veteran-owned and women-owned business enterprises in making
5 such loans and loan guarantees and shall establish such other criteria
6 as it may deem necessary for this program and for any required amount
7 that shall be held in reserve for any guarantees made under this
8 program.

9 5. Notwithstanding any inconsistent provision of law, general, special
10 or local, including pursuant to capital projects budget appropriations
11 or reappropriations, where applicable, the corporation is hereby author-
12 ized to enter into such agreements as may be necessary for the operation
13 and administration of a small business ~~[and]~~ minority-owned, honorably
14 discharged veteran-owned and women-owned business enterprises transpor-
15 tation capital assistance and guaranteed loan program.

16 § 40. This act shall take effect immediately; provided, however, that
17 the amendments to article 15-A of the executive law made by sections two
18 through six of this act shall not affect the expiration of such article
19 and shall be deemed to expire therewith; provided, further that the
20 amendments to section 136-b of the state finance law made by section
21 seven of this act shall not affect the expiration of such section and
22 shall be deemed to expire therewith; and provided, further that the
23 amendments to paragraph (g) of subdivision 1 of section 16-m of section
24 1 of chapter 174 of the laws of 1968, constituting the New York state
25 urban development corporation act, made by section thirty-six of this
26 act shall not affect the expiration of such section and shall be deemed
27 to expire therewith.