

STATE OF NEW YORK

8121

IN SENATE

March 23, 2020

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to establishing the state of emergency minority and women owned business enterprises loan and grant program

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

1 Section 1. The executive law is amended by adding a new section 29-l
2 to read as follows:

3 § 29-l. State of emergency minority and women owned business enter-
4 prises loan and grant program. 1. Definitions. As used in this section,
5 the following terms shall have the following meanings:

6 (a) "Affected business or organization" means and includes both minor-
7 ity and women owned business enterprises located within this state
8 during a state of emergency;

9 (b) "Agency" means the urban development corporation in cooperation
10 with the empire state development corporation.

11 (c) "Bank" means a bank as such term is defined in subdivision one of
12 section two of the banking law;

13 (d) "Credit union" means a credit union as such term is defined in
14 subdivision nine of section two of the banking law;

15 (e) "Department" means the department of financial services;

16 (f) "Eligible financial institution" means a bank or credit union that
17 has a physical presence in this state and is in good standing;

18 (g) "Grace period" means the ninety-day period after a state of emer-
19 gency is over;

20 (h) "Small business" means a business with not more than fifty employ-
21 ees;

22 (i) "Small not-for-profit organization" means a not-for-profit organ-
23 ization with not more than fifty employees; and

24 (j) "State of emergency" means the period beginning with a declaration
25 by the governor that a state of emergency exists.

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

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1 2. State of emergency minority and women owned business enterprises
2 loan and grant program. (a) The agency shall administer a state of emer-
3 gency minority and women owned business enterprises loan and grant
4 program to guarantee the repayment of loans made by an eligible finan-
5 cial institution to an eligible affected business pursuant to this
6 section. Subject to the cessation of new claim approvals under para-
7 graph (d) of subdivision six of this section, the agency shall submit
8 all approved claims to the comptroller, who shall pay from the general
9 fund any and all claims submitted by the agency.

10 (b) Any bank or credit union may apply to the department to partic-
11 ipate in the loan guarantee program. Not later than one business day
12 after receiving the application, the department shall determine whether
13 the financial institution is an eligible financial institution and imme-
14 diately notify the bank or credit union of such determination. Any
15 eligible financial institution may make loans to affected businesses in
16 accordance with this section.

17 (c) Each eligible financial institution that makes a loan pursuant to
18 this section, shall notify the department and agency in writing not
19 later than one business day after making the loan, specifying such
20 information about the borrower as the department and agency may request.

21 3. Loan and grant program. An eligible financial institution or agency
22 may make a loan or grant to an affected business, in the following
23 manner:

24 (a) A minority and women owned business enterprise with fewer than one
25 hundred employees who have seen sales decreases of twenty-five percent
26 or more will be eligible for zero interest loans of up to seventy-five
27 thousand dollars to help mitigate losses in profit; or

28 (b) A minority and women owned business enterprise with fewer than
29 five employees will be eligible for a grant to cover forty percent of
30 payroll costs for two months up to ten thousand dollars to help retain
31 employees.

32 4. Loan and grant eligibility. An eligible financial institution or
33 agency may make a loan or grant to an affected business, provided:

34 (a) The affected business has provided to the eligible financial
35 institution or agency proof satisfactory to such institution or agency
36 that such affected business is an affected business located within the
37 state of New York.

38 (b) The amount of the loan shall not exceed seventy-five thousand
39 dollars and the amount of the payroll cost assistance grant shall not
40 exceed ten thousand dollars.

41 (c) The loan is made in accordance with the eligible financial insti-
42 tution's and the agency's underwriting policy and standards, provided
43 further that the affected business's creditworthiness shall not be a
44 factor used for the purposes of determining eligibility.

45 (d) The loan agreement shall not (i) require repayment during the
46 grace period, or (ii) charge interest on the principal amount before or
47 during the grace period or for one hundred eighty days after the grace
48 period, provided after such one hundred eighty-day period, the eligible
49 financial institution or agency may charge interest or fees in accord-
50 ance with such financial institution's or agency's lending policy and
51 the terms of the underlying loan agreement.

52 (e) The loan agreement shall require that the affected business repay
53 the loan in full not later than one hundred eighty days after the end of
54 the grace period by making at least three, and no more than six, equal
55 installment payments. The loan agreement shall not contain a fee or
56 penalty for the prepayment or early payment of the loan.

1 (f) The eligible financial institution or agency shall offer credit
2 counseling services or refer such affected business to nonprofit credit
3 counselors.

4 5. Additional loans. An affected business who has received a loan
5 pursuant to this section may apply to the same eligible financial insti-
6 tution or agency for an additional loan for each thirty-day period such
7 minority or women owned business enterprise remains an affected busi-
8 ness, provided no affected business may receive more than three loans
9 under the program. Each additional loan shall be made in accordance with
10 subdivision four of this section.

11 6. Collection of loans. (a) On and after one hundred eighty days from
12 the end of the grace period, an eligible financial institution or agency
13 that has made a good-faith effort to collect the outstanding principal
14 from a loan issued pursuant to this section may make a claim to the
15 department for recovery of an amount equal to the outstanding principal
16 for such loan. Prior to the department's approving and submitting a
17 claim to the comptroller, such eligible financial institution or agency
18 shall demonstrate to the satisfaction of the department that the eligi-
19 ble financial institution or agency has made a good-faith effort to
20 collect the outstanding principal from the affected business in accord-
21 ance with such financial institution's or agency's loan servicing and
22 collection policies. Upon payment of a claim, the loan shall be assigned
23 to the state, and the department shall have the right to continue
24 collection efforts on the loan.

25 (b) The department shall maintain records in the regular course of
26 administration of the loan guarantee program, including a record of
27 loans issued and of payments made to honor loan guarantees issued under
28 this section. The department shall regularly review such records to
29 determine total loans issued and identify duplicative applications.

30 (c) The department may terminate any loan guarantee if the eligible
31 financial institution misrepresents any information pertaining to the
32 guarantee or fails to comply with any requirements of this section in
33 connection with the guarantee of the underlying loan.

34 (d) If the amounts expended to honor loan guarantees under the program
35 exceed ten percent of total loans issued, the department shall imme-
36 diately cease to approve claims and shall notify the comptroller and
37 each eligible financial institution and agency of the total amount of
38 payments made and that the department has ceased honoring loan guaran-
39 tees.

40 (e) Any interest deferred or not charged related to a loan issued
41 pursuant to this section shall be exempt from all state taxes that may
42 be applicable to such interest amounts as they relate to an affected
43 business. Eligible financial institutions and the agency shall disclose
44 to affected business borrowers in the signed affidavit or loan documents
45 that there may be federal tax consequences to the program loans and
46 grants.

47 (f) No new loan applications shall be submitted under the program
48 after the state of emergency ends. The program shall expire upon the
49 repayment of all loans made under the program and, for all loans in
50 default, the repayment of claims made under the program, or the cessa-
51 tion of new claim approvals under paragraph (d) of this subdivision.

52 § 2. This act shall take effect immediately.