

STATE OF NEW YORK

6407

2021-2022 Regular Sessions

IN ASSEMBLY

March 17, 2021

Introduced by M. of A. DICKENS, ABINANTI, ASHBY, BARRON, BRONSON, COLTON, CRUZ, DINOWITZ, EPSTEIN, FAHY, ENGLEBRIGHT, FERNANDEZ, GOTTFRIED, GRIFFIN, MONTESANO, PAULIN, PERRY, RAMOS, RODRIGUEZ, SEAWRIGHT, SIMON, STERN, TAYLOR, TAGUE -- read once and referred to the Committee on Small Business

AN ACT establishing the New York state small business protection program

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

1 Section 1. Legislative findings. a. In April 2020, the Federal Govern-
2 ment enacted two Coronavirus Aid, Relief and Economic Security (CARES)
3 Act stimulus packages where it introduced the Paycheck Protection
4 Program (PPP) totaling \$659 billion dollars to financially assist small
5 businesses, and to prevent the loss of jobs and the failure of small
6 businesses due to financial losses caused by the COVID-19 pandemic.

7 b. Many local small businesses including minority- and women-owned
8 businesses (MWBEs) in our state did not receive any federal funding
9 under the federal PPP in either of the two rounds of funding. In fact,
10 most of the first round of funding totaling \$349 billion, which was
11 exhausted in 2 weeks, went to large publicly traded businesses.

12 c. According to a report issued by the Federal Small Business Adminis-
13 tration Inspector General, the Small Business Administration (SBA) was
14 faulted in administering the PPP, in that the SBA did not issue guide-
15 lines for banks to prioritize businesses in rural markets, companies
16 that have only been in business for two years or less, or businesses
17 owned by veterans, minorities, women and economically disadvantaged
18 individuals. Moreover, the PPP application did not include demographic
19 information making it difficult or near impossible to determine how much
20 money went into the markets.

21 d. As New York state is reopening regionally post COVID-19, many of
22 our small businesses, including MWBEs and farmers who did not receive

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

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1 any PPP funding are in desperate need of funding to employ and/or pay
2 staff, purchase inventory, and pay rent and utilities.

3 § 2. Establishment. Notwithstanding any provision of law to the
4 contrary, the legislature shall authorize the establishment of a New
5 York State Small Business Protection Program (NYSSBPP) to be funded in
6 the amount of 100 million dollars from future federal stimulus funding.
7 Such funding shall reimburse any moneys used from any state funds for
8 the purposes described under sections four or five of this act.

9 § 3. Eligibility. Entities shall be eligible for the NYSSBPP provided
10 such entity has less than 100 employees per location, did not receive
11 any federal funding from the Federal CARES Act, was in existence in New
12 York state by the first day the state disaster emergency related to
13 COVID-19 was declared by the governor, can document actual economic harm
14 or revenue shortfall as a direct result of the pandemic, and has filed
15 2018, 2019 or 2020 tax returns. The lending priority shall be as
16 follows:

17 a. small businesses, including minority- and women-owned business
18 enterprises, owned by veterans, minorities, women, economically disad-
19 vantaged individuals and farmers;

20 b. businesses in the restaurant, luxury service, retail, transporta-
21 tion, hospitality and farming industries;

22 c. small businesses located in economically distressed or underserved
23 communities and rural markets;

24 d. non-profit organizations having tax exempt status under section
25 501(c)(3), or a veterans organization having tax exempt status under
26 section 501(c)(19) of the United States Internal Revenue Code;

27 e. sole proprietors, independent contractors, and self-employed
28 persons;

29 f. small businesses that have been in existence for two years or less;
30 and

31 g. new businesses formed or incorporated within 30 days after the
32 expiration of the state of emergencies or the region of the state where
33 the business is located has reopened post COVID-19.

34 § 4. Loan details and forgiveness. a. All eligible entities pursuant
35 to section three of this act, shall submit an application through commu-
36 nity development financial institutions (CDFIs), minority depository
37 institutions (MDIs), local community banks or credit unions located
38 within the state. No applications shall be processed through any
39 merchant cash advance or any financial technology companies. All lending
40 institutions in this program shall collect and provide data about the
41 borrowers' demographics and loan amount.

42 b. The loan amount shall equal 60% of the prior year eligible expenses
43 not to exceed \$100,000.00.

44 c. Such loan shall be forgiven if funds are used for payroll or 1099
45 employees, interest on mortgages, rent, utilities and inventory.

46 d. Purchases of new equipment are permissible under this program but
47 such loan will not be forgiven as a grant.

48 e. All loan payments shall be deferred for 6 months, which can be
49 deferred for an additional 6 months but not to exceed 1 year from the
50 date of the loan.

51 f. No collateral or personal guarantees are required. Neither the
52 government nor financial institutions shall charge qualifying entities
53 any fees.

54 g. Forgiveness is based on the qualifying small business maintaining
55 or quickly rehiring employees and maintaining salary levels. Forgiveness
56 will be reduced if full-time headcount declines, or if salaries and

1 wages decrease within 12 weeks of receiving such funding. The 12-week
2 rule shall not apply to any entity if such entity paid its employees'
3 salaries during the COVID-19 state of disaster emergencies or when such
4 entity was closed. Documented proof of such payroll payment shall be
5 required.

6 h. All loans not forgiven under subdivision b of this section shall
7 have a maturity of 2 years and an interest rate of 1% or 3 years of the
8 loan payments have been deferred.

9 i. The department of financial services shall have oversight and moni-
10 tor the application process pursuant to this section. Such department
11 shall create the application and promulgate rules necessary for the
12 administration of this program.

13 § 5. Grants. The NYSSBPP shall provide the following grants to all
14 qualified small businesses, not-for-profits and charitable organiza-
15 tions:

16 a. A rent reimbursement grant to reimburse qualifying entities for
17 rent paid during the COVID-19 pandemic, provided such entity has docu-
18 mentary proof of such paid rent. This rent reimbursement grant shall be
19 capped at 3 months of paid rent during the state of emergencies;

20 b. A grant to reimburse qualifying entities for perishable inventory
21 purchased before the COVID-19 state of disaster emergency that was
22 thrown out due to the forced shut down of such entity and/or to replace
23 food inventory to help such entity reopen; and

24 c. A grant subsidy for farmers to pay for gas and tolls to deliver the
25 products throughout the state.

26 § 6. Oversight. The state comptroller shall monitor the NYSSBPP to
27 ensure the provisions of this act are properly executed. The state comp-
28 troller shall submit a report on such program to the governor, the
29 temporary president of the senate and the speaker of the assembly, and
30 shall post such on the comptroller's website on a quarterly basis
31 describing any loans granted under such program.

32 § 7. This act shall take effect immediately.