

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

6557--A

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. TOWNS, GUNTHER, SCHROEDER, MILLMAN, WRIGHT, REILLY, ROBINSON, J. RIVERA, CLARK, JOHN, KOON -- Multi-Sponsored by -- M. of A. ABBATE, BACALLES, BURLING, ESPAILLAT, GORDON, PHEFFER -- read once and referred to the Committee on Small Business -- recommitted to the Committee on Small Business in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to establishing the office for small business; to amend the public authorities law, the environmental conservation law, the state finance law and the executive law, in relation to making technical amendments thereto; and to repeal article 4-B of the economic development law relating to the division for small-business

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

1 Section 1. Article 4-B of the economic development law is REPEALED.
2 S 2. The executive law is amended by adding a new article 24-A to read
3 as follows:

4 ARTICLE 24-A
5 OFFICE FOR SMALL BUSINESS

6 SECTION 660. LEGISLATIVE FINDINGS AND OBJECTIVES.
7 661. DEFINITIONS.
8 662. OFFICE FOR SMALL BUSINESS; DIRECTOR; EMPLOYEES.
9 663. SMALL BUSINESS ADVISORY BOARD; CREATION.
10 664. POWERS AND DUTIES OF THE OFFICE FOR SMALL BUSINESS.
11 665. ASSISTANCE OF OTHER AGENCIES.
12 666. RULES AND REGULATIONS.
13 667. SMALL BUSINESS EDUCATION PROGRAM.
14 668. SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM.
15 669. ABOLITION OF DIVISION FOR SMALL BUSINESS.

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

LBD08625-03-0

1 670. TRANSFER OF POWERS OF THE DIVISION FOR SMALL BUSINESS.
2 671. TRANSFER OF ASSETS AND LIABILITIES.
3 672. CONTINUITY OF AUTHORITY.
4 673. TRANSFER OF RECORDS.
5 674. COMPLETION OF UNFINISHED BUSINESS.
6 675. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS.
7 676. EXISTING RIGHTS AND REMEDIES PRESERVED.
8 677. PENDING ACTIONS AND PROCEEDINGS.
9 678. CONTINUANCE OF RULES AND REGULATIONS.
10 679. TRANSFER OF APPROPRIATIONS MADE TO THE DIVISION FOR SMALL
11 BUSINESS.

12 S 660. LEGISLATIVE FINDINGS AND OBJECTIVES. THE LEGISLATURE HEREBY
13 FINDS AND DECLARES THAT:

14 1. SMALL BUSINESS HAS BEEN A MAJOR POSITIVE FACTOR IN THE POLITICAL,
15 ECONOMIC AND SOCIAL DEVELOPMENT OF THE STATE;

16 2. THE FUTURE WELFARE OF THE STATE DEPENDS ON THE CONTINUED DEVELOP-
17 MENT OF SMALL BUSINESS;

18 3. THE STATE HAS A RESPONSIBILITY TO ASSIST IN SMALL BUSINESS DEVELOP-
19 MENT IN FURTHERANCE OF THE GENERAL WELFARE.

20 S 661. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

21 1. "OFFICE" SHALL MEAN THE OFFICE FOR SMALL BUSINESS.

22 2. "SMALL BUSINESS" SHALL BE DEEMED TO BE ONE WHICH IS RESIDENT IN
23 THIS STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD
24 AND EMPLOYS ONE HUNDRED OR LESS PERSONS.

25 3. "ADVISORY BOARD" SHALL MEAN THE SMALL BUSINESS ADVISORY BOARD
26 CREATED BY SECTION SIX HUNDRED SIXTY-THREE OF THIS ARTICLE.

27 4. "DIRECTOR" SHALL MEAN THE DIRECTOR OF THE OFFICE FOR SMALL BUSI-
28 NESS.

29 S 662. OFFICE FOR SMALL BUSINESS; DIRECTOR; EMPLOYEES. 1. THERE IS
30 HEREBY CREATED WITHIN THE EXECUTIVE DEPARTMENT AN OFFICE FOR SMALL BUSI-
31 NESS TO HAVE AND EXERCISE THE FUNCTIONS, POWERS AND DUTIES PROVIDED BY
32 THE PROVISIONS OF THIS ARTICLE AND ANY OTHER PROVISION OF LAW. THE
33 OFFICE SHALL PERFORM THESE POWERS, FUNCTIONS AND DUTIES IN CONSULTATION
34 WITH THE SMALL BUSINESS ADVISORY BOARD ESTABLISHED BY SECTION SIX
35 HUNDRED SIXTY-THREE OF THIS ARTICLE.

36 2. THE HEAD OF THE OFFICE SHALL BE THE DIRECTOR, WHO SHALL BE
37 APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE
38 SENATE, AND SHALL HOLD OFFICE AT THE PLEASURE OF THE GOVERNOR BY WHOM HE
39 OR SHE WAS APPOINTED OR UNTIL HIS OR HER SUCCESSOR IS APPOINTED AND HAS
40 QUALIFIED.

41 3. THE DIRECTOR MAY ESTABLISH DIVISIONS AND BUREAUS, CHANGE THE NAMES
42 OF EXISTING DIVISIONS OR BUREAUS, OR MAY CONSOLIDATE DIVISIONS AND
43 BUREAUS AS HE OR SHE MAY DEEM NECESSARY OR APPROPRIATE TO CARRY OUT THE
44 FUNCTIONS OF THE OFFICE. SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND
45 THE CIVIL SERVICE LAW, AND RULES AND REGULATIONS ADOPTED PURSUANT THERE-
46 TO, THE DIRECTOR MAY APPOINT SUCH OTHER OFFICERS, EMPLOYEES, AGENTS AND
47 CONSULTANTS AS MAY BE NECESSARY, PRESCRIBE THEIR DUTIES, FIX THEIR
48 COMPENSATION AND PROVIDE FOR PAYMENT OF THEIR REASONABLE EXPENSES, ALL
49 WITHIN AMOUNTS AVAILABLE THEREFOR BY APPROPRIATION. THE DIRECTOR MAY
50 TRANSFER OFFICERS OR EMPLOYEES FROM THEIR POSITIONS TO OTHER POSITIONS
51 IN THE OFFICE, OR ABOLISH OR CONSOLIDATE SUCH POSITIONS.

52 4. THE DIRECTOR ACTING BY AND THROUGH THE OFFICE SHALL HAVE POWER AND
53 IT SHALL BE HIS OR HER DUTY:

54 (A) TO ADMINISTER THE PROGRAMS TRANSFERRED TO THE OFFICE PURSUANT TO
55 THIS ARTICLE OR AN APPROPRIATION OF FUNDS TO THE OFFICE;

(B) TO ADMINISTER SUCH OTHER PROGRAMS AS MAY BE DEVOLVED UPON THE OFFICE FROM TIME TO TIME PURSUANT TO LAW;

(C) TO COOPERATE WITH AND ASSIST OTHER STATE AND FEDERAL DEPARTMENTS, BOARDS, COMMISSIONS, AGENCIES, PUBLIC BENEFIT CORPORATIONS AND PUBLIC AUTHORITIES IN THE DEVELOPMENT OF POLICIES AND PROGRAMS WHICH WILL ENCOURAGE THE CREATION OR RETENTION OF SMALL BUSINESS; AND

(D) TO ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION OR GOVERNMENTAL AGENCY, AND DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE FUNCTIONS, POWERS AND DUTIES EXPRESSLY SET FORTH IN THIS ARTICLE.

S 663. SMALL BUSINESS ADVISORY BOARD; CREATION. 1. THERE IS HEREBY CREATED IN THE OFFICE FOR SMALL BUSINESS A SMALL BUSINESS ADVISORY BOARD. THE ADVISORY BOARD SHALL CONSIST OF FIFTEEN MEMBERS TO BE APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE. THE GOVERNOR SHALL DESIGNATE A CHAIR FROM THE MEMBERS OF THE ADVISORY BOARD, TO SERVE AS SUCH AT THE PLEASURE OF THE GOVERNOR. IN APPOINTING THE MEMBERS OF THE ADVISORY BOARD THE GOVERNOR SHALL ENSURE THAT AT LEAST NINE OF THE MEMBERS ARE INDIVIDUALS WHO ARE CURRENTLY INVOLVED IN THE OWNERSHIP AND/OR OPERATION OF A SMALL BUSINESS OR WHO HAVE EXTENSIVE EXPERIENCE IN SMALL BUSINESS OWNERSHIP AND/OR OPERATION.

2. ALL MEMBERS OF THE ADVISORY BOARD SHALL SERVE FOR TERMS OF THREE YEARS, SUCH TERMS TO COMMENCE ON APRIL FIRST, AND EXPIRE ON MARCH THIRTY-FIRST; PROVIDED, HOWEVER, THAT OF THE NINE MEMBERS FIRST APPOINTED THREE SHALL BE APPOINTED FOR A ONE-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW, THREE SHALL BE APPOINTED FOR A TWO-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE SECOND YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW, AND THREE SHALL BE APPOINTED FOR A THREE-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE THIRD YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW; AND THAT SIX ADDITIONAL MEMBERS, TWO ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE, TWO ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY AND ONE ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY SHALL BE APPOINTED FOR A THREE-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE THIRD YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW.

3. THE ADVISORY BOARD SHALL MEET REGULARLY AT LEAST FOUR TIMES IN EACH YEAR. SPECIAL MEETINGS MAY BE CALLED BY THE CHAIR AND SHALL BE CALLED BY HIM OR HER AT THE REQUEST OF THE DIRECTOR.

4. NO MEMBER OF THE ADVISORY BOARD SHALL BE DISQUALIFIED FROM HOLDING ANY OTHER PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT BY REASON OF HIS OR HER APPOINTMENT HEREUNDER, NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE OR CITY CHARTER.

5. THE MEMBERS OF THE ADVISORY BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES HEREUNDER.

6. THE BOARD SHALL HAVE THE POWER AND DUTY TO:

(A) ADVISE THE DIRECTOR IN CARRYING OUT THE FUNCTIONS, POWERS AND DUTIES OF THE OFFICE, AS SET FORTH IN THIS ARTICLE;

(B) ADVISE THE GOVERNOR AND THE LEGISLATURE CONCERNING RECOMMENDED LEGISLATION NECESSARY TO FOSTER AND PROMOTE THE PROSPERITY, EXPANSION AND DEVELOPMENT OF SMALL BUSINESS CONCERNS WITHIN THE STATE;

(C) ADVISE THE GOVERNOR AND THE LEGISLATURE CONCERNING EXISTING LAWS, RULES, REGULATIONS AND PRACTICES OF STATE AGENCIES WHICH ARE

1 COUNTER-PRODUCTIVE OR INIMICAL TO THE PROSPERITY, EXPANSION AND DEVELOP-
2 MENT OF SMALL BUSINESS CONCERNS WITHIN THE STATE;

3 (D) ADVISE THE GOVERNOR AND THE LEGISLATURE CONCERNING THE DEVELOPMENT
4 OF INTER-GOVERNMENTAL COOPERATION AMONG AGENCIES OF THE FEDERAL, STATE
5 AND LOCAL GOVERNMENTS AND COOPERATION BETWEEN PRIVATE INDUSTRY AND
6 GOVERNMENT SO AS TO ASSURE THE OPTIMUM DEVELOPMENT OF SMALL BUSINESS
7 CONCERNS;

8 (E) SERVE AS A CATALYST FOR CREATING AND MAINTAINING A SMALL BUSINESS
9 CONSCIOUSNESS IN NEW YORK STATE; AND

10 (F) ESTABLISH PROCEDURES FOR MAKING ANNUAL AWARDS TO BE KNOWN AS "NEW
11 YORK STATE SMALL BUSINESS AWARDS". THESE NON-MONETARY AWARDS SHALL BE
12 GIVEN IN RECOGNITION OF UNUSUAL PERFORMANCE BY PERSONS, FIRMS AND ORGAN-
13 IZATIONS WHICH ARE ENGAGED IN THE OPERATION OF NEW YORK STATE SMALL
14 BUSINESSES OR WHICH ARE ENGAGED IN ACTIVITIES TO ASSIST SMALL BUSINESSES
15 IN THE STATE. THE BOARD MAY NOMINATE UP TO FIVE AWARD WINNERS ANNUALLY
16 AND FORWARD SUCH NAMES TO THE GOVERNOR FOR HIS OR HER CONSIDERATION.
17 THE GOVERNOR MAY DESIGNATE AWARD WINNERS FROM THESE NOMINEES AT HIS OR
18 HER DISCRETION. CURRENT MEMBERS OF THE ADVISORY BOARD ARE NOT ELIGIBLE
19 AS NOMINEES.

20 7. THE DIRECTOR SHALL PROVIDE THE BOARD WITH SUCH STAFF ASSISTANCE AND
21 SUPPORT SERVICES AS NECESSARY FOR THE BOARD TO PERFORM THE FUNCTIONS
22 REQUIRED OF IT UNDER THIS SECTION.

23 S 664. POWERS AND DUTIES OF THE OFFICE FOR SMALL BUSINESS. THE OFFICE
24 SHALL HAVE THE POWER AND DUTY TO:

25 1. COORDINATE THE ACTIVITIES OF ALL STATE AGENCIES PERFORMING FUNC-
26 TIONS AFFECTING THE OPERATION OF SMALL BUSINESSES IN THE STATE;

27 2. RECEIVE COMPLAINTS OF OPERATORS OF SMALL BUSINESSES AND REFER THEM
28 TO THE APPROPRIATE FEDERAL, STATE OR LOCAL AGENCY AUTHORIZED BY LAW FOR
29 APPROPRIATE ACTION ON SUCH COMPLAINTS;

30 3. ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR ON MATTERS AFFECT-
31 ING THE SMALL BUSINESSES OF THE STATE AND PROMOTE AND ENCOURAGE THE
32 PROTECTION OF THE LEGITIMATE INTERESTS OF SMALL BUSINESSES WITHIN THE
33 STATE;

34 4. CONDUCT INVESTIGATIONS, RESEARCH, STUDIES AND ANALYSES OF MATTERS
35 AFFECTING THE INTERESTS OF SMALL BUSINESSES;

36 5. REPRESENT THE INTERESTS OF SMALL BUSINESSES IN THE STATE BEFORE
37 FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGENCIES;

38 6. STUDY THE OPERATION OF THE LAWS AFFECTING SMALL BUSINESSES AND
39 RECOMMEND TO THE GOVERNOR NEW LAWS AND AMENDMENTS OF LAWS FOR THE BENE-
40 FIT OF SMALL BUSINESSES;

41 7. REVIEW PENDING LEGISLATION AFFECTING SMALL BUSINESSES AND REPORT
42 ITS FINDINGS TO THE GOVERNOR;

43 8. INITIATE AND ENCOURAGE SMALL BUSINESS EDUCATION PROGRAMS IN GENERAL
44 AND TO COORDINATE WITH THE FUNCTIONS OF THE OFFICE OF GENERAL SERVICES,
45 AN INFORMATION AND OUTREACH PROGRAM DIRECTED TOWARD INFORMING SMALL
46 BUSINESSES IN THE STATE OF PROCEDURES NECESSARY FOR COMPETING FOR STATE
47 PURCHASES AND TO COORDINATE WITH THE FUNCTIONS OF EVERY STATE AGENCY,
48 DEPARTMENT OR AUTHORITY DESCRIBED IN SECTION ONE HUNDRED THIRTY-NINE-G
49 OF THE STATE FINANCE LAW, PURSUANT TO SUBDIVISION (B) OF SECTION ONE
50 HUNDRED THIRTY-NINE-G OF THE STATE FINANCE LAW, AN INFORMATION AND
51 OUTREACH PROGRAM DIRECTED TOWARD INFORMING SMALL BUSINESSES IN THE STATE
52 OF PROCEDURES NECESSARY FOR COMPETING FOR STATE CONTRACTS; AND

53 9. CONDUCT A SURVEY OF ALL BUSINESS INCUBATORS IN THE STATE AND ASSESS
54 THE NEED FOR ADDITIONAL INCUBATOR FACILITIES TO NURTURE THE GROWTH AND
55 DEVELOPMENT OF SMALL BUSINESSES.

1 S 665. ASSISTANCE OF OTHER AGENCIES. TO EFFECTUATE THE PURPOSES OF
2 THIS ARTICLE, THE DIRECTOR MAY REQUEST FROM ANY DEPARTMENT, DIVISION,
3 BOARD, BUREAU, COMMISSION OR OTHER AGENCY OF THE STATE OR FROM ANY
4 PUBLIC CORPORATION OR DISTRICT, AND THE SAME ARE AUTHORIZED TO PROVIDE,
5 SUCH ASSISTANCE, SERVICES AND DATA AS MAY BE REQUIRED BY THE OFFICE IN
6 CARRYING OUT ITS FUNCTIONS, POWERS, DUTIES AND PURPOSES UNDER THIS ARTI-
7 CLE.

8 S 666. RULES AND REGULATIONS. THE DIRECTOR SHALL ADOPT RULES AND REGU-
9 LATIONS TO EFFECTUATE THE PURPOSES OF THIS ARTICLE. THE ADVISORY BOARD
10 SHALL RECOMMEND TO HIM OR HER CRITERIA FOR INCLUSION THEREIN.

11 S 667. SMALL BUSINESS EDUCATION PROGRAM. THE DIRECTOR AND THE COMMIS-
12 SIONERS OF AGRICULTURE AND MARKETS AND THE OFFICE OF GENERAL SERVICES
13 SHALL INITIATE AND ENCOURAGE SMALL BUSINESS EDUCATION PROGRAMS AND COOR-
14 DINATE WITH THE FUNCTIONS OF THE OFFICE OF GENERAL SERVICES AN INFORMA-
15 TION AND OUTREACH PROGRAM DIRECTED TOWARD INFORMING ELIGIBLE BUSINESSES
16 IN THE STATE OF PROCEDURES NECESSARY FOR COMPETING FOR PURCHASES OF FOOD
17 PRODUCTS PURSUANT TO SUBDIVISION EIGHT-A OF SECTION ONE HUNDRED THREE OF
18 THE GENERAL MUNICIPAL LAW, AND TO COORDINATE WITH THE FUNCTIONS OF EVERY
19 STATE AGENCY OR DEPARTMENT DESCRIBED IN SUBDIVISION (B) OF SECTION ONE
20 HUNDRED THIRTY-NINE-G OF THE STATE FINANCE LAW, AN INFORMATION AND
21 OUTREACH PROGRAM DIRECTED TOWARD INFORMING ELIGIBLE BUSINESSES IN THE
22 STATE OF PROCEDURES NECESSARY FOR COMPETING FOR CONTRACTS FOR THE
23 PURCHASE OF FOOD PRODUCTS PURSUANT TO SUBDIVISION EIGHT-A OF SECTION ONE
24 HUNDRED THREE OF THE GENERAL MUNICIPAL LAW.

25 S 668. SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM. 1. THERE
26 IS HEREBY ESTABLISHED WITHIN THE OFFICE A SMALL BUSINESS STATIONARY
27 SOURCE OMBUDSMAN PROGRAM. THE PRIMARY PURPOSE OF THE SMALL BUSINESS
28 STATIONARY SOURCE OMBUDSMAN PROGRAM IS TO REPRESENT SMALL BUSINESS
29 STATIONARY SOURCES ON ISSUES RELATING TO COMPLIANCE WITH THE FEDERAL
30 CLEAN AIR ACT, 42 U.S.C. SECTION 7401 ET SEQ. AS AMENDED BY PUBLIC LAW
31 101-549, NOVEMBER FIFTEENTH, NINETEEN HUNDRED NINETY, HEREINAFTER
32 REFERRED TO AS THE "ACT", AND TO REFER SMALL BUSINESS STATIONARY SOURCES
33 TO APPROPRIATE ENTITIES FOR ASSISTANCE IN COMPLIANCE WITH ARTICLE NINE-
34 TEEN OF THE ENVIRONMENTAL CONSERVATION LAW AND THE ACT. FOR PURPOSES OF
35 THIS SECTION A SMALL BUSINESS STATIONARY SOURCE SHALL HAVE THE SAME
36 MEANING AS IN SECTION 19-0313 OF THE ENVIRONMENTAL CONSERVATION LAW.

37 2. THE OFFICE SHALL, THROUGH THE SMALL BUSINESS STATIONARY SOURCE
38 OMBUDSMAN PROGRAM, PERFORM ALL FUNCTIONS NECESSARY TO IMPLEMENT THE
39 REQUIREMENTS OF SECTION 7661F OF THE ACT INCLUDING:

40 (A) SOLICITING INPUT FROM SMALL BUSINESS STATIONARY SOURCES REGARDING
41 COMPLIANCE WITH THE ACT AND ARTICLE NINETEEN OF THE ENVIRONMENTAL
42 CONSERVATION LAW, INCLUDING INTERACTING WITH ORGANIZATIONS REPRESENTING
43 SMALL BUSINESSES SUCH AS TRADE ASSOCIATIONS OR OTHER ENTITIES;

44 (B) PARTICIPATING IN, AND FACILITATING AND PROMOTING THE PARTICIPATION
45 OF SMALL BUSINESS STATIONARY SOURCES IN THE DEVELOPMENT AND IMPLEMENTA-
46 TION OF RULES AND REGULATIONS ADOPTED PURSUANT TO ARTICLE NINETEEN OF
47 THE ENVIRONMENTAL CONSERVATION LAW;

48 (C) PARTICIPATING IN, AND SPONSORING MEETINGS WITH THE DEPARTMENT OF
49 ENVIRONMENTAL CONSERVATION, LOCAL AIR POLLUTION CONTROL AGENCIES, INDUS-
50 TRY GROUPS AND SMALL BUSINESS REPRESENTATIVES;

51 (D) PROVIDING GUIDANCE AND RECOMMENDATIONS TO THE DEPARTMENT OF ENVI-
52 RONMENTAL CONSERVATION ON THE DEVELOPMENT, CONTENT AND OPERATION OF THE
53 SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE
54 ASSISTANCE PROGRAM AS CREATED BY SECTION 19-0313 OF THE ENVIRONMENTAL
55 CONSERVATION LAW;

1 (E) DISTRIBUTING TO SMALL BUSINESS STATIONARY SOURCES INFORMATION AND
2 MATERIALS ON THE REQUIREMENTS OF THE ACT AND ARTICLE NINETEEN OF THE
3 ENVIRONMENTAL CONSERVATION LAW;

4 (F) REPORTING TO THE SMALL BUSINESS STATIONARY SOURCE COMPLIANCE ADVI-
5 SORY PANEL AS ESTABLISHED PURSUANT TO SECTION 19-0315 OF THE ENVIRON-
6 MENTAL CONSERVATION LAW ON ANY PROBLEMS OR DIFFICULTIES EXPERIENCED BY
7 SMALL BUSINESS STATIONARY SOURCES IN COMPLYING WITH ARTICLE NINETEEN OF
8 THE ENVIRONMENTAL CONSERVATION LAW AND THE ACT, INCLUDING THE DEGREE AND
9 SEVERITY OF ENFORCEMENT;

10 (G) AIDING IN THE INVESTIGATION AND RESOLUTION OF COMPLAINTS AND
11 DISPUTES FROM SMALL BUSINESS STATIONARY SOURCES AGAINST THE DEPARTMENT
12 OF ENVIRONMENTAL CONSERVATION AND LOCAL AIR POLLUTION CONTROL AUTHORI-
13 TIES;

14 (H) CONDUCTING PERIODIC EVALUATIONS OF ALL ASPECTS OF THE SMALL BUSI-
15 NESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE
16 PROGRAM AS IDENTIFIED UNDER SECTION 19-0313 OF THE ENVIRONMENTAL CONSER-
17 VATION LAW INCLUDING REVIEWING THE WORK AND SERVICES OF THE PROGRAM WITH
18 TRADE ASSOCIATIONS AND REPRESENTATIVES OF SMALL BUSINESS;

19 (I) REVIEWING AND PROVIDING COMMENTS AND RECOMMENDATIONS TO THE UNITED
20 STATES ENVIRONMENTAL PROTECTION AGENCY AND THE DEPARTMENT OF ENVIRON-
21 MENTAL CONSERVATION REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF
22 REGULATIONS THAT IMPACT SMALL BUSINESS STATIONARY SOURCES;

23 (J) ARRANGING FOR AND ASSISTING IN THE PREPARATION OF GUIDANCE DOCU-
24 MENTS BY THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRON-
25 MENTAL COMPLIANCE ASSISTANCE PROGRAM AS REQUIRED PURSUANT TO SECTION
26 19-0313 OF THE ENVIRONMENTAL CONSERVATION LAW TO ENSURE THAT THE
27 LANGUAGE IS READILY UNDERSTANDABLE BY THE LAY PERSON;

28 (K) REFERRING SMALL BUSINESS STATIONARY SOURCES TO SPECIALISTS FOR
29 INFORMATION AND ASSISTANCE ON AFFORDABLE ALTERNATIVE TECHNOLOGIES, PROC-
30 ESS CHANGES, PRODUCTS AND OPERATIONAL METHODS TO HELP REDUCE AIR
31 POLLUTION;

32 (L) PROVIDING INFORMATION TO SMALL BUSINESS STATIONARY SOURCES ON
33 STATE-SPONSORED PROGRAMS OFFERING FINANCIAL AND TECHNICAL ASSISTANCE,
34 AND IN LOCATING SOURCES OF FUNDING FOR COMPLIANCE WITH THE REQUIREMENTS
35 OF ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVATION LAW AND THE ACT;
36 AND

37 (M) ESTABLISHING PROCEDURES FOR ASSURING THE CONFIDENTIALITY OF INFOR-
38 MATION RECEIVED FROM SMALL BUSINESS STATIONARY SOURCES.

39 3. THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS LAW SHALL NOT
40 APPLY TO RECORDS CONTAINING INFORMATION SUPPLIED BY SMALL BUSINESS
41 STATIONARY SOURCES PURSUANT TO THE PROVISIONS OF THIS SECTION.

42 S 669. ABOLITION OF DIVISION FOR SMALL BUSINESS. UPON THE TRANSFER
43 PURSUANT TO THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND
44 ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS
45 ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOP-
46 MENT LAW TO THE OFFICE SHALL BE ABOLISHED.

47 S 670. TRANSFER OF POWERS OF THE DIVISION FOR SMALL BUSINESS. EXCEPT
48 AS OTHERWISE PROVIDED IN THIS ARTICLE, THE FUNCTIONS AND POWERS
49 POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR
50 SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE
51 ECONOMIC DEVELOPMENT LAW SHALL BE TRANSFERRED AND ASSIGNED TO, ASSUMED
52 BY AND DEVOLVED UPON THE OFFICE. SUCH TRANSFER SHALL OCCUR NO LATER THAN
53 JANUARY THIRTY-FIRST, TWO THOUSAND ELEVEN, PROVIDED, HOWEVER, THAT, IN
54 THE EVENT THAT IT IS IMPRACTICAL TO EFFECTUATE SUCH TRANSFER ON OR
55 BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND ELEVEN, THE DIRECTOR MAY UPON
56 NOTIFICATION TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, AND

1 SPEAKER OF THE ASSEMBLY ON OR BEFORE JANUARY FIFTEENTH, TWO THOUSAND
2 ELEVEN, EXECUTE A MEMORANDUM OF UNDERSTANDING TO GOVERN THE EXPEDITIOUS
3 TRANSFER REQUIRED PURSUANT TO THIS SECTION.

4 S 671. TRANSFER OF ASSETS AND LIABILITIES. UPON THE TRANSFER PURSUANT
5 TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND
6 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVI-
7 SION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B
8 OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION
9 SIX HUNDRED SEVENTY OF THIS ARTICLE ALL ASSETS AND LIABILITIES OF THE
10 DIVISION FOR SMALL BUSINESS ARE HEREBY TRANSFERRED TO AND ASSUMED BY THE
11 OFFICE.

12 S 672. CONTINUITY OF AUTHORITY. UPON THE TRANSFER PURSUANT TO SECTION
13 SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS
14 POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR
15 SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE
16 ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX
17 HUNDRED SEVENTY OF THIS ARTICLE, FOR THE PURPOSE OF SUCCESSION TO ALL
18 FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS OF THE DIVISION FOR SMALL
19 BUSINESS, THE OFFICE SHALL BE DEEMED AND HELD TO CONSTITUTE THE CONTIN-
20 UATION OF SUCH AUTHORITY AND NOT A DIFFERENT AGENCY OR AUTHORITY.

21 S 673. TRANSFER OF RECORDS. UPON THE TRANSFER PURSUANT TO SECTION SIX
22 HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY
23 AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS
24 AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVEL-
25 OPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF
26 THIS ARTICLE, ALL BOOKS, PAPERS, RECORDS AND PROPERTY PERTAINING TO THE
27 DIVISION FOR SMALL BUSINESS SHALL BE TRANSFERRED TO AND MAINTAINED BY
28 THE OFFICE.

29 S 674. COMPLETION OF UNFINISHED BUSINESS. UPON THE TRANSFER PURSUANT
30 TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND
31 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVI-
32 SION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B
33 OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION
34 SIX HUNDRED SEVENTY OF THIS ARTICLE, ANY BUSINESS OR OTHER MATTER UNDER-
35 TAKEN OR COMMENCED BY THE DIVISION FOR SMALL BUSINESS PERTAINING TO OR
36 CONNECTED WITH THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES SO TRANS-
37 FERRED AND ASSIGNED TO THE OFFICE MAY BE CONDUCTED OR COMPLETED BY THE
38 DIRECTOR OF THE OFFICE.

39 S 675. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS. UPON THE
40 TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE
41 FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES
42 OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER
43 ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS
44 PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE WHENEVER THE
45 DIVISION FOR SMALL BUSINESS AND THE COMMISSIONER THEREOF, THE FUNCTIONS,
46 POWERS, OBLIGATIONS AND DUTIES OF WHICH ARE TRANSFERRED TO THE OFFICE
47 ARE REFERRED TO OR DESIGNATED IN ANY LAW, CONTRACT OR DOCUMENT PERTAIN-
48 ING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES TRANSFERRED AND
49 ASSIGNED PURSUANT TO THIS ARTICLE, SUCH REFERENCE OR DESIGNATION SHALL
50 BE DEEMED TO REFER TO THE OFFICE AND ITS DIRECTOR.

51 S 676. EXISTING RIGHTS AND REMEDIES PRESERVED. UPON THE TRANSFER
52 PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS
53 AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE
54 DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE
55 FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY
56 SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE NO EXISTING RIGHT OR REMEDY

1 OF THE STATE, INCLUDING THE DIVISION FOR SMALL BUSINESS SHALL BE LOST,
2 IMPAIRED OR AFFECTED BY REASON OF THIS ARTICLE.

3 S 677. PENDING ACTIONS AND PROCEEDINGS. UPON THE TRANSFER PURSUANT TO
4 SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS
5 POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR
6 SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE
7 ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX
8 HUNDRED SEVENTY OF THIS ARTICLE NO ACTION OR PROCEEDING PENDING ON THE
9 EFFECTIVE DATE OF THIS ARTICLE, BROUGHT BY OR AGAINST THE DIVISION FOR
10 SMALL BUSINESS OR COMMISSIONER THEREOF SHALL BE AFFECTED BY ANY
11 PROVISION OF THIS ARTICLE, BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN
12 THE NAME OF THE DIRECTOR OF THE OFFICE. IN ALL SUCH ACTIONS AND
13 PROCEEDINGS, THE OFFICE, UPON APPLICATION TO THE COURT, SHALL BE SUBSTI-
14 TUTED AS A PARTY.

15 S 678. CONTINUANCE OF RULES AND REGULATIONS. UPON THE TRANSFER PURSU-
16 ANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND
17 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVI-
18 SION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B
19 OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION
20 SIX HUNDRED SEVENTY OF THIS ARTICLE, ALL RULES, REGULATIONS, ACTS,
21 DETERMINATIONS AND DECISIONS OF THE DIVISION FOR SMALL BUSINESS,
22 PERTAINING TO THE FUNCTIONS TRANSFERRED AND ASSIGNED BY THIS ARTICLE TO
23 THE OFFICE IN FORCE AT THE TIME OF SUCH TRANSFER, ASSIGNMENT, ASSUMPTION
24 OR DEVOLUTION SHALL CONTINUE IN FORCE AND EFFECT AS RULES, REGULATIONS,
25 ACTS, DETERMINATIONS AND DECISIONS OF THE OFFICE UNTIL DULY MODIFIED OR
26 REPEALED.

27 S 679. TRANSFER OF APPROPRIATIONS MADE TO THE DIVISION FOR SMALL BUSI-
28 NESS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS
29 ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLI-
30 GATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED
31 PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE
32 OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE, ALL
33 APPROPRIATIONS AND REAPPROPRIATIONS WHICH SHALL HAVE BEEN MADE AVAILABLE
34 AS OF THE DATE OF SUCH TRANSFER TO THE DIVISION FOR SMALL BUSINESS OR
35 SEGREGATED PURSUANT TO LAW, TO THE EXTENT OF REMAINING UNEXPENDED OR
36 UNENCUMBERED BALANCES THEREOF, WHETHER ALLOCATED OR UNALLOCATED AND
37 WHETHER OBLIGATED OR UNOBLIGATED, SHALL BE TRANSFERRED TO AND MADE
38 AVAILABLE FOR USE AND EXPENDITURE BY THE OFFICE FOR THE SAME PURPOSES
39 FOR WHICH ORIGINALLY APPROPRIATED OR REAPPROPRIATED AND SHALL BE PAYABLE
40 ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF TAXATION AND
41 FINANCE, ON AUDIT AND WARRANT OF THE COMPTROLLER. PAYMENTS OF LIABIL-
42 ITIES FOR EXPENSES OF PERSONAL SERVICE, MAINTENANCE AND OPERATION WHICH
43 SHALL HAVE BEEN INCURRED AS OF THE DATE OF SUCH TRANSFER BY THE DIVISION
44 FOR SMALL BUSINESS, AND FOR LIABILITIES INCURRED AND TO BE INCURRED IN
45 COMPLETING ITS AFFAIRS SHALL ALSO BE MADE ON VOUCHERS CERTIFIED OR
46 APPROVED BY THE DIRECTOR OF THE OFFICE, ON AUDIT AND WARRANT OF THE
47 COMPTROLLER.

48 S 3. The opening paragraph of subdivision 1 of section 1838 of the
49 public authorities law, as added by chapter 56 of the laws of 1993, is
50 amended to read as follows:

51 There is hereby created a state bonding guarantee assistance program
52 to enable small businesses, and minority-owned and women-owned business
53 enterprises, certified as a minority-owned or women-owned business
54 enterprise pursuant to article fifteen-A of the executive law, to meet
55 payment and/or performance bonding requirements by providing additional
56 financial backing needed to induce a surety company to issue a bond for

1 construction projects, including but not limited to, government spon-
2 sored, transportation related construction projects. For purposes of
3 this section, the term small business shall have the same meaning as
4 defined in section [one hundred thirty-one] SIX HUNDRED SIXTY-ONE of the
5 [economic development] EXECUTIVE law. Such program shall give preference
6 to minority-owned and women-owned business enterprises and shall:

7 S 4. The opening paragraph and paragraph g of subdivision 1 and subdi-
8 vision 3 of section 19-0313 of the environmental conservation law, as
9 added by chapter 608 of the laws of 1993, are amended to read as
10 follows:

11 The commissioner is hereby authorized and directed to establish,
12 develop and implement a small business stationary source technical and
13 environmental compliance assistance program for those categories of
14 sources of air contamination identified in section 7661f(c) of the Act
15 or any other category of source the commissioner deems appropriate. The
16 commissioner, after consultation with the administrator of the United
17 States environmental protection agency, the administrator of the United
18 States small business administration, the small business stationary
19 source compliance advisory panel and the small business stationary
20 source ombudsman created pursuant to section [one hundred thirty-seven]
21 SIX HUNDRED SIXTY-EIGHT of the [economic development] EXECUTIVE law, and
22 after providing notice and opportunity for public hearing, may exclude
23 from the program any category or subcategory of sources identified in
24 section 7661f(c) of the Act that the commissioner determines to have
25 sufficient technical and financial capabilities to meet the requirements
26 of the Act without such assistance. The department may designate eligi-
27 bility for assistance based on whether the stationary source has suffi-
28 cient technical and financial capabilities to comply with federal and
29 state law without such assistance. Such program shall include:

30 g. procedures for soliciting input from and exchanging information
31 with the small business stationary source ombudsman created pursuant to
32 section [one hundred thirty-seven] SIX HUNDRED SIXTY-EIGHT of the
33 [economic development] EXECUTIVE law, regarding compliance requirements
34 for small business stationary sources;

35 3. In developing and implementing the small business stationary source
36 technical and environmental compliance assistance program as required
37 pursuant to subdivision one of this section, the department shall
38 consult with the small business stationary source compliance advisory
39 panel as created pursuant to section 19-0315 of this title and the small
40 business stationary source ombudsman as created pursuant to section [one
41 hundred thirty-seven] SIX HUNDRED SIXTY-EIGHT of the [economic develop-
42 ment] EXECUTIVE law.

43 S 5. Paragraph i of subdivision 3 of section 97-00 of the state
44 finance law, as added by chapter 608 of the laws of 1993, is amended to
45 read as follows:

46 i. developing and implementing the small business stationary source
47 ombudsman program established pursuant to section [one hundred thirty-
48 seven] SIX HUNDRED SIXTY-EIGHT of the [economic development] EXECUTIVE
49 law; and

50 S 6. Paragraph f of subdivision 2 and subdivision 3 of section 28-0109
51 of the environmental conservation law, as added by chapter 654 of the
52 laws of 2005, are amended to read as follows:

53 f. procedures for soliciting input [from and exchanging information
54 with the small business pollution prevention and environmental compli-
55 ance ombudsman program created pursuant to section 138 of the economic

1 development law,] regarding pollution prevention opportunities and
2 compliance requirements for small businesses;

3 3. In developing and implementing the small business pollution
4 prevention and environmental compliance assistance program, the depart-
5 ment shall consult with the pollution prevention and environmental
6 compliance coordinating council as created pursuant to section 28-0111
7 of this article, the environmental facilities corporation[, the small
8 business pollution prevention and environmental compliance ombudsman
9 program as created pursuant to section 138 of the economic development
10 law] and the office of waste prevention services as created pursuant to
11 article 14 of the economic development law.

12 S 7. Subdivision 1 of section 311-a of the executive law, as added by
13 section 4 of part BB of chapter 59 of the laws of 2006, is amended to
14 read as follows:

15 1. There is hereby established within the department of economic
16 development an office of the minority and women-owned business enter-
17 prise statewide advocate. The statewide advocate shall be appointed by
18 the commissioner with the advice of the small business advisory board as
19 established in section [one hundred thirty-three] SIX HUNDRED
20 SIXTY-THREE of the [economic development] EXECUTIVE law and shall serve
21 in the unclassified service of the director. The statewide advocate
22 shall be located in the Albany empire state development office.

23 S 8. This act shall take effect immediately, provided, however, that
24 the amendments to section 311-a of the executive law made by section
25 seven of this act shall not affect the expiration of such section and
26 shall expire and be deemed repealed therewith.