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

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2009-2010 Regular Sessions

I N S E N A T E

February 19, 2009

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the agriculture and markets law and the state finance law, in relation to establishing the AgJobs NY program; and making an appropriation therefor

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

Section 1. The agriculture and markets law is amended by adding a new section 298 to read as follows:

S 298. AGJOBS NY PROGRAM. 1. THERE IS HEREBY ESTABLISHED, IN THE DEPARTMENT, THE AGJOBS NY PROGRAM WHICH SHALL BE AN AGRICULTURE REVOLVING LOAN PROGRAM. THE PURPOSE OF THE PROGRAM SHALL BE TO STIMULATE THE EXPANSION AND ASSIST IN THE RETENTION OF AGRIBUSINESS IN THE STATE IN ORDER TO CREATE NEW JOBS AND RETAIN EXISTING JOBS THROUGH THE PROVISION OF LOW INTEREST FINANCING COSTS DIRECTLY RELATED TO AGRIBUSINESS OPERATIONS. THE PROGRAM SHALL PROVIDE LOW INTEREST LOANS FROM THE MONIES IN THE AGJOBS NY REVOLVING LOAN FUND, ESTABLISHED PURSUANT TO SECTION NINETY-NINE-R OF THE STATE FINANCE LAW, TO AGRICULTURAL PRODUCERS AND AGRICULTURAL ENTERPRISES:

A. TO ACQUIRE AND INSTALL NEW OR USED MACHINERY AND EQUIPMENT, OR UPGRADE EXISTING MACHINERY AND EQUIPMENT, AND PAY RELATED ENGINEERING AND INSTALLATION COSTS DIRECTLY RELATED TO BUSINESS OPERATIONS;

B. TO ACQUIRE A NEW OR EXISTING FACILITY DIRECTLY RELATED TO BUSINESS OPERATIONS; OR

C. FOR OPERATIONAL COSTS, INCLUDING, BUT NOT LIMITED TO, SERVICES OR CONSUMABLE GOODS, NECESSARY TO PRODUCE AN AGRICULTURAL COMMODITY.

2. FOR THE PURPOSES OF THIS SECTION:

A. "AGRICULTURAL COMMODITY" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED NINETY-THREE OF THIS CHAPTER.

B. "AGRICULTURAL ENTERPRISE" MEANS A BUSINESS ENTITY ENGAGED IN:

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

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(I) THE MANUFACTURE, DEVELOPMENT OR PREPARATION FOR SALE OF ONE OR MORE AGRICULTURAL COMMODITIES, WHICH ADDS VALUE TO SUCH COMMODITIES; OR

(II) THE CONVERSION OF AN AGRICULTURAL COMMODITY INTO A MARKETABLE FORM, INCLUDING BUT NOT LIMITED TO LIVESTOCK BY SLAUGHTERING, AND FRUITS AND VEGETABLES BY PACKAGING, FREEZING AND/OR ANY OTHER PROCESSING.

C. "AGRICULTURAL PRODUCER" MEANS A BUSINESS ENTITY ENGAGED IN THE MANAGEMENT AND USE OF A NORMAL AGRICULTURAL OPERATION FOR THE PRODUCTION OF AN AGRICULTURAL COMMODITY. AN AGRICULTURAL PRODUCER MAY BE INVOLVED IN THE PRODUCTION, HARVESTING OR PREPARATION OF AGRICULTURAL COMMODITIES FOR MARKET. EVERY AGRICULTURAL PRODUCER SHALL:

(I) OPERATE ITS BUSINESS ON TEN OR MORE CONTIGUOUS ACRES OF LAND; OR

(II) HAVE AN ANTICIPATED ANNUAL GROSS INCOME OF NOT LESS THAN TEN THOUSAND DOLLARS.

D. "PROGRAM" MEANS THE AGJOBS NY PROGRAM ESTABLISHED IN THIS SECTION.

3. ANY MONIES OF THE FUND SHALL BE DIVIDED AS FOLLOWS:

A. FIFTY PERCENT OF SUCH MONIES SHALL BE GRANTED TO LOANS FOR CAPITAL PURPOSES; AND

B. FIFTY PERCENT OF SUCH MONIES SHALL BE GRANTED TO LOANS FOR OPERATIONAL PURPOSES.

4. NO AGRICULTURAL ENTERPRISE OR AGRICULTURAL PRODUCER SHALL BE ELIGIBLE FOR A LOW INTEREST LOAN PURSUANT TO THIS SECTION UNLESS SUCH ENTERPRISE OR PRODUCER PROVIDES EVIDENCE SATISFACTORY TO THE COMMISSIONER THAT IT AND ITS PRINCIPALS ARE NOT IN ARREARS IN THE PAYMENT OF ALL FEDERAL, STATE AND LOCAL TAXES; PROVIDED, HOWEVER, THAT, IF SUCH AN ARREARS EXISTS, AN AGRICULTURAL ENTERPRISE OR AGRICULTURAL PRODUCER SHALL BE ELIGIBLE FOR A LOAN PURSUANT TO THIS SECTION IF IT HAS ENTERED INTO AND IS IN FULL COMPLIANCE WITH AN AGREEMENT WITH THE APPROPRIATE TAXING AUTHORITY PROVIDING FOR THE PAYMENT OF SUCH ARREARS.

5. AN AGRICULTURAL ENTERPRISE OR AGRICULTURAL PRODUCER MAY APPLY FOR A LOAN PURSUANT TO THE PROGRAM BY FILING AN APPLICATION WITH THE DEPARTMENT, IN SUCH MANNER AND FORM AS SHALL BE DETERMINED BY THE COMMISSIONER.

6. NO LOAN FOR CAPITAL PURPOSES GRANTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL EXCEED THREE HUNDRED THOUSAND DOLLARS OR ONE-HALF OF THE TOTAL ELIGIBLE PROJECT COST, WHICHEVER SHALL BE LESS. PROVIDED, FURTHER, NO APPLICANT SHALL RECEIVE MORE THAN THREE HUNDRED THOUSAND DOLLARS IN FINANCING PURSUANT TO THIS SECTION DURING ANY PERIOD OF TWELVE MONTHS FOR THE AGGREGATE OF ALL ELIGIBLE PROJECTS UNDERTAKEN BY SUCH APPLICANT.

A. NO LOAN FOR CAPITAL PURPOSES SHALL BE GRANTED UNLESS ONE-HALF OR MORE OF THE COSTS OF THE ELIGIBLE PROJECT ARE PAID BY A PRIVATE SOURCE AND/OR PRIVATE FINANCING; PROVIDED THAT ALL SUCH PRIVATE FINANCING SHALL HAVE A TERM EQUAL TO OR GREATER THAN THE TERM OF THE FINANCING GRANTED PURSUANT TO THE PROGRAM.

B. ELIGIBLE MACHINERY AND EQUIPMENT PROJECT CAPITAL COSTS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE COSTS OF ACQUISITION, DELIVERY AND INSTALLATION THEREOF. PROVIDED, THAT, WITH REGARD TO THE ACQUISITION OF MACHINERY AND EQUIPMENT, SUCH COSTS SHALL BE DEEMED TO BE ELIGIBLE EVEN IF THE MACHINERY OR EQUIPMENT IS USED. THE COSTS OF MOBILE EQUIPMENT SHALL BE ELIGIBLE ONLY IF IT IS NOT TITLED OR REGISTERED FOR HIGHWAY USE.

C. ELIGIBLE LAND AND BUILDING PROJECT COSTS SHALL BE DIRECTLY RELATED TO:

(I) THE PURCHASE OR RENOVATION OF REAL PROPERTY, OR THE INSTALLATION OF MACHINERY AND/OR EQUIPMENT UPON REAL PROPERTY; OR

(II) ANY BUILDING OR CONSTRUCTION RELATED TO THE BUSINESS OPERATIONS OF THE APPLICANT INCLUDING, BUT NOT LIMITED TO, ACQUISITION, SITE PREPARATION AND TESTING, UTILITIES, SITE MAPPING, REHABILITATION, ARCHITECTURAL, LANDSCAPING, LEGAL AND OTHER RELATED COSTS.

D. EVERY LOAN FOR CAPITAL PURPOSES GRANTED PURSUANT TO THIS SECTION SHALL BE SECURED BY A FIRST LIEN, HAVING PRIORITY OVER ALL OTHER LIENS, AGAINST THE REAL PROPERTY, STRUCTURES, BUILDINGS, MACHINERY, EQUIPMENT, ACCOUNTS RECEIVABLE AND/OR INVENTORY OF THE RECIPIENT OF SUCH LOAN.

E. (I) LOANS FOR REAL PROPERTY HAVE A TERM OF FIFTEEN YEARS.

(II) LOANS FOR MACHINERY AND EQUIPMENT SHALL HAVE A TERM OF NOT MORE THAN TEN YEARS, BUT NOT LONGER THAN THE USEFUL LIFE OF THE MACHINERY OR EQUIPMENT FINANCED.

F. EVERY LOAN GRANTED PURSUANT TO THIS SECTION SHALL BE AT A FIXED RATE OF INTEREST OF THREE PERCENT; PROVIDED, THAT THE COMMISSIONER MAY PROVIDE FOR A REDUCED RATE OF INTEREST FOR ELIGIBLE PROJECTS WITHIN AREAS THAT HAVE BEEN INCLUDED IN A NATURAL DISASTER DECLARATION ISSUED NOT MORE THAN TWO YEARS PRIOR TO THE APPLICATION FOR SUCH LOAN.

7. NO LOAN FOR OPERATIONAL PURPOSES GRANTED BY THE DEPARTMENT SHALL EXCEED FIFTY THOUSAND DOLLARS.

A. ELIGIBLE APPLICANTS FOR LOANS FOR OPERATIONAL PURPOSES SHALL HAVE A DEBT TO ASSET RATIO OF FORTY PERCENT OR GREATER.

B. LOANS FOR AGRICULTURAL COMMODITIES MUST BE PLANTED AND HARVESTED WITHIN THE TERM OF THE LOAN.

C. LIVESTOCK IS ELIGIBLE IF PURCHASED WITHIN THE TERM OF THE LOAN.

D. EVERY LOAN FOR OPERATIONAL COSTS PURSUANT TO THIS SECTION SHALL BE AT A FIXED RATE OF FIVE PERCENT; PROVIDED THAT THE COMMISSIONER MAY PROVIDE FOR A REDUCED RATE OF INTEREST FOR ELIGIBLE PROJECTS WITHIN AREAS THAT HAVE BEEN INCLUDED IN A NATURAL DISASTER DECLARATION ISSUED NOT MORE THAN TWO YEARS PRIOR TO THE APPLICATION FOR SUCH LOAN.

S 2. The state finance law is amended by adding a new section 99-r to read as follows:

S 99-R. AGJOBS NY REVOLVING LOAN FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE "AGJOBS NY REVOLVING LOAN FUND".

2. THE FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR ITS PURPOSE, ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW, AND ALL MONEYS REQUIRED BY SECTION TWO HUNDRED NINETY-EIGHT OF THE AGRICULTURE AND MARKETS LAW TO BE REPAID ON ANY AGJOBS NY REVOLVING LOAN, INCLUDING ALL MONEYS RECEIVED BY THE FUND OR DONATED TO IT.

3. MONEYS OF THE FUND, WHEN ALLOCATED, SHALL BE MADE AVAILABLE TO THE DEPARTMENT OF AGRICULTURE AND MARKETS TO IMPLEMENT THE PROVISIONS OF SECTION TWO HUNDRED NINETY-EIGHT OF THE AGRICULTURE AND MARKETS LAW. UP TO FIFTY THOUSAND DOLLARS MAY BE USED TO PAY THE EXPENSES, INCLUDING PERSONAL SERVICES, AND MAINTENANCE AND OPERATION, IN CONNECTION WITH THE ADMINISTRATION OF LOANS PURSUANT TO SUCH SECTION.

S 3. The sum of fifty million dollars ($50,000,000), or so much thereof as may be necessary, is hereby appropriated to the AgJobs NY revolving loan fund established by section 99-r of the state finance law, as added by section two of this act, out of any moneys in the state treasury in the general fund to the credit of the state purposes account, not otherwise appropriated, and made immediately available. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers or approved by the commissioner of agriculture and markets in the manner prescribed by law.

S 4. This act shall take effect immediately.