

2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law and the public authorities law, in relation to authorizing the job development authority to create and administer the bank export incentive program with the technical assistance of the department of economic development

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

1     Section 1. Legislative intent. The legislature hereby finds and  
2 declares that the economy of the state of New York can be bolstered and  
3 enhanced through the sale of additional products and services from New  
4 York state to customers in foreign countries. The legislature further  
5 finds that one of the impediments to an increase in export sales from  
6 New York state is the unavailability of loans at a competitive interest  
7 rate for relatively small amounts of money borrowed for time periods  
8 between one and five years from the commercial banks of our state and  
9 nation. It is further found that one of the major reasons that such  
10 monies are unavailable is the high cost of processing such loans by  
11 banking organizations because of the complexities of international trans-  
12 actions. The legislature, therefore, finds and declares that it is in  
13 the interest of a stronger and more viable economy for the state of New  
14 York to encourage the banking industry of our state to provide medium-  
15 term financing for low dollar volume export transactions through the  
16 creation of a bank export incentive program.

17     S 2. Subdivision 47 of section 100 of the economic development law,  
18 as renumbered by chapter 427 of the laws of 2008, is renumbered subdivi-  
19 sion 48 and a new subdivision 47 is added to read as follows:

20     47. THE COMMISSIONER SHALL, THROUGH THE USE OF SEMINARS, WORKSHOPS,  
21 ADVERTISING OR OTHER APPROPRIATE METHODS, MAKE POTENTIAL ELIGIBLE APPLI-

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

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1 CANTS AWARE OF THE EXPORT FINANCE FUND AND OF ITS POTENTIAL USE TO SUCH  
2 APPLICANTS. FURTHER, THE COMMISSIONER SHALL MAKE BANKING ORGANIZATIONS  
3 PARTICIPATING IN THE USE OF THE EXPORT FINANCE FUND AWARE OF POTENTIAL  
4 ELIGIBLE APPLICANTS AND SHALL ASSIST BOTH SUCH ELIGIBLE APPLICANTS AND  
5 BANKING ORGANIZATIONS AS MAY BE REQUIRED IN ORDER TO HELP FACILITATE  
6 FURTHERANCE OF THE SALES OF MANUFACTURED PRODUCTS TO THE INTERNATIONAL  
7 MARKETPLACE.

8 S 3. Section 1801 of the public authorities law is amended by adding  
9 six new subdivisions 20, 21, 22, 23, 24 and 25 to read as follows:

10 20. "COMPETITIVE INTEREST RATE" SHALL MEAN A RATE OF INTEREST WHICH  
11 MUST BE APPLIED TO A LOAN MADE TO AN ELIGIBLE APPLICANT FOR AN ELIGIBLE  
12 PROJECT, AT A LEVEL OF INTEREST DESIGNED TO INDUCE ELIGIBLE APPLICANTS  
13 TO RETAIN A COMPETITIVE POSITION IN THE WORLD MARKETPLACE.

14 21. "BANKING ORGANIZATION" SHALL MEAN (A) ANY ORGANIZATION DEFINED BY  
15 SUBDIVISION ELEVEN OF SECTION TWO OF THE BANKING LAW, (B) ANY AGENCY OR  
16 BRANCH OF A FOREIGN BANKING CORPORATION LICENSED BY THE BANKING DEPART-  
17 MENT UNDER ARTICLE FIVE OF THE BANKING LAW, (C) ANY NATIONAL BANK,  
18 FEDERAL SAVINGS AND LOAN ASSOCIATION AND FEDERAL CREDIT UNION, (D) ANY  
19 AUTHORIZED INSURER DEFINED BY PARAGRAPH TEN OF SUBSECTION (A) OF SECTION  
20 ONE HUNDRED SEVEN OF THE INSURANCE LAW, AND (E) ANY OTHER INSTITUTION  
21 WITHIN THE STATE AUTHORIZED TO ORIGINATE AND SERVICE LOANS INCLUDING,  
22 BUT NOT LIMITED TO, CREDIT UNIONS AND MORTGAGE LOAN COMPANIES.

23 22. "ELIGIBLE APPLICANT" SHALL MEAN A FIRM WHICH EMPLOYS LESS THAN  
24 FIVE HUNDRED WORKERS AND WHOSE PRINCIPAL PLACE OF BUSINESS IS WITHIN THE  
25 BORDERS OF NEW YORK STATE OR AN EXPORT TRADING COMPANY AS DEFINED IN THE  
26 EXPORT TRADING COMPANY ACT (P.L. 97-290) PRESENTING AN ELIGIBLE PROJECT  
27 ON BEHALF OF SUCH FIRM.

28 23. "ELIGIBLE PROJECT" SHALL MEAN A SALE OF A PRODUCT MANUFACTURED OR  
29 SERVICE DELIVERED BY AN ELIGIBLE APPLICANT TO A CUSTOMER RESIDING IN AND  
30 REPRESENTING A BUSINESS, NATURAL PERSON, OR GOVERNMENTAL ENTITY OF A  
31 NATION OTHER THAN THE UNITED STATES OR ITS TERRITORIES, WHICH (A) IS TO  
32 BE FINANCED FOR A PERIOD NOT LESS THAN ONE YEAR NOR MORE THAN FIVE YEARS  
33 FROM THE POINT OF SALE, (B) IS INSURED BY THE FCIA OR THE EXPORT-IMPORT  
34 BANK OF THE UNITED STATES.

35 24. "PROJECT LOAN" SHALL MEAN MONIES LENT TO AN ELIGIBLE APPLICANT FOR  
36 AN ELIGIBLE PROJECT AT A COMPETITIVE INTEREST RATE FROM A COOPERATING  
37 BANKING ORGANIZATION.

38 25. "EXPORT FINANCE FUND" OR "FUND" SHALL MEAN MONIES PROVIDED BY THE  
39 AUTHORITY TO A COOPERATING BANKING ORGANIZATION OR ORGANIZATIONS IN  
40 ORDER THAT SUCH ORGANIZATION OR ORGANIZATIONS SHALL BE ABLE TO MAKE  
41 LOANS TO ELIGIBLE APPLICANTS FOR ELIGIBLE PROJECTS AT COMPETITIVE INTER-  
42 EST RATES BY INVESTING SUCH FUND IN INTEREST-BEARING INVESTMENTS WHICH  
43 THE AUTHORITY MAY AUTHORIZE.

44 S 4. The public authorities law is amended by adding a new section  
45 1835-bb to read as follows:

46 S 1835-BB. ADDITIONAL POWERS OF THE AUTHORITY. THE AUTHORITY IS HEREBY  
47 DIRECTED TO ESTABLISH THE NEW YORK STATE BANK EXPORT INCENTIVE PROGRAM.  
48 1. IN ORDER TO IMPLEMENT THE PROGRAM, THE AUTHORITY MAY ENTER INTO COOP-  
49 ERATIVE AGREEMENTS WITH ONE OR MORE BANKING ORGANIZATIONS WITHIN THE  
50 STATE TO PROVIDE THEM WITH AN EXPORT FINANCE FUND IN ORDER THAT SUCH  
51 COOPERATING BANKING ORGANIZATIONS MAY LEND THEIR OWN ASSETS TO ELIGIBLE  
52 APPLICANTS FOR ELIGIBLE PROJECTS AT COMPETITIVE INTEREST RATES.

53 2. SUCH AGREEMENT WITH A COOPERATING BANKING ORGANIZATION SHALL  
54 INCLUDE BUT NOT BE LIMITED TO:

55 (A) A REQUIREMENT THAT AN AMOUNT EQUAL TO NOT LESS THAN TWO TIMES THE  
56 AMOUNT OF MONIES ON DEPOSIT WITH SUCH COOPERATING BANKING ORGANIZATION

1 MUST BE LENT TO ELIGIBLE APPLICANTS FOR ELIGIBLE PROJECTS WITHIN THE  
2 AGREED UPON TIME PERIOD FOLLOWING DEPOSIT OF SAID MONIES WITH THE BANK-  
3 ING CORPORATION.

4 (B) THE CRITERIA AND STANDARDS WITHIN WHICH THE TERMS AND INTEREST  
5 RATES OFFERED TO ELIGIBLE APPLICANTS FOR ELIGIBLE PROJECTS MAY BE  
6 CONSIDERED TO BE COMPETITIVE.

7 (C) A REQUIREMENT THAT LOANS TO ELIGIBLE APPLICANTS BE MADE FOR NOT  
8 LESS THAN TWENTY-FIVE THOUSAND DOLLARS NOR MORE THAN FIVE HUNDRED THOU-  
9 SAND DOLLARS.

10 3. IN ORDER TO MAKE SUCH FINANCING POSSIBLE, THE AUTHORITY SHALL  
11 ESTABLISH CRITERIA FOR THE SELECTION OF COOPERATING BANKING ORGANIZA-  
12 TIONS AND FOR THE AMOUNTS AND TERMS UNDER WHICH THE INVESTMENT OF THE  
13 FUND MAY BE MADE IN SUCH BANKING ORGANIZATIONS.

14 4. A PROVISION STATING THAT IF THE AUTHORITY IN ITS JUDGMENT FINDS  
15 THAT SUCH BANKING ORGANIZATION HAS NOT MET THE CONDITIONS OF THE AGREE-  
16 MENT ENTERED INTO BETWEEN THE AUTHORITY AND SAID BANKING ORGANIZATION,  
17 THE AUTHORITY SHALL NOTIFY THE BANKING ORGANIZATION OF THOSE ASPECTS OF  
18 THE AGREEMENT THAT THE AUTHORITY DETERMINES ARE NOT BEING MET; AND IF  
19 AFTER THIRTY DAYS SUBSEQUENT TO SUCH NOTIFICATION THE AUTHORITY DETER-  
20 MINES THAT THE BANKING ORGANIZATION HAS NOT MET THE CONDITIONS OF THE  
21 AGREEMENT, THE AUTHORITY MAY REMOVE ANY MONIES DEPOSITED WITH SUCH BANK-  
22 ING ORGANIZATION AND MAY TERMINATE THE AGREEMENT.

23 5. THE AUTHORITY SHALL ALLOCATE THE MONIES APPROPRIATED FOR THE  
24 PURPOSES OF THIS PROGRAM FOR DEPOSIT IN ONE OR MORE COOPERATING BANKING  
25 ORGANIZATIONS LOCATED WITHIN THE STATE OF NEW YORK.

26 6. AT THE END OF EACH FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS  
27 SECTION, THE AUTHORITY SHALL REPORT TO THE GOVERNOR AND THE FISCAL  
28 COMMITTEES OF THE LEGISLATURE AS TO: (A) THE NUMBER OF LOANS MADE TO  
29 ELIGIBLE PROJECTS; (B) THE AMOUNT OF EACH LOAN AND ITS REPAYMENT TERMS  
30 TO INCLUDE INTEREST CHARGED AND DURATION OF THE LOAN; (C) THE PRINCIPAL  
31 PRODUCT OR SERVICES INVOLVED IN THE ELIGIBLE PROJECT; (D) THE NATION IN  
32 WHICH THE PRODUCT OR SERVICE WAS SOLD; AND (E) THE NUMBER OF BANKING  
33 ORGANIZATIONS PARTICIPATING IN THE PROGRAM.

34 S 5. This act shall take effect on the one hundred twentieth day after  
35 it shall have become a law. Effective immediately, the addition, amend-  
36 ment and/or repeal of any rule or regulation necessary for the implemen-  
37 tation of the foregoing sections of this act on their effective date is  
38 authorized and directed to be made and completed on or before such  
39 effective date.