

3798

2009-2010 Regular Sessions

I N S E N A T E

April 1, 2009

Introduced by Sen. SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to establishing a Second Avenue Subway construction economic development grant program; to amend the economic development law, in relation to the definition of micro business; and making an appropriation therefor

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

1 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
2 the New York state urban development corporation act, is amended by
3 adding a new section 16-t to read as follows:
4 S 16-T. SECOND AVENUE SUBWAY CONSTRUCTION ECONOMIC DEVELOPMENT GRANT
5 PROGRAM. (1) THERE IS HEREBY CREATED A SECOND AVENUE SUBWAY CONSTRUCTION
6 ECONOMIC DEVELOPMENT GRANT PROGRAM FOR THE PURPOSE OF PROVIDING FINAN-
7 CIAL AND TECHNICAL ASSISTANCE TO BUSINESSES LOCATED WITHIN THE SECOND
8 AVENUE SUBWAY CONSTRUCTION BUSINESS ZONE AREA DURING PERIODS OF
9 CONSTRUCTION.
10 (2) FOR THE PURPOSES OF THIS SECTION THE FOLLOWING WORDS OR TERMS
11 SHALL MEAN AS FOLLOWS:
12 (A) "SMALL BUSINESS" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION
13 131 OF THE ECONOMIC DEVELOPMENT LAW.
14 (B) "QUALIFIED BUSINESS" SHALL MEAN A SMALL BUSINESS OR MICRO BUSINESS
15 OPERATING WITHIN A ONE HUNDRED FIFTY FOOT RADIUS OF THE BUSINESS ZONE
16 AREA DURING A PERIOD OF AUTHORIZED CONSTRUCTION, AND THE BUSINESS HAS A
17 DEMONSTRATED LOSS.
18 (C) "BUSINESS ZONE AREA" SHALL MEAN:
19 (I) AN AREA IN WHICH THE CHAIR OF THE CORPORATION DETERMINES THAT
20 CONSTRUCTION ON THE SECOND AVENUE SUBWAY PROJECT HAS OCCURRED THAT HAS

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

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1 BEEN CERTIFIED BY THE COMMISSIONER FOR THE METROPOLITAN TRANSPORTATION
2 AUTHORITY; OR
3 (II) THE FOLLOWING AREAS:
4 (A) 125TH STREET FROM 5TH AVENUE TO 3RD AVENUE;
5 (B) 2ND AVENUE FROM 129TH STREET TO 91ST STREET;
6 (C) 2ND AVENUE FROM 87TH STREET TO 83RD STREET;
7 (D) 2ND AVENUE FROM 73RD STREET TO 69TH STREET;
8 (E) 2ND AVENUE FROM 65TH STREET TO 58TH STREET;
9 (F) 2ND AVENUE FROM 45TH STREET TO 41ST STREET;
10 (G) 2ND AVENUE FROM 36TH STREET TO 32ND STREET;
11 (H) 2ND AVENUE FROM 26TH STREET TO 23RD STREET;
12 (I) 2ND AVENUE FROM 15TH STREET TO 11TH STREET;
13 (J) 2ND AVENUE FROM 6TH STREET TO 4TH STREET;
14 (K) 2ND AVENUE FROM 4TH STREET TO HOUSTON STREET;
15 (L) CHRYSTIE STREET FROM HOUSTON STREET TO CANAL STREET;
16 (M) BOWERY FROM PELL STREET TO WORTH STREET;
17 (N) WORTH STREET FROM MOTT STREET TO ST. JAMES PLACE;
18 (O) WATER STREET FROM DOVER STREET TO JOHN STREET;
19 (P) WATER STREET FROM WALL STREET TO COENTIES SLIP.
20 (D) "MICRO BUSINESS" SHALL HAVE THE SAME MEANING AS IN SECTION 131-A
21 OF THE ECONOMIC DEVELOPMENT LAW.
22 (E) "PERIOD OF AUTHORIZED CONSTRUCTION" SHALL MEAN THOSE DATES FOR
23 WHICH THE CHAIR OF THE CORPORATION DETERMINES THAT CONSTRUCTION ON THE
24 SECOND AVENUE SUBWAY PROJECT HAS OCCURRED FOR THE SPECIFIC PORTION OF
25 THE BUSINESS ZONE AREA.
26 (F) "DEMONSTRATED LOSS" MEANS A TEN PERCENT DECLINE IN TAXABLE INCOME
27 IN THE YEAR IN WHICH THE GRANT IS APPLIED FOR COMPARED TO THE BUSINESS'
28 BASE FISCAL YEAR.
29 (G) "BASE FISCAL YEAR" MEANS THE TAX YEAR IMMEDIATELY PRECEDING THE
30 YEAR IN WHICH CONSTRUCTION BEGAN IN THAT PORTION OF THE BUSINESS ZONE
31 AREA IN WHICH THE BUSINESS IS LOCATED.
32 (H) "ENDANGERED BUSINESS" MEANS A BUSINESS THAT WOULD OTHERWISE BE
33 DEEMED A QUALIFIED BUSINESS AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVI-
34 SION, BUT WHO CAN SHOW A DEMONSTRATED LOSS OF A THIRTY PERCENT DECLINE
35 IN TAXABLE INCOME IN ANY GIVEN YEAR COMPARED TO THE BUSINESS' BASE
36 FISCAL YEAR.
37 (I) "TERMINAL BUSINESS" MEANS A BUSINESS THAT WOULD OTHERWISE BE
38 DEEMED A QUALIFIED BUSINESS AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVI-
39 SION, BUT WHO CAN SHOW A DEMONSTRATED LOSS OF A FIFTY PERCENT DECLINE IN
40 TAXABLE INCOME IN ANY GIVEN YEAR COMPARED TO THE BUSINESS' BASE FISCAL
41 YEAR.
42 (3) ASSISTANCE, OUT OF MONEYS MADE AVAILABLE FOR THIS PROGRAM, SHALL
43 BE PROVIDED TO QUALIFIED BUSINESSES FOR THE FOLLOWING PURPOSES:
44 (A) CAPITAL IMPROVEMENTS COSTS RELATED TO THE FOLLOWING:
45 (I) IMPROVING SIGNAGE SO THAT PEDESTRIANS CAN EASILY SEE AND IDENTIFY
46 THE BUSINESS AS AN OPERATING BUSINESS;
47 (II) EXPANDING EXISTING ENTRYWAYS TO THE BUSINESS;
48 (III) ALTERING THE EXISTING ENTRYWAYS, WINDOWS, WALLS OR STRUCTURE TO
49 PREVENT OR MINIMIZE EXCESSIVE NOISE OCCURRING FROM THE CONSTRUCTION;
50 (IV) IMPROVING VENTILATION WITHIN THE BUILDING TO MAINTAIN AIR QUALITY
51 WITHIN THE BUSINESS;
52 (V) EQUIPMENT, MACHINERY, FURNITURE, FIXTURES AND FITTINGS NECESSARY
53 TO THE RUNNING OF A QUALIFIED BUSINESS THAT SHALL BE AFFIXED TO AND
54 REMAIN A PART OF THE QUALIFIED BUSINESS LOCATION WITHIN THE BUSINESS
55 ZONE AREA; AND

1 (VI) SUCH OTHER CAPITAL IMPROVEMENTS AS DETERMINED BY THE CHAIR OF THE
2 CORPORATION.
3 (B) MARKETING AND ADVERTISING COSTS.
4 (C) FOR ENDANGERED BUSINESSES, AS DETERMINED BY THE CHAIR OF THE
5 CORPORATION, SUCH AS:
6 (I) PAYROLL ASSISTANCE; PROVIDED, HOWEVER, ANY PAYROLL ASSISTANCE
7 PAYMENTS MADE MUST BE MADE TO AN EMPLOYEE WHO HAS BEEN EMPLOYED BY THE
8 BUSINESS FOR AT LEAST ONE YEAR, DOES NOT HAVE AN OWNERSHIP INTEREST IN
9 THE BUSINESS, AND IS NOT RELATED, EITHER THROUGH BLOOD OR MARRIAGE, TO
10 THE OWNER OF THE BUSINESS;
11 (II) RENTAL PAYMENT ASSISTANCE, WHETHER FOR REAL PROPERTY OR EQUIPMENT
12 AND SERVICES;
13 (III) UTILITIES, INCLUDING BUT NOT LIMITED TO ELECTRICITY, PHONE,
14 CABLE, INTERNET, AND WATER; AND
15 (IV) INSURANCE, AS DETERMINED BY THE CHAIR OF THE CORPORATION.
16 (D) FOR TERMINAL BUSINESSES, AS DETERMINED BY THE CHAIR OF THE CORPO-
17 RATION, SUCH AS:
18 (I) ASSISTANCE OFFERED TO QUALIFIED AND ENDANGERED BUSINESSES UNDER
19 THIS SUBDIVISION; AND
20 (II) PROFESSIONAL COUNSELING SERVICES, DISSOLUTION SERVICES, PROFES-
21 SIONAL BANKRUPTCY ASSISTANCE SERVICES, AND DEBT MANAGEMENT SERVICES.
22 (4) THE CHAIRMAN SHALL ESTABLISH RULES AND REGULATIONS TO ENSURE THAT
23 ALL MONEYS GIVEN PURSUANT TO THIS SECTION ARE USED FOR THE PURPOSES
24 SPECIFIED BY THE APPLICANT. IF IT IS DETERMINED THAT A RECIPIENT OF
25 FUNDS USED THE MONEY IN A MANNER INCONSISTENT WITH THE INFORMATION SET
26 OUT IN HIS OR HER APPLICATION, THE APPLICANT SHALL BE REQUIRED TO REIM-
27 BURSE THE CORPORATION TWICE THE AMOUNT GIVEN TO THE APPLICANT.
28 (5) THE CORPORATION SHALL ALSO:
29 (A) (I) ESTABLISH A COMPREHENSIVE TECHNICAL ASSISTANCE PROGRAM IN
30 COOPERATION WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO ASSIST SMALL
31 AND MICRO BUSINESSES THROUGH THIRD PARTY SERVICE PROVIDERS, WHICH
32 ASSISTANCE SHALL INCLUDE, BUT NOT BE LIMITED TO:
33 (A) TECHNICAL ASSISTANCE WITH APPLICATIONS FOR OBTAINING FUNDS FROM
34 PUBLIC AND PRIVATE FINANCING SOURCES;
35 (B) TECHNICAL ASSISTANCE IN THE DEVELOPMENT OF A WORKING CAPITAL BUDG-
36 ET;
37 (C) REFERRALS TO OTHER PROVIDERS OF TECHNICAL ASSISTANCE TO SMALL AND
38 MICRO BUSINESSES, WHERE APPROPRIATE, INCLUDING THE ENTREPRENEURIAL
39 ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO ARTICLE 9 OF THE ECONOMIC
40 DEVELOPMENT LAW; AND
41 (D) TECHNICAL ASSISTANCE THROUGH EDUCATION PROGRAMS.
42 (II) TECHNICAL ASSISTANCE MAY BE PROVIDED THROUGH DIRECT CORPORATE
43 SUPPORT, OR THROUGH GRANTS TO OR CONTRACTS WITH SERVICE PROVIDERS OR
44 GOVERNMENTAL ENTITIES.
45 (B) ESTABLISH PROGRAMS TO ASSIST SMALL AND MICRO BUSINESSES IN DEVEL-
46 OPING WORKPLACE POLICIES, INCLUDING BUT NOT LIMITED TO THE DESIGN OF
47 EMPLOYEE BENEFIT AND ASSISTANCE PROGRAMS AND DEVELOPING CHILD CARE
48 PROGRAMS.
49 (C) PROVIDE GRANTS TO BUSINESS IMPROVEMENT DISTRICTS, LOCAL DEVELOP-
50 MENT CORPORATIONS, OTHER NOT-FOR-PROFIT ECONOMIC DEVELOPMENT ORGANIZA-
51 TIONS, AND MUNICIPALITIES FOR TOURISM, MARKETING, PROMOTION, INFORMATION
52 ACTIVITIES AND COMMERCIAL REVITALIZATION ACTIVITIES IN THE BUSINESS ZONE
53 AREA, SUCH ACTIVITIES MAY INCLUDE, BUT ARE NOT LIMITED TO, JOINT PRINT,
54 MAILED AND INTERNET ADVERTISEMENTS, MARKETING CAMPAIGNS AND REDEVELOP-
55 MENT WORK IN CONNECTION WITH THE DESIGN AND IMPLEMENTATION OF A PLAN FOR
56 FACADE AND OTHER IMPROVEMENTS THROUGHOUT THE BUSINESS ZONE AREA. SUCH

1 GRANTS MAY INCLUDE MONIES AVAILABLE FOR INDIVIDUAL PROPERTY OWNERS
2 AND/OR TENANTS WHO AGREE TO IMPROVE THEIR PROPERTY IN ACCORDANCE WITH AN
3 OVERALL DESIGN PLAN, PROVIDED THAT, SUCH INDIVIDUAL PROPERTY OWNERS
4 AND/OR TENANTS SHALL BE REQUIRED TO MATCH AT LEAST FIFTY PERCENT OF THE
5 AMOUNT OF ANY GRANT AWARDED TO THEM.

6 (D) PROVIDE GRANTS TO SMALL AND MICRO BUSINESSES TO OFFSET COSTS ASSO-
7 CIATED WITH THE START-UP OF NEW BUSINESS ENTERPRISES PROVIDED THAT THE
8 SPACE IN WHICH THE BUSINESS IS GOING TO BE LOCATED HAS BEEN VACANT FOR
9 AT LEAST ONE YEAR, THE BUSINESS OWNER HAS ENTERED INTO A LEASE FOR AT
10 LEAST TWO YEARS AND THE LANDLORD OR BUSINESS OWNER SHALL BE REQUIRED TO
11 MATCH AT LEAST HALF THE AMOUNT OF ANY GRANT AWARDED TO THEM. SUCH
12 GRANTS MAY BE USED TO PROVIDE TECHNICAL ASSISTANCE IN DEVELOPMENT AND
13 EXECUTION OF BUSINESS PLANS, INCLUDING THE FORMATION OF, ACQUISITION OF,
14 MANAGEMENT OF, OR DIVERSIFICATION OF A SMALL OR MICRO BUSINESS.

15 (6)(A) THE CORPORATION SHALL, WITHIN AVAILABLE APPROPRIATIONS, AWARD
16 GRANTS OR ENTER INTO CONTRACTS FOR SERVICES PURSUANT TO THIS SECTION TO
17 SMALL AND MICRO BUSINESSES, THROUGH DIRECT APPLICATIONS ACCEPTED AT THE
18 DISCRETION OF THE CORPORATION. FOR THE PURPOSES OF THIS SUBDIVISION THE
19 CORPORATION SHALL ENTER INTO ANNUAL CONTRACTS FOR SERVICES OR AWARD
20 GRANTS IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TOTAL PROJECT COSTS TO
21 QUALIFIED BUSINESSES.

22 (B) THE CORPORATION SHALL ENTER INTO NO MORE THAN ONE CONTRACT OR MAKE
23 MORE THAN ONE GRANT PER YEAR PER APPLICANT UNDER THIS SUBDIVISION WITH
24 ANY QUALIFIED BUSINESS REGARDLESS OF THE NUMBER OF PROJECTS FOR WHICH AN
25 APPLICANT HAS APPLIED AND FOR WHICH FUNDING HAS BEEN APPROVED. IN THE
26 CASE OF APPLICATIONS FOR MULTIPLE PROJECTS TO BE CONDUCTED BY A SINGLE
27 APPLICANT, THE CORPORATION MAY, AT ITS DISCRETION, PROVIDE A GRANT OR
28 ENTER INTO A SINGLE CONTRACT FOR SERVICES WITH THE APPLICANT FOR SOME OR
29 ALL OF THE PROJECTS FOR WHICH AN APPLICANT HAS APPLIED.

30 (C) NOT-FOR-PROFIT CORPORATIONS, BUSINESS IMPROVEMENT DISTRICTS AND
31 COMMUNITY DEVELOPMENT ORGANIZATIONS SHALL BE ELIGIBLE TO APPLY FOR
32 SUPPORT UNDER THIS SUBDIVISION TO OPERATE A PROGRAM OR PROGRAMS OF BUSI-
33 NESS AND ECONOMIC DEVELOPMENT SERVICES TO STABILIZE, RETAIN OR REVITAL-
34 IZE EXISTING QUALIFIED BUSINESSES, AND TO ASSIST SMALL, MICRO, AND REIN-
35 VESTING BUSINESSES, INCLUDING, BUT NOT LIMITED TO ASSISTANCE TO
36 INDIVIDUAL BUSINESSES IN SUCH PROJECT AREAS AS:

37 (I) BUSINESS PLANNING, MANAGEMENT ASSISTANCE AND COUNSELING, AND
38 FINANCIAL PACKAGING ASSISTANCE TO SMALL AND MICRO BUSINESSES, INCLUDING
39 THE ESTABLISHMENT OF NEIGHBORHOOD-BASED BUSINESS SERVICE CENTERS
40 DESIGNED TO DELIVER COMPREHENSIVE TECHNICAL ASSISTANCE TO NEW AND SMALL
41 BUSINESSES IN SPECIFIC COMMUNITIES AND NEIGHBORHOODS;

42 (II) PROGRAMS TO ASSIST SMALL AND MICRO BUSINESSES IN THE BUSINESS
43 ZONE AREA TO IDENTIFY NEW BUSINESS OPPORTUNITIES, PLAN FOR NEW ENTER-
44 PRISE DEVELOPMENT, AND MANAGE ECONOMIC DEVELOPMENT PROJECTS;

45 (III) INNOVATIVE PROGRAMS OF PUBLIC AND PRIVATE COOPERATION TO FOSTER
46 NEW ENTERPRISE DEVELOPMENT AND SMALL AND MICRO BUSINESS GROWTH;

47 (IV) PROGRAMS TO ASSIST NEW ENTERPRISES AND SMALL AND MICRO BUSINESSES
48 TO IDENTIFY AND ACCESS PUBLIC AND PRIVATE SOURCES OF EQUITY, WORKING
49 CAPITAL AND OTHER TYPES OF FINANCING; AND

50 (V) PROGRAMS THAT IMPROVE THE ABILITY OF SMALL AND MICRO BUSINESSES TO
51 ACCESS STATE JOB TRAINING PROGRAMS.

52 (7) ANY APPLICANT, WHO IS AWARDED A GRANT PURSUANT TO THIS SECTION
53 WHERE THE MONEYS OF SUCH GRANT ARE TO BE USED FOR THE CONSTRUCTION,
54 DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENO-
55 VATION OR ALTERATION OF A FACILITY OR AN IMPROVEMENT TO PROPERTY SHALL
56 REQUIRE THAT THE WORK COVERED BY SUCH CONTRACT SHALL BE DEEMED "PUBLIC

1 WORK" AND SUBJECT TO AND PERFORMED IN ACCORDANCE WITH ARTICLES 8 AND 9
2 OF THE LABOR LAW.

3 (8) AN APPLICANT WHO RECEIVES A GRANT PURSUANT TO THIS SECTION SHALL
4 ENSURE AND SHALL SIGN A WRITTEN DECLARATION PRIOR TO RECEIVING ANY FUNDS
5 STATING THAT ALL PROVISIONS OF THE LABOR LAW, SPECIFICALLY INCLUDING THE
6 MINIMUM WAGE PROVISIONS OF ARTICLE 19 OF THE LABOR LAW, ARE ADHERED TO
7 BY THE BUSINESS RECEIVING THE GRANT.

8 S 2. The economic development law is amended by adding a new section
9 131-a to read as follows:

10 S 131-A. DEFINITION OF A MICRO BUSINESS. FOR THE PURPOSES OF THIS
11 CHAPTER, A MICRO BUSINESS SHALL BE DEEMED TO BE ONE WHICH IS RESIDENT IN
12 THIS STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD
13 AND EMPLOYS TEN OR LESS PERSONS ON A FULL-TIME BASIS.

14 S 3. The sum of five million dollars (\$5,000,000) or so much thereof
15 as may be necessary, is hereby appropriated to the empire state develop-
16 ment corporation out of any moneys in the state treasury in the general
17 fund, not otherwise appropriated, and made immediately available for the
18 purpose of carrying out the provisions of this act. Such moneys shall be
19 payable on the audit and warrant of the comptroller on vouchers certi-
20 fied or approved by the chairman of the empire state development corpo-
21 ration in the manner prescribed by law.

22 S 4. This act shall take effect immediately.