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

3798--A

2009-2010 Regular Sessions

I N S E N A T E

April 1, 2009

Introduced by Sens. SERRANO, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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; and to amend the economic development law, in relation to the definition of micro business

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

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-t to read as follows:

S 16-T. SECOND AVENUE SUBWAY CONSTRUCTION ECONOMIC DEVELOPMENT GRANT PROGRAM. (1) THERE IS HEREBY CREATED A SECOND AVENUE SUBWAY CONSTRUCTION ECONOMIC DEVELOPMENT GRANT PROGRAM FOR THE PURPOSE OF PROVIDING FINANCIAL AND TECHNICAL ASSISTANCE TO BUSINESSES LOCATED WITHIN THE SECOND AVENUE SUBWAY CONSTRUCTION BUSINESS ZONE AREA DURING PERIODS OF CONSTRUCTION.

(2) FOR THE PURPOSES OF THIS SECTION THE FOLLOWING WORDS OR TERMS SHALL MEAN AS FOLLOWS:

(A) "SMALL BUSINESS" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 131 OF THE ECONOMIC DEVELOPMENT LAW.

(B) "QUALIFIED BUSINESS" SHALL MEAN A SMALL BUSINESS OR MICRO BUSINESS OPERATING WITHIN A ONE HUNDRED FIFTY FOOT RADIUS OF THE BUSINESS ZONE AREA DURING A PERIOD OF AUTHORIZED CONSTRUCTION, AND THE BUSINESS HAS A DEMONSTRATED LOSS.

(C) "BUSINESS ZONE AREA" SHALL MEAN:

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

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(I) AN AREA IN WHICH THE CHAIR OF THE CORPORATION DETERMINES THAT CONSTRUCTION ON THE SECOND AVENUE SUBWAY PROJECT HAS OCCURRED THAT HAS BEEN CERTIFIED BY THE COMMISSIONER FOR THE METROPOLITAN TRANSPORTATION AUTHORITY; OR

(II) THE FOLLOWING AREAS:

(A) 125TH STREET FROM 5TH AVENUE TO 3RD AVENUE;

(B) 2ND AVENUE FROM 129TH STREET TO 91ST STREET;

(C) 2ND AVENUE FROM 87TH STREET TO 83RD STREET;

(D) 2ND AVENUE FROM 73RD STREET TO 69TH STREET;

(E) 2ND AVENUE FROM 65TH STREET TO 58TH STREET;

(F) 2ND AVENUE FROM 45TH STREET TO 41ST STREET;

(G) 2ND AVENUE FROM 36TH STREET TO 32ND STREET;

(H) 2ND AVENUE FROM 26TH STREET TO 23RD STREET;

(I) 2ND AVENUE FROM 15TH STREET TO 11TH STREET;

(J) 2ND AVENUE FROM 6TH STREET TO 4TH STREET;

(K) 2ND AVENUE FROM 4TH STREET TO HOUSTON STREET;

(L) CHRYSTIE STREET FROM HOUSTON STREET TO CANAL STREET;

(M) BOWERY FROM PELL STREET TO WORTH STREET;

(N) WORTH STREET FROM MOTT STREET TO ST. JAMES PLACE;

(O) WATER STREET FROM DOVER STREET TO JOHN STREET;

(P) WATER STREET FROM WALL STREET TO COENTIES SLIP.

(D) "MICRO BUSINESS" SHALL HAVE THE SAME MEANING AS IN SECTION 131-A OF THE ECONOMIC DEVELOPMENT LAW.

(E) "PERIOD OF AUTHORIZED CONSTRUCTION" SHALL MEAN THOSE DATES FOR WHICH THE CHAIR OF THE CORPORATION DETERMINES THAT CONSTRUCTION ON THE SECOND AVENUE SUBWAY PROJECT HAS OCCURRED FOR THE SPECIFIC PORTION OF THE BUSINESS ZONE AREA.

(F) "DEMONSTRATED LOSS" MEANS A TEN PERCENT DECLINE IN TAXABLE INCOME IN THE YEAR IN WHICH THE GRANT IS APPLIED FOR COMPARED TO THE BUSINESS' BASE FISCAL YEAR.

(G) "BASE FISCAL YEAR" MEANS THE TAX YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH CONSTRUCTION BEGAN IN THAT PORTION OF THE BUSINESS ZONE AREA IN WHICH THE BUSINESS IS LOCATED.

(H) "ENDANGERED BUSINESS" MEANS A BUSINESS THAT WOULD OTHERWISE BE DEEMED A QUALIFIED BUSINESS AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION, BUT WHO CAN SHOW A DEMONSTRATED LOSS OF A THIRTY PERCENT DECLINE IN TAXABLE INCOME IN ANY GIVEN YEAR COMPARED TO THE BUSINESS' BASE FISCAL YEAR.

(I) "TERMINAL BUSINESS" MEANS A BUSINESS THAT WOULD OTHERWISE BE DEEMED A QUALIFIED BUSINESS AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION, BUT WHO CAN SHOW A DEMONSTRATED LOSS OF A FIFTY PERCENT DECLINE IN TAXABLE INCOME IN ANY GIVEN YEAR COMPARED TO THE BUSINESS' BASE FISCAL YEAR.

(3) ASSISTANCE, OUT OF MONEYS MADE AVAILABLE FOR THIS PROGRAM, SHALL BE PROVIDED TO QUALIFIED BUSINESSES FOR THE FOLLOWING PURPOSES:

(A) CAPITAL IMPROVEMENTS COSTS RELATED TO THE FOLLOWING:

(I) IMPROVING SIGNAGE SO THAT PEDESTRIANS CAN EASILY SEE AND IDENTIFY THE BUSINESS AS AN OPERATING BUSINESS;

(II) EXPANDING EXISTING ENTRYWAYS TO THE BUSINESS;

(III) ALTERING THE EXISTING ENTRYWAYS, WINDOWS, WALLS OR STRUCTURE TO PREVENT OR MINIMIZE EXCESSIVE NOISE OCCURRING FROM THE CONSTRUCTION;

(IV) IMPROVING VENTILATION WITHIN THE BUILDING TO MAINTAIN AIR QUALITY WITHIN THE BUSINESS;

(V) EQUIPMENT, MACHINERY, FURNITURE, FIXTURES AND FITTINGS NECESSARY TO THE RUNNING OF A QUALIFIED BUSINESS THAT SHALL BE AFFIXED TO AND

REMAIN A PART OF THE QUALIFIED BUSINESS LOCATION WITHIN THE BUSINESS ZONE AREA; AND

(VI) SUCH OTHER CAPITAL IMPROVEMENTS AS DETERMINED BY THE CHAIR OF THE CORPORATION.

(B) MARKETING AND ADVERTISING COSTS.

(C) FOR ENDANGERED BUSINESSES, AS DETERMINED BY THE CHAIR OF THE CORPORATION, SUCH AS:

(I) PAYROLL ASSISTANCE; PROVIDED, HOWEVER, ANY PAYROLL ASSISTANCE PAYMENTS MADE MUST BE MADE TO AN EMPLOYEE WHO HAS BEEN EMPLOYED BY THE BUSINESS FOR AT LEAST ONE YEAR, DOES NOT HAVE AN OWNERSHIP INTEREST IN THE BUSINESS, AND IS NOT RELATED, EITHER THROUGH BLOOD OR MARRIAGE, TO THE OWNER OF THE BUSINESS;

(II) RENTAL PAYMENT ASSISTANCE, WHETHER FOR REAL PROPERTY OR EQUIPMENT AND SERVICES;

(III) UTILITIES, INCLUDING BUT NOT LIMITED TO ELECTRICITY, PHONE, CABLE, INTERNET, AND WATER; AND

(IV) INSURANCE, AS DETERMINED BY THE CHAIR OF THE CORPORATION.

(D) FOR TERMINAL BUSINESSES, AS DETERMINED BY THE CHAIR OF THE CORPORATION, SUCH AS:

(I) ASSISTANCE OFFERED TO QUALIFIED AND ENDANGERED BUSINESSES UNDER THIS SUBDIVISION; AND

(II) PROFESSIONAL COUNSELING SERVICES, DISSOLUTION SERVICES, PROFESSIONAL BANKRUPTCY ASSISTANCE SERVICES, AND DEBT MANAGEMENT SERVICES.

(4) THE CHAIRMAN SHALL ESTABLISH RULES AND REGULATIONS TO ENSURE THAT ALL MONEYS GIVEN PURSUANT TO THIS SECTION ARE USED FOR THE PURPOSES SPECIFIED BY THE APPLICANT. IF IT IS DETERMINED THAT A RECIPIENT OF FUNDS USED THE MONEY IN A MANNER INCONSISTENT WITH THE INFORMATION SET OUT IN HIS OR HER APPLICATION, THE APPLICANT SHALL BE REQUIRED TO REIMBURSE THE CORPORATION TWICE THE AMOUNT GIVEN TO THE APPLICANT.

(5) THE CORPORATION SHALL ALSO:

(A) (I) ESTABLISH A COMPREHENSIVE TECHNICAL ASSISTANCE PROGRAM IN COOPERATION WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO ASSIST SMALL AND MICRO BUSINESSES THROUGH THIRD PARTY SERVICE PROVIDERS, WHICH ASSISTANCE SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) TECHNICAL ASSISTANCE WITH APPLICATIONS FOR OBTAINING FUNDS FROM PUBLIC AND PRIVATE FINANCING SOURCES;

(B) TECHNICAL ASSISTANCE IN THE DEVELOPMENT OF A WORKING CAPITAL BUDGET;

(C) REFERRALS TO OTHER PROVIDERS OF TECHNICAL ASSISTANCE TO SMALL AND MICRO BUSINESSES, WHERE APPROPRIATE, INCLUDING THE ENTREPRENEURIAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO ARTICLE 9 OF THE ECONOMIC DEVELOPMENT LAW; AND

(D) TECHNICAL ASSISTANCE THROUGH EDUCATION PROGRAMS.

(II) TECHNICAL ASSISTANCE MAY BE PROVIDED THROUGH DIRECT CORPORATE SUPPORT, OR THROUGH GRANTS TO OR CONTRACTS WITH SERVICE PROVIDERS OR GOVERNMENTAL ENTITIES.

(B) ESTABLISH PROGRAMS TO ASSIST SMALL AND MICRO BUSINESSES IN DEVELOPING WORKPLACE POLICIES, INCLUDING BUT NOT LIMITED TO THE DESIGN OF EMPLOYEE BENEFIT AND ASSISTANCE PROGRAMS AND DEVELOPING CHILD CARE PROGRAMS.

(C) PROVIDE GRANTS TO BUSINESS IMPROVEMENT DISTRICTS, LOCAL DEVELOPMENT CORPORATIONS, OTHER NOT-FOR-PROFIT ECONOMIC DEVELOPMENT ORGANIZATIONS, AND MUNICIPALITIES FOR TOURISM, MARKETING, PROMOTION, INFORMATION ACTIVITIES AND COMMERCIAL REVITALIZATION ACTIVITIES IN THE BUSINESS ZONE AREA, SUCH ACTIVITIES MAY INCLUDE, BUT ARE NOT LIMITED TO, JOINT PRINT, MAILED AND INTERNET ADVERTISEMENTS, MARKETING CAMPAIGNS AND REDEVELOP-

MENT WORK IN CONNECTION WITH THE DESIGN AND IMPLEMENTATION OF A PLAN FOR FACADE AND OTHER IMPROVEMENTS THROUGHOUT THE BUSINESS ZONE AREA. SUCH GRANTS MAY INCLUDE MONIES AVAILABLE FOR INDIVIDUAL PROPERTY OWNERS AND/OR TENANTS WHO AGREE TO IMPROVE THEIR PROPERTY IN ACCORDANCE WITH AN OVERALL DESIGN PLAN, PROVIDED THAT, SUCH INDIVIDUAL PROPERTY OWNERS AND/OR TENANTS SHALL BE REQUIRED TO MATCH AT LEAST FIFTY PERCENT OF THE AMOUNT OF ANY GRANT AWARDED TO THEM.

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

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

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

(C) NOT-FOR-PROFIT CORPORATIONS, BUSINESS IMPROVEMENT DISTRICTS AND COMMUNITY DEVELOPMENT ORGANIZATIONS SHALL BE ELIGIBLE TO APPLY FOR SUPPORT UNDER THIS SUBDIVISION TO OPERATE A PROGRAM OR PROGRAMS OF BUSINESS AND ECONOMIC DEVELOPMENT SERVICES TO STABILIZE, RETAIN OR REVITALIZE EXISTING QUALIFIED BUSINESSES, AND TO ASSIST SMALL, MICRO, AND REINVESTING BUSINESSES, INCLUDING, BUT NOT LIMITED TO ASSISTANCE TO INDIVIDUAL BUSINESSES IN SUCH PROJECT AREAS AS:

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

(II) PROGRAMS TO ASSIST SMALL AND MICRO BUSINESSES IN THE BUSINESS ZONE AREA TO IDENTIFY NEW BUSINESS OPPORTUNITIES, PLAN FOR NEW ENTERPRISE DEVELOPMENT, AND MANAGE ECONOMIC DEVELOPMENT PROJECTS;

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

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

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

(7) ANY APPLICANT, WHO IS AWARDED A GRANT PURSUANT TO THIS SECTION WHERE THE MONEYS OF SUCH GRANT ARE TO BE USED FOR THE CONSTRUCTION, DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENO-

VATION OR ALTERATION OF A FACILITY OR AN IMPROVEMENT TO PROPERTY SHALL REQUIRE THAT THE WORK COVERED BY SUCH CONTRACT SHALL BE DEEMED "PUBLIC WORK" AND SUBJECT TO AND PERFORMED IN ACCORDANCE WITH ARTICLES 8 AND 9 OF THE LABOR LAW.

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

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

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

S 3. This act shall take effect immediately.