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

1764

2009-2010 Regular Sessions

I N A S S E M B L Y

January 12, 2009

Introduced by M. of A. MORELLE, SCHIMMINGER, GALEF -- Multi-Sponsored by -- M. of A. MAGEE -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the economic development law and the public authorities law, in relation to authorizing the department of economic development and the job development authority to provide pre-exporting assistance to firms seeking to export from New York

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

Section 1. Subdivision 47 of section 100 of the economic development law, as renumbered by chapter 427 of the laws of 2008, is renumbered subdivision 48 and a new subdivision 47 is added to read as follows:

47. THE COMMISSIONER SHALL ASSIST THE JOB DEVELOPMENT AUTHORITY IN THE IDENTIFICATION OF MANUFACTURERS ELIGIBLE FOR ASSISTANCE THROUGH THE EXPORT TRADE REVOLVING LOAN FUND AND SHALL PROVIDE TECHNICAL ASSISTANCE TO SUCH MANUFACTURERS AS MAY BE REQUIRED BY THEM IN ORDER TO ASSIST THEM TO BE MORE EFFECTIVE IN THE AREA OF INTERNATIONAL SALES WHENEVER POSSIBLE.

S 2. Subdivision 14 of section 1801 of the public authorities law, as amended by chapter 788 of the laws of 1983, is amended to read as follows:

14. "Project" shall mean (i) the construction of a new industrial or manufacturing plant, a new research and development building or other new eligible business facility, (ii) the acquisition, rehabilitation or improvement of a former or existing industrial or manufacturing plant, of a former or existing building to be used for research and development, of a former or existing other eligible business facility, (iii) the construction, acquisition, rehabilitation or improvement of pollution control facilities, (iv) the purchase of machinery and equipment, for which financial assistance from the authority is sought, [or] (v) assistance to employees under an employee ownership assistance loan

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

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agreement made pursuant to subtitle six of this title, OR (VI) FINANCIAL ASSISTANCE FOR EXPORT TRADE PURPOSES PURSUANT TO SUBTITLE FIVE-B OF THIS TITLE; provided, however, that any such plant, building, facility or machinery and equipment therefore shall not be primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services, or used primarily as a hotel, apartment house or other place of business which furnishes dwelling space or accommodations to either residents or transients.

S 3. Title 8 of article 8 of the public authorities law is amended by adding a new subtitle 5-B to read as follows:

SUBTITLE V-B

EXPORT TRADE REVOLVING LOAN FUND

SECTION 1835-AA. STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSE.
1835-BB. DEFINITIONS.
1835-CC. ADDITIONAL POWERS OF THE AUTHORITY.
1835-DD. REPAYMENT OF LOANS.
1835-EE. RULES AND REGULATIONS OF THE AUTHORITY.

S 1835-AA. STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSE. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT SMALL AND MEDIUM-SIZED COMPANIES HAVE SOUGHT TO INCREASE THEIR SALES AND EMPLOYMENT BY ENTERING THE WORLD MARKET IN THAT THEY ARE DESIROUS OF MAKING INTERNATIONAL SALES. HOWEVER, SUCH BUSINESS TRANSACTIONS ARE SUBSTANTIALLY MORE COMPLEX THAN A NORMAL DOMESTIC SALES RELATIONSHIP FAMILIAR TO THE UNITED STATES BUSINESS COMMUNITY. FURTHER, THE INTERNATIONAL SALE REQUIRES A GREAT DEAL OF DOCUMENTATION, KNOWLEDGE OF FOREIGN MARKETS, HIGH RISK RELATIVE TO A DOMESTIC SALE, SPECIAL FREIGHT FORWARDING TRANSACTION, AND MOST IMPORTANTLY, SPECIAL FINANCING.

THE LEGISLATURE FURTHER FINDS AND DECLARES THAT SMALL AND MEDIUM-SIZED MANUFACTURERS REQUIRE SHORT-TERM FINANCING WHICH IS CURRENTLY NOT AVAILABLE THROUGHOUT THE STATE OF NEW YORK FOR ACTIVITIES THAT MUST BE COMPLETED PRIOR TO THE FOREIGN SALE OF GOODS KNOWN AS PRE-EXPORT ACTIVITIES. THEREFORE, TO HELP BUSINESS IN THIS STATE TO BETTER EXPORT ITS PRODUCTS, THE LEGISLATURE DESIRES THAT THE JOB DEVELOPMENT AUTHORITY PROVIDE LOANS TO SMALL AND MEDIUM-SIZED COMPANIES THROUGH APPROPRIATE AND EFFICIENT METHODS SO THAT MORE BUSINESSES IN THE STATE OF NEW YORK MAY ENTER THE INTERNATIONAL SALES MARKETPLACE.

S 1835-BB. DEFINITIONS. AS USED IN THIS SUBTITLE:

1. "AGREEMENT" MEANS AN EXPORT TRADE LOAN AGREEMENT MADE PURSUANT TO THIS SUBTITLE.

2. "AUTHORITY" MEANS THE JOB DEVELOPMENT AUTHORITY CREATED BY SECTION EIGHTEEN HUNDRED TWO OF THIS TITLE.

3. "EXPORT TRADING ENTITY" MEANS A PERSON, FIRM, PARTNERSHIP, CORPORATION OR OTHER ENTITY, PRINCIPALLY DOING BUSINESS IN THE STATE OF NEW YORK, WITH FEWER THAN ONE HUNDRED EMPLOYEES, ENGAGED IN OR SEEKING TO ENGAGE IN AN ELIGIBLE PROJECT.

4. "ELIGIBLE PROJECT" MEANS PRE-EXPORT ACTIVITIES CONDUCTED BY AN EXPORT TRADING ENTITY, ENGAGED IN ACTIVITIES INVOLVING THE EXPORT OF GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO MARKET SURVEYS, RESEARCH, PRODUCT SOURCING, MARKETING, ADVERTISING, BONDING, INSURING, WAREHOUSING, SHIPPING, STORAGE, DOCUMENTATION, EXPORT MARKET DEVELOPMENT, EXPERT ADVICE AND TRADE SHOWS.

5. "BORROWER" MEANS ANY ENTITY WHICH RECEIVES A LOAN UNDER THIS SUBTITLE TO PARTICIPATE IN AN ELIGIBLE PROJECT.

6. "PROJECT COST" INCLUDES ALL REASONABLE AND NECESSARY COSTS TO BE INCURRED WHILE COMPLETING AN ELIGIBLE PROJECT, INCLUDING LEGAL, FINANCIAL, INSURANCE AND EXPORT TRADING SERVICES.

S 1835-CC. ADDITIONAL POWERS OF THE AUTHORITY. THE AUTHORITY SHALL HAVE THE POWER AND DUTY TO:

1. ASSIST AND COUNSEL EXPORT TRADING ENTITIES IN THEIR DEALINGS WITH FEDERAL, STATE AND LOCAL GOVERNMENTS, INCLUDING BUT NOT LIMITED TO PROVIDING ACCESS TO INFORMATION REGARDING GOVERNMENT REQUIREMENTS AFFECTING EXPORT TRADING ACTIVITIES.

2. PRESCRIBE STANDARDS AND CRITERIA FOR THE GRANTING OF APPLICATIONS FOR LOANS TO EXPORT TRADING ENTITIES AND FOR THE MAKING OF LOANS FOR ELIGIBLE PROJECTS. SUCH STANDARDS AND CRITERIA SHALL IMPLEMENT THE LEGISLATIVE FINDINGS AND PURPOSE SET FORTH IN THIS SUBTITLE. IN DEVELOPING SUCH STANDARDS AND CRITERIA, THE AUTHORITY SHALL CONSULT WITH THE SUPERINTENDENT OF BANKS, THE SUPERINTENDENT OF INSURANCE AND THE COMMISSIONER OF ECONOMIC DEVELOPMENT REGARDING STANDARDS AND CRITERIA FOR THE MAKING OF LOANS FOR AN ELIGIBLE PROJECT; TO PLAN, DEVELOP AND UNDERTAKE A PROGRAM WHEREIN SUCH LOANS FOR ELIGIBLE PROJECTS CAN BE DISBURSED TO THE GENERAL BUSINESS COMMUNITY OF THE STATE OF NEW YORK FOR ELIGIBLE PROJECTS.

3. MAKE AND EXECUTE CONTRACTS FOR THE ADMINISTRATION OR SERVICING OF ANY LOAN MADE BY THE AUTHORITY IN FURTHERANCE OF THIS SUBTITLE AND TO PAY THE REASONABLE VALUES OF SUCH SERVICES RENDERED TO THE AUTHORITY PURSUANT TO SUCH CONTRACT.

4. ACCESS FUNDS FOR THE PROMOTION OF THIS ACTIVITY AS DEFINED IN THIS SUBTITLE AND TO DO ALL THINGS REASONABLE TO DEVELOP A VIABLE POOL OF FUNDS TO CARRY OUT THE LEGISLATIVE INTENT OF THIS SUBTITLE TO INCLUDE SEEKING OUT AND SECURING MONIES FROM THE SMALL BUSINESS ADMINISTRATION, EXPORT-IMPORT BANK OF THE UNITED STATES, ECONOMIC DEVELOPMENT ADMINISTRATION, AGENCY FOR INTERNATIONAL DEVELOPMENT, THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR OTHER FEDERAL AGENCIES.

5. DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THIS CORPORATE PURPOSE AND EXERCISE THE POWERS GIVEN AND GRANTED IN THIS SUBTITLE.

6. NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS SUBTITLE, THE BORROWER MAY ONLY USE FUNDS MADE AVAILABLE BY THE AUTHORITY THROUGH LOANS FOR ELIGIBLE PROJECTS. SPECIFICALLY, THE AUTHORITY SHALL NOT FINANCE THE SALE OF PRODUCTS OR SERVICES BEING EXPORTED AS PART OF AN EXPORT SALE FROM THE UNITED STATES.

S 1835-DD. REPAYMENT OF LOANS. 1. THE ENTIRE AMOUNT LOANED SHALL BE REPAID BY THE BORROWER TO THE AUTHORITY IN A TERM NOT LONGER THAN ONE YEAR.

2. INTEREST SHALL ACCRUE ON THE UNPAID BALANCE THROUGHOUT THE LIFETIME OF THE LOAN AT A RATE TO BE DETERMINED BY THE JOB DEVELOPMENT AUTHORITY.

S 1835-EE. RULES AND REGULATIONS OF THE AUTHORITY. 1. THE AUTHORITY SHALL MAKE, PROMULGATE AND ENFORCE SUCH REASONABLE RULES AND REGULATIONS RELATING TO ITS DUTIES UNDER THIS SUBTITLE AS IT MAY DEEM APPROPRIATE.

2. TO EFFECTUATE THE PURPOSE OF THIS SUBTITLE, THE AUTHORITY MAY REQUEST FROM ANY AUTHORITY, DIVISION, BOARD, BUREAU, COMMISSION OR ANY OTHER AGENCY OF THE STATE OR FROM ANY PUBLIC CORPORATION, AND THE SAME ARE AUTHORIZED TO PROVIDE SUCH SERVICES, ASSISTANCE AND DATA AS WILL ENABLE THE AUTHORITY TO PROPERLY CARRY OUT ITS FUNCTIONS, POWERS AND DUTIES UNDER THIS SUBTITLE.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date is authorized to be made on or before such effective date.