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

4881

2009-2010 Regular Sessions

I N  A S S E M B L Y

February 6, 2009

Introduced by M. of A. SCHIMMINGER, SCHROEDER, J. RIVERA, KOON, DelMONTE, CAHILL -- Multi-Sponsored by -- M. of A. BOYLAND, KOLB -- 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 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

MUST BE LENT TO ELIGIBLE APPLICANTS FOR ELIGIBLE PROJECTS WITHIN THE AGREED UPON TIME PERIOD FOLLOWING DEPOSIT OF SAID MONIES WITH THE BANKING CORPORATION.

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

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

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

4. A PROVISION STATING THAT IF THE AUTHORITY IN ITS JUDGMENT FINDS THAT SUCH BANKING ORGANIZATION HAS NOT MET THE CONDITIONS OF THE AGREEMENT ENTERED INTO BETWEEN THE AUTHORITY AND SAID BANKING ORGANIZATION, THE AUTHORITY SHALL NOTIFY THE BANKING ORGANIZATION OF THOSE ASPECTS OF THE AGREEMENT THAT THE AUTHORITY DETERMINES ARE NOT BEING MET; AND IF AFTER THIRTY DAYS SUBSEQUENT TO SUCH NOTIFICATION THE AUTHORITY DETERMINES THAT THE BANKING ORGANIZATION HAS NOT MET THE CONDITIONS OF THE AGREEMENT, THE AUTHORITY MAY REMOVE ANY MONIES DEPOSITED WITH SUCH BANKING ORGANIZATION AND MAY TERMINATE THE AGREEMENT.

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

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

S 5. 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 and directed to be made and completed on or before such effective date.