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

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2009-2010 Regular Sessions

I N S E N A T E

April 15, 2009

Introduced by Sen. AUBERTINE -- 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, in relation to providing matching funds for eligible applicants in regional marketing programs

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

Section 1. The economic development law is amended by adding a new article 12-A to read as follows:

ARTICLE 12-A

REGIONAL MARKETING PROGRAMS

SECTION 245. DEFINITIONS.
246. MATCHING FUNDS FOR ELIGIBLE APPLICANTS.
247. APPLICATION PROCESS.
248. PAYMENTS OF FUNDS TO ELIGIBLE APPLICANTS.
249. REPORTING REQUIREMENTS.

S 245. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS A DIFFERENT MEANING APPEARS FROM THE CONTEXT, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "ELIGIBLE APPLICANT" MEANS ANY NOT-FOR-PROFIT CORPORATION OR OTHER NONPROFIT ORGANIZATION, ASSOCIATION, OR AGENCY THAT IS DESIGNATED BY RESOLUTION OF THE SEVERAL COUNTY LEGISLATURES OR OTHER GOVERNING BODIES OF COUNTIES WITHIN AN ECONOMIC DEVELOPMENT REGION OF THE STATE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THIS CHAPTER, OR UPON THE DESIGNATION OF THE CITY COUNCIL OF THE CITY OF NEW YORK, AS AN AGENCY AUTHORIZED TO MAKE APPLICATION FOR AND RECEIVE GRANTS FOR THE PURPOSES SPECIFIED IN THIS ARTICLE.

2. "RECOGNIZED ADVERTISING" MEANS MEDIA ADVERTISING AND PROMOTIONAL MATERIALS TO BE BROADCAST, DISSEMINATED, OR OTHERWISE DISTRIBUTED IN ACCORDANCE WITH A PLAN APPROVED BY THE COMMISSIONER.

3. "REGION" MEANS AN ECONOMIC DEVELOPMENT REGION OF THE STATE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THIS CHAPTER, AN INTERNATIONAL REGION, OR A MULTI-STATE REGION.

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

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4. "REGIONAL MARKETING PROGRAM" MEANS THE USE OF MEDIA ADVERTISING AND PROMOTIONAL MATERIALS FOR PURPOSES OF MARKETING: (A) THE NATURAL RESOURCES, INFRASTRUCTURE, AND OTHER ATTRACTIONS OF A REGION WHICH ARE NON-PROPRIETARY IN NATURE AND WHICH SERVE TO PROMOTE AND ENCOURAGE THE LOCATION AND DEVELOPMENT OF NEW BUSINESSES WITHIN THE REGION; (B) PRODUCTS MANUFACTURED BY STRATEGIC ALLIANCES OF BUSINESSES WITHIN A REGION; AND (C) OTHER PRODUCTS MANUFACTURED IN ACCORDANCE WITH AN OFFICIAL QUALITY CONTROL PROGRAM, WHICH MAY INCLUDE THE USE OF A LOGO-TYPE OR SIMILAR ADVERTISING CONSTRUCT ESTABLISHED BY THE LEGISLATURE.

5. "STRATEGIC ALLIANCE" MEANS AN INFORMAL OR FORMAL ASSOCIATION OF BUSINESSES IN A MANUFACTURING INDUSTRY ESTABLISHED FOR THE PURPOSE OF SOLVING COMMON PROBLEMS AND ENGAGING IN COOPERATIVE ACTIVITIES AND THAT IS CONSIDERED TO BE CRITICAL TO THE ECONOMY OF A REGION.

S 246. MATCHING FUNDS FOR ELIGIBLE APPLICANTS. 1. THE COMMISSIONER, IN FURTHERANCE OF THE OBJECTIVES OF THE REGIONAL BUSINESS MARKETING PROGRAM, IS AUTHORIZED TO MATCH FUNDS EXPENDED BY ELIGIBLE APPLICANTS FOR THE PURPOSE OF IMPLEMENTATION OF REGIONAL MARKETING PROGRAMS AS DEFINED IN SUBDIVISION FOUR OF SECTION TWO HUNDRED FORTY-FIVE OF THIS ARTICLE; PROVIDED, HOWEVER, THAT:

(A) NO SUCH MATCHING FUNDS SHALL EXCEED THE SUM OF FIVE HUNDRED THOUSAND DOLLARS OR FIFTY PERCENT OF THE TOTAL COST OF IMPLEMENTATION OF THE REGIONAL MARKETING PLAN, WHICHEVER IS LESS;

(B) NO SUCH MATCHING FUNDS SHALL BE USED FOR ADMINISTRATIVE COSTS, INCLUDING SALARIES, ASSOCIATED WITH THE IMPLEMENTATION OF A REGIONAL MARKETING PLAN;

(C) NO SUCH MATCHING FUNDS SHALL BE USED FOR THE DIRECT BENEFIT OF A FOR-PROFIT BUSINESS UNLESS SUCH EXPENDITURE SHALL FURTHER A PUBLIC PURPOSE AND HAVE A CLEAR, LONG-TERM BENEFIT TO THE REGIONAL ECONOMY.

2. THE COMMISSIONER IS AUTHORIZED TO MATCH FUNDS EXPENDED BY AN ELIGIBLE APPLICANT IF THE ELIGIBLE APPLICANT REPRESENTS ONE OR MORE COUNTIES, BUT FEWER THAN EACH OF THE SEVERAL COUNTIES, IN A STATE ECONOMIC DEVELOPMENT REGION.

S 247. APPLICATION PROCESS. 1. THE COMMISSIONER, UPON INVESTIGATION AND RECEIPT OF CERTIFIED COPIES OF SUCH RESOLUTIONS AS MAY BE NECESSARY TO SATISFY HIM OR HER THAT AN ELIGIBLE APPLICANT HAS BEEN DULY DESIGNATED TO REPRESENT A PARTICULAR REGION, SHALL RECOGNIZE SUCH ELIGIBLE APPLICANT AS THE SOLE SUCH APPLICANT WITHIN SUCH REGION. IN THE EVENT THAT EACH OF THE SEVERAL COUNTIES WITHIN A REGION IS UNABLE OR UNWILLING TO DESIGNATE A SINGLE APPLICANT TO REPRESENT A PARTICULAR REGION, OR IS UNABLE OR UNWILLING TO ENCUMBER FUNDS PURSUANT TO SECTION TWO HUNDRED FORTY-EIGHT OF THIS ARTICLE, ONE OR MORE COUNTIES WITHIN A REGION MAY DESIGNATE AN ELIGIBLE APPLICANT TO REPRESENT A PARTICULAR REGION. IN REVIEWING SUCH APPLICATIONS, THE COMMISSIONER MAY SELECT FROM AMONG COMPETING OR OVERLAPPING APPLICATIONS THE APPLICATION THAT THE COMMISSIONER CONSIDERS TO BE OF GREATER BENEFIT TO A PARTICULAR REGION AND THE WELFARE OF THE PEOPLE OF THE STATE.

2. THE COMMISSIONER IS AUTHORIZED TO ACCEPT AND SET REASONABLE DEADLINES FOR THE SUBMISSION OF APPLICATIONS FOR EACH FISCAL YEAR COVERED BY APPROPRIATIONS IN ORDER TO MATCH FUNDS EXPENDED BY ELIGIBLE APPLICANTS FOR THE PURPOSE OF THE IMPLEMENTATION OF REGIONAL MARKETING PROGRAMS. IN REVIEWING AND SELECTING APPLICATIONS FROM ELIGIBLE APPLICANTS FOR ASSISTANCE UNDER THIS PROGRAM, THE COMMISSIONER SHALL ENSURE THAT EACH APPLICATION FOR SUCH FUNDS SHALL HAVE THEREIN SET FORTH THE SCHEDULE, BUDGET, SCOPE, AND THEME OF THE PROPOSED REGIONAL MARKETING PROGRAM TO BE UNDERTAKEN FOR THE PURPOSE OF ENCOURAGING AND STIMULATING BUSINESS DEVELOPMENT AND ECONOMIC ACTIVITY WITHIN THE REGION OF THE STATE.

3. FOR THE PURPOSE OF PROMOTING INTERREGIONAL ECONOMIC DEVELOPMENT, THE COMMISSIONER MAY APPROVE APPLICATIONS DULY SUBMITTED BY ONE OR MORE COUNTIES IN EACH OF AT LEAST TWO STATE ECONOMIC DEVELOPMENT REGIONS. IN APPROVING SUCH APPLICATIONS, THE COMMISSIONER SHALL DETERMINE THAT SUCH APPLICATIONS ARE OF GREATER BENEFIT TO ONE OR MORE COUNTIES IN EACH OF AT LEAST TWO REGIONS OF THE STATE AND TO THE WELFARE OF THE PEOPLE OF THE STATE THAN APPLICATIONS SUBMITTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

4. NOTHING SHALL LIMIT AN ELIGIBLE APPLICANT FROM CREATING A REGIONAL MARKETING PROGRAM WITH ANOTHER STATE, TERRITORY, PROTECTORATE, DEPENDENCY, OR COUNTRY.

S 248. PAYMENTS OF FUNDS TO ELIGIBLE APPLICANTS. 1. UPON SUBMISSION AND APPROVAL OF EACH APPLICATION AND THE AUTHORIZATION OF FUNDS BY THE COMMISSIONER IN ACCORDANCE THEREWITH, THE COMMISSIONER SHALL GIVE NOTICE TO THE ELIGIBLE APPLICANT OF SUCH APPROVAL AND AUTHORIZATION AND SHALL DIRECT SUCH ELIGIBLE APPLICANT TO PROCEED WITH ITS PROPOSED BUSINESS MARKETING PROGRAM AS DESCRIBED IN ITS APPLICATION. UPON THE FURNISHING OF SATISFACTORY EVIDENCE TO THE DEPARTMENT THAT THE SEVERAL COUNTY LEGISLATURES OR OTHER GOVERNING BODIES OF THE COUNTIES, OR THE CITY COUNCIL OF THE CITY OF NEW YORK, IDENTIFIED IN THE APPLICATION HAVE ENCUMBERED FUNDS IN THE AMOUNT COMMITTED AND APPROVED BY THE COMMISSIONER, THE STATE MATCHING FUNDS ALLOCATED TO SUCH ELIGIBLE APPLICANT SHALL BE PAID, FROM THE FUNDS APPROPRIATED FOR SUCH PURPOSE, PURSUANT TO THIS ARTICLE. ANY STATE FUNDS SO PAID MAY BE EXPENDED ONLY ON A MATCHING BASIS AND ONLY WITHIN TWELVE MONTHS OF SUCH PAYMENT, UNLESS AN EXTENSION OF TIME HAS BEEN REQUESTED AND, UPON SHOWING OF GOOD CAUSE, GRANTED BY THE COMMISSIONER.

2. NO ADVERTISING OR MARKETING FUNDED FOR THE PURPOSES OF THIS ARTICLE SHALL CONTAIN REFERENCE TO OR THE NAME OF ANY PUBLIC OFFICIAL OF THE STATE OF NEW YORK OR ITS POLITICAL SUBDIVISIONS. "REFERENCE" INCLUDES BUT IS NOT LIMITED TO PHOTOGRAPHS, DRAWINGS, CARICATURES, QUOTATIONS, INVITATIONS, SIGNATURES, ENDORSEMENTS, OR SOUND OR VIDEO RECORDINGS.

3. ANY LOGOTYPE, SPECIAL PRINTING CHARACTERS, SLOGAN, OR LIKE DEVICE DEVELOPED BY THE DEPARTMENT PURSUANT TO AN ADVERTISING CONSTRUCT ESTABLISHED BY THE LEGISLATURE USED TO IDENTIFY PRODUCTS MANUFACTURED IN ACCORDANCE WITH AN OFFICIAL QUALITY CONTROL PROGRAM AS PART OF A REGIONAL BUSINESS MARKETING PROGRAM SHALL BECOME THE PROPERTY OF THE STATE OF NEW YORK, AND ITS USE MAY BE SUBJECT TO ADDITIONAL REQUIREMENTS, AS AND IF DEEMED NECESSARY BY THE LEGISLATURE.

S 249. REPORTING REQUIREMENTS. 1. IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, EACH ELIGIBLE APPLICANT SHALL FURNISH AN ANNUAL FINANCIAL STATEMENT TO THE COMMISSIONER. SUCH REPORTS SHALL BE SUBMITTED ON OR BEFORE JANUARY FIRST OF EACH YEAR.

2. THE DEPARTMENT SHALL ANNUALLY, ON OR BEFORE MARCH FIRST, SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY A REPORT ON THE ACTIVITIES OF THE REGIONAL BUSINESS MARKETING MATCHING FUNDS PROGRAM. SUCH REPORT SHALL INCLUDE A SUMMARY OF THE FINANCIAL STATEMENTS RECEIVED BY THE DEPARTMENT FROM ELIGIBLE APPLICANTS, A SUMMARY OF ACTIVITIES CONDUCTED BY ELIGIBLE APPLICANTS, AND ANALYSES OF THE EFFECTIVENESS OF THE PROGRAM IN STIMULATING ECONOMIC GROWTH AND JOB CREATION. AS A PRODUCT OF SUCH ANALYSES, THE DEPARTMENT SHALL COMPILE AND DISSEMINATE TO EACH ELIGIBLE APPLICANT A LIST AND DESCRIPTION OF BEST PRACTICES IN ORDER TO FURTHER PROMOTE AND ENCOURAGE THE LOCATION AND DEVELOPMENT OF NEW BUSINESSES IN THE STATE AND THE EXPANSION AND DEVELOPMENT OF NEW MARKETS FOR NEW YORK PRODUCTS.

S 2. This act shall take effect immediately.