

9228

I N A S S E M B L Y

February 7, 2012

Introduced by M. of A. KOLB -- read once and referred to the Committee
on Veterans' Affairs

AN ACT to amend the executive law, the state finance law, the arts and
cultural affairs law, the economic development law, the environmental
conservation law, the public authorities law, the general municipal
law, the banking law, the facilities development corporation act, the
New York state medical care facilities finance agency act and the New
York state urban development corporation act, in relation to promoting
veteran owned business enterprises

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "veteran owned business enterprise act".
3 S 2. The article heading of article 15-A of the executive law, as
4 added by chapter 261 of the laws of 1988, is amended to read as follows:
5 PARTICIPATION BY MINORITY GROUP MEMBERS, VETERANS AND WOMEN WITH
6 RESPECT TO STATE CONTRACTS
7 S 3. Subdivisions 1 and 9 of section 310 of the executive law, as
8 added by chapter 261 of the laws of 1988, are amended and a new subdivi-
9 sion 23 is added to read as follows:
10 1. "Certified business" shall mean a business verified as a minority,
11 HONORABLY DISCHARGED VETERAN or women-owned business enterprise pursuant
12 to section three hundred fourteen of this article. FOR PURPOSES OF THIS
13 SECTION "VETERAN DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN
14 DISHONORABLE" SHALL MEAN THOSE CONDITIONS DEFINED BY TITLE 38 CODE OF
15 FEDERAL REGULATIONS SECTION 3.12.
16 9. "Utilization plan" shall mean a plan prepared by a contractor and
17 submitted in connection with a proposed state contract. The utilization
18 plan shall identify certified minority, HONORABLY DISCHARGED VETERAN or
19 women-owned business enterprises, if known, that have committed to
20 perform work in connection with the proposed state contract as well as
21 any such enterprises, if known, which the contractor intends to use in
22 connection with the contractor's performance of the proposed state
23 contract. The plan shall specifically contain a list, including the

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

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1 name, address and telephone number, of each certified enterprise with
2 which the contractor intends to subcontract.

3 23. "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" SHALL
4 MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP
5 OR CORPORATION THAT IS:

6 (A) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE UNITED STATES
7 CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE HONORABLY DISCHARGED
8 VETERANS;

9 (B) AN ENTERPRISE IN WHICH THE OWNERSHIP INTEREST OF SUCH HONORABLY
10 DISCHARGED VETERANS IS REAL, SUBSTANTIAL AND CONTINUING;

11 (C) AN ENTERPRISE IN WHICH SUCH HONORABLY DISCHARGED VETERAN'S OWNER-
12 SHIP HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE
13 DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

14 (D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDE-
15 PENDENTLY OWNED AND OPERATED.

16 (E) HONORABLY DISCHARGED VETERAN SHALL MEAN A PERSON WHO SERVED IN THE
17 ACTIVE MILITARY, NAVAL, OR AIR SERVICE DURING A PERIOD OF WAR AS DEFINED
18 IN PARAGRAPH (F) OF THIS SUBDIVISION, OR WHO WAS A RECIPIENT OF THE
19 ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS
20 EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND
21 WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER OTHER THAN DISHONORABLE
22 CONDITIONS, AS DOCUMENTED ACCORDING TO RULES AND REGULATIONS OF THE
23 DIVISION OF MILITARY AND NAVAL AFFAIRS.

24 (F) FOR THE PURPOSES OF THIS ARTICLE, SERVICE DURING TIME OF WAR IS
25 DEFINED BY SECTION 3.2 OF TITLE 38 OF THE CODE OF FEDERAL REGULATIONS.

26 S 4. Subdivision 1 and paragraphs (a), (d), (e) and (f) of subdivision
27 3 of section 311 of the executive law, subdivision 1 and paragraphs (d)
28 and (e) of subdivision 3 as amended by chapter 55 of the laws of 1992
29 and paragraphs (a) and (f) of subdivision 3 as added by chapter 261 of
30 the laws of 1988, are amended to read as follows:

31 1. The head of the division of minority and women's business develop-
32 ment shall be the director who shall be appointed by the governor and
33 hold office at the pleasure of the commissioner. It shall be the duty of
34 the director of the division of minority and women's business develop-
35 ment to assist the governor in the formulation and implementation of
36 laws and policies relating to minority, HONORABLY DISCHARGED VETERAN and
37 women-owned business enterprises.

38 (a) to encourage and assist contracting agencies in their efforts to
39 increase participation by minority, HONORABLY DISCHARGED VETERAN and
40 women-owned business enterprises on state contracts and subcontracts so
41 as to facilitate the award of a fair share of such contracts to them;

42 (d) to review periodically the practices and procedures of each
43 contracting agency with respect to compliance with the provisions of
44 this article, and to require them to file periodic reports with the
45 division of minority and women's business development as to the level of
46 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
47 prises participation in the awarding of agency contracts for goods and
48 services;

49 (e) on January first of each year report to the governor and the
50 chairpersons of the senate finance and assembly ways and means commit-
51 tees on the level of minority, HONORABLY DISCHARGED VETERAN and women-
52 owned business enterprises participating in each agency's contracts for
53 goods and services and on activities of the office and effort by each
54 contracting agency to promote employment of minority group members,
55 HONORABLY DISCHARGED VETERANS and women, and to promote and increase
56 participation by certified businesses with respect to state contracts

1 and subcontracts so as to facilitate the award of a fair share of state
2 contracts to such businesses. The comptroller shall assist the division
3 in collecting information on the participation of certified business for
4 each contracting agency. Such report may recommend new activities and
5 programs to effectuate the purposes of this article;

6 (f) to prepare and update periodically a directory of certified minor-
7 ity, HONORABLY DISCHARGED VETERAN and women-owned business enterprises
8 which shall, wherever practicable, be divided into categories of labor,
9 services, supplies, equipment, materials and recognized construction
10 trades and which shall indicate areas or locations of the state where
11 such enterprises are available to perform services;

12 S 5. Section 313 of the executive law, as amended by chapter 175 of
13 the laws of 2010, is amended to read as follows:

14 S 313. Opportunities for minority, HONORABLY DISCHARGED VETERAN and
15 women-owned business enterprises. 1. Goals and requirements for agencies
16 and contractors. Each agency shall structure procurement procedures for
17 contracts made directly or indirectly to minority, HONORABLY DISCHARGED
18 VETERAN and women-owned business enterprises, in accordance with the
19 findings of the two thousand ten disparity study, consistent with the
20 purposes of this article, to attempt to achieve the following results
21 with regard to total annual statewide procurement:

22 (a) construction industry for certified minority-owned business enter-
23 prises: fourteen and thirty-four hundredths percent;

24 (b) construction industry for certified women-owned business enter-
25 prises: eight and forty-one hundredths percent;

26 (c) construction related professional services industry for certified
27 minority-owned business enterprises: thirteen and twenty-one hundredths
28 percent;

29 (d) construction related professional services industry for certified
30 women-owned business enterprises: eleven and thirty-two hundredths
31 percent;

32 (e) non-construction related services industry for certified minori-
33 ty-owned business enterprises: nineteen and sixty hundredths percent;

34 (f) non-construction related services industry for certified women-
35 owned business enterprises: seventeen and forty-four hundredths percent;

36 (g) commodities industry for certified minority-owned business enter-
37 prises: sixteen and eleven hundredths percent;

38 (h) commodities industry for certified women-owned business enter-
39 prises: ten and ninety-three hundredths percent;

40 (i) overall agency total dollar value of procurement for certified
41 minority-owned business enterprises: sixteen and fifty-three hundredths
42 percent;

43 (j) overall agency total dollar value of procurement for certified
44 women-owned business enterprises: twelve and thirty-nine hundredths
45 percent; and

46 (k) overall agency total dollar value of procurement for certified
47 minority, women-owned business enterprises: twenty-eight and ninety-two
48 hundredths percent.

49 1-a. The director shall ensure that each state agency has been
50 provided with a copy of the two thousand ten disparity study.

51 1-b. Each agency shall develop and adopt agency-specific goals based
52 on the findings of the two thousand ten disparity study.

53 2. The director shall promulgate rules and regulations pursuant to the
54 goals established in subdivision one of this section that provide meas-
55 ures and procedures to ensure that certified minority, HONORABLY
56 DISCHARGED VETERAN and women-owned businesses shall be given the oppor-

tunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority, HONORABLY DISCHARGED VETERAN and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses.

2-a. The director shall promulgate rules and regulations that will accomplish the following:

(a) provide for the certification and decertification of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises for all agencies through a single process that meets applicable requirements;

(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability, as contained within the study, of certified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(c) require that each agency provide a current list of certified minority business enterprises to each prospective contractor;

(d) allow a contractor that is a certified minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise to use the work it performs to meet requirements for use of certified minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprises as subcontractors;

(e) provide for joint ventures, which a bidder may count toward meeting its minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation;

(f) consistent with subdivision six of this section, provide for circumstances under which an agency may waive obligations of the contractor relating to minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation;

(g) require that an agency verify that minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(h) provide for the collection of statistical data by each agency concerning actual minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprise participation; and

(i) require each agency to consult the most current disparity study when calculating agency-wide and contract specific participation goals pursuant to this article.

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of one hundred thousand dollars. Reports to the

1 director pursuant to section three hundred fifteen of this article shall
2 include activities with respect to all such state contracts. Contracting
3 agencies shall include or require to be included with respect to state
4 contracts for the acquisition, construction, demolition, replacement,
5 major repair or renovation of real property and improvements thereon,
6 such provisions as may be necessary to effectuate the provisions of this
7 section in every bid specification and state contract, including, but
8 not limited to: (a) provisions requiring contractors to make a good
9 faith effort to solicit active participation by enterprises identified
10 in the directory of certified businesses provided to the contracting
11 agency by the office; (b) requiring the parties to agree as a condition
12 of entering into such contract, to be bound by the provisions of section
13 three hundred sixteen of this article; and (c) requiring the contractor
14 to include the provisions set forth in paragraphs (a) and (b) of this
15 subdivision in every subcontract in a manner that the provisions will be
16 binding upon each subcontractor as to work in connection with such
17 contract. Provided, however, that no such provisions shall be binding
18 upon contractors or subcontractors in the performance of work or the
19 provision of services that are unrelated, separate or distinct from the
20 state contract as expressed by its terms, and nothing in this section
21 shall authorize the director or any contracting agency to impose any
22 requirement on a contractor or subcontractor except with respect to a
23 state contract.

24 4. In the implementation of this section, the contracting agency shall
25 (a) consult the findings contained within the disparity study evidencing
26 relevant industry specific availability of certified businesses;

27 (b) implement a program that will enable the agency to evaluate each
28 contract to determine the appropriateness of the goal pursuant to subdi-
29 vision one of this section;

30 (c) consider where practicable, the severability of construction
31 projects and other bundled contracts; and

32 (d) consider compliance with the requirements of any federal law
33 concerning opportunities for minority, HONORABLY DISCHARGED VETERAN and
34 women-owned business enterprises which effectuates the purpose of this
35 section. The contracting agency shall determine whether the imposition
36 of the requirements of any such law duplicate or conflict with the
37 provisions hereof and if such duplication or conflict exists, the
38 contracting agency shall waive the applicability of this section to the
39 extent of such duplication or conflict.

40 5. (a) Contracting agencies shall administer the rules and regulations
41 promulgated by the director in a good faith effort to meet the maximum
42 feasible portion of the agency's goals adopted pursuant to this article
43 and the regulations of the director. Such rules and regulations: shall
44 require a contractor to submit a utilization plan after bids are opened,
45 when bids are required, but prior to the award of a state contract;
46 shall require the contracting agency to review the utilization plan
47 submitted by the contractor and to post the utilization plan and any
48 waivers of compliance issued pursuant to subdivision six of this section
49 on the website of the contracting agency within a reasonable period of
50 time as established by the director; shall require the contracting agen-
51 cy to notify the contractor in writing within a period of time specified
52 by the director as to any deficiencies contained in the contractor's
53 utilization plan; shall require remedy thereof within a period of time
54 specified by the director; shall require the contractor to submit peri-
55 odic compliance reports relating to the operation and implementation of
56 any utilization plan; shall not allow any automatic waivers but shall

1 allow a contractor to apply for a partial or total waiver of the minori-
2 ty, HONORABLY DISCHARGED VETERAN and women-owned business enterprise
3 participation requirements pursuant to subdivisions six and seven of
4 this section; shall allow a contractor to file a complaint with the
5 director pursuant to subdivision eight of this section in the event a
6 contracting agency has failed or refused to issue a waiver of the minor-
7 ity, HONORABLY DISCHARGED VETERAN and women-owned business enterprise
8 participation requirements or has denied such request for a waiver; and
9 shall allow a contracting agency to file a complaint with the director
10 pursuant to subdivision nine of this section in the event a contractor
11 is failing or has failed to comply with the minority, HONORABLY
12 DISCHARGED VETERAN and women-owned business enterprise participation
13 requirements set forth in the state contract where no waiver has been
14 granted.

15 (b) The rules and regulations promulgated pursuant to this subdivision
16 regarding a utilization plan shall provide that where enterprises have
17 been identified within a utilization plan, a contractor shall attempt,
18 in good faith, to utilize such enterprise at least to the extent indi-
19 cated. A contracting agency may require a contractor to indicate, within
20 a utilization plan, what measures and procedures he or she intends to
21 take to comply with the provisions of this article, but may not require,
22 as a condition of award of, or compliance with, a contract that a
23 contractor utilize a particular enterprise in performance of the
24 contract.

25 (c) Without limiting other grounds for the disqualification of bids or
26 proposals on the basis of non-responsibility, a contracting agency may
27 disqualify the bid or proposal of a contractor as being non-responsible
28 for failure to remedy notified deficiencies contained in the contrac-
29 tor's utilization plan within a period of time specified in regulations
30 promulgated by the director after receiving notification of such defi-
31 ciencies from the contracting agency. Where failure to remedy any noti-
32 fied deficiency in the utilization plan is a ground for disqualifica-
33 tion, that issue and all other grounds for disqualification shall be
34 stated in writing by the contracting agency. Where the contracting agen-
35 cy states that a failure to remedy any notified deficiency in the utili-
36 zation plan is a ground for disqualification the contractor shall be
37 entitled to an administrative hearing, on a record, involving all
38 grounds stated by the contracting agency. Such hearing shall be
39 conducted by the appropriate authority of the contracting agency to
40 review the determination of disqualification. A final administrative
41 determination made following such hearing shall be reviewable in a
42 proceeding commenced under article seventy-eight of the civil practice
43 law and rules, provided that such proceeding is commenced within thirty
44 days of the notice given by certified mail return receipt requested
45 rendering such final administrative determination. Such proceeding shall
46 be commenced in the supreme court, appellate division, third department
47 and such proceeding shall be preferred over all other civil causes
48 except election causes, and shall be heard and determined in preference
49 to all other civil business pending therein, except election matters,
50 irrespective of position on the calendar. Appeals taken to the court of
51 appeals of the state of New York shall be subject to the same prefer-
52 ence.

53 6. Where it appears that a contractor cannot, after a good faith
54 effort, comply with the minority, HONORABLY DISCHARGED VETERAN and
55 women-owned business enterprise participation requirements set forth in
56 a particular state contract, a contractor may file a written application

1 with the contracting agency requesting a partial or total waiver of such
2 requirements setting forth the reasons for such contractor's inability
3 to meet any or all of the participation requirements together with an
4 explanation of the efforts undertaken by the contractor to obtain the
5 required minority, HONORABLY DISCHARGED VETERAN and women-owned business
6 enterprise participation. In implementing the provisions of this
7 section, the contracting agency shall consider the number and types of
8 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
9 prises located in the region in which the state contract is to be
10 performed, the total dollar value of the state contract, the scope of
11 work to be performed and the project size and term. If, based on such
12 considerations, the contracting agency determines there is not a reason-
13 able availability of contractors on the list of certified business to
14 furnish services for the project, it shall issue a waiver of compliance
15 to the contractor. In making such determination, the contracting agency
16 shall first consider the availability of other business enterprises
17 located in the region and shall thereafter consider the financial abili-
18 ty of minority, HONORABLY DISCHARGED VETERAN and women-owned businesses
19 located outside the region in which the contract is to be performed to
20 perform the state contract.

21 7. For purposes of determining a contractor's good faith effort to
22 comply with the requirements of this section or to be entitled to a
23 waiver therefrom the contracting agency shall consider:

24 (a) whether the contractor has advertised in general circulation
25 media, trade association publications, and minority-focus, VETERAN-FOCUS
26 and women-focus media and, in such event, (i) whether or not certified
27 minority, HONORABLY DISCHARGED VETERAN or women-owned businesses which
28 have been solicited by the contractor exhibited interest in submitting
29 proposals for a particular project by attending a pre-bid conference;
30 and

31 (ii) whether certified businesses which have been solicited by the
32 contractor have responded in a timely fashion to the contractor's solici-
33 tations for timely competitive bid quotations prior to the contracting
34 agency's bid date; and

35 (b) whether there has been written notification to appropriate certi-
36 fied businesses that appear in the directory of certified businesses
37 prepared pursuant to paragraph (f) of subdivision three of section three
38 hundred eleven of this article; and

39 (c) whether the contractor can reasonably structure the amount of work
40 to be performed under subcontracts in order to increase the likelihood
41 of participation by certified businesses.

42 8. In the event that a contracting agency fails or refuses to issue a
43 waiver to a contractor as requested within twenty days after having made
44 application therefor pursuant to subdivision six of this section or if
45 the contracting agency denies such application, in whole or in part, the
46 contractor may file a complaint with the director pursuant to section
47 three hundred sixteen of this article setting forth the facts and
48 circumstances giving rise to the contractor's complaint together with a
49 demand for relief. The contractor shall serve a copy of such complaint
50 upon the contracting agency by personal service or by certified mail,
51 return receipt requested. The contracting agency shall be afforded an
52 opportunity to respond to such complaint in writing.

53 9. If, after the review of a contractor's minority, HONORABLY
54 DISCHARGED VETERAN and women owned business utilization plan or review
55 of a periodic compliance report and after such contractor has been
56 afforded an opportunity to respond to a notice of deficiency issued by

1 the contracting agency in connection therewith, it appears that a
2 contractor is failing or refusing to comply with the minority, HONORABLY
3 DISCHARGED VETERAN and women-owned business participation requirements
4 as set forth in the state contract and where no waiver from such
5 requirements has been granted, the contracting agency may file a written
6 complaint with the director pursuant to section three hundred sixteen of
7 this article setting forth the facts and circumstances giving rise to
8 the contracting agency's complaint together with a demand for relief.
9 The contracting agency shall serve a copy of such complaint upon the
10 contractor by personal service or by certified mail, return receipt
11 requested. The contractor shall be afforded an opportunity to respond to
12 such complaint in writing.

13 S 6. Section 317 of the executive law, as added by chapter 261 of the
14 laws of 1988, is amended to read as follows:

15 S 317. Superseding effect of article with respect to state law. The
16 provisions of this article shall supersede any other provision of state
17 law, which expressly implements or mandates an equal employment opportu-
18 nity program or a program for securing participation by minority, HONOR-
19 ABLY DISCHARGED VETERAN and women-owned business enterprises, concerning
20 action to be taken by any party to a state contract, to which the
21 provisions of this article apply; provided, however, that the provisions
22 of any state law, not as hereinabove superseded, which expressly imple-
23 ment or mandate such programs shall remain unimpaired by the provisions
24 of this article, except that the provisions of any such law shall be
25 construed as if the provisions of subdivisions five, six, seven and
26 eight of section three hundred thirteen and section three hundred
27 sixteen of this article were fully set forth therein and made applicable
28 only to complaints of violations under such provisions of law occurring
29 on or after September first, nineteen hundred eighty-eight; provided,
30 further, that nothing contained in this article shall be construed to
31 limit, impair, or otherwise restrict any state agency's authority or
32 discretionary power in effect prior to the enactment of this article to
33 establish or continue, by rule, regulation or resolution, an equal
34 opportunity program or a program for securing participation of minority,
35 HONORABLY DISCHARGED VETERAN and women-owned business enterprises with
36 regard to banking relationships, the issuance of insurance policies or
37 contracts for the sale of bonds, notes or other securities; and,
38 provided further, that nothing contained in the immediately preceding
39 proviso shall be construed to create, impair, alter, limit, modify,
40 enlarge, abrogate or restrict any agency's authority or discretionary
41 power with respect to an equal opportunity program or a program for
42 securing participation of minority, HONORABLY DISCHARGED VETERAN and
43 women-owned enterprises.

44 S 7. Section 136-b of the state finance law, as added by chapter 261
45 of the laws of 1988, is amended to read as follows:

46 S 136-b. Selection of underwriters by state agencies. Whenever a state
47 agency, as defined in article fifteen-A of the executive law, sells its
48 bonds, notes or other securities at a private sale, in selecting one or
49 more underwriters to purchase such securities the state agency shall
50 consider, among other things, the participation of firms certified
51 pursuant to such article as minority, HONORABLY DISCHARGED VETERAN or
52 women-owned firms and the ability of other firms under consideration to
53 work with minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
54 ness enterprises so as to promote and assist participation by such
55 enterprises.

1 S 8. Paragraphs (b) and (d) of subdivision 2 of section 139-i of the
2 state finance law, as amended by chapter 531 of the laws of 1993, are
3 amended to read as follows:

4 (b) include in all bid documents provided to potential bidders a
5 statement that information concerning the availability of New York state
6 subcontractors and suppliers is available from the New York state
7 department of economic development, which shall include the directory of
8 certified minority and women-owned businesses, and it is the policy of
9 New York state to encourage the use of New York state subcontractors and
10 suppliers, and to promote the participation of minority, HONORABLY
11 DISCHARGED VETERAN and women-owned businesses, where possible, in the
12 procurement of goods and services.

13 (d) adopt policies to promote the participation by New York state
14 business enterprises and New York state residents in procurement
15 contracts, with the cooperation of the department of economic develop-
16 ment and the community services division of the department of labor
17 including, but not limited to, providing through cooperative efforts
18 with contractors for the notification of New York state business enter-
19 prises of opportunities to participate as subcontractors and suppliers
20 on procurement contracts in an amount estimated to be equal to or great-
21 er than one million dollars and for the notification of New York state
22 residents of employment opportunities arising in New York state out of
23 procurement contracts in an amount estimated to be equal to or greater
24 than one million dollars; and promulgating procedures which will assure
25 compliance by contractors with such notification. Once awarded the
26 contract, such contractors shall document their efforts to encourage the
27 participation of New York state business enterprises as suppliers and
28 subcontractors on procurement contracts equal to or greater than one
29 million dollars. Documented efforts by a successful contractor shall
30 consist of and be limited to showing that such contractor has [(a)] (I)
31 solicited bids, in a timely and adequate manner, from New York state
32 business enterprises including certified minority, HONORABLY DISCHARGED
33 VETERAN and women-owned business, or [(b)] (II) contacted the New York
34 state department of economic development to obtain listings of New York
35 state business enterprises, or [(c)] (III) placed notices for subcon-
36 tractors and suppliers in newspapers, journals and other trade publica-
37 tions distributed in New York state, or [(d)] (IV) participated in
38 bidder outreach conferences. If the contractor determines that New York
39 state business enterprises are not available to participate on the
40 contract as subcontractors or suppliers, the contractor shall provide a
41 statement indicating the method by which such determination was made. If
42 the contractor does not intend to use subcontractors on the contract,
43 the contractor shall provide a statement verifying such intent. Such
44 contractors shall also provide notification to New York state residents
45 of employment opportunities through listing any such positions with the
46 community services division, or providing for such notification in such
47 manner as is consistent with existing collective bargaining contracts or
48 agreements. On or before the effective date of this section, each state
49 agency or department shall submit such policies to the division of the
50 budget and copies thereof to the department of audit and control, the
51 department of economic development, the senate finance committee and the
52 assembly ways and means committee.

53 S 9. Subdivision 5, paragraph (e) of subdivision 11, paragraph (e) of
54 subdivision 12 and paragraph (a) of subdivision 16 of section 213 of the
55 state finance law, subdivision 5, paragraph (e) of subdivision 11 and
56 paragraph (e) of subdivision 12 as added by chapter 705 of the laws of

1 1993 and paragraph (a) of subdivision 16 as amended by chapter 424 of
2 the laws of 2009, are amended to read as follows:

3 5. "Certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN or
4 women-owned business" means any [minority-] MINORITY, HONORABLY
5 DISCHARGED VETERAN or women-owned business enterprise as defined in
6 section three hundred ten of the executive law and certified pursuant to
7 section three hundred fourteen of the executive law.

8 (e) any certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN
9 or women-owned business seeking financing necessary to carry out a
10 procurement contract with an agency or authority or other entity of the
11 state or federal government; or

12 (e) for certified [minority-] MINORITY, HONORABLY DISCHARGED VETERAN
13 and women-owned businesses, projects to provide financing necessary to
14 carry out a procurement contract with an agency or authority or other
15 entity of the state or federal government.

16 (a) for a linked deposit made in connection with a linked loan to a
17 certified business in an empire zone or to an eligible business located
18 in a highly distressed area or to an eligible business that is defined
19 in paragraph (b-1) of subdivision eleven of this section that is located
20 in a renewal community or defined in paragraph (b-2) of such subdivision
21 that is located in an empowerment zone or defined in paragraph (b-3) of
22 such subdivision that is located in an enterprise community, respective-
23 ly for eligible projects defined in paragraph (c) of subdivision twelve
24 of this section or a certified [minority-] MINORITY, HONORABLY
25 DISCHARGED VETERAN or women-owned business enterprise for an eligible
26 project defined in paragraph (e) of subdivision twelve of this section
27 or to a defense industry manufacturer for a project defined in paragraph
28 (d) of subdivision twelve of this section, a fixed rate of interest
29 which is three hundred basis points below the lender's posted four year
30 certificate of deposit rate or, if the lender does not offer a four year
31 certificate of deposit, is three hundred basis points below the average
32 statewide rate for four year certificates of deposit as determined by
33 the commissioner of economic development;

34 S 10. Subdivision 1 of section 218 of the state finance law, as
35 amended by chapter 424 of the laws of 2009, is amended to read as
36 follows:

37 1. Linked loans made to certified businesses in empire zones or to
38 eligible businesses in highly distressed areas or to eligible businesses
39 that are defined in paragraph (b-1) of subdivision eleven of section two
40 hundred thirteen of this article that are located in a renewal community
41 or defined in paragraph (b-2) of such subdivision that are located in an
42 empowerment zone or defined in paragraph (b-3) of such subdivision that
43 are located in an enterprise community, respectively for eligible
44 projects defined in paragraph (c) of subdivision twelve of section two
45 hundred thirteen of this article or to minority-, HONORABLY DISCHARGED
46 VETERAN- or women-owned business enterprises for an eligible project
47 defined in paragraph (e) of subdivision twelve of section two hundred
48 thirteen of this article or to a defense industry manufacturer for a
49 project defined in paragraph (d) of subdivision twelve of section two
50 hundred thirteen of this article shall bear interest at a fixed rate
51 equal to three percentage points below the fixed interest rate the lend-
52 er would have charged for the loan in the absence of a linked deposit
53 based on its usual credit considerations. All other linked loans shall
54 bear interest at a fixed rate equal to two percentage points below the
55 fixed interest rate the lender would have charged for the loan in the
56 absence of a linked deposit based on its usual credit considerations.

1 Lenders shall certify to the commissioner of economic development that
2 the rate to be charged on a linked loan is two percentage points or
3 three percentage points, as the case may be, below the interest rate the
4 lender would have charged for the loan in the absence of a linked depos-
5 it.

6 S 11. Paragraph (c) of subdivision 12 of section 3.07 of the arts and
7 cultural affairs law, as amended by chapter 255 of the laws of 1988, is
8 amended to read as follows:

9 (c) (i) In the performance of projects pursuant to this section,
10 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
11 prises shall be given the opportunity for meaningful participation. For
12 purposes hereof, minority business enterprise shall mean any business
13 enterprise which is at least fifty-one per centum owned by, or in the
14 case of a publicly owned business, at least fifty-one per centum of the
15 stock or other voting interest is owned by citizens or permanent resi-
16 dent aliens who are Black, Hispanic, Asian, American Indian, Pacific
17 Islander, or Alaskan native, and such ownership interest is real,
18 substantial and continuing and has the authority to independently
19 control the day to day business decisions of the entity for at least one
20 year; HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE SHALL MEAN
21 THE SAME AS PROVIDED IN SUBDIVISION TWENTY-THREE OF SECTION THREE
22 HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business enterprise
23 shall mean any business enterprise which is at least fifty-one per
24 centum owned by, or in the case of a publicly owned business, at least
25 fifty-one per centum of the stock to other voting interests of which is
26 owned by citizens or permanent resident aliens who are women, and such
27 ownership interest is real, substantial and continuing and has the
28 authority to independently control the day to day business decisions of
29 the entity for at least one year.

30 The provisions of this subdivision shall not be construed to limit the
31 ability of any minority business enterprise to bid on any contract.

32 (ii) In order to implement the requirements and objectives of this
33 section, the council shall request, as appropriate, the assistance of
34 other state agencies to monitor the contractors' compliance with
35 provisions hereof, provide assistance in obtaining competing qualified
36 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
37 prises to perform contracts proposed to be awarded, and take other
38 appropriate measures to improve the access of minority, HONORABLY
39 DISCHARGED VETERAN and women-owned business enterprises to these
40 contracts.

41 S 12. Subdivision 2 of section 115 of the economic development law, as
42 added by chapter 55 of the laws of 1992, is amended to read as follows:

43 2. "Technical assistance" shall mean assistance and services designed
44 to improve the efficiency, effectiveness and viability of a minority,
45 HONORABLY DISCHARGED VETERAN or women-owned business enterprise, includ-
46 ing, but not limited to, management assistance, problem solving, the
47 development of business and marketing plans, market analysis, financial
48 planning, regulatory compliance, safety and security measures, export
49 assistance, procurement assistance, application assistance, state
50 program assistance, referral to private and public financing sources,
51 contracting assistance, and other forms of assistance which the commis-
52 sioner deems necessary and appropriate.

53 S 13. Section 118 of the economic development law, as added by chapter
54 55 of the laws of 1992 and subdivision 7 as further amended by section
55 15 of part GG of chapter 63 of the laws of 2000, is amended to read as
56 follows:

1 S 118. Power and duties. In addition to the power and duties conferred
2 by section one hundred sixteen of this article, the division shall have
3 the additional power and duty to:

4 1. Coordinate with all state agencies performing functions affecting
5 the operations of minority business enterprises, HONORABLY DISCHARGED
6 VETERAN OWNED BUSINESS ENTERPRISES and women-owned business enterprises,
7 as such terms are defined in section two hundred ten of this chapter;

8 2. Receive complaints and inquiries of operators of minority, HONOR-
9 ABLY DISCHARGED VETERAN and women-owned business enterprises and refer
10 them to the appropriate federal, state or local agency for appropriate
11 action on such complaints;

12 3. Solicit recommendations from the operators of minority, HONORABLY
13 DISCHARGED VETERAN and women-owned business enterprises for improving
14 existing state programs and refer such recommendations to the governor,
15 the legislature and appropriate state agencies or authorities;

16 4. Advise and make recommendations to the commissioner and the legis-
17 lature on matters affecting the minority, HONORABLY DISCHARGED VETERAN
18 and women-owned business enterprises of the state and promote and
19 encourage the protection of the legitimate interests of minority, HONOR-
20 ABLY DISCHARGED VETERAN and women-owned business enterprises within the
21 state;

22 5. Conduct investigations, research, studies and analyses of matters
23 affecting the interests of minority, HONORABLY DISCHARGED VETERAN and
24 women-owned business enterprises;

25 6. Study the implementation of the laws affecting minority, HONORABLY
26 DISCHARGED VETERAN and women-owned business enterprises and recommend to
27 the commissioner new laws and amendments of laws for the benefit of
28 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
29 prises; and review pending legislation affecting minority, HONORABLY
30 DISCHARGED VETERAN and women-owned business enterprises and report its
31 findings to the commissioner;

32 7. Provide technical assistance and information to minority, HONORABLY
33 DISCHARGED VETERAN and women-owned business enterprises in the state on
34 economic development programs administered by the department, including,
35 but not limited to: (a) the empire zones program, established pursuant
36 to article eighteen-B of the general municipal law, (b) the industrial
37 effectiveness program, established pursuant to article seven of this
38 chapter, (c) the economic development skills training program, estab-
39 lished pursuant to article eight of this chapter, and (d) the entrepre-
40 neurial assistance program, established pursuant to article nine of this
41 chapter;

42 8. Provide technical assistance and information to minority, HONORABLY
43 DISCHARGED VETERAN and women-owned business enterprises in the state on
44 economic development programs administered by agencies other than the
45 department, including, but not limited to programs administered by the
46 urban development corporation, the job development authority and the
47 science and technology foundation;

48 9. Be responsible for conducting minority, HONORABLY DISCHARGED VETER-
49 AN and women-owned business enterprise assistance programs and for coor-
50 dinating the activities of all other state agencies acting within the
51 scope of this section; and

52 10. Carry out the activities to implement the minority, HONORABLY
53 DISCHARGED VETERAN and women-owned business enterprise assistance
54 programs, to the extent practicable, within amounts appropriated there-
55 for by[;]:

1 (a) collecting and maintaining information identifying certified
2 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
3 prises within New York state;

4 (b) collecting, maintaining, and providing information to potential
5 users identifying existing contracting and procurement opportunities
6 within and outside New York state;

7 (c) maintaining, providing and marketing a compilation of existing
8 programs providing assistance for minority, HONORABLY DISCHARGED VETERAN
9 and women-owned business enterprises;

10 (d) identifying special needs and problems facing minority, HONORABLY
11 DISCHARGED VETERAN and women-owned business enterprises within New York
12 state;

13 (e) contacting institutions, organizations and commercial enterprises
14 that are potential consumers of minority, HONORABLY DISCHARGED VETERAN
15 and women-owned business products and services; urging their expanded
16 consumption of such goods and services;

17 (f) facilitating the establishment of minority, HONORABLY DISCHARGED
18 VETERAN and women-owned business enterprises; and

19 (g) providing information concerning local and regional opportunities
20 for minority, HONORABLY DISCHARGED VETERAN and women-owned business
21 enterprises.

22 S 14. Section 210 of the economic development law is amended by
23 adding a new subdivision 6 to read as follows:

24 6. "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" MEANS THE
25 SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN
26 OF THE EXECUTIVE LAW.

27 S 15. Paragraphs (b) and (i) of subdivision 1 of section 231 of the
28 economic development law, as amended by chapter 352 of the laws of 2009,
29 are amended to read as follows:

30 (b) to provide outreach to businesses, with attention to small and
31 medium-sized businesses, including minority, HONORABLY DISCHARGED VETER-
32 AN and women-owned business enterprises, for financial and technical
33 assistance offered by state economic development agencies, authorities,
34 or other economic entities;

35 (i) to provide information and assistance in the certification of
36 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
37 prises;

38 S 16. Section 52-0113 of the environmental conservation law, as added
39 by chapter 512 of the laws of 1986, is amended to read as follows:

40 S 52-0113. Minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
41 ness enterprise program.

42 1. a. In the performance of projects pursuant to this article
43 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
44 prises shall be given the opportunity for meaningful participation. The
45 department or the office shall establish measures and procedures to
46 secure meaningful participation and identify those contracts and items
47 of work for which minority, HONORABLY DISCHARGED VETERAN and women-owned
48 business enterprises may best bid to actively and affirmatively promote
49 and assist their participation in the projects, so as to facilitate the
50 award of a fair share of contracts to such enterprises; provided, howev-
51 er, that nothing in this article shall be construed to limit the ability
52 of the department or office to assure that qualified minority, HONORABLY
53 DISCHARGED VETERAN and women-owned business enterprises may participate
54 in the program.

55 For purposes [hereof] OF THIS ARTICLE, minority business enterprise
56 shall mean any business enterprise which is at least fifty-one per

1 centum owned by, or in the case of a publicly owned business, at least
2 fifty-one per centum of the stock of which is owned by citizens or
3 permanent resident aliens who are Black, Hispanic, Asian or American
4 Indian, Pacific Islander or Alaskan natives and such ownership interest
5 is real, substantial and continuing and have the authority to independ-
6 ently control the day to day business decisions of the entity for at
7 least one year; HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE
8 SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION
9 THREE HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business enter-
10 prise shall mean any business enterprise which is at least fifty-one per
11 centum owned by, or in the case of a publicly owned business, at least
12 fifty-one per centum of the stock of which is owned by citizens or
13 permanent resident aliens who are women, and such ownership interest is
14 real, substantial and continuing and have the authority to independently
15 control the day to day business decisions of the entity for at least one
16 year. The provisions of this paragraph shall not be construed to limit
17 the ability of any minority, HONORABLY DISCHARGED VETERAN or women-owned
18 business enterprise to bid on any contract.

19 b. In the implementation of this section, the department or the office
20 shall consider compliance by any contractor with the requirements of any
21 federal, state, or local law concerning minority, HONORABLY DISCHARGED
22 VETERAN and women-owned business enterprises, which may effectuate the
23 requirements of this section. If the department or the office determines
24 that by virtue of the imposition of the requirements of any such law, in
25 respect to capital project contracts, the provisions thereof duplicate
26 or conflict with such law, the department may waive the applicability of
27 this section to the extent of such duplication or conflict.

28 c. Nothing in this section shall be deemed to require that overall
29 state and federal requirements for participation of minority, HONORABLY
30 DISCHARGED VETERAN and women-owned business enterprises in programs
31 authorized under this article be applied without regard to local circum-
32 stances to all projects or in all communities.

33 2. In order to implement the requirements and objectives of this
34 section, the department and the office shall establish procedures to
35 monitor the contractors' compliance with provisions hereof, provide
36 assistance in obtaining competing qualified minority, HONORABLY
37 DISCHARGED VETERAN and women-owned business enterprises to perform
38 contracts proposed to be awarded, and take other appropriate measures to
39 improve the access of minority, HONORABLY DISCHARGED VETERAN and women-
40 owned business enterprises to these contracts.

41 S 17. Subparagraph (i) of paragraph (b), the opening paragraph of
42 paragraph (c), paragraphs (i) and (j) and subparagraphs (ii) and (iii)
43 of paragraph (n) of subdivision 3 of section 2879 of the public authori-
44 ties law, subparagraph (i) of paragraph (b) as amended, paragraphs (i)
45 and (j) as added, and subparagraphs (ii) and (iii) of paragraph (n) as
46 relettered by chapter 174 of the laws of 2010 and paragraph (c) as
47 amended by chapter 564 of the laws of 1988, are amended and a new para-
48 graph (e-1) is added to read as follows:

49 (i) for the selection of such contractors on a competitive basis, and
50 provisions relating to the circumstances under which the board may by
51 resolution waive competition, including, notwithstanding any other
52 provision of law requiring competition, the purchase of goods or
53 services from small business concerns or those certified as minority,
54 HONORABLY DISCHARGED VETERAN or women-owned business enterprises, or
55 goods or technology that are recycled or remanufactured, in an amount

1 not to exceed two hundred thousand dollars without a formal competitive
2 process;

3 An identification of those areas or types of contracts for which
4 minority, HONORABLY DISCHARGED VETERAN or women-owned business enter-
5 prises may best bid so as to promote and assist participation by such
6 enterprises and facilitate a fair share of the awarding of contracts to
7 such enterprises. For the purposes of this section, a minority business
8 enterprise means any business enterprise, including a sole proprietor-
9 ship, partnership or corporation that is:

10 (i) The establishment of appropriate goals for participation by minor-
11 ity, HONORABLY DISCHARGED VETERAN or women-owned business enterprises in
12 procurement contracts awarded by the corporation and for the utilization
13 of minority, HONORABLY DISCHARGED VETERAN and women-owned enterprises as
14 subcontractors and suppliers by entities having procurement contracts
15 with the corporation. Statewide numerical participation target goals
16 shall be established by each authority based on the findings of the two
17 thousand ten disparity study.

18 (j) Requirements to conduct procurements in a manner that will enable
19 the corporation to achieve the maximum feasible portion of the goals
20 established pursuant to paragraph (i) of this subdivision and that elim-
21 inates barriers to participation by minority, HONORABLY DISCHARGED
22 VETERAN and women-owned business enterprises in the corporation's
23 procurements. Such procurement requirements shall include the following:

24 (A) Measures and procedures to ensure that certified businesses shall
25 be given the opportunity for maximum feasible participation in the
26 performance of state contracts and to assist in the corporation's iden-
27 tification of those state contracts for which certified businesses may
28 best bid to actively and affirmatively promote and assist their partic-
29 ipation in the performance of state contracts so as to facilitate the
30 corporation's achievement of the maximum feasible portion of the goals
31 for state contracts to such businesses;

32 (B) Provisions designating the division of minority, HONORABLY
33 DISCHARGED VETERAN and women-owned business development to certify and
34 decertify minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
35 ness enterprises for all corporations through a single process that
36 meets applicable state and federal requirements;

37 (C) A requirement that each contract solicitation document accompany-
38 ing each solicitation set forth the expected degree of minority, HONOR-
39 ABLY DISCHARGED VETERAN and women-owned business enterprise partic-
40 ipation based, in part, on:

41 I. the potential subcontract opportunities available in the prime
42 procurement contract; and

43 II. the availability of certified minority, HONORABLY DISCHARGED
44 VETERAN and women-owned business enterprises to respond competitively to
45 the potential subcontract opportunities;

46 (D) A requirement that each corporation provide a current list of
47 certified minority business enterprises to each prospective contractor;

48 (E) Provisions relating to joint ventures, under which a bidder may
49 count toward meeting its minority business enterprise participation
50 goal, the minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
51 ness enterprise portion of the joint venture;

52 (F) Provisions under which the corporation may waive obligations of
53 the contractor relating to minority, HONORABLY DISCHARGED VETERAN and
54 women-owned business enterprise participation after a showing of good
55 faith efforts to comply with the requirements of this act pursuant to

1 the waiver provisions contained in subdivision six of section three
2 hundred thirteen of the executive law;

3 (G) A requirement that the corporation verify that minority, HONORABLY
4 DISCHARGED VETERAN and women-owned business enterprises listed in a
5 successful bid are actually participating to the extent listed in the
6 project for which the bid was submitted;

7 (H) In the implementation of this section, the contracting corporation
8 shall:

9 I. consider, where practicable, the severability of construction
10 projects and other bundled contracts;

11 II. implement a program that will enable the corporation to evaluate
12 each contract to determine the appropriateness of the goal pursuant to
13 paragraph (i) of this subdivision;

14 III. consider compliance with the requirements of any federal law
15 concerning opportunities for minority, HONORABLY DISCHARGED VETERAN and
16 women-owned business enterprises which effectuates the purpose of this
17 section; and

18 IV. consult the most recent disparity study pursuant to article
19 fifteen-A of the executive law.

20 (ii) with the cooperation of the department of economic development
21 and through cooperative efforts with contractors, providing for the
22 notification of New York state business enterprises of opportunities to
23 participate as subcontractors and suppliers on procurement contracts let
24 by the corporation in an amount estimated to be equal to or greater than
25 one million dollars and promulgating procedures which will assure
26 compliance by contractors with such notification. Once awarded the
27 contract such contractors shall document their efforts to encourage the
28 participation of New York state business enterprises as suppliers and
29 subcontractors on procurement contracts equal to or greater than one
30 million dollars. Documented efforts by a successful contractor shall
31 consist of and be limited to showing that such contractor has (a) solic-
32 ited bids, in a timely and adequate manner, from New York state business
33 enterprises including certified minority, HONORABLY DISCHARGED VETERAN
34 and women-owned business, or (b) contacted the New York state department
35 of economic development to obtain listings of New York state business
36 enterprises, or (c) placed notices for subcontractors and suppliers in
37 newspapers, journals and other trade publications distributed in New
38 York state, or (d) participated in bidder outreach conferences. If the
39 contractor determines that New York state business enterprises are not
40 available to participate on the contract as subcontractors or suppliers,
41 the contractor shall provide a statement indicating the method by which
42 such determination was made. If the contractor does not intend to use
43 subcontractors on the contract, the contractor shall provide a statement
44 verifying such intent; and

45 (iii) except for procurement contracts for which the corporation would
46 be expending funds received from another state, the corporation shall
47 include in all bid documents provided to potential bidders a statement
48 that information concerning the availability of New York state subcon-
49 tractors and suppliers is available from the New York state department
50 of economic development, which shall include the directory of certified
51 minority, HONORABLY DISCHARGED VETERAN and women-owned businesses, and
52 it is the policy of New York state to encourage the use of New York
53 state subcontractors and suppliers, and to promote the participation of
54 minority, HONORABLY DISCHARGED VETERAN and women-owned businesses where
55 possible, in the procurement of goods and services; and

(E-1) FOR PURPOSES OF THIS SECTION, "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" MEANS THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 18. Section 957 of the general municipal law is amended by adding a new subdivision (u) to read as follows:

(U) "HONORABLY DISCHARGED VETERAN OWNED BUSINESS ENTERPRISE" SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 19. Subdivisions (g) and (t) of section 959 of the general municipal law, as amended by section 3 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(g) Coordinate, with the local empire zone administrative board and state agencies and authorities, the provision of business development programs and services for each empire zone in order to stimulate the creation and development of new small businesses, including new small minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises, and may request and shall receive from any department, division, board, bureau, commission, agency or public authority of the state such assistance as may be necessary;

(t) Coordinate with the urban development corporation the creation of a special category of assistance for zones within the regional economic development partnership program, which will make available economic development assistance grants for zone programs and activities, including, but not limited to, planning, service coordination, and local institutional capacity building for human resource development necessary for economic revitalization; planning and development of small business incubators; job placement and preparedness programs for zones residents; education and training programs for zone businesses; child care programs and projects supportive of business development; technical assistance for minority, HONORABLY DISCHARGED VETERAN and women-owned business development; training for zone officials; business and tourism development and marketing programs; and other innovative programs and activities in support of economic and community development within the zones;

S 20. Paragraph (x) of subdivision (b) of section 961 of the general municipal law, as added by chapter 708 of the laws of 1993, is amended to read as follows:

(x) identify financial commitments the applicant will make to the zone for activities, including, but not limited to, marketing of the zone for business development, human resource services for zone residents and businesses, and services for small [and], minority, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 21. Subdivision (j) of section 962 of the general municipal law, as amended by chapter 624 of the laws of 1990 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(j) a description of activities designed to ensure the meaningful participation of minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises in empire zone development activities;

S 22. Paragraphs (iii) and (xii) of subdivision (a) of section 963 of the general municipal law, as amended by chapter 708 of the laws of 1993, as further amended by section 15 of part GG of chapter 63 of the laws of 2000 and as relettered by section 7 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(iii) undertake efforts to ensure meaningful participation by minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises in empire zone activities;

1 (xii) provide within the zone, or contract with a new or existing
2 community-based local development corporation or entity to provide,
3 strategic economic development planning for the zone, marketing and
4 promotion of the zone, assistance to companies in applying for available
5 benefits, preparation of applications for financing assistance and other
6 technical assistance services; coordination of the delivery of state and
7 local programs within the zones; and operation of such other economic
8 development assistance programs in furtherance of the empire zone devel-
9 opment plan as may be appropriate. Provided, however, within the amount
10 appropriated therefor and allocated by the director of the budget, the
11 commissioner, through annual administrative contracts, shall, to the
12 maximum extent feasible, make equally available financial support,
13 through contracts or other means, to assist with the administrative
14 expenses of the local zone administrative bodies or community-based
15 development organizations. No funds shall be made available for this
16 purpose unless the amount to be provided has been matched by private or
17 governmental sources, other than state sources, in amounts at least
18 equalling that to be provided by the state. Such matching funds shall be
19 earmarked and used exclusively for the local administration of the zone
20 program or for activities of the zone program. At least fifty percent of
21 such matching funds shall be in cash, provided that the commissioner may
22 waive this requirement for communities with populations of twenty-five
23 thousand or less, and provided, further, that any amounts appropriated
24 for minority, HONORABLY DISCHARGED VETERAN and women-owned business
25 development within the zones shall be distributed by the commissioner
26 pursuant to a competitive proposal solicitation process.

27 S 23. Subdivision (c) of section 964 of the general municipal law, as
28 amended by chapter 708 of the laws of 1993 and as further amended by
29 section 15 of part GG of chapter 63 of the laws of 2000, is amended to
30 read as follows:

31 (c) Each empire zone capital corporation shall, to the maximum extent
32 feasible, undertake measures and procedures to ensure meaningful partic-
33 ipation by minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and
34 women-owned business enterprises in the activities and investments of
35 such corporation. Each such corporation shall additionally, to the maxi-
36 mum extent feasible, undertake measures and procedures to ensure mean-
37 ingful participation by locally owned business enterprises in the activ-
38 ities and investments of such corporation.

39 S 24. Subparagraph 7 of paragraph f of subdivision 3 of section 970-r
40 of the general municipal law, as amended by section 1 of part F of chap-
41 ter 577 of the laws of 2004, is amended to read as follows:

42 (7) the financial commitments the applicant will make to the brown-
43 field opportunity area for activities including, but not limited to,
44 marketing of the area for business development, human resource services
45 for residents and businesses in the brownfield opportunity area, and
46 services for small [and], minority, HONORABLY DISCHARGED VETERAN and
47 women-owned businesses.

48 S 25. Subdivision 33 of section 454 of the banking law, as amended by
49 chapter 679 of the laws of 2003, is amended to read as follows:

50 33. Notwithstanding any other provision of this article to the contra-
51 ry, to participate in the [minority -] MINORITY, HONORABLY DISCHARGED
52 VETERAN and women-owned business development and lending program, as
53 established in section 16-c of section 1 of chapter 174 of the laws of
54 1968, constituting the urban development corporation act, to the extent
55 that such program allows participation by credit unions.

1 S 26. Section 9-b of section 1 of chapter 359 of the laws of 1968,
2 constituting the facilities development corporation act, as added by
3 chapter 58 of the laws of 1987, is amended to read as follows:

4 S 9-b. Minority, HONORABLY DISCHARGED VETERAN and women-owned business
5 enterprise program. 1. (a) Minority, HONORABLY DISCHARGED VETERAN and
6 women-owned business enterprises shall be given the opportunity for
7 meaningful participation in all contracts executed by the corporation
8 pursuant to the provisions of this act other than contracts the cost of
9 which is borne solely by a municipality or municipalities. The corpo-
10 ration shall establish measures and procedures to secure meaningful
11 participation and identify those contracts and items of work for which
12 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
13 prises may best bid to actively and affirmatively promote and assist
14 their participation in the projects, so as to facilitate the award of a
15 fair share of contracts to such enterprises; provided, however, that
16 nothing in this act shall be construed to limit the ability of the
17 corporation to assure that qualified minority, HONORABLY DISCHARGED
18 VETERAN and women-owned business enterprises may participate in the
19 program. For purposes hereof, minority business enterprise shall mean
20 any business enterprise which is at least fifty-one per centum owned by,
21 or in the case of a publicly owned business, at least fifty-one per
22 centum of the stock of which is owned by citizens or permanent resident
23 aliens who are Black, Hispanic, Asian or American Indian, Pacific Islan-
24 der or Alaskan natives and such ownership interest is real, substantial
25 and continuing and have the authority to independently control the day
26 to day business decisions of the entity for at least one year; HONORABLY
27 DISCHARGED VETERAN BUSINESS ENTERPRISE SHALL MEAN THE SAME AS DEFINED IN
28 SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW; and women-owned
29 business enterprise shall mean any business enterprise which is at least
30 fifty-one per centum owned by, or in the case of a publicly owned busi-
31 ness, at least fifty-one per centum of the stock of which is owned by
32 citizens or permanent resident aliens who are women, and such ownership
33 interest is real, substantial and continuing and have the authority to
34 independently control the day to day business decisions of the entity
35 for at least one year.

36 The provisions of this paragraph shall not be construed to limit the
37 ability of any minority, HONORABLY DISCHARGED VETERAN or women-owned
38 business enterprise to bid on any contract.

39 (b) In the implementation of this section, the corporation shall
40 consider compliance by any contractor with the requirements of any
41 federal, state, or local law concerning minority, HONORABLY DISCHARGED
42 VETERAN and women-owned business enterprises, which may effectuate the
43 requirements of this section. If the corporation determines that by
44 virtue of the imposition of the requirements of any such law, in respect
45 to contracts, the provisions thereof duplicate or conflict with this
46 section, the corporation may waive the applicability of this section to
47 the extent of such duplication or conflict.

48 (c) Nothing in this section shall be deemed to require that overall
49 state and federal requirements for participation of minority, HONORABLY
50 DISCHARGED VETERAN and women-owned business enterprises in programs
51 authorized under this act be applied without regard to local circum-
52 stances to all projects or in all communities.

53 2. In order to implement the requirements and objectives of this
54 section, the corporation shall establish procedures to monitor the
55 contractors' compliance with provisions hereof, provide assistance in
56 obtaining competing qualified minority, HONORABLY DISCHARGED VETERAN and

1 women-owned business enterprises to perform contracts proposed to be
2 awarded, and take other appropriate measures to improve the access of
3 minority, HONORABLY DISCHARGED VETERAN and women-owned business enter-
4 prises to these contracts.

5 S 27. Section 16-b of section 1 of chapter 392 of the laws of 1973,
6 constituting the New York state medical care facilities finance agency
7 act, as added by chapter 58 of the laws of 1987, is amended to read as
8 follows:

9 S 16-b. Minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
10 ness enterprise program. 1. a. In the performance of projects pursuant
11 to this act minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
12 ness enterprises shall be given the opportunity for meaningful partic-
13 ipation. The agency shall establish measures and procedures to secure
14 meaningful participation and identify those contracts and items of work
15 for which minority, HONORABLY DISCHARGED VETERAN and women-owned busi-
16 ness enterprises may best bid to actively and affirmatively promote and
17 assist their participation in the projects, so as to facilitate the
18 award of a fair share of contracts to such enterprises; provided, howev-
19 er, that nothing in this act shall be construed to limit the ability of
20 the agency to assure that qualified minority, HONORABLY DISCHARGED
21 VETERAN and women-owned business enterprises may participate in the
22 program. For purposes hereof, minority business enterprise shall mean
23 any business enterprise which is at least fifty-one per centum owned by,
24 or in the case of a publicly owned business, at least fifty-one per
25 centum of the stock of which is owned by citizens or permanent resident
26 aliens who are Black, Hispanic, Asian or American Indian, Pacific Islan-
27 der or Alaskan natives and such ownership interest is real, substantial
28 and continuing and have the authority to independently control the day
29 to day business decisions of the entity for at least one year; HONORABLY
30 DISCHARGED VETERAN BUSINESS ENTERPRISE SHALL MEAN THE SAME AS DEFINED IN
31 SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW; and women-owned
32 business enterprise shall mean any business enterprise which is at least
33 fifty-one per centum owned by, or in the case of a publicly owned busi-
34 ness, at least fifty-one per centum of the stock of which is owned by
35 citizens or permanent resident aliens who are women, and such ownership
36 interest is real, substantial and continuing and have the authority to
37 independently control the day to day business decisions of the entity
38 for at least one year.

39 The provisions of this paragraph shall not be construed to limit the
40 ability of any minority, HONORABLY DISCHARGED VETERAN or women-owned
41 business enterprise to bid on any contract.

42 b. In the implementation of this section, the agency shall consider
43 compliance by any contractor with the requirements of any federal,
44 state, or local law concerning minority, HONORABLY DISCHARGED VETERAN
45 and women-owned business enterprises, which may effectuate the require-
46 ments of this section. If the department or the office determines that
47 by virtue of the imposition of the requirements of any such law, in
48 respect to contracts, the provisions thereof duplicate or conflict with
49 this act, the agency may waive the applicability of this section to the
50 extent of such duplication or conflict.

51 c. Nothing in this section shall be deemed to require that overall
52 state and federal requirements for participation of minority, HONORABLY
53 DISCHARGED VETERAN and women-owned business enterprises in programs
54 authorized under this act be applied without regard to local circum-
55 stances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the agency shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises to these contracts.

S 28. Paragraph (c) of subdivision 10 of section 16-a of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 477 of the laws of 2002, is amended to read as follows:

(c) of minority, HONORABLY DISCHARGED VETERAN or women-owned enterprises or enterprises owned by dislocated workers, such workers as defined in the Workforce Investment Act (P.L. 105-220); and

S 29. Section 16-c of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

S 16-c. [Minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program.

(1) [Minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program. (a) There is hereby created a [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business development and lending program for the purpose of providing financial and technical assistance to minority, HONORABLY DISCHARGED VETERAN and women-entrepreneurs.

(b) For the purposes of this section the following words or terms shall mean as follows:

(i) "minority-owned business enterprise" or "minority-owned business" shall mean the same as "minority business enterprise" as defined in subdivision [three] 3 of section [two hundred ten] 210 of the economic development law.

(ii) "women-owned business enterprise" or "women-owned business" shall mean the same as "women-owned business enterprise" as defined in subdivision [five] 5 of section [two hundred ten] 210 of the economic development law.

(iii) "HONORABLY DISCHARGED VETERAN BUSINESS ENTERPRISE" SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW.

(IV) "incubator" shall mean a facility providing low-cost space, technical assistance and support services, including, but not limited to, central services shared by tenants of the facility, to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises.

(c) Assistance shall not be provided under this section for:

(i) the purchase or rehabilitation of real property for speculative purposes;

(ii) payment of any tax or employee benefit arrearage;

(iii) residential construction, renovation or development construction, except for assistance to minority, HONORABLY DISCHARGED VETERAN and women contractors under subdivision four of this section;

(iv) educational institutions and proprietary education firms, except licensed child care facilities;

(v) hospitals or residential health care facilities;

1 (vi) overnight lodging facilities;
2 (vii) refinancing of debt or equity invested in an enterprise or
3 project.
4 (d) The corporation is authorized to:
5 (i) establish programs in conjunction with locally, and community
6 based entities to decentralize lending for small loans and loans to
7 start up [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-
8 owned businesses;
9 (ii) establish a comprehensive program for minority, HONORABLY
10 DISCHARGED VETERAN and women contractors, which may include assistance
11 through loans, bonding assistance and technical assistance;
12 (iii) establish a program to provide loans to established [minority-]
13 MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses and
14 for [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned
15 businesses, including loans to such businesses seeking to acquire or
16 expand a franchise;
17 (iv) provide loan guarantees to financial institutions and make linked
18 deposits into federally and state chartered credit unions for the
19 purpose of encouraging private financial institutions to make loans to
20 [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned busi-
21 nesses;
22 (v) establish a program to create incubators to assist small and high
23 risk [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned
24 businesses to grow and prosper;
25 (vi) promote equity investment in [minority-] MINORITY, HONORABLY
26 DISCHARGED VETERAN and women-owned businesses; and
27 (vii) establish a comprehensive technical assistance program in coop-
28 eration with the department of economic development to assist [minori-
29 ty-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses
30 and potential minority, HONORABLY DISCHARGED VETERAN and women-entre-
31 preneurs.
32 (2) Minority, HONORABLY DISCHARGED VETERAN and women revolving loan
33 trust fund. For the purpose of establishing programs in conjunction with
34 locally and community based entities to decentralize lending for small
35 loans and loans to start up [minority-] MINORITY, HONORABLY DISCHARGED
36 VETERAN and women-owned businesses, the corporation shall establish
37 minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust
38 fund accounts and related administrative expenses trust fund accounts.
39 (a) Each minority, HONORABLY DISCHARGED VETERAN and women revolving
40 loan trust fund account shall be administered by one or more of the
41 following types of entities that provide services to community busi-
42 nesses and have as one of their primary purposes the provision of
43 services and assistance to [minority-] MINORITY, HONORABLY DISCHARGED
44 VETERAN and women-owned businesses:
45 (i) empire zone capital corporations established pursuant to section
46 [nine hundred sixty-four] 964 of the general municipal law;
47 (ii) community-based local development corporations or industrial
48 development agencies that serve a municipality in which an empire zone
49 has been established pursuant to article [eighteen-B] 18-B of the gener-
50 al municipal law and have as their primary purpose assistance to [minor-
51 ity-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses
52 located or to be located in such empire zone; or
53 (iii) local and community development corporations, industrial devel-
54 opment agencies, or other not-for-profit entities, representative of the
55 community.

1 (b) To be eligible to administer a minority, HONORABLY DISCHARGED
2 VETERAN and women revolving loan trust fund account, the entity must
3 also: (i) have staff with sufficient expertise to analyze applications
4 for financial assistance, to regularly monitor financial assistance to
5 clients, and to provide management or technical assistance to clients;
6 and (ii) have established a loan committee composed of six or more
7 persons experienced in business management, commercial lending or in the
8 operation of a for-profit business, at least one-half of whom shall be
9 experienced in commercial lending, at least one-third of whom shall be
10 minority persons and at least one-third of whom shall be women. Such
11 loan committee shall review every application, determine the feasibility
12 of the proposed project and the likelihood of repayment of the requested
13 financing and shall recommend to the governing body of the entity such
14 action on the application as the loan committee deems appropriate. The
15 corporation shall identify entities eligible to administer minority,
16 HONORABLY DISCHARGED VETERAN and women revolving loan trust fund
17 accounts through a competitive statewide request for proposal process.

18 (c) Any entity selected to administer a minority, HONORABLY DISCHARGED
19 VETERAN and women revolving loan trust fund account shall be eligible to
20 draw funds from the account as needed to provide the following types of
21 financial assistance to [minority-] MINORITY, HONORABLY DISCHARGED
22 VETERAN and women-owned businesses upon certification to and acceptance
23 by the corporation that such assistance complies with rules and regu-
24 lations promulgated by the corporation: (i) working capital loans,
25 provided that the amount of the loan does not exceed thirty-five thou-
26 sand dollars and the term of the loan does not exceed five years; and
27 (ii) loans for the acquisition and/or improvement of real property and
28 for the acquisition of machinery and equipment provided that the amount
29 of the loan does not exceed fifty thousand dollars and the term of the
30 loan does not exceed the useful life of the equipment or property.

31 (d) (i) Notwithstanding any provision of law to the contrary, the
32 corporation may establish an administrative expenses trust fund account
33 for the benefit of each entity selected to administer a minority, HONOR-
34 ABLY DISCHARGED VETERAN and women revolving loan trust fund account. The
35 initial deposit of funds to an administrative expenses trust fund
36 account shall be an amount determined by the corporation but shall not
37 exceed twenty-five thousand dollars.

38 (ii) An entity selected to administer a minority, HONORABLY DISCHARGED
39 VETERAN and women revolving loan trust fund account may use the funds in
40 the administrative expenses trust fund account for costs incurred by it
41 in the start up and administration of the financial assistance program
42 authorized pursuant to this subdivision.

43 (iii) The corporation shall deposit into each administrative expenses
44 trust fund account:

45 (A) all income earned from the moneys on deposit in the corresponding
46 minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust
47 fund account during the first year of the entity's administration of
48 said account; and

49 (B) beginning with its second year in administering a minority, HONOR-
50 ABLY DISCHARGED VETERAN and women revolving loan trust fund account,
51 said amounts may be used for costs incurred by the entity in administer-
52 ing the minority, HONORABLY DISCHARGED VETERAN and women revolving loan
53 trust fund account; and

54 (C) repayments of interest on loans made from the corresponding minor-
55 ity, HONORABLY DISCHARGED VETERAN and women revolving loan trust fund
56 account.

1 (iv) Funds from the administrative expenses trust fund account may be
2 used for costs incurred at any time by an administering entity in its
3 administration of a minority, HONORABLY DISCHARGED VETERAN and women
4 revolving loan trust fund account pursuant to this section.

5 (v) Funds deposited in an administrative expenses trust fund account
6 shall be disbursed by the corporation to the entity that administers the
7 corresponding minority, HONORABLY DISCHARGED VETERAN and women revolving
8 loan trust fund account on a periodic basis and shall be expended by the
9 entity in accordance with an annual budget and any updates of same,
10 approved by the corporation.

11 (e) Any entity selected to administer a minority, HONORABLY DISCHARGED
12 VETERAN and women revolving loan trust fund account shall pay to the
13 corporation for deposit any repayments received in connection with
14 financial assistance provided from its account. Payments consisting of
15 the repayment of the principal amount of a loan shall be deposited by
16 the corporation into the minority, HONORABLY DISCHARGED VETERAN and
17 women revolving loan trust fund account from which the loan was made.
18 The interest earned by the corporation from the investment of moneys in
19 each minority, HONORABLY DISCHARGED VETERAN and women revolving loan
20 trust fund account during and after the second year of a selected enti-
21 ty's administration of said account shall be deposited by the corpo-
22 ration into the corresponding minority, HONORABLY DISCHARGED VETERAN and
23 women revolving loan trust fund account and used to provide the finan-
24 cial assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN
25 and women-owned businesses as authorized pursuant to this section.

26 (f) The provisions of subdivisions eight, nine, and fourteen through
27 nineteen of section sixteen-a of this act pertaining to the regional
28 revolving loan trust fund shall also be applicable to the minority,
29 HONORABLY DISCHARGED VETERAN and women revolving loan trust fund,
30 provided that: where the term "regional corporation" appears therein it
31 shall be interpreted to mean an entity selected to administer a
32 minority, HONORABLY DISCHARGED VETERAN and women revolving loan trust
33 fund account, and "regional revolving [loans] LOAN trust fund" shall
34 mean a minority, HONORABLY DISCHARGED VETERAN and women revolving loan
35 trust fund, and where the term "this section" appears therein it shall
36 mean this section sixteen-c.

37 (g) The corporation may provide funds from an appropriation for the
38 [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned busi-
39 ness development and lending program to any entity selected to adminis-
40 ter a minority, HONORABLY DISCHARGED VETERAN and women revolving loan
41 trust fund for the purposes of recapitalizing such account and the enti-
42 ty's corresponding administrative expenses trust fund account following
43 an evaluation by the corporation of the entity's administration and use
44 of such accounts.

45 (h) Notwithstanding any provision of law to the contrary, the corpo-
46 ration shall establish a minority, HONORABLY DISCHARGED VETERAN and
47 women revolving loan trust fund to pay into such fund any moneys made
48 available to the corporation for such fund from any source, including
49 moneys appropriated by the state and any income earned by, or increment
50 to, the account due to the investment thereof, or any repayment of
51 moneys advanced from the fund. The corporation shall not commingle the
52 moneys of such fund with any moneys held in trust by the corporation,
53 except for investment purposes.

54 (3) Micro-loan program. (a) For the purposes of this subdivision
55 "micro-loan" shall mean a loan of under seven thousand five hundred
56 dollars.

1 (b) The corporation shall, pursuant to requests for proposals, enter
2 into agreements for other types of locally, community or regionally
3 administered loan programs than those set forth in subdivision two of
4 this section, including micro-loan programs to be administered by local
5 development corporations, local industrial development organizations,
6 municipalities and not-for-profit organizations, to provide micro-loans
7 to small and high risk [minority-] MINORITY, HONORABLY DISCHARGED VETER-
8 AN and women-owned businesses located within their respective service
9 areas, provided that loan review committees are established by such
10 administering entity, including women, HONORABLY DISCHARGED VETERAN and
11 minority persons experienced in business management, business develop-
12 ment, commercial lending, entrepreneurship, or in the operation of a
13 for-profit business.

14 (c) Agreements entered into pursuant to paragraph (b) of this subdivi-
15 sion shall be governed by paragraphs (d) through (h) of subdivision two
16 of this section, and minority, HONORABLY DISCHARGED VETERAN and women
17 revolving loan trust fund accounts and administrative expenses trust
18 fund accounts shall be established in a similar fashion for entities
19 selected to administer micro-loan funds pursuant to this subdivision.

20 (4) Minority, HONORABLY DISCHARGED VETERAN and women contracting
21 program. For the purpose of establishing a comprehensive program to
22 assist minority, HONORABLY DISCHARGED VETERAN and women contractors, the
23 corporation may provide loans, loan guarantees, technical assistance and
24 bonding assistance, the corporation may enter into cooperative agree-
25 ments with cities, counties, municipalities, authorities, agencies,
26 federally and state chartered credit unions in New York state and feder-
27 ally insured banking organizations and financial institutions for such
28 purposes.

29 (a) To be eligible for a contractor loan, the borrower must have
30 either (i) a construction contract with, or a contract to provide goods
31 or services to, a governmental entity or authority, (ii) a subcontract
32 on a government-sponsored construction contract, (iii) a contract or
33 subcontract on a [government sponsored] GOVERNMENT-SPONSORED residential
34 project, or (iv) a contract or subcontract on a construction project
35 previously approved by the corporation pursuant to section ten of this
36 act.

37 (b) The corporation shall provide technical assistance specifically
38 oriented to minority, HONORABLY DISCHARGED VETERAN and women-owned
39 government contractors as part of its comprehensive technical assistance
40 program.

41 (c) The corporation is authorized to provide assistance through the
42 creation of, or assistance to, a minority, HONORABLY DISCHARGED VETERAN
43 and women bonding guarantee program to enable minority, HONORABLY
44 DISCHARGED VETERAN and women contractors and subcontractors to meet
45 payment or performance bonding requirements.

46 (i) Through such program, assistance in the form of working capital
47 loans and loan guarantees pursuant to subdivision six of this section
48 may also be provided to minority, HONORABLY DISCHARGED VETERAN and women
49 contractors and subcontractors who have secured contracts by participat-
50 ing in the program.

51 (ii) The corporation shall either establish criteria for the bonding
52 guarantee program and for any required escrow funds which shall include
53 detailed provisions for eligibility; or if the corporation is providing
54 assistance to a program other than one established by the corporation,
55 review and approve the criteria established for such other program.

(5) Direct financial assistance for [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses. For the purpose of establishing a program to provide direct financial assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, the corporation is authorized to provide assistance in the form of:

(a) Business development loans and loan guarantees pursuant to subdivision six of this section to eligible enterprises for the acquisition or improvement of real property, machinery, equipment or working capital, provided that to be eligible for a business development loan, the borrowers must have been in business for at least three years and provided that the loans must be in an amount equal to or in excess of fifty thousand dollars;

(b) Franchise loans to eligible enterprises seeking to acquire or expand franchises of nationally recognized corporations, provided that disbursements by the corporation of such loans shall be conditioned on obtaining such franchises;

(c) Equity assistance for eligible minority, HONORABLY DISCHARGED VETERAN and women-owned enterprises to match equity contributions to such enterprises by financial institutions and community development equity capital funds, provided, however, that such assistance shall be targeted to start-up and early stage enterprises in the manufacturing, retail and service sectors located in economically distressed areas.

(6) Deposits and loan guarantees. For the purpose of encouraging private financial institutions to make loans to eligible enterprises pursuant to this section for any of the eligible projects pursuant to subdivisions four and five of this section, the corporation is authorized to:

(a) Make linked deposits of funds into federally and state chartered credit unions in New York state, in order to encourage such organizations to make small loans to minority, HONORABLY DISCHARGED VETERAN and women-owned businesses; and

(b) Provide loan guarantees to private financial institutions for loans made to eligible [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses pursuant to this subdivision for eligible projects, provided that the guarantee shall be at least fifty percent backed by funds of the corporation. Any such loan guaranteed by the corporation shall be made to borrowers that are approved by the corporation and substantially meet the underwriting criteria the credit union or financial institution customarily applies to similar borrowers for similar loans supported by similar guarantees, and no guaranteed loan funds shall be disbursed until the corporation has received, reviewed and concurred, in writing, with the recommendation of the credit union or banking or financial institution to make a loan.

(7) Minority, HONORABLY DISCHARGED VETERAN and women small business incubator program.

(a) The corporation shall establish a minority and women small business incubator program for the purpose of providing financial support for the creation of incubators to nurture minority, HONORABLY DISCHARGED VETERAN and women-owned business enterprises with growth potential.

(b) Under this subdivision the corporation is authorized to provide low-interest loans and grants for construction financing and permanent financing of up to seventy-five percent of project costs up to a maximum of six hundred fifty thousand dollars per project, provided that the total amount of grant assistance provided pursuant to this paragraph shall not exceed twenty percent of an appropriation provided for the purposes of this section.

(c) Incubator projects eligible for such assistance shall involve the renovation or reconstruction of existing facilities or the acquisition of equipment, except that construction shall be allowable in cases in which an applicant can demonstrate to the satisfaction of the corporation that an existing facility is unavailable in the area to be served by the new incubator facility.

(d) Incubator projects are not eligible to receive loans for the purpose of covering operating costs or supplying incubator support services, except that incubators in their first eighteen months of operation may receive one-time grants not to exceed forty thousand dollars, which costs may include administrative costs of employing a resident administrator/advisor to the incubator, provided that the corporation shall not expend a sum greater than two hundred fifty thousand dollars in any one state fiscal year, or so much as may be specifically appropriated for this purpose.

(e) Eligible incubator projects shall be required to demonstrate to the corporation's satisfaction:

(i) public or private support and involvement sufficient to complete the renovation of existing facilities or the construction of new facilities and the acquisition of equipment;

(ii) significant community support for the project;

(iii) the existence of prospective tenants for such incubator space;

(iv) demand for such incubator space, which may include evidence of the unavailability of suitable space for prospective tenants at appropriate rental or lease costs in the community in which such prospective tenants are located; and

(v) the inability of the project to occur without financial assistance from the corporation.

(f) The corporation shall establish criteria for eligibility for funding for incubator projects, including but not limited to the following:

(i) the project must be designed to provide low-cost space and support services to incubator tenants, coordination with other sources of assistance and flexible leasing arrangements for tenants;

(ii) the project sponsors must provide a management plan and a business plan for operating the incubator satisfactory to the corporation; and

(iii) the project gives preference for incubator space and assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses which currently receive, or have received, assistance from the corporation pursuant to this section and to incubator projects proposed to be located in economically distressed areas.

(8) [Minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business technical assistance program. (a) The corporation shall establish a comprehensive technical assistance program within the minority, HONORABLY DISCHARGED VETERAN and women business development office, in cooperation with the department of economic development's division of [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-business development established pursuant to article [four-A] 4-A of the economic development law, to provide technical assistance to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises and to prospective [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-business entrepreneurs through third party service providers, which assistance shall include, but not be limited to:

(i) technical assistance in development and execution of business plans, including the formation of, acquisition of, management of, or

1 diversification of a [minority-] MINORITY, HONORABLY DISCHARGED VETERAN
2 or women-owned business enterprise;

3 (ii) technical assistance with applications for obtaining funds from
4 public and private financing sources;

5 (iii) technical assistance in the development of a working capital
6 budget;

7 (iv) referrals to other providers of technical assistance to [minori-
8 ty-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses
9 and minority, HONORABLY DISCHARGED VETERAN and women entrepreneurs,
10 where appropriate, including the entrepreneurial assistance program
11 established pursuant to article [nine] 9 of the economic development
12 law; and

13 (v) technical assistance through education programs directed primarily
14 at women, HONORABLY DISCHARGED VETERAN and minority entrepreneurs.

15 (b) Technical assistance may be provided through direct corporate
16 support, through grants to or contracts with service providers or
17 governmental entities, and [minority-] MINORITY, HONORABLY DISCHARGED
18 VETERAN and women-owned business enterprises and individuals.

19 (9) Priorities. The corporation shall give priority to applications
20 for assistance pursuant to this section in which the business seeking
21 such assistance indicates a commitment to first consider persons eligi-
22 ble to participate in federal job training partnership act (P.L. 97-300)
23 programs.

24 (10) Non-application of certain provisions. The provisions of section
25 ten and subdivision two of section sixteen of this act shall not apply
26 to assistance or projects authorized pursuant to this section.

27 (11) Rules and regulations. The corporation shall, assisted by the
28 commissioner of economic development and in consultation with the
29 department of economic development, promulgate rules and regulations in
30 accordance with the state administrative procedure act. Such rules and
31 regulations shall be consistent with the program plan required by subdi-
32 vision [nineteen] 19 of section [one hundred] 100 of the economic devel-
33 opment law. No funds shall be disbursed under this program until such
34 rules and regulations have been reviewed and approved by the corpo-
35 ration. All assistance and projects funded under this program shall be
36 funded in accordance with the rules and regulations in effect on the
37 date the completed application for such assistance shall be received by
38 the corporation.

39 (12) Minority, HONORABLY DISCHARGED VETERAN and women business devel-
40 opment and lending account. Notwithstanding any provision of law to the
41 contrary, the corporation shall establish within the treasury of the
42 corporation a minority, HONORABLY DISCHARGED VETERAN and women business
43 development and lending account, and shall pay into such account any
44 moneys which may be made available to the corporation for this purpose
45 from any source including, but not limited to, moneys appropriated by
46 the state and any repayment of principal and interest on loans made by
47 the corporation pursuant to the [minority-] MINORITY, HONORABLY
48 DISCHARGED VETERAN and women-owned business development and lending
49 program. Funds in the minority, HONORABLY DISCHARGED VETERAN and women
50 business development and lending account, including funds from the
51 repayment of principal and interest on loans made by the corporation,
52 may be used for any form of assistance authorized hereunder. The amounts
53 deposited in the minority, HONORABLY DISCHARGED VETERAN and women busi-
54 ness development and lending account may not be interchanged with any
55 other account, but may be commingled with any other account for invest-
56 ment purposes. All loans disbursed by the corporation shall be repaid

1 into the account. The corporation shall enter into a written agreement
2 with the director of the budget for repayment, to the state comptroller
3 to the credit of the capital projects fund, of all moneys in the account
4 after a period of time to be determined by the corporation and the
5 director of the budget. The corporation shall transfer to the minority,
6 HONORABLY DISCHARGED VETERAN and women business development and lending
7 account: all moneys appropriated or reappropriated by New York state for
8 the minority, HONORABLY DISCHARGED VETERAN and women revolving loan
9 trust fund that have not been committed prior to the effective date of
10 the appropriation for the program in the current fiscal year, or become
11 uncommitted subsequent to the effective date of the program's appropri-
12 ation for the current fiscal year; and all repayments of principal and
13 interest on loans made by the corporation which are currently on deposit
14 in, or payable to, the minority, HONORABLY DISCHARGED VETERAN and women
15 business development and lending account.

16 (13) Standardization. The corporation shall streamline the review and
17 approval process for projects and wherever possible standardize all
18 relevant attendant documentation and legal documents.

19 (14) Approval cycle. The corporation shall approve eligible loans or
20 grants on at least a four-month cycle and shall give priority consider-
21 ation to the comparative degree of economic distress within the areas in
22 which the project is located. Other factors to be considered by the
23 corporation shall include the impact of the project on the employment
24 and economic condition of the community and the financial feasibility of
25 the project.

26 (15) Repayment. Notwithstanding the provisions of section [forty-a]
27 40-A of the state finance law and any other general or special law, no
28 written agreement under this program shall require repayment at any time
29 or on any terms inconsistent with the provisions of this act or the New
30 York state project finance agency act; except, however, that the corpo-
31 ration may make grants to projects using funds appropriated for this
32 purpose and that the repayment provision may not apply to such grants.

33 (16) Reports. The chairman of the corporation shall submit to the
34 director of the budget, the speaker of the assembly and the temporary
35 president of the senate an evaluation of the effectiveness of the
36 program prepared by an entity independent of the corporation. The corpo-
37 ration shall select the program evaluator through a request for proposal
38 process. Such evaluation shall determine whether the assistance provided
39 has enhanced the economic condition of assisted companies or communi-
40 ties, and shall make recommendation for improvements which would make
41 the program more effective. Such evaluation shall be submitted by
42 September first, nineteen hundred ninety-five and September first every
43 two years thereafter.

44 S 30. Subparagraphs (viii) and (x) of paragraph (e) of subdivision 7
45 of section 16-d of section 1 of chapter 174 of the laws of 1968, consti-
46 tuting the New York state urban development corporation act, as added by
47 chapter 169 of the laws of 1994, are amended to read as follows:

48 (viii) export, marketing, procurement and subcontracting assistance to
49 small and medium-sized industrial firms, including [minority-] MINORITY,
50 HONORABLY DISCHARGED VETERAN and women-owned businesses, and to flexible
51 manufacturing networks, and programs to assist regional and multi-county
52 business marketing and procurement programs;

53 (x) business planning, management assistance and counseling, and
54 financial packaging assistance to small and medium-sized industrial
55 firms, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and
56 women-owned businesses, flexible manufacturing networks, and new enter-

prises and small 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;

S 31. Clause (B) of subparagraph (i) of paragraph (h) of subdivision 8 of section 16-d of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(B) community based local development corporations, industrial development agencies, or other not-for-profit entities which serve a municipality in which an empire zone has been established and which, as one of their primary purposes, provide services and assistance to business enterprises located or to be located in such empire zone, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 32. Subparagraph (vi) of paragraph (c) of subdivision 10 of section 16-e of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, is amended to read as follows:

(vi) management and procurement assistance to small business, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 33. Paragraph (d) of subdivision 18 of section 16-e of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, is amended to read as follows:

(d) The participation of [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses;

S 34. The opening paragraph, paragraph (a) and the opening paragraph and subparagraph (iv) of paragraph (b) of subdivision 1 of section 16-f of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, are amended to read as follows:

There is hereby created a state bonding guarantee assistance program to enable small businesses, [and] minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises, certified as a minority-owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise pursuant to article [fifteen-A] 15-A of the executive law, to meet payment and/or performance bonding requirements by providing additional financial backing needed to induce a surety company to issue a bond for construction projects, including but not limited to, government sponsored, transportation related construction projects. For purposes of this section, the term small business shall have the same meaning as defined in section [one hundred thirty-one] 131 of the economic development law. Such program shall give preference to minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises and shall:

(a) Make available funds to surety companies providing bonds to small businesses [and minority- owned], MINORITY-OWNED, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enterprises in an amount equal to a percentage not to exceed fifty percent of the face value of bonds issued by the surety.

Provide technical assistance in completing bonding applications for small businesses [and], minority-owned, HONORABLY DISCHARGED

VETERAN-OWNED or women-owned business enterprises seeking to become eligible for bonding in preparation for bidding on construction projects, including transportation related projects. The corporation shall provide and may refer such businesses to the department of economic development for technical assistance as such businesses may need, including but not limited to:

(iv) assistance from the regional offices of the department of economic development, pursuant to article [eleven] 11 of the economic development law, and the entrepreneurial assistance program, pursuant to article [nine] 9 of such law, and any other such program receiving state funds from this act or the department of economic development or any other state agency that is intended to provide technical assistance to small businesses [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned small business enterprises.

S 35. Paragraph (g) of subdivision 1 of section 16-i of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 471 of the laws of 2001, is amended to read as follows:

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

S 36. Subparagraph (i) of paragraph (c) of subdivision 2 of section 16-k of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 103 of the laws of 2011, is amended to read as follows:

(i) provide a plan to the corporation or its agent for the marketing of the capital access program to small businesses, including those in highly distressed areas and to [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned businesses, with appropriate lending objectives identified by the financial institution for such areas and businesses;

S 37. Paragraph (g) of subdivision 1 of section 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 1 of part N of chapter 84 of the laws of 2002, is amended to read as follows:

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including [minority-] MINORITY, HONORABLY DISCHARGED VETERAN and women-owned business enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

S 38. Paragraph 1 of subdivision (c) of section 30 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 732 of the laws of 1990, is amended to read as follows:

(1) In addition to any other requirements imposed by the act or otherwise regarding evaluations of programs administered by the corporation, each evaluation shall include an analysis of the job creation effect of such program, the number of small businesses that received assistance, the number of minority, HONORABLY DISCHARGED VETERAN and women-owned firms that received assistance, the number of projects undertaken in

1 distressed and highly distressed communities, and, if applicable, the
2 repayment experience of borrowers of funds from the corporation.

3 S 39. Paragraph 2 of subdivision (e) of section 30-a of section 1 of
4 chapter 174 of the laws of 1968, constituting the New York state urban
5 development corporation act, as added by section 2 of part M1 of chapter
6 62 of the laws of 2003, is amended to read as follows:

7 (2) require projects to be financed out of the empire state economic
8 development fund be approved generally in amounts which are proportional
9 to amounts appropriated for the urban and community development program,
10 and the minority, HONORABLY DISCHARGED VETERAN and women-owned business
11 development and lending program;

12 S 40. The section heading, the opening paragraph of subdivision 1, the
13 opening paragraph of subdivision 2, paragraph (a) of subdivision 3 and
14 subdivisions 4 and 5 of section 38 of section 1 of chapter 174 of the
15 laws of 1968, constituting the New York state urban development corpo-
16 ration act, as amended by chapter 169 of the laws of 1994, are amended
17 to read as follows:

18 Small business [and], minority-owned, HONORABLY DISCHARGED
19 VETERAN-OWNED and women-owned business enterprises transportation capi-
20 tal assistance and guaranteed loan program.

21 To provide financial assistance to small business [and], minority-
22 owned, HONORABLY DISCHARGED VETERAN-OWNED and women-owned business
23 enterprises engaged in government sponsored, transportation related
24 construction projects, the corporation shall establish a small business
25 [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-
26 owned business enterprise transportation capital assistance revolving
27 loan fund which shall provide loans or loan guarantees to small business
28 [and], minority-owned, HONORABLY DISCHARGED VETERAN-OWNED and women-
29 owned business enterprises. For purposes of this section:

30 Such loans, or loan guarantees for loans made by federally and state
31 chartered credit institutions, financial institutions, and federally
32 insured banking organizations to small business [and], minority-owned,
33 HONORABLY DISCHARGED VETERAN-OWNED and women-owned business enterprises,
34 shall be used to:

35 (a) To be eligible for such loans or loan guarantees (i) a minority-
36 owned, HONORABLY DISCHARGED VETERAN-OWNED or women-owned business enter-
37 prise must be certified as a minority-owned, HONORABLY DISCHARGED VETER-
38 AN-OWNED or women-owned business enterprise pursuant to article 15-A of
39 the executive law; and (ii) a small business or a minority-owned, HONOR-
40 ABLY DISCHARGED VETERAN-OWNED or women-owned business enterprise shall
41 have a contract or sub-contract to provide goods or services related to
42 a government sponsored, transportation related construction project.

43 4. The corporation shall give preference to minority-owned, HONORABLY
44 DISCHARGED VETERAN-OWNED and women-owned business enterprises in making
45 such loans and loan guarantees and shall establish such other criteria
46 as it may deem necessary for this program and for any required amount
47 that shall be held in reserve for any guarantees made under this
48 program.

49 5. Notwithstanding any inconsistent provision of law, general, special
50 or local, including pursuant to capital projects budget appropriations
51 or reappropriations, where applicable, the corporation is hereby author-
52 ized to enter into such agreements as may be necessary for the operation
53 and administration of a small business [and], minority-owned, HONORABLY
54 DISCHARGED VETERAN-OWNED and women-owned business enterprises transpor-
55 tation capital assistance and guaranteed loan program.

1 S 41. This act shall take effect immediately; provided, however, that
2 the amendments to article 15-A of the executive law made by sections two
3 through six of this act shall not affect the expiration of such article
4 and shall be deemed to expire therewith; and provided, further that the
5 amendments to section 136-b of the state finance law made by section
6 seven of this act shall not affect the expiration of such section and
7 shall be deemed to expire therewith; and provided further that the
8 amendments to sections 16-i and 16-m of section 1 of chapter 174 of the
9 laws of 1968, constituting the New York state urban development corpo-
10 ration act, made by sections thirty-five and thirty-seven, respectively,
11 of this act shall not affect the expirations of such sections and shall
12 be deemed to expire therewith.