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

9699

I N A S S E M B L Y

March 27, 2012

Introduced by M. of A. ESPINAL -- read once and referred to the Committee on Small Business

AN ACT to amend the executive law, in relation to establishing the office for small business; to amend the public authorities law, the environmental conservation law, the state finance law and the executive law, in relation to making technical amendments thereto; and to repeal article 4-B of the economic development law relating to the division for small-business

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

Section 1. Article 4-B of the economic development law is REPEALED.

S 1-a. Section 666 of the executive law is renumbered section 655.

S 2. The executive law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A

OFFICE FOR SMALL BUSINESS

SECTION 660. LEGISLATIVE FINDINGS AND OBJECTIVES.
661. DEFINITIONS.
662. OFFICE FOR SMALL BUSINESS; DIRECTOR; EMPLOYEES.
663. SMALL BUSINESS ADVISORY BOARD; CREATION.
664. POWERS AND DUTIES OF THE OFFICE FOR SMALL BUSINESS.
665. ASSISTANCE OF OTHER AGENCIES.
666. RULES AND REGULATIONS.
667. SMALL BUSINESS EDUCATION PROGRAM.
668. SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM.
669. ABOLITION OF DIVISION FOR SMALL-BUSINESS.
670. TRANSFER OF POWERS OF THE DIVISION FOR SMALL-BUSINESS.
671. TRANSFER OF ASSETS AND LIABILITIES.
672. CONTINUITY OF AUTHORITY.
673. TRANSFER OF RECORDS.
674. COMPLETION OF UNFINISHED BUSINESS.
675. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS.
676. EXISTING RIGHTS AND REMEDIES PRESERVED.

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

677. PENDING ACTIONS AND PROCEEDINGS.
678. CONTINUANCE OF RULES AND REGULATIONS.
679. TRANSFER OF APPROPRIATIONS MADE TO THE DIVISION FOR SMALL-BUSINESS.

S 660. LEGISLATIVE FINDINGS AND OBJECTIVES. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT:

1. SMALL BUSINESS HAS BEEN A MAJOR POSITIVE FACTOR IN THE POLITICAL, ECONOMIC AND SOCIAL DEVELOPMENT OF THE STATE;

2. THE FUTURE WELFARE OF THE STATE DEPENDS ON THE CONTINUED DEVELOPMENT OF SMALL BUSINESS;

3. THE STATE HAS A RESPONSIBILITY TO ASSIST IN SMALL BUSINESS DEVELOPMENT IN FURTHERANCE OF THE GENERAL WELFARE.

S 661. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "OFFICE" SHALL MEAN THE OFFICE FOR SMALL BUSINESS.

2. "SMALL BUSINESS" SHALL BE DEEMED TO BE ONE WHICH IS RESIDENT IN THIS STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD AND EMPLOYS ONE HUNDRED OR LESS PERSONS.

3. "ADVISORY BOARD" SHALL MEAN THE SMALL BUSINESS ADVISORY BOARD CREATED BY SECTION SIX HUNDRED SIXTY-THREE OF THIS ARTICLE.

4. "DIRECTOR" SHALL MEAN THE DIRECTOR OF THE OFFICE FOR SMALL BUSINESS.

S 662. OFFICE FOR SMALL BUSINESS; DIRECTOR; EMPLOYEES. 1. THERE IS HEREBY CREATED WITHIN THE EXECUTIVE DEPARTMENT AN OFFICE FOR SMALL BUSINESS TO HAVE AND EXERCISE THE FUNCTIONS, POWERS AND DUTIES PROVIDED BY THE PROVISIONS OF THIS ARTICLE AND ANY OTHER PROVISION OF LAW. THE OFFICE SHALL PERFORM THESE POWERS, FUNCTIONS AND DUTIES IN CONSULTATION WITH THE SMALL BUSINESS ADVISORY BOARD ESTABLISHED BY SECTION SIX HUNDRED SIXTY-THREE OF THIS ARTICLE.

2. THE HEAD OF THE OFFICE SHALL BE THE DIRECTOR, WHO SHALL BE APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AND SHALL HOLD OFFICE AT THE PLEASURE OF THE GOVERNOR BY WHOM HE OR SHE WAS APPOINTED OR UNTIL HIS OR HER SUCCESSOR IS APPOINTED AND HAS QUALIFIED.

3. THE DIRECTOR MAY ESTABLISH DIVISIONS AND BUREAUS, CHANGE THE NAMES OF EXISTING DIVISIONS OR BUREAUS, OR MAY CONSOLIDATE DIVISIONS AND BUREAUS AS HE OR SHE MAY DEEM NECESSARY OR APPROPRIATE TO CARRY OUT THE FUNCTIONS OF THE OFFICE. SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND THE CIVIL SERVICE LAW, AND RULES AND REGULATIONS ADOPTED PURSUANT THERETO, THE DIRECTOR MAY APPOINT SUCH OTHER OFFICERS, EMPLOYEES, AGENTS AND CONSULTANTS AS MAY BE NECESSARY, PRESCRIBE THEIR DUTIES, FIX THEIR COMPENSATION AND PROVIDE FOR PAYMENT OF THEIR REASONABLE EXPENSES, ALL WITHIN AMOUNTS AVAILABLE THEREFOR BY APPROPRIATION. THE DIRECTOR MAY TRANSFER OFFICERS OR EMPLOYEES FROM THEIR POSITIONS TO OTHER POSITIONS IN THE OFFICE, OR ABOLISH OR CONSOLIDATE SUCH POSITIONS.

4. THE DIRECTOR ACTING BY AND THROUGH THE OFFICE SHALL HAVE POWER AND IT SHALL BE HIS OR HER DUTY:

(A) TO ADMINISTER THE PROGRAMS TRANSFERRED TO THE OFFICE PURSUANT TO THIS ARTICLE OR AN APPROPRIATION OF FUNDS TO THE OFFICE;

(B) TO ADMINISTER SUCH OTHER PROGRAMS AS MAY BE DEVOLVED UPON THE OFFICE FROM TIME TO TIME PURSUANT TO LAW;

(C) TO COOPERATE WITH AND ASSIST OTHER STATE AND FEDERAL DEPARTMENTS, BOARDS, COMMISSIONS, AGENCIES, PUBLIC BENEFIT CORPORATIONS AND PUBLIC AUTHORITIES IN THE DEVELOPMENT OF POLICIES AND PROGRAMS WHICH WILL ENCOURAGE THE CREATION OR RETENTION OF SMALL BUSINESS; AND

(D) TO ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION OR GOVERNMENTAL AGENCY, AND DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY

OUT THE FUNCTIONS, POWERS AND DUTIES EXPRESSLY SET FORTH IN THIS ARTICLE.

S 663. SMALL BUSINESS ADVISORY BOARD; CREATION. 1. THERE IS HEREBY CREATED IN THE OFFICE FOR SMALL BUSINESS A SMALL BUSINESS ADVISORY BOARD. THE ADVISORY BOARD SHALL CONSIST OF FIFTEEN MEMBERS TO BE APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE. THE GOVERNOR SHALL DESIGNATE A CHAIR FROM THE MEMBERS OF THE ADVISORY BOARD, TO SERVE AS SUCH AT THE PLEASURE OF THE GOVERNOR. IN APPOINTING THE MEMBERS OF THE ADVISORY BOARD THE GOVERNOR SHALL ENSURE THAT AT LEAST NINE OF THE MEMBERS ARE INDIVIDUALS WHO ARE CURRENTLY INVOLVED IN THE OWNERSHIP AND/OR OPERATION OF A SMALL BUSINESS OR WHO HAVE EXTENSIVE EXPERIENCE IN SMALL BUSINESS OWNERSHIP AND/OR OPERATION.

2. ALL MEMBERS OF THE ADVISORY BOARD SHALL SERVE FOR TERMS OF THREE YEARS, SUCH TERMS TO COMMENCE ON APRIL FIRST, AND EXPIRE ON MARCH THIRTY-FIRST; PROVIDED, HOWEVER, THAT OF THE NINE MEMBERS FIRST APPOINTED THREE SHALL BE APPOINTED FOR A ONE-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW, THREE SHALL BE APPOINTED FOR A TWO-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE SECOND YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW, AND THREE SHALL BE APPOINTED FOR A THREE-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE THIRD YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW; AND THAT SIX ADDITIONAL MEMBERS, TWO ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE, TWO ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY AND ONE ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY SHALL BE APPOINTED FOR A THREE-YEAR TERM EXPIRING ON MARCH THIRTY-FIRST OF THE THIRD YEAR FOLLOWING THE YEAR IN WHICH THIS ARTICLE SHALL HAVE BECOME A LAW.

3. THE ADVISORY BOARD SHALL MEET REGULARLY AT LEAST FOUR TIMES IN EACH YEAR. SPECIAL MEETINGS MAY BE CALLED BY THE CHAIR AND SHALL BE CALLED BY HIM OR HER AT THE REQUEST OF THE DIRECTOR.

4. NO MEMBER OF THE ADVISORY BOARD SHALL BE DISQUALIFIED FROM HOLDING ANY OTHER PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT BY REASON OF HIS OR HER APPOINTMENT HEREUNDER, NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE OR CITY CHARTER.

5. THE MEMBERS OF THE ADVISORY BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES HEREUNDER.

6. THE BOARD SHALL HAVE THE POWER AND DUTY TO:

(A) ADVISE THE DIRECTOR IN CARRYING OUT THE FUNCTIONS, POWERS AND DUTIES OF THE OFFICE, AS SET FORTH IN THIS ARTICLE;

(B) ADVISE THE GOVERNOR AND THE LEGISLATURE CONCERNING RECOMMENDED LEGISLATION NECESSARY TO FOSTER AND PROMOTE THE PROSPERITY, EXPANSION AND DEVELOPMENT OF SMALL BUSINESS CONCERNS WITHIN THE STATE;

(C) ADVISE THE GOVERNOR AND THE LEGISLATURE CONCERNING EXISTING LAWS, RULES, REGULATIONS AND PRACTICES OF STATE AGENCIES WHICH ARE COUNTER-PRODUCTIVE OR INIMICAL TO THE PROSPERITY, EXPANSION AND DEVELOPMENT OF SMALL BUSINESS CONCERNS WITHIN THE STATE;

(D) ADVISE THE GOVERNOR AND THE LEGISLATURE CONCERNING THE DEVELOPMENT OF INTER-GOVERNMENTAL COOPERATION AMONG AGENCIES OF THE FEDERAL, STATE AND LOCAL GOVERNMENTS AND COOPERATION BETWEEN PRIVATE INDUSTRY AND GOVERNMENT SO AS TO ASSURE THE OPTIMUM DEVELOPMENT OF SMALL BUSINESS CONCERNS;

(E) SERVE AS A CATALYST FOR CREATING AND MAINTAINING A SMALL BUSINESS CONSCIOUSNESS IN NEW YORK STATE; AND

(F) ESTABLISH PROCEDURES FOR MAKING ANNUAL AWARDS TO BE KNOWN AS "NEW YORK STATE SMALL BUSINESS AWARDS". THESE NON-MONETARY AWARDS SHALL BE GIVEN IN RECOGNITION OF UNUSUAL PERFORMANCE BY PERSONS, FIRMS AND ORGANIZATIONS WHICH ARE ENGAGED IN THE OPERATION OF NEW YORK STATE SMALL BUSINESSES OR WHICH ARE ENGAGED IN ACTIVITIES TO ASSIST SMALL BUSINESSES IN THE STATE. THE BOARD MAY NOMINATE UP TO FIVE AWARD WINNERS ANNUALLY AND FORWARD SUCH NAMES TO THE GOVERNOR FOR HIS OR HER CONSIDERATION. THE GOVERNOR MAY DESIGNATE AWARD WINNERS FROM THESE NOMINEES AT HIS OR HER DISCRETION. CURRENT MEMBERS OF THE ADVISORY BOARD ARE NOT ELIGIBLE AS NOMINEES.

7. THE DIRECTOR SHALL PROVIDE THE BOARD WITH SUCH STAFF ASSISTANCE AND SUPPORT SERVICES AS NECESSARY FOR THE BOARD TO PERFORM THE FUNCTIONS REQUIRED OF IT UNDER THIS SECTION.

S 664. POWERS AND DUTIES OF THE OFFICE FOR SMALL BUSINESS. THE OFFICE SHALL HAVE THE POWER AND DUTY TO:

1. COORDINATE THE ACTIVITIES OF ALL STATE AGENCIES PERFORMING FUNCTIONS AFFECTING THE OPERATION OF SMALL BUSINESSES IN THE STATE;

2. RECEIVE COMPLAINTS OF OPERATORS OF SMALL BUSINESSES AND REFER THEM TO THE APPROPRIATE FEDERAL, STATE OR LOCAL AGENCY AUTHORIZED BY LAW FOR APPROPRIATE ACTION ON SUCH COMPLAINTS;

3. ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR ON MATTERS AFFECTING THE SMALL BUSINESSES OF THE STATE AND PROMOTE AND ENCOURAGE THE PROTECTION OF THE LEGITIMATE INTERESTS OF SMALL BUSINESSES WITHIN THE STATE;

4. CONDUCT INVESTIGATIONS, RESEARCH, STUDIES AND ANALYSES OF MATTERS AFFECTING THE INTERESTS OF SMALL BUSINESSES;

5. REPRESENT THE INTERESTS OF SMALL BUSINESSES IN THE STATE BEFORE FEDERAL, STATE AND LOCAL ADMINISTRATIVE AND REGULATORY AGENCIES;

6. STUDY THE OPERATION OF THE LAWS AFFECTING SMALL BUSINESSES AND RECOMMEND TO THE GOVERNOR NEW LAWS AND AMENDMENTS OF LAWS FOR THE BENEFIT OF SMALL BUSINESSES;

7. REVIEW PENDING LEGISLATION AFFECTING SMALL BUSINESSES AND REPORT ITS FINDINGS TO THE GOVERNOR;

8. INITIATE AND ENCOURAGE SMALL BUSINESS EDUCATION PROGRAMS IN GENERAL AND TO COORDINATE WITH THE FUNCTIONS OF THE OFFICE OF GENERAL SERVICES, AN INFORMATION AND OUTREACH PROGRAM DIRECTED TOWARD INFORMING SMALL BUSINESSES IN THE STATE OF PROCEDURES NECESSARY FOR COMPETING FOR STATE PURCHASES AND TO COORDINATE WITH THE FUNCTIONS OF EVERY STATE AGENCY, DEPARTMENT OR AUTHORITY DESCRIBED IN SECTION ONE HUNDRED THIRTY-NINE-G OF THE STATE FINANCE LAW, PURSUANT TO SUBDIVISION (B) OF SECTION ONE HUNDRED THIRTY-NINE-G OF THE STATE FINANCE LAW, AN INFORMATION AND OUTREACH PROGRAM DIRECTED TOWARD INFORMING SMALL BUSINESSES IN THE STATE OF PROCEDURES NECESSARY FOR COMPETING FOR STATE CONTRACTS; AND

9. CONDUCT A SURVEY OF ALL BUSINESS INCUBATORS IN THE STATE AND ASSESS THE NEED FOR ADDITIONAL INCUBATOR FACILITIES TO NURTURE THE GROWTH AND DEVELOPMENT OF SMALL BUSINESSES.

S 665. ASSISTANCE OF OTHER AGENCIES. TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, THE DIRECTOR MAY REQUEST FROM ANY DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION OR OTHER AGENCY OF THE STATE OR FROM ANY PUBLIC CORPORATION OR DISTRICT, AND THE SAME ARE AUTHORIZED TO PROVIDE, SUCH ASSISTANCE, SERVICES AND DATA AS MAY BE REQUIRED BY THE OFFICE IN CARRYING OUT ITS FUNCTIONS, POWERS, DUTIES AND PURPOSES UNDER THIS ARTICLE.

S 666. RULES AND REGULATIONS. THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS ARTICLE. THE ADVISORY BOARD SHALL RECOMMEND TO HIM OR HER CRITERIA FOR INCLUSION THEREIN.

S 667. SMALL BUSINESS EDUCATION PROGRAM. THE DIRECTOR AND THE COMMISSIONERS OF AGRICULTURE AND MARKETS AND THE OFFICE OF GENERAL SERVICES SHALL INITIATE AND ENCOURAGE SMALL BUSINESS EDUCATION PROGRAMS AND COORDINATE WITH THE FUNCTIONS OF THE OFFICE OF GENERAL SERVICES AN INFORMATION AND OUTREACH PROGRAM DIRECTED TOWARD INFORMING ELIGIBLE BUSINESSES IN THE STATE OF PROCEDURES NECESSARY FOR COMPETING FOR PURCHASES OF FOOD PRODUCTS PURSUANT TO SUBDIVISION EIGHT-A OF SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, AND TO COORDINATE WITH THE FUNCTIONS OF EVERY STATE AGENCY OR DEPARTMENT DESCRIBED IN SUBDIVISION (B) OF SECTION ONE HUNDRED THIRTY-NINE-G OF THE STATE FINANCE LAW, AN INFORMATION AND OUTREACH PROGRAM DIRECTED TOWARD INFORMING ELIGIBLE BUSINESSES IN THE STATE OF PROCEDURES NECESSARY FOR COMPETING FOR CONTRACTS FOR THE PURCHASE OF FOOD PRODUCTS PURSUANT TO SUBDIVISION EIGHT-A OF SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW.

S 668. SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM. 1. THERE IS HEREBY ESTABLISHED WITHIN THE OFFICE A SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM. THE PRIMARY PURPOSE OF THE SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM IS TO REPRESENT SMALL BUSINESS STATIONARY SOURCES ON ISSUES RELATING TO COMPLIANCE WITH THE FEDERAL CLEAN AIR ACT, 42 U.S.C. SECTION 7401 ET SEQ. AS AMENDED BY PUBLIC LAW 101-549, NOVEMBER FIFTEENTH, NINETEEN HUNDRED NINETY, HEREINAFTER REFERRED TO AS THE "ACT", AND TO REFER SMALL BUSINESS STATIONARY SOURCES TO APPROPRIATE ENTITIES FOR ASSISTANCE IN COMPLIANCE WITH ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVATION LAW AND THE ACT. FOR PURPOSES OF THIS SECTION A SMALL BUSINESS STATIONARY SOURCE SHALL HAVE THE SAME MEANING AS IN SECTION 19-0313 OF THE ENVIRONMENTAL CONSERVATION LAW.

2. THE OFFICE SHALL, THROUGH THE SMALL BUSINESS STATIONARY SOURCE OMBUDSMAN PROGRAM, PERFORM ALL FUNCTIONS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF SECTION 7661F OF THE ACT INCLUDING:

(A) SOLICITING INPUT FROM SMALL BUSINESS STATIONARY SOURCES REGARDING COMPLIANCE WITH THE ACT AND ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVATION LAW, INCLUDING INTERACTING WITH ORGANIZATIONS REPRESENTING SMALL BUSINESSES SUCH AS TRADE ASSOCIATIONS OR OTHER ENTITIES;

(B) PARTICIPATING IN, AND FACILITATING AND PROMOTING THE PARTICIPATION OF SMALL BUSINESS STATIONARY SOURCES IN THE DEVELOPMENT AND IMPLEMENTATION OF RULES AND REGULATIONS ADOPTED PURSUANT TO ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVATION LAW;

(C) PARTICIPATING IN, AND SPONSORING MEETINGS WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, LOCAL AIR POLLUTION CONTROL AGENCIES, INDUSTRY GROUPS AND SMALL BUSINESS REPRESENTATIVES;

(D) PROVIDING GUIDANCE AND RECOMMENDATIONS TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ON THE DEVELOPMENT, CONTENT AND OPERATION OF THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM AS CREATED BY SECTION 19-0313 OF THE ENVIRONMENTAL CONSERVATION LAW;

(E) DISTRIBUTING TO SMALL BUSINESS STATIONARY SOURCES INFORMATION AND MATERIALS ON THE REQUIREMENTS OF THE ACT AND ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVATION LAW;

(F) REPORTING TO THE SMALL BUSINESS STATIONARY SOURCE COMPLIANCE ADVISORY PANEL AS ESTABLISHED PURSUANT TO SECTION 19-0315 OF THE ENVIRONMENTAL CONSERVATION LAW ON ANY PROBLEMS OR DIFFICULTIES EXPERIENCED BY SMALL BUSINESS STATIONARY SOURCES IN COMPLYING WITH ARTICLE NINETEEN OF

THE ENVIRONMENTAL CONSERVATION LAW AND THE ACT, INCLUDING THE DEGREE AND SEVERITY OF ENFORCEMENT;

(G) AIDING IN THE INVESTIGATION AND RESOLUTION OF COMPLAINTS AND DISPUTES FROM SMALL BUSINESS STATIONARY SOURCES AGAINST THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND LOCAL AIR POLLUTION CONTROL AUTHORITIES;

(H) CONDUCTING PERIODIC EVALUATIONS OF ALL ASPECTS OF THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM AS IDENTIFIED UNDER SECTION 19-0313 OF THE ENVIRONMENTAL CONSERVATION LAW INCLUDING REVIEWING THE WORK AND SERVICES OF THE PROGRAM WITH TRADE ASSOCIATIONS AND REPRESENTATIVES OF SMALL BUSINESS;

(I) REVIEWING AND PROVIDING COMMENTS AND RECOMMENDATIONS TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF REGULATIONS THAT IMPACT SMALL BUSINESS STATIONARY SOURCES;

(J) ARRANGING FOR AND ASSISTING IN THE PREPARATION OF GUIDANCE DOCUMENTS BY THE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM AS REQUIRED PURSUANT TO SECTION 19-0313 OF THE ENVIRONMENTAL CONSERVATION LAW TO ENSURE THAT THE LANGUAGE IS READILY UNDERSTANDABLE BY THE LAY PERSON;

(K) REFERRING SMALL BUSINESS STATIONARY SOURCES TO SPECIALISTS FOR INFORMATION AND ASSISTANCE ON AFFORDABLE ALTERNATIVE TECHNOLOGIES, PROCESS CHANGES, PRODUCTS AND OPERATIONAL METHODS TO HELP REDUCE AIR POLLUTION;

(L) PROVIDING INFORMATION TO SMALL BUSINESS STATIONARY SOURCES ON STATE-SPONSORED PROGRAMS OFFERING FINANCIAL AND TECHNICAL ASSISTANCE, AND IN LOCATING SOURCES OF FUNDING FOR COMPLIANCE WITH THE REQUIREMENTS OF ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVATION LAW AND THE ACT; AND

(M) ESTABLISHING PROCEDURES FOR ASSURING THE CONFIDENTIALITY OF INFORMATION RECEIVED FROM SMALL BUSINESS STATIONARY SOURCES.

3. THE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS LAW SHALL NOT APPLY TO RECORDS CONTAINING INFORMATION SUPPLIED BY SMALL BUSINESS STATIONARY SOURCES PURSUANT TO THE PROVISIONS OF THIS SECTION.

S 669. ABOLITION OF DIVISION FOR SMALL-BUSINESS. UPON THE TRANSFER PURSUANT TO THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL-BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE, THE DIVISION FOR SMALL-BUSINESS SHALL BE ABOLISHED.

S 670. TRANSFER OF POWERS OF THE DIVISION FOR SMALL BUSINESS. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL-BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW SHALL BE TRANSFERRED AND ASSIGNED TO, ASSUMED BY AND DEVOLVED UPON THE OFFICE. SUCH TRANSFER SHALL OCCUR NO LATER THAN JANUARY THIRTY-FIRST, TWO THOUSAND THIRTEEN, PROVIDED, HOWEVER, THAT, IN THE EVENT THAT IT IS IMPRACTICAL TO EFFECTUATE SUCH TRANSFER ON OR BEFORE JANUARY THIRTY-FIRST, TWO THOUSAND THIRTEEN, THE DIRECTOR MAY UPON NOTIFICATION TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, AND SPEAKER OF THE ASSEMBLY ON OR BEFORE JANUARY FIFTEENTH, TWO THOUSAND THIRTEEN, EXECUTE A MEMORANDUM OF UNDERSTANDING TO GOVERN THE EXPEDITIOUS TRANSFER REQUIRED PURSUANT TO THIS SECTION.

S 671. TRANSFER OF ASSETS AND LIABILITIES. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVI-

SION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE ALL ASSETS AND LIABILITIES OF THE DIVISION FOR SMALL BUSINESS ARE HEREBY TRANSFERRED TO AND ASSUMED BY THE OFFICE.

S 672. CONTINUITY OF AUTHORITY. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE, FOR THE PURPOSE OF SUCCESSION TO ALL FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS OF THE DIVISION FOR SMALL BUSINESS, THE OFFICE SHALL BE DEEMED AND HELD TO CONSTITUTE THE CONTINUATION OF SUCH AUTHORITY AND NOT A DIFFERENT AGENCY OR AUTHORITY.

S 673. TRANSFER OF RECORDS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE, ALL BOOKS, PAPERS, RECORDS AND PROPERTY PERTAINING TO THE DIVISION FOR SMALL BUSINESS SHALL BE TRANSFERRED TO AND MAINTAINED BY THE OFFICE.

S 674. COMPLETION OF UNFINISHED BUSINESS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE, ANY BUSINESS OR OTHER MATTER UNDERTAKEN OR COMMENCED BY THE DIVISION FOR SMALL BUSINESS PERTAINING TO OR CONNECTED WITH THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES SO TRANSFERRED AND ASSIGNED TO THE OFFICE MAY BE CONDUCTED OR COMPLETED BY THE DIRECTOR OF THE OFFICE.

S 675. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE WHENEVER THE DIVISION FOR SMALL BUSINESS AND THE COMMISSIONER THEREOF, THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES OF WHICH ARE TRANSFERRED TO THE OFFICE ARE REFERRED TO OR DESIGNATED IN ANY LAW, CONTRACT OR DOCUMENT PERTAINING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES TRANSFERRED AND ASSIGNED PURSUANT TO THIS ARTICLE, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO THE OFFICE AND ITS DIRECTOR.

S 676. EXISTING RIGHTS AND REMEDIES PRESERVED. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE NO EXISTING RIGHT OR REMEDY OF THE STATE, INCLUDING THE DIVISION FOR SMALL BUSINESS SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON OF THIS ARTICLE.

S 677. PENDING ACTIONS AND PROCEEDINGS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE

ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE NO ACTION OR PROCEEDING PENDING ON THE EFFECTIVE DATE OF THIS ARTICLE, BROUGHT BY OR AGAINST THE DIVISION FOR SMALL BUSINESS OR COMMISSIONER THEREOF SHALL BE AFFECTED BY ANY PROVISION OF THIS ARTICLE, BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN THE NAME OF THE DIRECTOR OF THE OFFICE. IN ALL SUCH ACTIONS AND PROCEEDINGS, THE OFFICE, UPON APPLICATION TO THE COURT, SHALL BE SUBSTITUTED AS A PARTY.

S 678. CONTINUANCE OF RULES AND REGULATIONS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE, ALL RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE DIVISION FOR SMALL BUSINESS, PERTAINING TO THE FUNCTIONS TRANSFERRED AND ASSIGNED BY THIS ARTICLE TO THE OFFICE IN FORCE AT THE TIME OF SUCH TRANSFER, ASSIGNMENT, ASSUMPTION OR DEVOLUTION SHALL CONTINUE IN FORCE AND EFFECT AS RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE OFFICE UNTIL DULY MODIFIED OR REPEALED.

S 679. TRANSFER OF APPROPRIATIONS MADE TO THE DIVISION FOR SMALL BUSINESS. UPON THE TRANSFER PURSUANT TO SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DIVISION FOR SMALL-BUSINESS AS ESTABLISHED PURSUANT TO FORMER ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW TO THE OFFICE AS PRESCRIBED BY SECTION SIX HUNDRED SEVENTY OF THIS ARTICLE, ALL APPROPRIATIONS AND REAPPROPRIATIONS WHICH SHALL HAVE BEEN MADE AVAILABLE AS OF THE DATE OF SUCH TRANSFER TO THE DIVISION FOR SMALL-BUSINESS OR SEGREGATED PURSUANT TO LAW, TO THE EXTENT OF REMAINING UNEXPENDED OR UNENCUMBERED BALANCES THEREOF, WHETHER ALLOCATED OR UNALLOCATED AND WHETHER OBLIGATED OR UNOBLIGATED, SHALL BE TRANSFERRED TO AND MADE AVAILABLE FOR USE AND EXPENDITURE BY THE OFFICE FOR THE SAME PURPOSES FOR WHICH ORIGINALLY APPROPRIATED OR REAPPROPRIATED AND SHALL BE PAYABLE ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE, ON AUDIT AND WARRANT OF THE COMPTROLLER. PAYMENTS OF LIABILITIES FOR EXPENSES OF PERSONAL SERVICE, MAINTENANCE AND OPERATION WHICH SHALL HAVE BEEN INCURRED AS OF THE DATE OF SUCH TRANSFER BY THE DIVISION FOR SMALL BUSINESS, AND FOR LIABILITIES INCURRED AND TO BE INCURRED IN COMPLETING ITS AFFAIRS SHALL ALSO BE MADE ON VOUCHERS CERTIFIED OR APPROVED BY THE DIRECTOR OF THE OFFICE, ON AUDIT AND WARRANT OF THE COMPTROLLER.

S 3. The opening paragraph of subdivision 1 of section 1838 of the public authorities law, as added by chapter 56 of the laws of 1993, is amended to read as follows:

There is hereby created a state bonding guarantee assistance program to enable small businesses, and minority-owned and women-owned business enterprises, certified as a minority-owned or women-owned business enterprise pursuant to article fifteen-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] SIX HUNDRED SIXTY-ONE of the [economic development] EXECUTIVE law. Such program shall give preference to minority-owned and women-owned business enterprises and shall:

S 4. The opening paragraph and paragraph g of subdivision 1 and subdivision 3 of section 19-0313 of the environmental conservation law, as added by chapter 608 of the laws of 1993, are amended to read as follows:

The commissioner is hereby authorized and directed to establish, develop and implement a small business stationary source technical and environmental compliance assistance program for those categories of sources of air contamination identified in section 7661f(c) of the Act or any other category of source the commissioner deems appropriate. The commissioner, after consultation with the administrator of the United States environmental protection agency, the administrator of the United States small business administration, the small business stationary source compliance advisory panel and the small business stationary source ombudsman created pursuant to section [one hundred thirty-seven] SIX HUNDRED SIXTY-EIGHT of the [economic development] EXECUTIVE law, and after providing notice and opportunity for public hearing, may exclude from the program any category or subcategory of sources identified in section 7661f(c) of the Act that the commissioner determines to have sufficient technical and financial capabilities to meet the requirements of the Act without such assistance. The department may designate eligibility for assistance based on whether the stationary source has sufficient technical and financial capabilities to comply with federal and state law without such assistance. Such program shall include:

g. procedures for soliciting input from and exchanging information with the small business stationary source ombudsman created pursuant to section [one hundred thirty-seven] SIX HUNDRED SIXTY-EIGHT of the [economic development] EXECUTIVE law, regarding compliance requirements for small business stationary sources;

3. In developing and implementing the small business stationary source technical and environmental compliance assistance program as required pursuant to subdivision one of this section, the department shall consult with the small business stationary source compliance advisory panel as created pursuant to section 19-0315 of this title and the small business stationary source ombudsman as created pursuant to section [one hundred thirty-seven] SIX HUNDRED SIXTY-EIGHT of the [economic development] EXECUTIVE law.

S 5. Paragraph i of subdivision 3 of section 97-oo of the state finance law, as added by chapter 608 of the laws of 1993, is amended to read as follows:

i. developing and implementing the small business stationary source ombudsman program established pursuant to section [one hundred thirty-seven] SIX HUNDRED SIXTY-EIGHT of the [economic development] EXECUTIVE law; and

S 6. Paragraph f of subdivision 2 and subdivision 3 of section 28-0109 of the environmental conservation law, as added by chapter 654 of the laws of 2005, are amended to read as follows:

f. procedures for soliciting input [from and exchanging information with the small business pollution prevention and environmental compliance ombudsman program created pursuant to section 138 of the economic development law,] regarding pollution prevention opportunities and compliance requirements for small businesses;

3. In developing and implementing the small business pollution prevention and environmental compliance assistance program, the department shall consult with the pollution prevention and environmental compliance coordinating council as created pursuant to section 28-0111 of this article, the environmental facilities corporation[, the small

business pollution prevention and environmental compliance ombudsman program as created pursuant to section 138 of the economic development law] and the office of waste prevention services as created pursuant to article 14 of the economic development law.

S 7. Subdivision 1 of section 311-a of the executive law, as added by section 4 of part BB of chapter 59 of the laws of 2006, is amended to read as follows:

1. There is hereby established within the department of economic development an office of the minority and women-owned business enterprise statewide advocate. The statewide advocate shall be appointed by the commissioner with the advice of the small business advisory board as established in section [one hundred thirty-three] SIX HUNDRED SIXTY-THREE of the [economic development] EXECUTIVE law and shall serve in the unclassified service of the director. The statewide advocate shall be located in the Albany empire state development office.

S 8. This act shall take effect immediately, provided, however, that the amendments to section 311-a of the executive law made by section seven of this act shall not affect the expiration of such section and shall be deemed repealed therewith.