

3014

2011-2012 Regular Sessions

I N S E N A T E

February 7, 2011

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the New York state urban development corporation act, in relation to creating the small business energy loan program

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

1 Section 1. The legislature hereby finds and declares that the state's
2 chronically high energy costs are often cited as a key factor for why
3 New York-based businesses and New York-made products are not competitive
4 in national and global markets. The legislature further finds that the
5 state's economic expansion is tied to the growth and development of
6 small businesses. By reducing a primary cost component in a rapidly
7 growing sector of the state's economy, those businesses are rendered
8 more competitive, and thus help to better secure New York-based jobs. In
9 addition, thriving businesses and communities will augment the tax base,
10 which in distressed communities is disproportionately lower than in
11 other areas of the state.

12 Therefore, the legislature seeks to provide funds to reduce high ener-
13 gy costs, via a zero or low interest loan, or loan interest rate
14 reduction program for energy efficiency projects to stimulate the growth
15 and development of small businesses and jobs in New York state.

16 S 2. Section 1 of chapter 174 of the laws of 1968, constituting the
17 New York state urban development corporation act, is amended by adding a
18 new section 16-u to read as follows:

19 S 16-U. SMALL BUSINESS ENERGY LOAN PROGRAM. 1. DEFINITIONS. FOR THE
20 PURPOSE OF THIS SECTION:

21 (A) "AUTHORITY" SHALL MEAN THE NEW YORK STATE ENERGY RESEARCH AND
22 DEVELOPMENT AUTHORITY AS DEFINED IN SECTION 1851 OF THE PUBLIC AUTHORI-
23 TIES LAW.

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

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(B) "ECONOMICALLY DISTRESSED AREAS" SHALL MEAN AREAS AS DETERMINED BY THE CORPORATION, MEETING CRITERIA INDICATIVE OF ECONOMIC DISTRESS, INCLUDING CONSIDERATION OF UNEMPLOYMENT RATE; RATE OF EMPLOYMENT CHANGE; NUMBERS AND PERCENTAGES OF LOW-INCOME PERSONS; PER CAPITA INCOME AND PER CAPITA REAL PROPERTY WEALTH; SUCH OTHER INDICATORS OF DISTRESS AS THE CORPORATION SHALL DETERMINE. ECONOMICALLY DISTRESSED AREAS MAY INCLUDE DESIGNATIONS SUCH AS CITIES, MUNICIPALITIES, BLOCK NUMBERING AREAS, AND CENSUS TRACTS.

(C) "LOAN FUND" SHALL MEAN THE SMALL BUSINESS ENERGY LOAN FUND ESTABLISHED PURSUANT TO THIS SECTION.

(D) "SMALL BUSINESSES" SHALL MEAN BUSINESSES WHICH MEET THE FOLLOWING CRITERIA: (I) INDEPENDENTLY OWNED AND OPERATED, AND NOT DOMINANT IN THEIR FIELD, (II) HEADQUARTERED IN NEW YORK STATE, WITH PRINCIPAL BUSINESS OPERATIONS LOCATED IN NEW YORK STATE, AND (III) EMPLOYS ONE HUNDRED OR LESS PERSONS.

2. (A) THE CORPORATION, WITH THE ASSISTANCE OF THE AUTHORITY, SHALL ESTABLISH A SMALL BUSINESS ENERGY LOAN FUND TO PROVIDE ZERO OR LOW INTEREST LOANS AND LOAN INTEREST RATE REDUCTIONS TO SMALL BUSINESSES IN ECONOMICALLY DISTRESSED AREAS FOR ENERGY EFFICIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

(B) IN ORDER TO BE ELIGIBLE TO PARTICIPATE IN THIS LOAN PROGRAM, SMALL BUSINESSES IN ECONOMICALLY DISTRESSED AREAS MUST HAVE AN ENERGY AUDIT PROVIDED THROUGH THE AUTHORITY'S ENERGY AUDIT PROGRAM THAT HELPS SMALL BUSINESSES MAKE INFORMED ELECTRICAL ENERGY DECISIONS AND IMPLEMENT ENERGY EFFICIENCY STRATEGIES. TECHNOLOGIES IDENTIFIED IN SUCH AUDIT SHALL BECOME ELIGIBLE TECHNOLOGIES FOR WHICH MONIES FOR THE LOAN FUND MAY BE AVAILABLE.

3. (A) THE CORPORATION SHALL, WITHIN AVAILABLE APPROPRIATIONS, PROVIDE FINANCIAL ASSISTANCE FROM THE LOAN FUND TO ELIGIBLE SMALL BUSINESSES IN ECONOMICALLY DISTRESSED AREAS.

(B) THE CORPORATION IS AUTHORIZED TO PROVIDE ZERO OR LOW INTEREST LOANS FROM THE LOAN FUND FOR ELIGIBLE IMPROVEMENTS. TO BE ELIGIBLE FOR SUCH LOANS, A SMALL BUSINESS IN AN ECONOMICALLY DISTRESSED AREA SHALL IDENTIFY AN ELIGIBLE IMPROVEMENT PROJECT AND PROVIDE NECESSARY DOCUMENTATION.

(C) (I) THE CORPORATION IS AUTHORIZED TO PROVIDE LOAN INTEREST RATE REDUCTIONS FROM THE LOAN FUND FOR ELIGIBLE IMPROVEMENTS. TO BE ELIGIBLE FOR AN INTEREST RATE REDUCTION, A SMALL BUSINESS IN AN ECONOMICALLY DISTRESSED AREA SHALL: (1) IDENTIFY AN ELIGIBLE IMPROVEMENT PROJECT AND PROVIDE NECESSARY DOCUMENTATION, AND (2) RECEIVE A LOAN COMMITMENT FROM A PARTICIPATING LENDER, INCLUDING BANKS, CREDIT UNIONS, COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, AND FARM CREDIT ASSOCIATIONS.

(II) THE CORPORATION IS AUTHORIZED TO BUY DOWN THE PARTICIPATING LENDER'S INTEREST RATE BY UP TO FOUR HUNDRED BASIS POINTS OR FOUR PERCENT THROUGH THE LOAN FUND. SUCH INTEREST RATE REDUCTIONS SHALL BE AVAILABLE FOR THE LESSER OF TEN YEARS OR THE LIFE OF THE LOAN.

(D) LOANS PROVIDED BY THE CORPORATION OR ISSUED BY A PARTICIPATING LENDER SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

4. ENERGY EFFICIENCY IMPROVEMENTS ELIGIBLE FOR ZERO OR LOW INTEREST LOANS OR LOAN INTEREST RATE REDUCTIONS THROUGH THE LOAN FUND SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) PRE-QUALIFIED MEASURES THAT ARE PROVEN COST EFFECTIVE INVESTMENTS WHICH REDUCE ENERGY USE;

(B) CUSTOM MEASURES THAT PAY FOR THEMSELVES IN TEN YEARS THROUGH REDUCED ENERGY USE;

1 (C) PROCESS IMPROVEMENT MEASURES THAT REDUCE MANUFACTURING ENERGY USE
2 ON A COST-PER-UNIT BASIS; AND

3 (D) RENEWABLE TECHNOLOGIES THAT USE THE SUN, WIND, WATER OR GROUND TO
4 GENERATE HEAT OR POWER.

5 5. APPLICATIONS FOR ASSISTANCE PURSUANT TO THIS SECTION SHALL BE
6 REVIEWED AND EVALUATED BY THE CORPORATION IN COOPERATION WITH THE
7 AUTHORITY PURSUANT TO ELIGIBILITY REQUIREMENTS AND CRITERIA SET FORTH IN
8 THE RULES AND REGULATIONS PROMULGATED BY THE CORPORATION.

9 6. THE CORPORATION AND THE AUTHORITY SHALL SUBMIT AN ANNUAL WRITTEN
10 REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE
11 SENATE IDENTIFYING THE NUMBER OF BUSINESSES ASSISTED THROUGH THE LOAN
12 FUND PROGRAM, AND THE TYPES OF IMPROVEMENTS IMPLEMENTED AND ENERGY COST
13 SAVINGS REALIZED BY THE SMALL BUSINESSES ASSISTED BY THIS PROGRAM.

14 S 3. Paragraph (k) of subdivision 1 of section 16-m of section 1 of
15 chapter 174 of the laws of 1968, constituting the New York state urban
16 development corporation act, as added by section 4 of part FF of chapter
17 59 of the laws of 2006, is amended and a new paragraph (l) is added to
18 read as follows:

19 (k) Assistance for regional partnership proposals, as provided in
20 subdivision 12 of section 3154 of the public authorities law[.];

21 (L) LOANS, LOAN GUARANTEES, INTEREST SUBSIDY GRANTS AND DIRECT GRANTS
22 TO SMALL BUSINESSES UNDER SECTION SIXTEEN-U OF THIS ACT FOR ENERGY EFFI-
23 CIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

24 S 4. This act shall take effect immediately, provided, however, that
25 the amendments to section 16-m of the urban development corporation act
26 made by section three of this act shall not affect the expiration of
27 such section and shall expire and be deemed repealed therewith.