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

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I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. P. RIVERA, TOWNS, SCHROEDER -- Multi-Sponsored by -- M. of A. AUBRY, BRENNAN, CAHILL, CANESTRARI, CLARK, ENGLEBRIGHT, HEASTIE, JOHNS, MAGEE, McENENY, MILLMAN, MORELLE, PHEFFER, J. RIVERA -- read once and referred to the Committee on Small Business

AN ACT to amend the state finance law, in relation to authorizing excelsior linked deposits and loans to be made to a series of eligible businesses

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

Section 1. Subdivisions 15 and 17 of section 213 of the state finance law, as amended by chapter 291 of the laws of 2004, are amended to read as follows:

15. "Linked deposit" means a deposit, or for farm credit system institutions and the New York business development corporation an investment eligible to be held by such institution or corporation placed with a lender by the comptroller or the commissioner of taxation and finance for a period of four years at the linked deposit interest rate, provided the lender agrees to:

(a) lend the equivalent value of such deposit EITHER to (I) an eligible business at the interest rate provided in section two hundred eighteen of this article, OR (II) A SERIES OF ELIGIBLE BUSINESSES IN INDIVIDUAL LOAN PRINCIPAL AMOUNTS NOT TO EXCEED FIFTY THOUSAND DOLLARS, ALL OF WHICH BEAR INTEREST AT THE RATE PROVIDED IN SECTION TWO HUNDRED EIGHTEEN OF THIS ARTICLE; and

(b) permit the deposit to be comprised of a series of ninety day deposits each bearing an interest rate equal to the linked deposit interest rate fixed at the time the original deposit is placed.

This article and the related statutes that refer to this article do not grant thrifts, farm credit system institutions or the New York business development corporation eligibility to accept public funds or public moneys from public entities for investment purposes. For farm

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

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credit system institutions, the linked deposit program is available for loans with an agricultural purpose as defined by the farm credit act of nineteen hundred seventy-one, as amended and regulations promulgated thereunder. A linked deposit is intended to enable a lender to make a linked loan to an eligible business and such deposit earns a yield lower than posted rates in order to accomplish the goals of this article.

NOTWITHSTANDING THE PROVISIONS OF THE OPENING PARAGRAPH OF THIS SUBDIVISION, LINKED DEPOSITS MADE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION MAY BE PLACED WITH A LENDER FOR A PERIOD OF FIVE YEARS.

17. "Linked loan" means EITHER (A) a loan for purposes of an eligible project, in an amount equal to a linked deposit and bearing interest for the first four years at the interest rate provided in section two hundred eighteen of this article; OR (B) A SERIES OF LOANS, NONE OF WHICH EXCEEDS FIFTY THOUSAND DOLLARS IN PRINCIPAL AMOUNT, EACH OF WHICH IS FOR THE PURPOSE OF AN ELIGIBLE PROJECT OR, FOR LOANS MADE IN DISTRESSED COMMUNITIES (WITH MEDIAN HOUSEHOLD INCOME LEVELS WHICH ARE LESS THAN EIGHTY PERCENT OF THE STATE MEDIAN HOUSEHOLD INCOME), IS FOR THE PURPOSE OF FINANCING OR REFINANCING A SMALL BUSINESS, AND THE AGGREGATE VALUE OF ALL SUCH LOANS IS EQUIVALENT TO A SINGLE LINKED DEPOSIT BEARING INTEREST FOR THE FIRST TWO YEARS AT THE RATE PROVIDED IN SECTION TWO HUNDRED EIGHTEEN OF THIS ARTICLE.

S 2. The opening paragraph of subdivision 1 of section 219 of the state finance law, as added by chapter 705 of the laws of 1993, is amended to read as follows:

The commissioner of economic development shall establish procedures and other requirements for participation in the program, and shall provide a simplified application form to the participating lenders for linked deposits. Such form shall reflect the qualifying information required by this article for eligible businesses and shall contain a statement by the applicant that inability to obtain the reduced interest rate provided by the program would impede the ability of the applicant to undertake the eligible project. FOR A SERIES OF LINKED LOANS, AS AUTHORIZED BY PARAGRAPH (B) OF SUBDIVISION SEVENTEEN OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE, SUCH FORM SHALL INCLUDE A STATEMENT BY THE LENDER THAT NO LOAN SHALL BE MADE THAT DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE. Upon completion of any application for a linked deposit, the lender shall send the application, together with the interest rate certification required pursuant to section two hundred eighteen of this article, to the commissioner of economic development who shall either approve or reject the application within twenty-eight days. The commissioner of economic development shall evaluate each application based upon the following criteria:

S 3. This act shall take effect immediately.