

2587--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 16, 2013

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Introduced by M. of A. SCARBOROUGH, CAMARA, McDONOUGH, MILLMAN, SCHIM-MINGER, JAFFEE, ROBINSON, WEISENBERG, COOK, ROBERTS, WEPRIN, SKARTADOS -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CRESPO, CROUCH, GUNTHER, P. LOPEZ, MAGEE, MARKEY, MILLER, THIELE, WRIGHT -- read once and referred to the Committee on Small Business -- recommitted to the Committee on Small Business in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

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

4 S 16-X. SMALL BUSINESS ENERGY LOAN PROGRAM. 1. DEFINITIONS. FOR THE  
5 PURPOSE OF THIS SECTION:

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

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

17 (C) "LOAN FUND" SHALL MEAN THE SMALL BUSINESS ENERGY LOAN FUND ESTAB-  
18 LISHED PURSUANT TO THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 6. THE CORPORATION AND THE AUTHORITY SHALL SUBMIT AN ANNUAL WRITTEN  
17 REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE  
18 SENATE IDENTIFYING THE NUMBER OF BUSINESSES ASSISTED THROUGH THE LOAN  
19 FUND PROGRAM, AND THE TYPES OF IMPROVEMENTS IMPLEMENTED AND ENERGY COST  
20 SAVINGS REALIZED BY THE SMALL BUSINESSES ASSISTED BY THIS PROGRAM.

21 S 3. Paragraph (m) of subdivision 1 of section 16-m of section 1 of  
22 chapter 174 of the laws of 1968, constituting the New York state urban  
23 development corporation act, as added by chapter 467 of the laws of  
24 2011, is amended and a new paragraph (o) is added to read as follows:

25 (m) Assistance to businesses that conduct basic, applied or transla-  
26 tional research that leads to the development of products that improve  
27 human health or agriculture and that require approval by the federal  
28 food and drug administration, in order to create or expand facilities,  
29 in accordance with good manufacturing practice regulations, that will  
30 create or retain more than fifty jobs. For purposes of this paragraph,  
31 good manufacturing practice regulations refers to those regulations  
32 promulgated by the United States Food and Drug Administration under the  
33 authority of the Federal Food, Drug and Cosmetic Act[.];

34 (O) LOANS, LOAN GUARANTEES, INTEREST SUBSIDY GRANTS AND DIRECT GRANTS  
35 TO SMALL BUSINESSES UNDER SECTION SIXTEEN-X OF THIS ACT FOR ENERGY EFFI-  
36 CIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

37 S 4. This act shall take effect immediately, provided, however, that  
38 the amendments to section 16-m of the New York state urban development  
39 corporation act made by section three of this act shall not affect the  
40 expiration of such section and shall expire and be deemed repealed ther-  
41 ewith.