

1739--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. ESPAILLAT, ADDABBO, MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- 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.

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-w to read as follows:

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

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

LBD02720-03-4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 S 3. Paragraph (m) of subdivision 1 of section 16-m of section 1 of
17 chapter 174 of the laws of 1968, constituting the New York state urban
18 development corporation act, as added by chapter 467 of the laws of
19 2011, is amended and a new paragraph (o) is added to read as follows:

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

29 (O) LOANS, LOAN GUARANTEES, INTEREST SUBSIDY GRANTS AND DIRECT GRANTS
30 TO SMALL BUSINESSES UNDER SECTION SIXTEEN-W OF THIS ACT FOR ENERGY EFFI-
31 CIENCY PROJECTS AND ADVANCED ENERGY TECHNOLOGIES.

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