

5997--B

2013-2014 Regular Sessions

I N   S E N A T E

November 27, 2013

---

Introduced by Sens. GIPSON, DILAN, KRUEGER, LATIMER, MONTGOMERY, PARKER, STAVISKY, TKACZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 enacting the HIRE NY act

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

1     Section 1. This act shall be known and may be cited as the "hire individuals in the real economy New York (HIRE NY) act".  
2  
3     S 2. Section 1 of chapter 174 of the laws of 1968, constituting the  
4 New York state urban development corporation act, is amended by adding a  
5 new section 16-x to read as follows:  
6     S 16-X. THE HIRE NEW YORK PROGRAM. 1. LEGISLATIVE INTENT. THE LEGISLATURE  
7 HEREBY FINDS THAT MICRO-BUSINESSES ARE THE ENGINES OF OUR ECONOMY  
8 AND ARE VITAL TO THE REVITALIZATION OF COMMUNITIES AND NEIGHBORHOODS  
9 THROUGHOUT THE STATE. THE LEGISLATURE FURTHER FINDS THAT CURRENT LAW  
10 FAILS TO MOTIVATE PEOPLE TO START OR EXPAND BUSINESSES. THE LEGISLATURE  
11 FINDS THAT IT IS IMPORTANT TO SPUR START-UP MICRO-BUSINESSES THAT HAVE  
12 THE POTENTIAL TO BECOME THE JOB ENGINES FOR TOMORROW'S ECONOMY. THE  
13 LEGISLATURE FURTHER FINDS INVESTMENTS IN ECONOMIC DEVELOPMENT FAIL TO  
14 PROVIDE ANY FUNDING TO MICRO-BUSINESSES. THE LEGISLATURE FURTHER FINDS  
15 THAT SMALL MICRO-BUSINESSES WITH THE PROPER INCENTIVES ARE POISED TO  
16 PROVIDE SIGNIFICANT LOCAL JOB CREATION ACROSS THE STATE. THE LEGISLATURE  
17 FURTHER FINDS THAT TAX CREDITS ARE NOT AN EFFECTIVE JOB CREATION INCENTIVE  
18 FOR MICRO-BUSINESSES BECAUSE MANY OF THESE BUSINESSES LACK THE  
19 INCOME THAT MAKES A TAX CREDIT MEANINGFUL. THE LEGISLATURE FURTHER FINDS  
20 THAT CREATION OF A STATEWIDE HIRE NEW YORK FUND WILL PROVIDE THE NEEDED

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

LBD13164-08-4

1 CAPITAL FOR THE BUSINESSES OF TOMORROW TO GROW AND EMPLOY MORE NEW YORK-  
2 ERS.

3 2. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL  
4 HAVE THE MEANINGS INDICATED:

5 (A) "FUND" MEANS THE HIRE NEW YORK FUND AS ESTABLISHED BY SUBDIVISION  
6 THREE OF THIS SECTION.

7 (B) "LOCAL JOB" MEANS A JOB FILLED BY AN EMPLOYEE THAT RESIDES WITHIN  
8 THE SAME OR AN ADJACENT COUNTY AS THE APPLICANT'S PLACE OF BUSINESS.  
9 FOR THE PURPOSES OF THIS PARAGRAPH, FOR THE CITY OF NEW YORK, THE ADJA-  
10 CENT COUNTIES SHALL BE DEEMED TO BE NASSAU, SUFFOLK, ROCKLAND AND WEST-  
11 CHESTER.

12 (C) "MICRO-BUSINESS" MEANS A BUSINESS WITH FEWER THAN FIVE EMPLOYEES.  
13 A BUSINESS THAT IS OWNED IN ANY PORTION BY ANOTHER BUSINESS ENTITY SHALL  
14 NOT QUALIFY AS A "MICRO-BUSINESS."

15 (D) "MICRO-BUSINESS QUALIFYING NEW HIRE" MEANS EITHER A NEW FULL-TIME  
16 WAGE-PAYING LOCAL JOB OR THE EQUIVALENT OF A FULL-TIME WAGE-PAYING LOCAL  
17 JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK AND IS FILLED FOR ONE  
18 YEAR. A MICRO-BUSINESS QUALIFYING NEW HIRE SHALL NOT BE:

19 (I) AN EMPLOYEE WHO HAS BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER  
20 BUSINESS LOCATED IN THIS STATE, THROUGH AN ACQUISITION, MERGER, CONSOL-  
21 IDATION OR OTHER REORGANIZATION OF BUSINESSES OR THE ACQUISITION OF  
22 ASSETS OF ANOTHER BUSINESS, OR

23 (II) AN EMPLOYEE WHO HAS BEEN TRANSFERRED FROM EMPLOYMENT WITH A  
24 RELATED PERSON OR BUSINESS ENTITY, OR

25 (III) AN EMPLOYEE WHO IS HIRED TO FILL A CURRENTLY EXISTING POSITION  
26 THAT RESULTS FROM A TERMINATION OR DEPARTURE OF A PREVIOUS EMPLOYEE, OR

27 (IV) A TEMPORARY OR PART-TIME EMPLOYEE.

28 3. ESTABLISHMENT AND PURPOSES. THE CORPORATION SHALL ESTABLISH A FUND  
29 TO BE KNOWN AS THE "HIRE NEW YORK FUND" AND SHALL PAY INTO SUCH FUND ANY  
30 MONIES MADE AVAILABLE TO THE CORPORATION FOR SUCH FUND FROM ANY SOURCE.  
31 THE FUND SHALL CONSIST OF SUCH AMOUNTS AS MAY BE APPROPRIATED, ANY  
32 REPAYMENT OF THE PRINCIPAL AMOUNT OF ANY LOAN MADE FROM THE FUND, AND  
33 ANY INTEREST EARNED BY THE CORPORATION FROM THE INVESTMENT OF MONEYS OF  
34 THE FUND. THE CORPORATION IS AUTHORIZED TO ACCEPT, AS AGENT OF THE  
35 STATE, ANY GIFT, GRANT, DEVISE OR BEQUEST, WHETHER CONDITIONAL OR UNCON-  
36 DITIONAL, INCLUDING BUT NOT LIMITED TO FEDERAL GRANTS, AND TO USE MONIES  
37 MADE AVAILABLE FOR THE PROGRAM FROM ANY PUBLIC OR PRIVATE SOURCE, FOR  
38 THE PURPOSE OF IMPLEMENTING THE PROGRAM. THE CORPORATION SHALL BE ENTI-  
39 TLED TO RECOVER FROM THE MONIES MADE AVAILABLE FOR THE PROGRAM ITS OWN  
40 NECESSARY AND DOCUMENTED COSTS INCURRED IN ADMINISTERING THE PROGRAM AND  
41 EVALUATING THE EFFECTIVENESS OF THE PROGRAM; PROVIDED, HOWEVER, THE SUM  
42 THAT MAY BE RECOVERED FOR THE CORPORATION'S ADMINISTRATIVE COSTS SHALL  
43 NOT EXCEED FIVE PERCENT OF THE MONIES MADE AVAILABLE FOR THE PROGRAM,  
44 AND THE SUM THAT MAY BE RECOVERED FOR THE CORPORATION'S EVALUATION COSTS  
45 SHALL NOT EXCEED THREE PERCENT OF THE MONIES MADE AVAILABLE FOR THE  
46 PROGRAM. THE MONIES HELD IN OR CREDITED TO THE FUND SHALL BE EXPENDED  
47 SOLELY FOR THE PURPOSES SET FORTH IN THIS SECTION. THE CORPORATION SHALL  
48 NOT COMMINGLE THE MONIES OF SUCH FUND WITH ANY OTHER MONIES OF THE  
49 CORPORATION OR ANY MONIES HELD IN TRUST BY THE CORPORATION. THE CORPO-  
50 RATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS AND LOAN REPAY-  
51 MENTS TO PROVIDE ZERO INTEREST LOANS TO MICRO-BUSINESSES TO HIRE NEW  
52 EMPLOYEES.

53 4. APPLICATIONS FOR LOAN. AN APPLICATION FOR A LOAN SHALL BE SUBMITTED  
54 IN SUCH FORM AND IN ACCORDANCE WITH SUCH PROCEDURES AS THE CORPORATION  
55 SHALL ESTABLISH. APPLICATIONS SUBMITTED TO THE FUND MAY INCLUDE BUT  
56 SHALL NOT BE LIMITED TO:

1 (A) A BUSINESS PLAN;

2 (B) A JOB DESCRIPTION AND REQUIRED EMPLOYEE QUALIFICATIONS;

3 (C) A GUARANTOR;

4 (D) THE GUARANTOR'S NAME AND ADDRESS, AUDITED FINANCIAL STATEMENTS OR  
5 TAX RECORDS FOR THE PREVIOUS THREE YEARS, AND OTHER FINANCIAL DOCUMENTA-  
6 TION THE CORPORATION SHALL DEEM APPROPRIATE;

7 (E) A DESCRIPTION OF HOW THE APPLICANT ANTICIPATES THE BUSINESS WILL  
8 GROW AS A RESULT OF THE ADDITIONAL WORKFORCE;

9 (F) A LIST OF CURRENT EMPLOYEES AND JOB DESCRIPTION FOR EACH EMPLOYEE;  
10 AND

11 (G) ANY ADDITIONAL INFORMATION THAT THE CORPORATION SHALL REQUIRE.

12 ALL INFORMATION COLLECTED BY THE CORPORATION SHALL BE CONFIDENTIAL AND  
13 SHALL BE USED EXCLUSIVELY FOR PURPOSES OF THIS SECTION.

14 5. APPLICATION FEE. EACH APPLICATION MUST BE ACCOMPANIED BY A MINIMUM  
15 ONE HUNDRED-DOLLAR APPLICATION FEE. THIS APPLICATION FEE IS TO BE  
16 APPLIED TO THE CORPORATION'S ADMINISTRATIVE EXPENSES. APPLICATION FEES  
17 ARE TO BE REFUNDED TO ALL SUCCESSFUL APPLICANTS WITHIN THIRTY DAYS OF  
18 RECEIPT OF THE FINAL PAYMENT OF PRINCIPAL. THE PURPOSE OF THIS APPLICA-  
19 TION FEE IS TO ENSURE THAT APPLICATIONS ARE MADE IN GOOD FAITH AND TO  
20 AVOID WASTED ADMINISTRATIVE FEES THAT OCCUR FROM BAD FAITH APPLICATIONS.  
21 THE CORPORATION MAY REFUND ALL APPLICATION FEES, EVEN IF APPLICATION IS  
22 DENIED WHEN IT BELIEVED THAT THE APPLICANT IN GOOD FAITH BELIEVED IT WAS  
23 ENTITLED TO RECEIVE A LOAN UNDER THIS SECTION.

24 6. LOAN TERMS. (A) THE CORPORATION SHALL PROVIDE FUNDS FOR EACH OF THE  
25 FIRST THREE YEARS OF THE MICRO-BUSINESS QUALIFYING NEW HIRE'S EMPLOY-  
26 MENT.

27 (B) IN EACH OF THOSE YEARS THE CORPORATION WILL PROVIDE NO MORE THAN  
28 TWENTY PERCENT OF THE MICRO-BUSINESS QUALIFYING NEW HIRE'S ANNUAL SALA-  
29 RY.

30 (C) IN EACH YEAR THE CORPORATION WILL PROVIDE NO MORE THAN TWENTY  
31 THOUSAND DOLLARS PER MICRO-BUSINESS QUALIFYING NEW HIRE.

32 (D) LOAN PAYMENTS TO THE CORPORATION FROM THE BUSINESS ARE DEFERRED  
33 UNTIL THREE YEARS FROM MICRO-BUSINESS QUALIFYING NEW HIRE'S START DATE.

34 (E) PRINCIPAL IS TO BE PAID TO THE CORPORATION IN MONTHLY INSTALL-  
35 MENTS.

36 (F) NO INTEREST SHALL BE CHARGED ON ANY LOAN PROVIDED PURSUANT TO THIS  
37 SECTION.

38 (G) THE LOAN WILL BE PAID BY THE CORPORATION IN THREE INSTALLMENTS AS  
39 FOLLOWS:

40 (I) THE FIRST INSTALLMENT WILL BE PROVIDED BY THE CORPORATION NO LATER  
41 THAN TEN DAYS AFTER RECEIPT OF THE MICRO-BUSINESS QUALIFYING NEW HIRE'S  
42 W-2 AND PROOF OF RESIDENCE; AND

43 (II) THE PAYMENTS FOR EACH ADDITIONAL INSTALLMENT SHALL BE MADE WITHIN  
44 TEN DAYS OF THE DATE OF THE MICRO-BUSINESS QUALIFYING NEW HIRE'S ANNI-  
45 VERSARY OF EMPLOYMENT.

46 (H) NO FEES OR PENALTIES SHALL BE CHARGED OR COLLECTED FOR PREPAYMENT  
47 OF ANY SUCH LOAN.

48 7. LOAN APPROVAL. IN AWARDING THE LOAN, THE CORPORATION SHALL SELECT  
49 FROM ELIGIBLE BUSINESS APPLICANTS BASED ON THE FOLLOWING CRITERIA:

50 (A) THE LIKELIHOOD OF SUCCESS OF THE APPLICANT IN MEETING THE GOALS OF  
51 ITS STRATEGIC PLAN;

52 (B) THE EXTENT OF NEED FOR LOANS AND DEVELOPMENT SERVICES WITHIN THE  
53 INVESTMENT AREAS OR TARGETED POPULATIONS;

54 (C) THE CREDIT SCORE OF THE APPLICANT;

55 (D) THE CREDIT SCORE OF THE GUARANTOR;

56 (E) GOOD STANDING ON OTHER LOAN OBLIGATIONS; AND

1 (F) OTHER FACTORS DEEMED TO BE APPROPRIATE BY THE CORPORATION.

2 8. APPLICATION CRITERIA. THE CORPORATION SHALL DEVELOP AND USE A STAN-  
3 DARD APPLICATION FORM. IN ADDITION TO SUCH OTHER CRITERIA AS THE CORPO-  
4 RATION MAY ADOPT IN RULES AND REGULATIONS FOR THE CONSIDERATION OF  
5 APPLICATIONS FOR LOANS OR LOAN GUARANTEES PURSUANT TO THIS SECTION, THE  
6 CORPORATION SHALL:

7 (A) DETERMINE THAT THE COMPANY IS UNABLE TO OBTAIN SUFFICIENT FUNDING  
8 ON REASONABLE TERMS FROM OTHER PUBLIC OR PRIVATE SOURCES TO PERMIT THE  
9 COMPANY'S PLANNED HIRING;

10 (B) CONSIDER WHETHER THE LOAN OR LOAN GUARANTEE WILL RESULT IN A  
11 REASONABLE LIKELIHOOD OF SUCCESS IN MEETING THE PURPOSES FOR WHICH IT  
12 WAS SOUGHT BY THE APPLICANT COMPANY; AND

13 (C) ASSESS THE DEMONSTRATED NEED FOR SUCH ASSISTANCE, ESTABLISHED BY A  
14 SHOWING OF A SHORT-TERM LACK OF LIQUIDITY OF AN EXISTING SOLVENT BUSI-  
15 NESS.

16 9. USE OF LOAN. A MICRO-BUSINESS MAY UTILIZE FUNDS ONLY FOR SALARY OF  
17 A MICRO-BUSINESS QUALIFYING NEW HIRE.

18 10. ADVISORY COMMITTEE. THE CORPORATION MAY CREATE AN ADVISORY COMMIT-  
19 TEE, CONSISTING OF AT LEAST FIVE MEMBERS, TO ADVISE THE CORPORATION IN  
20 THE PROMOTION, IMPLEMENTATION AND ADMINISTRATION OF THE HIRE NEW YORK  
21 PROGRAM.

22 11. REPORTING REQUIREMENTS. THE CORPORATION SHALL SUBMIT A REPORT TO  
23 THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF  
24 THE SENATE ON OR BEFORE THE FIRST OF OCTOBER, AND ANNUALLY THEREAFTER,  
25 DESCRIBING THE FINANCIAL AND TECHNICAL ASSISTANCE PROVIDED PURSUANT TO  
26 THIS SECTION, INCLUDING: THE NUMBER OF LOAN APPLICATIONS FILED AND  
27 ACCEPTED; THE AMOUNT AND TYPE OF ASSISTANCE PROVIDED; A DESCRIPTION OF  
28 BUSINESSES ASSISTED BY FUND MONIES; THE NUMBER OF LOCAL JOBS CREATED  
29 THROUGH THE LOANS OF FUND MONIES; AND SUCH OTHER INFORMATION AS THE  
30 CORPORATION MAY DEEM APPROPRIATE.

31 12. RULES AND REGULATIONS. THE CORPORATION IS HEREBY AUTHORIZED TO  
32 PROMULGATE RULES AND REGULATIONS IN ACCORDANCE WITH THE STATE ADMINIS-  
33 TRATIVE PROCEDURE ACT THAT ARE NECESSARY TO FULFILL THE PURPOSES OF THIS  
34 SECTION. SUCH RULES AND REGULATIONS MUST BE COMPLETED WITHIN ONE HUNDRED  
35 EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

36 S 3. The provisions of this act shall be eligible to be funded from  
37 any state agency, public authority, public benefit corporation or any  
38 other entity for which this act is consistent with the mission of the  
39 state agency, public authority, public benefit corporation or any other  
40 entity.

41 S 4. This act shall take effect immediately.