STATE OF NEW YORK

7703

IN SENATE

February 9, 2018

Introduced by Sen. HAMILTON -- 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 community development revolving loan program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

§ 16-dd. Community development revolving loan program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Community development financial institution" means an organization whose principal office is located in this state, which has been certified as a community development financial institution by the federal community development financial institutions fund, as established pursuant to 12 U.S.C. § 4701, et seq.

(b) "Investment area" means a geographic area which:

(i) Is economically distressed as defined in section sixteen-d of this act; and

(ii) Has significant unmet needs for loans or is located in a federally designated empowerment zone or enterprise community as established pursuant to title XIII of the federal omnibus budget reconciliation act of 1993 (Public Law 103-66).

(c) "Low income" means having an income, adjusted for family size, of not more than:

(i) For metropolitan areas, eighty percent of the area median income; or

(ii) For non-metropolitan areas, the greater of eighty percent of the area median income of the statewide non-metropolitan area median income.

(d) "Targeted population" means individuals or an identifiable group of individuals including, but not limited to, minority and women-owned

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

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business enterprises who are low income or otherwise lack adequate access to loans.

(e) "Target market" means a defined service area which serves one or more investment areas or targeted population.

2. The community development revolving loan program is hereby created to provide low interest loans or loan guarantees to a targeted market, where it is underserved and otherwise difficult to obtain regular bank financing. Such loans or loan guarantees shall be made by a community development financial institution and shall be made in target markets for purposes of small businesses, microbusinesses, small farm businesses, residential mortgages, commercial mortgages, housing rehabilitation, home improvement, not-for-profit community based organizations and for such other purposes as permitted by the corporation.

3. A community development financial institution desiring to participate in the program shall execute an agreement in such form as the corporation may prescribe and shall contain such terms and provisions as the corporation or its agent may deem as necessary and appropriate.

4. The corporation is hereby authorized to administer the program created in subdivision two of this section or alternatively, to do the following:

(a) Enter into a contract with a third party to act as the agent of the corporation with respect to the administration of such program, pursuant to a competitive process;

(b) Conduct an annual review and assessment of the performance of the third party in its capacity as agent for the corporation to determine whether the contract referenced in paragraph (a) of this subdivision should be renewed for an additional two year period. The review shall be based on whether the third party agent has satisfactorily met the terms and conditions of the contract;

(c) Promulgate rules and regulations with respect to the implementation of the community development revolving loan program established by this section and any other rules and regulations necessary to fulfill the purposes of this section, in accordance with the state administrative procedure act.

(d) Any contract entered into pursuant to paragraph (a) of this subdivision shall:

(i) Be for a period of two years and shall be renewed for an additional two year period subject to requirements of paragraph (b) of this subdivision; and

(ii) Provide for compensation for expenses incurred by the third party agent in connection with its services as agent and for such other services as the corporation may deem appropriate including, but not limited to the use of the premises, personnel and personal property of the third party agent.

5. The corporation is authorized to establish a revolving loan fund account into which funds may be received from any source, including but not limited to, the corporation, financial institutions, insurance companies, business corporations and from settlements of civil actions by the department of financial services, and from which funds may be expended for the aforementioned purposes.

6. With respect to loans pursuant to this program, a community development financial institution may charge application, commitment and loan guarantee fees subject to a schedule of fees approved by the corporation.

7. A community development financial institution participating in the program shall submit to the corporation, an annual report detailing the following:

(a) The number of program loans made;

(b) The amount of program funding used for loans;

(c) The use of loan proceeds by the borrower;

(d) The number of jobs created or retained;

(e) A description of the economic development generated;

(f) The status of outstanding program loans; and

(g) Such other information as the corporation or its agent shall require.

8. The corporation may directly or through a third party conduct audits of a community development financial institution's compliance with the provisions of this section and any regulations promulgated. In the event of substantive noncompliance, the corporation may terminate the participation of such community development financial institution in the program.

9. The corporation shall create an advisory committee, consisting of a maximum of five members. Such committee shall advise the corporation with respect to loan practices, processes and procedures; internal credit policies and appropriate risk assessment standards for loans made by community development financial institutions. Such committee shall additionally advise the corporation in the promotion, implementation and administration of such fund, including also providing assistance to the corporation in securing private funds for the revolving loan fund. The members of such committee shall have experience with community development financial institutions, and shall, to the extent practical, reflect diversity in geographic location and communities served.

§ 2. This act shall take effect April 1, 2018; provided however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.