AN ACT to amend the executive law, in relation to establishing the state of emergency minority and women owned business enterprises loan and grant program relating to novel coronavirus (COVID-19)

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

Section 1. The executive law is amended by adding a new section 29-l to read as follows:

§ 29-l. State of emergency minority and women owned business enterprises loan and grant program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Affected business or organization" means and includes both minority and women owned business enterprises operating and located within this state at the commencement of the state of emergency;

(b) "Bank" means a bank as such term is defined in subdivision one of section two of the banking law;

(c) "Credit union" means a credit union as such term is defined in subdivision nine of section two of the banking law;

(d) "Corporation" means the urban development corporation in cooperation with the empire state development corporation;

(e) "Department" means the department of financial services;

(f) "Eligible financial institution" means a bank or credit union that has a physical presence in this state and is in good standing;

(g) "Grace period" means the ninety-day period after a state of emergency is over; and

(h) "State of emergency" means the period declared by executive order 202 on March 7, 2020 relating to the novel coronavirus (COVID-19).

2. State of emergency minority and women owned business enterprises loan and grant program. (a) The corporation shall administer a state of emergency minority and women owned business enterprises loan and grant program to guarantee the repayment of loans made by an eligible financial institution to an eligible affected business pursuant to this section. Subject to the cessation of new claim approvals pursuant to para-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.
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1. subsection six of this section, the corporation shall
2. submit all approved claims to the comptroller, who shall pay from the
3. general fund any and all claims submitted by the corporation.
4. (b) Any bank or credit union may apply to the department to partic-
5. ipate in the loan guarantee program. Not later than one business day
6. after receiving the application, the department shall determine whether
7. the financial institution is an eligible financial institution and imme-
8. diately notify the bank or credit union of such determination. Any
9. eligible financial institution may make loans to affected businesses in
10. accordance with this section.
11. (c) Each eligible financial institution that makes a loan pursuant to
12. this section, shall notify the department and corporation in writing not
13. later than one business day after making the loan, specifying such
14. information about the borrower as the department and corporation may
15. request.

3. Loan and grant program. An eligible financial institution or corpo-
16. ration may make a loan or grant to an affected business, in the follow-
17. ing manner:
18. (a) A minority and women owned business enterprise with fewer than one
19. hundred employees who have seen sales decreases of twenty-five percent
20. or more will be eligible for zero interest loans of up to seventy-five
21. thousand dollars to help mitigate losses in profit; or
22. (b) A minority and women owned business enterprise with fewer than
23. five employees will be eligible for a grant to cover forty percent of
24. payroll costs for two months up to ten thousand dollars to help retain
25. employees.

4. Loan and grant eligibility. An eligible financial institution or
26. corporation may make a loan or grant to an affected business, provided:
27. (a) The affected business has provided to the eligible financial
28. institution or corporation proof satisfactory to such institution or
29. corporation that such affected business is an affected business located
30. within the state of New York.
31. (b) The amount of the loan shall not exceed seventy-five thousand
32. dollars and the amount of the payroll cost assistance grant shall not
33. exceed ten thousand dollars.
34. (c) The loan is made in accordance with the eligible financial insti-
35. tution’s and the corporation’s underwriting policy and standards,
36. provided further that the affected business’s creditworthiness shall not
37. be a factor used for the purposes of determining eligibility.
38. (d) The loan agreement shall not (i) require repayment during the
39. grace period, or (ii) charge interest on the principal amount before or
40. during the grace period or for one hundred eighty days after the grace
41. period, provided after such one hundred eighty-day period, the eligible
42. financial institution or corporation may charge interest or fees in
43. accordance with such financial institution’s or corporation’s lending
44. policy and the terms of the underlying loan agreement.
45. (e) The loan agreement shall require that the affected business repay
46. the loan in full not later than one hundred eighty days after the end of
47. the grace period by making at least three, and no more than six, equal
48. installment payments. The loan agreement shall not contain a fee or
49. penalty for the prepayment or early payment of the loan.
50. (f) The eligible financial institution or corporation shall offer
51. credit counseling services or refer such affected business to nonprofit
52. credit counselors.

5. Additional loans. An affected business who has received a loan
53. pursuant to this section may apply to the same eligible financial insti-
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6. Collection of loans. (a) On and after one hundred eighty days from the end of the grace period, an eligible financial institution or corporation for each thirty-day period such minority or women owned business enterprise remains an affected business, provided no affected business may receive more than three loans under the program. Each additional loan shall be made in accordance with subdivision four of this section.

(b) The department shall maintain records in the regular course of administration of the loan guarantee program, including a record of loans issued and of payments made to honor loan guarantees issued under this section. The department shall regularly review such records to determine total loans issued and identify duplicative applications.

(c) The department may terminate any loan guarantee if the eligible financial institution misrepresents any information pertaining to the guarantee or fails to comply with any requirements of this section in connection with the guarantee of the underlying loan.

(d) If the amounts expended to honor loan guarantees under the program exceed ten percent of total loans issued, the department shall immediately cease to approve claims and shall notify the comptroller and each eligible financial institution and corporation of the total amount of payments made and that the department has ceased honoring loan guarantees.

(e) Any interest deferred or not charged related to a loan issued pursuant to this section shall be exempt from all state taxes that may be applicable to such interest amounts as they relate to an affected business. Eligible financial institutions and the corporation shall disclose to affected business borrowers in the signed affidavit or loan documents that there may be federal tax consequences to the program loans and grants.

(f) No new loan applications shall be submitted under the program after the state of emergency ends. The program shall expire upon the repayment of all loans made under the program and, for all loans in default, the repayment of claims made under the program, or the cessation of new claim approvals under paragraph (d) of this subdivision.

§ 2. This act shall take effect immediately.