

# STATE OF NEW YORK

2520

2019-2020 Regular Sessions

## IN SENATE

January 25, 2019

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT establishing the federal shutdown affected employees loan program

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

- 1 Section 1. Definitions. As used in this act, the following terms shall  
2 have the following meanings:
- 3 (a) "Affected employee" means a federal employee who, during the shut-  
4 down, is (i) a resident of this state, and (ii) required to work as a  
5 federal employee without pay or furloughed as a federal employee without  
6 pay;
- 7 (b) "Bank" means a bank as such term is defined in subdivision 1 of  
8 section 2 of the banking law;
- 9 (c) "Credit union" means a credit union as such term is defined in  
10 subdivision 9 of section 2 of the banking law;
- 11 (d) "Department" means the department of financial services;
- 12 (e) "Eligible financial institution" means a bank or credit union that  
13 has a physical presence in this state and is in good standing;
- 14 (f) "Grace period" means the ninety-day period after an affected  
15 employee's federal agency is funded; and
- 16 (g) "Shutdown" means the federal fiscal year 2019 partial government  
17 shutdown that began on December 22, 2018.
- 18 § 2. Federal shutdown affected employee loan program. (a) The depart-  
19 ment shall administer a federal shutdown affected employee loan program  
20 to guarantee the repayment of loans made by an eligible financial insti-  
21 tution to an eligible affected employee pursuant to this act. Subject  
22 to the cessation of new claim approvals under subdivision (d) of section  
23 five of this act, the department shall submit all approved claims to the  
24 comptroller, who shall pay from the general fund any and all claims  
25 submitted by the department.
- 26 (b) Any bank or credit union may apply to the department to partic-  
27 ipate in the loan guarantee program. Not later than one business day  
28 after receiving the application, the department shall determine whether  
29 the financial institution is an eligible financial institution and imme-

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

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1 diately notify the bank or credit union of such determination. Any  
2 eligible financial institution may make loans to affected employees in  
3 accordance with this act.

4 (c) Each eligible financial institution that makes a loan pursuant to  
5 this act, shall notify the department in writing not later than one  
6 business day after making the loan, specifying such information about  
7 the borrower as the department may request.

8 § 3. Loan eligibility. An eligible financial institution may make a  
9 loan to an affected employee, provided:

10 (a) The affected employee has provided to the eligible financial  
11 institution (i) proof of the employee's status, income and residence in  
12 this state, and (ii) the amount of unemployment compensation benefits  
13 the employee has received and has been deemed eligible to receive during  
14 the shutdown. Such proof may include a paystub or bank statement, a  
15 federal employee identification card, the federal tax identification  
16 number of the employee's employer and a sworn affidavit from such  
17 employee indicating that such employee (A) is currently a federal  
18 employee residing in this state, (B) may be eligible to receive back-pay  
19 when the shutdown ends, and (C) is not receiving a loan from any other  
20 financial institution pursuant to this act.

21 (b) The amount of the loan shall not exceed (i) the lesser of (A) five  
22 thousand dollars, or (B) the affected employee's most recent monthly  
23 after-tax pay, (ii) less four times the amount, if any, the affected  
24 employee has reported to the eligible financial institution under subdi-  
25 vision (a) of this section related to any weekly unemployment compen-  
26 sation benefits the employee has received or has been deemed eligible to  
27 receive during the shutdown.

28 (c) The loan is made in accordance with the eligible financial insti-  
29 tution's underwriting policy and standards, provided further that the  
30 affected employee's creditworthiness shall not be a factor used for the  
31 purposes of determining eligibility.

32 (d) The loan agreement shall not (i) require repayment during the  
33 grace period, or (ii) charge interest on the principal amount before or  
34 during the grace period or for one hundred eighty days after the grace  
35 period, provided after such one hundred eighty-day period, the eligible  
36 financial institution may charge interest or fees in accordance with  
37 such financial institution's lending policy and the terms of the under-  
38 lying loan agreement.

39 (e) The loan agreement shall require that the affected employee repay  
40 the loan in full not later than one hundred eighty days after the end of  
41 the grace period by making at least three, and no more than six, equal  
42 installment payments. The loan agreement shall not contain a fee or  
43 penalty for the prepayment or early payment of the loan.

44 (f) The eligible financial institution shall offer credit counseling  
45 services or refer such employee to nonprofit credit counselors.

46 § 4. Additional loans. An affected employee who has received a loan  
47 pursuant to this act may apply to the same eligible financial institu-  
48 tion for an additional loan for each thirty-day period such employee  
49 remains an affected employee, provided no affected employee may receive  
50 more than three loans under the program, and each such employee shall be  
51 required to update the eligible financial institution as to the amount  
52 of unemployment compensation benefits the employee has received and has  
53 been deemed eligible to receive during the shutdown. Each additional  
54 loan shall be made in accordance with section three of this act.

55 § 5. Collection of loans. (a) On and after one hundred eighty days  
56 from the end of the grace period, an eligible financial institution that

1 has made a good-faith effort to collect the outstanding principal from a  
2 loan issued pursuant to this act may make a claim to the department for  
3 recovery of an amount equal to the outstanding principal for such loan.  
4 Prior to the department's approving and submitting a claim to the comp-  
5 troller, such eligible financial institution shall demonstrate to the  
6 satisfaction of the department that the eligible financial institution  
7 has made a good-faith effort to collect the outstanding principal from  
8 the eligible employee in accordance with such financial institution's  
9 loan servicing and collection policies. Upon payment of a claim, the  
10 loan shall be assigned to the state, and the department shall have the  
11 right to continue collection efforts on the loan.

12 (b) The department shall maintain records in the regular course of  
13 administration of the loan guarantee program, including a record of  
14 loans issued and of payments made to honor loan guarantees issued under  
15 this section. The department shall regularly review such records to  
16 determine total loans issued and identify duplicative applications. The  
17 department shall report to the department of labor the names of the  
18 affected employees who have received a loan under the program, and the  
19 department of labor shall provide to the department information concern-  
20 ing such employees' unemployment compensation benefits. If the depart-  
21 ment determines that an affected employee misrepresented unemployment  
22 compensation benefits, the affected employee may be deemed ineligible  
23 for additional loans under this act.

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

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

33 (e) Any interest deferred or not charged related to a loan issued  
34 pursuant to this act shall be exempt from all state taxes that may be  
35 applicable to such interest amounts as they relate to an affected  
36 employee. Eligible financial institutions shall disclose to affected  
37 employee borrowers in the signed affidavit or loan documents that there  
38 may be federal tax consequences to the program loans.

39 (f) No new loan applications shall be submitted under the program  
40 after the shutdown ends. The program shall expire upon the repayment of  
41 all loans made under the program and, for all loans in default, the  
42 repayment of claims made under the program, or the cessation of new  
43 claim approvals under subdivision (d) of this section.

44 § 6. Unemployment benefits. Upon the passage of federal legislation or  
45 the issuance of federal guidance from the United States department of  
46 labor or another federal agency which allows an affected employee to  
47 receive benefits, such affected employee may be eligible for unemploy-  
48 ment benefits pursuant to such federal legislation or guidance during  
49 the period of the shutdown. If the shutdown ends and an affected employ-  
50 ee is paid by the federal government for any period of time the affected  
51 employee worked without pay during the shutdown, the affected employee  
52 shall reimburse the unemployment insurance fund in an amount equal to  
53 the unemployment benefits the affected employee received for the period  
54 of the shutdown.

55 § 7. This act shall take effect immediately.