# STATE OF NEW YORK

8319

# IN SENATE

May 11, 2020

Introduced by Sens. AKSHAR, AMEDORE, BORRELLO, BOYLE, FLANAGAN, FUNKE, GALLIVAN, GRIFFO, HELMING, JACOBS, JORDAN, LANZA, LAVALLE, LITTLE, O'MARA, ORTT, RANZENHOFER, RITCHIE, ROBACH, SERINO, SEWARD, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to create the coronavirus business interruption and municipal recovery program to provide grants to businesses and municipalities which sustain economic losses as a result of the COVID-19 emergency

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

Section 1. There is hereby created the coronavirus business interruption and municipal recovery program.

1. Definitions. The following terms shall have the following meanings:

(a) The term "for profit business" shall mean any sole proprietorship, partnership, limited liability company or corporation operating as a business for profit in New York State.

(b) The term "not-for-profit corporation" shall mean any not-for-profit corporation operating or providing services in New York State.

(c) The term "authority" shall mean the urban development corporation, operating as the empire state development corporation.

(d) The term "municipality" shall mean any county, city, town, village, school district, fire district or special district.

(e) The term "direct economic loss" shall mean the amount of the reduction of revenue or income sustained by a for profit business or not-for-profit corporation, as a result of a coronavirus event, for any month during the coronavirus period, as determined in accordance with the private sector loss formula.

(f) The term "municipal loss" shall mean the amount of the reduction of revenue, or increase in municipal expenses sustained by a municipality, as a result of a coronavirus event, for any month during the coronavirus period, as determined in accordance with the government sector loss formula.

(g) The term "coronavirus period" shall mean the period between January 1, 2020 through April 30, 2021.

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

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(h) The term "coronavirus event" shall mean the suffering of a direct economic loss or a municipal loss, as a direct result of:

i. The corona pandemic which occurred during January 1, 2020 through April 30, 2021;

ii. The contraction of the coronavirus by any employee, officer, director or contractor of the for profit business, not-for-profit corporation or municipality;

iii. A federal or state executive order;

iv. A federal or state statute;

v. A federal or state regulation; and/or

vi. A local law, ordinance or regulation.

(i) The term "private sector loss formula" shall mean the method of determining a direct economic loss, during any month in the coronavirus period, by calculating the total loss experience, that a for profit business or a not-for-profit corporation has sustained in any month of the coronavirus period, by comparing the total amount of revenue, or total the amount of income, during a specific month in the coronavirus period, as compared with the total amount of revenue, or the total amount of income, in the same month during the period of January 1, 2019 through December 31, 2019, resulting in the amount of such direct economic loss being the total amount of loss in revenue, or the total amount of loss in income, reflected by such comparison for such month, whichever is greater. For any for profit business not operating in any part of 2019, the authority shall determine by actuarial principles what the monthly loss would be.

(j) The term "government sector loss formula" shall mean the method of determining a municipal loss, during any month in the coronavirus period, by calculating the total loss experience a municipality has sustained, by comparing the total amount of revenue, during a specific month in the coronavirus period, as compared with the average of the total amount of revenue in the same month during the period of January 1, 2019 through December 31, 2019, and by further comparing the total amount of expense, during a specific month in the coronavirus period, as compared with the average of the total amount of expenses in the same month during the period of January 1, 2019 through December 31, 2019, resulting in the amount of such municipal loss being the total amount of the loss in revenue plus the total amount of increased expenses, reflected by the comparison for such month. In calculating the amount of increased expenses in the governmental sector loss formula, the calculation shall reduce the amount of the increased expenses during the coronavirus period by the percentage of increase in the municipality's budget between the 2018 and 2019 fiscal years.

2. Grants to businesses. (a) Any for profit business or not-for-profit corporation, that sustained a direct economic loss, shall be eligible to apply for a grant under this subdivision.

(b) Grants under this subdivision shall be awarded by the authority, in an amount of the direct economic loss sustained by the applicant, for any month in the coronavirus period, as calculated by the authority in accordance with the definition of private sector loss formula contained in paragraph (i) of subdivision one of this section. The awards made under this program would be the program of last resort and no amount shall be awarded by the authority under a specific, individual grant award, if such amount is otherwise covered or awarded to such applicant, by any other federal, state or local recovery program, or by a policy of business interruption insurance or other type of insurance purchased and maintained by such applicant. No application may be made by an applicant

until two months have elapsed since the conclusion of the month for which such application is submitted. An applicant may also receive only one grant award for any specific, individual month within the coronavirus period, but may receive a specific, individual grant award for each and every month within the coronavirus period.

(c) The authority shall administer the grant program, and shall establish application procedures to accomplish the purposes of this act. The authority shall further be empowered to contract for adjusters, actuaries and any other personnel necessary to administer the program, and to determine and award grants in accordance with this act. The authority shall additionally hereby be authorized to issue bonds, notes or other indebtedness to pay for the cost of the administration of this program and to award and payout the grants issued under the program.

(d) No specific, individual, monthly grant awarded under this subdivision shall be in excess of $1,000,000.

(e) The authority shall determine the amount of any specific, individual, monthly award requested in accordance with the provisions of this act, and shall pay any such applicant seeking such specific, individual, monthly award, within 90 days of the date of the submission of the application for such award. The authority shall further establish an appeal procedure for all applicants that contend that the determination of the award by the authority was not determined correctly or paid promptly as required by this act.

3. Grants to municipalities. (a) Any municipality that sustained a municipal loss, shall be eligible to apply for a grant under this subdivision.

(b) Grants under this subdivision shall be awarded by the authority, in an amount of the sustained municipal loss experienced by the applicant, for any month in the coronavirus period, as calculated by the authority in accordance with the definition of government sector loss formula contained in paragraph (j) of subdivision one of this section. The awards made under this program would be the program of last resort and no amount shall be awarded by the authority under a specific, individual grant award, if such amount is otherwise covered or awarded to such applicant, by any other federal, state or local recovery program, or by a policy of business interruption insurance or other type of insurance purchased and maintained by such applicant. No application may be made by an applicant until two months have elapsed since the conclusion of the month for which such application is submitted. An applicant may also receive only one grant award for any specific, individual month within the coronavirus period, but may receive a specific, individual grant award for each and every month within the coronavirus period.

(c) The authority shall administer the grant program, and shall establish application procedures to accomplish the purposes of this act. The authority shall further be empowered to contract for adjusters, actuaries and any other personnel necessary to administer the program, and to determine and award grants in accordance with this act. The authority, shall additionally hereby be authorized to issue bonds, notes or other indebtedness to pay for the cost of the administration of this program and to award and payout the grants issued under the program.

(d) No specific, individual, monthly grant awarded under this subdivision shall be in excess of $3,000,000, except for a city with a population of one million or more where any specific, individual, monthly grant awarded under this subdivision shall not be in excess of $10,000,000.

(e) The authority shall determine the amount of any specific, individual, monthly award requested, in accordance with the provisions of this act, and shall pay any such applicant seeking such award, within 120 days of the date of the submission of the application for such specific, individual, monthly award. The authority shall further establish an appeal procedure for all applicants that contend that the determination of the award by the authority was not determined correctly or paid promptly as required by this act.

4. Recovery by the authority. The authority, through the attorney general, may seek financial damages, by means of federal or state court litigation, or by means of administrative procedure or arbitration, against any foreign country, person, corporation, or any other personal or legal entity, responsible for the initiation, outbreak, continuation, distribution or infection of the COVID-19, coronavirus. No federal or state court litigation, or administrative procedure or arbitration, may be maintained for a recovery under this subdivision against any elected official of the United States, New York State, or municipality, or of any public officer appointed by any such officials, who during the period of January 1, 2020 through April 30, 2021, were discharging their public duties. Any recovery obtained by the authority in accordance with this subdivision shall be deposited into a COVID-19 recovery account, opened and maintained by the authority, and shall be used to pay off and retire any and all bonds, notes or other indebtedness issued by the authority in accordance with the program under this act. Any amount of a recovery obtained by the authority, above that necessary to pay off and retire any and all bonds, notes or other indebtedness issued by the authority in accordance with this program, shall be transferred to the state general fund within two years of the date of the receipt of the recovery.

§ 2. This act shall take effect immediately.