

# STATE OF NEW YORK

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8364--A

## IN SENATE

May 19, 2020

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Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT establishing the New York state small business protection program

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

1 Section 1. Legislative findings. a. In April 2020, the Federal Govern-  
2 ment enacted two Coronavirus Aid, Relief and Economic Security (CARES)  
3 Act stimulus packages where it introduced the Paycheck Protection  
4 Program (PPP) totaling \$659 billion dollars to financially assist small  
5 businesses, and to prevent the loss of jobs and the failure of small  
6 businesses due to financial losses caused by the COVID-19 pandemic.

7 b. Many local small businesses including minority- and women-owned  
8 businesses (MWBs) in our state did not receive any federal funding  
9 under the federal PPP in either of the two rounds of funding. In fact,  
10 most of the first round of funding totaling \$349 billion, which was  
11 exhausted in 2 weeks, went to large publicly traded businesses.

12 c. According to a report issued by the Federal Small Business Adminis-  
13 tration Inspector General, the Small Business Administration (SBA) was  
14 faulted in administering the PPP, in that the SBA did not issue guide-  
15 lines for banks to prioritize businesses in rural markets, companies  
16 that have only been in business for two years or less, or businesses  
17 owned by veterans, minorities, women and economically disadvantaged  
18 individuals. Moreover, the PPP application did not include demographic  
19 information making it difficult or near impossible to determine how much  
20 money went into the markets.

21 d. As New York state is reopening regionally post COVID-19, many of  
22 our small businesses, including MWBs and farmers who did not receive  
23 any PPP funding are in desperate need of funding to employ and/or pay  
24 staff, purchase inventory, and pay rent and utilities.

25 § 2. Establishment. Notwithstanding any provision of law to the  
26 contrary, the legislature shall authorize the establishment of a New  
27 York State Small Business Protection Program (NYSSBPP) to be funded in

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

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1 the amount of 100 million dollars from future federal stimulus funding.  
2 Such funding shall reimburse any moneys used from any state funds for  
3 the purposes described under sections four or five of this act.

4 § 3. Eligibility. Entities shall be eligible for the NYSSBPP provided  
5 such entity has less than 100 employees per location, did not receive  
6 any federal funding from the Federal CARES Act, was in existence in New  
7 York state by the first day the state disaster emergency related to  
8 COVID-19 was declared by the governor, can document actual economic harm  
9 or revenue shortfall as a direct result of the pandemic, and has filed  
10 2018 or 2019 tax returns. The lending priority shall be as follows:

11 a. small businesses, including minority- and women-owned business  
12 enterprises, owned by veterans, minorities, women, economically disad-  
13 vantaged individuals and farmers;

14 b. businesses in the restaurant, luxury service, retail, transporta-  
15 tion, hospitality and farming industries;

16 c. small businesses located in economically distressed or underserved  
17 communities and rural markets;

18 d. non-profit organizations having tax exempt status under section  
19 501(c)(3), or a veterans organization having tax exempt status under  
20 section 501(c)(19) of the United States Internal Revenue Code;

21 e. sole proprietors, independent contractors, and self-employed  
22 persons;

23 f. small businesses that have been in existence for two years or less;  
24 and

25 g. new businesses formed or incorporated within 30 days after the  
26 expiration of the state of emergencies or the region of the state where  
27 the business is located has reopened post COVID-19.

28 § 4. Loan details and forgiveness. a. All eligible entities pursuant  
29 to section three of this act, shall submit an application through commu-  
30 nity development financial institutions (CDFIs), minority depository  
31 institutions (MDIs), local community banks or credit unions located  
32 within the state. No applications shall be processed through any  
33 merchant cash advance or any financial technology companies. All lending  
34 institutions in this program shall collect and provide data about the  
35 borrowers' demographics and loan amount.

36 b. The loan amount shall equal 60% of the prior year eligible expenses  
37 not to exceed \$100,000.00.

38 c. Such loan shall be forgiven if funds are used for payroll or 1099  
39 employees, interest on mortgages, rent, utilities and inventory.

40 d. Purchases of new equipment are permissible under this program but  
41 such loan will not be forgiven as a grant.

42 e. All loan payments shall be deferred for 6 months, which can be  
43 deferred for an additional 6 months but not to exceed 1 year from the  
44 date of the loan.

45 f. No collateral or personal guarantees are required. Neither the  
46 government nor financial institutions shall charge qualifying entities  
47 any fees.

48 g. Forgiveness is based on the qualifying small business maintaining  
49 or quickly rehiring employees and maintaining salary levels. Forgiveness  
50 will be reduced if full-time headcount declines, or if salaries and  
51 wages decrease within 12 weeks of receiving such funding. The 12-week  
52 rule shall not apply to any entity if such entity paid its employees'  
53 salaries during the COVID-19 state of disaster emergencies or when such  
54 entity was closed. Documented proof of such payroll payment shall be  
55 required.

1 h. All loans not forgiven under subdivision b of this section shall  
2 have a maturity of 2 years and an interest rate of 1% or 3 years of the  
3 loan payments have been deferred.

4 i. The department of financial services shall have oversight and moni-  
5 tor the application process pursuant to this section. Such department  
6 shall create the application and promulgate rules necessary for the  
7 administration of this program.

8 § 5. Grants. The NYSSBPP shall provide the following grants to all  
9 qualified small businesses, not-for-profits and charitable organiza-  
10 tions:

11 a. A rent reimbursement grant to reimburse qualifying entities for  
12 rent paid during the COVID-19 pandemic, provided such entity has docu-  
13 mentary proof of such paid rent. This rent reimbursement grant shall be  
14 capped at 3 months of paid rent during the state of emergencies;

15 b. A grant to reimburse qualifying entities for perishable inventory  
16 purchased before the COVID-19 state of disaster emergency that was  
17 thrown out due to the forced shut down of such entity and/or to replace  
18 food inventory to help such entity reopen; and

19 c. A grant subsidy for farmers to pay for gas and tolls to deliver the  
20 products throughout the state.

21 § 6. Oversight. The state comptroller shall monitor the NYSSBPP to  
22 ensure the provisions of this act are properly executed. The state comp-  
23 troller shall submit a report on such program to the governor, the  
24 temporary president of the senate and the speaker of the assembly, and  
25 shall post such on the comptroller's website on a quarterly basis  
26 describing any loans granted under such program.

27 § 7. This act shall take effect immediately.