STATE OF NEW YORK

10294

IN ASSEMBLY

April 15, 2020

Introduced by M. of A. STIRPE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishing the industrial development agency public health state of emergency loan program

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

Section 1. Article 9 of the public authorities law is amended by adding a new title 7-A to read as follows:

TITLE 7-A

INDUSTRIAL DEVELOPMENT AGENCY PUBLIC HEALTH STATE OF EMERGENCY LOAN PROGRAM

Section 2928. Industrial development agency public health state of emergency loan program.

§ 2928. Industrial development agency public health state of emergency loan 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 a small business and a small not-for-profit organization located within this state during a state of emergency;

(b) "Grace period" means the sixty-day period after a state of emergency is over;

(c) "Industrial development agency" or "IDA" means any industrial development agency established pursuant to this chapter, by special act or by any other provision of law.

(d) "Small business" means a business with not more than fifty employees;

(e) "Small not-for-profit organization" means a not-for-profit organization with not more than fifty employees; and

(f) "State of emergency" means the period beginning with a declaration by the governor that a public health state of emergency exists.

2. Industrial development agency public health state of emergency loan program. Notwithstanding any other provision of law, any IDA may administer an industrial development agency public health state of emergency

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

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loan program to provide loans to affected businesses and organizations pursuant to this section.

3. Loan eligibility. An IDA may make a loan to an affected business or organization, provided:

(a) The affected business or organization has provided to the IDA proof satisfactory to such IDA that such affected business or organization is an affected business or organization located within the state of New York.

(b) The amount of the loan shall not exceed twenty-five thousand dollars.

(c) The affected business or organization's creditworthiness shall not be a factor used for the purposes of determining eligibility.

(d) The loan agreement shall not (i) require repayment during the grace period, or (ii) charge interest on the principal amount before or during the grace period or for one hundred eighty days after the grace period, provided after such one hundred eighty-day period, the IDA may charge interest or fees according to the terms of the loan agreement.

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

(f) The IDA shall offer credit counseling services or refer such affected business or organization to nonprofit credit counselors.

4. Additional loans. An affected business or organization who has received a loan pursuant to this section may apply to the same IDA for an additional loan for each thirty-day period such small business or not-for-profit organization remains an affected business or organization, provided no affected business or organization may receive more than three loans under the program. Each additional loan shall be made in accordance with subdivision three of this section. The total amount of all loans received by an affected business or organization shall not exceed twenty-five thousand dollars.

5. Collection of loans. On and after one hundred eighty days from the end of the grace period, an IDA that has made a good-faith effort to collect the outstanding principal from a loan issued pursuant to this section may make a claim to the comptroller for recovery of an amount equal to the outstanding principal for such loan. Prior to the comptroller approving such claim, such IDA shall demonstrate to the satisfaction of the comptroller that the IDA has made a good-faith effort to collect the outstanding principal from the affected small business or organization. Upon payment of a claim, the loan shall be assigned to the state, and the comptroller shall have the right to continue collection efforts on the loan.

6. Records. Each IDA shall maintain records in the regular course of administration of the loan guarantee program, including a record of loans issued and of payments made.

7. Taxability. 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 or organization. Eligible IDAs shall disclose to affected business or organization borrowers in loan documents that there may be federal tax consequences to the program loans.

8. End of state of emergency. No new loan applications shall be submitted under the program after the state of emergency ends. The

<u>**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.**</u>

§ 2. This act shall take effect immediately.