

STATE OF NEW YORK

8364

IN SENATE

May 19, 2020

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

AN ACT establishing the New York state paycheck 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 (MWBEs) 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 MWBEs 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 Payroll Protection Program (NYSPPP) to be funded in the
28 amount of 100 million dollars from future federal stimulus funding. Such

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

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1 funding shall reimburse any moneys used from any state funds for the
2 purposes described under sections four or five of this act, including,
3 but not limited to the New York state common retirement fund.

4 § 3. Eligibility. The following entities shall be eligible for the
5 NYSPPP provided such entity has less than 300 employees, did not receive
6 any federal funding from the Federal CARES Act, and was in existence in
7 New York state by the first day the state disaster emergency related to
8 COVID-19 was declared by the governor:

9 a. Small businesses, including minority- and women-owned business
10 enterprises, owned by veterans, minorities, women, economically disad-
11 vantaged individuals and farmers;

12 b. Small businesses that have been in existence for two years or less;

13 c. Small businesses located in underserved and rural markets;

14 d. A non-profit organization having tax exempt status under section
15 501(c)(3) of the United States Internal Revenue Code, or a veterans
16 organization having tax exempt status under section 501(c)(19) of the
17 United States Internal Revenue Code;

18 e. Any business with a North American Industry Classification System
19 code for principal business activity for New York state tax purposes
20 that has more than one physical location and employs less than 300
21 people per location;

22 f. Sole proprietors, independent contractors, and self-employed
23 persons; and

24 g. Any new businesses formed and/or incorporated during the federal or
25 state COVID-19 state of emergencies or within 30 days after the expira-
26 tion of such state of emergencies.

27 § 4. Loan details and forgiveness. a. All eligible entities pursuant
28 to section three of this act, shall submit an application through local
29 community development financial institutions (CDFIs) located within the
30 state. The maximum loan amount an entity may apply for is 100,000
31 dollars.

32 b. Such loan will be fully forgiven if the funds are used for payroll
33 costs, interest on mortgages, rent, and utilities; provided, however,
34 due to likely high subscription, at least 75% of the forgiven amount
35 shall have been used for payroll costs. Loan payments shall be deferred
36 for six months. No collateral or personal guarantees are required.
37 Neither the government nor CDFIs shall charge qualifying entities any
38 fees.

39 c. Forgiveness is based on the qualifying small business maintaining
40 or quickly rehiring employees and maintaining salary levels. Forgiveness
41 will be reduced if full-time headcount declines, or if salaries and
42 wages decrease within 12 weeks of receiving such funding. The 12-week
43 rule shall not apply to any entity if such entity paid its employees'
44 salaries during the COVID-19 state of disaster emergencies or when such
45 entity was closed. Documented proof of such payroll payment shall be
46 required.

47 d. All loans not forgiven under subdivision b of this section shall
48 have a maturity of 2 years and an interest rate of 1%.

49 e. The department of financial services shall have oversight and moni-
50 tor the application process pursuant to this section. Such department
51 shall provide a report to the chairs of the senate banks committee and
52 the assembly banks committee within 6 months of the effective date of
53 this act or when funds are fully exhausted, whichever happens first.

54 § 5. Grants. The NYSPPP shall provide the following grants to all
55 qualified small businesses, not-for-profits and charitable organiza-
56 tions:

1 a. A rent reimbursement grant to reimburse qualifying entities for
2 rent paid during the COVID-19 pandemic, provided such entity has docu-
3 mentary proof of such paid rent. This rent reimbursement grant shall be
4 capped at 3 months of paid rent;

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

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

11 § 6. Oversight. The state comptroller shall monitor the NYSPPP to
12 ensure the provisions of this act are properly executed. The state comp-
13 troller shall submit a report on such program to the governor, the
14 temporary president of the senate and the speaker of the assembly, and
15 shall post such on the comptroller's website on a quarterly basis
16 describing any loans granted under such program.

17 § 7. This act shall take effect immediately.