

STATE OF NEW YORK

6407--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 17, 2021

Introduced by M. of A. DICKENS, ABINANTI, ASHBY, BARRON, BRONSON, COLTON, CRUZ, DINOWITZ, EPSTEIN, FAHY, ENGLEBRIGHT, FERNANDEZ, GOTTFRIED, GRIFFIN, MONTESANO, PAULIN, PERRY, RAMOS, RODRIGUEZ, SEAWRIGHT, SIMON, STERN, TAYLOR, TAGUE -- read once and referred to the Committee on 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. The American Rescue Plan Act of
2 2021 is a \$1.9 trillion economic stimulus legislation package passed by
3 Congress and signed into law by President Joseph Biden on March 11,
4 2021.
5 b. Many local small businesses including minority- and women-owned
6 businesses (MBEs) in our state did not receive any federal funding
7 under the federal Paycheck Protection Program (PPP).
8 c. As New York state is reopening regionally post COVID-19, many of
9 our small businesses, including MBEs and farmers who did not receive
10 any PPP funding are in desperate need of funding to employ and/or pay
11 staff, purchase inventory, and pay rent and utilities.
12 § 2. Establishment. Notwithstanding any provision of law to the
13 contrary, the legislature shall authorize the establishment of a New
14 York State Small Business Protection Program (NYSSBPP) to be funded in
15 the amount of 100 million dollars from the American Rescue Plan Act of
16 2021. Funding for such program may also come from state appropriations.
17 Funds received from the American Rescue Plan Act of 2021 shall be used
18 to reimburse any monies appropriated by the state for the purposes
19 described under section four or five of this act.
20 § 3. Eligibility. Entities shall be eligible for the NYSSBPP provided
21 such entity has less than 100 employees per location, was in existence
22 in New York state by the first day the state disaster emergency related

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

LBD03804-03-1

1 to COVID-19 was declared by the governor, can document actual economic
2 harm or revenue shortfall as a direct result of the pandemic, and has
3 filed 2018, 2019 or 2020 tax returns. The lending priority shall be as
4 follows:

5 a. small businesses, including minority- and women-owned business
6 enterprises, owned by veterans, minorities, women, economically disad-
7 vantaged individuals and farmers;

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

10 c. small businesses located in economically distressed or underserved
11 communities and rural markets;

12 d. non-profit organizations having tax exempt status under section
13 501(c)(3), or a veterans organization having tax exempt status under
14 section 501(c)(19) of the United States Internal Revenue Code;

15 e. sole proprietors, independent contractors, and self-employed
16 persons;

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

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

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

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

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

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

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

39 f. No collateral or personal guarantees are required. Neither the
40 government nor financial institutions shall charge qualifying entities
41 any fees.

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

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

53 i. The department of financial services shall have oversight and moni-
54 tor the application process pursuant to this section. Such department
55 shall create the application and promulgate rules necessary for the
56 administration of this program.

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

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

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

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

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

20 § 7. This act shall take effect immediately.