STATE OF NEW YORK

5425--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 14, 2025

Introduced by M. of A. BERGER -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, the general municipal law, the public authorities law and the executive law, in relation to enacting the "New York State buy North American act"

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

Section 1. Short title. This act shall be known and may be cited as the "New York State buy North American act".

§ 2. The state finance law is amended by adding a new section 162-b to read as follows:

§ 162-b. The New York state buy North American act. 1. Use of North American materials. (a) Notwithstanding any other provision of law, when soliciting a contract for the purchase of manufactured products used in building projects, including but not limited to plumbing fixtures, flooring, lumber, exterior windows, exterior doors and facades, any department or agency of the state shall award such contract to the responsible and reliable bidder offering to supply manufactured products used in building projects produced or made in whole or substantial part in North America when such offer is within ten percent of the lowest price or best value offer, rather than to the lowest responsible and reliable bidder.

(b) If it has been determined by a court or federal or state agency that any person intentionally carried out any of the following, then such person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of this chapter:

(i) affixed a label bearing a "Made in North America" inscription, or any inscription with the same meaning, to any manufactured product used in building projects to which this section applies, sold in or shipped

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

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to the United States that was not produced or made in whole or substantial part in North America; or

(ii) represented that any manufactured product used in building projects procured in a contract to which this section applies that was not produced or made in whole or in substantial part in North America, was produced or made in whole or in substantial part in North America.

(c) This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

2. Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a) "Public agency" means a governmental entity as that term is defined in section one hundred thirty-nine-j of this chapter.

(b) "Manufactured products used in building projects produced or made in whole or in part in North America" means the total value, in United States dollars, of the fabrication materials, extrusions, components, hardware, and labor sourced, manufactured, and/or performed in North America equals or exceeds seventy-five percent of the total value of all materials, extrusions, components, hardware, and labor for the finished manufactured products used in building projects.

(c) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

(d) "North America" means the United States, Canada and Mexico.

§ 3. The general municipal law is amended by adding a new section 104-e to read as follows:

§ 104-e. The New York state buy North American act. 1. Use of North American materials. (a) Notwithstanding any other provision of law, when soliciting a contract for the purchase of manufactured products used in building projects, including but not limited to plumbing fixtures, flooring, lumber, exterior windows, exterior doors and facades, any department or agency of a political subdivision shall award such contract to the responsible and reliable bidder offering to supply manufactured products used in building projects produced or made in whole or substantial part in North America when such offer is within ten percent of the lowest price or best value offer, rather than to the lowest responsible and reliable bidder.

(b) If it has been determined by a court or federal or state agency that any person intentionally carried out any of the following, then such person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of the state finance law:

(i) affixed a label bearing a "Made in North America" inscription, or any inscription with the same meaning, to any manufactured product used in building projects to which this section applies, sold in or shipped to the United States that was not produced or made in whole or substantial part in North America; or

(ii) represented that any manufactured product used in building projects procured in a contract to which this section applies that was not produced or made in whole or in substantial part in North America, was produced or made in whole or in substantial part in North America.

(c) This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

2. Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a) "Public agency" means a governmental entity as that term is defined in section one hundred thirty-nine-j of the state finance law.

(b) "Manufactured products used in building projects produced or made in whole or in part in North America" means the total value, in United States dollars, of the fabrication materials, extrusions, components, hardware, and labor sourced, manufactured, and/or performed in North America equals or exceeds seventy-five percent of the total value of all materials, extrusions, components, hardware, and labor for the finished manufactured product used in building projects.

(c) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

(d) "North America" means the United States, Canada and Mexico.

§ 4. The public authorities law is amended by adding a new section 2877-b to read as follows:

§ 2877-b. The New York state buy North American act. 1. Use of North American materials. (a) Notwithstanding any other provision of law, when soliciting a contract for the purchase of manufactured products used in building projects, including but not limited to plumbing fixtures, flooring, lumber, exterior windows, exterior doors and facades, any public authority shall award such contract to the responsible and reliable bidder offering to supply manufactured products used in building projects produced or made in whole or substantial part in North America when such offer is within ten percent of the lowest price or best value offer, rather than to the lowest responsible and reliable bidder.

(b) If it has been determined by a court or federal or state agency that any person intentionally carried out any of the following, then such person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of the state finance law:

(i) affixed a label bearing a "Made in North America" inscription, or any inscription with the same meaning, to any manufactured product used in building projects to which this section applies, sold in or shipped to the United States that was not produced or made in whole or substantial part in North America; or

(ii) represented that any manufactured product used in building projects procured in a contract to which this section applies that was not produced or made in whole or in substantial part in North America, was produced or made in whole or in substantial part in North America.

(c) This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

2. Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a) "Public authority" means a state, local or interstate authority as such terms are defined in section two of this chapter.

(b) "Manufactured products used in building projects produced or made in whole or in part in North America" means the total value, in United States dollars, of the fabrication materials, extrusions, components, hardware, and labor sourced, manufactured, and/or performed in North America equals or exceeds seventy-five percent of the total value of all materials, extrusions, components, hardware, and labor for the finished manufactured product used in building projects.

(c) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

(d) "North America" means the United States, Canada and Mexico.

§ 5. Article 50 and sections 1000, 1001, 1002, and 1003 of the executive law, as renumbered by chapter 770 of the laws of 1978, are renumbered to be article 60 and sections 1100, 1101, 1102, and 1103 and a new article 50 is added to read as follows:

ARTICLE 50

NEW YORK STATE BUY NORTH AMERICAN ACT

Section 1010. Statement of purpose.

1011. Definitions.

1012. Use of North American made manufactured products used in building projects for a covered affordable housing project.

§ 1010. Statement of purpose. It is the purpose of this article to encourage and promote the purchase of North American made manufactured products used in building projects for covered affordable housing projects paid for in whole or in part out of public funds.

§ 1011. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Covered affordable housing project" shall mean construction work done under contract for an affordable housing project which is paid for in whole or in part out of public funds, as such term is defined in this section, where the amount of all such public funds, when aggregated, is at least thirty percent of the total construction project costs and where such project costs are over five million dollars.

2. "Paid for in whole or in part out of public funds" shall mean any of the following:

(a) the payment of money, by a public entity, or a third party acting on behalf of and for the benefit of a public entity, directly to or on behalf of a contractor, subcontractor, developer or owner that is not subject to repayment;

(b) the savings achieved from fees, rents, interest rates, or other loan costs, or insurance costs that are lower than market rate costs; savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions or tax increment financing; savings from payments in lieu of taxes; and any other savings from reduced, waived, or forgiven costs that would have otherwise been at a higher or market rate but for the involvement of a public entity;

(c) money loaned by a public entity that is to be repaid on a contingent basis; or

(d) credits that are applied by a public entity against repayment of obligations to such public entity.

3. "Manufactured products used in building projects produced or made in whole or in part in North America" means the total value, in United States dollars, of the fabrication materials, extrusions, components, hardware, and labor sourced, manufactured, and/or performed in North America equals or exceeds seventy-five percent of the total value of all materials, extrusions, components, hardware, and labor for the finished manufactured product used in building projects.

4. "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

5. "North America" means the United States, Canada and Mexico.

§ 1012. Use of North American made manufactured products used in building projects for a covered affordable housing project. 1. Notwithstanding any other provision of law, any owner, developer, contractor or subcontractor when soliciting a contract for the purchase of manufactured products used in building projects, including but not limited to plumbing fixtures, flooring, lumber, exterior windows, exterior doors and facades, for a covered affordable housing project as defined in section one thousand eleven of this article, shall award such contract to the responsible and reliable bidder offering to supply manufactured products used in building projects produced or made in whole or substantial part in North America when such offer is within ten percent of the lowest price or best value offer, rather than to the lowest and reliable bidder.

2. If it has been determined by a court or federal or state agency that any person intentionally carried out any of the following, then such person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of the state finance law:

(a) affixed a label bearing a "Made in North America" inscription, or any inscription with the same meaning, to any manufactured product used in building projects to which this section applies, sold in or shipped to the United States that was not produced or made in whole or substantial part in North America; or

(b) represented that any manufactured product used in building projects procured in a contract to which this section applies that was not produced or made in whole or in substantial part in North America, was produced or made in whole or in substantial part in North America.

3. This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.