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LAWS OF NEW YORK, 2020

CHAPTER 109

AN ACT to amend the general municipal law, in relation to establishing a state disaster emergency loan program; and providing for the repeal of such provisions upon the expiration thereof

Became a law June 17, 2020, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

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

Section 1. Subdivisions 16 and 17 of section 858 of the general municipal law, as added by chapter 1030 of the laws of 1969 and as renumbered by chapter 356 of the laws of 1993, are amended to read as follows:

(16) To establish and re-establish its fiscal year; ~~and~~

(17) To provide loans to small businesses or not-for-profit corporations as authorized in section eight hundred fifty-nine-c of this title; and

(18) To provide grants to small businesses and not-for-profit corporations, as defined in section eight hundred fifty-nine-c of this title, for the purpose of acquiring personal protective equipment or installing fixtures necessary to prevent the spread of novel coronavirus, COVID-19, during the period in which executive order two hundred two of two thousand twenty, as amended, is in effect. In order to be eligible for a grant pursuant to this subdivision, a small business or not-for-profit corporation must meet the requirements of paragraph a of subdivision three of section eight hundred fifty-nine-c of this title. No industrial development agency may provide a small business or not-for-profit corporation with more than ten thousand dollars pursuant to this subdivision; and

(19) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

Section 2. The general municipal law is amended by adding a new section 859-c to read as follows:

Section 859-c. State disaster emergency loan program. 1. For purposes of this section:

a. "grace period" means the sixty-day period after a state disaster emergency ends;

b. "eligible entity" means both a small business and a small not-forprofit corporation that:

(i) is physically located in the state; and

(ii) was operational prior to the state disaster emergency.

c. "small business" means a business with not more than fifty employees;

d. "small not-for-profit corporation" means a not-for-profit corporation, formed pursuant to the not-for-profit corporation law with not more than fifty employees; and

e. "state disaster emergency" means the period in which executive order two hundred two of two thousand twenty, as amended, is in effect to address the outbreak of novel coronavirus, COVID-19.

2. Any industrial development agency (IDA) may administer a state disaster emergency loan program to provide loans from available revenue to eligible entities pursuant to this section, provided that no IDA may create more than one state disaster emergency loan program.

3. a. An IDA may make a loan to an eligible entity upon application from such entity through the state disaster emergency loan program, provided the IDA has determined that the applicant:

(i) was a financially viable entity prior to the state disaster emergency;

(ii) conducts business in the area served by the IDA; and

(iii) has been negatively affected by the state disaster emergency.

b. An IDA shall consider the following, before approving the application of an eligible entity for a loan under the state disaster emergency loan program:

(i) creditworthiness of the applicant prior to the state disaster emergency;

(ii) the level of negative impact of the state disaster emergency on the operations and finances of the applicant;

(iii) applicant's proposed plan to use the funds received through this program;

(iv) applicant's ties to their community and the impact of their work in the area served by the IDA;

(v) applicant's assurance that efforts will be made to retain jobs during the state disaster emergency; and

(vi) other potential sources of funding available to the applicant.

c. An IDA shall give priority under the state disaster emergency loan program to applications from applicants serving highly distressed areas as defined pursuant to subdivision eighteen of section eight hundred fifty-four of this title.

d. No applicant shall be permitted to receive loans from more than one IDA.

e. Any IDAs that serve within the same municipalities shall coordinate the distribution of loans in the state disaster emergency loan program.

4. Prior to administering a state disaster emergency loan program, an IDA shall develop, and adopt by resolution, the terms and conditions of such loans, provided that:

a. The amount of any loan provided pursuant to this section shall not exceed twenty-five thousand dollars, provided that the total amount of all loans received by an eligible entity shall not exceed twenty-five thousand dollars;

b. The loan agreement shall not (i) require repayment during the grace period, or (ii) charge interest on the principal amount;

c. The loan agreement shall require that the eligible entity repay the loan in full not later than one year after the end of the grace period; and

d. The loan agreement shall not contain a fee or penalty for the prepayment or early payment of the loan.

5. The IDA shall offer credit counseling services or refer eligible entities to not-for-profit credit counselors.

6. a. Each IDA shall maintain records related to the state disaster emergency loan program, including a record of loans issued and of payments received, and include such information in the annual report required by section twenty-eight hundred of the public authorities law.

b. An IDA that establishes a state disaster emergency loan program pursuant to this section shall submit a report on the program including but not limited to the number and aggregate amount of loans given, loans fully repaid, any outstanding loans, defaults and bad debts, to the governor, the speaker of the assembly, and the temporary president of the senate one year after the state disaster emergency ends.

7. 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 eligible entity. IDAs shall disclose to eligible entity borrowers in loan documents that there may be federal tax consequences to the program loans.

8. No new loan applications pursuant to this section shall be accepted after the state disaster emergency ends.

Section 3. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2021.

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