



Small Business Reopening and Relief Grant Program In One House Bills

Senate PART HHH -- The Senate advances a proposal to establish the New York Small Business Grant Program for providing grants to assist small businesses recovering from lockdowns during the COVID-19 pandemic, administered by the Empire State Development Corporation, utilizing up to \$100 million in federal relief funds (S.4688A).

The Assembly proposes a new Article VII language for the \$1 billion Small Business Reopening and Relief Grant Program to stabilize and assist small businesses impacted by COVID-19. This program provides funding for essential businesses costs such as payroll, rent, insurance, PPE, and license fees. Businesses like Minority and Women Owned Business, microbusinesses, veteran-owned, and businesses in significantly impacted industries will receive priority and access to funds temporarily set aside for them to ensure access.

Actual Language from the Bills are below:

SENATE:

PART HHH

20 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
21 the New York state urban development corporation act, is amended by
22 adding a new section 16-bb to read as follows:
23 § 16-bb. New York small business grant program. 1. There is hereby
24 established a New York state small business grant program under the
25 purview of the empire state development corporation. Such program shall
26 not expend more than one hundred million dollars and shall provide small
27 businesses, as defined in section 131 of the economic development law,
28 with grants in order to assist such businesses recovering from the

29 COVID-19 pandemic.

30 2. The assistance provided under this section shall be funded by any
31 available federal relief funds available to the state up to one hundred
32 million dollars.

33 3. Grants made pursuant to this section shall, as far as practicable,
34 be equitably distributed among all regions of the state, reflective of
35 the economic impact on each region due to the closure or limitation of
36 business operations due to any executive order issued by the governor
37 related to the state disaster emergency declared pursuant to executive
38 order 202 of 2020.

39 4. The empire state development corporation shall create an applica-
40 tion process for such grants, and shall promulgate rules and regulations
41 for awarding and distributing grants pursuant to this section; provided,
42 however, that preference is given to small businesses that were forced
43 to close during phase three or phase four of the state's reopening plan
44 in the county or region in which the business is located.

45 § 2. This act shall take effect on the thirtieth day after it shall
46 have become a law. Effective immediately, the addition, amendment and/or
47 repeal of any rule or regulation necessary for the implementation of
48 this act on its effective date are authorized to be made and completed
49 on or before such effective date.

ASSEMBLY:

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11 PART CCC

12 Section 1. Short title. This act shall be known and may be cited as
13 the "small business reopening and relief grant program".

14 § 2. Section 1 of chapter 174 of the laws of 1968, constituting the
15 New York state urban development corporation act, is amended by adding a
16 new section 16-ee to read as follows:

17 § 16-ee. Small business reopening and relief grant program. 1. Defi-
18 nitions. As used in this section, the following terms shall have the
19 following meanings:

20 (a) "Small business" means a business which is resident in this state,
21 independently owned and operated, not dominant in its field and employs
22 one hundred or less persons.

23 (b) "Micro-business" means a business which is a resident in this
24 state, independently owned and operated, not dominant in its field and
25 employs ten or less persons;

26 (c) "The program" means the small business reopening and relief grant

27 program established pursuant to subdivision two of this section.
28 (d) "Applicant" shall mean a small business submitting an application
29 for a grant award to the program.
30 (e) "COVID-19 health and safety restrictions" means any restrictions
31 imposed on the operation of businesses by executive order 202 of 2020
32 issued by the governor, or any extension or subsequent executive order
33 issued in response to the novel coronavirus (COVID-19) pandemic, or any
34 other statute, rule, or regulation imposing restrictions on the opera-
35 tion of businesses in response to the novel coronavirus (COVID-19)
36 pandemic.
37 2. Small business reopening and relief grant program established. The
38 small business reopening and relief grant program is hereby created to
39 aid small businesses in reopening and COVID-19 pandemic relief assist-
40 ance.
41 3. Authorization. The corporation is hereby authorized, using avail-
42 able funds, to issue grants for the program to small businesses for the
43 purpose of reopening and COVID-19 pandemic relief.
44 4. Selection criteria and application process. (a) In order to be
45 eligible for a grant under the program, an eligible small business
46 shall:
47 (i) Hold a current lease or mortgage for the location of the busi-
48 ness's operation; or in the event that such small business does not
49 conduct business operations out of a physical location, they lease or
50 hold title to essential equipment that is used for such business oper-
51 ations primarily in New York state;
52 (ii) Be a currently viable small business with the intent to remain
53 open that has been negatively impacted by its compliance with COVID-19
54 health and safety restrictions which resulted in business modifications,

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1 interruptions or closures incurred as a result of such restrictions.
2 Such small businesses shall be able to demonstrate a significant loss in
3 revenue year to date as of December 31, 2020, compared with the same
4 period in 2019 because of such COVID-19 health and safety restrictions;
5 (iii) Must be in substantial compliance with applicable federal, state
6 and local laws, regulations, codes and requirements; and
7 (iv) Not owe any federal, state or local taxes prior to April 15,
8 2020, or shall have an approved repayment or deferral plan or agreement
9 with appropriate federal, state and local taxing authorities.
10 (b) Preferences. The corporation, when evaluating applications submit-
11 ted to the program, shall establish preferences for the following eligi-
12 ble small businesses:
13 (i) minority- and women-owned business enterprises that are certified
14 as such by the appropriate state entity or have received an equivalent

15 certification from a federal or local government entity;
16 (ii) micro-businesses;
17 (iii) businesses that are veteran owned and operated as certified by
18 the vets first verification program;
19 (iv) certified service-disabled veteran-owned business enterprises, so
20 certified by the office of general services;
21 (v) small businesses located in communities that were economically
22 distressed prior to March 1, 2020, as determined by the most recent
23 census data;
24 (vi) small businesses in an industry sector significantly negatively
25 impacted by the COVID-19 health and safety restrictions, as determined
26 by the corporation, in consultation with the department of labor; and
27 (vii) small businesses that have maintained employee staff levels
28 throughout the duration of COVID-19 health and safety restrictions
29 during the period March 1, 2020 through April 1, 2021 or have submitted
30 plans with the application submitted to the program to rehire any work-
31 ers laid off due to COVID-19 health and safety restrictions that wish to
32 return to their previous position.
33 5. Eligible costs. (a) Eligible costs shall be considered for small
34 businesses negatively impacted by the COVID-19 pandemic and by their
35 compliance with COVID-19 health and safety restrictions which resulted
36 in business modifications, interruptions or closures incurred as a
37 result of such restrictions. Such eligible costs shall be incurred
38 during the period of March 1, 2020 through April 1, 2021.
39 (b) The following costs incurred by a small business shall be consid-
40 ered eligible under the program: payroll costs; costs of rent or mort-
41 gage as provided for in subparagraph (i) of this paragraph; costs of
42 repayment of local property or school taxes associated with such small
43 business's location as provided for in subparagraph (ii) of this para-
44 graph; insurance costs; utility costs; costs of personal protection
45 equipment (PPE) necessary to protect worker and consumer health and
46 safety; heating, ventilation, and air conditioning (HVAC) costs, or
47 other machinery and/or equipment costs necessary for compliance with
48 COVID-19 health and safety restrictions; full or pro-rated state
49 required fees for professional licenses; full or pro-rated refund of
50 license or permit fees paid to the state liquor authority; and other
51 documented COVID-19 costs as approved by the corporation.
52 (i) Repayment of mortgage payments or commercial rent in arrears shall
53 be considered eligible costs; provided however, that the corporation
54 shall pay any grant awards for such purposes directly to the mortgage
55 holder or commercial landlord. If such commercial landlord has entered
56 into a documented modified lease agreement to address arrears that have

1 occurred due to a pandemic response, such grant amount shall take such
2 adjustment into consideration. The applicant shall provide a copy of
3 past due mortgage statements or lease arrears and remittance information
4 of the mortgage holder or commercial landlord to the corporation when
5 submitting an application. Prior to March 1, 2020, the small business
6 applicant shall have been up-to-date on mortgage or commercial lease
7 payments. If a commercial landlord or mortgagee accepts remittance of
8 funds under the program, they shall agree to: (1) not evict or foreclose
9 on an eligible business that receives a grant for arrears for at least
10 six months from date of fund release; (2) waive any late fees or inter-
11 est accrued between March 1, 2020, and the date of fund release; and (3)
12 extend the applicant's lease for six months from the date of fund
13 release, if applicable.

14 (ii) Repayment of past due local property taxes and school taxes
15 incurred due to COVID-19 health and safety restrictions shall be consid-
16 ered eligible costs; provided, however, that the corporation shall make
17 any grant awards payable directly to the appropriate local taxing enti-
18 ty. The applicant shall provide a copy of local property or school tax
19 bill or bills and remittance information to the corporation with its
20 application. Prior to March 1, 2020, such applicant shall have paid all
21 applicable local property and school taxes.

22 (c) Grants awarded under the program shall not be used to re-pay or
23 paydown any portion of a loan obtained through a federal coronavirus
24 relief package for business assistance.

25 6. Application and approval process. (a) An eligible small business
26 shall submit a complete application in the form and manner prescribed by
27 the corporation.

28 (b) The corporation shall establish the procedures and time period for
29 small businesses to submit applications to the program. As part of the
30 application each small business shall provide the following information:

31 (i) Documentation or information of such small business's eligibility
32 as provided for in this section, including tax and employment documenta-
33 tion and information as necessary and appropriate; (ii) A reopening
34 plan, if deemed necessary and appropriate by the corporation, provided,
35 however, that a small business may request financial and legal assist-
36 ance as provided in this section;

37 (iii) If requesting that an award be granted for commercial rental
38 arrears or mortgage repayment incurred due to COVID-19 health and safety
39 restrictions, any documentation and/or remittance information deemed
40 appropriate by the corporation;

41 (iv) If requesting repayment of past due local property taxes and
42 school taxes incurred due to COVID-19 health and safety restrictions,
43 then a copy of local property or school tax bill or bills and/or remit-
44 tance information; and

45 (v) Documentation of loss of income due to compliance with COVID-19
46 pandemic health and safety restrictions in the form of past income tax
47 filings, certified by a certified public accountant, and/or other
48 documentation deemed necessary and appropriate by the corporation.
49 (c) After reviewing a complete application and determining such an
50 applicant's eligibility, the corporation shall make a determination
51 within forty-five days and notify the applicant of the award amount or
52 denial of such applicant's request. All applications shall be reviewed,
53 and awards disbursed, on a rolling basis with the goal of streamlining
54 the administrative process and making prompt and timely grant payments
55 to eligible small business recipients who have been negatively impacted

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1 by the COVID-19 pandemic and compliance with COVID-19 health and safety
2 restrictions.

3 (d) For the first ninety days after the program begins accepting
4 applications, no more than fifty percent of the available funds shall be
5 awarded to small businesses that do not receive a preference under para-
6 graph (b) of subdivision four of this section. Once acceptance of appli-
7 cations has been open for ninety days, all funds shall be awarded as
8 prescribed by this section.

9 7. Reporting. The corporation, on or before the first day of each
10 month beginning May 1, 2021, or the first day of the month after the
11 program is launched, and on the first day of each month thereafter,
12 shall submit a separate and distinct report to the governor, the tempo-
13 rary president of the senate, and the speaker of the assembly setting
14 forth the activities undertaken by the program. Such monthly report
15 shall include, but not be limited to: the number of applicants and their
16 county locations; the number of applicants approved by the program and
17 their county location; the total amount of grants awarded, and the aver-
18 age amount of such grants awarded; the total number of net new,
19 retained, or rehired jobs created; and such other information as the
20 corporation determines necessary and appropriate. Such reports shall be
21 included on the corporation's website and any publicly accessible state
22 database that lists economic development programs.

23 8. Financial and legal planning. The corporation shall offer to all
24 applicants, regardless of approval status, direct or indirect access to
25 financial and business planning, legal consultation, mentoring services
26 for post-pandemic planning, and reopening planning assistance.

27 § 3. This act shall take effect immediately.

28 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
29 sion, section or part of this act shall be adjudged by any court of
30 competent jurisdiction to be invalid, such judgment shall not affect,
31 impair, or invalidate the remainder thereof, but shall be confined in

32 its operation to the clause, sentence, paragraph, subdivision, section
33 or part thereof directly involved in the controversy in which such judg-
34 ment shall have been rendered. It is hereby declared to be the intent of
35 the legislature that this act would have been enacted even if such
36 invalid provisions had not been included herein.

37 § 3. This act shall take effect immediately provided, however, that
38 the applicable effective date of Parts A through CCC of this act shall
39 be as specifically set forth in the last section of such Parts

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SCHEDULE

14 For services and expenses of the Small Busi-
15 ness Reopening and Relief Grant Program,
16 created pursuant to a chapter of the laws
17 of 2021. Funds herein shall provide grants
18 to support eligible small businesses for
19 the purpose of reopening and pandemic
20 relief assistance. All or a portion of the
21 funds appropriated hereby may be suballo-
22 cated or transferred to any department,
23 agency, or public authority 1,000,000,000