

SENATE, No. 1655

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 16, 2012

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Permits small businesses to qualify for loans from NJEDA for costs of energy audit and making energy efficiency or conservation improvements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/4/2013)

1 AN ACT concerning energy audits for certain buildings and
2 amending and supplementing P.L.1974, c.80.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. In consultation with the board and the Department of
8 Community Affairs, the New Jersey Economic Development
9 Authority shall establish and administer a program that makes one
10 or more low-interest loans available to an eligible small business for
11 100 percent of any otherwise unreimbursed costs to the small
12 business of (1) an energy audit of any of the small business's
13 buildings conducted by a contractor licensed by the board, and (2)
14 the purchase and installation of all energy efficiency or
15 conservation equipment at any of those buildings as a result of the
16 energy audit.

17 b. As used in this section:

18 "Board" means the New Jersey Board of Public Utilities or any
19 successor agency;

20 "Eligible small business" means a business entity that, at the
21 time of application for participation in the loan program established
22 pursuant to subsection a. of this section, is independently owned
23 and operated, operates primarily within this State, and which
24 satisfies other criteria that may be established by the authority;

25 "Energy audit" means an on-site analysis or assessment of all the
26 energy-using systems within a building to determine the energy
27 consumption characteristics of that building for the purpose of
28 identifying appropriate energy efficiency or conservation
29 maintenance procedures, and indicating the need, if any, for the
30 acquisition and installation of energy efficiency or conservation
31 measures; and

32 "Low-interest loan" means a loan for a term not exceeding ten
33 years at a rate of interest not exceeding the greater of three percent
34 or one-half of the prime interest rate as reported in a financial
35 newspaper published and circulating in New York City.

36
37 2. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
38 as follows:

39 5. The authority shall have the following powers:

40 a. To adopt bylaws for the regulation of its affairs and the
41 conduct of its business;

42 b. To adopt and have a seal and to alter the same at pleasure;

43 c. To sue and be sued;

44 d. To acquire in the name of the authority by purchase or
45 otherwise, on such terms and conditions and such manner as it may

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 deem proper, or by the exercise of the power of eminent domain in
2 the manner provided by the "Eminent Domain Act of 1971,"
3 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
4 other property which it may determine is reasonably necessary for
5 any project; provided, however, that the authority in connection
6 with any project shall not take by exercise of the power of eminent
7 domain any real property except upon consent thereto given by
8 resolution of the governing body of the municipality in which such
9 real property is located; and provided further that the authority shall
10 be limited in its exercise of the power of eminent domain in
11 connection with any project in qualifying municipalities as defined
12 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
13 municipalities which had a population, according to the latest
14 federal decennial census, in excess of 10,000;

15 e. To enter into contracts with a person upon such terms and
16 conditions as the authority shall determine to be reasonable,
17 including, but not limited to, reimbursement for the planning,
18 designing, financing, construction, reconstruction, improvement,
19 equipping, furnishing, operation and maintenance of the project and
20 to pay or compromise any claims arising therefrom;

21 f. To establish and maintain reserve and insurance funds with
22 respect to the financing of the project or the school facilities project
23 and any project financed pursuant to the "Municipal Rehabilitation
24 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
25 al.);

26 g. To sell, convey or lease to any person all or any portion of a
27 project for such consideration and upon such terms as the authority
28 may determine to be reasonable;

29 h. To mortgage, pledge or assign or otherwise encumber all or
30 any portion of a project, or revenues, whenever it shall find such
31 action to be in furtherance of the purposes of this act, P.L.2000,
32 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and
33 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
34 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
35 P.L.2009, c.90 (C.52:27D-489c et al.);

36 i. To grant options to purchase or renew a lease for any of its
37 projects on such terms as the authority may determine to be
38 reasonable;

39 j. To contract for and to accept any gifts or grants or loans of
40 funds or property or financial or other aid in any form from the
41 United States of America or any agency or instrumentality thereof,
42 or from the State or any agency, instrumentality or political
43 subdivision thereof, or from any other source and to comply,
44 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
45 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
46 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
47 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and

1 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
2 conditions thereof;

3 k. In connection with any action undertaken by the authority in
4 the performance of its duties and any application for assistance or
5 commitments therefor and modifications thereof, to require and
6 collect such fees and charges as the authority shall determine to be
7 reasonable, including but not limited to fees and charges for the
8 authority's administrative, organizational, insurance, operating,
9 legal, and other expenses;

10 l. To adopt, amend and repeal regulations to carry out the
11 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
12 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
13 the "Municipal Rehabilitation and Economic Recovery Act,"
14 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
15 (C.52:18A-235 et al.);

16 m. To acquire, purchase, manage and operate, hold and dispose
17 of real and personal property or interests therein, take assignments
18 of rentals and leases and make and enter into all contracts, leases,
19 agreements and arrangements necessary or incidental to the
20 performance of its duties;

21 n. To purchase, acquire and take assignments of notes,
22 mortgages and other forms of security and evidences of
23 indebtedness;

24 o. To purchase, acquire, attach, seize, accept or take title to any
25 project or school facilities project by conveyance or by foreclosure,
26 and sell, lease, manage or operate any project or school facilities
27 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1
28 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"
29 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
30 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
31 489c et al.);

32 p. To borrow money and to issue bonds of the authority and to
33 provide for the rights of the holders thereof, as provided in
34 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
35 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
36 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
37 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
38 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

39 q. To extend credit or make loans to any person for the
40 planning, designing, acquiring, constructing, reconstructing,
41 improving, equipping and furnishing of a project or school facilities
42 project, which credits or loans may be secured by loan and security
43 agreements, mortgages, leases and any other instruments, upon such
44 terms and conditions as the authority shall deem reasonable,
45 including provision for the establishment and maintenance of
46 reserve and insurance funds, and to require the inclusion in any
47 mortgage, lease, contract, loan and security agreement or other
48 instrument, of such provisions for the construction, use, operation

1 and maintenance and financing of a project or school facilities
2 project as the authority may deem necessary or desirable;

3 r. To guarantee up to 90% of the amount of a loan to a person,
4 if the proceeds of the loan are to be applied to the purchase and
5 installation, in a building devoted to industrial or commercial
6 purposes, or in an office building, of an energy improvement
7 system;

8 s. To employ consulting engineers, architects, attorneys, real
9 estate counselors, appraisers, and such other consultants and
10 employees as may be required in the judgment of the redevelopment
11 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et
12 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
13 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
14 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
15 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
16 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
17 from funds available to the redevelopment utility therefor, all
18 without regard to the provisions of Title 11A of the New Jersey
19 Statutes;

20 t. To do and perform any acts and things authorized by
21 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
22 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
23 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
24 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
25 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
26 under, through or by means of its own officers, agents and
27 employees, or by contract with any person;

28 u. To procure insurance against any losses in connection with
29 its property, operations or assets in such amounts and from such
30 insurers as it deems desirable;

31 v. To do any and all things necessary or convenient to carry out
32 its purposes and exercise the powers given and granted in P.L.1974,
33 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
34 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
35 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
36 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
37 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

38 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
39 maintain or repair or provide for the construction, reconstruction,
40 improvement, alteration, equipping or maintenance or repair of any
41 development property and lot, award and enter into construction
42 contracts, purchase orders and other contracts with respect thereto,
43 upon such terms and conditions as the authority shall determine to
44 be reasonable, including, but not limited to, reimbursement for the
45 planning, designing, financing, construction, reconstruction,
46 improvement, equipping, furnishing, operation and maintenance of
47 any such development property and the settlement of any claims

- 1 arising therefrom and the establishment and maintenance of reserve
2 funds with respect to the financing of such development property;
- 3 x. When authorized by the governing body of a municipality
4 exercising jurisdiction over an urban growth zone, to construct,
5 cause to be constructed or to provide financial assistance to projects
6 in an urban growth zone which shall be exempt from the terms and
7 requirements of the land use ordinances and regulations, including,
8 but not limited to, the master plan and zoning ordinances, of such
9 municipality;
- 10 y. To enter into business employment incentive agreements as
11 provided in the "Business Employment Incentive Program Act,"
12 P.L.1996, c.26 (C.34:1B-124 et al.);
- 13 z. To enter into agreements or contracts, execute instruments,
14 and do and perform all acts or things necessary, convenient or
15 desirable for the purposes of the redevelopment utility to carry out
16 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
17 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
18 (C.52:18A-235 et al.), including, but not limited to, entering into
19 contracts with the State Treasurer, the Commissioner of Education,
20 districts, the New Jersey Schools Development Authority, and any
21 other entity which may be required in order to carry out the
22 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
23 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
24 (C.52:27D-489c et al.);
- 25 aa. (Deleted by amendment, P.L.2007, c.137);
- 26 bb. To make and contract to make loans to local units to finance
27 the cost of school facilities projects and to acquire and contract to
28 acquire bonds, notes or other obligations issued or to be issued by
29 local units to evidence the loans, all in accordance with the
30 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,
31 c.137 (C.52:18A-235 et al.);
- 32 cc. Subject to any agreement with holders of its bonds issued to
33 finance a project or school facilities project, obtain as security or to
34 provide liquidity for payment of all or any part of the principal of
35 and interest and premium on the bonds of the authority or for the
36 purchase upon tender or otherwise of the bonds, lines of credit,
37 letters of credit, reimbursement agreements, interest rate exchange
38 agreements, currency exchange agreements, interest rate floors or
39 caps, options, puts or calls to hedge payment, currency, rate, spread
40 or similar exposure or similar agreements, float agreements,
41 forward agreements, insurance contract, surety bond, commitment
42 to purchase or sell bonds, purchase or sale agreement, or
43 commitments or other contracts or agreements, and other security
44 agreements or instruments in any amounts and upon any terms as
45 the authority may determine and pay any fees and expenses required
46 in connection therewith;
- 47 dd. To charge to and collect from local units, the State and any
48 other person, any fees and charges in connection with the

1 authority's actions undertaken with respect to school facilities
2 projects, including, but not limited to, fees and charges for the
3 authority's administrative, organization, insurance, operating and
4 other expenses incident to the financing of school facilities projects;
5 ee. To make loans to refinance solid waste facility bonds
6 through the issuance of bonds or other obligations and the execution
7 of any agreements with counties or public authorities to effect the
8 refunding or rescheduling of solid waste facility bonds, or otherwise
9 provide for the payment of all or a portion of any series of solid
10 waste facility bonds. Any county or public authority refunding or
11 rescheduling its solid waste facility bonds pursuant to this
12 subsection shall provide for the payment of not less than fifty
13 percent of the aggregate debt service for the refunded or
14 rescheduled debt of the particular county or public authority for the
15 duration of the loan; except that, whenever the solid waste facility
16 bonds to be refinanced were issued by a public authority and the
17 county solid waste facility was utilized as a regional county solid
18 waste facility, as designated in the respective adopted district solid
19 waste management plans of the participating counties as approved
20 by the department prior to November 10, 1997, and the utilization
21 of the facility was established pursuant to tonnage obligations set
22 forth in their respective interdistrict agreements, the public
23 authority refunding or rescheduling its solid waste facility bonds
24 pursuant to this subsection shall provide for the payment of a
25 percentage of the aggregate debt service for the refunded or
26 rescheduled debt of the public authority not to exceed the
27 percentage of the specified tonnage obligation of the host county for
28 the duration of the loan. Whenever the solid waste facility bonds
29 are the obligation of a public authority, the relevant county shall
30 execute a deficiency agreement with the authority, which shall
31 provide that the county pledges to cover any shortfall and to pay
32 deficiencies in scheduled repayment obligations of the public
33 authority. All costs associated with the issuance of bonds pursuant
34 to this subsection may be paid by the authority from the proceeds of
35 these bonds. Any county or public authority is hereby authorized to
36 enter into any agreement with the authority necessary, desirable or
37 convenient to effectuate the provisions of this subsection.

38 The authority shall not issue bonds or other obligations to effect
39 the refunding or rescheduling of solid waste facility bonds after
40 December 31, 2002. The authority may refund its own bonds issued
41 for the purposes herein at any time;

42 ff. To pool loans for any local government units that are
43 refunding bonds and do and perform any and all acts or things
44 necessary, convenient or desirable for the purpose of the authority
45 to achieve more favorable interest rates and terms for those local
46 governmental units;

47 gg. To finance projects approved by the board, provide staff
48 support to the board, oversee and monitor progress on the part of

1 the board in carrying out the revitalization, economic development
2 and restoration projects authorized pursuant to the "Municipal
3 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
4 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
5 pursuant thereto;

6 hh. To offer financial assistance to qualified film production
7 companies as provided in the "New Jersey Film Production
8 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

9 ii. To finance or develop private or public parking facilities or
10 structures, which may include the use of solar photovoltaic
11 equipment, in municipalities qualified to receive State aid pursuant
12 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
13 municipalities that contain areas designated pursuant to P.L.1985,
14 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
15 Planning Area 2 (Suburban), or a town center, and to provide
16 appropriate assistance, including but not limited to, extensions of
17 credit, loans, and guarantees, to municipalities qualified to receive
18 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-
19 178 et seq.) and municipalities that contain areas designated
20 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
21 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town
22 center, and their agencies and instrumentalities or to private entities
23 whose projects are located in those municipalities, in order to
24 facilitate the financing and development of parking facilities or
25 structures in such municipalities. The authority may serve as the
26 issuing agent of bonds to finance the undertaking of a project for
27 the purposes of this subsection; and

28 jj. To offer financial assistance to eligible small businesses for
29 the reimbursement of 100 percent of any otherwise unreimbursed
30 costs to an eligible small business of (1) an energy audit of any of
31 the small business's buildings, and (2) the purchase and installation
32 of all energy efficiency or conservation equipment at any of those
33 buildings as a result of the energy audit, pursuant to section 1 of
34 P.L. , c. (C.) (pending before the Legislature as this bill).
35 (cf: P.L.2010, c.28, s.3)

36
37 3. This act shall take effect immediately, but shall remain
38 inoperative for 60 days following the date of enactment.
39
40

41 STATEMENT

42
43 This bill requires the New Jersey Economic Development
44 Authority ("authority"), in consultation with the Board of Public
45 Utilities ("board") and the Department of Community Affairs, to
46 establish and administer a program that makes one or more low-
47 interest loans available to an eligible small business for 100 percent
48 of any otherwise unreimbursed costs to the small business of (1) an

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- 1 energy audit of any of the small business's buildings conducted by a
- 2 contractor licensed by the board, and (2) the purchase and
- 3 installation of all energy efficiency or conservation equipment at
- 4 any of those buildings as a result of the energy audit.