

SENATE, No. 1606

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

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District 7 (Burlington)

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Senators Addiego and Lagana

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2019)

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

17 b. As used in this section:

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

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

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

34

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

37 5. The authority shall have the following powers:

38 a. To adopt bylaws for the regulation of its affairs and the
39 conduct of its business;

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

41 c. To sue and be sued;

42 d. To acquire in the name of the authority by purchase or
43 otherwise, on **[such]** terms and conditions and **[such]** manner as
44 **[it]** the authority may deem proper, or by the exercise of the power
45 of eminent domain in the manner provided by the "Eminent Domain

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

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

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

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

28 h. To mortgage, pledge, or assign or otherwise encumber all or
29 any portion of a project, or revenues, whenever **[it]** the authority
30 shall find **[such]** that action to be in furtherance of the purposes of
31 **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72
32 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
33 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
34 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
35 c.90 (C.52:27D-489c et al.);

36 i. To grant options to purchase or renew a lease for any of
37 **[its]** the authority's projects on such terms as the authority may
38 determine to be 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
7 be 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]** the authority's 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
25 any project or school facilities project by conveyance or by
26 foreclosure, and sell, lease, manage, or operate any project or
27 school facilities project for a use specified in **[this act]** P.L.1974,
28 c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), the
29 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
30 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),
31 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-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
42 facilities project, which credits or loans may be secured by loan and
43 security agreements, mortgages, leases, and any other instruments,
44 upon **[such]** terms and conditions as the authority shall deem
45 reasonable, including provision for the establishment and
46 maintenance of reserve and insurance funds, and to require the
47 inclusion in any mortgage, lease, contract, loan and security

1 agreement, or other instrument, of **[such]** provisions for the
2 construction, use, operation and maintenance, and financing of a
3 project or school facilities project as the authority may deem
4 necessary or desirable;

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

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

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

30 u. To procure insurance against any losses in connection with
31 **[its]** authority property, operations, or assets in **[such]** amounts
32 and from **[such]** insurers as **[it]** the authority deems desirable;

33 v. To do any and all things necessary or convenient to carry out
34 **[its]** the authority's purposes and exercise the powers given and
35 granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
36 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
37 the "Municipal Rehabilitation and Economic Recovery Act,"
38 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
39 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
40 489c et al.);

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

1 the planning, designing, financing, construction, reconstruction,
2 improvement, equipping, furnishing, operation, and maintenance of
3 **any such** the development property and the settlement of any
4 claims arising therefrom, and the establishment and maintenance of
5 reserve funds with respect to the financing of **such** the
6 development property;

7 x. When authorized by the governing body of a municipality
8 exercising jurisdiction over an urban growth zone, to construct,
9 cause to be constructed, or to provide financial assistance to
10 projects in an urban growth zone which shall be exempt from the
11 terms and requirements of the land use ordinances and regulations,
12 including, but not limited to, the master plan and zoning ordinances,
13 of **such** the municipality;

14 y. To enter into business employment incentive agreements as
15 provided in the "Business Employment Incentive Program Act,"
16 P.L.1996, c.26 (C.34:1B-124 et al.);

17 z. To enter into agreements or contracts, execute instruments,
18 and do and perform all acts or things necessary, convenient,
19 desirable for the purposes of the redevelopment utility to carry out
20 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
21 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
22 (C.52:18A-235 et al.), including, but not limited to, entering into
23 contracts with the State Treasurer, the Commissioner of Education,
24 districts, the New Jersey Schools Development Authority, and any
25 other entity which may be required in order to carry out the
26 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
27 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
28 (C.52:27D-489c et al.);

29 aa. (Deleted by amendment, P.L.2007, c.137);

30 bb. To make and contract to make loans to local units to finance
31 the cost of school facilities projects and to acquire and contract to
32 acquire bonds, notes, or other obligations issued or to be issued by
33 local units to evidence the loans, all in accordance with the
34 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,
35 c.137 (C.52:18A-235 et al.);

36 cc. Subject to any agreement with holders of **its** authority
37 bonds issued to finance a project or school facilities project, to
38 obtain as security, or to provide liquidity for payment of all or any
39 part of the principal of and interest and premium on the bonds of
40 the authority or for the purchase upon tender or otherwise of the
41 bonds, lines of credit, letters of credit, reimbursement agreements,
42 interest rate exchange agreements, currency exchange agreements,
43 interest rate floors or caps, options, puts, or calls to hedge payment,
44 currency, rate, spread, or similar exposure or similar agreements,
45 float agreements, forward agreements, insurance contract, surety
46 bond, commitment to purchase or sell bonds, purchase, or sale
47 agreement, or commitments or other contracts or agreements, and
48 other security agreements or instruments in any amounts and upon

1 any terms as the authority may determine and pay any fees and
2 expenses required in connection therewith;

3 dd. To charge to and collect from local units, the State, and any
4 other person, any fees and charges in connection with the
5 authority's actions undertaken with respect to school facilities
6 projects, including, but not limited to, fees and charges for the
7 authority's administrative, organization, insurance, operating, and
8 other expenses incident to the financing of school facilities projects;

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

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

46 ff. To pool loans for any local government units that are
47 refunding bonds and do and perform any and all acts or things
48 necessary, convenient, or desirable for the purpose of the authority

1 to achieve more favorable interest rates and terms for those local
2 governmental units;

3 gg. To finance projects approved by the board, provide staff
4 support to the board, oversee and monitor progress on the part of
5 the board in carrying out the revitalization, economic development,
6 and restoration projects authorized pursuant to the "Municipal
7 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
8 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
9 pursuant thereto;

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

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

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

40

41 3. This act shall take effect immediately, but shall remain
42 inoperative for 60 days following the date of enactment.

43

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45 STATEMENT

46

47 This bill requires the New Jersey Economic Development
48 Authority (authority), in consultation with the Board of Public

1 Utilities and the Department of Community Affairs, to establish and
2 administer a program that makes loans available to eligible small
3 businesses for certain costs of energy audits and energy efficiency
4 or conservation improvements.

5 The bill permits the authority to make one or more low-interest
6 loans available to an eligible small business for 100 percent of any
7 unreimbursed costs to the small business of an energy audit of any
8 of the small business's buildings that is conducted by a contractor
9 licensed by the board. Additionally, the bill permits the authority to
10 make low-interest loans available to an eligible small business for
11 100 percent of any unreimbursed costs for the purchase and
12 installation of all energy efficiency or conservation equipment at
13 any of the small business's buildings as a result of the energy audit.

14 The bill defines a "low-interest loan" as a loan for a term not
15 exceeding 10 years at a rate of interest not exceeding the greater of
16 three percent or one-half of the prime interest rate as reported in a
17 financial newspaper published and circulating in New York City.
18 The bill defines an "eligible small business" as a business entity
19 that, at the time of application for participation, is independently
20 owned and operated, operates primarily within this State, and
21 satisfies other criteria that may be established by the authority.

22 The bill takes effect immediately, but remains inoperative for 60
23 days following the date of enactment.