

SENATE, No. 3955

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 17, 2019

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Senator A.R.Bucco

SYNOPSIS

Expands eligibility for EDA small business loan program to specifically include certain farming operations and qualified dairy farmers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2019)

S3955 OROHO, PENNACCHIO

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1 AN ACT expanding eligibility under a loan program for small
2 businesses to specifically include certain qualified dairy farmers
3 and farming operations, and amending P.L.2011, c.201.

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

7
8 1. Section 1 of P.L.2011, c.201 (C.34:1B-241.1) is amended to
9 read as follows:

10 1. As used in **[this act]** P.L.2011, c.201 (C.34:1B-
11 241.1 et seq.):

12 "Authority" means the New Jersey Economic Development
13 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

14 "Department" means the Department of Agriculture established
15 pursuant to R.S.4:1-1.

16 "Eligible farming operation" means two or more business entities
17 that are engaged in farming operations in the State, that are
18 applying together for participation in the small business loan
19 program established pursuant to section 2 of P.L. , c. (C.)
20 (pending before the Legislature as this bill), and that, at the time of
21 the application, are independently owned and operated, participate
22 in an agricultural commodity or product marketing and
23 development program operated by the Department of Agriculture,
24 and satisfy other criteria that may be established by the authority
25 pursuant to P.L. , c. (C.) (pending before the Legislature as
26 this bill).

27 "Eligible small business" means a business entity that, at the time
28 of application for participation in the small business loan program
29 established pursuant to section 2 of P.L.2011, c.201 (C.34:1B-
30 241.2), is independently owned and operated, operates primarily
31 within this State, and which satisfies other criteria that may be
32 established by the authority. "Eligible small business" shall include
33 qualified dairy farmers and eligible farming operations.

34 "Farm equipment" means equipment used directly for farming
35 operations.

36 "Farming operations" mean any activities connected to the
37 commercial growing, harvesting, processing, producing, or raising
38 of agricultural products in the State, including crops, dairy animals,
39 livestock, fur-bearing animals, poultry, bees, crops used in
40 fermented alcoholic beverages and wine, and any products
41 therefrom, including organic agricultural products; aquacultural
42 products; horticultural products; and silviculture products.

43 "Qualified dairy farmer" means a person or business entity that
44 produces valued-added dairy products and that, at the time of
45 application for participation in the small business loan program and

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 receipt of a loan under the program, is independently owned and
2 operated, operates primarily within this State, and satisfies other
3 criteria that may be established by the authority.

4 “Value-added dairy product” means a dairy product created by a
5 qualified dairy farmer by means of a change in the physical state of
6 a dairy commodity, and shall include, but not be limited to, cheese,
7 cultured sour cream, yogurt, kefir, butter, ice cream, evaporated
8 milk, condensed milk, and concentrated milk.

9 (cf: P.L.2011, c.201, s.1)

10

11 2. Section 2 of P.L.2011, c.201 (C.34:1B-241.2) is amended to
12 read as follows:

13 2. a. The authority shall maintain and administer a small
14 business loan program for the purpose of providing **【small**
15 **business】** loans to eligible small businesses. The authority shall
16 consult with the department in administering the small business
17 loan program as it applies to: (1) an eligible small business that is
18 an eligible farming operation; (2) defining the types of dairy
19 products that shall be considered as value-added dairy products
20 under the small business loan program, not inconsistent with section
21 1 of P.L. , c. (C.) (pending before the Legislature as this
22 bill); (3) developing small business loan program guidelines for
23 qualified dairy farmers and eligible farming operations; and (4)
24 developing materials to provide to qualified dairy farmers seeking
25 to expand value-added dairy production in this State.

26 b. (1) **【Small business loans】** Loans made through the small
27 business loan program may be made to an eligible small business.
28 The loan funds may be applied to any aspect of the eligible small
29 business that supports its capital purchases, employee training, and
30 salaries for new positions as determined by the authority.

31 (2) Notwithstanding paragraph (1) of subsection b. of this
32 section, loans made by the authority to an eligible farming
33 operation may only be applied to aspects of the eligible farming
34 operation that support the farming operation’s farm equipment
35 purchases, as determined by the authority. Farm equipment
36 purchased from loan funds made pursuant to P.L. , c. (C.)
37 (pending before the Legislature as this bill) shall be used by all of
38 the business entities in the eligible farming operation.

39 (3) Two or more business entities engaged in farming operations
40 in the State seeking to participate in the loan program established
41 pursuant to subsection a. of this section shall submit a joint
42 application in a form as the authority shall require and shall include
43 information as the authority determines is necessary in
44 consideration of a loan authorized pursuant to P.L. , c. (C.)
45 (pending before the Legislature as this bill).

46 c. (1) In order to receive a **【small business】** loan pursuant to
47 the small business loan program, a business, at the time of
48 application, shall provide proof that it is an eligible small business

1 and shall enter into a small business loan agreement with the
2 authority.

3 (2) In order to receive a loan from the authority pursuant to
4 P.L. , c. (C.) (pending before the Legislature as this bill), a
5 business entity engaged in farming operations in the State, at the
6 time of application, shall provide proof, in a manner determined by
7 the authority, that it and at least one other business entity meet the
8 requirements to be an eligible farming operation, including, but not
9 limited to, proof that each business entity is engaged in farming
10 operations in the State and will use the farm equipment purchased
11 with the loan funds.

12 d. The authority shall review and may approve applications for
13 the small business loan program.

14 e. A business seeking to participate in the small business loan
15 program shall submit an application in **【such】** a form as the
16 authority shall require. **【Such】** The application shall include
17 **【such】** information **【as】** the authority shall determine is necessary
18 in consideration of the provisions of P.L.2011, c.123 (C.52:14B-
19 21.1 et seq.).

20 f. **【Small】** Loans to an eligible small business **【loans】** under
21 this section shall:

22 (1) be made pursuant to a small business loan agreement made
23 pursuant to subsection c. of this section **【and shall】**;

24 (2) bear interest at rates and terms deemed appropriate by the
25 authority **【,】**; and

26 (3) contain other terms and conditions considered appropriate by
27 the authority that are consistent with the purposes of P.L.2011,
28 c.201 (C.34:1B-241.1 et seq.) and with rules and regulations
29 **【promulgated】** adopted by the authority pursuant to **【implement】**
30 section 3 of P.L.2011, c.201 (C.34:1B-241.3).

31 The provisions of a loan agreement with an eligible farming
32 operation shall include, but need not be limited to, a statement of an
33 eligible farming operation's proportional shares of ownership, its
34 farm equipment usage and maintenance responsibilities, and its loan
35 repayment responsibilities for any loan proceeds received under the
36 loan program.

37 g. The authority may, in its discretion, require an eligible small
38 business that receives a **【small business】** loan under the small
39 business loan program administered pursuant to P.L.2011,
40 c.201 (C.34:1B-241.1 et seq.) to submit an audited financial
41 statement to the authority in order to ensure the business's
42 continued vitality. An audited financial statement from an eligible
43 farming operation shall include each business entity in the eligible
44 farming operation using the farm equipment.

45 h. The authority may, either through the adoption of rules and
46 regulations, or through the terms of the small business loan
47 agreement made pursuant to subsection c. of this section, establish

1 terms governing the incidence of default by [an eligible small
2 business that receives] a recipient of a [small business] loan under
3 the small business loan program, administered pursuant to
4 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

5 i. In determining whether to provide a loan to an eligible small
6 business, the authority shall consider, along with other criteria that
7 the authority in its discretion deems appropriate, whether the
8 business commits to increasing its full-time employment level in the
9 State.

10 (cf: P.L.2011, c.201, s.2)

11

12 3. (New section) The authority shall adopt rules and
13 regulations, pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
15 the purposes of P.L. , c. (C.) (pending before the
16 Legislature as this bill). The authority shall consult with the
17 department concerning those rules and regulations applicable to
18 loans made to qualified dairy farmers and eligible farming
19 operations.

20 (cf: P.L.2011, c.201, s.3)

21

22 4. This act shall take effect immediately.

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STATEMENT

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27 This bill requires the New Jersey Economic Development
28 Authority (EDA), in consultation with the Department of
29 Agriculture, to provide loans to eligible farming operations and to
30 certain qualified dairy farmers under an existing small business loan
31 program administered by the EDA.

32 Under the bill, an eligible farming operation may use loans under
33 the program to purchase farm equipment. The bill provides that an
34 "eligible farming operation" is two or more independent business
35 entities that are engaged in farming operations in the State, that are
36 applying together for participation in the loan program, and that, at
37 the time of the application, are independently owned and operated,
38 participate in an agricultural commodity or product marketing and
39 development program operated by the Department of Agriculture,
40 and satisfy other criteria that may be established by the EDA. Farm
41 equipment purchased with loan funds by an eligible farming
42 operation are to be used by all of the two or more business entities
43 that constitute an eligible farming operation.

44 Under the bill, a qualified dairy farmer may use loan funds for
45 any aspect of the qualified dairy farmer's small business. The bill
46 requires that a "qualified dairy farmer" produce value-added dairy
47 products, such as cheese, cultured sour cream, yogurt, kefir, butter,
48 ice cream, evaporated milk, condensed milk, and concentrated milk.

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1 The bill requires that an EDA-approved loan under the program
2 is to be made pursuant to a loan agreement, bear interest at rates and
3 terms deemed appropriate by the EDA, and contain other terms and
4 conditions considered appropriate by the EDA that are consistent
5 with the purposes of the bill and with regulations adopted by the
6 EDA to implement the bill. The EDA may, in its discretion, require
7 an eligible farming operation or qualified dairy farmer that receives
8 a loan under the program to submit a financial statement to the EDA
9 in order to ensure continued viability, and specifies that an eligible
10 farming operation is to provide joint submissions.

11 The bill requires the EDA, in consultation with the Department
12 of Agriculture, to adopt rules and regulations as are necessary to
13 effectuate the purposes of the bill.