

[First Reprint]

ASSEMBLY, No. 3959

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 1, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

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Assemblywoman VALERIE VAINIERI HUTTLE

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Assemblywoman VERLINA REYNOLDS-JACKSON

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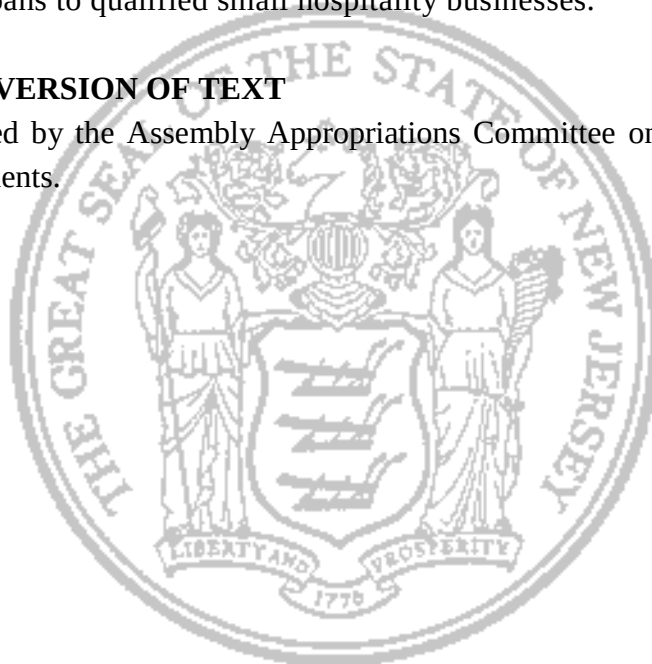
**Assemblyman Thomson, Assemblywoman Sumter, Assemblymen Johnson,
DePhillips and Assemblywoman Timberlake**

SYNOPSIS

Establishes NJ Hospitality Emergency Loan Program in EDA to provide no-interest loans to qualified small hospitality businesses.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 4, 2020, with amendments.



(Sponsorship Updated As Of: 5/11/2020)

1 AN ACT expanding a small business loan program to include
2 hospitality industry businesses, amending P.L.2011, c.201, ¹and¹
3 repealing section 3 of P.L.2019, c.240 ¹[, and making an
4 appropriation]¹.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

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

11 1. As used in P.L.2011, c.201 (C.34:1B-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.2019, c.240]**
20 P.L.2011, c.201 (C.34:1B-241.2), and that, at the time of the
21 application, are independently owned and operated, participate in an
22 agricultural commodity or product marketing and development
23 program operated by the Department of Agriculture, and satisfy
24 other criteria that may be established by the authority pursuant to
25 **[P.L.2019, c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.).

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 4, 2020.

1 application for participation in the small business loan program and
2 receipt of a loan under the program, is independently owned and
3 operated, operates primarily within this State, and satisfies other
4 criteria that may be established by the authority.

5 “Qualified hospitality business” means a small hospitality
6 industry-related business, as determined by the authority using the
7 latest four-digit North American Industry Classification System of
8 codes ¹and], including, but not limited to, code number 3121
9 (Beverage Manufacturing) and code number 7223 (Special Food
10 Services),¹ that, as of the effective date of P.L. , c. (C.)
11 (pending before the Legislature as this bill), ¹[that] ¹has been in
12 operation for more than six months and, for that prior year, had
13 annual sales revenue below ¹[\$1.5 million] \$2 million if in
14 operation for more than 12 months or had annual sales revenue
15 below \$1 million if in operation for less than 12 months¹.

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

21 (cf: P.L.2019, c.240, s.1)

22
23 2. Section 2 of P.L.2011, c.201 (C.34:1B-241.2) is amended to
24 read as follows:

25 2. a. The authority shall maintain and administer a small
26 business loan program for the purpose of providing loans to eligible
27 small businesses. The authority shall consult with the department
28 in administering the small business loan program as it applies to:
29 (1) an eligible small business that is an eligible farming operation;
30 (2) defining the types of dairy products that shall be considered as
31 value-added dairy products under the small business loan program,
32 not inconsistent with section 1 of **[P.L.2019, c.240]** P.L.2011,
33 c.201 (C.34:1B-241.1); (3) developing small business loan program
34 guidelines for qualified dairy farmers and eligible farming
35 operations; and (4) developing materials to provide to qualified
36 dairy farmers seeking to expand value-added dairy production in
37 this State.

38 b. (1) Loans made through the small business loan program
39 may be made to an eligible small business. The loan funds may be
40 applied to any aspect of the eligible small business that supports its
41 capital purchases, employee training, and salaries for new positions
42 as determined by the authority.

43 (2) Notwithstanding paragraph (1) of **[subsection b. of this**
44 **section]** this subsection, loans made by the authority to an eligible
45 farming operation may only be applied to aspects of the eligible
46 farming operation that support the farming operation’s farm
47 equipment purchases, as determined by the authority. Farm

1 equipment purchased from loan funds made pursuant to **【P.L.2019,**
2 **c.240】** P.L.2011, c.201 (C.34:1B-241.1 et seq.) shall be used by all
3 of the business entities in the eligible farming operation.

4 (3) Two or more business entities engaged in farming operations
5 in the State seeking to participate in the loan program established
6 pursuant to subsection a. of this section shall submit a joint
7 application in a form as the authority shall require and shall include
8 information as the authority determines is necessary in
9 consideration of a loan authorized pursuant to **【P.L.2019, c.240】**
10 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

11 (4) Notwithstanding paragraph (1) of this subsection, loans
12 made by the authority to a qualified hospitality business may only
13 be applied to cover immediate, unavoidable expenses, as
14 determined by the authority, other than payroll costs, throughout the
15 duration of the emergency established under Executive Order No.
16 103 of 2020.

17 c. (1) (a) In order to receive a loan pursuant to the small
18 business loan program, a business, at the time of application, shall
19 provide proof that it is an eligible small business and shall enter
20 into a small business loan agreement with the authority.

21 (b) **‘【A】** In addition to the requirements of subparagraph (a) of
22 this paragraph, a¹ qualified hospitality business shall provide to the
23 authority:

24 (i) proof that the qualified hospitality business has been in
25 operation and generating revenue for at least six months;

26 (ii) an income statement showing the qualified hospitality
27 business ‘【has】 had¹ no more than ‘【\$1.5 million in annual
28 revenue】 \$2 million in annual sales revenue if in operation for more
29 than 12 months, or had no more than \$1 million in annual sales
30 revenue if in operation for less than 12 months¹; and

31 (iii) bills for which payment is sought, including proof of
32 payments, or for a qualified hospitality business in operation less
33 than 12 months, a letter to the entity for which the money is due, the
34 qualified hospitality business has been current for 100 percent of
35 payments over the time the qualified hospitality business has been
36 in operation and not past due in the month prior to the current
37 month for which the qualified hospitality business is applying for a
38 loan under the small business loan program.

39 (2) In order to receive a loan from the authority pursuant to
40 **【P.L.2019, c.240】** P.L.2011, c.201 (C.34:1B-241.1 et seq.), a
41 business entity engaged in farming operations in the State, at the
42 time of application, shall provide proof, in a manner determined by
43 the authority, that it and at least one other business entity meet the
44 requirements to be an eligible farming operation, including, but not
45 limited to, proof that each business entity is engaged in farming
46 operations in the State and will use the farm equipment purchased
47 with the loan funds.

- 1 d. The authority shall review and may approve applications for
2 the small business loan program.
- 3 e. A business seeking to participate in the small business loan
4 program shall submit an application in a form as the authority shall
5 require. The application shall include information the authority
6 shall determine is necessary in consideration of the provisions of
7 P.L.2011, c.123 (C.52:14B-21.1 et seq.).
- 8 f. Loans to an eligible small business under this section shall:
9 (1) be made pursuant to a small business loan agreement made
10 pursuant to subsection c. of this section;
11 (2) except as otherwise provided in this subsection, bear interest
12 at rates and terms deemed appropriate by the authority; and
13 (3) contain other terms and conditions considered appropriate by
14 the authority that are consistent with the purposes of P.L.2011,
15 c.201 (C.34:1B-241.1 et seq.) and with rules and regulations
16 adopted by the authority pursuant to section 3 of P.L.2011, c.201
17 (C.34:1B-241.3).
- 18 Loans to a qualified hospitality business shall be of an amount
19 not to exceed \$10,000 ¹[per business]¹ per month, shall be interest
20 free, and have a 10-year term with payments deferred for nine
21 months from the date of the beginning of the loan agreement.
- 22 The provisions of a loan agreement with an eligible farming
23 operation shall include, but need not be limited to, a statement of an
24 eligible farming operation's proportional shares of ownership, its
25 farm equipment usage and maintenance responsibilities, and its loan
26 repayment responsibilities for any loan proceeds received under the
27 loan program.
- 28 g. The authority may, in its discretion, require an eligible small
29 business that receives a loan under the small business loan program
30 administered pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.) to
31 submit an audited financial statement to the authority in order to
32 ensure the business's continued vitality. An audited financial
33 statement from an eligible farming operation shall include each
34 business entity in the eligible farming operation using the farm
35 equipment.
- 36 h. The authority may, either through the adoption of rules and
37 regulations, or through the terms of the small business loan
38 agreement made pursuant to subsection c. of this section, establish
39 terms governing the incidence of default by a recipient of a loan
40 under the small business loan program, administered pursuant to
41 P.L.2011, c.201 (C.34:1B-241.1 et seq.).
- 42 i. In determining whether to provide a loan to an eligible small
43 business, the authority shall consider, along with other criteria that
44 the authority in its discretion deems appropriate, whether the
45 business commits to increasing its full-time employment level in the
46 State.

1 ¹j. The authority shall make available no less than a total of \$5
2 million for the purpose of providing loans to qualified hospitality
3 businesses pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.).¹
4 (cf: P.L.2019, c.240, s.2)

5
6 3. Section 3 of P.L.2011, c.201 (C.34:1B-241.3) is amended to
7 read as follows:

8 3. The authority may adopt such rules and regulations, pursuant
9 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
10 1 et seq.), as may be necessary to effectuate the purposes of
11 P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall
12 consult with the department concerning the rules and regulations
13 applicable to loans made to qualified dairy farmers and eligible
14 farming operations. The authority may consult with the Division of
15 Alcoholic Beverage Control in the Department of Law and Public
16 Safety concerning the rules and regulations applicable to loans
17 made to qualified hospitality businesses ¹**【having】** that have been
18 issued¹ a ¹**【licensed】** license¹ to sell alcoholic beverages pursuant
19 to R.S.33:1-1 et seq. or ¹**【who has】** have¹ been issued a permit to
20 sell alcoholic beverages by the Division of Alcoholic Beverage
21 Control.

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

23
24 ¹**【4.** There is appropriated from the General Fund to the New
25 Jersey Economic Development Authority the sum of \$5,000,000
26 solely for the provision of loans to qualified hospitality businesses
27 pursuant to paragraph (4) of subsection b. of section 2 of P.L.2011,
28 c.201 (C.34:1B-241.2).¹

29
30 ¹**【5.】** ¹4.¹ Section 3 of P.L.2019, c.240 is repealed.

31
32 ¹**【6.】** ¹5.¹ This act shall take effect immediately.