

[Second Reprint]

**ASSEMBLY, No. 3959**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED MAY 1, 2020

**Sponsored by:**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

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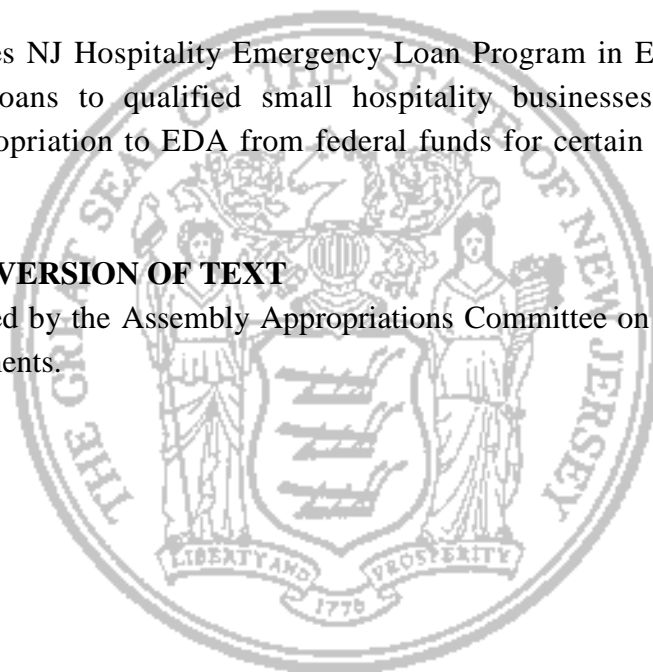
**Assemblyman Thomson, Assemblywoman Sumter, Assemblymen Johnson, DePhillips, Assemblywomen Timberlake, Speight, Assemblyman Spearman, Assemblywoman McKnight, Assemblymen Catalano, S.Kean, McGuckin, DeAngelo, Assemblywomen Lopez and Downey**

**SYNOPSIS**

Establishes NJ Hospitality Emergency Loan Program in EDA to provide no-interest loans to qualified small hospitality businesses; makes \$100 million appropriation to EDA from federal funds for certain small business assistance.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on May 11, 2020, with amendments.



**(Sponsorship Updated As Of: 5/14/2020)**

1 AN ACT expanding a small business loan program to include  
2 hospitality industry businesses <sup>2</sup>and allocating federal funding  
3 for certain small business assistance<sup>2</sup>, amending P.L.2011, c.201,  
4 <sup>2</sup>[<sup>1</sup>and<sup>1</sup>]<sup>2</sup> repealing section 3 of P.L.2019, c.240 <sup>1</sup>[, and making  
5 an appropriation]<sup>1 2</sup>, and making an appropriation<sup>2</sup>.

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

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

12 1. As used in P.L.2011, c.201 (C.34:1B-241.1 et seq.):

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

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

17 "Eligible farming operation" means two or more business entities  
18 that are engaged in farming operations in the State, that are  
19 applying together for participation in the small business loan  
20 program established pursuant to section 2 of [P.L.2019, c.240]  
21 P.L.2011, c.201 (C.34:1B-241.2), and that, at the time of the  
22 application, are independently owned and operated, participate in an  
23 agricultural commodity or product marketing and development  
24 program operated by the Department of Agriculture, and satisfy  
25 other criteria that may be established by the authority pursuant to  
26 [P.L.2019, c.240] P.L.2011, c.201 (C.34:1B-241.1 et seq.).

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 a qualified dairy [farmers and] farmer, an eligible farming  
34 [operations] operation, and a qualified hospitality business.

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

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

**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:

<sup>1</sup>Assembly AAP committee amendments adopted May 4, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted May 11, 2020.

1 "Qualified dairy farmer" means a person or business entity that  
2 produces valued-added dairy products and that, at the time of  
3 application for participation in the small business loan program and  
4 receipt of a loan under the program, is independently owned and  
5 operated, operates primarily within this State, and satisfies other  
6 criteria that may be established by the authority.

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

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

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

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

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

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

45 (2) Notwithstanding paragraph (1) of **[subsection b. of this**  
46 **section]** this subsection, loans made by the authority to an eligible  
47 farming operation may only be applied to aspects of the eligible

1 farming operation that support the farming operation's farm  
2 equipment purchases, as determined by the authority. Farm  
3 equipment purchased from loan funds made pursuant to **[P.L.2019,**  
4 **c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.) shall be used by all  
5 of the business entities in the eligible farming operation.

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

13 (4) Notwithstanding paragraph (1) of this subsection, loans  
14 made by the authority to a qualified hospitality business may only  
15 be applied to cover immediate, unavoidable expenses, as  
16 determined by the authority, other than payroll costs, throughout the  
17 duration of the emergency established under Executive Order No.  
18 103 of 2020.

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

23 (b) <sup>1</sup>[A] In addition to the requirements of subparagraph (a) of  
24 this paragraph, a<sup>1</sup> qualified hospitality business shall provide to the  
25 authority:

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

28 (ii) an income statement showing the qualified hospitality  
29 business <sup>1</sup>[has] had<sup>1</sup> no more than <sup>1</sup>[\$1.5 million in annual  
30 revenue] \$2 million in annual sales revenue if in operation for more  
31 than 12 months, or had no more than \$1 million in annual sales  
32 revenue if in operation for less than 12 months<sup>1</sup>; and

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

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

1 operations in the State and will use the farm equipment purchased  
2 with the loan funds.

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

5 e. A business seeking to participate in the small business loan  
6 program shall submit an application in a form as the authority shall  
7 require. The application shall include information the authority  
8 shall determine is necessary in consideration of the provisions of  
9 P.L.2011, c.123 (C.52:14B-21.1 et seq.).

10 f. Loans to an eligible small business under this section shall:

11 (1) be made pursuant to a small business loan agreement made  
12 pursuant to subsection c. of this section;

13 (2) except as otherwise provided in this subsection, bear interest  
14 at rates and terms deemed appropriate by the authority; and

15 (3) contain other terms and conditions considered appropriate by  
16 the authority that are consistent with the purposes of P.L.2011,  
17 c.201 (C.34:1B-241.1 et seq.) and with rules and regulations  
18 adopted by the authority pursuant to section 3 of P.L.2011, c.201  
19 (C.34:1B-241.3).

20 Loans to a qualified hospitality business shall be of an amount  
21 not to exceed \$10,000 <sup>1</sup>[per business]<sup>1</sup> per month, shall be interest  
22 free, and have a 10-year term with payments deferred for nine  
23 months from the date of the beginning of the loan agreement.

24 The provisions of a loan agreement with an eligible farming  
25 operation shall include, but need not be limited to, a statement of an  
26 eligible farming operation's proportional shares of ownership, its  
27 farm equipment usage and maintenance responsibilities, and its loan  
28 repayment responsibilities for any loan proceeds received under the  
29 loan program.

30 g. The authority may, in its discretion, require an eligible small  
31 business that receives a loan under the small business loan program  
32 administered pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.) to  
33 submit an audited financial statement to the authority in order to  
34 ensure the business's continued vitality. An audited financial  
35 statement from an eligible farming operation shall include each  
36 business entity in the eligible farming operation using the farm  
37 equipment.

38 h. The authority may, either through the adoption of rules and  
39 regulations, or through the terms of the small business loan  
40 agreement made pursuant to subsection c. of this section, establish  
41 terms governing the incidence of default by a recipient of a loan  
42 under the small business loan program, administered pursuant to  
43 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

44 i. In determining whether to provide a loan to an eligible small  
45 business, the authority shall consider, along with other criteria that  
46 the authority in its discretion deems appropriate, whether the  
47 business commits to increasing its full-time employment level in the  
48 State.

1 <sup>1</sup>j. 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.).<sup>1</sup>  
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 <sup>1</sup>**【having】** that have been  
18 issued<sup>1</sup> a <sup>1</sup>**【licensed】** license<sup>1</sup> to sell alcoholic beverages pursuant  
19 to R.S.33:1-1 et seq. or <sup>1</sup>**【who has】** have<sup>1</sup> 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 <sup>1</sup>**【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).<sup>1</sup>  
29

30 <sup>2</sup>**【4.** There is appropriated from the General Fund to the New  
31 Jersey Economic Development Authority the sum of \$100 million  
32 from a portion of those federal block grant funds allocated to the  
33 State from the federal "Coronavirus Relief Fund," established  
34 pursuant to the federal Coronavirus Aid, Relief, and Economic  
35 Security Act," Pub.L.116-136, for use by the authority to provide  
36 financial support, such as loans or grants, to small businesses for  
37 the costs associated with business operation interruptions caused by  
38 any State-required closures due to the impacts of Coronavirus  
39 disease 2019.<sup>2</sup>  
40

41 <sup>1</sup>**【5.】** <sup>2</sup>**【4.】** <sup>5.</sup><sup>2</sup> Section 3 of P.L.2019, c.240 is repealed.  
42

43 <sup>1</sup>**【6.】** <sup>2</sup>**【5.】** <sup>6.</sup><sup>2</sup> This act shall take effect immediately.