

CHAPTER 434

AN ACT establishing a social innovation loan pilot program and supplementing Title 34 of the Revised Statutes.

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

C.34:1B-268.3 Short title.

1. This act shall be known and may be cited as the “New Jersey Social Innovation Act.”

C.34:1B-268.4 Definitions.

2. As used in P.L.2021, c.434 (C.34:1B-268.3 et seq.):

“Authority” means the New Jersey Economic Development Authority, established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

“Eligible organization” means a nonprofit organization that is exempt from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501 or a for-profit organization that has applied for participation in the social innovation loan pilot program established pursuant to section 3 of P.L.2021, c.434 (C.34:1B-268.5), and is selected by the study commission as qualified to receive a loan guarantee from the “social innovation loan fund” established pursuant to section 5 of P.L.2021, c.434 (C.34:1B-268.7).

“Pilot program” means the social innovation loan pilot program established pursuant to section 3 of P.L.2021, c.434 (C.34:1B-268.5).

“Social innovation loan fund” or “fund” means the fund established pursuant to section 5 of P.L.2021, c.434 (C.34:1B-268.7).

“Study commission” means the “New Jersey Social Innovation Study Commission” established pursuant to section 4 of P.L.2021, c.434 (C.34:1B-268.6).

“Treatment and prevention services” means any early intervention health care, which shall include, but not limited to, treatment and prevention of opioid and other substance use disorders.

C.34:1B-268.5 Social innovation loan pilot program established; effectiveness, scope determined.

3. a. There is established a five-year social innovation loan pilot program within the New Jersey Economic Development Authority to administer and determine the effectiveness of a social innovation loan pilot program. The pilot program shall concern nonprofit health care services with the purpose of encouraging private investment in public health care services, including, but not limited to, treatment and prevention services, and to reduce federal, State, and municipal expenditures related to those services. The pilot program shall assess the feasibility of expanding a social innovation loan pilot program Statewide and expanding the scope of social impact loan guarantees, made pursuant to subsection b. of this section, beyond the health care sector.

- b. Under the pilot program established pursuant to subsection a. of this section, the authority shall guarantee loans issued to eligible organizations for the provision of public health care services which generate positive social outcomes and public sector cost savings. Each loan shall be facilitated by the study commission established pursuant to section 4 of P.L.2021, c.434 (C.34:1B-268.6) and shall consist of:

- (1) a lending agreement between an eligible organization, a lender, and a public sector entity which shall include terms that provide:

- (a) the eligible organization with direct funding from a lender in exchange for the provision of public health care services;

(b) the public sector entity with public health care services in exchange for defined payments to the lender in an amount proportional to the amount of public sector savings generated by the provision of those services; and

(c) the lender with loan repayments in exchange for the provision of funding to an eligible organization.

(2) a loan guarantee agreement between the authority and all parties to the lending agreement authorized pursuant to paragraph (1) of this subsection which shall require the terms of the lending agreement to conform to any loan requirements established pursuant to P.L.2021, c.434 (C.34:1B-268.3 et seq.) or by the authority; and

(3) an agreement between the authority, the public sector entity making performance payments, the eligible organization, and the lender which includes terms that require a method of measurement and verification of the public health care services to be performed, how the public sector savings are to be calculated, how the interest rate will be determined, and how funds shall flow between the parties according to each of the agreements made pursuant to this subsection.

c. Up to 100 percent of the value of a loan agreement entered into pursuant to subsection b. of this section may be guaranteed by the authority, provided that the total amount in the aggregate of all loans guaranteed under the social innovation loan pilot program established pursuant to P.L.2021, c.434 (C.34:1B-268.3 et seq.) shall not exceed \$15,000,000.

d. The authority, in cooperation with the study commission and the Department of Human Services, shall offer to guarantee loans made pursuant to subsection b. of this section utilizing funds from the social innovation loan fund established pursuant to section 5 of P.L.2021, c.434 (C.34:1B-268.7) to finance a project undertaken for the purposes of subsection b. of this section. The authority shall consider the following factors:

(1) The economic feasibility of the project;

(2) The degree to which the project will advance Statewide and regional strategies and objectives;

(3) The degree to which the project maximizes the leverage of other State funds; and

(4) The factors listed in paragraph (1) of subsection e. of section 4 of P.L.2021, c.434 (C.34:1B-268.6).

e. A lender or nonprofit or for-profit organization seeking to participate in the social innovation loan pilot program shall submit an application in a form as the authority shall require. The application shall include any information the authority shall determine is necessary in consideration of the provisions of P.L.2011, c.123 (52:14B-21.1 et seq.).

f. A loan guarantee agreement entered into pursuant to subsection b. of this section shall provide that any loan guaranteed by the authority shall:

(1) be for a loan having a fair effective interest rate as determined by the authority; and

(2) contain other terms and conditions considered appropriate by the authority that are consistent with the purposes of P.L.2021, c.434 (C.34:1B-268.3 et seq.) and with rules and regulations promulgated by the authority, pursuant to section 8 of P.L.2021, c.434, to implement P.L.2021, c.434 (C.34:1B-268.3 et seq.).

g. (1) Consistent with federal law, rule, or regulation, each eligible organization that receives a loan guarantee under P.L.2021, c.434 (C.34:1B-268.3 et seq.) shall undergo an audit, at the organization's own expense, at least once every two calendar years. The authority shall designate an independent auditor to conduct the audit.

(2) If an audit is performed under a requirement of federal law, rule, or regulation, the authority shall waive the audit required pursuant to this subsection with respect to all issues

addressed by the federally required audit. However, the authority may require an audit of matters that are not, in the authority's judgment, addressed by the federally required audit, including, but not limited to, measurement and verification of health care intervention activities, and public sector savings.

h. A loan guarantee agreement made pursuant to subsection b. of this section shall provide that any loan guarantee issued by the authority shall be voided if the terms and conditions of the agreement are violated by any party to that loan securitization agreement.

i. The authority shall solicit grants from interested public or private sources for the establishment and administration of the pilot program and study commission as well as the capitalization of the "social innovation loan fund" established pursuant to section 5 of P.L.2021, c.434 (C.34:1B-268.7).

j. The pilot program shall expire on the 30th day following the closing of all loans guaranteed pursuant to P.L.2021, c.434 (C.34:1B-268.3 et seq.).

C.34:1B-268.6 "New Jersey Social Innovation Study Commission" established; duties; membership criteria.

4. a. The authority shall oversee and staff a study commission, entitled the "New Jersey Social Innovation Study Commission," established for the duration of the pilot program.

b. The membership and size of the study commission shall be determined by the authority. The authority may consider a variety of professionals, including health care, lending, and social finance experts, for membership on the study commission. The study commission shall organize as soon as practicable after the appointment of the study commission members, shall select a chairperson from among its membership, and shall appoint a secretary who need not be a member of the commission. At least one member of the study commission shall be a representative of the Department of Human Services, one member shall be a representative of the Department of Health, and one member shall be the Executive Director of the Office of Faith-based Initiatives in the Department of State. All members of the study commission shall serve for term concurrent with the effective period of the pilot program.

c. Any vacancy in the membership of the study commission shall be filled in the same manner in which the original appointment was made.

d. The study commission may request the assistance and services of employees of any other State department, board, bureau, commission, task force, or agency as it may require and as may be available. Members of the study commission shall serve without compensation, but shall be entitled to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as the study commission may deem necessary in order to perform its duties, within the limits of the funds made available to the study commission for its purposes. The study commission may meet at the call of its chairperson at the times and in the places the study commission may deem appropriate and necessary to fulfill its duties, and may conduct public hearings at a place or places as the study commission shall designate. The study commission shall conduct its meetings in accordance with the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

e. It shall be the duty of the study commission to aid the authority in the administration of the social innovation loan pilot program and to issue annual reports detailing the progress of the pilot program. Specifically, the study commission, in cooperation with the authority and the Department of Human Services shall:

(1) identify the nonprofit and for-profit organizations that will be eligible to receive loan guarantees from the authority. The study commission shall make this determination taking

several factors into consideration which shall include, but not be limited to, the size and identity of the target population that benefits from the nonprofit or for-profit organization service provider, the projected financial value of the improvements as a result of the social innovation loan investments, including projected public sector savings, the ability to repay the loan in full, the ease of the measurability of the outcomes, and an analysis of impacts beyond financial savings and returns, such as social outcomes;

(2) assist the authority in soliciting donations from philanthropic organizations and other private sources to capitalize the loan fund;

(3) negotiate contract terms and conditions between social innovation loan recipients and any public entity for whom the recipient is performing health care intervention services, including the development of metrics to project and measure both financial and social outcomes, and the identification of independent third parties to measure and evaluate outcomes;

(4) determine whether an independent intermediary with expertise in the areas of social finance and health care should be retained to:

(a) assist the study commission in the performance of its duties under this section; or

(b) perform the method of measurement and verification activities required in the agreements entered into pursuant to paragraph (3) of subsection b. of section 3 of P.L.2021, c.434 (C.34:1B-268.5), and to identify appropriate independent intermediaries to recommend to the authority if the study commission determines that intermediary services should be retained; and

(5) any other purposes related to the pilot program for which the authority requests assistance.

f. Not later than one year following the effective date of P.L.2021, c.434 (C.34:1B-268.3 et seq.), and annually for four years thereafter, the study commission shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report containing a study and evaluation of the pilot program. The report shall include, but not be limited to, a description of any eligible organizations funded by the social innovation loans, State, federal, and municipal financial savings related to the issuance of social innovation loans, including Medicaid savings, the expected loan performance and projected payment schedule, the number of people serviced by the eligible organization, a comparison of the population serviced by the eligible organization and a similarly situated control group, and any community impact related to the pilot program.

g. The study commission shall submit its fifth and final report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, within 90 days of the expiration date of the pilot program, including any recommendations for legislation it deems appropriate. The study commission's final report shall include, but not be limited to, an analysis of the feasibility of implementing a permanent social innovation loan program Statewide, the sectors outside of non-profit health care in which social lending could be successfully applied, the estimated costs for the creation and administration of the permanent social innovation loan program, the projected State, federal, and municipal savings from administering the permanent program, a calculation of the loan performance realized from the pilot program, a calculation of the State, federal, and municipal savings accrued through the pilot program, and an analysis of non-financial outcomes, such as community impact and preventive results. The study commission shall expire on the 30th day after the date of the issuance of its final report, or upon the expiration of the pilot program, whichever occurs later.

C.34:1B-268.7 “Social innovation loan fund” established; funds appropriated.

5. a. To implement the social innovation loan pilot program, the authority shall establish and maintain a special non-lapsing, revolving fund called the “social innovation loan fund” which may be credited with:

(1) monies appropriated by the State for the purpose of the fund;

(2) monies received by the authority from any public or private donations to be used to guarantee a loan issued pursuant to subsection f. of section 3 of P.L.2021, c.434 (C.34:1B-268.5);

(3) any monies as may be available to the authority from grants or other forms of assistance established to support health care intervention activities by the authority or by other State or federal agencies or authorities; and

(4) monies received from eligible organizations in the form of any applicable fees.

b. Loan funds may be used by the authority for the following purposes:

(1) guaranteeing loans issued pursuant to subsection b. of section 3 of P.L.2021, c.434 (C.34:1B-268.5);

(2) reasonable and necessary expenses incurred by the authority related to the administration of the pilot program and the study commission; and

(3) administrative expenses for the provision of loan guarantees issued pursuant to subsection b. of section 3 of P.L.2021, c.434 (C.34:1B-268.5).

c. The amount of loans guaranteed by the authority pursuant to subsection b. of section 3 of P.L.2021, c.434 (C.34:1B-268.5) shall not exceed \$3,000,000 per year or \$15,000,000 in the aggregate over five years, as determined by the authority.

d. The authority shall not issue a loan guarantee in an amount greater than the available and uncommitted monies in the loan fund.

e. The authority may charge fees in connection with applications for participation in the social innovation loan pilot program as it deems reasonable to cover authority expenses in administering the pilot program and issuing loan guarantees.

f. The activities required pursuant to P.L.2021, c.434 (C.34:1B-268.3 et seq.) shall only be paid from monies deposited into the “social innovation loan fund,” established pursuant to subsection a. of this section.

C.34:1B-268.8 Director to manage “social innovation loan fund.”

6. a. The authority shall appoint a director to manage the activities associated with the “social innovation loan fund” established pursuant to section 5 of P.L.2021, c.434 (C.34:1B-268.7). The director shall receive compensation as determined by the authority.

b. Except as provided in subsection a. of this section, the activities required pursuant to P.L.2021, c.434 (C.34:1B-268.3 et seq.) shall only be staffed from existing authority staff resources.

C.34:1B-268.9 Report issued to Governor, Legislature; detailing financing, loan guarantee recipients.

7. The authority shall issue a report six months after the effective date of P.L.2021, c.434 (C.34:1B-268.3 et seq.), and annually thereafter not later than September 15, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature concerning the financing of the pilot program as described in section 5 of P.L.2021, c.434 (C.34:1B-268.7), undertaken with monies from the “social innovation loan fund.” The initial report and each annual report required pursuant to this section shall include the number of eligible

organizations receiving loan guarantees from the fund, the name of each eligible organization receiving loan guarantees from the fund, the amount of money each eligible organization receives from the fund, a description of each pilot program funded by loans issued to eligible organizations, and a detailed analysis of the consideration given to the factors set forth in subsection d. of section 3 of P.L.2021, c.434 (C.34:1B-268.5).

8. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate the purposes of this act.

9. This act shall take effect on the first day of the fourth month following the date of enactment, but the authority may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 18, 2022.