

SENATE, No. 1458

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Expands EDA small business loan program to include certain broadband telecommunications service providers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/30/2020)

1 AN ACT expanding a small business loan program to include certain
2 broadband telecommunications service providers, amending
3 P.L.2011, c.201, and repealing section 3 of P.L.2019, c.240.

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

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

13 "Board" means the Board of Public Utilities or any successor
14 agency.

15 "Broadband telecommunications service" means any
16 telecommunications service used for the purpose of offering high
17 speed, switched, broadband wireline or wireless
18 telecommunications capability that enables users to send and
19 receive high-quality voice, data, graphics, or video
20 telecommunications through the Internet and using any technology
21 and with data transfer speeds of at least 25 megabits per second
22 download and at least three megabits per second upload.

23 "Broadband telecommunications service provider" means a
24 person, business, for-profit or nonprofit corporation, unincorporated
25 association, or partnership, including, but not limited to, a rural
26 electric cooperative, which is certified by the board to offer
27 broadband telecommunications service within a rural area of this
28 State.

29 "Broadband telecommunications service provider" means a
30 person, company, corporation, unincorporated association,
31 partnership, or professional corporation which is certified by the
32 board to offer broadband telecommunications service directly to the
33 public, or to classes of users as to be effectively available directly
34 to the public, regardless of the facilities used.

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

37 "Eligible farming operation" means two or more business entities
38 that are engaged in farming operations in the State, that are
39 applying together for participation in the small business loan
40 program established pursuant to section 2 of P.L.2011, c.201
41 (C.34:1B-241.2), and that, at the time of the application, are
42 independently owned and operated, participate in an agricultural
43 commodity or product marketing and development program
44 operated by the Department of Agriculture, and satisfy other criteria

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 that may be established by the authority pursuant to P.L.2019, c.240
2 (C.34:1B-241.4 et al.).

3 "Eligible small business" means a business entity that, at the time
4 of application for participation in the small business loan program
5 established pursuant to section 2 of P.L.2011, c.201 (C.34:1B-
6 241.2), is independently owned and operated, operates primarily
7 within this State, and which satisfies other criteria that may be
8 established by the authority. "Eligible small business" shall include
9 qualified dairy farmers **[and]**, eligible farming operations, and
10 broadband telecommunications service providers.

11 "Farm equipment" means equipment used directly for farming
12 operations.

13 "Farming operations" mean any activities connected to the
14 commercial growing, harvesting, processing, producing, or raising
15 of agricultural products in the State, including crops, dairy animals,
16 livestock, fur-bearing animals, poultry, bees, crops used in
17 fermented alcoholic beverages and wine, and any products
18 therefrom, including organic agricultural products; aquacultural
19 products; horticultural products; and silviculture products.

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

26 "Rural area" means any area included within the boundaries of
27 any municipality that has a population of 30,000 inhabitants or less
28 and a population density less than 4,000 persons per square mile,
29 according to the latest federal decennial census.

30 "Rural electric cooperative" or "cooperative" means a nonprofit
31 corporation entitled to the rights, benefits, and protections
32 established pursuant to P.L.2017, c.297 (C.48:24-1 et al.).

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

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

39

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

42 2. a. The authority shall maintain and administer a small
43 business loan program for the purpose of providing loans to eligible
44 small businesses. The authority shall consult with the department
45 in administering the small business loan program as it applies to:
46 (1) an eligible small business that is an eligible farming operation;
47 (2) defining the types of dairy products that shall be considered as
48 value-added dairy products under the small business loan program,

1 not inconsistent with section 1 of P.L.2011, c.201 (C.34:1B-241.1);
2 (3) developing small business loan program guidelines for qualified
3 dairy farmers and eligible farming operations; and (4) developing
4 materials to provide to qualified dairy farmers seeking to expand
5 value-added dairy production in this State. The authority shall
6 consult with the board in administering the small business loan
7 program as it applies to an eligible small business that is a
8 broadband telecommunications service provider.

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

14 (2) Notwithstanding paragraph (1) of subsection b. of this
15 section, loans made by the authority to an eligible farming
16 operation may only be applied to aspects of the eligible farming
17 operation that support the farming operation's farm equipment
18 purchases, as determined by the authority. Farm equipment
19 purchased from loan funds made pursuant to P.L.2019, c.240
20 (C.34:1B-241.4 et al.) shall be used by all of the business entities in
21 the eligible farming operation.

22 (3) Two or more business entities engaged in farming operations
23 in the State seeking to participate in the loan program established
24 pursuant to subsection a. of this section shall submit a joint
25 application in a form as the authority shall require and shall include
26 information as the authority determines is necessary in
27 consideration of a loan authorized pursuant to P.L.2019, c.240
28 (C.34:1B-241.4 et al.).

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

33 (2) In order to receive a loan from the authority pursuant to
34 P.L.2019, c.240 (C.34:1B-241.4 et al.), a business entity engaged in
35 farming operations in the State, at the time of application, shall
36 provide proof, in a manner determined by the authority, that it and
37 at least one other business entity meet the requirements to be an
38 eligible farming operation, including, but not limited to, proof that
39 each business entity is engaged in farming operations in the State
40 and will use the farm equipment purchased with the loan funds.

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

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

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

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

3 (2) bear interest at rates and terms deemed appropriate by the
4 authority; and

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

10 The provisions of a loan agreement with an eligible farming
11 operation shall include, but need not be limited to, a statement of an
12 eligible farming operation's proportional shares of ownership, its
13 farm equipment usage and maintenance responsibilities, and its loan
14 repayment responsibilities for any loan proceeds received under the
15 loan program.

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

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

30 i. In determining whether to provide a loan to an eligible small
31 business, the authority shall consider, along with other criteria that
32 the authority in its discretion deems appropriate, whether the
33 business commits to increasing its full-time employment level in the
34 State.

35 (cf: P.L.2019, c.240, s.2)

36

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

39 3. The authority may adopt **[such]** rules and regulations,
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), as may be necessary to effectuate the purposes
42 of P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall
43 consult with the department concerning the rules and regulations
44 applicable to loans made to qualified dairy farmers and eligible
45 farming operations. The authority shall consult with the board
46 concerning the rules and regulations applicable to loans made to
47 broadband telecommunications service providers.

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

1 4. Section 3 of P.L.2019, c.240 is repealed.

2

3 5. This act shall take effect immediately.

4

5

6

STATEMENT

7

8 This bill requires the New Jersey Economic Development
9 Authority (EDA), in consultation with the Board of Public Utilities
10 (BPU), to offer loans to broadband telecommunications service
11 providers providing broadband telecommunications service to rural
12 areas under an existing small business loan program administered
13 by the EDA. The bill defines a “broadband telecommunications
14 service provider” as a person, business, for-profit or nonprofit
15 corporation, unincorporated association, or partnership, including,
16 but not limited to, a rural electric cooperative, which is certified by
17 the BPU to offer broadband telecommunications service within a
18 rural area of this State. The bill also defines the terms “broadband
19 telecommunications service” and “rural area.”

20 The bill requires that an EDA-approved loan under the program
21 is to be made pursuant to a loan agreement, bear interest at rates and
22 terms deemed appropriate by the EDA, and contain other terms and
23 conditions considered appropriate by the EDA that are consistent
24 with the purposes of the bill and with regulations adopted by the
25 EDA to implement the bill.

26 The bill requires the EDA, in consultation with the BPU, to
27 adopt rules and regulations as are necessary to effectuate the
28 purposes of the bill.

29 The bill repeals a duplicative provision added by section 3 of
30 P.L.2019, c.240.