

[Second Reprint]

SENATE, No. 2371

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 13, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

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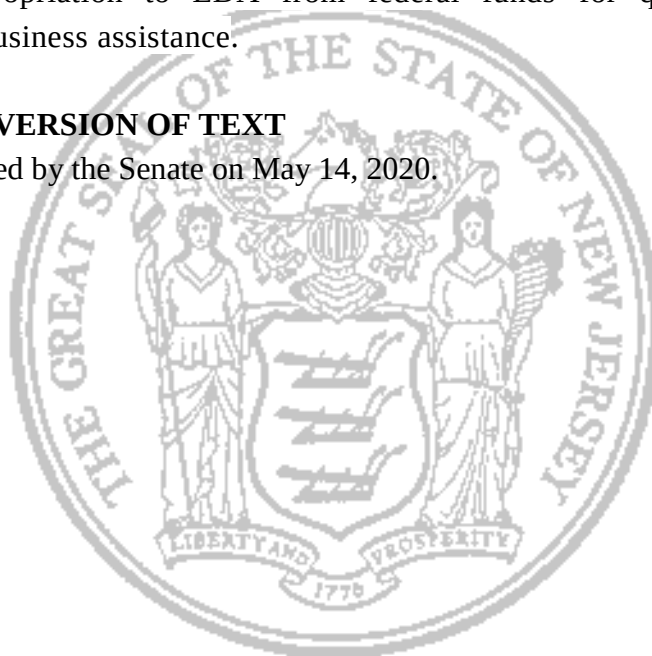
Senators Lagana, Greenstein, Addiego, Brown, Cruz-Perez, Testa, Diegnan, Bateman, A.M.Bucco, Cardinale, Oroho, Singer, Thompson and T.Kean

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 qualified small hospitality business assistance.

CURRENT VERSION OF TEXT

As amended by the Senate on May 14, 2020.



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

1 AN ACT expanding a small business loan program to include
2 hospitality industry businesses ¹and allocating federal funding
3 for ²**[certain small]** qualified hospitality² business assistance¹,
4 amending P.L.2011, c.201, repealing section 3 of P.L.2019,
5 c.240, and making an appropriation.

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:

¹Senate SBA committee amendments adopted May 7, 2020.

²Senate floor amendments adopted May 14, 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 ¹and], including, but not limited to, code number 3121
11 (Beverage Manufacturing) and code number 7223 (Special Food
12 Services),¹ that, as of the effective date of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 ¹[that] has been in operation for more than six months and, for
15 that prior year, had annual sales revenue below ¹[\$1.5 million] \$2
16 million if in operation for more than 12 months or had annual sales
17 revenue below \$1 million if in operation for less than 12 months¹.

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
4 **【P.L.2019, c.240】 P.L.2011, c.201 (C.34:1B-241.1 et seq.)** shall be
5 used by all 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) **1【A】** In addition to the requirements of subparagraph (a) of
24 this paragraph, a¹ 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 **1【has】 had¹** no more than **1【\$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 months¹; 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 'per business' 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 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 4. There is appropriated from the General Fund to the New
25 Jersey Economic Development Authority the sum of ¹【\$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)】 \$100 million from a portion of those
29 federal block grant funds allocated to the State from the federal
30 “Coronavirus Relief Fund,” established pursuant to the federal
31 Coronavirus Aid, Relief, and Economic Security Act,” Pub.L.116-
32 136, for use by the authority to provide financial support, such as
33 loans or grants, to ²【small】 qualified hospitality² businesses ², as
34 defined in section 2 of P.L.2011, c.201 (C.34:1B-241.2),² for the
35 costs associated with business operation interruptions caused by any
36 State-required closures due to the impacts of Coronavirus disease
37 2019¹. ²A qualified hospitality business applying to the authority
38 for financial support shall provide sufficient evidence to the
39 authority that its operations have been severely limited due to the
40 impacts of Coronavirus disease 2019, as determined by the
41 authority.²

42
43 5. Section 3 of P.L.2019, c.240 is repealed.

44
45 6. This act shall take effect immediately.