

SENATE, No. 2473

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Requires EDA to provide low interest loans to qualified small businesses and not-for-profit corporations during state of emergency declared by Governor.

CURRENT VERSION OF TEXT

As introduced.



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

1 AN ACT concerning certain loans administered by the New Jersey
2 Economic Development Authority, amending P.L.1992, c.16 and
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 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
9 read as follows:

10 4. The authority may use the moneys in the fund to pay
11 principal of, premium, if any, and interest on bonds or notes, which
12 shall be entitled "Economic Recovery Fund Bonds or Notes," as
13 appropriate, the proceeds, or net proceeds, of which shall be
14 deposited into the fund, or used for purposes of the fund, and
15 moneys in the fund, including money received from the sale of
16 bonds shall, in such manner as is determined by the authority, and
17 pursuant to subsections d., e., and f. of this section, be used for the
18 financing of projects as set forth in section 3 of P.L.1974, c.80
19 (C.34:1B-3) and to establish:

20 a. an economic growth account for business programs, which
21 will invest in small and medium-size businesses that have the
22 greatest potential for creating jobs and stimulating economic growth
23 through such elements as a Statewide lending pool for small
24 business, a business composite bond guarantee, a fund to further
25 supplement the export finance program of the authority to provide
26 direct loans and working capital necessary for New Jersey
27 businesses to compete in the global market, real estate partnerships,
28 a Statewide composite bond pool to assist municipalities in
29 acquiring needed financing for capital expenditures, community-
30 based assistance to assist municipalities in establishing local
31 development corporations to stimulate economic development, a
32 venture capital fund for start-up costs for businesses developing
33 new concepts and inventions, a fund to assist businesses with
34 expansion in such areas as manufacturing retooling to improve
35 quality, to reduce production costs and to train employees to apply
36 the latest technology, and a "Main Street Business Assistance
37 Program" to provide guarantees and loans to small and mid-size
38 businesses and not-for-profit corporations to stimulate the economy.
39 Any loans provided by the authority to small-size businesses and
40 not-for-profit corporations, throughout the duration of the public
41 health emergency and state of emergency established under
42 Executive Order No. 103 of 2020, shall be at a low rate of interest,
43 as determined by the authority. The authority may promulgate rules
44 and regulations for the effective implementation of the "Main Street
45 Business Assistance Program." Notwithstanding any provision 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.

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.) to the contrary, the authority may adopt, immediately upon
3 filing with the Office of Administrative Law, such regulations as
4 are necessary to implement the provisions of this act, which shall be
5 effective for a period not to exceed 12 months following enactment,
6 and may thereafter be amended, adopted, or readopted by the
7 authority in accordance with the requirements of the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.). During periods of emergency declared by the Governor and
10 for the duration of economic disruptions due to the emergency, the
11 authority may use the economic growth account for the planning,
12 designing, acquiring, constructing, reconstructing, improving,
13 equipping, and furnishing by small and medium-size businesses and
14 not-for-profit corporations of a project as defined in section 3 of
15 P.L.1974, c. 80 (C.34:1B-3), including, but not limited to, grants for
16 working capital and meeting payroll requirements, upon such terms
17 and conditions as the authority shall deem reasonable;

18 b. an economic development infrastructure program account,
19 which shall provide for the financing and development of
20 infrastructure and transportation projects, including but not limited
21 to ports, terminal and transit facilities, roads and airports, parking
22 facilities used in connection with transit facilities, and related
23 facilities, including public-private partnerships, that are integral to
24 economic growth;

25 c. an account for a cultural, recreational, fine and performing
26 arts, military and veterans memorial, historic preservation project
27 and tourism facilities and improvements program, which shall
28 provide for the financing and development of cultural, recreational,
29 fine and performing arts, military and veterans memorial, historic
30 preservation and tourism projects, including partnerships with
31 public, private and nonprofit entities;

32 d. an account, into which shall be deposited an amount not less
33 than \$45,000,000, out of the total amounts deposited or credited to
34 the fund from the proceeds of the sale of Economic Recovery Fund
35 Bonds or Notes, for the financing of capital facilities for primary
36 and secondary schools in the State for the purpose of the
37 renovation, repair or alteration of existing school buildings, the
38 construction of new school buildings or the conversion of existing
39 school buildings to other instructional purposes.

40 (1) Of the amount deposited in the account, not less than
41 \$25,000,000 shall be deposited in the "Public School Facilities
42 Code Compliance Loan Fund" established pursuant to section 4 of
43 P.L.1993, c.102 (C.34:1B-7.23).

44 (2) Of the amount deposited in the account, not less than
45 \$20,000,000 shall be deposited in the "Public School Facilities
46 Loan Assistance Fund" established pursuant to section 5 of
47 P.L.1993, c.102 (C.34:1B-7.24);

1 e. an environmental cleanup assistance account, into which
2 shall be deposited an amount not less than \$10,000,000, out of the
3 total amounts deposited or credited to the fund from the proceeds of
4 the sale of Economic Recovery Fund Bonds or Notes, to provide
5 financial assistance to the persons and other entities entitled to
6 apply for financial assistance pursuant to P.L.1993, c.139; and

7 f. an account, into which shall be deposited an amount not less
8 than \$15,000,000, out of the total amounts deposited or credited to
9 the fund from the proceeds of the sale of Economic Recovery Fund
10 Bonds or Notes, for the financing of shore restoration, maintenance,
11 monitoring, protection and preservation projects pursuant to the
12 shore protection master plan prepared by the Department of
13 Environmental Protection pursuant to P.L.1978, c.157.

14 (cf: P.L.2020, c.8, s.2)

15
16 2. Section 1 of P.L.2011, c.201 (C.34:1B-241.1) is amended to
17 read as follows:

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

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

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

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

33 "Eligible operating expense" means the normal, day-to-day
34 operating expenditures made by an eligible small business,
35 including, but not limited to: payroll; rent; utilities; insurance;
36 marketing expenses; and purchases of goods and services.

37 "Eligible small business" means a business entity that, at the time
38 of application for participation in the small business loan program
39 established pursuant to section 2 of P.L.2011, c.201 (C.34:1B-
40 241.2), is independently owned and operated, operates primarily
41 within this State, and which satisfies other criteria that may be
42 established by the authority. "Eligible small business" shall include
43 a qualified dairy [farmers and] farmer, an eligible farming
44 [operations] operation, and a qualified not-for-profit corporation.

45 "Farm equipment" means equipment used directly for farming
46 operations.

47 "Farming operations" mean any activities connected to the
48 commercial growing, harvesting, processing, producing, or raising

1 of agricultural products in the State, including crops, dairy animals,
2 livestock, fur-bearing animals, poultry, bees, crops used in
3 fermented alcoholic beverages and wine, and any products
4 therefrom, including organic agricultural products; aquacultural
5 products; horticultural products; and silviculture products.

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

12 "Qualified not-for-profit corporation" means a not-for-profit
13 corporation that the authority determines meets the identical
14 guarantee and loan eligibility criteria established under the "Main
15 Street Business Assistance Program," pursuant to subsection a. of
16 section 4 of P.L.1992, c.16 (C.34:1B-7.13).

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

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

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

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

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

44 (2) Notwithstanding paragraph (1) of **[subsection b. of this**
45 **section]** this subsection, loans made by the authority to an eligible
46 farming operation may only be applied to aspects of the eligible
47 farming operation that support the farming operation's farm
48 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 an eligible small business, throughout the
13 duration of the public health emergency and state of emergency
14 established under Executive Order No. 103 of 2020, shall only be
15 used by the eligible small business for eligible operating expenses.

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

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

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

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

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

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

39 (2) bear interest at rates and terms deemed appropriate by the
40 authority, except for loans made throughout the duration of the
41 public health emergency and state of emergency established under
42 Executive Order No. 103 of 2020, which shall be made at a low rate
43 of interest, as determined by the authority; and

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

1 The provisions of a loan agreement with an eligible farming
2 operation shall include, but need not be limited to, a statement of an
3 eligible farming operation's proportional shares of ownership, its
4 farm equipment usage and maintenance responsibilities, and its loan
5 repayment responsibilities for any loan proceeds received under the
6 loan program.

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

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

21 i. In determining whether to provide a loan to an eligible small
22 business, the authority shall consider, along with other criteria that
23 the authority in its discretion deems appropriate, whether the
24 business commits to increasing its full-time employment level in the
25 State.

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

27
28 4. Section 3 of P.L.2011, c.201 (C.34:1B-241.3) is amended to
29 read as follows:

30 3. The authority may adopt such rules and regulations, pursuant
31 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
32 1 et seq.), as may be necessary to effectuate the purposes of
33 P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall
34 consult with the department concerning the adoption of rules and
35 regulations applicable to loans made to qualified dairy farmers and
36 eligible farming operations.

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

38
39 5. Section 3 of P.L.2019, c.240 is repealed.

40
41 6. This act shall take effect immediately.

42
43
44 STATEMENT

45
46 This bill expands a small business loan program (loan program)
47 administered by the New Jersey Economic Development Authority
48 (authority) to include an "eligible not-for-profit corporation," as

1 that term is defined in the bill, as a qualified small business eligible
2 for participation in the loan program. Loans offered under the loan
3 program to qualified small businesses during the Coronavirus
4 disease of 2019 are to be made at a low rate of interest, as
5 determined by the authority. Under this loan program, the loan
6 proceeds are only to be used by eligible small businesses during this
7 period for an “eligible operating expense,” as that term is defined in
8 the bill.

9 Further, the bill provides that loans offered during the
10 Coronavirus disease of 2019 to small-size businesses and not-for-
11 profit corporations qualifying under the “Main Street Business
12 Assistance Program” (assistance program), also administered by the
13 authority, are to be made at a low rate of interest, as determined by
14 the authority.

15 The bill transfers to section 3 of P.L.2011, c.201 (C.34:1B-
16 241.3) existing rulemaking authority added by section 3 of
17 P.L.2019, c.240 and repeals this duplicative provision.