ASSEMBLY, No. 678

STATE OF NEW JERSEY

208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:
Assemblyman JOHN C. GIBSON
District 1 (Cape May, Atlantic and Cumberland)
Assemblyman JOSEPH AZZOLINA
District 13 (Middlesex and Monmouth)

SYNOPSIS

Establishes the New Jersey Aquaculture Assistance Program.

CURRENT VERSION OF TEXT

As Introduced.

AN ACT concerning assistance for aquaculture and supplementing Title 34 of the Revised Statutes.

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

1. This act shall be known and may be cited as the "New Jersey Aquaculture Assistance Act."

2. The Legislature finds and declares that:

a. This State is uniquely situated to benefit from expanded growth and development of the aquaculture industry because of the continuing depletion of natural sources of marine animals and plants and the escalating demand for seafood products in local, national and international markets;

b. While currently representing only a small percentage of the State's $100 million commercial seafood industry, the aquaculture industry could, according to the "Aquaculture Development Plan," prepared by the Aquaculture Development Task Force pursuant to Executive Order No. 104 (1993), potentially support 10,000 new jobs and yield a billion dollars in annual sales revenue;

c. The Aquaculture Development Task Force has determined that the lack of an adequate financial assistance program has hindered the growth and development of commercial aquaculture operations which has, in turn, retarded the creation of new jobs and business opportunities for New Jersey farmers, commercial fishermen and members of the fish and shellfish processing, marketing and distribution industries; and

d. The "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et seq.), approved August 31, 1997, establishes and promotes a program to develop the aquaculture industry in this State and in furtherance of the goals of this act, it is in the public interest to establish a program to provide adequate financial assistance to aquaculture projects in this State.

3. As used in this act:

"Act" means the "New Jersey Aquaculture Assistance Act."

"Applicant" means a person who is in or is seeking to enter into the aquaculture industry and who submits an application to the authority for financial assistance from the program.

"Aquaculture" means the propagation, rearing, and subsequent harvesting of aquatic organisms in controlled or selected environments, and the subsequent processing, packaging and marketing of such organisms, and shall include, but need not be limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection

from predators.

"Aquaculture development plan" means the plan prepared by the Aquaculture Development Task Force.

"Aquaculture development task force" means the task force established pursuant to Executive Order No. 104 (1993).

"Aquaculture project" or "project" means any work necessary to develop, expand or modernize the aquaculture industry in this State. "Aquaculture project" includes, but is not limited to, the construction of aquaculture facilities and appurtenant structures approved pursuant to P.L.1997, c.236 (C.4:27-1 et seq.) or any other State or federal law or regulation.

"Aquaculturist" means a person engaging in or seeking to engage in aquaculture.

"Aquatic organism" means and includes, but need not be limited to, finfish, mollusks, crustaceans, and aquatic plants which are the property of a person engaged in aquaculture.

"Assistance fund" means the New Jersey Aquaculture Assistance Fund established pursuant to section 5 of this act.

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

"Cost" means the expenses incurred in connection with an aquaculture project, which can be reasonably expected to be recovered through the financing of the operation, and which shall include, but need not be limited to, the costs of planning, fixed assets, materials, working capital, floor plan funding, and any other costs determined to be necessary by the authority to carry out the purposes of this act.

"Department" means the Department of Agriculture.

"Fixed assets" means any real property, interests in real property, plant, equipment and any other assets commonly accepted as fixed assets.

"Participating bank" means a State or federally-chartered bank, savings bank or savings and loan association, or a bank organized under the laws of a foreign government, deemed eligible by the authority for participation in the program.

"Program" means the New Jersey Aquaculture Assistance Program established pursuant to section 4 of this act.

"Secretary" means the Secretary of Agriculture.

4. The authority shall, after consultation with the secretary, establish a "New Jersey Aquaculture Assistance Program" to provide financial assistance including, but not limited to, below-market fixed-rate loans and loan guarantees, for the development, expansion and modernization of the aquaculture industry in this State.

5. a. To implement the program, the authority shall establish and

maintain a special revolving fund to be known as the "New Jersey Aquaculture Assistance Fund," which shall be credited with: (1) an amount from the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) which the authority deems is necessary to effectively implement the program in response to requests for assistance from applicants within the limits of funding available from the Economic Recovery Fund; (2) any moneys that shall be received by the authority from the repayment of the moneys in the assistance fund used to provide loans or loan guarantees pursuant to this act and interest earned thereon; (3) appropriations made by the Legislature to effectuate the purposes of this act; and (4) other moneys of the authority, including but not limited to, any moneys available from the business assistance programs administered by the authority which it is authorized to draw upon and determines to deposit therein.

b. The authority shall use moneys in the assistance fund to: (1) provide qualified applicants with below-market fixed-rate loans not to exceed the lesser of $150,000 or 80 percent of the total amount of investment for renovations, construction, or purchase of fixed assets for aquaculture projects; (2) enter into loan guarantee agreements with participating banks and aquaculturists, qualified pursuant to this section, to guarantee up to 90 percent of the loans or lines of credit provided by participating banks, in accordance with section 7 of this act; and (3) defray the administrative expenses of the authority in carrying out the purposes and provisions of this act.

c. The loans authorized by the authority pursuant to this act shall not be provided unless the applicant's investment equals at least 20 percent of the total amount of investment needed for the applicant's aquaculture project.

d. Applicants shall submit applications for loans or loan guarantees from the program in a form and manner determined by the authority. An application shall include, but not be limited to:

(1) a detailed description of the existing or proposed aquaculture project;

(2) an itemization of known and estimated costs;

(3) the total amount of investment required for the aquaculture project;

(4) the funds available to the applicant from sources other than the authority;

(5) the amount of loans or loan guarantees sought from the authority;

(6) evidence of the inability of the applicant to obtain the financing necessary for the project on reasonable terms through normal lending channels;

(7) information relating to the financial status of the applicant, including, if applicable, a current balance sheet; a profit and loss

statement; or credit references; and

(8) any other relevant information that the authority requests.

e. The authority shall establish the qualifications for obtaining a loan or loan guarantee pursuant to this act which shall include, but need not be limited to, requirements that:

(1) an applicant is located in this State;

(2) an applicant is in or seeking to enter into the aquaculture industry; and

(3) the loan or loan guarantee is to be used to start an aquaculture project or to improve the quality, efficiency, and competitiveness of the applicant's existing aquaculture project.

f. No loan or loan guarantee entered into pursuant to this act shall be for a period of more than 20 years. Upon the expiration of the period of all loans entered into with the authority pursuant to this act, all repayments, and interest thereon, and all moneys remaining in the assistance fund shall be credited to and deposited in the "Economic Recovery Fund," established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), for any of the purposes thereof.

g. Moneys in the assistance fund may be invested in such obligations as the authority may approve and, except as otherwise provided in subsection f. of this section, net earnings received from the investment or deposit of moneys in the assistance fund by the authority shall be redeposited in the assistance fund for the purposes of this act.

h. Prior to the receipt of loan funds from the authority under this section, the applicant shall provide evidence of receiving all necessary approvals for projects from the appropriate federal, State, or local agencies.

6. The authority shall establish sufficient reserves and liquid reserves to provide a sufficient and actuarially sound basis for its pledges contained in any loan guarantee agreement entered into pursuant to this act.

7. The authority shall enter into agreements with participating banks and aquaculturists, qualified pursuant to section 5 of this act, to use the moneys from the assistance fund to guarantee direct loans or revolving lines of credit provided by participating banks to finance the costs of eligible aquaculture projects. The agreements shall provide that the direct loans or lines of credit are for financing the costs of aquaculture projects. The agreements shall provide that the direct loans or lines of credit for financing the costs of eligible aquaculture projects shall come from participating banks. The agreements shall also provide for any other terms or conditions which the authority and the participating banks stipulate to as being necessary or desirable to make loans, establish and extend lines of credit, guarantee loans and otherwise effectuate the purposes of the program.

8. Within 18 months following the effective date of this act, the authority shall prepare a report on the status of the program. The report may be issued separately or in combination with other reports required by law and shall include, but need not be limited to, a description of the demand for the program from eligible applicants and participating banks, the efforts made by the authority to promote the program, the total amount of loans and loan guarantees approved pursuant to the program and an assessment of the effectiveness of the program in meeting the goals of this act. The authority shall submit its report to the Governor and the Legislature, including therein any recommendations for legislation to improve the effectiveness of the program.

9. The authority shall adopt, after consultation with the department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purposes of this act. In developing procedures and forms to be used in connection with the application for and approval of loans and loan guarantees pursuant to this act, the authority shall consider, in consultation with the department, the special needs and problems of aquaculturists and the aquaculture industry in this State.

10. This act shall take effect immediately.

STATEMENT

This bill establishes the New Jersey Aquaculture Assistance Program (the program) to provide loans and loan guarantees for persons to develop, expand or modernize the aquaculture industry in this State. The bill requires the New Jersey Economic Development Authority (EDA) to establish and maintain the "New Jersey Aquaculture Assistance Fund" (the assistance fund) as a special revolving fund to be credited with an amount from the Economic Recovery Fund, established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the EDA determines is necessary, in response to demand for assistance from applicants, to effectively implement the program.

The bill authorizes the EDA to credit the assistance fund with other moneys including repayments of moneys used to provide financial assistance for aquaculture projects, moneys from other business assistance programs administered by the EDA and appropriations that may be made by the Legislature to effectuate the purposes of the program.

The bill requires the EDA to use the money in the assistance fund

to provide loans or loan guarantees to qualified applicants provided that the loan does not exceed the smaller of $150,000 or 80 percent of the total amount of investment for an applicant's existing or proposed aquaculture project.

This bill further requires an applicant for a loan from the authority under the program to have invested at least 20 percent of the total investment needed for the project.

The bill also provides that the assistance fund shall be available to provide loan guarantees by the authority in conjunction with participating banks to guarantee up to 90 percent of the loans or lines of credit provided by participating banks.

The bill further requires that within 18 months of the effective date of the act, the authority shall submit a report describing the status of the program and any recommendation to improve the effectiveness of the program.