

[First Reprint]

## **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)**

**Co-Sponsored by:**

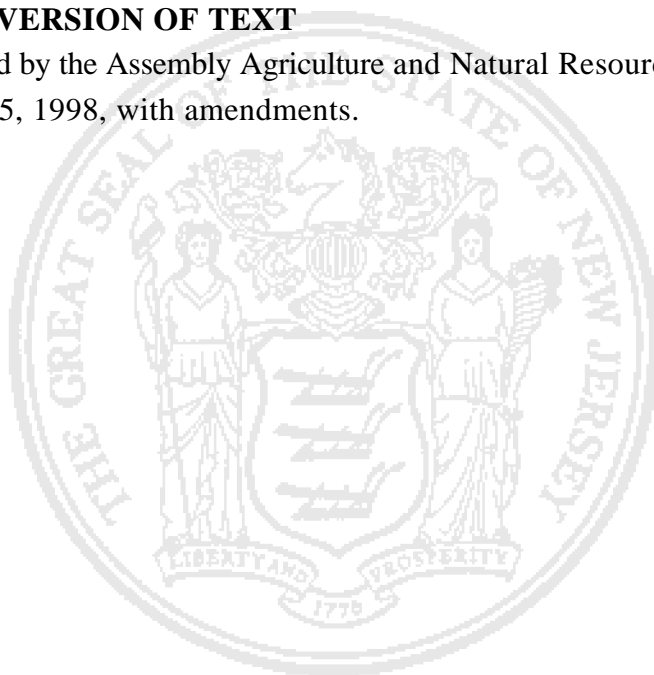
**Assemblyman Holzapfel**

### **SYNOPSIS**

Establishes the New Jersey Aquaculture Assistance Program.

### **CURRENT VERSION OF TEXT**

As reported by the Assembly Agriculture and Natural Resources Committee on October 15, 1998, with amendments.



**(Sponsorship Updated As Of: 1/8/1999)**

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

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. This act shall be known and may be cited as the "New Jersey  
8 Aquaculture Assistance Act."

9  
10 2. The Legislature finds and declares that:

11 a. <sup>1</sup>[This] The<sup>1</sup> State <sup>1</sup>of New Jersey<sup>1</sup> is uniquely situated to  
12 benefit from expanded growth and development of the aquaculture  
13 industry because of the continuing depletion of natural sources of  
14 marine animals and plants and the escalating demand for seafood  
15 products in local, national and international markets;

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

22 c. The Aquaculture Development Task Force has determined that  
23 the lack of an adequate financial assistance program has hindered the  
24 growth and development of commercial aquaculture operations <sup>1</sup>,<sup>1</sup>  
25 which has, in turn, retarded the creation of new jobs and business  
26 opportunities for New Jersey farmers, commercial fishermen and  
27 members of the fish and shellfish processing, marketing and  
28 distribution industries; and

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

35  
36 3. As used in this act:

37 <sup>1</sup>["Act" means the "New Jersey Aquaculture Assistance Act."]<sup>1</sup>

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

41 "Aquaculture" means the propagation, rearing, and subsequent

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AAN committee amendments adopted October 15, 1998.

1 harvesting of aquatic organisms in controlled or selected  
2 environments, and the subsequent processing, packaging and  
3 marketing of such organisms, and shall include, but need not be limited  
4 to, activities to intervene in the rearing process to increase production  
5 such as stocking, feeding, transplanting and providing for protection  
6 from predators.

7 <sup>1</sup>["Aquaculture development plan" means the plan prepared by the  
8 Aquaculture Development Task Force.

9 "Aquaculture development task force" means the task force  
10 established pursuant to Executive Order No. 104 (1993).]<sup>1</sup>

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

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

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

22 <sup>1</sup>["Assistance fund" means the New Jersey Aquaculture Assistance  
23 Fund established pursuant to section 5 of this act.]<sup>1</sup>

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

27 <sup>1</sup>["Cost" means the expenses incurred in connection with an  
28 aquaculture project, which can be reasonably expected to be recovered  
29 through the financing of the operation, and which shall include, but  
30 need not be limited to, the costs of planning, fixed assets, materials,  
31 working capital, floor plan funding, and any other costs determined to  
32 be necessary by the authority to carry out the purposes of this act.]<sup>1</sup>

33 "Department" means the Department of Agriculture.

34 <sup>1</sup>["Fixed assets" means any real property, interests in real property,  
35 plant, equipment and any other assets commonly accepted as fixed  
36 assets.]<sup>1</sup>

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

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

43 <sup>1</sup>["Secretary" means the Secretary of Agriculture.]<sup>1</sup>

1       4. The authority <sup>1</sup>, in consultation with the Secretary of  
2 Agriculture.<sup>1</sup> shall <sup>1</sup>[, after consultation with the secretary,]<sup>1</sup> establish  
3 a "New Jersey Aquaculture Assistance Program" to provide financial  
4 assistance including, but not limited to, below-market fixed-rate loans  
5 and loan guarantees, for the development, expansion and  
6 modernization of the aquaculture industry in <sup>1</sup>[this] the<sup>1</sup> State.

7  
8       <sup>1</sup>[5. a. To implement the program, the authority shall establish and  
9 maintain a special revolving fund to be known as the "New Jersey  
10 Aquaculture Assistance Fund," which shall be credited with: (1) an  
11 amount from the Economic Recovery Fund established pursuant to  
12 section 3 of P.L.1992, c.16 (C.34:1B-7.12) which the authority deems  
13 is necessary to effectively implement the program in response to  
14 requests for assistance from applicants within the limits of funding  
15 available from the Economic Recovery Fund; (2) any moneys that  
16 shall be received by the authority from the repayment of the moneys  
17 in the assistance fund used to provide loans or loan guarantees  
18 pursuant to this act and interest earned thereon; (3) appropriations  
19 made by the Legislature to effectuate the purposes of this act; and (4)  
20 other moneys of the authority, including but not limited to, any  
21 moneys available from the business assistance programs administered  
22 by the authority which it is authorized to draw upon and determines to  
23 deposit therein.

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

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

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

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

43       (2) an itemization of known and estimated costs;

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

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

1 authority;

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

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

7 (7) information relating to the financial status of the applicant,  
8 including, if applicable, a current balance sheet; a profit and loss  
9 statement; or credit references; and

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

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

14 (1) an applicant is located in this State;

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

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

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

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

32 h. Prior to the receipt of loan funds from the authority under this  
33 section, the applicant shall provide evidence of receiving all necessary  
34 approvals for projects from the appropriate federal, State, or local  
35 agencies.]<sup>1</sup>

36

37 <sup>1</sup>[6. The authority shall establish sufficient reserves and liquid  
38 reserves to provide a sufficient and actuarially sound basis for its  
39 pledges contained in any loan guarantee agreement entered into  
40 pursuant to this act.]<sup>1</sup>

41

42 <sup>1</sup>[7. The authority shall enter into agreements with participating  
43 banks and aquaculturists, qualified pursuant to section 5 of this act, to  
44 use the moneys from the assistance fund to guarantee direct loans or  
45 revolving lines of credit provided by participating banks to finance the  
46 costs of eligible aquaculture projects. The agreements shall provide

1 that the direct loans or lines of credit are for financing the costs of  
2 aquaculture projects. The agreements shall provide that the direct  
3 loans or lines of credit for financing the costs of eligible aquaculture  
4 projects shall come from participating banks. The agreements shall  
5 also provide for any other terms or conditions which the authority and  
6 the participating banks stipulate to as being necessary or desirable to  
7 make loans, establish and extend lines of credit, guarantee loans and  
8 otherwise effectuate the purposes of the program.]<sup>1</sup>

9  
10 <sup>1</sup>[8.] 5.<sup>1</sup> Within 18 months following the <sup>1</sup>[effective]<sup>1</sup> date of  
11 <sup>1</sup>enactment of<sup>1</sup> this act, the authority shall prepare a report on the  
12 status of the program. The report may be issued separately or in  
13 combination with other reports required by law and shall include, but  
14 need not be limited to, a description of the demand for the program  
15 from eligible applicants and participating banks, the efforts made by  
16 the authority to promote the program, the total amount of loans and  
17 loan guarantees approved pursuant to the program and an assessment  
18 of the effectiveness of the program in meeting the goals of this act.  
19 The authority shall submit its report to the Governor and the  
20 Legislature, including therein any recommendations for legislation to  
21 improve the effectiveness of the program.

22  
23 <sup>1</sup>[9.] 6.<sup>1</sup> The authority <sup>1</sup>, in consultation with the department,<sup>1</sup>  
24 shall adopt, <sup>1</sup>[after consultation with the department,]<sup>1</sup> pursuant to  
25 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
26 seq.), any rules and regulations necessary to effectuate the purposes  
27 of this act. In developing procedures and forms to be used in  
28 connection with the application for and approval of loans and loan  
29 guarantees pursuant to this act, the authority shall consider, in  
30 consultation with the department, the special needs and problems of  
31 aquaculturists and the aquaculture industry in <sup>1</sup>[this] the<sup>1</sup> State.

32  
33 <sup>1</sup>[10.] 7.<sup>1</sup> This act shall take effect immediately.