

# SENATE, No. 94

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Senators Beach, Madden, Pou, Ruiz, Turner and Stack**

**SYNOPSIS**

Establishes small business loan guarantee program in EDA to support capital purchases and operating expenses and permits certain qualified businesses in regional centers to qualify for certain EDA loans.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT establishing a small business loan guarantee program  
2 within the New Jersey Economic Development Authority,  
3 concerning the financing of loans for certain qualified businesses  
4 in designated "regional centers," supplementing Title 34 of the  
5 Revised Statutes, and amending P.L.1974, c.80.

6

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

9

10 1. (New section) a. The Legislature finds and declares that:

11 (1) The global economic decline caused by the Great Recession,  
12 that began in December 2007 and continues today, placed tight  
13 credit conditions on the availability of loans to small businesses  
14 from private financial institutions, impeding the expansion of small  
15 businesses, and thereby restricting their ability to improve the  
16 State's economy; and

17 (2) While the New Jersey Economic Development Authority  
18 offers loan and loan guarantee programs to assist small businesses,  
19 the strict criteria established for the authority's participation in  
20 guaranteeing loans should be broadened to take into account current  
21 economic and credit conditions. For example, according to the  
22 authority, since the establishment of its Main Street Business  
23 Assistance Program in January 2009 and continuing through  
24 October 2012, the authority guaranteed loans to only 29 small  
25 business projects.

26 b. The Legislature determines that it is in the public interest to  
27 establish a small business loan guarantee program to be  
28 implemented by the authority enabling the State to assist small  
29 businesses in making direct investments in their businesses to  
30 support capital purchases and operating expenses, including, but not  
31 limited to, employee training and salaries for new positions.

32

33 2. (New section) As used in sections 1 through 6 of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill):

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

37 "Eligible small business" means a business entity that, at the  
38 time of application for participation in the small business loan  
39 guarantee program established pursuant to section 3 of  
40 P.L. , c. (C. ) (pending before the Legislature as this bill),  
41 is: a. independently owned and operated; b. organized for profit  
42 with a place of business located in this State; c. operated primarily  
43 within this State; d. employing less than 100 full-time employees; e.  
44 not dominant in its field; f. not raising, or has not raised,  
45 \$10,000,000 or more in total equity financing; and g. not receiving,

**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 or has not received, \$10,000,000 or more in financing from any  
2 source.

3

4 3. (New section) a. The authority shall establish and administer  
5 a small business loan guarantee program for the purpose of  
6 providing loan guarantees to eligible small businesses.

7 b. Loan guarantees of up to 100 percent of the value of the loan  
8 may be made to an eligible small business, provided that the total  
9 amount of all loans guaranteed under the small business loan  
10 guarantee program established pursuant to P.L. , c. (C. )  
11 (pending before the Legislature as this bill) to any such business  
12 shall be greater than \$25,000 but not to exceed \$250,000. The loan  
13 guarantee funds may be applied to any aspect of the eligible small  
14 business that supports the businesses' capital purchases and  
15 operating expenses, including, but not limited to, employee training  
16 and salaries for new positions, as determined by the authority.

17 c. In order to receive a loan guarantee, a small business, at the  
18 time of application, shall provide proof that it is an eligible small  
19 business and shall enter into a loan guarantee agreement with the  
20 authority, which agreement shall provide that, within four calendar  
21 years after the date on which loan guarantee funds are disbursed to  
22 the business, the business, at the time of application, commits to  
23 increasing its full-time employment level by more than 10 percent  
24 or, if the business employs less than 10 employees, then by more  
25 than one full-time employee, whichever is greater.

26 d. The authority shall review and may approve applications for  
27 the small business loan guarantee program.

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

34 f. A loan guarantee agreement entered into pursuant to  
35 subsection c. of this section shall provide that any loan guaranteed  
36 by the authority shall: (1) be for a loan having a current market  
37 interest rate as determined by the authority, if the eligible small  
38 business commits, under a loan guarantee agreement established  
39 pursuant to subsection c. of this section, at the time of application,  
40 to increasing its full-time employment level by more than 10  
41 percent or, if the business employs less than 10 employees, then by  
42 more than one full-time employee, whichever is greater, in a period  
43 of time that is prescribed under subsection c. of this section; and (2)  
44 contain other terms and conditions considered appropriate by the  
45 authority that are consistent with the purposes of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill)  
47 and with rules and regulations promulgated by the authority to

1 implement P.L. , c. (C. ) (pending before the Legislature as  
2 this bill).

3 g. (1) Unless subject to federal law, rule, or regulation, each  
4 eligible business that receives a loan guarantee under  
5 P.L. , c. (C. ) (pending before the Legislature as this bill)  
6 shall undergo an audit, at its own expense, at least once every two  
7 calendar years. The authority shall designate an auditor to conduct  
8 the audit.

9 (2) If an audit is performed under a requirement of federal law,  
10 rule, or regulation, the authority shall waive the audit required in  
11 this subsection with respect to all issues addressed by the federally  
12 required audit report. However, the authority may require an audit  
13 of matters that are not, in the authority's judgment, addressed by the  
14 federally required report including, but not limited to, verification  
15 of compliance with requirements specific to the small business loan  
16 guarantee program, such as job-generation standards.

17 h. A loan guarantee agreement made pursuant to subsection c.  
18 of this section shall provide that any loan guaranteed by the  
19 authority shall be voided if the terms and conditions of the  
20 agreement are violated by the small business party to that loan  
21 guarantee agreement.

22  
23 4. (New section) a. To implement the small business loan  
24 guarantee program established pursuant to P.L. , c. (C. )  
25 (pending before the Legislature as this bill), the authority shall  
26 establish and maintain a special revolving fund to be known as the  
27 "Small Business Loan Guarantee Fund," which may be credited  
28 with:

29 (1) such moneys from the economic growth account of the  
30 "Economic Recovery Fund" established pursuant to section 3 of  
31 P.L.1992, c.16 (C.34:1B-7.12), as the authority determines are  
32 necessary to effectively implement the small business loan  
33 guarantee program based upon the response to the program;

34 (2) any moneys that shall be received by the authority from the  
35 repayment of the moneys in the "Small Business Loan Guarantee  
36 Fund" used to provide small business loan guarantees pursuant to  
37 P.L. , c. (C. ) (pending before the Legislature as this bill)  
38 and interest thereon;

39 (3) any moneys as may be available to the authority from  
40 business assistance programs administered by the authority or by  
41 other State agencies or authorities;

42 (4) appropriations made by the Legislature to effectuate the  
43 purposes of P.L. , c. (C. ) (pending before the Legislature  
44 as this bill);

45 (5) fees collected from applicants pursuant to subsection c. of  
46 this section; and

47 (6) other moneys made available including, but not limited to,  
48 funds provided by agreement with private investors, small business

1 investment corporations, banks, and other lending institutions to  
2 effectuate the purposes of P.L. , c. (C. ) (pending before  
3 the Legislature as this bill).

4 b. Moneys in the "Small Business Loan Guarantee Fund,"  
5 which are determined by the authority not to be needed for current  
6 responsibilities of the "Small Business Loan Guarantee Fund," may  
7 be invested by the authority in any direct obligations as to which the  
8 principal and interest thereof are guaranteed by the United States of  
9 America or any other obligation deemed appropriate by the  
10 authority. Income from the investment of moneys in the "Small  
11 Business Loan Guarantee Fund" shall be credited to the "Small  
12 Business Loan Guarantee Fund."

13 c. The authority may charge fees in connection with  
14 applications for participation in the small business loan guarantee  
15 program as it deems reasonable.

16  
17 5. (New section) The authority may appoint a director to  
18 manage the activities associated with the "Small Business Loan  
19 Guarantee Fund" established pursuant to section 4 of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill).  
21 The director shall receive compensation as determined by the  
22 authority.

23  
24 6. (New section) The authority may adopt rules and  
25 regulations, pursuant to the "Administrative Procedure Act,"  
26 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the  
27 purposes of P.L. , c. (C. ) (pending before the Legislature  
28 as this bill).

29  
30 7. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
31 as follows:

32 5. The authority shall have the following powers:

33 a. To adopt bylaws for the regulation of its affairs and the  
34 conduct of its business;

35 b. To adopt and have a seal and to alter the same at pleasure;

36 c. To sue and be sued;

37 d. To acquire in the name of the authority by purchase or  
38 otherwise, on such terms and conditions and such manner as it may  
39 deem proper, or by the exercise of the power of eminent domain in  
40 the manner provided by the "Eminent Domain Act of 1971,"  
41 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
42 other property which it may determine is reasonably necessary for  
43 any project; provided, however, that the authority in connection  
44 with any project shall not take by exercise of the power of eminent  
45 domain any real property except upon consent thereto given by  
46 resolution of the governing body of the municipality in which such  
47 real property is located; and provided further that the authority shall  
48 be limited in its exercise of the power of eminent domain in

1 connection with any project in qualifying municipalities as defined  
2 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
3 municipalities which had a population, according to the latest  
4 federal decennial census, in excess of 10,000;

5 e. To enter into contracts with a person upon such terms and  
6 conditions as the authority shall determine to be reasonable,  
7 including, but not limited to, reimbursement for the planning,  
8 designing, financing, construction, reconstruction, improvement,  
9 equipping, furnishing, operation, and maintenance of the project  
10 and to pay or compromise any claims arising therefrom;

11 f. To establish and maintain reserve and insurance funds with  
12 respect to the financing of the project or the school facilities project  
13 and any project financed pursuant to the "Municipal Rehabilitation  
14 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
15 al.);

16 g. To sell, convey, or lease to any person all or any portion of a  
17 project for such consideration and upon such terms as the authority  
18 may determine to be reasonable;

19 h. To mortgage, pledge, or assign or otherwise encumber all or  
20 any portion of a project, or revenues, whenever it shall find such  
21 action to be in furtherance of the purposes of this act,  
22 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation  
23 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
24 al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through  
25 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

26 i. To grant options to purchase or renew a lease for any of its  
27 projects on such terms as the authority may determine to be  
28 reasonable;

29 j. To contract for and to accept any gifts or grants or loans of  
30 funds or property or financial or other aid in any form from the  
31 United States of America or any agency or instrumentality thereof,  
32 or from the State or any agency, instrumentality or political  
33 subdivision thereof, or from any other source and to comply,  
34 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
35 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
36 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
37 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
38 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
39 conditions thereof;

40 k. In connection with any action undertaken by the authority in  
41 the performance of its duties and any application for assistance or  
42 commitments therefor and modifications thereof, to require and  
43 collect such fees and charges as the authority shall determine to be  
44 reasonable, including but not limited to fees and charges for the  
45 authority's administrative, organizational, insurance, operating,  
46 legal, and other expenses;

47 l. To adopt, amend and repeal regulations to carry out the  
48 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of

1 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
2 the "Municipal Rehabilitation and Economic Recovery Act,"  
3 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
4 (C.52:18A-235 et al.);

5 m. To acquire, purchase, manage and operate, hold and dispose  
6 of real and personal property or interests therein, take assignments  
7 of rentals and leases and make and enter into all contracts, leases,  
8 agreements, and arrangements necessary or incidental to the  
9 performance of its duties;

10 n. To purchase, acquire, and take assignments of notes,  
11 mortgages, and other forms of security and evidences of  
12 indebtedness;

13 o. To purchase, acquire, attach, seize, accept, or take title to  
14 any project or school facilities project by conveyance or by  
15 foreclosure, and sell, lease, manage, or operate any project or  
16 school facilities project for a use specified in this act, P.L.2000,  
17 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
18 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
19 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
20 P.L.2009, c.90 (C.52:27D-489c et al.);

21 p. To borrow money and to issue bonds of the authority and to  
22 provide for the rights of the holders thereof, as provided in  
23 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
24 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
25 Rehabilitation and Economic Recovery Act," P.L.2002,  
26 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
27 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

28 q. To extend credit or make loans to any person for the  
29 planning, designing, acquiring, constructing, reconstructing,  
30 improving, equipping, and furnishing of a project or school  
31 facilities project, which credits or loans may be secured by loan and  
32 security agreements, mortgages, leases, and any other instruments,  
33 upon such terms and conditions as the authority shall deem  
34 reasonable, including provision for the establishment and  
35 maintenance of reserve and insurance funds, and to require the  
36 inclusion in any mortgage, lease, contract, loan, and security  
37 agreement or other instrument, of such provisions for the  
38 construction, use, operation and maintenance, and financing of a  
39 project or school facilities project as the authority may deem  
40 necessary or desirable;

41 r. To guarantee up to 90% of the amount of a loan to a person,  
42 if the proceeds of the loan are to be applied to the purchase and  
43 installation, in a building devoted to industrial or commercial  
44 purposes, or in an office building, of an energy improvement  
45 system; and to establish and maintain a small business loan  
46 guarantee program and a "Small Business Loan Guarantee Fund," to  
47 guarantee up to 100% of the amount of a loan to an eligible small

- 1 business pursuant to sections 1 through 6 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill);
- 3 s. To employ consulting engineers, architects, attorneys, real  
4 estate counselors, appraisers, and such other consultants and  
5 employees as may be required in the judgment of the redevelopment  
6 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
7 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
8 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
10 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
11 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
12 from funds available to the redevelopment utility therefor, all  
13 without regard to the provisions of Title 11A of the New Jersey  
14 Statutes;
- 15 t. To do and perform any acts and things authorized by  
16 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
17 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
18 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
19 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
20 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
21 under, through or by means of its own officers, agents, and  
22 employees, or by contract with any person;
- 23 u. To procure insurance against any losses in connection with  
24 its property, operations or assets in such amounts and from such  
25 insurers as it deems desirable;
- 26 v. To do any and all things necessary or convenient to carry out  
27 its purposes and exercise the powers given and granted in P.L.1974,  
28 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
29 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
30 Rehabilitation and Economic Recovery Act," P.L.2002,  
31 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
32 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 33 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
34 maintain or repair or provide for the construction, reconstruction,  
35 improvement, alteration, equipping or maintenance or repair of any  
36 development property and lot, award and enter into construction  
37 contracts, purchase orders, and other contracts with respect thereto,  
38 upon such terms and conditions as the authority shall determine to  
39 be reasonable, including, but not limited to, reimbursement for the  
40 planning, designing, financing, construction, reconstruction,  
41 improvement, equipping, furnishing, operation, and maintenance of  
42 any such development property and the settlement of any claims  
43 arising therefrom and the establishment and maintenance of reserve  
44 funds with respect to the financing of such development property;
- 45 x. When authorized by the governing body of a municipality  
46 exercising jurisdiction over an urban growth zone, to construct,  
47 cause to be constructed or to provide financial assistance to projects  
48 in an urban growth zone which shall be exempt from the terms and

- 1 requirements of the land use ordinances and regulations, including,  
2 but not limited to, the master plan and zoning ordinances, of such  
3 municipality;
- 4 y. To enter into business employment incentive agreements as  
5 provided in the "Business Employment Incentive Program Act,"  
6 P.L.1996, c.26 (C.34:1B-124 et al.);
- 7 z. To enter into agreements or contracts, execute instruments,  
8 and do and perform all acts or things necessary, convenient or  
9 desirable for the purposes of the redevelopment utility to carry out  
10 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
11 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
12 c.137 (C.52:18A-235 et al.), including, but not limited to, entering  
13 into contracts with the State Treasurer, the Commissioner of  
14 Education, districts, the New Jersey Schools Development  
15 Authority, and any other entity which may be required in order to  
16 carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.),  
17 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
18 P.L.2009, c.90 (C.52:27D-489c et al.);
- 19 aa. (Deleted by amendment, P.L.2007, c.137);
- 20 bb. To make and contract to make loans to local units to finance  
21 the cost of school facilities projects and to acquire and contract to  
22 acquire bonds, notes, or other obligations issued or to be issued by  
23 local units to evidence the loans, all in accordance with the  
24 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and  
25 P.L.2007, c.137 (C.52:18A-235 et al.);
- 26 cc. Subject to any agreement with holders of its bonds issued to  
27 finance a project or school facilities project, obtain as security or to  
28 provide liquidity for payment of all or any part of the principal of  
29 and interest and premium on the bonds of the authority or for the  
30 purchase upon tender or otherwise of the bonds, lines of credit,  
31 letters of credit, reimbursement agreements, interest rate exchange  
32 agreements, currency exchange agreements, interest rate floors or  
33 caps, options, puts or calls to hedge payment, currency, rate, spread  
34 or similar exposure or similar agreements, float agreements,  
35 forward agreements, insurance contract, surety bond, commitment  
36 to purchase or sell bonds, purchase or sale agreement, or  
37 commitments or other contracts or agreements, and other security  
38 agreements or instruments in any amounts and upon any terms as  
39 the authority may determine and pay any fees and expenses required  
40 in connection therewith;
- 41 dd. To charge to and collect from local units, the State and any  
42 other person, any fees and charges in connection with the  
43 authority's actions undertaken with respect to school facilities  
44 projects, including, but not limited to, fees and charges for the  
45 authority's administrative, organization, insurance, operating and  
46 other expenses incident to the financing of school facilities projects;
- 47 ee. To make loans to refinance solid waste facility bonds  
48 through the issuance of bonds or other obligations and the execution

1 of any agreements with counties or public authorities to effect the  
2 refunding or rescheduling of solid waste facility bonds, or otherwise  
3 provide for the payment of all or a portion of any series of solid  
4 waste facility bonds. Any county or public authority refunding or  
5 rescheduling its solid waste facility bonds pursuant to this  
6 subsection shall provide for the payment of not less than fifty  
7 percent of the aggregate debt service for the refunded or  
8 rescheduled debt of the particular county or public authority for the  
9 duration of the loan; except that, whenever the solid waste facility  
10 bonds to be refinanced were issued by a public authority and the  
11 county solid waste facility was utilized as a regional county solid  
12 waste facility, as designated in the respective adopted district solid  
13 waste management plans of the participating counties as approved  
14 by the department prior to November 10, 1997, and the utilization  
15 of the facility was established pursuant to tonnage obligations set  
16 forth in their respective interdistrict agreements, the public  
17 authority refunding or rescheduling its solid waste facility bonds  
18 pursuant to this subsection shall provide for the payment of a  
19 percentage of the aggregate debt service for the refunded or  
20 rescheduled debt of the public authority not to exceed the  
21 percentage of the specified tonnage obligation of the host county for  
22 the duration of the loan. Whenever the solid waste facility bonds  
23 are the obligation of a public authority, the relevant county shall  
24 execute a deficiency agreement with the authority, which shall  
25 provide that the county pledges to cover any shortfall and to pay  
26 deficiencies in scheduled repayment obligations of the public  
27 authority. All costs associated with the issuance of bonds pursuant  
28 to this subsection may be paid by the authority from the proceeds of  
29 these bonds. Any county or public authority is hereby authorized to  
30 enter into any agreement with the authority necessary, desirable or  
31 convenient to effectuate the provisions of this subsection.

32 The authority shall not issue bonds or other obligations to effect  
33 the refunding or rescheduling of solid waste facility bonds after  
34 December 31, 2002. The authority may refund its own bonds issued  
35 for the purposes herein at any time;

36 ff. To pool loans for any local government units that are  
37 refunding bonds and do and perform any and all acts or things  
38 necessary, convenient or desirable for the purpose of the authority  
39 to achieve more favorable interest rates and terms for those local  
40 governmental units;

41 gg. To finance projects approved by the board, provide staff  
42 support to the board, oversee and monitor progress on the part of  
43 the board in carrying out the revitalization, economic development  
44 and restoration projects authorized pursuant to the "Municipal  
45 Rehabilitation and Economic Recovery Act,"  
46 P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its  
47 responsibilities pursuant thereto;

1       hh. To offer financial assistance to qualified film production  
2 companies as provided in the "New Jersey Film Production  
3 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); and

4       ii. To finance or develop private or public parking facilities or  
5 structures, which may include the use of solar photovoltaic  
6 equipment, in municipalities qualified to receive State aid pursuant  
7 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
8 municipalities that contain areas designated pursuant to  
9 P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1  
10 (Metropolitan), Planning Area 2 (Suburban), or a town center, and  
11 to provide appropriate assistance, including but not limited to,  
12 extensions of credit, loans, and guarantees, to municipalities  
13 qualified to receive State aid pursuant to the provisions of  
14 P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that  
15 contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-  
16 196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2  
17 (Suburban), or a town center, and their agencies and  
18 instrumentalities or to private entities whose projects are located in  
19 those municipalities, in order to facilitate the financing and  
20 development of parking facilities or structures in such  
21 municipalities. The authority may serve as the issuing agent of  
22 bonds to finance the undertaking of a project for the purposes of  
23 this subsection.

24 (cf: P.L.2010, c.28, s.3)

25  
26       8. (New section) a. In the case of any undertaking by which the  
27 authority makes direct loans to qualified businesses located in an  
28 urban center that are unable to obtain funding from conventional  
29 sources, notwithstanding the assistance of an authority guarantee,  
30 the authority shall include within such an undertaking qualified  
31 businesses located in a regional center.

32       b. As used in this section:

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

35       "Qualified business" means a business that qualifies, under  
36 criteria established by the authority, as a small, women owned or  
37 minority owned New Jersey based business, manufacturer,  
38 redeveloper or non-profit organization.

39       "Regional center" means an area designated as a "regional  
40 center" in the State Development and Redevelopment Plan adopted  
41 under the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et  
42 al.).

43       "Urban center" means an area designated as an "urban center" in  
44 the State Development and Redevelopment Plan adopted under the  
45 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

46  
47       9. This act shall take effect on the 60th day after the date of  
48 enactment, but the New Jersey Economic Development Authority

1 may take such anticipatory administrative action in advance thereof  
2 as shall be necessary for the implementation of this act.

3  
4  
5 STATEMENT

6  
7 This bill (1) directs the New Jersey Economic Development  
8 Authority (EDA) to establish a small business loan guarantee  
9 program and (2) permits certain qualified businesses in regional  
10 centers to qualify for EDA loans.

11 The small business loan guarantee program will provide loan  
12 guarantees of up to 100 percent of the value of the loan in amounts  
13 not less than \$25,000 but not to exceed \$250,000 to eligible small  
14 businesses, which may use the loan guarantee funds to support the  
15 businesses' capital purchases and operating expenses, including, but  
16 not limited to, employee training and salaries for new positions, as  
17 determined by the EDA.

18 The bill, under a second program, also requires that in the case of  
19 any undertaking by which the EDA makes direct loans to "qualified  
20 businesses" located in an area designated in the State Development  
21 and Redevelopment Plan as being an "urban center," the EDA is to  
22 include within such an undertaking "qualified businesses" located in  
23 an area designated in the Plan as being a "regional center."  
24 Accordingly, "qualified businesses" located in regional centers will  
25 be permitted to receive direct loans under a program established by  
26 the authority in N.J.A.C.19:31-3.1, entitled the "Urban Plus  
27 Program." Under the bill, "qualified business" means a business  
28 that is established by the authority as a small, women, or minority  
29 owned New Jersey based business, manufacturer, redeveloper, or  
30 non-profit organization that is unable to obtain funding from  
31 conventional sources, notwithstanding the assistance of an EDA  
32 guarantee.

33 Under the first program, the small business loan guarantee  
34 program, an "eligible small business" is defined to mean a business  
35 entity that, at the time of application for participation in the  
36 program is: (1) independently owned and operated; (2) organized  
37 for profit with a place of business located in this State; (3) operated  
38 primarily within this State; (4) employing less than 100 full-time  
39 employees; (5) not dominant in its field; (6) not raising, or has not  
40 raised, \$10,000,000 or more in total equity financing; and (7) not  
41 receiving, or has not received, \$10,000,000 or more in financing  
42 from any source.

43 An eligible small business would enter into a small business loan  
44 guarantee agreement with the EDA. Loan guarantees would be  
45 provided for loans having a current market interest rate as  
46 determined by the EDA if the eligible small business commits to  
47 increasing its full-time employment level by more than 10 percent,  
48 or by one full-time employee for businesses employing less than 10

1 full-time employees at the time of application, whichever is greater,  
2 within four calendar years after the date on which the loan  
3 guarantee funds are disbursed to the business. Unless subject to  
4 federal law, rule, or regulation, each eligible small business that  
5 receives a loan guarantee under the bill shall undergo an audit, at its  
6 own expense, at least once every two calendar years. The EDA  
7 shall designate an auditor to conduct the audit. Every loan  
8 guarantee agreement shall provide that any loan guaranteed by the  
9 EDA shall be voided if the terms and conditions of the agreement  
10 are violated by the eligible small business party to that agreement.

11 To implement the small business loan guarantee program, the  
12 EDA is directed to establish and maintain a special revolving fund  
13 to be known as the "Small Business Loan Guarantee Fund," which  
14 may be credited with: (1) such moneys from the economic growth  
15 account of the "Economic Recovery Fund" established pursuant to  
16 section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the EDA  
17 determines are necessary to effectively implement the program,  
18 within the limits of funding available from the Economic Recovery  
19 Fund, based upon the response to the program; (2) any moneys that  
20 shall be received by the EDA from the repayment of the moneys in  
21 the "Small Business Loan Guarantee Fund" used to provide small  
22 business loan guarantees and interest thereon; (3) any moneys as  
23 may be available to the EDA from business assistance programs  
24 administered by the EDA or by other State agencies or authorities;  
25 (4) appropriations made by the Legislature; (5) fees collected from  
26 applicants and (6) other moneys made available including, but not  
27 limited to, funds provided by agreement with private investors,  
28 small business investment corporations, banks, and other lending  
29 institutions.

30 Finally, the bill under a third program permits certain qualified  
31 businesses in regional centers to qualify for EDA direct loans as if  
32 located in a designated urban center. Accordingly, "qualified  
33 businesses" located in regional centers will be permitted to receive  
34 direct loans under a program established by the authority in  
35 N.J.A.C.19:31-3.1, entitled the "Urban Plus Program." Under the  
36 bill, a "qualified business" means a business that is established by  
37 the authority as a small, women, or minority owned New Jersey  
38 based business, manufacturer, redeveloper, or non-profit  
39 organization that is unable to obtain funding from conventional  
40 sources, notwithstanding the assistance of an EDA guarantee.