

ASSEMBLY, No. 544

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

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District 20 (Union)

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District 12 (Burlington, Middlesex, Monmouth and Ocean)

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Assemblyman Rooney

SYNOPSIS

Establishes loan program and provides corporation business tax and gross income tax credits for establishment of new vineyards and wineries.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/7/2020)

1 AN ACT concerning vineyards and wineries and supplementing
2 P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.1945, c.162 (C.54:10A-1
3 et seq.), and Title 54A of the New Jersey Statutes.

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

7
8 1. a. The New Jersey Economic Development Authority, in
9 consultation with the Department of Agriculture, shall develop a
10 10-year pilot program to provide low interest loans to farmers for
11 qualified costs associated with the installation of new vineyards in
12 eligible counties. The purpose of the pilot program shall be to
13 increase the acreage of commercial vineyards in those counties.

14 b. A person seeking to obtain a loan pursuant to this section
15 shall apply to the authority, in a form and manner as determined by
16 the authority, and shall include such information as the authority
17 deems relevant. The authority shall review a completed application
18 and approve the application within 30 days if it meets the
19 requirements established by the authority pursuant to subsection f.
20 of this section.

21 c. A loan made pursuant to this section may include up to 100
22 percent of an applicant's qualified costs, shall bear interest of not
23 more than five percent per year, and shall be for a term of not more
24 than 10 years. The loan shall be made pursuant to a loan agreement
25 with the authority, which shall contain terms and conditions deemed
26 appropriate by the authority. No loan shall be made after expiration
27 of the pilot program.

28 d. The authority may, in its discretion, require a person that
29 receives a loan pursuant to this section to submit an audited
30 financial statement to the authority in order to ensure the continued
31 viability of the person's farming operation.

32 e. The authority may, either through the adoption of rules and
33 regulations, or through the terms and conditions of the loan
34 agreement made pursuant to subsection c. of this section, establish
35 terms and conditions governing the incidence of default by a person
36 that receives a loan under the pilot program.

37 f. The authority, in cooperation with the department, shall
38 submit to the Governor and, pursuant to section 2 of P.L.1991,
39 c.164 (C.52:14-19.1), the Legislature, annually until expiration of
40 the pilot program, a report summarizing each loan made pursuant to
41 this section, and detailing the effectiveness of the pilot program in
42 increasing the acreage of commercial vineyards in eligible counties.

43 g. The authority, in consultation with the department, shall
44 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
45 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to
46 effectuate the purposes of this section, including, but not limited to,
47 criteria and procedures for the awarding of loans pursuant to this
48 section and a list of qualified costs.

1 h. As used in this section:

2 “Authority” means the New Jersey Economic Development
3 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

4 “Department” means the Department of Agriculture.

5 “Eligible county” means a county classified as a county of the
6 fifth class pursuant to section N.J.S.40A:6-1, and that contains at
7 least three wineries.

8 “Qualified cost” means the cost of preparing land for plant
9 installation, purchasing vines and trees, and purchasing equipment
10 and supplies for those purposes, as determined by the authority
11 pursuant to subsection g. of this section. “Qualified cost” shall not
12 include the cost of tractors, pick-up trucks, or wine-making
13 equipment.

14 “Vineyard” means agricultural lands consisting of at least one
15 contiguous acre dedicated to the growing of grapes that are used or
16 are intended to be used in the production of wine by a winery in the
17 State, as well as any plants or other improvements located thereon.

18 “Winery” means a commercial farm where the owner or operator
19 of the commercial farm has been issued and is operating in
20 compliance with a plenary winery license or farm winery license
21 pursuant to R.S.33:1-10.

22

23 2. a. For privilege periods beginning on or after January 1,
24 2017, but before January 1, 2027, a taxpayer shall be allowed a
25 credit against the tax imposed pursuant to section 5 of P.L.1945,
26 c.162 (C.54:10A-5), in an amount equal to 25 percent of the
27 qualified capital expenses, as certified by the Department of
28 Agriculture pursuant to subsection b. of this section, incurred by the
29 taxpayer in connection with:

30 (1) the establishment of a new vineyard or winery in an eligible
31 county; or

32 (2) capital improvements made to an existing vineyard or winery
33 in an eligible county.

34 b. To obtain a tax credit pursuant to this section, a taxpayer
35 shall apply for a certification from the department that certifies: (1)
36 that the taxpayer’s expenses are qualified capital expenses pursuant
37 to this section; and (2) the amount of the tax credit. The application
38 shall be made in a form and manner as determined by the
39 department, and include such information as the department deems
40 relevant. Upon certification, the Secretary of Agriculture shall
41 submit a copy thereof to the taxpayer and the director. When filing
42 a tax return that includes a claim for a credit pursuant to this
43 section, the taxpayer shall include a copy of the certification issued
44 by the secretary.

45 c. The order of priority of the application of the credit allowed
46 pursuant to this section and any other credits allowed against the tax
47 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
48 a privilege period shall be as prescribed by the director. The

1 amount of the credit applied pursuant to this section against the tax
2 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
3 shall not reduce a taxpayer's tax liability for a privilege period to an
4 amount less than the statutory minimum provided in subsection (e)
5 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
6 valid in the privilege period in which the certification is approved
7 and any unused portion thereof may be carried forward into the next
8 15 privilege periods or until depleted, whichever is earlier.

9 d. The secretary, in consultation with the director, shall adopt,
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.), rules and regulations necessary to carry out
12 the provisions of this section, including, but not limited to, criteria
13 and procedures for the certifications and issuance of tax credits
14 pursuant to this section and a list of qualified capital expenses.

15 e. The secretary shall submit a report to the Governor, the State
16 Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
17 19.1), the Legislature, annually until expiration of the tax credit, on
18 the effectiveness of the tax credit in increasing the acreage of
19 commercial vineyards and the number of wineries in eligible
20 counties.

21 f. As used in this section:

22 "Department" means the Department of Agriculture.

23 "Eligible county" means a county classified as a county of the
24 fifth class pursuant to N.J.S.40A:6-1, and that contains at least three
25 wineries.

26 "Qualified capital expense" means any expenditure made by the
27 taxpayer for the purchase and installation of equipment or
28 agricultural materials for use in the production of agricultural
29 products at a vineyard, or in a winery, as designated by the
30 secretary pursuant to subsection d. of this section.

31 "Secretary" means the Secretary of Agriculture.

32 "Vineyard" means agricultural lands consisting of at least one
33 contiguous acre dedicated to the growing of grapes that are used or
34 are intended to be used in the production of wine by a winery in the
35 State, as well as any plants or other improvements located thereon.

36 "Winery" means a commercial farm where the owner or operator
37 of the commercial farm has been issued and is operating in
38 compliance with a plenary winery license or farm winery license
39 pursuant to R.S.33:1-10.

40
41 3. a. For taxable years beginning on or after January 1, 2017,
42 but before January 1, 2027, a taxpayer shall be allowed a credit
43 against the New Jersey gross income tax due pursuant to
44 N.J.S.54A:1-1 et seq., in an amount equal to 25 percent of the
45 qualified capital expenses, as certified by the Department of
46 Agriculture pursuant to subsection b. of this section, incurred by the
47 taxpayer in connection with:

1 (1) the establishment of a new vineyard or winery in an eligible
2 county; or

3 (2) capital improvements made to an existing vineyard or winery
4 in an eligible county.

5 b. To obtain a tax credit pursuant to this section, a taxpayer
6 shall apply for a certification from the department that certifies: (1)
7 that the taxpayer's expenses are qualified capital expenses pursuant
8 to this section; and (2) the amount of the tax credit. The application
9 shall be made in a form and manner as determined by the
10 department, and include such information as the department deems
11 relevant. Upon certification, the Secretary of Agriculture shall
12 submit a copy thereof to the taxpayer and the director. When filing
13 a tax return that includes a claim for a credit pursuant to this
14 section, the taxpayer shall include a copy of the certification issued
15 by the secretary.

16 c. The order of priority of the application of the credit allowed
17 pursuant to this section and any other credits allowed against the tax
18 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
19 be as prescribed by the director. The amount of the credit applied
20 pursuant to this section against the tax imposed pursuant to
21 N.J.S.54A:1-1 et seq., shall not reduce a taxpayer's tax liability for
22 a taxable year to an amount less than zero. Any credit shall be valid
23 in the taxable year in which the certification is approved and any
24 unused portion thereof may be carried forward into the next 15
25 taxable years or until depleted, whichever is earlier.

26 d. A business entity that is classified as a partnership for
27 federal income tax purposes shall not be allowed the credit directly
28 under N.J.S.54A:1-1 et seq., but the amount of credit of the
29 taxpayer in respect of a distributive share of partnership income
30 shall be determined by allocating to the taxpayer that proportion of
31 the credit acquired by the partnership that is equal to the taxpayer's
32 share, whether or not distributed, of the total distributive income or
33 gain of the partnership for its taxable year ending within or with the
34 taxpayer's taxable year.

35 A taxpayer that is a New Jersey S corporation shall not be
36 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
37 amount of credit of a taxpayer in respect of a pro rata share of S
38 corporation income shall be determined by allocating to the
39 taxpayer that proportion of the credit acquired by the New Jersey S
40 corporation that is equal to the taxpayer's share, whether or not
41 distributed, of the total pro rata share of S corporation income of the
42 New Jersey S corporation for its taxable year ending within or with
43 the taxpayer's taxable year.

44 e. The secretary, in consultation with the director, shall adopt,
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.), rules and regulations necessary to carry out
47 the provisions of this section, including, but not limited to, criteria

1 and procedures for the certifications and issuance of tax credits
2 pursuant to this section and a list of qualified capital expenses.

3 f. The secretary shall submit a report to the Governor, the State
4 Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
5 19.1), the Legislature, annually until expiration of the tax credit, on
6 the effectiveness of the tax credit in increasing the acreage of
7 commercial vineyards and the number of wineries in eligible
8 counties.

9 g. As used in this section:

10 “Department” means the Department of Agriculture.

11 “Eligible county” means a county classified as a county of the
12 fifth class pursuant to N.J.S.40A:6-1, and that contains at least three
13 wineries.

14 “Qualified capital expense” means any expenditure made by the
15 taxpayer for the purchase and installation of equipment or
16 agricultural materials for use in the production of agricultural
17 products at a vineyard, or in a winery, as designated by the
18 secretary pursuant to subsection e. of this section.

19 “Secretary” means the Secretary of Agriculture.

20 “Vineyard” means agricultural lands consisting of at least one
21 contiguous acre dedicated to the growing of grapes that are used or
22 are intended to be used in the production of wine by a winery in the
23 State, as well as any plants or other improvements located thereon.

24 “Winery” means a commercial farm where the owner or operator
25 of the commercial farm has been issued and is operating in
26 compliance with a plenary winery license or farm winery license
27 pursuant to R.S.33:1-10.

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29 4. This act shall take effect immediately.

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STATEMENT

33

34 This bill would establish a loan program and provide tax credits
35 to persons for the establishment of new vineyards and wineries.

36 Specifically, under the bill, the New Jersey Economic
37 Development Authority (authority), in consultation with the
38 Department of Agriculture, would develop a 10-year pilot program
39 to provide low interest loans to farmers for qualified costs
40 associated with the installation of new vineyards in eligible
41 counties. Qualified costs include the cost of preparing land for
42 plant installation, purchasing vines or trees, and purchasing
43 equipment and supplies for those purposes. It would not include the
44 cost of tractors, pick-up-trucks, or wine-making equipment. An
45 eligible county is a county of the fifth class that contains at least
46 three wineries. Currently, Atlantic County, Monmouth County, and
47 Ocean County are fifth class counties.

1 A loan made under the bill would include up to 100 percent of
2 the applicant's qualified costs, would bear interest of not more than
3 five percent per year, and would be for a term of not more than 10
4 years. The loan would be made pursuant to a loan agreement with
5 the authority, which would contain terms and conditions deemed
6 appropriate by the authority. The authority could require a person
7 that receives a loan to submit an audited financial statement to the
8 authority in order to ensure the continued viability of the person's
9 farming operation, and may, either by regulation or through the
10 terms and conditions of the loan agreement, establish terms and
11 conditions governing the incidence of default by a person that
12 receives a loan.

13 The authority would be required to submit a report, annually, to
14 the Governor and the Legislature summarizing each loan made
15 pursuant to the bill, and detailing the effectiveness of the pilot
16 program in increasing the acreage of commercial vineyards in
17 eligible counties.

18 In addition, for privilege periods and taxable years beginning on
19 or after January 1, 2017, but before January 1, 2027, a taxpayer
20 would be allowed a tax credit against either the corporation
21 business tax or the gross income tax in an amount equal to 25
22 percent of the qualified capital expenses incurred by the taxpayer in
23 connection with: (1) the establishment of a new vineyard or winery
24 in an eligible county; or (2) capital improvements made to an
25 existing vineyard or winery in an eligible county. A qualified
26 capital expense is any expenditure made by the taxpayer for the
27 purchase and installation of equipment or agricultural materials for
28 use in the production of agricultural products at a vineyard or in a
29 winery, as specified in regulations.

30 To obtain a tax credit under the bill, a taxpayer would be
31 required to apply for a certification from the Department of
32 Agriculture that certifies: (1) that the taxpayer's expenses are
33 qualified capital expenses; and (2) the amount of the tax credit.
34 Upon certification, the Secretary of Agriculture (secretary) would
35 submit a copy of the application to the taxpayer and the Director of
36 the Division of Taxation. When filing a tax return that includes a
37 claim for a credit under the bill, a taxpayer would include a copy of
38 the certification issued by the secretary. Credits would be valid in
39 the privilege period or taxable year in which the certification is
40 approved, and any unused portions could be carried forward into the
41 next 15 privilege periods or taxable years.

42 The secretary would be required to issue a report to the
43 Governor, State Treasurer, and the Legislature, annually, on the
44 effectiveness of the tax credit in increasing the acreage of
45 commercial vineyards and the number of wineries in eligible
46 counties.