

# SENATE, No. 998

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

**Sponsored by:**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**

### **SYNOPSIS**

Requires EDA to establish program offering low-interest loan to certain financial institutions and personal data businesses to protect business's information technology system from customer personal information disclosure.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain business loans and amending and  
2 supplementing P.L.1974, c.80.

3

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

6

7 1. (New section) As used in sections 1 and 2 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill):

9 “Authority” shall have the same meaning as provided in section  
10 3 of P.L.1974, c.80 (C.34:1B-3).

11 “Eligible business” means a New Jersey-based business that is a  
12 State chartered bank, savings bank, savings and loan association,  
13 credit union, or a business that provides, as the main function of the  
14 business, the protection of personal information of its customers, as  
15 determined by the authority.

16 “Information technology” means software publishing,  
17 telecommunications, data processing, hosting and related services,  
18 custom computer programming services, computer system design,  
19 computer facilities management services, other computer related  
20 services, and computer training.

21 “Low-interest loan” means a loan for a term not exceeding ten  
22 years at a rate of interest not exceeding more than three percent or  
23 one-half of the prime interest rate as reported in a financial  
24 newspaper published and circulating in New York City.

25 "Personal information" shall have the same meaning as provided  
26 in section 10 of P.L.2005, c.226 (C.56:8-161).

27

28 2. (New section) In consultation with the Department of  
29 Banking and Insurance, the New Jersey Economic Development  
30 Authority shall establish and administer a program where the  
31 authority shall offer a low-interest loan or loan guarantee to an  
32 eligible business for 100 percent of any unreimbursed costs to the  
33 eligible business for the purchase and installation of information  
34 technology equipment and computer software used for the purpose  
35 of protecting against unauthorized access to the eligible business’s  
36 customers’ personal information.

37

38 3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
39 as follows:

40 5. The authority shall have the following powers:

- 41 a. To adopt bylaws for the regulation of its affairs and the  
42 conduct of its business;  
43 b. To adopt and have a seal and to alter the same at pleasure;  
44 c. To sue and be sued;

**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 d. To acquire in the name of the authority by purchase or  
2 otherwise, on **[such]** terms and conditions and **[such]** manner as  
3 **[it]** the authority may deem proper, or by the exercise of the power  
4 of eminent domain in the manner provided by the "Eminent Domain  
5 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or  
6 interests therein or other property which **[it]** the authority may  
7 determine is reasonably necessary for any project; provided,  
8 however, that the authority, in connection with any project, shall  
9 not take by exercise of the power of eminent domain any real  
10 property except upon consent thereto given by resolution of the  
11 governing body of the municipality in which **[such]** the real  
12 property is located; and provided further that the authority shall be  
13 limited in its exercise of the power of eminent domain in connection  
14 with any project in qualifying municipalities, as defined under the  
15 provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
16 municipalities which had a population, according to the latest  
17 federal decennial census, in excess of 10,000;

18 e. To enter into contracts with a person upon **[such]** terms and  
19 conditions as the authority shall determine to be reasonable,  
20 including, but not limited to, reimbursement for the planning,  
21 designing, financing, construction, reconstruction, improvement,  
22 equipping, furnishing, operation, and maintenance of the project  
23 and to pay or compromise any claims arising therefrom;

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

29 g. To sell, convey, or lease to any person all or any portion of a  
30 project for **[such]** consideration and upon **[such]** terms as the  
31 authority may determine to be reasonable;

32 h. To mortgage, pledge, or assign or otherwise encumber all or  
33 any portion of a project, or revenues, whenever **[it]** the authority  
34 shall find **[such]** that action to be in furtherance of the purposes of  
35 **[this act]** P.L.1974, c.80 (C.34:1B-1 et seq.), 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.), P.L.2007,  
38 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
39 c.90 (C.52:27D-489c et al.);

40 i. To grant options to purchase or renew a lease for any of  
41 **[its]** the authority's projects on such terms as the authority may  
42 determine to be reasonable;

43 j. To contract for and to accept any gifts or grants or loans of  
44 funds or property or financial or other aid in any form from the  
45 United States of America or any agency or instrumentality thereof,  
46 or from the State or any agency, instrumentality, or political  
47 subdivision thereof, or from any other source and to comply,

1 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
2 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
3 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
4 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
5 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
6 conditions thereof;

7 k. In connection with any action undertaken by the authority in  
8 the performance of its duties and any application for assistance or  
9 commitments therefor and modifications thereof, to require and  
10 collect **[such]** fees and charges as the authority shall determine to  
11 be reasonable, including, but not limited to, fees and charges for the  
12 authority's administrative, organizational, insurance, operating,  
13 legal, and other expenses;

14 l. To adopt, amend, and repeal regulations to carry out the  
15 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
16 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
17 the "Municipal Rehabilitation and Economic Recovery Act,"  
18 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
19 (C.52:18A-235 et al.);

20 m. To acquire, purchase, manage and operate, hold, and dispose  
21 of real and personal property or interests therein, take assignments  
22 of rentals and leases, and make and enter into all contracts, leases,  
23 agreements, and arrangements necessary or incidental to the  
24 performance of **[its]** the authority's duties;

25 n. To purchase, acquire, and take assignments of notes,  
26 mortgages, and other forms of security and evidences of  
27 indebtedness;

28 o. To purchase, acquire, attach, seize, accept, or take title to  
29 any project or school facilities project by conveyance or by  
30 foreclosure, and sell, lease, manage, or operate any project or  
31 school facilities project for a use specified in **[this act]** P.L.1974,  
32 c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), the  
33 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
34 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
35 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

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

43 q. To extend credit or make loans to any person for the  
44 planning, designing, acquiring, constructing, reconstructing,  
45 improving, equipping, and furnishing of a project or school  
46 facilities project, which credits or loans may be secured by loan and  
47 security agreements, mortgages, leases, and any other instruments,  
48 upon **[such]** terms and conditions as the authority shall deem

1 reasonable, including provision for the establishment and  
2 maintenance of reserve and insurance funds, and to require the  
3 inclusion in any mortgage, lease, contract, loan and security  
4 agreement, or other instrument, of **[such]** provisions for the  
5 construction, use, operation and maintenance, and financing of a  
6 project or school facilities project as the authority may deem  
7 necessary or desirable;

8 r. To guarantee up to **[90%]** 90 percent of the amount of a  
9 loan to a person, if the proceeds of the loan are to be applied to the  
10 purchase and installation, in a building devoted to industrial or  
11 commercial purposes, or in an office building, of an energy  
12 improvement system;

13 s. To employ consulting engineers, architects, attorneys, real  
14 estate counselors, appraisers, and **[such]** other consultants and  
15 employees as may be required in the judgment of the redevelopment  
16 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
17 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
18 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
19 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
20 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
21 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
22 from funds available to the redevelopment utility therefor, all  
23 without regard to the provisions of Title 11A of the New Jersey  
24 Statutes;

25 t. To do and perform any acts and things authorized by  
26 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
27 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
29 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
30 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
31 under, through, or by means of its own officers, agents, and  
32 employees, or by contract with any person;

33 u. To procure insurance against any losses in connection with  
34 **[its]** authority property, operations, or assets in **[such]** amounts  
35 and from **[such]** insurers as **[it]** the authority deems desirable;

36 v. To do any and all things necessary or convenient to carry out  
37 **[its]** the authority's purposes and exercise the powers given and  
38 granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
39 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
40 the "Municipal Rehabilitation and Economic Recovery Act,"  
41 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
42 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
43 489c et al.);

44 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
45 maintain or repair, or provide for the construction, reconstruction,  
46 improvement, alteration, equipping or maintenance, or repair of any  
47 development property and lot, award and enter into construction

1 contracts, purchase orders, and other contracts with respect thereto,  
2 upon **【such】** terms and conditions as the authority shall determine  
3 to be reasonable, including, but not limited to, reimbursement for  
4 the planning, designing, financing, construction, reconstruction,  
5 improvement, equipping, furnishing, operation, and maintenance of  
6 **【any such】** the development property and the settlement of any  
7 claims arising therefrom, and the establishment and maintenance of  
8 reserve funds with respect to the financing of **【such】** the  
9 development property;

10 x. When authorized by the governing body of a municipality  
11 exercising jurisdiction over an urban growth zone, to construct,  
12 cause to be constructed, or to provide financial assistance to  
13 projects in an urban growth zone which shall be exempt from the  
14 terms and requirements of the land use ordinances and regulations,  
15 including, but not limited to, the master plan and zoning ordinances,  
16 of **【such】** the municipality;

17 y. To enter into business employment incentive agreements as  
18 provided in the "Business Employment Incentive Program Act,"  
19 P.L.1996, c.26 (C.34:1B-124 et al.);

20 z. To enter into agreements or contracts, execute instruments,  
21 and do and perform all acts or things necessary, convenient, or  
22 desirable for the purposes of the redevelopment utility to carry out  
23 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
24 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
25 (C.52:18A-235 et al.), including, but not limited to, entering into  
26 contracts with the State Treasurer, the Commissioner of Education,  
27 districts, the New Jersey Schools Development Authority, and any  
28 other entity which may be required in order to carry out the  
29 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
30 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
31 (C.52:27D-489c et al.);

32 aa. (Deleted by amendment, P.L.2007, c.137);

33 bb. To make and contract to make loans to local units to finance  
34 the cost of school facilities projects and to acquire and contract to  
35 acquire bonds, notes, or other obligations issued or to be issued by  
36 local units to evidence the loans, all in accordance with the  
37 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
38 c.137 (C.52:18A-235 et al.);

39 cc. Subject to any agreement with holders of **【its】** authority  
40 bonds issued to finance a project or school facilities project, to  
41 obtain as security, or to provide liquidity for payment of all or any  
42 part of the principal of and interest and premium on the bonds of  
43 the authority or for the purchase upon tender or otherwise of the  
44 bonds, lines of credit, letters of credit, reimbursement agreements,  
45 interest rate exchange agreements, currency exchange agreements,  
46 interest rate floors or caps, options, puts, or calls to hedge payment,  
47 currency, rate, spread, or similar exposure or similar agreements,

1 float agreements, forward agreements, insurance contract, surety  
2 bond, commitment to purchase or sell bonds, purchase<sub>2</sub> or sale  
3 agreement, or commitments or other contracts or agreements, and  
4 other security agreements or instruments in any amounts and upon  
5 any terms as the authority may determine and pay any fees and  
6 expenses required in connection therewith;

7 dd. To charge to and collect from local units, the State<sub>2</sub> and any  
8 other person, any fees and charges in connection with the  
9 authority's actions undertaken with respect to school facilities  
10 projects, including, but not limited to, fees and charges for the  
11 authority's administrative, organization, insurance, operating<sub>2</sub> and  
12 other expenses incident to the financing of school facilities projects;

13 ee. To make loans to refinance solid waste facility bonds  
14 through the issuance of bonds or other obligations and the execution  
15 of any agreements with counties or public authorities to effect the  
16 refunding or rescheduling of solid waste facility bonds, or otherwise  
17 provide for the payment of all or a portion of any series of solid  
18 waste facility bonds. Any county or public authority refunding or  
19 rescheduling its solid waste facility bonds pursuant to this  
20 subsection shall provide for the payment of not less than **[fifty]** 50  
21 percent of the aggregate debt service for the refunded or  
22 rescheduled debt of the particular county or public authority for the  
23 duration of the loan; except that, whenever the solid waste facility  
24 bonds to be refinanced were issued by a public authority and the  
25 county solid waste facility was utilized as a regional county solid  
26 waste facility, as designated in the respective adopted district solid  
27 waste management plans of the participating counties as approved  
28 by the department prior to November 10, 1997, and the utilization  
29 of the facility was established pursuant to tonnage obligations set  
30 forth in their respective interdistrict agreements, the public  
31 authority refunding or rescheduling its solid waste facility bonds<sub>2</sub>  
32 pursuant to this subsection<sub>2</sub> shall provide for the payment of a  
33 percentage of the aggregate debt service for the refunded or  
34 rescheduled debt of the public authority not to exceed the  
35 percentage of the specified tonnage obligation of the host county for  
36 the duration of the loan. Whenever the solid waste facility bonds  
37 are the obligation of a public authority, the relevant county shall  
38 execute a deficiency agreement with the authority, which shall  
39 provide that the county pledges to cover any shortfall and to pay  
40 deficiencies in scheduled repayment obligations of the public  
41 authority. All costs associated with the issuance of bonds pursuant  
42 to this subsection may be paid by the authority from the proceeds of  
43 these bonds. Any county or public authority is hereby authorized to  
44 enter into any agreement with the authority necessary, desirable<sub>2</sub> or  
45 convenient to effectuate the provisions of this subsection.

46 The authority shall not issue bonds or other obligations to effect  
47 the refunding or rescheduling of solid waste facility bonds after

1 December 31, 2002. The authority may refund its own bonds issued  
2 for the purposes herein at any time;

3 ff. To pool loans for any local government units that are  
4 refunding bonds and do and perform any and all acts or things  
5 necessary, convenient, or desirable for the purpose of the authority  
6 to achieve more favorable interest rates and terms for those local  
7 governmental units;

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

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

18 ii. To finance or develop private or public parking facilities or  
19 structures, which may include the use of solar photovoltaic  
20 equipment, in municipalities qualified to receive State aid pursuant  
21 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
22 municipalities that contain areas designated pursuant to P.L.1985,  
23 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
24 Planning Area 2 (Suburban), or a town center, and to provide  
25 appropriate assistance, including but not limited to, extensions of  
26 credit, loans, and guarantees, to municipalities qualified to receive  
27 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
28 178 et seq.) and municipalities that contain areas designated  
29 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
30 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
31 center, and their agencies and instrumentalities or to private entities  
32 whose projects are located in those municipalities, in order to  
33 facilitate the financing and development of parking facilities or  
34 structures in such municipalities. The authority may serve as the  
35 issuing agent of bonds to finance the undertaking of a project for  
36 the purposes of this subsection; and

37 jj. To establish and administer a program where the authority  
38 offers a low-interest loan or loan guarantee to an eligible business  
39 for 100 percent of any unreimbursed costs to the eligible business  
40 for the purchase and installation of information technology  
41 equipment and computer software for the purpose and under the  
42 terms and conditions established pursuant to section 2 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill).  
44 (cf: P.L.2010, c.28, s.3)

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46 4. This act shall take effect immediately, but shall remain  
47 inoperative for 60 days following the date of enactment.

STATEMENT

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This bill requires the New Jersey Economic Development Authority (authority), in consultation with the Department of Banking and Insurance, to establish and administer a program where the authority offers a low-interest loan or loan guarantee to an eligible business for 100 percent of any unreimbursed costs to the eligible business for the purchase and installation of information technology equipment and computer software used for the purpose of protecting the eligible business's customers' personal information from an unwarranted security breach of that information. The bill defines an "eligible business" as New Jersey-based business that is a State chartered bank, savings bank, savings and loan association, credit union, or a business that derives a majority of business sales and revenues from the protection of personal information of their customers, as determined by the authority. The bill defines a "low-interest loan" as a loan for a term not exceeding 10 years at a rate of interest not exceeding more than three percent or one-half of the prime interest rate as reported in a financial newspaper published and circulating in New York City.