

ASSEMBLY, No. 3959

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 1, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson and Assemblyman Thomson

SYNOPSIS

Establishes NJ Hospitality Emergency Loan Program in EDA to provide no-interest loans to qualified small hospitality businesses; makes \$5 million appropriation to EDA.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/4/2020)

1 AN ACT expanding a small business loan program to include
2 hospitality industry businesses, amending P.L.2011, c.201,
3 repealing section 3 of P.L.2019, c.240, and making an
4 appropriation.

5

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

8

9 1. Section 1 of P.L.2011, c.201 (C.34:1B-241.1) is amended to
10 read as follows:

11 1. As used in P.L.2011, c.201 (C.34:1B-241.1 et seq.):

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

14 "Department" means the Department of Agriculture established
15 pursuant to R.S.4:1-1.

16 "Eligible farming operation" means two or more business entities
17 that are engaged in farming operations in the State, that are
18 applying together for participation in the small business loan
19 program established pursuant to section 2 of **[P.L.2019, c.240]**
20 P.L.2011, c.201 (C.34:1B-241.2), and that, at the time of the
21 application, are independently owned and operated, participate in an
22 agricultural commodity or product marketing and development
23 program operated by the Department of Agriculture, and satisfy
24 other criteria that may be established by the authority pursuant to
25 **[P.L.2019, c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.).

26 "Eligible small business" means a business entity that, at the time
27 of application for participation in the small business loan program
28 established pursuant to section 2 of P.L.2011, c.201 (C.34:1B-
29 241.2), is independently owned and operated, operates primarily
30 within this State, and which satisfies other criteria that may be
31 established by the authority. "Eligible small business" shall include
32 a qualified dairy **[farmers and]** farmer, an eligible farming
33 **[operations] operation, and a qualified hospitality business.**

34 "Farm equipment" means equipment used directly for farming
35 operations.

36 "Farming operations" mean any activities connected to the
37 commercial growing, harvesting, processing, producing, or raising
38 of agricultural products in the State, including crops, dairy animals,
39 livestock, fur-bearing animals, poultry, bees, crops used in
40 fermented alcoholic beverages and wine, and any products
41 therefrom, including organic agricultural products; aquacultural
42 products; horticultural products; and silviculture products.

43 "Qualified dairy farmer" means a person or business entity that
44 produces valued-added dairy products and that, at the time of
45 application for participation in the small business loan program and

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 receipt of a loan under the program, is independently owned and
2 operated, operates primarily within this State, and satisfies other
3 criteria that may be established by the authority.

4 “Qualified hospitality business” means a small hospitality
5 industry-related business, as determined by the authority using the
6 latest four-digit North American Industry Classification System of
7 codes and that, as of the effective date of P.L. , c. (C.)
8 (pending before the Legislature as this bill), that has been in
9 operation for more than six months and, for that prior year, had
10 annual sales revenue below \$1.5 million.

11 “Value-added dairy product” means a dairy product created by a
12 qualified dairy farmer by means of a change in the physical state of
13 a dairy commodity, and shall include, but not be limited to, cheese,
14 cultured sour cream, yogurt, kefir, butter, ice cream, evaporated
15 milk, condensed milk, and concentrated milk.

16 (cf: P.L.2019, c.240, s.1)

17

18 2. Section 2 of P.L.2011, c.201 (C.34:1B-241.2) is amended to
19 read as follows:

20 2. a. The authority shall maintain and administer a small
21 business loan program for the purpose of providing loans to eligible
22 small businesses. The authority shall consult with the department
23 in administering the small business loan program as it applies to:
24 (1) an eligible small business that is an eligible farming operation;
25 (2) defining the types of dairy products that shall be considered as
26 value-added dairy products under the small business loan program,
27 not inconsistent with section 1 of **[P.L.2019, c.240]** P.L.2011,
28 c.201 (C.34:1B-241.1); (3) developing small business loan program
29 guidelines for qualified dairy farmers and eligible farming
30 operations; and (4) developing materials to provide to qualified
31 dairy farmers seeking to expand value-added dairy production in
32 this State.

33 b. (1) Loans made through the small business loan program
34 may be made to an eligible small business. The loan funds may be
35 applied to any aspect of the eligible small business that supports its
36 capital purchases, employee training, and salaries for new positions
37 as determined by the authority

38 (2) Notwithstanding paragraph (1) of **[subsection b. of this**
39 **section]** this subsection, loans made by the authority to an eligible
40 farming operation may only be applied to aspects of the eligible
41 farming operation that support the farming operation’s farm
42 equipment purchases, as determined by the authority. Farm
43 equipment purchased from loan funds made pursuant to **[P.L.2019,**
44 **c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.) shall be used by all
45 of the business entities in the eligible farming operation.

46 (3) Two or more business entities engaged in farming operations
47 in the State seeking to participate in the loan program established

1 pursuant to subsection a. of this section shall submit a joint
2 application in a form as the authority shall require and shall include
3 information as the authority determines is necessary in
4 consideration of a loan authorized pursuant to **[P.L.2019, c.240]**
5 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

6 (4) Notwithstanding paragraph (1) of this subsection, loans
7 made by the authority to a qualified hospitality business may only
8 be applied to cover immediate, unavoidable expenses, as
9 determined by the authority, other than payroll costs, throughout the
10 duration of the emergency established under Executive Order No.
11 103 of 2020.

12 c. (1) (a) In order to receive a loan pursuant to the small
13 business loan program, a business, at the time of application, shall
14 provide proof that it is an eligible small business and shall enter
15 into a small business loan agreement with the authority.

16 (b) A qualified hospitality business shall provide to the
17 authority:

18 (i) proof that the qualified hospitality business has been in
19 operation and generating revenue for at least six months;

20 (ii) an income statement showing the qualified hospitality
21 business has no more than \$1.5 million in annual revenue; and

22 (iii) bills for which payment is sought, including proof of
23 payments, or for a qualified hospitality business in operation less
24 than 12 months, a letter to the entity for which the money is due, the
25 qualified hospitality business has been current for 100 percent of
26 payments over the time the qualified hospitality business has been
27 in operation and not past due in the month prior to the current
28 month for which the qualified hospitality business is applying for a
29 loan under the small business loan program.

30 (2) In order to receive a loan from the authority pursuant to
31 **[P.L.2019, c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.), a
32 business entity engaged in farming operations in the State, at the
33 time of application, shall provide proof, in a manner determined by
34 the authority, that it and at least one other business entity meet the
35 requirements to be an eligible farming operation, including, but not
36 limited to, proof that each business entity is engaged in farming
37 operations in the State and will use the farm equipment purchased
38 with the loan funds.

39 d. The authority shall review and may approve applications for
40 the small business loan program.

41 e. A business seeking to participate in the small business loan
42 program shall submit an application in a form as the authority shall
43 require. The application shall include information the authority
44 shall determine is necessary in consideration of the provisions of
45 P.L.2011, c.123 (C.52:14B-21.1 et seq.).

46 f. Loans to an eligible small business under this section shall:

47 (1) be made pursuant to a small business loan agreement made
48 pursuant to subsection c. of this section;

1 (2) except as otherwise provided in this subsection, bear interest
2 at rates and terms deemed appropriate by the authority; and

3 (3) contain other terms and conditions considered appropriate by
4 the authority that are consistent with the purposes of P.L.2011,
5 c.201 (C.34:1B-241.1 et seq.) and with rules and regulations
6 adopted by the authority pursuant to section 3 of P.L.2011, c.201
7 (C.34:1B-241.3).

8 Loans to a qualified hospitality business shall be of an amount
9 not to exceed \$10,000 per business per month, shall be interest free,
10 and have a 10-year term with payments deferred for nine months
11 from the date of the beginning of the loan agreement.

12 The provisions of a loan agreement with an eligible farming
13 operation shall include, but need not be limited to, a statement of an
14 eligible farming operation's proportional shares of ownership, its
15 farm equipment usage and maintenance responsibilities, and its loan
16 repayment responsibilities for any loan proceeds received under the
17 loan program.

18 g. The authority may, in its discretion, require an eligible small
19 business that receives a loan under the small business loan program
20 administered pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.) to
21 submit an audited financial statement to the authority in order to
22 ensure the business's continued vitality. An audited financial
23 statement from an eligible farming operation shall include each
24 business entity in the eligible farming operation using the farm
25 equipment.

26 h. The authority may, either through the adoption of rules and
27 regulations, or through the terms of the small business loan
28 agreement made pursuant to subsection c. of this section, establish
29 terms governing the incidence of default by a recipient of a loan
30 under the small business loan program, administered pursuant to
31 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

32 i. In determining whether to provide a loan to an eligible small
33 business, the authority shall consider, along with other criteria that
34 the authority in its discretion deems appropriate, whether the
35 business commits to increasing its full-time employment level in the
36 State.

37 (cf: P.L.2019, c.240, s.2)

38

39 3. Section 3 of P.L.2011, c.201 (C.34:1B-241.3) is amended to
40 read as follows:

41 3. The authority may adopt such rules and regulations, pursuant
42 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
43 1 et seq.), as may be necessary to effectuate the purposes of
44 P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall
45 consult with the department concerning the rules and regulations
46 applicable to loans made to qualified dairy farmers and eligible
47 farming operations. The authority may consult with the Division of
48 Alcoholic Beverage Control in the Department of Law and Public

1 Safety concerning the rules and regulations applicable to loans
2 made to qualified hospitality businesses having a licensed to sell
3 alcoholic beverages pursuant to R.S.33:1-1 et seq. or who has been
4 issued a permit to sell alcoholic beverages by the Division of
5 Alcoholic Beverage Control.

6 (cf: P.L.2011, c.201, s.3)

7

8 4. There is appropriated from the General Fund to the New
9 Jersey Economic Development Authority the sum of \$5,000,000
10 solely for the provision of loans to qualified hospitality businesses
11 pursuant to paragraph (4) of subsection b. of section 2 of P.L.2011,
12 c.201 (C.34:1B-241.2).

13

14 5. Section 3 of P.L.2019, c.240 is repealed.

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16 6. This act shall take effect immediately.

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STATEMENT

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21 This bill, named the “New Jersey Hospitality Small Business
22 Emergency Loan Program” (loan program), requires the New Jersey
23 Economic Development Authority (authority) to offer loans, under
24 an existing small business loan program administered by the
25 authority, to a qualified small hospitality industry-related business
26 (hospitality business), as determined by the authority using the
27 latest four-digit North American Industry Classification System of
28 codes and that, as of the effective date of the bill, has been in
29 operation for more than six months and, for that prior year, had
30 annual sales revenue below \$1.5 million. Under the loan program,
31 an applicant is to provide to the authority: 1) proof that the
32 applicant has been in operation and generating revenue for at least
33 six months, 2) an income statement showing the applicant has no
34 more than \$1.5 million in annual revenue, and 3) bills for which
35 payment is sought, including proof of payments, or for a hospitality
36 business in operation less than 12 months, a letter to the entity for
37 which the money is due, the applicant has been current for 100
38 percent of payments during the time the hospitality business has
39 been in operation and not past due in the month prior to the current
40 month for which the hospitality business is applying for a loan
41 under the small business loan program.

42 Loans made by the authority through the loan program may only
43 be applied to cover immediate, unavoidable expenses throughout
44 the duration of the Coronavirus emergency declared under
45 Executive Order No. 103 of 2020, other than payroll costs as
46 determined by the authority. Loans to a hospitality business are to
47 be of an amount not to exceed \$10,000 per hospitality business per
48 month, be interest free, and have a 10-year term with payments

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1 deferred for nine months from the date of the beginning of the loan
2 agreement.

3 The bill allows the authority to consult with the Division of
4 Alcoholic Beverage Control in the Department of Law and Public
5 Safety concerning authority rules and regulations applicable to
6 loans made to hospitality businesses having a licensed to sell
7 alcoholic beverages. The bill makes a \$5 million appropriation to
8 the EDA for the sole purpose of providing loans to eligible small
9 businesses whose business operations are negatively affected by an
10 epidemic as determined by the EDA.

11 The bill transfers to section 3 of P.L.2011, c.201 (C.34:1B-
12 241.3) existing rulemaking authority added by section 3 of
13 P.L.2019, c.240 and repeals this duplicative provision.