

[Third Reprint]

**ASSEMBLY, No. 3959**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED MAY 1, 2020

**Sponsored by:**

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**District 33 (Hudson)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

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**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

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**SYNOPSIS**

Establishes NJ Hospitality Emergency Loan Program in EDA to provide no-interest loans to qualified small hospitality businesses; makes \$100 million appropriation to EDA from federal funds for qualified small hospitality business assistance.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on May 14, 2020.

**(Sponsorship Updated As Of: 5/14/2020)**

1 AN ACT expanding a small business loan program to include  
 2 hospitality industry businesses <sup>2</sup>and allocating federal funding  
 3 for <sup>3</sup>[certain small] qualified hospitality<sup>3</sup> business assistance<sup>2</sup>,  
 4 amending P.L.2011, c.201, <sup>2</sup>[<sup>1</sup>and<sup>1</sup>]<sup>2</sup> repealing section 3 of  
 5 P.L.2019, c.240 <sup>1</sup>[, and making an appropriation]<sup>1 2</sup>, and making  
 6 an appropriation<sup>2</sup>.

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

10

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

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

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

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

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

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

36 "Farm equipment" means equipment used directly for farming  
 37 operations.

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

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted May 4, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted May 11, 2020.

<sup>3</sup>Assembly floor amendments adopted May 14, 2020.

1 "Qualified dairy farmer" means a person or business entity that  
2 produces valued-added dairy products and that, at the time of  
3 application for participation in the small business loan program and  
4 receipt of a loan under the program, is independently owned and  
5 operated, operates primarily within this State, and satisfies other  
6 criteria that may be established by the authority.

7 "Qualified hospitality business" means a small hospitality  
8 industry-related business, as determined by the authority using the  
9 latest four-digit North American Industry Classification System of  
10 codes <sup>1</sup>**[and]**, including, but not limited to, code number 3121  
11 (Beverage Manufacturing) and code number 7223 (Special Food  
12 Services),<sup>1</sup> that, as of the effective date of P.L. , c. (C. )  
13 (pending before the Legislature as this bill), <sup>1</sup>**[that]**<sup>1</sup> has been in  
14 operation for more than six months and, for that prior year, had  
15 annual sales revenue below <sup>1</sup>**[\$1.5 million]** \$2 million if in  
16 operation for more than 12 months or had annual sales revenue  
17 below \$1 million if in operation for less than 12 months<sup>1</sup>.

18 "Value-added dairy product" means a dairy product created by a  
19 qualified dairy farmer by means of a change in the physical state of  
20 a dairy commodity, and shall include, but not be limited to, cheese,  
21 cultured sour cream, yogurt, kefir, butter, ice cream, evaporated  
22 milk, condensed milk, and concentrated milk.

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

24  
25 2. Section 2 of P.L.2011, c.201 (C.34:1B-241.2) is amended to  
26 read as follows:

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

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

45 (2) Notwithstanding paragraph (1) of **[subsection b. of this**  
46 **section]** this subsection, loans made by the authority to an eligible  
47 farming operation may only be applied to aspects of the eligible  
48 farming operation that support the farming operation's farm

1 equipment purchases, as determined by the authority. Farm  
2 equipment purchased from loan funds made pursuant to **[P.L.2019,**  
3 **c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.) shall be used by all  
4 of the business entities in the eligible farming operation.

5 (3) Two or more business entities engaged in farming operations  
6 in the State seeking to participate in the loan program established  
7 pursuant to subsection a. of this section shall submit a joint  
8 application in a form as the authority shall require and shall include  
9 information as the authority determines is necessary in  
10 consideration of a loan authorized pursuant to **[P.L.2019, c.240]**  
11 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

12 (4) Notwithstanding paragraph (1) of this subsection, loans  
13 made by the authority to a qualified hospitality business may only  
14 be applied to cover immediate, unavoidable expenses, as  
15 determined by the authority, other than payroll costs, throughout the  
16 duration of the emergency established under Executive Order No.  
17 103 of 2020.

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

22 (b) <sup>1</sup>**[A]** In addition to the requirements of subparagraph (a) of  
23 this paragraph, a<sup>1</sup> qualified hospitality business shall provide to the  
24 authority:

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

27 (ii) an income statement showing the qualified hospitality  
28 business <sup>1</sup>**[has]** had<sup>1</sup> no more than <sup>1</sup>**[\$1.5 million in annual**  
29 revenue] \$2 million in annual sales revenue if in operation for more  
30 than 12 months, or had no more than \$1 million in annual sales  
31 revenue if in operation for less than 12 months<sup>1</sup>; and

32 (iii) bills for which payment is sought, including proof of  
33 payments, or for a qualified hospitality business in operation less  
34 than 12 months, a letter to the entity for which the money is due, the  
35 qualified hospitality business has been current for 100 percent of  
36 payments over the time the qualified hospitality business has been  
37 in operation and not past due in the month prior to the current  
38 month for which the qualified hospitality business is applying for a  
39 loan under the small business loan program.

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

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

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

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

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

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

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

18 Loans to a qualified hospitality business shall be of an amount  
19 not to exceed \$10,000 <sup>1</sup>[per business] <sup>1</sup> per month, shall be interest  
20 free, and have a 10-year term with payments deferred for nine  
21 months from the date of the beginning of the loan agreement.

22 The provisions of a loan agreement with an eligible farming  
23 operation shall include, but need not be limited to, a statement of an  
24 eligible farming operation's proportional shares of ownership, its  
25 farm equipment usage and maintenance responsibilities, and its loan  
26 repayment responsibilities for any loan proceeds received under the  
27 loan program.

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

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

42 i. In determining whether to provide a loan to an eligible small  
43 business, the authority shall consider, along with other criteria that  
44 the authority in its discretion deems appropriate, whether the  
45 business commits to increasing its full-time employment level in the  
46 State.

47 <sup>1</sup>j. The authority shall make available no less than a total of \$5

1 million for the purpose of providing loans to qualified hospitality  
 2 businesses pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.).<sup>1</sup>  
 3 (cf: P.L.2019, c.240, s.2)

4  
 5 3. Section 3 of P.L.2011, c.201 (C.34:1B-241.3) is amended to  
 6 read as follows:

7 3. The authority may adopt such rules and regulations, pursuant  
 8 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
 9 1 et seq.), as may be necessary to effectuate the purposes of  
 10 P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall  
 11 consult with the department concerning the rules and regulations  
 12 applicable to loans made to qualified dairy farmers and eligible  
 13 farming operations. The authority may consult with the Division of  
 14 Alcoholic Beverage Control in the Department of Law and Public  
 15 Safety concerning the rules and regulations applicable to loans  
 16 made to qualified hospitality businesses <sup>1</sup>[having] that have been  
 17 issued<sup>1</sup> a <sup>1</sup>[licensed] license<sup>1</sup> to sell alcoholic beverages pursuant  
 18 to R.S.33:1-1 et seq. or <sup>1</sup>[who has] have<sup>1</sup> been issued a permit to  
 19 sell alcoholic beverages by the Division of Alcoholic Beverage  
 20 Control.

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

22  
 23 <sup>1</sup>[4. There is appropriated from the General Fund to the New  
 24 Jersey Economic Development Authority the sum of \$5,000,000  
 25 solely for the provision of loans to qualified hospitality businesses  
 26 pursuant to paragraph (4) of subsection b. of section 2 of P.L.2011,  
 27 c.201 (C.34:1B-241.2).]<sup>1</sup>

28  
 29 <sup>2</sup>4. There is appropriated from the General Fund to the New  
 30 Jersey Economic Development Authority the sum of \$100 million  
 31 from a portion of those federal block grant funds allocated to the  
 32 State from the federal "Coronavirus Relief Fund," established  
 33 pursuant to the federal Coronavirus Aid, Relief, and Economic  
 34 Security Act," Pub.L.116-136, for use by the authority to provide  
 35 financial support, such as loans or grants, to <sup>3</sup>[small] qualified  
 36 hospitality<sup>3</sup> businesses <sup>3</sup>, as defined in section 2 of P.L.2011, c.201  
 37 (C.34:1B-241.2),<sup>3</sup> for the costs associated with business operation  
 38 interruptions caused by any State-required closures due to the  
 39 impacts of Coronavirus disease 2019.<sup>2</sup> <sup>3</sup>A qualified hospitality  
 40 business applying to the authority for financial support shall  
 41 provide sufficient evidence to the authority that its operations have  
 42 been severely limited due to the impacts of Coronavirus disease  
 43 2019, as determined by the authority.<sup>3</sup>

44  
 45 <sup>1</sup>[5.] <sup>2</sup>[4.<sup>1</sup>] <sup>5.</sup><sup>2</sup> Section 3 of P.L.2019, c.240 is repealed.

46  
 47 <sup>1</sup>[6.] <sup>2</sup>[5.<sup>1</sup>] <sup>6.</sup><sup>2</sup> This act shall take effect immediately.