SYNOPSIS
Enhances 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)
AN ACT expanding a small business loan program to include
hospitality industry businesses and allocating federal funding
for qualified hospitality business assistance;
amending P.L.2011, c.201, repealing section 3 of
P.L.2019, c.240, and making an appropriation.

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

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

1. As used in P.L.2011, c.201 (C.34:1B-241.1 et seq.):
"Authority" means the New Jersey Economic Development
Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).
"Department" means the Department of Agriculture established
pursuant to R.S.4:1-1.
"Eligible farming operation" means two or more business entities
that are engaged in farming operations in the State, that are
applying together for participation in the small business loan
program established pursuant to section 2 of P.L.2019, c.240
P.L.2011, c.201 (C.34:1B-241.2), and that, at the time of the
application, are independently owned and operated, participate in an
agricultural commodity or product marketing and development
program operated by the Department of Agriculture, and satisfy
other criteria that may be established by the authority pursuant to
P.L.2019, c.240 P.L.2011, c.201 (C.34:1B-241.1 et seq.).
"Eligible small business" means a business entity that, at the time
of application for participation in the small business loan program
established pursuant to section 2 of P.L.2011, c.201 (C.34:1B-241.2), is independently owned and operated, operates primarily
within this State, and which satisfies other criteria that may be
established by the authority. "Eligible small business" shall include
a qualified dairy farmer, an eligible farming operation, and a qualified hospitality business.
"Farm equipment" means equipment used directly for farming
operations.
"Farming operations" mean any activities connected to the
commercial growing, harvesting, processing, producing, or raising
of agricultural products in the State, including crops, dairy animals,
livestock, fur-bearing animals, poultry, bees, crops used in
fermented alcoholic beverages and wine, and any products	herefrom, including organic agricultural products; aquacultural
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:
1Assembly AAP committee amendments adopted May 4, 2020.
2Assembly AAP committee amendments adopted May 11, 2020.
3Assembly floor amendments adopted May 14, 2020.
"Qualified dairy farmer" means a person or business entity that produces valued-added dairy products and that, at the time of application for participation in the small business loan program and receipt of a loan under the program, is independently owned and operated, operates primarily within this State, and satisfies other criteria that may be established by the authority.

“Qualified hospitality business” means a small hospitality industry-related business, as determined by the authority using the latest four-digit North American Industry Classification System of codes 4[and], including, but not limited to, code number 3121 (Beverage Manufacturing) and code number 7223 (Special Food Services), 4[that, as of the effective date of P.L. , c. (C. )](pending before the Legislature as this bill), 4[that has been in operation for more than six months and, for that prior year, had annual sales revenue below $1.5 million] $2 million if in operation for more than 12 months or had annual sales revenue below $1 million if in operation for less than 12 months. 4

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

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

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

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

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

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

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

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

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

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

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

(ii) an income statement showing the qualified hospitality business has had no more than $1.5 million in annual revenue or $2 million in annual sales revenue if in operation for more than 12 months, or had no more than $1 million in annual sales revenue if in operation for less than 12 months;

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

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

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

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

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

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

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

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

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

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

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

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

\[1\] The authority shall make available no less than a total of $5
million for the purpose of providing loans to qualified hospitality
businesses pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.).[^1]

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

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

3. The authority may adopt such rules and regulations pursuant
et seq.), as may be necessary to effectuate the purposes of
P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall
consult with the department concerning the rules and regulations
applicable to loans made to qualified dairy farmers and eligible
farming operations. The authority may consult with the Division of
Alcoholic Beverage Control in the Department of Law and Public
Safety concerning the rules and regulations applicable to loans
made to qualified hospitality businesses [having] that have been
issued[^1] a [licensed] license[^1] to sell alcoholic beverages pursuant
to R.S.33:1-1 et seq. or [who has] have[^2] been issued a permit to
sell alcoholic beverages by the Division of Alcoholic Beverage
Control.

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

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

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

[^1][5.][^4.] 5. Section 3 of P.L.2019, c.240 is repealed.

[^2][6.][^5.] 6. This act shall take effect immediately.