

SENATE, No. 1837

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

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

As introduced.



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-
3 1 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 third class with a population greater than 150,000, according to the
7 latest federal decennial census, of the fifth class, or of the sixth
8 class pursuant to section N.J.S.40A:6-1, and that contains at least
9 three wineries.

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

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

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

24

25 2. a. For privilege periods beginning on or after January 1,
26 2020, but before January 1, 2030, a taxpayer shall be allowed a
27 credit against the tax imposed pursuant to section 5 of P.L.1945,
28 c.162 (C.54:10A-5), in an amount equal to 25 percent of the
29 qualified capital expenses, as certified by the Department of
30 Agriculture pursuant to subsection b. of this section, incurred by the
31 taxpayer in connection with:

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

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

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

47 c. The order of priority of the application of the credit allowed
48 pursuant to this section and any other credits allowed against the tax
49 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for

1 a privilege period shall be as prescribed by the director. The
2 amount of the credit applied pursuant to this section against the tax
3 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
4 shall not reduce a taxpayer's tax liability for a privilege period to an
5 amount less than the statutory minimum provided in subsection (e)
6 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
7 valid in the privilege period in which the certification is approved
8 and any unused portion thereof may be carried forward into the next
9 15 privilege periods or until depleted, whichever is earlier.

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

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

22 f. As used in this section:

23 "Department" means the Department of Agriculture.

24 "Eligible county" means a county classified as a county of the
25 third class with a population greater than 150,000, according to the
26 latest federal decennial census, of the fifth class, or of the sixth
27 class pursuant to section N.J.S.40A:6-1, and that contains at least
28 three wineries.

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

34 "Secretary" means the Secretary of Agriculture.

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

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

43

44 3. a. For taxable years beginning on or after January 1, 2020,
45 but before January 1, 2030, a taxpayer shall be allowed a credit
46 against the New Jersey gross income tax due pursuant to
47 N.J.S.54A:1-1 et seq., in an amount equal to 25 percent of the
48 qualified capital expenses, as certified by the Department of

1 Agriculture pursuant to subsection b. of this section, incurred by the
2 taxpayer in connection with:

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

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

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

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

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

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

46 e. The secretary, in consultation with the director, shall adopt,
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
48 (C.52:14B-1 et seq.), rules and regulations necessary to carry out
49 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 third class with a population greater than 150,000, according to the
13 latest federal decennial census, of the fifth class , or of the sixth
14 class pursuant to section N.J.S.40A:6-1, and that contains at least
15 three wineries.

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

21 “Secretary” means the Secretary of Agriculture.

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

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

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31 4. This act shall take effect immediately.

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STATEMENT

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36 This bill establishes a loan program and provides tax credits to
37 persons for the establishment of new vineyards and wineries in
38 eligible counties. The bill defines an eligible county as a county of
39 the third class with a population greater than 150,000 according to
40 the latest federal decennial census, a county of the fifth class, or a
41 county of the sixth class, and that contains at least three wineries.

42 The bill requires the New Jersey Economic Development
43 Authority (authority), in consultation with the Department of
44 Agriculture (department), to develop a 10-year pilot program to
45 provide low interest loans to farmers for qualified costs associated
46 with the installation of new vineyards in eligible counties.
47 Qualified costs include the cost of preparing land for plant
48 installation, purchasing vines or trees, and purchasing equipment

1 and supplies for those purposes. It does not include the cost of
2 tractors, pick-up-trucks, or wine-making equipment.

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

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

20 The bill also allows eligible taxpayers to apply for a tax credit
21 against either their corporation business tax or gross income tax
22 liability in an amount equal to 25 percent of the qualified capital
23 expenses incurred by taxpayers in connection with: (1) the
24 establishment of a new vineyard or winery in an eligible county; or
25 (2) capital improvements made to an existing vineyard or winery in
26 an eligible county. A qualified capital expense is any expenditure
27 made by the taxpayer for the purchase and installation of equipment
28 or agricultural materials for use in the production of agricultural
29 products at a vineyard or in a winery, as specified in regulations.
30 An eligible taxpayer may apply to the department for the approval
31 of a tax credit for a tax year beginning on or after January 1, 2020
32 but before January 1, 2030.

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

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