

ASSEMBLY, No. 1152

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen COHEN and IMPREVEDUTO

1 AN ACT providing an economic assistance program for pharmacists
2 for the acquisition and upgrade of security and computer systems,
3 and amending and supplementing P.L.1974, c.80.

4

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

7

8 1. (New section) Sections 1 through 9 of this 1994 amendatory
9 and supplementary act shall be known and may be cited as the "New
10 Jersey Pharmacist Business Assistance Act."

11

12 2. (New section) The Legislature finds and determines that the
13 ongoing recessionary economy has made it difficult for New Jersey
14 pharmacists engaged in business to acquire computer and security
15 systems and to upgrade the computer and security systems currently
16 used in their businesses. Modern computer and security systems are
17 technological requisites for competition in a modern pharmaceutical
18 marketplace.

19

20 3. (New section) As used in this act:

21 "Authority" means the New Jersey Economic Development
22 Authority established pursuant to section 4 of P.L.1974, c.80
23 (C.34:1B-4).

24 "Division" means the New Jersey Division of Consumer Affairs in
25 the Department of Law and Public Safety.

26 "Fixed assets" means any machinery or equipment, or any interest
27 therein.

28 "Participating bank" means a bank as defined pursuant to section
29 1 of P.L.1948, c.67 (C.17:9A-1) and deemed eligible by the authority
30 for participation in the program.

31 "Pharmacist" means a person registered pursuant to the provisions
32 of chapter 14 of Title 45 of the Revised Statutes and who operates a

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 pharmacy that generates an annual gross income of less than \$500,000.

2 "Program" means the "New Jersey Pharmacist Business Assistance
3 Program" established by the authority pursuant to section 4 of this act;

4 "Working capital" means cash, credit and other liquid capital assets
5 other than fixed assets.

6

7 4. (New section) The authority shall, in consultation with the
8 division, establish the "New Jersey Pharmacist Business Assistance
9 Program" to assist pharmacists engaged in business by providing direct
10 loans, lines of credit and credit guarantees for the acquisition and
11 upgrade of computer and security systems. The authority shall, in
12 consultation with the division, administer the program under guidelines
13 which take into account the special financial needs of pharmacists in
14 this State. The activities of the program shall be deemed to be
15 supplementary to, and not in lieu of, the powers of the authority
16 prescribed by law.

17

18 5. (New section) a. In order to effectuate the purposes of the
19 program, the authority shall establish and maintain a special,
20 non-lapsing revolving fund to be known as the "New Jersey
21 Pharmacist Business Assistance Fund," hereinafter the "assistance
22 fund," which shall be credited with: (1) an amount from the Economic
23 Recovery Fund established pursuant to section 3 of P.L.1992, c.16
24 (C.34:1B-7.12) which the authority determines is necessary to
25 effectively implement the program, within the limits of funding
26 available from the Economic Recovery Fund, based upon the response
27 to the program by pharmacists and participating banks; (2) any moneys
28 that shall be received by the authority from the repayment of the
29 moneys in the assistance fund used to provide direct loans or revolving
30 credit lines pursuant to this 1994 amendatory and supplementary act
31 and interest thereon; and (3) other moneys of the authority, including
32 but not limited to, any moneys available from other business loan
33 programs administered by the authority which it determines to deposit
34 therein.

35 b. The authority may use the moneys in the assistance fund
36 established pursuant to this section for:

37 (1) funding grants, in amounts to be determined by the authority in
38 consultation with the division, to assist eligible pharmacists in the
39 acquisition and upgrade of computer and security systems;

40 (2) funding direct loans or revolving lines of credit agreements for
41 fixed asset needs and working capital, including the refinancing of
42 existing business debt, to assist eligible pharmacists in the acquisition
43 and upgrade of computer and security systems, and guaranteeing up
44 to 25% of the loans or lines of credit provided by participating banks,
45 in accordance with section 7 of this 1994 amendatory and
46 supplementary act;

1 (3) making payments in fulfillment of the terms of any direct loans,
2 revolving lines of credit agreements, or guarantee agreements, entered
3 into pursuant to section 7 of this 1994 amendatory and supplementary
4 act; and

5 (4) defraying the administrative costs of the authority in carrying
6 out the purposes and provisions of this 1994 amendatory and
7 supplementary act.

8 c. The portion of the direct loans or lines of credit provided by
9 participating banks may be guaranteed by the authority pursuant to
10 section 7 of this 1994 amendatory and supplementary act only if the
11 pharmacist has qualified therefor by demonstrating to the satisfaction
12 of the authority that the funds are needed to insure the future viability
13 of his pharmacy operation.

14 d. The maximum amount and term of a loan, line of credit or
15 guarantee made pursuant to this 1994 amendatory and supplementary
16 act shall be determined by the authority.

17

18 6. (New section) The authority shall establish sufficient reserves
19 and liquid reserves, aside from those moneys required to provide a
20 sufficient and actuarially sound basis for its pledges contained in any
21 loan, line of credit or guarantee agreement entered into pursuant to
22 this 1994 amendatory and supplementary act.

23

24 7. (New section) The authority shall enter into agreements with
25 participating banks to use the moneys from the assistance fund to
26 provide up to 25% of the direct loans or revolving lines of credit for
27 fixed asset needs and working capital of eligible pharmacists to acquire
28 and upgrade computer and security systems. The agreements shall
29 further provide that the balance of the loans or lines of credit for
30 financing the fixed asset needs and working capital of eligible
31 pharmacists shall come from participating banks. The authority may
32 also use moneys from the assistance fund to guarantee up to 25% of
33 the portion of the loans or lines of credit to be provided by the
34 participating banks in those cases where the authority determines that
35 such a guarantee is necessary for an agreement authorized by this
36 section. The agreements shall also provide for any other terms or
37 conditions which the authority and the participating banks stipulate to
38 as being necessary or desirable to make loans, establish and extend
39 lines of credit, guarantee loans and otherwise effectuate the purpose
40 of the program.

41

42 8. (New section) In addition to the duties of the authority required
43 under section 4 of P.L.1974, c.80 (C.34:1B-4), the authority shall, in
44 consultation with the division, prepare a report within one year
45 following the effective date of this 1994 amendatory and
46 supplementary act. The report shall include, but not be limited to, a

1 description of the demand for the program from eligible pharmacists
2 and participating banks, the efforts made by the authority to promote
3 the program, the total amount of loans, lines of credit or guarantees
4 issued by the authority pursuant to the program and an assessment of
5 the effectiveness of the program in meeting the goals of this 1994
6 amendatory and supplementary act. The authority shall submit its
7 report to the Governor and the Legislature, along with any
8 recommendations for legislation to improve the effectiveness of the
9 program.

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11 9. (New section) The authority and the division shall jointly adopt,
12 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.), rules and regulations as may be necessary to
14 effectuate the purposes of this 1994 amendatory and supplementary
15 act including, but not limited to, the making of loans, extending of
16 credit and the issuance of guarantees pursuant to this 1994 amendatory
17 and supplementary act.

18

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

21 3. As used in this act, unless a different meaning clearly appears
22 from the context:

23 a. "Authority" means the New Jersey Economic Development
24 Authority, created by section 4 of this act.

25 b. "Bonds" means bonds or other obligations issued by the
26 authority pursuant to this act or "Economic Recovery Bonds or Notes"
27 issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.).

28 c. "Cost" means the cost of the acquisition, construction,
29 reconstruction, repair, alteration, improvement and extension of any
30 building, structure, facility including water transmission facilities, or
31 other improvement; the cost of machinery and equipment; the cost of
32 acquisition, construction, reconstruction, repair, alteration,
33 improvement and extension of energy saving improvements or
34 pollution control devices, equipment or facilities; the cost of lands,
35 rights-in-lands, easements, privileges, agreements, franchises, utility
36 extensions, disposal facilities, access roads and site development
37 deemed by the authority to be necessary or useful and convenient for
38 any project or in connection therewith; discount on bonds; cost of
39 issuance of bonds; engineering and inspection costs; costs of financial,
40 legal, professional and other estimates and advice; organization,
41 administrative, insurance, operating and other expenses of the
42 authority or any person prior to and during any acquisition or
43 construction, and all such expenses as may be necessary or incident to
44 the financing, acquisition, construction or completion of any project
45 or part thereof, and also such provision for reserves for payment or
46 security of principal of or interest on bonds during or after such

- 1 acquisition or construction as the authority may determine.
- 2 d. "County" means any county of any class.
- 3 e. "Development property" means any real or personal property,
4 interest therein, improvements thereon, appurtenances thereto and air
5 or other rights in connection therewith, including land, buildings,
6 plants, structures, systems, works, machinery and equipment acquired
7 or to be acquired by purchase, gift or otherwise by the authority within
8 an urban growth zone.
- 9 f. "Person" means any person, including individuals, firms,
10 partnerships, associations, societies, trusts, public or private
11 corporations, or other legal entities, including public or governmental
12 bodies, as well as natural persons. "Person" shall include the plural as
13 well as the singular.
- 14 g. "Pollution control project" means any device, equipment,
15 improvement, structure or facility, or any land and any building,
16 structure, facility or other improvement thereon, or any combination
17 thereof, whether or not in existence or under construction, or the
18 refinancing thereof in order to facilitate improvements or additions
19 thereto or upgrading thereof, and all real and personal property
20 deemed necessary thereto, having to do with or the end purpose of
21 which is the control, abatement or prevention of land, sewer, water,
22 air, noise or general environmental pollution, including, but not limited
23 to, any air pollution control facility, noise abatement facility, water
24 management facility, thermal pollution control facility, radiation
25 contamination control facility, wastewater collection system,
26 wastewater treatment works, sewage treatment works system, sewage
27 treatment system or solid waste disposal facility or site; provided that
28 the authority shall have received from the Commissioner of the State
29 Department of Environmental Protection or his duly authorized
30 representative a certificate stating the opinion that, based upon
31 information, facts and circumstances available to the State Department
32 of Environmental Protection and any other pertinent data, (1) said
33 pollution control facilities do not conflict with, overlap or duplicate
34 any other planned or existing pollution control facilities undertaken or
35 planned by another public agency or authority within any political
36 subdivision, and (2) that such facilities, as designed, will be a pollution
37 control project as defined in this act and are in furtherance of the
38 purpose of abating or controlling pollution.
- 39 h. "Project" means: (1)(a) acquisition, construction, reconstruction,
40 repair, alteration, improvement and extension of any building,
41 structure, facility, including water transmission facilities or other
42 improvement, whether or not in existence or under construction, (b)
43 purchase and installation of equipment and machinery, including
44 acquisition and upgrade of computer and security systems of eligible
45 pharmacists pursuant to P.L. , c. (C.)(pending before the
46 Legislature as this bill), (c) acquisition and improvement of real estate

1 and the extension or provision of utilities, access roads and other
2 appurtenant facilities; and (2)(a) the acquisition, financing, or
3 refinancing of inventory, raw materials, supplies, work in process, or
4 stock in trade, or (b) the financing, refinancing or consolidation of
5 secured or unsecured debt, borrowings, or obligations, or (c) the
6 provision of financing for any other expense incurred in the ordinary
7 course of business; all of which are to be used or occupied by any
8 person in any enterprise promoting employment, either for the
9 manufacturing, processing or assembly of materials or products, or for
10 research or office purposes, including, but not limited to, medical and
11 other professional facilities, or for industrial, recreational, hotel or
12 motel facilities, public utility and warehousing, or for commercial and
13 service purposes, including, but not limited to, retail outlets, retail
14 shopping centers, restaurant and retail food outlets, and any and all
15 other employment promoting enterprises, including, but not limited to,
16 motion picture and television studios and facilities and commercial
17 fishing facilities, commercial facilities for recreational fishermen,
18 fishing vessels, aquaculture facilities and marketing facilities for fish
19 and fish products and (d) acquisition of an equity interest in, including
20 capital stock of, any corporation; or any combination of the above,
21 which the authority determines will: (i) tend to maintain or provide
22 gainful employment opportunities within and for the people of the
23 State, or (ii) aid, assist and encourage the economic development or
24 redevelopment of any political subdivision of the State, or (iii)
25 maintain or increase the tax base of the State or of any political
26 subdivision of the State, or (iv) maintain or diversify and expand
27 employment promoting enterprises within the State; and (3) the cost
28 of acquisition, construction, reconstruction, repair, alteration,
29 improvement and extension of an energy saving improvement or
30 pollution control project which the authority determines will tend to
31 reduce the consumption in a building devoted to industrial or
32 commercial purposes, or in an office building, of nonrenewable
33 sources of energy or to reduce, abate or prevent environmental
34 pollution within the State; and (4) the acquisition, construction,
35 reconstruction, repair, alteration, improvement, extension,
36 development, financing or refinancing of infrastructure and
37 transportation facilities or improvements related to economic
38 development and of cultural, recreational and tourism facilities or
39 improvements related to economic development and of capital
40 facilities for primary and secondary schools and of mixed use projects
41 consisting of housing and commercial development. Project may also
42 include: (i) reimbursement to any person for costs in connection with
43 any project, or the refinancing of any project or portion thereof, if
44 determined by the authority as necessary and in the public interest to
45 maintain employment and the tax base of any political subdivision and
46 will facilitate improvements thereto or the completion thereof, and (ii)

1 development property and any construction, reconstruction,
2 improvement, alteration, equipment or maintenance or repair, or
3 planning and designing in connection therewith.

4 i. "Revenues" means receipts, fees, rentals or other payments to be
5 received on account of lease, mortgage, conditional sale, or sale, and
6 payments and any other income derived from the lease, sale or other
7 disposition of a project, moneys in such reserve and insurance funds
8 or accounts or other funds and accounts, and income from the
9 investment thereof, established in connection with the issuance of
10 bonds or notes for a project or projects, and fees, charges or other
11 moneys to be received by the authority in respect of projects and
12 contracts with persons.

13 j. "Resolution" means any resolution adopted or trust agreement
14 executed by the authority, pursuant to which bonds of the authority
15 are authorized to be issued.

16 k. "Energy saving improvement" means the construction, purchase
17 and installation in a building devoted to industrial or commercial
18 purposes of any of the following, designed to reduce the amount of
19 energy from nonrenewable sources needed for heating and cooling that
20 building: insulation, replacement burners, replacement high efficiency
21 heating and air conditioning units, including modular boilers and
22 furnaces, water heaters, central air conditioners with or without heat
23 recovery to make hot water for industrial or commercial purposes or
24 in office buildings, and any solar heating or cooling system
25 improvement, including any system which captures solar radiation to
26 heat a fluid which passes over or through the collector element of that
27 system and then transfers that fluid to a point within the system where
28 the heat is withdrawn from the fluid for direct usage or storage. These
29 systems shall include, but not necessarily be limited to, systems
30 incorporating flat plate, evacuated tube or focusing solar collectors.

31 The foregoing list shall not be construed to be exhaustive, and shall
32 not serve to exclude other improvements consistent with the legislative
33 intent of this amendatory act.

34 l. "Urban growth zone" means any area within a municipality
35 receiving State aid pursuant to the provisions of P.L.1978, c.14
36 (C.52:27D-178 et seq.) or a municipality certified by the
37 Commissioner of Community Affairs to qualify under such law in
38 every respect except population, which area has been so designated
39 pursuant to an ordinance of the governing body of such municipality.
40 (cf: P.L.1992, c.16, s.11)

41

42 11. This act shall take effect immediately.

STATEMENT

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2

3 This bill establishes a "New Jersey Pharmacist Business Assistance
4 Program" in the New Jersey Economic Development Authority to aid
5 pharmacists engaged in business in the acquisition and upgrade of
6 computer and security systems. The program is intended to provide
7 access to funding and credit which might otherwise not be available to
8 pharmacists by directing the authority to make direct loans and grants,
9 to extend revolving lines of credit and to give credit guarantees, in
10 conjunction with a consortium of participating banks, to pharmacists
11 for the acquisition and upgrade of computer and security systems. The
12 program shall be available to any pharmacist who operates a pharmacy
13 that generates an annual gross income of less than \$500,000.

14 The program would be administered by the authority in consultation
15 with the Division of Consumer Affairs in the Department of Law and
16 Public Safety, to take into account the special financial needs of the
17 pharmacists engaged in business in the State.

18 The bill establishes a special, non-lapsing revolving fund, the "New
19 Jersey Pharmacist Business Assistance Fund" (the "assistance fund"),
20 which shall be credited with such amount from the Economic
21 Recovery Fund, established pursuant to section 3 of P.L.1992, c.16
22 (C.34:1B-7.12), as the authority shall determine is necessary to
23 effectively implement the program, based upon demand from
24 pharmacists and participating banks. The assistance fund shall also be
25 credited with other available moneys including, but not limited to,
26 moneys in the business loan programs administered by the authority,
27 which the authority determines to deposit therein.

28 The bill establishes a means to leverage the moneys in the assistance
29 fund through a public/private partnership between the Economic
30 Development Authority and participating banks whereby up to 25% of
31 the loan or revolving credit needed for fixed assets and working capital
32 of eligible pharmacists would be provided by the fund with the balance
33 of the loan or revolving credit to be provided by participating banks.

34 In order to provide additional incentive for participation by banks
35 in this program to assist pharmacists in New Jersey, the bill also
36 authorizes the authority to use the moneys in the pharmacist assistance
37 fund to guarantee up to 25% of the portion of the loan or revolving
38 credit line provided by participating banks.

39 Rules and regulations to administer the program would be adopted
40 jointly by the authority and the Division of Consumer Affairs.

41 The bill requires the authority, in consultation with the division, to
42 report back to the Governor and the Legislature, within a reasonable
43 time after the end of one year following the effective date of the bill,
44 on the status of the program and any recommendations for legislation
45 to better effectuate the goals of the program.

1

2

3 The "New Jersey Pharmacist Business Assistance Act."