Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

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.
AN ACT expanding a small business loan program to include hospitality industry businesses, 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.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.2011, c.201 (C.34:1B-241.2 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 therefrom, including organic agricultural products; aquacultural products; horticultural products; and silviculture products.

"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

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.
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 and that, as of the effective date of P.L. , c. (C )
(pending before the Legislature as this bill), that has been in
operation for more than six months and, for that prior year, had
annual sales revenue below $1.5 million.

“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 no more than $1.5 million in annual revenue; and

(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.

(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 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 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 a licensed to sell alcoholic beverages pursuant to R.S.33:1-1 et seq. or who has been issued a permit to sell alcoholic beverages by the Division of Alcoholic Beverage Control.

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

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).

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 Section 3 of P.L.2019, c.240 is repealed.

6. This act shall take effect immediately.

STATEMENT

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

Loans made by the authority through the loan program may only be applied to cover immediate, unavoidable expenses throughout the duration of the Coronavirus emergency declared under Executive Order No. 103 of 2020, other than payroll costs as determined by the authority. Loans to a hospitality business are to be of an amount not to exceed $10,000 per hospitality business per month, 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 bill allows the authority to consult with the Division of Alcoholic Beverage Control in the Department of Law and Public Safety concerning authority rules and regulations applicable to loans made to hospitality businesses having a licensed to sell alcoholic beverages. The bill makes a $5 million appropriation to the EDA for the sole purpose of providing loans to eligible small businesses whose business operations are negatively affected by an epidemic as determined by the EDA. The bill transfers to section 3 of P.L.2011, c.201 (C.34:1B-241.3) existing rulemaking authority added by section 3 of P.L.2019, c.240 and repeals this duplicative provision.