

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 3810 and 2535**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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ADOPTED MAY 20, 2019

**Sponsored by:**

**Assemblyman MATTHEW W. MILAM**

**District 1 (Atlantic, Cape May and Cumberland)**

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**District 11 (Monmouth)**

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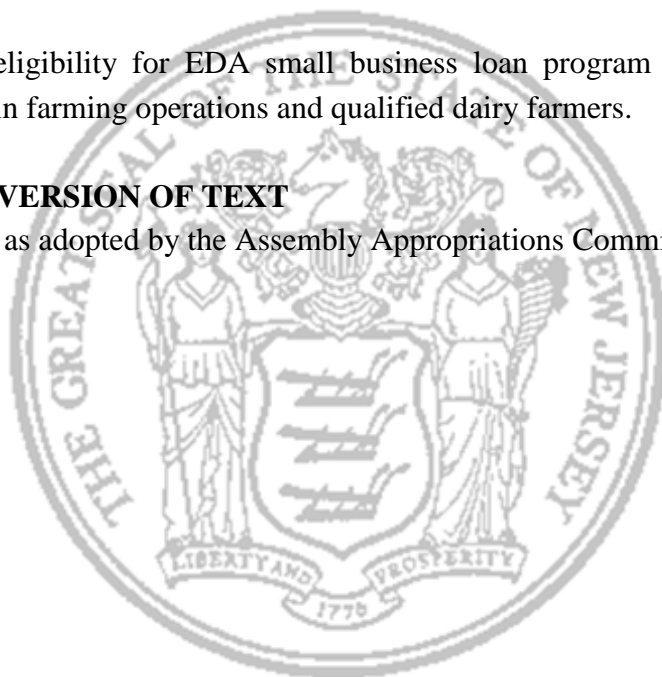
**Assemblyman Rooney**

**SYNOPSIS**

Expands eligibility for EDA small business loan program to specifically include certain farming operations and qualified dairy farmers.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Appropriations Committee.



**(Sponsorship Updated As Of: 5/24/2019)**

1 AN ACT expanding eligibility under a loan program for small  
2 businesses to specifically include certain qualified dairy farmers  
3 and farming operations, and amending P.L.2011, c.201.  
4

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

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

10 1. As used in **[this act]** P.L.2011, c.201 (C.34:1B-241.1 et  
11 seq.):

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

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

16 "Eligible farming operation" means two or more business entities  
17 that are engaged in farming operations in the State, that are  
18 applying together for participation in the small business loan  
19 program established pursuant to section 2 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill), and that, at the time of  
21 the application, are independently owned and operated, participate  
22 in an agricultural commodity or product marketing and  
23 development program operated by the Department of Agriculture,  
24 and satisfy other criteria that may be established by the authority  
25 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
26 this bill).

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

34 "Farm equipment" means equipment used directly for farming  
35 operations.

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

43 "Qualified dairy farmer" means a person or business entity that  
44 produces valued-added dairy products and that, at the time of  
45 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.

1 receipt of a loan under the program, is independently owned and  
2 operated, operates primarily within this State, and satisfies other  
3 criteria that may be established by the authority.

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

9 (cf: P.L.2011, c.201, s.1)

10  
11 2. Section 2 of P.L.2011, c.201 (C.34:1B-241.2) is amended to  
12 read as follows:

13 2. a. The authority shall maintain and administer a small  
14 business loan program for the purpose of providing **【small**  
15 **business】** loans to eligible small businesses. The authority shall  
16 consult with the department in administering the small business  
17 loan program as it applies to: (1) an eligible small business that is  
18 an eligible farming operation; (2) defining the types of dairy  
19 products that shall be considered as value-added dairy products  
20 under the small business loan program, not inconsistent with section  
21 1 of P.L. , c. (C. ) (pending before the Legislature as this  
22 bill); (3) developing small business loan program guidelines for  
23 qualified dairy farmers and eligible farming operations; and (4)  
24 developing materials to provide to qualified dairy farmers seeking  
25 to expand value-added dairy production in this State.

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

31 (2) Notwithstanding paragraph (1) of subsection b. of this  
32 section, loans made by the authority to an eligible farming  
33 operation may only be applied to aspects of the eligible farming  
34 operation that support the farming operation’s farm equipment  
35 purchases, as determined by the authority. Farm equipment  
36 purchased from loan funds made pursuant to P.L. , c. (C. )  
37 (pending before the Legislature as this bill) shall be used by all of  
38 the business entities in the eligible farming operation.

39 (3) Two or more business entities engaged in farming operations  
40 in the State seeking to participate in the loan program established  
41 pursuant to subsection a. of this section shall submit a joint  
42 application in a form as the authority shall require and shall include  
43 information as the authority determines is necessary in  
44 consideration of a loan authorized pursuant to P.L. , c. (C. )  
45 (pending before the Legislature as this bill).

46 c. (1) In order to receive a **【small business】** loan pursuant to  
47 the small business loan program, a business, at the time of  
48 application, shall provide proof that it is an eligible small business

1 and shall enter into a small business loan agreement with the  
2 authority.

3 (2) In order to receive a loan from the authority pursuant to  
4 P.L. , c. (C. ) (pending before the Legislature as this bill), a  
5 business entity engaged in farming operations in the State, at the  
6 time of application, shall provide proof, in a manner determined by  
7 the authority, that it and at least one other business entity meet the  
8 requirements to be an eligible farming operation, including, but not  
9 limited to, proof that each business entity is engaged in farming  
10 operations in the State and will use the farm equipment purchased  
11 with the loan funds.

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

14 e. A business seeking to participate in the small business loan  
15 program shall submit an application in **【such】** a form as the  
16 authority shall require. **【Such】** The application shall include  
17 **【such】** information **【as】** the authority shall determine is necessary  
18 in consideration of the provisions of P.L.2011, c.123 (C.52:14B-  
19 21.1 et seq.).

20 f. **【Small】** Loans to an eligible small business **【loans】** under  
21 this section shall:

22 (1) be made pursuant to a small business loan agreement made  
23 pursuant to subsection c. of this section **【and shall】**;

24 (2) bear interest at rates and terms deemed appropriate by the  
25 authority **【,】** and

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

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

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

45 h. The authority may, either through the adoption of rules and  
46 regulations, or through the terms of the small business loan  
47 agreement made pursuant to subsection c. of this section, establish

1 terms governing the incidence of default by **an eligible small**  
 2 **business that receives** a recipient of a **small business** loan under  
 3 the small business loan program, administered pursuant to  
 4 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

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

10 (cf: P.L.2011, c.201, s.2)

11

12 3. (New section) The authority shall adopt rules and  
 13 regulations, pursuant to the "Administrative Procedure Act,"  
 14 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate  
 15 the purposes of P.L. , c. (C. ) (pending before the Legislature  
 16 as this bill). The authority shall consult with the department  
 17 concerning those rules and regulations applicable to loans made to  
 18 qualified dairy farmers and eligible farming operations.

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

20

21 4. This act shall take effect immediately.