

# ASSEMBLY, No. 4790

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED OCTOBER 17, 2022

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**  
**District 19 (Middlesex)**

**Co-Sponsored by:**

**Assemblymen Catalano, Auth, Assemblywomen Piperno and Dunn**

**SYNOPSIS**

Establishes NJ Non-Profit Loan Guarantee Pilot Program within EDA.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/20/2022)**

1 AN ACT establishing the New Jersey Non-Profit Loan Guarantee  
2 Pilot Program within the New Jersey Economic Development  
3 Authority and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).  
4

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

8 1. As used in P.L. , c. (C. ) (pending before the  
9 Legislature as this bill):

10 “Authority” means the New Jersey Economic Development  
11 Authority established pursuant to section 4 of P.L.1974, c.80  
12 (C.34:1B-4).

13 “Guarantee fund” or “fund” means the “New Jersey Non-Profit  
14 Loan Guarantee Fund” established pursuant to section 3 of  
15 P.L. , c. (C. ) (pending before the Legislature as this  
16 bill).

17 “Participating bank” means a State- or federally-chartered bank,  
18 savings bank or savings and loan association, or a bank organized  
19 under the laws of a foreign government, deemed eligible by the  
20 authority for participation in the program.

21 “Program” means the “New Jersey Non-Profit Loan Guarantee  
22 Pilot Program” established by the authority pursuant to section 2 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill).  
24

25 2. a. The New Jersey Economic Development Authority shall  
26 establish and maintain a “New Jersey Non-Profit Loan Guarantee  
27 Pilot Program” for the purpose of providing financial assistance  
28 from the “New Jersey Non-Profit Loan Guarantee Fund,”  
29 established pursuant to section 3 of P.L. , c. (C. ) (pending  
30 before the Legislature as this bill), in the form of loan guarantees  
31 for non-profit organizations established in the State.

32 b. Applications for loan guarantees shall be submitted by non-  
33 profit organizations in a form and manner determined by the  
34 authority. In addition to any other information that the authority  
35 may deem appropriate, the application shall require the non-profit  
36 organization to submit proof that the non-profit organization has:

37 (1) been determined by the federal Internal Revenue Service to  
38 be a tax-exempt organization pursuant to section 501(c)(3) of the  
39 Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3);

40 (2) been in existence for 10 years prior to the effective date of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill);  
42 and

43 (3) received financial assistance from the State, including  
44 grants, loans, or any other form of assistance, prior to the effective  
45 date of P.L. , c. (C. ) (pending before the Legislature as this  
46 bill).

1 c. In evaluating an application submitted by a non-profit  
2 organization pursuant to subsection b. of this section, the authority  
3 may only approve the application if the authority determines:

4 (1) that the loan for which the application for a loan guarantee  
5 has been submitted is expected to result in the creation of 10 or  
6 more full-time jobs upon completion of construction of a new  
7 physical space financed pursuant to P.L. , c. (C. ) (pending  
8 before the Legislature as this bill);

9 (2) based on projections submitted by the non-profit  
10 organization, including the data and assumptions forming the basis  
11 thereof, of the profitability and financial stability over the term of  
12 the loan guarantee, that the loan for which the application for a loan  
13 guarantee has been submitted will support the construction of a new  
14 physical space that is capable of generating income sufficient to  
15 repay the loan through box office sales, private donations,  
16 sponsorships, or any other source of revenue; and

17 (3) that the non-profit organization has a record of financial  
18 stability, good reputation, and credit worthiness.

19

20 3. a. To implement the program, the authority shall establish  
21 and maintain a special revolving fund to be known as the “New  
22 Jersey Non-Profit Loan Guarantee Fund,” which shall be credited  
23 with:

24 (1) any amounts from the “Economic Recovery Fund,”  
25 established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12),  
26 that the authority determines are necessary to effectively implement  
27 the program, within the limits of funding available from the  
28 “Economic Recovery Fund”;

29 (2) any moneys that shall be received by the authority from the  
30 repayment of the moneys in the guarantee fund used to provide loan  
31 guarantees pursuant to P.L. , c. (C. ) (pending before the  
32 Legislature as this bill) and interest thereon; and

33 (3) any other moneys of the authority, including but not limited  
34 to, any moneys available from other business assistance programs  
35 administered by the authority that are authorized and determined by  
36 the authority to be deposited in the guarantee fund.

37 b. The authority shall use the moneys in the guarantee fund to:

38 (1) enter, within six months of the effective date of P.L. ,  
39 c. (C. ) (pending before the Legislature as this bill), into  
40 loan guarantee agreements with participating banks and non-profit  
41 organizations, which meet the requirements set forth in subsections  
42 b. and c. of section 2 of P.L. , c. (C. ) (pending before the  
43 Legislature as this bill), to guarantee a portion of the loans or lines  
44 of credit provided by participating banks, in accordance with  
45 section 4 of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill); and

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1 (2) defray the administrative expenses of the authority in  
2 carrying out the purposes and provisions of P.L. , c. (C. )  
3 (pending before the Legislature as this bill).

4 c. Moneys in the guarantee fund may be invested in such  
5 obligations as the authority may approve and, except as otherwise  
6 provided in section 4 of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill), net earnings received from the investment  
8 or deposit of moneys in the guarantee fund by the authority shall be  
9 redeposited in the guarantee fund for use for the purposes of P.L. ,  
10 c. (C. ) (pending before the Legislature as this bill).

11  
12 4. a. After approving an application submitted pursuant to  
13 section 2 of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill), the authority shall enter into an agreement with a  
15 participating bank and the non-profit organization to use the  
16 moneys from the guarantee fund to guarantee a direct loan or  
17 revolving line of credit provided by the participating bank to  
18 finance the construction of a new physical space by the qualified  
19 non-profit organization, pursuant to paragraph (2) of subsection c.  
20 of section 2 of P.L. , c. (C. ) (pending before the Legislature  
21 as this bill). Each loan guarantee agreement that the authority shall  
22 enter into with a participating bank and non-profit organization  
23 shall not exceed \$15 million per qualified applicant.

24 b. No loan guarantee agreement entered into pursuant to this  
25 section shall be for a period of more than 20 years. Upon expiration  
26 of the period of all loan guarantees entered into pursuant to P.L. ,  
27 c. (C. ) (pending before the Legislature as this bill), all  
28 repayments, and interest thereon, and all moneys remaining in the  
29 guarantee fund shall be credited to and deposited in the "Economic  
30 Recovery Fund," established pursuant to section 3 of P.L.1992, c.16  
31 (C.34:1B-7.12) for any of the purposes thereof.

32 c. The loan guarantee agreements shall provide that the loans  
33 or lines of credit for financing the costs of qualified non-profit  
34 organizations shall come from participating banks. The agreements  
35 may also provide for any other terms or conditions that the  
36 authority and the participating banks determine as being necessary  
37 or desirable to effectuate the purpose of the program.

38 d. The authority shall establish sufficient reserves and liquid  
39 reserves to provide a sufficient and actuarially sound basis for its  
40 pledges contained in any loan guarantee agreement entered into  
41 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
42 this bill).

43  
44 5. a. Within 24 months following the effective date of P.L. ,  
45 c. (C. ) (pending before the Legislature as this bill), and on or  
46 before February 15 of each year thereafter in which a loan  
47 guarantee agreement entered into under of P.L. , c. (C. )  
48 (pending before the Legislature as this bill) is in effect, the

1 authority shall prepare a report on the program. The report may be  
2 issued separately, or in combination with any reports required by  
3 any law concerning financial assistance to non-profit organizations  
4 in this State.

5 b. The report shall include, but need not be limited to, a  
6 description of the demand for the program from qualified non-  
7 profits and participating banks, the efforts made by the authority to  
8 promote the program, the total amount of loan guarantees approved  
9 by the authority under the program, and an assessment of the  
10 effectiveness of the program in meeting the goals of P.L. ,

11 c. (C. ) (pending before the Legislature as this bill). The  
12 authority shall submit its report to the Governor and, pursuant to  
13 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature,  
14 including therein any recommendations for legislation to improve  
15 the effectiveness of the program.

16

17 6. Notwithstanding any provision of the “Administrative  
18 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), or any other  
19 law to the contrary, the authority may adopt, immediately upon  
20 filing with the Office of Administrative Law and no later than the  
21 90th day after the effective date of this act, such rules and  
22 regulations as the authority deems necessary to implement the  
23 provisions of this act, which regulations shall be effective for a  
24 period not to exceed 12 months. The regulations shall, at a  
25 minimum, set forth the requirements for application submissions,  
26 the criteria for application selections, and the permitted uses of loan  
27 proceeds. The regulations shall thereafter be amended, adopted, or  
28 readopted by the authority in accordance with the provisions of the  
29 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
30 seq.).

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32 7. This act shall take effect immediately.

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#### STATEMENT

36

37 This bill requires the New Jersey Economic Development  
38 Authority (authority) to establish and maintain the New Jersey Non-  
39 Profit Loan Guarantee Pilot Program (program) and the New Jersey  
40 Non-Profit Loan Guarantee Fund (fund).

41 Under the bill, the authority is required, within six months of the  
42 effective date of the bill, to provide financial assistance in the form  
43 of loan guarantees to non-profit organizations to support the  
44 construction of new physical spaces that are capable of generating  
45 income sufficient to repay the loans.

1 *Application Criteria*

2 The bill requires the authority to establish an application process.  
3 A non-profit organization that seeks a loan guarantee agreement  
4 under the program is required to submit an application to the  
5 authority in a form and manner prescribed by the authority. In  
6 addition to any other information that the authority may deem  
7 appropriate, the application is required to request the non-profit  
8 organization to submit proof that the non-profit organization has:

- 9 1) been determined by the federal Internal Revenue Service to  
10 be a tax-exempt organization pursuant to federal law;
- 11 2) been in existence for 10 years prior to the effective date of  
12 the bill; and
- 13 3) received financial assistance from the State, including  
14 grants, loans, or any other form of assistance prior to the effective  
15 date of the bill.

16 The authority may only approve the application if the authority  
17 determines:

- 18 1) that the loan for which the application for a loan guarantee  
19 has been submitted is expected to result in the creation of 10 or  
20 more full-time jobs upon completion of construction of a new  
21 physical space financed under the provisions of the bill; and
- 22 2) based on the projections by the non-profit organization,  
23 including the data and assumptions forming the basis thereof, of the  
24 profitability and financial stability over the term of the loan  
25 guarantee, the loan for which the application for a loan guarantee  
26 has been submitted will support the construction of new physical  
27 space that is capable of generating income sufficient to repay the  
28 loan through box office sales, private donations, sponsorships, or  
29 other sources of revenue; and
- 30 3) the non-profit organization has a record of financial stability,  
31 good reputation, and credit worthiness.

32

33 *Loan Guarantee Agreements*

34 Under the bill, the authority would enter into an agreement with  
35 a participating bank and a non-profit organization qualified  
36 pursuant to the bill to use the moneys from the fund to guarantee a  
37 direct loan or revolving line of credit provided by the participating  
38 bank to finance the construction of a new physical space by the  
39 qualified non-profit organization. Each loan guarantee agreement  
40 that the authority enters into with a participating bank and non-  
41 profit organization will not exceed \$15 million per qualified  
42 applicant or a period of more than 20 years. The agreements are  
43 also required to provide for any other terms or conditions that the  
44 authority and the participating banks determine as being necessary  
45 or desirable to effectuate the purpose of the program.

46 The authority is also required to establish sufficient reserves and  
47 liquid reserves to provide a sufficient and actuarially sound basis

1 for its pledges contained in any loan guarantee agreement entered  
2 into pursuant to the bill.

3

4 *Loan Fund*

5 The bill requires the fund to be credited with:

6 1) an amount from the Economic Recovery Fund that the  
7 authority determines is necessary to effectively implement the  
8 program, within the limits of funding available from the Economic  
9 Recovery Fund;

10 2) any moneys received by the authority from the repayment of  
11 the moneys in the guarantee fund used to provide loan guarantees  
12 pursuant to the bill and interest thereon; and

13 3) any other moneys of the authority, including but not limited  
14 to, any moneys available from other business assistance programs  
15 administered by the authority that are authorized and determined by  
16 the authority to be deposited in the fund.

17

18 *Report Requirements*

19 Finally, within 24 months following the effective date of the bill,  
20 and on or before February 15 of each year thereafter in which a loan  
21 guarantee agreement entered into under the bill is in effect, the  
22 authority is required to prepare a report on the program. The report  
23 may be issued separately, or in combination with any reports  
24 required by any law concerning financial assistance to non-profit  
25 organizations in New Jersey.

26 The report is required to include, but need not be limited to, a  
27 description of the demand for the program from qualified non-  
28 profits and participating banks, the efforts made by the authority to  
29 promote the program, the total amount of loan guarantees approved  
30 by the authority under the program and an assessment of the  
31 effectiveness of the program in meeting the goals of the bill. The  
32 authority is required to submit its report to the Governor and the  
33 Legislature, including any recommendations for legislation to  
34 improve the effectiveness of the program.