

SENATE, No. 3344

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED DECEMBER 1, 2022

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/5/2022)

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

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
10 P.L. , 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
11 P.L. , c. (C.) (pending before the Legislature as this bill).
12 The authority shall submit its report to the Governor and, pursuant
13 to 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.