

CHAPTER 240

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

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:

C.34:1B-241.1 Definitions relative to small business loan program including certain dairy farms, operations.

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.2019, c.240 (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.2019, c.240.

"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 qualified dairy farmers and eligible farming operations.

"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 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.

"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.

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

C.34:1B-241.2 Maintenance, administration of loan program.

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 (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, 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 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.

c. (1) 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.

(2) In order to receive a loan from the authority pursuant to P.L.2019, c.240, 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) 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).

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.

3. The authority shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the purposes of P.L.2019, c.240. The authority shall consult with the department concerning those rules and regulations applicable to loans made to qualified dairy farmers and eligible farming operations.

4. This act shall take effect immediately.

Approved August 9, 2019.