

## §1026-J. Economic Recovery Program

### (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

The Economic Recovery Program, referred to in this section as the "program," is established to provide loans to businesses that do not have sufficient access to credit but demonstrate the ability to survive, preserve and create jobs, and repay the obligations. [PL 1999, c. 731, Pt. VVV, §4 (AMD).]

#### 1. Eligibility for loans. Businesses may apply to the authority for loans under the program.

A. The projects to be financed must pertain to manufacturing, industrial, recreational or natural resource enterprises, be located in the State and provide significant public benefit in relation to the amount of the loan, as determined by the authority. Public benefits include, but are not limited to, preservation of jobs, increased opportunities for employment, increased capital flows, particularly capital flowing in from outside the State, and increased state and municipal tax revenues. Loan proceeds may be used for any appropriate commercial purpose, as determined by the authority, including working capital and bridge loans pending other financing. [PL 1997, c. 563, Pt. A, §1 (AMD).]

B. The authority must determine that the borrower is a for-profit or nonprofit commercial entity and, except as provided in subsection 4, that it is creditworthy and reasonably likely to repay the loan. [PL 1997, c. 563, Pt. A, §1 (AMD).]

C. The authority must determine that the borrower has insufficient access to other funds and that the loan is necessary in order for the public benefits of the application to be realized. [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

D. [PL 1999, c. 731, Pt. VVV, §5 (RP).]  
[PL 1999, c. 731, Pt. VVV, §5 (AMD).]

**2. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2015, c. 224, §2) Loan terms and conditions.** Loans may not exceed \$1,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

[PL 1999, c. 731, Pt. VVV, §6 (AMD).]

**2. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 224, §2) Loan terms and conditions.** Loans may not exceed \$2,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties

or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

[PL 2015, c. 224, §1 (AMD); PL 2015, c. 494, Pt. C, §8 (AFF).]

**3. Rulemaking.** The authority shall establish rules for the implementation of the program established by this section, including, but not limited to, the establishment of fees that may be charged for the administration of the program, and may do so notwithstanding:

A. The omission of any such rules from the authority's current regulatory agenda prepared pursuant to Title 5, section 8060 or provided pursuant to Title 5, section 8053-A, subsection 2; or [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

B. Any limitation imposed by Title 5, section 8064. [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

[PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

**4. Business injured in 1998 ice storms.** In order to provide timely and effective assistance to businesses injured by the 1998 ice storms, related power outages and other impacts, the authority is authorized to provide loans of up to \$10,000 in addition to and not to the exclusion of larger loans under the program. For purposes of this subsection, the authority may establish a streamlined application, loan approval and disbursement process for borrowers that demonstrate that:

A. They have been damaged by the storm; [PL 1997, c. 563, Pt. A, §2 (NEW).]

B. They have insufficient access to conventional sources of capital or to federal disaster assistance in a timely manner; and [PL 1997, c. 563, Pt. A, §2 (NEW).]

C. Their credit history demonstrates a reasonable willingness and ability to pay past debts and other obligations or that any past credit problems can be explained to the satisfaction of the authority. [PL 1997, c. 563, Pt. A, §2 (NEW).]

The authority may require less than adequate collateral for loans under this subsection, may provide for deferral of payments of principal or both principal and interest, and may waive accrual of interest for a period of up to 12 months. In order to process loan requests as promptly as possible, the chief executive officer is authorized to act on behalf of the authority and may approve loans under this section on such terms and conditions as the chief executive officer determines necessary or prudent, without the need for rulemaking and without being limited by the provisions of existing rules adopted in accordance with subsection 3. Assistance under this subsection is limited to an aggregate of no more than \$2,000,000, and all applications under this subsection must be received no later than April 30, 1998.

[PL 1997, c. 563, Pt. A, §2 (NEW).]

#### SECTION HISTORY

PL 1991, c. 849, §1 (NEW). PL 1991, c. 849, §7 (AFF). PL 1997, c. 563, §§A1,2 (AMD). PL 1999, c. 731, §§VVV4-6 (AMD). PL 2015, c. 224, §1 (AMD). PL 2015, c. 224, §2 (AFF). PL 2015, c. 494, Pt. C, §8 (AFF).

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