

52: 27D - 71 et seq.

August 25, 1970

LEGISLATIVE HISTORY OF R.S.52:27D-71 et seq.  
(Business Incentive Act of 1969)

Similar bills previously introduced:

1968 - S608

1969 - Chapter 202 - S287.

Pre-filed for introduction in 1969 by Schiavo  
(and 14 others).

No statement.

Conditional veto by Governor (copy of original  
bill and veto enclosed) and statement on signing  
(copy enclosed).

Periodical article located:

974.905                      Community (Community Affairs Department)  
C731                              vol.3, No.3, December 1969.p.2

Clippings located (Vertical File -- New Jersey -- Loans)

Aid for black business. TET 3-18-69  
"Black capitalism" in Governor's hands. TET 3-25-69.  
Assembly approves incentive loan bill for poor  
businessmen. P.I. 5-21-69.  
Unique loan plan for poor. TET 8-1-69.  
Black capitalism bill faces more hurdles. Record 8-4-69  
Hughes planning to veto bill on ghetto business loans.  
P.I. 8-6-69.  
Hughes will veto state version of black capitalism.  
S.L. 8-6-69.  
Revised loan bill passes Senate. TET 8-7-69.  
Modified loan bill passed by Senate. Record 8-7-69.  
Proper interest (editorial) S.L. 8-12-69.

RSL/EH  
Enclosure

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S 287 Schiaffo, Wallwork, Dickinson, Italiano, Woodcock, Hagedorn, Knowlton, Bateman, H. Kelly, Rinaldo, White, Maturri, Giuliano, Sciro, Schoem

Pre-filed—Designated “The Business Incentive Act (1969)” provides for guaranteed or insured bank loans to deprived persons for the purposes of establishing or re-establishing themselves in small businesses or professions; appropriates \$2,000,000; effective July 1, 1969.

Mar. 24—Passed in Senate, amended.

May 20—Passed in Assembly.

Aug. 6—Returned with Governor's recommendation.

Aug. 6—Amended as recommended, re-enacted in Senate.

Dec. 1—Reenacted in Assembly.

Dec. 2—Approved, Chapter 202.

SENATE, No. 287

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

By Senator SCHIAFFO

AN ACT to provide for guaranteed or insured bank loans to certain qualified persons for the purposes of establishing or re-establishing themselves in small businesses or professions, and providing appropriations therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. The purpose of this act is to make it possible for certain  
2 qualified individuals to obtain venture capital, at reasonable rates  
3 of interest, which may be necessary to establish or re-establish  
4 themselves in a business or profession.

1 2. There is hereby created in the Department of Conservation  
2 and Economic Development an "incentive loan authority," herein-  
3 after referred to as the "authority," which shall be a body corpo-  
3A rate and politic, with corporate succession. The functions, powers  
4 and duties of the authority shall be vested in and may be exercised  
5 by the Commissioner of the Department of Conservation and  
6 Economic Development, hereinafter referred to as the "commis-  
7 sioner."

1 3. The authority shall have power to contract, to sue and be sued,  
2 to make, amend and rescind such rules and regulations as may be  
3-4 necessary to carry out the provisions of this act; but the authority  
5 may not in any manner, directly or indirectly, pledge the credit of  
6 the State.

1 4. The authority shall have an original capitalization of  
2 \$3,000,000.00 which shall be subscribed by the Treasurer of the  
3 State of New Jersey, and which is hereby appropriated out of  
4 general revenues.

1 5. All capital and revenues of the authority shall be held in trust  
2 in any incentive loan guaranty and insurance fund, hereinafter  
3 referred to as the "fund," to meet the obligations of the authority  
4 under this act; but any amounts in the fund in excess of the total  
5 amount of guaranteed or insured loans outstanding at any time

6 shall be subject to such disposition as may be provided by law.  
7 Such amounts in the fund as the authority shall estimate are not  
8 needed for its current operations shall be invested and reinvested  
9 by the State Treasurer in such obligations as are legal for savings  
10 banks of this State.

1 6. With the exception of a savings and loan association, any  
2 financial corporation under the supervision of the Department of  
3 Banking and Insurance and any national bank organized under the  
4 laws of the United States and doing business in this State, which  
5 are hereinafter referred to as "any bank," may, any other pro-  
6 visions of law to the contrary notwithstanding, make incentive  
7 loans under this act, pursuant to such rules and regulations not  
8 inconsistent herewith, and using such forms, as the commissioner  
9 may prescribe.

1 7. For the purposes of this act, a "qualified person" shall mean  
2 any bona fide resident of this State whose gross income for the past  
3 3 years has not exceeded \$7,500.00 per annum.

1 8. Any application for an incentive loan made under this act  
2 shall be submitted to the commissioner for his approval. The com-  
3 missioner shall approve the application only if he finds that:

4 (a) The purpose of the loan is to establish or re-establish one or  
5 more qualified persons in a business, including any agricultural  
6 pursuit or profession; and

7-9 (b) The applicant has training or experience in the business or  
10 profession described in the application, or is otherwise qualified;  
11 and

12 (c) The amount of the loan would not exceed the maximum  
13 amount reasonably necessary to start in the business or profession  
14 or \$25,000.00 whichever is less; and

15 (d) The ability and experience of the qualified person, and the  
16 conditions under which he proposes to pursue such business or pro-  
17 fession are reasonably favorable for the successful liquidation of  
18 the loan.

1 9. Upon approval by the commissioner of an incentive loan  
2 application any bank may make the loan as approved and upon the  
3 terms and conditions required under this act.

1 10. Any bank making an incentive loan shall co-operate with the  
2 commissioner in supervising the use of the credit in accordance with  
3 its purposes.

1 11. Each incentive loan made under this act shall:

2 (a) Be evidenced by a note or other obligation approved by the  
3 commissioner.

4 (b) Bear interest at a rate not exceeding the maximum legal rate  
5 of interest per annum upon the unpaid balance.

6 (c) Be payable as follows:

7 (1) In monthly or quarterly installments of interest, the first  
8 of which shall be payable not less than 6 months after the mak-  
9 ing of the loan and the last of which shall be payable not exceed-  
10 ing 6 years from the date of the obligation; and

11 (2) In monthly or quarterly installments of principal, the  
12 first of which shall be payable not less than 12 months after the  
13 making of the loan and the last of which shall be payable not  
14 exceeding 6 years from the date of the obligation: except,  
15 however, that any qualified person at his option, may, on such  
16 form as the commissioner shall prescribe, waive the grace  
17 period, or any part thereof, herein provided him for the pay-  
18 ment of the first installment of interest, or the grace period, or  
19 any part thereof, herein provided him for the payment of the  
20 first installment of principal, or both.

21 (d) Be secured only by the personal liability of the maker, and  
22 not by any endorsers, comakers, collateral or other security; except  
23 that in accordance with such rules and regulations as prescribed by  
24 the commissioner, where the maker is married, endorsement of the  
25 spouse may be required, and where the loan, or any part thereof, is  
26 made to finance the purchase or improvement of any property a  
27 lien on such property may be required.

28 Where the loan, or any part thereof, is made to finance the  
29 purchase or improvement of any property to be used by the  
30 qualified persons and any other person or persons in a business or  
31 profession to be conducted by them as partners, and a lien on such  
32 property is required pursuant to the rules and regulations of the  
33 commissioner, the instrument creating such lien may, pursuant to  
33A regulations prescribed by the commissioner, be required to be made  
34 and executed by such partners, individually and as copartners doing  
35 business under their trade name. Notwithstanding the provisions of  
36 any other law to the contrary every such lien instrument properly  
37 recorded, shall be valid and effective against all creditors of such  
38 partnership.

1 12. The entire cost to the borrower of making any loan, regard-  
2 less of amount shall be included in a single charge of \$10.00 for all  
3 costs, exclusive of interest, of which \$2.00 shall be paid by the bank  
4 to the authority; except, however, that whenever any qualified per-  
5 son's loan is, under the provisions of this act, required to be secured  
6 by a lien on property purchased with all or part of the proceeds  
7 of such loan, an additional amount, not to exceed a maximum

8 amount which shall be prescribed by the commissioner, may be  
9 charged to the borrower to defray the expenses incurred in con-  
10 nection with the making of the instrument creating the lien, includ-  
11 ing search fees and recording fees.

1 13. Subject to such rules and regulations as the commissioner  
2 may prescribe, any incentive loan made under and pursuant to the  
3 provisions of this act for a period of less than 6 years may be  
4 extended or refinanced in the discretion of the bank without affect-  
5 ing the obligation of the authority hereunder; provided, provision  
6 is made for complete discharge of the obligation, and interest  
7 thereon, not later than 6 years from the date of the original loan.  
8 Except as the commissioner may prescribe in the terms of any  
9 instrument creating a lien required under the provisions of this act,  
10 installments may not be accelerated on any incentive loan unless  
11 at any time in the option of the borrower.

1 14. The authority is hereby authorized and empowered to insure  
2 or guaranty, whichever any bank may elect in accordance with the  
3 provisions of section 15 hereof, all incentive loans heretofore or  
4 hereafter made by such bank, to the extent provided in section 17  
5 or section 18 hereof respectively.

1 15. Every bank shall, prior to, or simultaneously with the sub-  
2 mission for approval of its initial loan, elect to have all incentive  
3 loans made and to be made by such bank either insured in accor-  
4 dance with the provisions of section 17 hereof or guaranteed in  
5 accordance with the provisions of section 18 hereof. Notice of such  
6 election shall be made on such form as the commissioner shall  
7 prescribe.

1 16. Any bank which has elected to have its approved incentive  
2 loans guaranteed by the authority in accordance with the provisions  
3 of section 17 hereof, may at any time elect to have all of its approved  
4 incentive loans then outstanding and all approved incentive loans  
5 thereafter to be made by it insured in accordance with the pro-  
6 visions of section 16 hereof. Notice of such election shall be made  
7 on such form as the commissioner shall prescribe.

1 17. In the event that a bank shall elect, pursuant to the pro-  
2 visions of section 15 hereof, to have its approved incentive loans  
3 insured by the authority, then the authority shall set aside out of  
4 the incentive guaranty and insurance fund a reserve fund to the  
5 credit of such bank equal to 20% of the total face amount of all of  
6 such bank's approved incentive loans outstanding at the time of  
7 such election. The authority shall add to such reserve fund 20% of  
8 the amount of each approved incentive loan thereafter made by such  
9 bank. In the event that the total of all amounts credited to said

10 reserve fund shall at any time be in excess of the total face amount  
11 of all such bank's approved incentive loans outstanding, then the  
12 authority shall withdraw such excess amount from said reserve  
13 fund.

14 The reserve fund so set aside shall be used by the authority to  
15 meet and pay any losses incurred by said bank by reason of such  
16 loans but in no event shall any payment be made by the authority  
17 to any bank beyond the total balance set aside as the reserve fund  
18 for such bank at the time of such payment.

19 Whenever any approved incentive note shall be in default to any  
20 such bank for 30 days after the date of maturity thereof, or when-  
21 ever any installment thereon is more than 3 months in arrears, the  
22 authority shall, upon the demand of such bank, purchase such note  
23 by paying to said bank out of the reserve fund set aside to the credit  
24 of said bank, as herein provided, the total amount of principal and  
25 interest then due and owing to said bank on said note, but in no  
26 event shall any payment be made by the authority in excess of the  
27 amount then remaining to the credit of said bank in the reserve fund  
28 set aside for said bank, as herein provided.

1 18. In the event that a bank shall elect pursuant to the provisions  
2 of section 15 hereof, to have its incentive loans guaranteed by the  
3 authority then the authority shall purchase upon demand of such  
4 bank to the extent of the resources of the guaranty and insurance  
5-6 fund in excess of the total of all balances then held in reserve funds  
7 in accordance with the provisions of section 17 hereof, any approved  
8 incentive note which remains unpaid for 30 days after the date of  
9 maturity thereof, or on which any installment is more than 3 months  
10 in arrears at a price equal to 90% of the unpaid principal of such  
11 note.

1 19. The sum total of all reserve funds set aside by the authority  
2 in accordance with the provisions of section 17 together with such  
3 amount as the commissioner may set aside, out of the guaranty and  
4 insurance fund, to meet the payment by the authority of approved  
5 notes submitted to it for purchase in accordance with the provisions  
6 of section 18 shall in no event be less than 20% of the total face  
7 amount of all approved incentive loans from time to time outstand-  
8 ing.

1 20. The total amount of guaranty and insurance liability of the  
2 authority which may be outstanding at any time shall in no event  
3 exceed the sum of \$10,000,000.00.

1 21. Every bank which has made or which may hereafter make  
2 any approved incentive loan or loans shall, in consideration of the  
3 guaranty or insurance, as herein provided, pay to the authority an

4 amount equal to 10% of all interest received by it on all such loans,  
5 to be payable at such time or times and in such manner as the  
6 authority may prescribe.

1 22. The commissioner shall proceed to liquidate notes purchased  
2 by the authority as rapidly as possible, but shall develop and adopt  
3 programs for deferred payments by makers of such notes to avoid  
4 undue hardship or sacrifice of business values, without regard to  
5 the 6-year limitations on maturity elsewhere contained in this act.

1 23. The commissioner shall establish in each community where  
2 there may be a need, a business counseling service of unsalaried  
3 counsellors, to advise with and assist qualified persons who apply  
4 for or obtain incentive loans under this act. Such counsellors shall  
5 be persons of proved business judgment and established reputation  
6 in the community, and shall be designated by the commissioner.

1 24. The commissioner shall, through the business counsellors,  
2 consult with qualified persons applying for incentive loans for the  
3 purpose of approving or disapproving such loans. Business  
4 counsellors shall from time to time visit the place of business or  
5 profession of qualified persons using incentive loans under this act,  
6 and shall supervise the uses of such loans, advise and assist the  
7 qualified with respect to the business or profession, and perform  
8 such other duties as the commissioner may delegate to them.

1 25. No qualified person shall accept more than one loan under the  
2 provisions of this act, regardless of the amount of such loan, except  
3 that a qualified person who has received a loan for less than the  
4 maximum amount of the loan to which he may be entitled for such  
5 purpose under this act, and who is otherwise eligible for an in-  
6 centive loan, may apply for and receive a second incentive loan for  
7 such purpose. In such application the qualified person shall dis-  
8 close that it is for a second incentive loan for such purpose, and the  
9 bank making such loan shall make certain that any unpaid portion  
10 of the first loan is paid in full, both as to principal and interest,  
11 from the proceeds of such second incentive loan. In no event shall  
12 any qualified person receive more than 2 loans under the provisions  
13 of this act, totaling not more than \$25,000.00 for the purpose of  
14 establishing or re-establishing himself in a business or profession.

1 26. Any person who, having obtained an incentive loan under  
2 this act solicits, applies for, or accepts another such loan, except  
3 as specifically authorized in this act, and any person who knowingly  
4 and willfully furnishes any false or misleading information for the  
5 purpose of obtaining an incentive loan, or of enabling another to  
6 obtain an incentive loan, under this act, shall be guilty of a misde-  
7 meanor and upon conviction thereof, be punished by a fine of not

8 more than \$1,000.00 or by imprisonment of not more than 3 years or  
9 both.

1 27. The authority may, with respect to the exercise of its func-  
2 tions related to loans insured or guaranteed by it under this act,  
3 the provisions of any other law to the contrary notwithstanding:

4 (a) Consent to the modification, with respect to rate of interest,  
5 time of payment of principal or interest or any portion thereof,  
6 security or other provisions of any note, contract, mortgage or any  
7 instrument securing a loan which has been guaranteed or insured by  
8 the authority;

9 (b) Authorize payment of or compromise, subject to the approval  
10 in writing of the Attorney General, any claim upon or arising as a  
11 result of any such guaranty or insurance;

12 (c) Authorize payment of, compromise, waive or release, subject  
13 to the approval in writing of the Attorney General, any debt, right,  
14 title, claim, lien or demand, however acquired, including any equity  
15 or right of redemption, the waiver or release of any debt, right, title,  
16 claim, lien or demand including any equity or right of redemption  
17 shall be sufficient if executed by the commissioner or his duly  
18 authorized deputy on behalf of the authority; and the register or  
19 county clerk of any county and the clerk of any court is hereby  
20 authorized to cancel of record any lien, including but not limited to  
21 judgments, chattel mortgages and conditional sales agreements  
22 whenever the document evidencing such cancellation or request for  
23 cancellation is signed by the commissioner or his duly authorized  
24 deputy on behalf of the authority; and the register and the clerk of  
25 any county is authorized to record any documents of the authority  
26 signed by the commissioner or his duly authorized deputy on its  
27 behalf.

28 (d) Purchase at any sale, public or private, upon such terms and  
29 for such prices as it determines to be reasonable and take title to,  
30 property real, personal or mixed;

31 (e) Sell at public or private sale, exchange, assign, convey or  
32 otherwise dispose of any such property upon such terms and for  
33 such prices as it determines to be reasonable;

34 (f) Complete, administer, operate, obtain and authorize payment  
35 for insurance on and maintain, renovate, repair, modernize, lease  
36 or otherwise deal with any property acquired or held by it pursuant  
37 to the Business Incentive Loan Act (1969);

38 (g) Authorize payment from the Incentive Guaranty and In-  
39 surance Fund and any income received by the investment of said  
40 fund, subject to rules and regulations of the authority, disburse-  
41 ments, costs, commissions, attorney's fees and other reasonable

42 expenses related to and necessary for the making and protection  
43 of guaranteed or insured loans and the recovery of moneys loaned  
44 or management of property acquired in connection with such loans.

1 28. This act shall be known as The Business Incentive Loan Act  
2 (1969).

1 29. This act shall take effect July 1, 1969.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

SENATE BILL NO. 287 (1969)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 287, with my objections, for reconsideration.

This bill would create an incentive loan authority within the Department of Conservation and Economic Development. The authority, from an appropriation of \$2 million, would be allowed to insure or guarantee loans made by banks to "qualified persons" for the purpose of allowing them to establish themselves in a business or profession in loan amounts not exceeding \$25,000. In theory, the insurance or guarantee fund would induce banks to make loans in amounts of up to \$10 million in the aggregate. In practice, at this point in time, no loans could be reasonably expected.

There is among professional journalists a phrase which is especially pertinent here -- when a story which would have been timely and appropriate is dated or made inaccurate by subsequent occurrences, journalists say that the story has been "overtaken by events". Unfortunately, the same has happened to this bill. It was originally introduced as Senate Bill No. 608 in April of 1968. In fact, its antecedents are much older, as the bill is modeled on the provisions of the Veterans Loan Act of 1944 (NJSA 38:23B-1 et seq.). One can look back with nostalgia to the days in which a statute could state, as the Veterans Loan Act could, that no loan under the Act would bear an interest rate in excess of 4%.

The very financial crisis which recently required us to raise the maximum interest rate at which governments could borrow, has also made Senate Bill No. 287 unworkable. In particular, it should be noted

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that under the terms of Section 11 of Senate Bill No. 287, a loan must be secured "only by the personal liability of the maker", and must bear an interest rate "not exceeding the maximum legal rate". At the present time, the maximum legal rate applicable to individuals under Title 31 of the Revised Statutes, regarding usury, is set at 7-1/2% per annum. Since the prime lending rate -- the rate at which banks lend to their best credit risks -- is presently at 8-1/2% per annum, it is unreasonable to expect banks to make loans, whether guaranteed or not, to borrowers under Senate Bill No. 287 at a loss to themselves of at least one percentage point and, in most cases, much more.

I do feel, however, that Senate Bill No. 287 could be amended so as to make possible a comprehensive program of economic development for all of the depressed areas of our cities and state, regardless of race. Let me briefly discuss here the changes that should be made:

1. The lending agency should have the freedom to choose the most effective means of making its loans, either directly, or through the banks, depending on economic circumstances.
  2. The loans should be such as may qualify for purposes of "matching" federal loan and guarantee programs and not competing with them.
  3. The loan should be of sufficient magnitude to insure some lasting effect, not just for the individual receiving the loan, but for the community in which he lives and works.
  4. A comprehensive program of technical assistance should be provided -- lack of management and business help has been one of the main reasons of the failure of the Small Business Administration to reach into the inner-city areas.
  5. Assistance should be provided to have borrowers qualify to bid on public projects.
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6. Monies should be available to allow the borrower to purchase patent licenses or franchise rights.

7. The State should be able to subsidize the interest charges which are paid during the first years of a business enterprise -- while it is just getting established -- and then, when its role of "lender of last resort" is exhausted, be able to guarantee onto a second phase, borrowing from commercial banks. This two-phase approach will allow for a simpler transition from public to private capital.

8. The State should be able to sell participations -- shares -- in the loans made to these businesses so as to allow private industry to share in providing for funds lent.

9. A stronger conflicts of interest provision should be built into the law to protect the public from any double-dealing.

10. Finally, we cannot simply lend this money out on faith. Every year a lending agency should submit a report to the Governor and to the Legislature on the effectiveness of the loan program in meeting the goals of the law which authorized it.

We are presently in a situation in which the State must become -- in effect -- a lender of last resort. Interest rates are so high; capital funds so scarce, that there is little hope for continuing some enterprises, much less embarking on new ones. Senate Bill No. 287, if amended to include the changes I have recommended, will provide for a sensible two-phase program in which the borrower can move from dependence on subsidized government loans to dealing directly with the commercial market, as any other borrower. For example, although under present market circumstances, an interest subsidy may be necessary and justified, eventually it can be assumed that borrowing costs will drop. At that time, the borrower can

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turn to normal channels of financing and rely, perhaps, only on a guarantee. Eventually, of course, he will not even need the guarantee.

If these changes are made, I believe New Jersey will step into the forefront of those states making full-fledged and sincere attempts to restore life to our older cities and opportunity to our underprivileged citizens.

The changes that I suggest are attached hereto.

The changes which should be made are:

1. In the title, insert after the word "professions", the following: "and to promote the development of urban areas through the provision of capital loans to qualified businessmen in depressed areas".

2. Page 1, Section 1, Lines 1 through 4: Delete the present language and insert in lieu thereof the following:

"1. The Legislature hereby finds that a serious public emergency exists affecting and threatening the welfare, comfort, health, safety and prosperity of the people of the State and resulting from the fact that there exist in this State certain areas in which employment and other opportunities are lacking because of the absence of an adequate supply of commercial capital loans to businessmen, and that this inadequate supply of capital loans makes it impossible for citizens of this State to engage in occupations which will increase employment opportunities and service to the public and expand the economy of the State. The Legislature further finds that, unless the supply of commercial capital loans is increased, many citizens of the State will remain unemployed and under-employed and will lack opportunities for advancement; that to increase the supply of capital loans in these areas it is necessary to create a public agency authorized to make or guarantee subordinate equity capital loans and to provide expertise and assistance in the development of managerial skills; that such loans and the provision of such assistance are a public purpose for which public moneys may be expended, advanced, loaned, or granted; and that the enactment of the provisions hereinafter set forth is in the public interest."

3. Pages 1 & 2, Section 2, Lines 1 through 7: Delete Section 2 in its entirety and substitute in lieu thereof the following:

"2. The following terms whenever used or referred to in this act shall have the following respective meanings for the purposes of this act, except in those instances where the context clearly indicates otherwise:

(a) "Act" shall mean this act and any amendments and supplements thereto and any rules and regulations promulgated thereunder.

(b) "Authority" shall mean the New Jersey Urban Loan Authority created by this act.

(c) "Business Incentive Loan" shall mean a loan, guaranteed or insured, pursuant to the provisions of Sections 17 or 18 of this act.

(d) "Business Incentive Loan and Guarantee Fund" shall mean the fund for the insurance and guarantee of business incentive loans created pursuant to Section 5 of this act.

(e) "Commissioner" shall mean the Commissioner of the State Department of Community Affairs.

(f) "Department" shall mean the State Department of Community Affairs.

(g) "Qualified loan area" shall mean a region, county, municipality or parts thereof which is determined by the authority, in accordance with rules and regulations adopted by the authority, to be in need of capital loan assistance pursuant to this act.

(h) "Qualified loan client" shall mean any person, group, association, partnership, co-operative, or corporation which is:

(1) unable to obtain the necessary financing on reasonable terms from any other source, and

(2) qualified by training, aptitude or experience, or employing persons who are qualified by training, aptitude, or experience, to establish, operate and maintain the business enterprise for which a loan is sought, and

(3) Either:

(a) a resident of a qualified loan area, or the majority ownership of which is vested in residents of the qualified loan area, or

(b) establishing or expanding a business which will employ a majority of residents of a qualified loan area.

(i) "Security" means an instrument subject to the provisions of article 8 of Title 12A of the New Jersey Statutes.

(j) "Urban Loan Fund" shall mean the Revolving Urban Loan Fund created by this act."

4. Page 2, Section 3, Lines 1 through 6: Delete the present language and substitute in lieu thereof the following:

"3. (a) There is hereby established in the Department of Community Affairs a body corporate and politic, with corporate succession, to be known as the New Jersey Urban Loan Authority. The authority shall consist of 3 members, all ex officio, who shall be the Commissioner of the Department of Banking and Insurance, the State Treasurer, and the Commissioner of Community Affairs, who shall be the chairman. The functions, powers and duties of the authority may be exercised only upon a vote of a majority of its members. The authority shall be exempt from the provisions of Title 17 of of the Revised Statutes and any regulations thereunder.

(b) There is hereby created an Urban Loan Advisory Council which shall consist of the Commissioner of Banking and Insurance, the State Treasurer, the Commissioner of the Department of Conservation and Economic Development, the Commissioner of the Department of Labor and Industry, and 3 representatives of the public, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall serve for a term of 2 years, and the Commissioner of the Department of Community Affairs, who shall be chairman. Vacancies shall be filled in the same manner as the original appointments. All members of the council shall serve without compensation, but shall be reimbursed for the actual expenses incurred in attending the meetings of the council and in the performance of their duties under this act. The council shall meet at least once annually and at the call of the chairman at such other times as he shall determine. It shall be the duty of the council to consult with and advise the authority in the performance of its functions under this act."

5. Page 2, Section 5, Lines 1 through 10: Delete the present language and substitute in lieu thereof the following:

"5. The authority shall be authorized to perform the following functions and exercise the following powers, in addition to other functions, powers, and duties vested in it by this act or by any other provision of law:

(a) to make loans to qualified loan clients to assist them to establish, operate or maintain a particular business enterprise. In lieu of an evidence of indebtedness, the authority may purchase securities by a qualified loan client;

(b) to sue and be sued;

(c) to sell to any person, corporation or association, securities and evidences of indebtedness of any qualified loan client of the authority, with such indorsements or guarantees as the authority may determine;

(d) to provide technical, managerial and business assistance and expertise to loan applicants and qualified loan clients;

(e) to waive interest payments, forgive indebtedness, negotiate, re-negotiate and otherwise administer loans granted by it, all as provided in Section 27 of this act;

(f) to guarantee and insure loans made by private financial institutions subject to Title 17 of the Revised Statutes to qualified loan clients, as provided in Sections 17 and 18 of this act, upon payment of such fees, if any, or upon such terms as the authority may determine;

(g) to assist any qualified loan client in qualifying for, bidding on, and executing any public work or contract, including, but not limited to, the provision of security, performance bonds, and such other sureties as are necessary for such work or contract;

(h) to apply for and accept grants and loans from the Federal Government or any agency thereof, or from any foundation, corporation, association or individual, and comply with the terms, conditions, and limitations thereof, for any of the purposes of the authority; and to assist any qualified loan client in applying and qualifying for such grants and loans pursuant to this act;

(i) to adopt, amend, modify or rescind rules and regulations for the performance of its functions;

(j) to make and enter into contracts or agreements with qualified financial institutions subject to Title 17 of the Revised Statutes for the servicing and processing of loans made pursuant to this act;

(k) to appoint, retain and employ an executive director and such additional officers as the authority deems advisable, and appoint, retain and employ such attorneys and accounting, financial, marketing, and production experts and such other employees, agents, or experts as may be necessary in its judgment, to fix their compensation, terms of office and dates, and to promote and discharge such officers, employees, and agents or experts, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

(l) to invest any moneys held and not required for immediate use or disbursement, at the discretion of the authority, in such obligations as are authorized by law for the investment of trust funds in the custody of the State Treasurer;

(m) to call to its assistance and avail itself of the services of such employees of any State department or agency as it may require and as may be available;

(n) to establish an office or offices at such location or locations throughout the State as the authority shall determine;

(o) to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any of its powers;

(p) to assist any qualified loan client by any means authorized pursuant to this act in qualifying for or securing the status of licensee or assignee pursuant to any trademark, copyright or patent issued pursuant to Federal and State law;

(q) to allocate such funds as are appropriated to the authority between the business incentive loan and guarantee fund and the urban loan fund created pursuant to this act and among such other funds as it may deem necessary and proper to the exercise of its powers under this act;

(r) To sell shares of, or participations in, loans made, insured or guaranteed, pursuant to this act; said shares shall be legal investments for any financial institution subject to Title 17 of the Revised Statutes; and

(s) To subsidize the interest payments and carrying charges on any loan guaranteed or insured pursuant to Section 17 and 18 of this act, so that the cost of borrowing to the qualified loan client shall be within the limits established in Section 8 of this act."

6. Page 2, Section 6, Lines 1 through 9: Delete the present language and substitute in lieu thereof the following:

"6. (a) All capital and revenue of the authority shall be allocated to an incentive loan guarantee and insurance fund, hereinafter referred to as the "incentive loan fund", an urban loan fund, and such other accounts as may be necessary to meet the obligations of the authority under this act. Such amounts as the authority shall estimate are not needed for its current operations shall be invested and re-invested by the State Treasurer in the manner provided by law and the revenues therefrom shall, in turn, be allocated to the fund to which the appropriations were allocated pursuant to this act;

(b) There is hereby established a business incentive loan guarantee and insurance fund and an urban loan fund which shall consist of:

(1) All monies appropriated and made available by the Legislature of this State and allocated for inclusion therein by the authority;

(2) All proceeds of the sale of securities and evidences of indebtedness which are owned by the authority as a result of loans or purchases made from the fund;

(3) Notwithstanding the provisions of any other act or part thereof, any and all monies which the authority shall receive in repayment of principal and interest on loans or sale of securities; and

(4) Any other monies available to the authority from any source or sources.

The authority is hereby authorized to use the monies held in either fund, or any portion thereof, to carry out the purposes of this act.

(c) The authority may not, in any manner, directly or indirectly, pledge the credit of the State and such guarantees or insurance as are provided pursuant to this act shall in no event exceed the amount of the appropriations therefor."

7. Page 2, Section 7, Lines 1 through 3: Delete the present language and substitute in lieu thereof the following:

"7. The determination of whether a particular region, county, municipality or area within a municipality shall be a qualified loan area, as defined herein, shall be made with reference to the following:

(a) The amount and average duration of unemployment in the area.

(b) Income levels in the area.

(c) Existing employment and advancement opportunities open to residents of the area, including the presence or absence of viable business ventures willing to locate in the area without financial assistance.

(d) The existence of discriminatory practices which may hinder or have the effect of hindering residents of the area in obtaining employment or finding advancement opportunities.

(e) The availability of capital loans from other sources, including private financial institutions, to residents of the area or to persons, corporations, groups or associations establishing or expanding business enterprises in the area.

Said determination shall be made after consideration of such statistical and factual compilations as may be available. In making such determination, the authority may also take into account other factors and considerations which it finds relevant to the declared public purpose of this act, pursuant to its rules and regulations."

8. Pages 2 and 3, Section 8, Lines 1 through 18: Delete the present language and substitute in lieu thereof the following:

"8. Loans made, guaranteed, or insured by the authority shall be subject to the following terms and conditions:

(a) The loan period shall not exceed 10 years.

(b) The interest rate on the loan shall be established by the authority, but in no event at less than 1%, nor more than the then current prime lending rate in the qualified loan area. Interest payments shall be made according to a schedule to be determined by the authority.

(c) The loan may be evidenced by bonds, notes, or other evidence of indebtedness which may be subordinate to such other claims against the qualified loan clients as the authority shall determine, and which shall be in a form approved by the authority, containing such other terms and conditions as are required by the authority.

(d) The business venture for which the loan is made must be reasonably calculated to provide more than temporary alleviation of the depressed conditions in the qualified loan area.

(e) The qualified loan client must present evidence satisfactory to the authority that the funds loaned to it by the authority or funds whose repayment is guaranteed or insured by the authority have in fact been used only for the purposes contemplated by the authority in granting, guaranteeing, or insuring the loan. Failure to do so shall render the loan immediately due and payable.

(f) The authority must certify that the training, aptitude, or experience of the qualified loan clients leads the authority to believe that there are reasonable prospects for ultimate repayment of the loan to be granted, guaranteed, or insured.

No loan under this act shall be made if the total amount outstanding and committed (by participation or otherwise) to the qualified loan client from the revolving fund established herein would exceed \$250,000.00.

No security may be purchased by the authority in lieu of an evidence of indebtedness which authorizes or empowers the authority to vote in, administer, or otherwise participate in the management and control of the qualified loan client by proxy or otherwise. In no event may the sum of the total amount of such purchases made in lieu of an evidence of indebtedness pursuant to this section and the total amount of any loans outstanding exceed \$250,000.00 for any qualified loan client."

9. Page 3, Section 9, Line 1: Insert the letter "(a)" before the word "upon" and delete the word "commissioner" substituting in lieu thereof the word "authority".

10. Page 3, Section 9, Line 3: Change the "." to a ";" and add the following:

"(b) Any financial corporation, under the supervision of the Department of Banking and Insurance, and any national bank or savings and loan association organized under the laws of the United States and doing business in this State, which are hereinafter referred to as "any bank", may, any other provision of law to the contrary notwithstanding, make incentive loans under this act, pursuant to such rules and regulations, not inconsistent herewith, and using such forms, as the authority may prescribe; and

(c) Any application for a business incentive loan made under this act shall be submitted to the authority for its approval. The authority shall approve the application only if the loan is found to be consistent with the purposes of this act and the limitations imposed hereunder."

11. Page 3, Section 11(c), Lines 6 through 20: Delete the phrase "as follows:" and all matter following in Section 11(c), inserting in lieu thereof the phrase "in the manner prescribed by the authority, but not later than ten years from the date of the loan;"

12. Pages 3 and 4, Section 11(d), Lines 21 through 38: Delete the present language, inserting in lieu thereof the following:

"Be secured in the manner prescribed by the authority."

13. Page 4, Section 12, Lines 1 through 11: Delete the present language, inserting in lieu thereof the following:

"12. The entire cost to the borrower of any loan, regardless of amount, shall not exceed the schedule of costs and fees which shall be promulgated by the authority pursuant to this act, a portion of such costs and fees shall be paid to the authority, but such portion shall not exceed 20% of the total costs and fees payable to any bank by a qualified loan client."

14. Page 6, Section 22, Lines 1 and 2: Delete the word "commissioner" and substitute in lieu thereof the word "authority" on line 1 and insert the phrase "insured or guaranteed pursuant to this act" after the word "authority" on line 2, and before the word "as".

15. Page 6, Section 22, Line 5: Delete the number "6", substituting in lieu thereof the number "10".

16. Page 6, Section 23, Lines 1 through 6: Delete the present language and substitute in lieu thereof the following:

"23. No person shall be discriminated against because of race, religious principles, color, national origin or ancestry, by the authority, any bank, or any qualified loan client in connection with any financial or technical assistance provided under this act. "

17. Page 6, Section 24, Lines 1 through 8: Delete the present language and substitute in lieu thereof the following:

"24. The authority shall make a report on December 31 of each year of operations under this act to the Governor, the President of the Senate and the Speaker of the General Assembly. Such report shall include the names of the qualified loan clients receiving financial assistance from the authority, together with the amounts involved, and such other matters as the authority may deem appropriate. The report shall also include, but not be limited to, an evaluation of the effectiveness of its activities in: (a) increasing the level of employment in qualified loan areas; (b) increasing the investment of private financial institutions in qualified loan areas, and (c) reducing the incidence of discriminatory practices which may hinder, or have the effect of hindering, residents of qualified loan areas from obtaining employment or equal opportunity for advancement. Further, the report shall contain an analysis of, and recommendations regarding, existing laws or regulations which may hinder the growth of competitive business enterprise in qualified loan areas."

18. Pages 6 and 7, Section 25, Lines 1 through 14: Delete the present language and substitute in lieu thereof the following:

"25. (a) The powers enumerated in this act shall be interpreted broadly to effectuate the purposes thereof, and shall not be construed as a limitation of powers.

(b) If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered."

19. Page 7, Section 26, Lines 1 through 9: Delete the present language and substitute in lieu thereof the following:

"26. (a) No officers, employees, or agents of the authority, for purposes of personal gain, shall have or attempt to have, directly or indirectly, any interest in any contract or agreement of the authority, in the sale or purchase of any property by the authority, or in any loan or application therefor.

(b) Any officer, employee or agent of the authority who shall be found guilty of violating the provisions of this section shall be a disorderly person and subject to a fine of not less than \$100.00 or more than \$2,500.00. Any such person shall be barred from public employment in this State in any capacity whatsoever for a period of 5 years from the date he was adjudged a disorderly person.

(c) No loan or purchase shall be made under this act to or from any qualified loan client, unless the qualified loan client certifies to the authority the names of any attorneys, agents or other persons engaged by, or on behalf of, such qualified loan client for the purpose of expediting applications made to the authority for assistance of any sort, the fees paid or to be paid to such persons, and that no such person is an employee or officer of the State of New Jersey or a member of the Senate or General Assembly; and further executes an agreement binding any such qualified loan client for a period of 2 years after any assistance is rendered by the authority to such qualified loan client, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof, was rendered, or within 1 year prior thereto, shall have served as an officer or employee of the State of New Jersey or a member of the Senate or General Assembly. "

20. Page 7, Section 27, Line 2: Insert after the word "loans" and before the word "insured" the word "made".

21. Page 7, Section 27(c), Lines 17 and 18: In lieu of the word "commissioner" insert "authority"; and in lieu of the phrase "his duly authorized deputy" substitute "the executive director".

22. Page 8, Section 29, Line 1: Delete the phrase "July 1, 1969" and insert in lieu thereof the word "immediately".

Attest:

/S/ ALAN J. KARCHER  
Acting Secretary to the Governor

Respectfully,  
/S/ RICHARD J. HUGHES  
GOVERNOR

FROM: OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE  
December 3, 1969

Governor Richard J. Hughes today announced he had signed the following bills:

Senate Bill No. 287 -- which establishes a \$2 million program of loans and guarantees for residents of economically depressed areas. Governor Hughes stated "I am extremely gratified that the Legislature chose to concur in my conditional veto of this bill. As amended, it presents one of the most farsighted and flexible instruments for helping the residents of our center cities help themselves in the country. With this bill, I believe we are far ahead, not only of our sister states, but of the Federal government's efforts in this field."

Senate Bill No. 514 -- which authorizes the Governor to submit a reorganization plan to the Legislature, to take effect unless disapproved by the Legislature within 60 days. The legislation is patterned on the Federal Executive Reorganization Act.

Senate Bill No. 534 -- which authorizes the Department of Transportation to pay for a substitute potable water supply when State construction has destroyed or contaminated the water supply of any private individual or public body.

Senate Bill No. 620 -- which increases the raffle license fee from \$5 to \$10.

Senate Bill No. 621 -- which increases the bingo license fee from \$5 to \$10.

Senate Bill No. 622 -- which requires an approved bingo rentor to pay a \$5 fee for games held on licensed premises.

Senate Bill No. 667 -- which establishes the responsibility for the payment of the cost of relocated public utilities in an urban renewal project conducted by a redevelopment agency.

Senate Bill No. 668 -- which establishes the responsibility for the payment of the cost of relocated public utilities in an urban renewal project conducted by a public housing authority as a redevelopment agency.

Senate Bill No. 777 -- relating to pension payments of certain county court judges.