

[First Reprint]

ASSEMBLY, No. 2296

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Senator ANGELA V. MCKNIGHT

District 31 (Hudson)

Senator BRIAN P. STACK

District 33 (Hudson)

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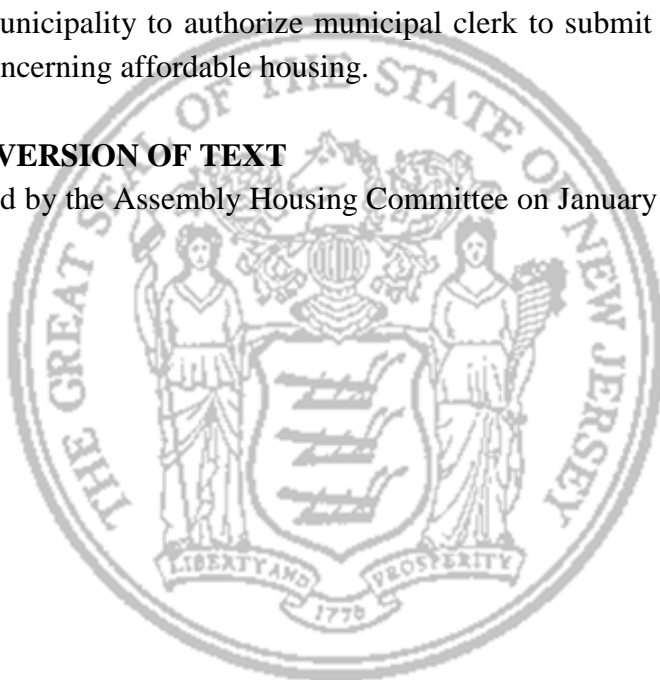
Assemblywomen Donlon, Speight and Senator Pou

SYNOPSIS

Permits municipality to authorize municipal clerk to submit certain written statements concerning affordable housing.

CURRENT VERSION OF TEXT

As reported by the Assembly Housing Committee on January 29, 2024, with amendments.



(Sponsorship Updated As Of: 3/18/2024)

1 AN ACT concerning affordable housing administration, including
 2 municipal approval of certain affordable housing projects,
 3 supplementing and amending P.L.1985, c.222, and amending
 4 P.L.1983, c.530.

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

8
 9 1. (New section) A municipal governing body may, by
 10 ordinance, delegate to its municipal clerk the authority to provide,
 11 on the governing body's behalf, a written statement in support of
 12 one or more affordable housing programs or projects, or indicating
 13 a need for the programs or projects in the municipality, in order to
 14 satisfy any other provision of statute or regulation, including but not
 15 limited to subsection a. of section 20 of P.L.1985, c.222 (C.52:27D-
 16 320) and subsection c. of section 6 of P.L.1983, c.530 (C.55:14K-
 17 6), provided that the proposed affordable housing program or
 18 project conforms to the provisions of **'[the municipality's] a**
 19 municipal¹ fair share plan and housing element ¹that has been
 20 approved through a judgment of repose or compliance, or through
 21 another form of judicial or State-level administrative certification¹.

22
 23 2. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
 24 read as follows:

25 20. There is established in the Department of Community
 26 Affairs a separate trust fund, to be used for the exclusive purposes
 27 as provided in this section, and which shall be known as the "New
 28 Jersey Affordable Housing Trust Fund." The fund shall be a non-
 29 lapsing, revolving trust fund, and all monies deposited or received
 30 for purposes of the fund shall be accounted for separately, by source
 31 and amount, and remain in the fund until appropriated for such
 32 purposes. The fund shall be the repository of all State funds
 33 appropriated for affordable housing purposes, including, but not
 34 limited to, the proceeds from the receipts of the additional fee
 35 collected pursuant to paragraph (2) of subsection a. of section 3 of
 36 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the
 37 Statewide non-residential development fees collected pursuant to
 38 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or
 39 reverting from municipal development trust funds, or other monies
 40 as may be dedicated, earmarked, or appropriated by the Legislature
 41 for the purposes of the fund. All references in any law, order, rule,
 42 regulation, contract, loan, document, or otherwise, to the
 43 "Neighborhood Preservation Nonlapsing Revolving Fund" shall
 44 mean the "New Jersey Affordable Housing Trust Fund." The

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted January 29, 2024.

1 department shall be permitted to utilize annually up to 7.5 percent
2 of the monies available in the fund for the payment of any
3 necessary administrative costs related to the administration of the
4 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any
5 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et
6 al.).

7 a. (1) Except as permitted pursuant to subsection g. of this
8 section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the
9 commissioner shall award grants or loans from this fund for
10 housing projects and programs in municipalities whose housing
11 elements have received substantive certification from the council, in
12 municipalities receiving State aid pursuant to P.L.1978, c.14
13 (C.52:27D-178 et seq.), in municipalities subject to a builder's
14 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),
15 or in receiving municipalities in cases where the council has
16 approved a regional contribution agreement and a project plan
17 developed by the receiving municipality.

18 (2) Of those monies deposited into the "New Jersey Affordable
19 Housing Trust Fund" that are derived from municipal development
20 fee trust funds, or from available collections of Statewide non-
21 residential development fees, a priority for funding shall be
22 established for projects in municipalities that have petitioned the
23 council for substantive certification.

24 (3) Programs and projects in any municipality shall be funded
25 only after receipt by the commissioner of either:

26 (a) a written statement in support of the program or project from
27 the municipal governing body; or

28 (b) a written statement in support of the program or project from
29 the municipal clerk, if the municipality has enacted an ordinance
30 pursuant to section 1 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32 b. The commissioner shall establish rules and regulations
33 governing the qualifications of applicants, the application
34 procedures, and the criteria for awarding grants and loans and the
35 standards for establishing the amount, terms, and conditions of each
36 grant or loan.

37 c. For any period which the council may approve, the
38 commissioner may assist affordable housing programs which are
39 not located in municipalities whose housing elements have been
40 granted substantive certification or which are not in furtherance of a
41 regional contribution agreement; provided that the affordable
42 housing program will meet all or part of a municipal low and
43 moderate income housing obligation.

44 d. Amounts deposited in the "New Jersey Affordable Housing
45 Trust Fund" shall be targeted to regions based on the region's
46 percentage of the State's low and moderate income housing need as
47 determined by the council. Amounts in the fund shall be applied for
48 the following purposes in designated neighborhoods:

- 1 (1) Rehabilitation of substandard housing units occupied or to
- 2 be occupied by low and moderate income households;
- 3 (2) Creation of accessory apartments to be occupied by low and
- 4 moderate income households;
- 5 (3) Conversion of non-residential space to residential purposes;
- 6 provided a substantial percentage of the resulting housing units are
- 7 to be occupied by low and moderate income households;
- 8 (4) Acquisition of real property, demolition and removal of
- 9 buildings, or construction of new housing that will be occupied by
- 10 low and moderate income households, or any combination thereof;
- 11 (5) Grants of assistance to eligible municipalities for costs of
- 12 necessary studies, surveys, plans, and permits; engineering,
- 13 architectural, and other technical services; costs of land acquisition
- 14 and any buildings thereon; and costs of site preparation, demolition,
- 15 and infrastructure development for projects undertaken pursuant to
- 16 an approved regional contribution agreement;
- 17 (6) Assistance to a local housing authority, nonprofit or limited
- 18 dividend housing corporation, or association or a qualified entity
- 19 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for
- 20 rehabilitation or restoration of housing units which it administers
- 21 which: (a) are unusable or in a serious state of disrepair; (b) can be
- 22 restored in an economically feasible and sound manner; and (c) can
- 23 be retained in a safe, decent, and sanitary manner, upon completion
- 24 of rehabilitation or restoration; and
- 25 (7) Other housing programs for low and moderate income
- 26 housing, including, without limitation, (a) infrastructure projects
- 27 directly facilitating the construction of low and moderate income
- 28 housing not to exceed a reasonable percentage of the construction
- 29 costs of the low and moderate income housing to be provided and
- 30 (b) alteration of dwelling units occupied or to be occupied by
- 31 households of low or moderate income and the common areas of the
- 32 premises in which they are located in order to make them accessible
- 33 to persons with disabilities.
- 34 e. Any grant or loan agreement entered into pursuant to this
- 35 section shall incorporate contractual guarantees and procedures by
- 36 which the division will ensure that any unit of housing provided for
- 37 low and moderate income households shall continue to be occupied
- 38 by low and moderate income households for at least 20 years
- 39 following the award of the loan or grant, except that the division
- 40 may approve a guarantee for a period of less than 20 years where
- 41 necessary to ensure project feasibility.
- 42 f. Notwithstanding the provisions of any other law, rule, or
- 43 regulation to the contrary, in making grants or loans under this
- 44 section, the department shall not require that tenants be certified as
- 45 low or moderate income or that contractual guarantees or deed
- 46 restrictions be in place to ensure continued low and moderate
- 47 income occupancy as a condition of providing housing assistance
- 48 from any program administered by the department, when that

1 assistance is provided for a project of moderate rehabilitation if the
2 project: (1) contains 30 or fewer rental units; and (2) is located in a
3 census tract in which the median household income is 60 percent or
4 less of the median income for the housing region in which the
5 census tract is located, as determined for a three person household
6 by the council in accordance with the latest federal decennial
7 census. A list of eligible census tracts shall be maintained by the
8 department and shall be adjusted upon publication of median
9 income figures by census tract after each federal decennial census.

10 g. In addition to other grants or loans awarded pursuant to this
11 section, and without regard to any limitations on such grants or
12 loans for any other purposes herein imposed, the commissioner
13 shall annually allocate such amounts as may be necessary in the
14 commissioner's discretion, and in accordance with section 3 of
15 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
16 under the program created pursuant to P.L.2004, c.140 (C.52:27D-
17 287.1 et al.). Such rental assistance grants shall be deemed
18 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-
19 301 et al.), in order to meet the housing needs of certain low income
20 households who may not be eligible to occupy other housing
21 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

22 h. The department and the State Treasurer shall submit the "New
23 Jersey Affordable Housing Trust Fund" for an audit annually by the
24 State Auditor or State Comptroller, at the discretion of the
25 Treasurer. In addition, the department shall prepare an annual
26 report for each fiscal year, and submit it by November 30th of each
27 year to the Governor and the Legislature, and the Joint Committee
28 on Housing Affordability, or its successor, and post the information
29 to its web site, of all activity of the fund, including details of the
30 grants and loans by number of units, number and income ranges of
31 recipients of grants or loans, location of the housing renovated or
32 constructed using monies from the fund, the number of units upon
33 which affordability controls were placed, and the length of those
34 controls. The report also shall include details pertaining to those
35 monies allocated from the fund for use by the State rental assistance
36 program pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3)
37 and subsection g. of this section.

38 i. The commissioner may award or grant the amount of any
39 appropriation deposited in the "New Jersey Affordable Housing
40 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-
41 320.1) to municipalities pursuant to the provisions of section 39 of
42 P.L.2009, c.90 (C.40:55D-8.8).
43 (cf: P.L.2017, c.131, s.200)

44
45 ¹[3. Section 5 of P.L.1983, c.530 (C.55:14K-5) is amended to
46 read as follows:

- 1 5. In order to carry out the purposes and provisions of this act,
2 the agency, in addition to any powers granted to it elsewhere in this
3 act, shall have the following powers:
- 4 a. To adopt bylaws for the regulation of its affairs and the
5 conduct of its business; to adopt an official seal and alter the same
6 at pleasure; to maintain an office at such place or places within the
7 State as it may designate; to sue and be sued in its own name;
- 8 b. To conduct examinations and hearings and to hear testimony
9 and take proof, under oath or affirmation, at public or private
10 hearings, on any matter material for its information and necessary
11 to carry out the provisions of this act;
- 12 c. To issue **[subpenas]** subpoenas requiring the attendance of
13 witnesses and the production of books and papers pertinent to any
14 hearing before the agency, or before one or more of the members of
15 the agency appointed by it to conduct a hearing;
- 16 d. To apply to any court, having territorial jurisdiction of the
17 offense, to have punished for contempt any witness who refuses to
18 obey a **[subpena]** subpoena, or who refuses to be sworn or affirmed
19 to testify, or who is guilty of any contempt after summons to
20 appear;
- 21 e. To acquire by purchase, gift, foreclosure or condemnation any
22 real or personal property, or any interest therein, to enter into any
23 lease of property and to hold, sell, assign, lease, encumber,
24 mortgage or otherwise dispose of any real or personal property, or
25 any interest therein, or mortgage lien interest owned by it or under
26 its control, custody or in its possession and release or relinquish any
27 right, title, claim, lien, interest, easement or demand however
28 acquired, including any equity or right of redemption, in property
29 foreclosed by it and to do any of the foregoing by public or private
30 sale, with or without public bidding, notwithstanding the provisions
31 of any other law;
- 32 f. To acquire, hold, use and dispose of its income revenues,
33 funds and moneys;
- 34 g. To adopt rules and regulations expressly authorized by this
35 act and such additional rules and regulations as shall be necessary
36 or desirable to carry out the purposes of this act. The agency shall
37 adopt regulations which provide for consultation with housing
38 sponsors regarding the formulation of agency rules and regulations
39 governing the operation of housing projects and which require the
40 agency to consult with the affected housing sponsor prior to taking
41 any and all specific proposed agency actions relating to the
42 sponsor's housing project. The agency shall publish all rules and
43 regulations and file them with the Secretary of State;
- 44 h. To borrow money or secure credit on a temporary, short-term,
45 interim or long-term basis, and to issue negotiable bonds and to
46 secure the payment thereof and to provide for the rights of the
47 holders thereof;

- 1 i. To make and enter into and enforce all contracts and
2 agreements necessary, convenient or desirable to the performance
3 of its duties and the execution of its powers under this act, including
4 contracts or agreements with qualified financial institutions for the
5 servicing and processing of eligible loans owned by the agency;
- 6 j. To appoint and employ an executive director, who shall be the
7 chief executive officer of the agency, and additional officers, who
8 need not be members of the agency as the agency deems advisable,
9 and to employ architects, engineers, attorneys, accountants,
10 construction and financial experts and other employees and agents
11 as may be necessary in its judgment and to determine their
12 qualifications, terms of office, duties and compensation; and to
13 promote and discharge such officers, employees and agents, all
14 without regard to the provisions of Title 11 of the Revised Statutes,
15 Civil Service;
- 16 k. To contract for and to receive and accept any gifts, grants,
17 loans or contributions from any source, of money, property, labor or
18 other things of value, to be held, used and applied to carry out the
19 purposes of this act subject to the conditions upon which the grants
20 and contributions may be made, including, but not limited to, gifts
21 or grants from any department or agency of the United States or the
22 State for payment of rent supplements to eligible families or for the
23 payment in whole or in part of the interest expense for a housing
24 project or for any other purpose consistent with this act;
- 25 l. To enter into agreements to pay annual sums in lieu of taxes to
26 any political subdivision of the State with respect to any real
27 property owned or operated directly by the agency;
- 28 m. To procure insurance against any loss in connection with its
29 operations, property and other assets (including eligible loans) in
30 the amounts and from the insurers it deems desirable;
- 31 n. To the extent permitted under its contract with the holders of
32 bonds of the agency, to consent to any modification with respect to
33 rate of interest, time and payment of any installment of principal or
34 interest, security or any other terms of any loan to an institutional
35 lender, eligible loan, loan commitment, contract or agreement of
36 any kind to which the agency is a party;
- 37 o. To the extent permitted under its contract with the holders of
38 bonds of the agency, to enter into contracts with any housing
39 sponsor containing provisions enabling the housing sponsor to
40 reduce the rental or carrying charges to persons unable to pay the
41 regular schedule of charges where, by reason of other income or
42 payment from the agency, any department or agency of the United
43 States or the State, these reductions can be made without
44 jeopardizing the economic stability of the housing project;
- 45 p. To make and collect the fees and charges it determines are
46 reasonable;
- 47 q. To the extent permitted under its contract with the holders of
48 bonds of the agency, to invest and reinvest any moneys of the

1 agency not required for immediate use, including proceeds from the
2 sale of any obligations of the agency, in obligations, securities or
3 other investments as the agency deems prudent. All functions,
4 powers and duties relating to the investment or reinvestment of
5 these funds, including the purchase, sale or exchange of any
6 investments or securities may, upon the request of the agency, be
7 exercised and performed by the Director of the Division of
8 Investment in the Department of the Treasury, in accordance with
9 written directions of the agency signed by an authorized officer,
10 without regard to any other law relating to investments by the
11 Director of the Division of Investment;

12 r. To provide, contract or arrange for, where, by reason of the
13 financing arrangement, review of the application and proposed
14 construction of a project is required by or in behalf of any
15 department or agency of the United States, consolidated processing
16 of the application or supervision or, in the alternative, to delegate
17 the processing in whole or in part to any such department or
18 agency;

19 s. To make eligible loans, and to participate with any
20 department, agency or authority of the United States or of any state
21 thereof, this State, a municipality, or any banking institution,
22 foundation, labor union, insurance company, trustee or fiduciary in
23 an eligible loan, secured by a single participating mortgage, by
24 separate mortgages or by other security agreements, the interest of
25 each having equal priority as to lien in proportion to the amount of
26 the loan so secured, but which need not be equal as to interest rate,
27 time or rate of amortization or otherwise, and to undertake
28 commitments to make such loans;

29 t. To assess from time to time the housing needs of any
30 municipality which is experiencing housing shortages as a result of
31 the authorization of casino gaming and to address those needs when
32 planning its programs;

33 u. To sell any eligible loan made by the agency or any loan to an
34 institutional lender owned by the agency, at public or private sale,
35 with or without bidding, either singly or in groups, or in shares of
36 loans or shares of groups of loans, issue securities, certificates or
37 other evidence of ownership secured by such loans or groups of
38 loans, sell the same to investors, arrange for the marketing of the
39 same; and to deposit and invest the funds derived from such sales in
40 any manner authorized by this act;

41 v. To make commitments to purchase, and to purchase, service
42 and sell, eligible loans, pools of loans or securities based on loans,
43 insured or issued by any department or agency of the United States,
44 and to make loans directly upon the security of any such loan, pools
45 of loans or securities;

46 w. To provide such advisory consultation, training and
47 educational services as will assist in the planning, construction,
48 rehabilitation and operation of housing including but not limited to

- 1 assistance in community development and organization, home
2 management and advisory services for residents and to encourage
3 community organizations and local governments to assist in
4 developing housing;
- 5 x. To encourage research in and demonstration projects to
6 develop new and better techniques and methods for increasing the
7 supply, types and financing of housing and housing projects in the
8 State and to engage in these research and demonstration projects
9 and to receive and accept contributions, grants or aid, from any
10 source, public or private, including but not limited to the United
11 States and the State, for carrying out this purpose;
- 12 y. To provide to housing sponsors, through eligible loans or
13 otherwise, financing, refinancing or financial assistance for fully
14 completed, as well as partially completed, projects which may or
15 may not be occupied, if the projects meet all the requirements of
16 this act, except that, prior to the making of the mortgage loans by
17 the agency, said projects need not have complied with sections
18 7a.(9) and 42 of this act;
- 19 z. To encourage and stimulate cooperatives and other forms of
20 housing with tenant participation;
- 21 aa. To promote innovative programs for home ownership,
22 including but not limited to lease-purchase programs, employer-
23 sponsored housing programs, and tenant cooperatives;
- 24 bb. To set aside and designate, out of the funds that are or may
25 become available to it for the purpose of financing housing in this
26 State pursuant to the terms of this act, certain sums or proportions
27 thereof to be used for the financing of housing and home-ownership
28 opportunities, including specifically lease-purchase arrangements,
29 provided by employers to their employees through nonprofit or
30 limited-dividend corporations or associations created by employers
31 for that purpose; and to establish priority in funding, offer bonus
32 fund allocations, and institute other incentives to encourage such
33 employer-sponsored housing and home-ownership opportunities;
- 34 cc. Subject to any agreement with bondholders, to collect,
35 enforce the collection of, and foreclose on any property or collateral
36 securing its eligible loan or loans to institutional lenders and
37 acquire or take possession of such property or collateral and sell the
38 same at public or private sale, with or without bidding, and
39 otherwise deal with such collateral as may be necessary to protect
40 the interests of the agency therein;
- 41 dd. To administer and to enter into agreements to administer
42 programs of the federal government or any other entity which are in
43 furtherance of the purposes of this act;
- 44 ee. To do and perform any acts and things authorized by this act
45 under, through, or by means of its officers, agents or employees or
46 by contract with any person, firm or corporation; and
- 47 ff. To do any acts and things necessary or convenient to carry
48 out the powers expressly granted in this act , so long as no

1 duplication of authority or actions negatively impact the efficiency
2 of the programs to produce, manage, or maintain the financial
3 viability of projects.

4 (cf: P.L.1983, c.530, s.5)]¹

5
6 ¹[4.] 3.¹ Section 6 of P.L.1983, c.530 (C.55:14K-6) is amended
7 to read as follows:

8 6. a. The agency, in order to encourage the development,
9 operation, maintenance, construction, improvement and
10 rehabilitation of safe and adequate housing in the State, is hereby
11 authorized and empowered to finance, by the making of eligible
12 loans or otherwise, the construction, improvement or rehabilitation
13 of housing projects in the State.

14 b. The agency, in order to carry out the purposes of subsection a.
15 of this section, may:

16 (1) accept applications for loans;

17 (2) enter into agreements with housing sponsors for permanent
18 loans and temporary loans or advances in anticipation of permanent
19 loans for the development, operation, maintenance, construction,
20 improvement or rehabilitation of housing projects; and

21 (3) make permanent loans and temporary loans or advances in
22 anticipation of permanent loans to housing sponsors under the
23 provisions of this act.

24 c. No application for a loan for the construction, improvement or
25 rehabilitation of a housing project containing rental units to be
26 rented at below market rates to be located in any municipality shall
27 be processed unless there is already filed with the secretary of the
28 agency either:

29 (1) a certified copy of a resolution adopted by the municipality
30 reciting that there is a need for such housing project in the
31 municipality; or

32 (2) a written statement from the municipal clerk, if the
33 municipality has enacted an ordinance pursuant to section 1 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 stating that there is a need for such housing project in the
36 municipality.

37 d. Every application for a loan to a housing sponsor shall be
38 made on forms furnished by the agency and shall contain such
39 information as the agency shall require.

40 e. In considering any application for a loan for a housing
41 project, the agency shall give first priority to applications for loans
42 for the construction, improvement or rehabilitation of housing
43 projects which will be a part of or constructed in connection with an
44 urban redevelopment program, and also shall give consideration to:

45 (1) the comparative need of the area to be served by the
46 proposed project for housing;

47 (2) the ability of the applicant to construct, operate, manage and
48 maintain the proposed housing project;

1 (3) the existence of zoning or other regulations to protect
2 adequately the proposed housing project against detrimental future
3 uses which could cause undue depreciation in the value of the
4 project;

5 (4) the availability of adequate parks, recreational areas,
6 utilities, schools, transportation and parking;

7 (5) the availability of adequate, accessible places of
8 employment; and

9 (6) where applicable, the eligibility of the applicant to make
10 payments to the municipality in which the housing project is located
11 in lieu of local property taxes.

12 (cf: P.L.1983, c.530, s.6)

13

14 ¹**[5.]** 4.¹ This act shall take effect immediately.