

[First Reprint]

SENATE, No. 2505

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 26, 2009

Sponsored by:

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District 5 (Camden and Gloucester)

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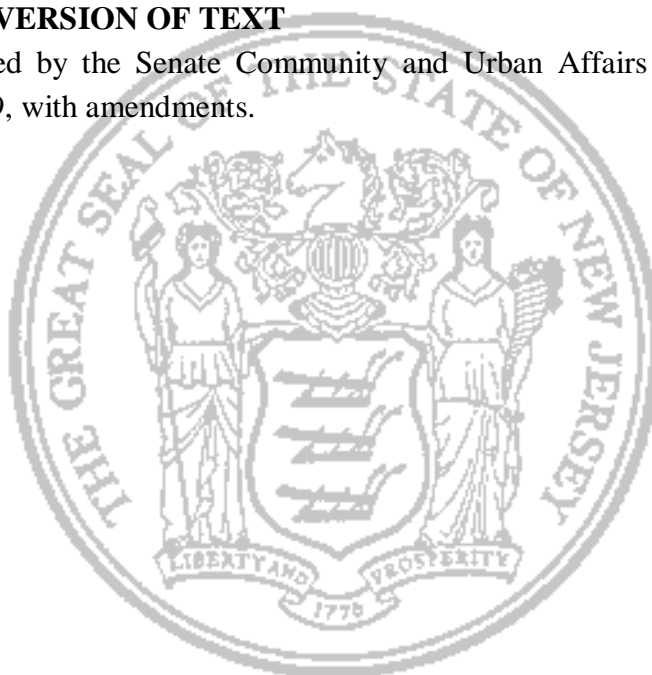
Senators Sweeney, Rice, Madden and Ciesla

SYNOPSIS

Establishes “Smart Housing Incentives Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on May 18, 2009, with amendments.



(Sponsorship Updated As Of: 2/24/2009)

1 AN ACT establishing the “Smart Housing Incentives Act” and
2 supplementing chapter 27D of Title 52 of the Revised Statutes
3 ‘and amending P.L.1983, c.303’.
4

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

8 1. (New section) This act shall be known and may be cited as
9 the “Smart Housing Incentives Act.”
10

11 2. (New section) The Legislature finds and declares that:

12 a. The cost of housing in New Jersey has risen to where housing
13 is no longer affordable for a significant number of the State’s
14 residents, resulting in substantial hardship to large numbers of
15 families and individuals at many income levels, including those
16 with low, moderate and middle incomes, and contributing to the
17 growing outmigration of working households from New Jersey.

18 b. The shortage of opportunities for both homeownership and
19 rental housing affordable to workers, families and young
20 professionals threatens the State’s economy by discouraging
21 businesses from remaining in or moving to New Jersey.

22 c. Among the factors contributing to the high cost of housing in
23 New Jersey is the scarcity of land zoned for housing types that are
24 currently under-represented in housing production, including
25 modest single family houses on small lots, semi-detached and town
26 houses, and multifamily housing.

27 d. In order to mitigate the high cost of housing, there is a need to
28 encourage greater production of those cost and energy-efficient
29 housing types which reflect the consumer preferences of many
30 households, including young people and empty-nesters, and which
31 are under-represented in recent housing production in New Jersey.

32 e. Despite numerous legislative enactments and the efforts of the
33 Council on Affordable Housing and the State Planning
34 Commission, a continuing need remains to provide a greater variety
35 and choice of housing to people of all income levels, but in
36 particular for low and moderate income households, and to direct
37 such housing to appropriate locations based on comprehensive land
38 use planning, as set forth in the landmark decision by the New
39 Jersey Supreme Court in Southern Burlington County NAACP v.
40 Mount Laurel.

41 f. Unless properly located and designed consistent with sound
42 planning principles, housing construction will continue to sprawl,
43 undermining the vitality of New Jersey’s natural environment,

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:

¹Senate SCU committee amendments adopted May 18, 2009.

1 including its open space and farmland, wildlife habitat, clean water,
2 and clean air.

3 g. By undertaking sound planning and establishing sound
4 standards for location, density, energy efficiency, '[water
5 conservation,]' and pedestrian circulation in new housing
6 development and mixed-use development, it is possible to ensure
7 that new developments and redevelopment will '[be
8 environmentally sustainable,] have reduced environmental impacts,
9 be' affordable to maintain, and support healthy lifestyles.

10 h. High-quality design and site planning, which can be fostered
11 through inclusion of carefully-drafted design standards into
12 municipal land use ordinances, are essential to ensure that a housing
13 and mixed-use development best serves both the needs of its
14 residents and the community as a whole, by ensuring that it is
15 visually attractive, adds value to surrounding neighborhoods, and
16 increases residents' quality of life by fostering social interaction,
17 safety, and reducing commuting times.

18 i. Compact housing and mixed-use development 'that meets
19 standards for density, location, and energy-efficient construction,'
20 results in a more energy-efficient development pattern and fosters
21 less energy use by the residents of such developments, both for
22 heating and cooling and for transportation, thus furthering
23 attainment of the State's targets for greenhouse gas emissions
24 reduction.

25 j. An increase in the number of opportunities to develop at
26 higher densities in appropriate locations can '[reduce the pressure
27 for development in other, less suitable, locations and thereby further
28 the State's objectives of reducing sprawl and fostering smart
29 growth, especially where complemented by efforts to preserve and
30 protect natural resources] channel growth pressure into suitable
31 places with infrastructure and provides one of the necessary and
32 complementary tools for sprawl reduction. Redevelopment projects
33 in appropriate locations provide especially favorable alternatives to
34 sprawl development'.

35 k. Compact housing and mixed-use development and
36 redevelopment will foster use of public transportation and further
37 the efficient expansion of public transit systems, as well as
38 encourage pedestrianism and bicycle use.

39 l. '[The cost of housing is often increased by unpredictable and
40 lengthy permit review processes at the State level. For compact
41 housing and mixed-use development projects that address multiple
42 state objectives, an agreement between the State agencies that
43 regulate residential development projects, including the
44 Departments of Community Affairs, Transportation, and
45 Environmental Protection, can help ensure coordinated and more
46 timely permit review.

1 m.]¹ In light of these benefits of concentrated and compact
2 development, the Legislature finds that a program of incentives to
3 encourage municipal rezoning for higher density, mixed-income
4 residential development and redevelopment offers significant
5 potential to provide meaningful benefits to the economic,
6 environmental and social sustainability and quality of life for the
7 people of the State of New Jersey.

8
9 3. (New section) As used in P.L. , c. (C.) (pending
10 before the Legislature as this bill):

11 “Basic zoning” means a body of zoning provisions and
12 requirements that represent the sole use and standards for a
13 particular area permitted under the land use ordinance of a
14 municipality.

15 “Brownfield” means “brownfield” as defined under subsection d.
16 of section 5 of P.L.1997, c.278 (C.58:10B-23).

17 “Commission” means the State Housing Commission established
18 pursuant to section 24 of P.L.2008, c.46 (C.52:27D-329.13).

19 “Commissioner” means the Commissioner of Community
20 Affairs.

21 “Commuter parking space” means a parking space located in
22 close proximity to a public transit facility designed primarily for
23 use by individuals using that transit facility for commuting
24 purposes.

25 “Council” means the Council on Affordable Housing established
26 pursuant to section 5 of P.L.1985, c.222 (C.52:27D-305).

27 “Department” means the Department of Community Affairs.

28 “Developer fee” means the fee required under subsection a. of
29 section 18 of P.L. , c. (C.) (pending before the Legislature as
30 this bill).

31 “Energy Star” means the joint program of the United States
32 Environmental Protection Agency and the United States Department
33 of Energy known by that name and providing for the certification of
34 energy-efficient products and practices.

35 “Greyfields” means sites containing industrial or commercial
36 facilities exhibiting signs of abandonment or underutilization in
37 areas of existing infrastructure, but without exhibiting evidence of
38 actual or potential environmental contamination. For purposes of
39 this act, underutilization means that at least 50 percent of the square
40 footage of the structures on any such site have not been occupied
41 for a period of at least one year prior to the designation of the site
42 as all or part of a smart housing zone.

43 “Green investment” means any municipal expenditure for the
44 purpose of protecting or enhancing the natural environment of the
45 municipality, including but not limited to protection of open space
46 through acquisition, remediation, restoration, or improvement;
47 improvements to parks and other public open spaces; and actions to
48 reduce greenhouse gas emissions through energy efficiency,

1 renewable energy, or other programs that result in a measurable
2 reduction in the emission of greenhouse gases or a measurable
3 reduction in energy demand.

4 "Low income housing" means "low income housing" as defined
5 under subsection c. of section 4 of P.L.1985, c.222 (C.52:27D-304)
6 and regulations adopted thereunder.

7 "Middle income housing" means housing affordable to
8 households earning between 80 percent and 120 percent of the area
9 median income, according to the Council on Affordable Housing's
10 annual determination of median income for each housing region,
11 adjusted by household size.

12 "Moderate income housing" means "moderate income housing"
13 as defined under subsection c. of section 4 of P.L.1985, c.222
14 (C.52:27D-304) and regulations adopted thereunder.

15 "Net new zoned units" means the difference between the total
16 number of residential units permitted within a smart housing zone
17 and the number of residential units permitted within the same area
18 under prior zoning ¹, and the total number of residential units
19 permitted within a smart housing zone if prior zoning for the same
20 area did not permit residential uses¹.

21 "Overlay zone" means a body of zoning provisions or
22 requirements which are permitted as of right for a particular area in
23 addition to other uses and standards that may also be permitted for
24 the same area under the land use ordinance of the municipality.

25 "Prior zoning" means the zoning of an area immediately prior to
26 the establishment of a smart housing zone or the zoning in effect for
27 that area on the effective date of P.L. c. (C.) (pending before
28 the Legislature as this bill), whichever allows for the development
29 of a greater number of dwelling units.

30 "Public transit facility" means an active station, terminal,
31 transfer location, or multi-modal transit hub of rail, bus, ferry
32 transit, or combination thereof, containing fixed platforms, off-
33 street loading areas, or on-street transfer areas, as well as other
34 improvements, including, but not limited to, permanent passenger
35 facilities such as waiting and sitting areas, ticket machines, and
36 transit information displays for the use of riders on the public transit
37 system. On-street single bus stops are not included in this
38 definition.

39 "Residential density" means "residential density" as defined
40 under section 3.3 of P.L.1975, c.291 (C.40:55D-6).

41 "Sewer service area" means an area in which sewer service may
42 be provided in accordance with the water quality management
43 planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department
44 of Environmental Protection pursuant to the "Water Pollution
45 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), the "Water
46 Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), and any
47 other applicable laws.

1 “Smart housing zone” means an area established by municipal
2 ordinance and approved by the department as a smart housing zone
3 pursuant to section 10 of P.L. , c. (C.) (pending before the
4 Legislature as this bill).

5 “Transit-oriented development area” means an area of high-
6 density concentrated mixed-use development, including residential
7 development, within a one-half mile radius of a public transit
8 facility, planned and designed to take advantage of the proximity of
9 the public transit facility, or any area planned for such development
10 by the municipality, and shall include any transit village designated
11 by the Transit Village Task Force.

12 “Urban center” means a municipality containing an area that has
13 been designated as an urban center in the State Development and
14 Redevelopment Plan adopted by the State Planning Commission
15 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.).

16 ¹“Wastewater treatment facility” means a plant or other facility
17 used for the treatment of wastewater from a surrounding area, not to
18 include individual subsurface sewage disposal systems.¹

19
20 4. (New section) The governing body of a municipality may
21 apply to the Department of Community Affairs for the
22 establishment of a smart housing zone in accordance with
23 procedures set forth in section 10 of P.L. , c. (C.) (pending
24 before the Legislature as this bill) and regulations adopted pursuant
25 thereto. The governing body of a municipality interested in
26 investigating whether to establish a smart housing zone may apply
27 to the department for a smart housing zone planning and visioning
28 grant pursuant to section 12 of P.L. , c. (C.) (pending before
29 the Legislature as this bill) and regulations adopted pursuant
30 thereto. ¹[A] The department shall establish requirements for a¹
31 preliminary application for the establishment of a smart housing
32 zone ¹[shall include] including, but not limited to¹:

33 a. Proofs sufficient to document that the proposed smart housing
34 zone satisfies the requirements for locating a zone under section 5
35 of P.L. , c. (C.) (pending before the Legislature as this bill),
36 including maps showing existing land uses in the proposed zone and
37 the surrounding area.

38 b. A copy of the draft proposed ordinance establishing the smart
39 housing zone, complying with section 6 of P.L. , c. (C.)
40 (pending before the Legislature as this bill).

41 c. Documentation and maps showing all relevant development
42 conditions and constraints, including dedicated open space,
43 floodplains, steep slopes, stream corridors, wetlands, and threatened
44 and endangered species habitat, affecting the proposed smart
45 housing zone, including a site analysis demonstrating that the
46 number of net new zoned units for which incentives are sought can
47 realistically be accommodated in the proposed zone.

1 d. Documentation showing the availability of infrastructure
2 necessary for the development planned for the proposed smart
3 housing zone, including adequate roads, sewerage facilities, water
4 supply and drainage infrastructure, and water and wastewater
5 treatment capacity, or a commitment to provide infrastructure
6 necessary to allow development of the area to proceed in a timely
7 fashion.

8 e. Evidence that the number and type of dwelling units proposed
9 for the smart housing zone can be produced in a timely fashion and
10 is realistic in light of market demand in the housing region and
11 market conditions within the municipality.

12 f. A description of the anticipated build-out of the zone.
13

14 5. (New section) a. A smart housing zone shall be located in a
15 geographic area in which an appropriate scale of growth, in the
16 form of construction of significant additional housing and mixed-
17 use development, is considered important and desirable, as
18 determined pursuant to:

19 (1) the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et
20 al.);

21 (2) the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1
22 et seq.);

23 (3) the "Highlands Water Protection and Planning Act,"
24 P.L.2004, c.120 (C.13:20-1 et al.); or

25 (4) the "Hackensack Meadowlands Reclamation and
26 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.),

27 or regulations adopted pursuant to the acts referenced in this
28 subsection, either in effect on the effective date of
29 P.L. , c. (C.) (pending before the Legislature as this bill) or
30 on the date the application is received.

31 b. A smart housing zone shall be located in either an approved
32 sewer service area, or in a location with existing on-site connections
33 to a wastewater treatment '[system] facility'.

34 c. A smart housing zone shall satisfy at least one of the
35 following additional criteria:

36 (1) A majority of a smart housing zone shall be located within a
37 one-half mile radius of an existing public transit facility, or a
38 planned public transit facility for which construction funds have
39 been formally committed by the New Jersey Department of
40 Transportation or New Jersey Transit in the first four years of either
41 agency's adopted capital program; provided, however, that the
42 commissioner may approve an application for a smart housing zone
43 that is located within a three-quarter mile radius of a public transit
44 facility if the commissioner determines that the pedestrian
45 connections and other connections between the smart housing zone
46 and the public transit facility are particularly strong and likely to be
47 highly utilized; or

(2) A majority of a smart housing zone shall be located within an area of concentrated development, including village, town, and urban centers as shown on the State Plan Policy Map prepared by the State Planning Commission pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.), and other existing largely-developed areas characterized by mixed use and medium-to-high density of development; or

(3) A smart housing zone shall be located within an area identified by the municipal master plan or master plan re-examination report, as appropriate, for increased density, either through residential or mixed-use development; or

(4) A smart housing zone shall contain one or more brownfield or greyfields sites.

6. (New section) a. A municipality may establish a smart housing zone ¹~~["by adopting a land-use ordinance"]~~, subject to the approval of the Department of Community Affairs pursuant to section 10 of P.L. , c. (C.) (pending before the Legislature as this bill), ¹by adopting a land-use ordinance containing the following:

(1) Provisions satisfying the minimum standards for residential density set forth in section 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Provisions requiring that ¹~~["the combined total number of low income housing units, moderate income housing units and middle income housing units to be constructed in the smart housing zone shall comprise"]~~ at least ¹~~["30%"]~~ 10% of the total number of housing units to be constructed in the zone ¹shall be middle income housing units. The provisions may require the construction of middle income housing units exceeding those required pursuant to this section provided that the increased affordability thresholds shall not unduly restrict opportunities for development¹. The initial occupants of middle income units shall be restricted to income-eligible tenants and owners.

(3) Provisions requiring that all low income housing units and moderate income housing units required pursuant to the regulations of the Council on Affordable Housing as a result of development in the smart housing zone shall be constructed within the zone. ¹The provisions may require the construction of low income housing units and moderate income housing units exceeding those required pursuant to the regulations of the Council on Affordable Housing, provided that the establishment of increased affordability thresholds shall not unduly restrict opportunities for development.¹

(4) Provisions requiring the development of ground floor retail, service or similar commercial facilities along the frontage of any street of strong commercial character in a downtown area or transit-oriented development area, unless ¹the department determines such

1 development to be¹ infeasible 'or inappropriate'¹ due to site or other
2 considerations,

3 (5) Provisions requiring all streets and pedestrian pathways
4 through a smart housing zone to be fully accessible to the general
5 public, and all developments in a smart housing zone to be
6 connected to the surrounding street network in order to promote
7 pedestrian circulation within the zone and to and from locations
8 outside the zone.

9 (6) Provisions requiring all residential units in a smart housing
10 zone to satisfy energy efficiency standards under the New Jersey
11 '[Home Performance with]' Energy Star 'Homes' program or the
12 code promulgated pursuant to the "State Uniform Construction
13 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), whichever
14 promotes greater energy efficiency.

15 (7) '[Provisions requiring all residential units in a smart housing
16 zone to satisfy the standards and practices for efficient water use
17 and conservation in accordance with regulations promulgated
18 pursuant to section 16 of P.L. , c. (C.) (pending before the
19 Legislature as this bill).

20 (8)]¹ Provisions ensuring that no more than 25% of the number
21 of dwelling units to be constructed in a smart housing zone are
22 restricted for occupancy on the basis of the age of an occupant.

23 b. The land use ordinance establishing a smart housing zone
24 may take the form of basic zoning or an overlay zone, but must
25 permit the zone as an as-of-right use and may not impose any
26 regulatory or other requirement on development within the zone
27 that is not imposed on other permitted uses in that area.
28

29 7. (New section) a. A land use ordinance establishing a smart
30 housing zone shall '[provide] require a' minimum residential
31 density '[requirements]' within the zone that '[are] is' equal to or
32 greater than 'the greatest of the following':

33 (1) 25% above the minimum residential density requirements set
34 forth in the prior zoning of the area,

35 (2) 25% above the minimum presumptive density applicable to
36 the area according to 'the "Fair Housing Act," P.L.1985, c.222
37 (C.52:27D-301 et al.), and the' rules and regulations adopted by the
38 Council on Affordable Housing 'pursuant thereto', and

39 (3) the following minimum density requirements:

40 (a) smart housing zones in central business districts or transit-
41 oriented development areas of urban centers shall have a minimum
42 residential density of 50 dwelling units per acre.

43 (b) smart housing zones outside of central business districts or
44 transit-oriented development areas, but within urban centers, shall
45 have a minimum residential density of no less than the average
46 residential density in the surrounding area, or the standards set forth
47 in subparagraph (d) of this paragraph, whichever is greater.

1 (c) smart housing zones in central business districts or transit-
2 oriented development areas that are not within urban centers shall
3 have a minimum residential density of 25 dwelling units per acre.

4 (d) smart housing zones outside of central business districts or
5 transit-oriented development areas and not within urban centers
6 shall have a minimum residential density of no less than:

7 (i) 8 dwelling units per acre for single-family detached units,

8 (ii) 10 dwelling units per acre for duplex, twin or townhouse
9 units, and

10 (iii) 20 dwelling units per acre for multifamily units.

11 b. For the purposes of this section, “central business district”
12 means the traditional retail and office core of a municipality
13 characterized by a predominance of non-residential land uses and
14 development densities typically higher than in the rest of the
15 municipality.

16 c. A land use ordinance establishing a smart housing zone may
17 set forth a lower minimum density requirement than required
18 pursuant to subsection a. of this section if that minimum density is
19 set forth in the department approval of the application to establish
20 the zone pursuant to section 10 of P.L. , c. (C.) (pending
21 before the Legislature as this bill).

22
23 8. (New section) A land use ordinance establishing a smart
24 housing zone may contain the following:

25 a. Provisions allowing for mixed-use development as long as
26 minimum residential density requirements are satisfied.

27 b. Provisions setting forth ‘[site plan and]’ design standards ‘[,
28 including, but not limited to, provisions governing building scale
29 and proportion; site coverage; street and sidewalk alignment, width,
30 and grade; building locations; doorways and garage entrances;
31 treatment of natural, historical or environmental features;
32 designation, location and design of open spaces; signage; design of
33 buffers with adjacent properties] to ensure that construction within
34 the zone fosters pedestrian activity, social interaction, a sense of
35 safety, strengthens community character, and is complementary to
36 adjacent and neighboring buildings, structures, open spaces, and
37 streets’. Design standards may not be so restrictive that they unduly
38 restrict development, reduce the number of units that can
39 realistically be accommodated in the area relative to the facial
40 provisions of the land use regulations, or potentially impair the
41 ability of the developer to provide the required low income housing,
42 moderate income housing and middle income housing in an
43 economically feasible manner.

44 c. Provisions allowing for reductions to the number of parking
45 spaces otherwise required and provisions allowing for shared
46 parking; however, any provision allowing for the reduction of
47 preexisting surface commuter parking spaces in a transit-oriented
48 development area shall require the creation of a similar number of

1 new commuter parking spaces in a parking structure, and shall not
2 result in a net loss in the number of commuter parking spaces
3 without the prior written approval of New Jersey Transit.

4 ¹d. Such other provisions which are consistent with the language
5 and purpose of the “Smart Housing Incentives Act” as the
6 commissioner may authorize by regulations adopted pursuant to the
7 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
8 seq.).¹

9
10 9. (New section) All projects undertaken in a smart housing
11 zone shall be subject to the requirements of section 4 of P.L.1970,
12 c.268 (C.13:1B-15.131), concerning historic places, as if the project
13 is being undertaken by the State, a county, municipality, or an
14 agency or instrumentality of any thereof.

15
16 10. (New section) a. There is established in the Department of
17 Community Affairs the “Smart Housing Incentives Program” under
18 which the department shall review and may approve applications
19 submitted by municipalities for the establishment of smart housing
20 zones. Approval of a smart housing zone shall entitle a municipality
21 that establishes a zone to the right to receive incentive payment
22 grants in accordance with the provisions of section 11 of P.L. , c.
23 (C.) (pending before the Legislature as this bill) and regulations
24 adopted by the department. Approval of a smart housing zone shall
25 establish the requirement for a developer to pay a developer's fee
26 for each net new zoned unit of middle income and market-rate
27 housing that the developer constructs in the smart housing zone in
28 accordance with the provisions of section 18 of P.L. , c. (C.)
29 (pending before the Legislature as this bill) and regulations adopted
30 by the department.

31 b. (New section) ¹**【The department】** Within 120 days of
32 enactment of P.L. , c. (C.) (pending before the Legislature as
33 this bill), the commissioner¹ shall promulgate ¹**【procedures】**
34 regulations¹ governing the review and approval of applications
35 submitted by municipalities for establishment of smart housing
36 zones, including criteria for determining whether an application is
37 complete. The procedures shall provide for the submission of a
38 preliminary application, in accordance with the requirements of
39 section 4 of P.L. c. (C.) (pending before the Legislature as
40 this bill) and other criteria determined appropriate by the
41 department.

42 ¹**【c. Within 90 days of receipt of a complete preliminary**
43 **application, the department shall either approve the preliminary**
44 **application, conditionally approve the preliminary application, or**
45 **reject the preliminary application. If the department rejects the**
46 **preliminary application or conditionally approves the preliminary**
47 **application, it shall provide the municipality with a complete**

1 written explanation of the reasons for rejection or the conditions for
2 approval. A municipality may resubmit a rejected preliminary
3 application by addressing any deficiencies in a prior application.

4 d.]¹ The procedures shall allow a municipality that has received
5 preliminary approval to submit a final application to the
6 department, together with proof of adoption of the proposed
7 ordinance and any other required action or amendment to the
8 proposed ordinance that the department may have required as a
9 condition of final approval. The department shall '[issue an
10 approval or rejection of a final application within 60 days of
11 submission of a complete final application] establish procedures for
12 prompt review of both preliminary and final applications, whereby
13 it shall approve the application, approve the application with
14 changes, or reject the application within 90 days'. If the
15 department rejects the '[final]' application, it shall provide the
16 municipality with a complete written explanation of the reasons for
17 rejection.

18 ¹c. The department shall send a copy of every application to the
19 Department of Environmental Protection, the Department of
20 Transportation, and the Office of Smart Growth, which shall have
21 the opportunity, within 10 days, to notify the department of any
22 significant regulatory or planning issues regarding development
23 within the proposed smart housing zone.

24 d. The department shall not approve an application for a smart
25 housing zone if, prior to the date of submission of a preliminary
26 application, the residential density requirements for the area
27 comprising the proposed zone satisfied the minimum residential
28 density requirements set forth in section 7 of P.L. , c. (C.)
29 (pending before the Legislature as this bill).¹

30 e. The department may approve an application setting forth a
31 lower minimum residential density requirement than required under
32 subsection a. of section 7 of P.L. , c. (C.) (pending before the
33 Legislature as this bill), if the department finds that the municipality
34 demonstrated that the required density is not realistically achievable
35 due to environmental considerations or other constraints rendering a
36 significant part of the proposed smart housing zone inappropriate
37 for development.

38 f. The department may establish criteria and adopt procedures to
39 rank pending applications according to priority criteria in the event
40 the costs associated with all pending applications exceeds, or is
41 likely to exceed, the amount of available funds.

42 g. The department shall impose as a condition of approval of
43 every final application that the municipality 'annually¹ submit to
44 the department '[an annual] a¹ report '[. An annual report shall
45 include information on any] briefly describing the status of¹
46 applications for development, approvals, or construction of
47 developments within the smart housing zone, and documentation of

1 the manner in which the municipality has expended any incentive
2 payments received for green investments.

3 h. The department shall 'have the authority to' promulgate
4 rules, regulations and procedures pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90
6 days of enactment of P.L. , c. (C.) (pending before the
7 Legislature as this bill), as may be necessary for the efficient and
8 effective implementation of this act.

9
10 11. (New section) a. The department shall develop procedures
11 and timeframes ensuring the proper disbursement of incentive
12 payment grants to each municipality that establishes a smart
13 housing zone in accordance with the following amounts:

14 (1) An initial incentive payment of \$1,000 per net new zoned
15 unit.

16 (2) A subsequent incentive payment of \$4,000 per net new
17 zoned unit for which a certificate of occupancy is issued.

18 b. A municipality shall not be eligible to receive incentive
19 payment grants for more than 500 net new zoned units within the
20 first five years following the effective date of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 c. (1) A municipality that has received an initial incentive
23 payment pursuant to subsection a. of this section shall not repeal or
24 modify the ordinance establishing the smart housing zone without
25 the prior written approval of the department.

26 (2) A municipality that repeals or modifies an ordinance
27 establishing a smart housing zone without receiving prior written
28 approval of the department shall be required to return an amount
29 equivalent to all incentive payments received, unless the department
30 determines that the modifications do not reduce the number of net
31 new zoned units or impose any additional burdens on development
32 in the zone.

33 d. A municipality may appropriate and expend incentive
34 payment grant revenues for services and capital expenditures
35 reasonably related to additional residents, including but not limited
36 to parks, public libraries, or other facilities; or operating
37 expenditures, such as incremental police, fire, or public works
38 services; provided, however, that at least half of the incentive
39 payments received by a municipality shall be used for green
40 investments.

41
42 12. (New section) a. The **'[**Department of Community Affairs
43 may award smart housing zone planning and visioning grants to
44 municipalities, but shall not expend more than a total amount of \$1
45 million annually for that purpose. Funds for planning and visioning
46 grants shall be transferred to a "planning and visioning grant fund,"
47 to be established by the department, by the following departments

1 and agencies in the following amounts, unless the departments and
2 agencies agree to a different apportionment.

3 (1) the Department of Community Affairs Smart Futures grant
4 program in the amount of \$350,000;

5 (2) the Department of Transportation and New Jersey Transit
6 programs with funds for planning in transit-oriented development
7 areas including the Transit Village program in the amount of
8 \$325,000; and

9 (3) governing body of a municipality may seek funds for
10 planning and visioning grants for a prospective smart housing zone
11 from¹ the Department of Environmental Protection's share of the
12 Global Warming Solutions Fund that is allocated to promote local
13 government efforts to reduce greenhouse gas emissions ¹[in the
14 amount of \$325,000] . The governing body of a municipality in
15 which an urban enterprise zone is located may apply to the Urban
16 Enterprise Zone Authority to fund planning and visioning for a
17 prospective smart housing zone from moneys deposited in the
18 enterprise zone assistance fund and credited to the account
19 maintained by the State Treasurer for the enterprise zone.

20 (1) The Department of Environmental Protection shall set aside a
21 minimum of 5% of funds from the Global Warming Solutions Fund
22 Local Government Greenhouse Gas Reduction Program for the
23 purpose of providing planning and visioning grants to
24 municipalities pursuing a prospective smart housing zone. These
25 funds will be allocated through, and be consistent with,
26 requirements of the Department of Environmental Protection Local
27 Government Greenhouse Gas Reduction Program. Changing the
28 State's land use and development patterns is an important way to
29 reduce energy demand and the emission of greenhouse gases. Land
30 use planning that quantifies the anticipated reductions in energy
31 demand and greenhouse gas emissions of new land use patterns and
32 policies is a necessary and integral first step toward the
33 development of land use patterns and policies that will result in the
34 measurable reduction of the emission of greenhouse gases or a
35 measurable reduction in energy demand. As such, this type of land
36 use planning is eligible for funding under the Global Warming
37 Solutions Fund, and other similarly dedicated sources of funds.

38 (2) The Urban Enterprise Zone Authority shall evaluate and
39 approve proposals to fund planning and visioning for a prospective
40 smart housing zone, in accordance with the evaluation and approval
41 process and criteria set forth in section 29 of P.L.1983, c.393
42 (C.52:27H-88)¹.

43 b. ¹[The Department of Community Affairs shall establish
44 application and eligibility requirements for smart housing zone
45 planning and visioning grants, however, no] No¹ grant shall be
46 awarded to a municipality unless it can demonstrate that the area of
47 a prospective smart housing zone for which a planning and

1 visioning grant is sought meets the criteria governing the location of
2 smart housing zones set forth in section 5 of P.L. , c. (C.)
3 (pending before the Legislature as this bill).

4 c. Planning and visioning activities conducted with funds
5 provided '[by the department]'¹ under this section shall incorporate
6 opportunities for meaningful participation by residents of the
7 municipality and of the immediate neighborhood or area in which
8 the proposed smart housing zone is to be located, including but not
9 limited to public meetings, design workshops and other
10 participatory planning activities.

11 d. As a condition of receiving a planning and visioning grant, a
12 municipality shall submit to the '[department] funding agency'¹ ,
13 within such time frame as the '[department] funding agency'¹
14 establishes, a report setting forth the findings and conclusions of the
15 municipality's planning and visioning activity, including the
16 elements necessary for submitting a preliminary application for a
17 smart housing zone, or the reasons that the municipality has
18 determined to not establish a smart housing zone.

19
20 13. (New section) a. A municipality that establishes a smart
21 housing zone and an applicant of a development within a smart
22 housing zone, as appropriate, shall '[be entitled to priority] receive
23 favorable consideration for'¹ assistance under the following
24 programs:

25 (1) Housing and planning assistance programs of the Department
26 of Community Affairs, including, but not limited to, the New Jersey
27 Affordable Housing Trust Fund,

28 (2) All programs of local assistance of the Department of
29 Transportation, including municipal aid, discretionary aid,
30 Transportation Enhancement program, Centers of Place program,
31 and the Transit Village program,

32 (3) Financing programs of the New Jersey Environmental
33 Infrastructure Trust, created pursuant to section 4 of P.L.1985,
34 c.334 (C.58:11B-4),

35 (4) Federal Low Income Housing Tax Credit allocations by the
36 New Jersey Housing and Mortgage Finance Agency,

37 (5) The Green Acres program of the Department of
38 Environmental Protection,

39 (6) The Farmland Preservation program of the Department of
40 Agriculture, and

41 (7) The Wastewater Management Plans under the Water Quality
42 Management Planning rules of the Department of Environmental
43 Protection ¹;

44 (8) Any programs at the Department of Environmental Protection
45 or the Department of Transportation to prioritize permit processing
46 for development projects that further the State's goals and
47 objectives¹ .

b. ¹["The departments and agencies responsible for administering the programs identified in subsection a. of this section shall afford applicants and municipalities priorities consistent with subsection a. of this section and with other statutes and regulations. They shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to accomplish this purpose.

c. ¹ The Department of Community Affairs shall establish on its official website a central repository of information designed to provide information ¹["on the priorities offered pursuant"] relative to programmatic provisions offered pursuant¹ to the requirements of this section ¹[" , including links to all rules and regulations adopted pursuant to subsection b. of this section,"]¹ and shall distribute to each municipality, at the time it receives approval of a final application to establish a smart housing zone, information concerning the ¹["priorities"] programmatic provisions¹ offered pursuant to the requirements of this section.

¹["d."] c.¹ The Board of Public Utilities shall amend the rules governing the Smart Growth Infrastructure Investment Program, N.J.A.C.14:3-8.12, to provide that a smart housing zone shall be deemed eligible for benefits under that program.

14. (New section) The commissioner shall develop an administrative process affording a due process to render determinations as to whether actions of a municipality are inconsistent with the intent and purpose of P.L. , c. (C.) (pending before the Legislature as this bill) or inconsistent with the municipal ordinance establishing a smart housing zone. If the commissioner finds and determines that the actions of a municipality are inconsistent with the intent and purpose of P.L. , c. (C.) (pending before the Legislature as this bill), the commissioner shall notify the municipality of the commissioner's findings, specify actions the municipality may take to address those findings, and afford the municipality an appropriate period of time to take action. If a municipality does not take such action, or institute an appeal to a court of law, within the time afforded, the municipality shall forfeit the right to receive incentive payments under section 11 of P.L. , c. (C.) (pending before the Legislature as this bill), be required to return all incentive payments received prior thereto and lose any priority for any pending application for any grant or other approval sought pursuant to section 13 of P.L. , c. (C.) (pending before the Legislature as this bill).

15. (New section) a. The State Housing Commission shall include in the Annual Strategic Housing Plan required by section 27 of P.L.2008, c.46 (C.52:27D-329.16), an inventory of planned and

1 projected activities within smart housing zones and its findings and
2 recommendations after reviewing the report submitted by the
3 department pursuant to subsection c. of this section.

4 b. The Department of Community Affairs shall review the
5 “Smart Housing Incentives Program” on an annual basis with
6 interested parties, including developers, municipal officials,
7 planners, environmentalists, and housing advocates.

8 c. The department shall prepare and submit to the commission
9 and the Legislature an annual report on the “Smart Housing
10 Incentives Program,” which shall include but not be limited to
11 information about applications received, incentives awarded,
12 payments and transfers to “The Smart Housing Fund,” and the
13 number, type and other features of residential dwelling units
14 provided for, approved, and constructed under the program. The
15 report shall include information and recommendations for changes
16 to the program proposed at the annual review required under
17 subsection b. of this section. The report shall be available on the
18 department's web site.

19 d. The commission, in consultation with the department, shall
20 ¹~~‘[prepared] prepare’~~ and submit to the Legislature a detailed report
21 evaluating the “Smart Housing Incentives Program,” within three
22 years of the effective date of P.L. , c. (C.) (pending before the
23 Legislature as this bill). The report shall include the commission’s
24 recommendations for changes to the program that it deems
25 appropriate to improve the effectiveness of the program.

26

27 ¹~~‘[16. The Department of Community Affairs, in consultation~~
28 ~~with the Department of Environmental Protection and the Board of~~
29 ~~Public Utilities, shall promulgate regulations establishing standards~~
30 ~~and practices for efficient residential water use and conservation..]’~~
31

32 ¹16. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
33 read as follows:

34 29. a. There is created an enterprise zone assistance fund to be
35 held by the State Treasurer, which shall be the repository for all
36 moneys required to be deposited therein under section 21 of
37 P.L.1983, c.303 (C.52:27H-80) or moneys appropriated annually to
38 the fund. All moneys deposited in the fund shall be held and
39 disbursed in the amounts necessary to fulfill the purposes of this
40 section and subject to the requirements hereinafter prescribed. The
41 State Treasurer may invest and reinvest any moneys in the fund, or
42 any portion thereof, in legal obligations of the United States or of
43 the State or of any political subdivision thereof. Any income from,
44 interest on, or increment to moneys so invested or reinvested shall
45 be included in the fund.

46 The State Treasurer shall maintain separate accounts for each
47 enterprise zone designated under P.L.1983, c.303 (C.52:27H-60 et
48 al.), and one in the authority's name for the administration of the

1 Urban Enterprise Zone program. The State Treasurer shall credit to
2 each account an amount of the moneys deposited in the fund equal
3 to the amount of revenues collected from the taxation of retail sales
4 made in the zone and appropriated to the enterprise zone assistance
5 fund, or that amount of moneys appropriated to the fund and
6 required to be credited to the enterprise zone account of the
7 qualifying municipality pursuant to section 21 of P.L.1983, c.303
8 (C.52:27H-80).

9 The State Treasurer shall promulgate the rules and regulations
10 necessary to govern the administration of the fund for the purposes
11 of this section, which shall include, but not be limited to,
12 regulations requiring the establishment of separate bank accounts
13 for funds credited to the enterprise zone account of each
14 municipality from the enterprise zone assistance fund, commonly
15 known as "first generation funds," and funds generated from the
16 repayments of loans to individuals and businesses from the
17 enterprise zone account of each municipality and the proceeds from
18 the sale of properties and equipment acquired through the enterprise
19 zone program, commonly known as "second generation funds," and
20 the review, compilation, and monitoring of second generation fund
21 quarterly reports submitted by each enterprise zone.

22 Any individual, including an individual who is not directly
23 employed by a municipality, with the authority to administer,
24 allocate or approve the use of zone assistance funds is subject to the
25 "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et
26 seq.), unless the individual is a State employee or a special State
27 officer.

28 b. The enterprise zone assistance fund shall be used for the
29 purpose of assisting qualifying municipalities in which enterprise
30 zones are designated in undertaking public improvements,
31 economic development projects , planning and visioning of smart
32 housing zones pursuant to section 11 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), and in upgrading
34 eligible municipal services in designated enterprise zones.

35 c. The governing body of a qualifying municipality in which an
36 enterprise zone is designated and the zone development corporation
37 created or designated by the municipality for that enterprise zone
38 may, by resolution jointly adopted after public hearing, propose to
39 undertake a project for the public improvement of the enterprise
40 zone , planning and visioning of smart housing zones, or to increase
41 eligible municipal services in the enterprise zone, and to fund that
42 project or increase in eligible municipal services from moneys
43 deposited in the enterprise zone assistance fund and credited to the
44 account maintained by the State Treasurer for the enterprise zone.

45 The proposal so adopted shall set forth a plan for the project or
46 for the increase in eligible municipal services and shall include:

47 (1) A description of the proposed project or of the municipal
48 services to be increased;

1 (2) An estimate of the total project costs, or of the total costs of
2 increasing the municipal services, and an estimate of the amounts of
3 funding necessary annually from the enterprise zone account;

4 (3) A statement of any other revenue sources to be used to
5 finance the project or to fund the increase in eligible municipal
6 services;

7 (4) A statement of the time necessary to complete the project, or
8 of the time during which the increased municipal services are to be
9 maintained;

10 (5) A statement of the manner in which the proposed project or
11 increase in municipal services furthers the municipality's policy and
12 intentions for addressing the economic and social conditions
13 existing in the area of the enterprise zone as set forth in the zone
14 development plan approved by the authority; and

15 (6) A description of the financial and programmatic controls and
16 reporting mechanisms to be used to guarantee that the funds will be
17 spent in accordance with the plan and that the project or increased
18 municipal service will accomplish its purpose.

19 As used in this section, "project" means an activity funded by the
20 zone assistance fund through the qualified municipality and
21 implemented by the zone development corporation, including the
22 purchasing, leasing, condemning, or otherwise acquiring of land or
23 other property, or an interest therein, in the enterprise zone or as
24 necessary for a right-of-way or other easement to or from the
25 enterprise zone; the relocating and moving of persons or businesses
26 displaced by the acquisition of land or property; the rehabilitation
27 and redevelopment of land or property, including demolition,
28 clearance, removal, relocation, renovation, alteration, construction,
29 reconstruction, installation or repair of land or a building, street,
30 highway, alley, utility, service or other structure or improvement
31 which will lead to increased economic activity within the zone; the
32 purchase and installation of closed circuit television surveillance
33 systems or other related equipment and those expenses associated
34 with homeland security and domestic preparedness; the acquisition,
35 construction, reconstruction, rehabilitation, or installation of public
36 facilities and improvements, except buildings and facilities for the
37 general conduct of government and schools; the establishment of
38 revolving loan or grant programs for qualified businesses in the
39 zone to encourage private investment and job creation, matching
40 grant programs for the establishment or operation of pedestrian
41 malls, special improvement districts and tax increment districts, or
42 other appropriate entity; marketing, advertising and special event
43 activities that will lead to increased economic activity or encourage
44 private investment and job creation in the zone, but not including
45 the expenditures therefor which are required to be reported pursuant
46 to "The New Jersey Campaign Contributions and Expenditures
47 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et al.) and the costs
48 associated therewith including the costs of an administrative

1 appraisal, economic and environmental analyses, environmental
2 remediation, engineering, planning, design, architectural, surveying
3 or other professional or managerial services.

4 As used in this section, "eligible municipal services" means the
5 hiring of additional policemen or firemen assigned duties in the
6 enterprise zone, or the purchasing or leasing of additional police or
7 fire vehicles, equipment or apparatus to be used for the provision of
8 augmented or upgraded public safety services in the enterprise zone
9 and its immediate vicinities.

10 d. Upon adoption by the governing body of the qualifying
11 municipality and by the zone development corporation, the proposal
12 shall be sent to the authority for its evaluation and approval. The
13 authority shall approve the proposal if it shall find:

14 (1) In the case of a project, that the proposed project furthers the
15 policy and intentions of the zone development plan approved by the
16 authority, and that the estimated annual payments for the project
17 from the enterprise zone account to which the proposal pertains are
18 not likely to result in a deficit in that account;

19 (2) In the case of an increase in eligible municipal services, that
20 the proposal furthers the policy and intentions of the zone
21 development plan approved by the authority; that the qualifying
22 municipality has furnished satisfactory assurances that the
23 additional policemen or firemen to be hired, or the additional
24 vehicles, equipment or apparatus to be purchased or leased, shall be
25 used to augment or upgrade public safety in the enterprise zone, and
26 shall not be used in other areas of the municipality; that the
27 qualifying municipality shall annually appropriate for the increased
28 eligible municipal services an amount equal to 20% of the amount
29 of annual payments for the eligible municipal services from the
30 enterprise zone account and shall not request for the increased
31 eligible municipal services an amount equal to more than 35% of
32 the amount of annual payments into the enterprise zone account,
33 unless the municipality and the authority have entered into an
34 agreement or agreements to the contrary prior to July 1, 1992; and
35 that the estimated annual payments for the eligible municipal
36 services from the enterprise zone account to which the proposal
37 pertains are not likely to result in a deficit in that account;

38 (3) In the case of a proposal to fund the planning and visioning
39 of a smart housing zone, that the establishment of a smart housing
40 zone furthers the policy and intentions of the zone development
41 plan approved by the authority, and that the estimated payment for
42 the planning and visioning from the enterprise zone account to
43 which the proposal pertains is not likely to result in a deficit in that
44 account.

45 e. If the authority shall approve the proposal, it shall annually,
46 upon its receipt of a written statement from the governing body of
47 the qualifying municipality and the zone development corporation,
48 certify to the State Treasurer the amount to be paid in that year from

1 the enterprise zone account in the enterprise zone assistance fund
2 with respect to each project or increase in eligible municipal
3 services approved. The authority may at any time revoke its
4 approval of a project or an increase in eligible municipal services if
5 it finds that the annual payments made from the enterprise zone
6 assistance fund are not being used as required by this section.

7 f. Upon certification by the authority of the annual amount to
8 be paid to a qualifying zone with respect to any project or increase
9 in eligible municipal services, the State Treasurer shall pay in each
10 year to the qualifying municipality from the amounts deposited in
11 the enterprise zone assistance fund the amount so certified, within
12 the limits of the amounts credited to the enterprise zone account of
13 the qualifying municipality.

14 g. An amount not to exceed one-third of the amount deposited
15 in the account created in the name of the authority in the enterprise
16 zone assistance fund shall be used by the authority for the
17 coordination and administration of the program throughout the
18 State, including but not limited to costs for personnel, operating
19 expenses and marketing. The balance of the remaining amount
20 shall be distributed to qualifying municipalities in proportion to
21 each municipality's contribution to the enterprise zone assistance
22 fund for the coordination and administration of the program within
23 the municipality, including but not limited to costs for personnel,
24 operating expenses and marketing.¹

25 (cf: P.L. 2009, c.25, s.1)

26
27 17. (New section) a. Within ¹~~90~~ 180 days of enactment of
28 P.L. , c. (C.) (pending before the Legislature as this bill), the
29 Site Improvement Advisory Board shall prepare and submit to the
30 commissioner recommendations for amendments to the Statewide
31 site improvement standards for residential development specific to
32 smart housing zones in order to further the purposes of this act, and
33 shall provide for the flexibility needed for the compact, pedestrian-
34 friendly nature of smart housing zones without compromising
35 environmental outcomes.

36 b. The commissioner shall review the recommendations
37 submitted by the board and, within ¹~~120~~ 210 days of enactment
38 of P.L. , c. (C.) (pending before the Legislature as this bill),
39 shall establish, by regulation adopted pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), amendments to the Statewide site improvement standards
42 specific to smart housing zones that are substantially consistent
43 with the board's recommendations unless, in the commissioner's
44 judgment, a standard would result in a danger to the public health or
45 safety.

46 c. Until such time as the Statewide site improvement standards
47 are amended, as described in subsection b. of this section, the
48 commissioner, the Site Improvement Advisory Board and the

1 technical subcommittee thereof, and municipal agencies shall give
2 favorable consideration to appropriate exceptions for development
3 in smart housing zones as may be required to meet the purposes of
4 this act.

5
6 18. (New section) There is established in the Department of
7 Community Affairs a separate dedicated fund, to be used to make
8 incentive payment grants to municipalities that have established
9 smart housing zones, as provided for in section 11 of P.L. , c.
10 (C.) (pending before the Legislature as this bill), and which shall
11 be known as the "Smart Housing Fund." The fund shall be a non-
12 lapsing, revolving fund, and all monies deposited or received for
13 purposes of the fund shall be accounted for separately, by source
14 and amount, and remain in the fund until appropriated for such
15 purposes.

16 a. Developers of middle income and market-rate housing units
17 in a smart housing zone shall pay a developer fee to the "Smart
18 Housing Fund" in the amount of \$4,000 for every net new zoned
19 middle income or market rate unit as a condition precedent to the
20 issuance of a certificate of occupancy for any such unit.

21 b. In addition to other grants and loans awarded pursuant to
22 section 20 of P.L.1985, c.222 (C.52:27D-320), and without regard
23 to any limitations on grants or loans under that section, the
24 Commissioner of Community Affairs shall transfer amounts from
25 the "New Jersey Affordable Housing Trust Fund" to the "Smart
26 Housing Fund" that the commissioner determines to be necessary to
27 allow for the timely disbursement of incentive payment grants to
28 municipalities that have established smart housing zones. This
29 determination shall ensure that amounts are transferred sufficient to
30 cover the difference between the amounts deposited into the "Smart
31 Housing Fund" by developers pursuant to subsection a. of this
32 section and the amount to be required to be paid to a municipality
33 as an incentive payment grant. Such amounts transferred shall be
34 deemed to represent assistance to municipalities necessary to
35 accommodate costs associated with the production of new low
36 income housing units and moderate income housing units.
37 Consistent with provisions for the "New Jersey Affordable Housing
38 Trust Fund" in subsection c. of section 20 of P.L.1985, c.222 as
39 amended by section 17 of P.L.2008, c.46 (C.52:27D-320), the
40 council shall authorize the commissioner to provide this assistance
41 to municipalities with approved smart housing zones for the
42 duration of the "Smart Housing Incentives Program."

43 c. Within 12 months after enactment of P.L. , c. (C.)
44 (pending before the Legislature as this bill), and every year
45 thereafter, the commissioner shall transfer \$3 million from the
46 "New Jersey Affordable Housing Trust Fund" to the "Smart
47 Housing Fund" to cover the obligation to make grants for low
48 income housing units and moderate income housing units in smart

1 housing zones. The commissioner may transfer additional monies
2 into the "Smart Housing Fund" if needed to meet these purposes.

3 d. In the event that a temporary shortfall is anticipated for the
4 "Smart Housing Fund" due to the timing of incentive payments
5 relative to anticipated incoming funds, the commissioner may
6 transfer money into the fund on a temporary basis from any source
7 at his discretion.

8 e. Starting three years after the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill), if
10 the balance in the "Smart Housing Fund" exceeds the amount
11 needed to cover the State's obligation to make zoning and
12 construction incentive payments to municipalities that have
13 established smart housing zones by more than \$3 million, the
14 commissioner may defer the annual \$3 million transfer until the
15 following year.

16 f. Any interest earned on monies in the "Smart Housing Fund"
17 shall accrue to the fund.

18 g. The department and the State Treasurer shall submit the
19 "Smart Housing Fund" for an audit annually by the State Auditor or
20 State Comptroller, at the discretion of the State Treasurer. In
21 addition, the department shall prepare an annual report for each
22 fiscal year, and submit it by November 30th of each year to the
23 Governor and the Legislature, and post the information to its web
24 site, of all activity of the fund.

25

26 19. This bill shall take effect immediately.