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SENATE COMMITTEE SUBSTITUTE FOR  
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**SENATE, No. 1**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

ADOPTED JUNE 3, 2010

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Co-Sponsored by:**

**Senator Goodwin and Assemblywoman Spencer**

**SYNOPSIS**

Reforms procedures concerning provision of affordable housing; abolishes Council on Affordable Housing.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Housing and Local Government Committee on December 10, 2010, with amendments.

(Sponsorship Updated As Of: 12/14/2010)

1 **AN ACT** concerning affordable housing and amending,  
2 supplementing and repealing various parts of the statutory law.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 <sup>1</sup>**[1.**(New section) The Legislature finds and declares that:

8 a. In 1975, the New Jersey Supreme Court determined that  
9 municipalities may not validly employ their zoning powers to  
10 prevent the creation of a variety and choice of housing  
11 opportunities. In response, the Legislature established the "Fair  
12 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), which has  
13 resulted in a complex system of administration that micromanages  
14 all types of development, including market rate- and low- and  
15 moderate-income residential development, as well as commercial,  
16 retail, and industrial growth through a determination of each region  
17 and municipality's housing needs based on difficult to predict and  
18 fallible population and job growth projections.

19 b. The Legislature further finds that this approach has not  
20 resulted in the creation of housing opportunities for all categories of  
21 the State's citizens. During first 35 years of the "Fair Housing  
22 Act's" existence, this complex system of regulation has resulted in  
23 scores of lawsuits and court decisions, and the unnecessary  
24 expenditure of millions of dollars by municipalities, developers, and  
25 the State. In 2010, the system remains tied up with multiple legal  
26 challenges, preventing the creation of housing opportunities within  
27 the State.

28 c. It is incumbent on the State's elected officials to develop a  
29 new approach that will result in the creation of a realistic  
30 opportunity for a variety and choice of housing for low- and  
31 moderate-income families in each municipality of the State, without  
32 wasting the limited resources needed to fulfill government's many  
33 functions, including public safety, health care, education and  
34 environmental protection, ensuring the affordability of mass transit,  
35 protection of civil rights, promotion of economic growth, and job  
36 creation.

37 d. A simple, rather than complex, system that maximizes the  
38 ability of the free market to produce a variety and choice of housing  
39 will most effectively provide housing opportunities for the low- and  
40 moderate-income residents of New Jersey. To ensure that New  
41 Jersey is an affordable, appealing home for all the State's residents,  
42 municipalities must have clear and realistic standards to guide  
43 municipal action.

44 e. Municipalities that already have a healthy mix of housing

**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:

<sup>1</sup> Assembly AHO committee amendments adopted November 8, 2010.

<sup>2</sup> Assembly AHO committee amendments adopted December 10, 2010.

1 should not be encumbered with State zoning mandates that are  
2 needed to create an opportunity for an appropriate variety and  
3 choice of housing in municipalities where a reasonable mix of  
4 housing does not already exist.

5 f. By requiring those municipalities not already having a  
6 reasonable mix of housing to comply with the zoning mandates  
7 established hereunder, the State will maximize the opportunity for  
8 variety and choice of housing in those municipalities without  
9 wasting limited resources necessary to provide for the other  
10 governmental functions stated herein, which only represent some,  
11 but not all, of government's responsibility to provide for the general  
12 welfare of its residents

13 g. It is the public policy of this State to encourage the well-  
14 organized production of low- and moderate-income housing to  
15 serve the general welfare of all the State's residents by  
16 implementing a clear, intelligible regulatory system.】'

17  
18 '【2.(New section) The Council on Affordable Housing  
19 established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-  
20 301 et al.) is abolished, and all of its powers, functions, and duties  
21 that are not repealed herein are continued in the Department of  
22 Community Affairs established pursuant to section 1 of P.L.1966,  
23 c.293 (C.52:27D-1), except as herein otherwise provided.  
24 Whenever, in any law rule, regulation, order, contract, document,  
25 judicial or administrative proceeding, or otherwise, reference is  
26 made to the Council on Affordable Housing, the same shall mean  
27 and refer to the Department of Community Affairs. All  
28 appropriations and other moneys available, and to become  
29 available, to the Council on Affordable Housing are hereby  
30 continued in the Department of Community Affairs, and shall be  
31 available for the objects and purposes for which such moneys are  
32 appropriated, subject to any terms, restriction, limitations, or other  
33 requirements imposed by State or federal law.

34 This transfer shall be subject to the provisions of the "State  
35 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).】'

36  
37 '【3.Section 47 of P.L.1975, c.291 (C.40:55D-60) is amended to  
38 read as follows:

39 47. Whenever the proposed development requires approval  
40 pursuant to this act of a subdivision, site plan or conditional use,  
41 but not a variance pursuant to subsection d. of section 57 of this act  
42 (C. 40:55D-70), the planning board shall have the power to grant to  
43 the same extent and subject to the same restrictions as the board of  
44 adjustment:

45 a. Variances pursuant to subsection 57 c. of 【this act】  
46 P.L.1975, c.291 (C.40:55D-70);

1       b. Direction pursuant to section 25 of **[this act]** P.L.1975,  
2 c.291(C.40:55D-34) for issuance of a permit for a building or  
3 structure in the bed of a mapped street or public drainage way,  
4 flood control basin or public area reserved pursuant to section 23 of  
5 **[this act]** P.L.1975, c.291 (C.40:55D-32); [and]

6       c. Direction pursuant to section 27 of **[this act]** P.L.1975,  
7 c.291 (C.40:55D-36) for issuance of a permit for a building or  
8 structure not related to a street; and

9       d. Variances pursuant to subsection d. of section 57 of  
10 P.L.1975, c.291 (C.40:55D-70), requested pursuant to section 24 of  
11 P.L. , c. (C. ) (pending before the Legislature as this bill) for  
12 a proposed development in which at least 10 percent of the units are  
13 reserved for low- and moderate-income households, in a  
14 municipality that has not been determined to be inclusionary.

15       Whenever relief is requested pursuant to this section, notice of  
16 the hearing on the application for development shall include  
17 reference to the request for a variance or direction for issuance of a  
18 permit, as the case may be.

19       The developer may elect to submit a separate application  
20 requesting approval of the variance or direction of the issuance of a  
21 permit and a subsequent application for any required approval of a  
22 subdivision, site plan or conditional use. The separate approval of  
23 the variance or direction of the issuance of a permit shall be  
24 conditioned upon grant of all required subsequent approvals by the  
25 planning board. No such subsequent approval shall be granted  
26 unless the approval can be granted without substantial detriment to  
27 the public good and without substantial impairment of the intent  
28 and purpose of the zone plan and zoning ordinance.

29 (cf: P.L.1984, c.20, s.10)]<sup>1</sup>

30

31       <sup>1</sup>**[4.Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to**  
32 **read as follows:**

33       57. Powers. The board of adjustment shall have the power to:

34       a. Hear and decide appeals where it is alleged by the appellant  
35 that there is error in any order, requirement, decision or refusal  
36 made by an administrative officer based on or made in the  
37 enforcement of the zoning ordinance;

38       b. Hear and decide requests for interpretation of the zoning  
39 map or ordinance or for decisions upon other special questions upon  
40 which such board is authorized to pass by any zoning or official  
41 map ordinance, in accordance with this act;

42       c. (1) Where: (a) by reason of exceptional narrowness,  
43 shallowness or shape of a specific piece of property, or (b) by  
44 reason of exceptional topographic conditions or physical features  
45 uniquely affecting a specific piece of property, or (c) by reason of  
46 an extraordinary and exceptional situation uniquely affecting a  
47 specific piece of property or the structures lawfully existing

1 thereon, the strict application of any regulation pursuant to article 8  
2 of **[this act]** P.L.1975, c.291 would result in peculiar and  
3 exceptional practical difficulties to, or exceptional and undue  
4 hardship upon, the developer of such property, grant, upon an  
5 application or an appeal relating to such property, a variance from  
6 such strict application of such regulation so as to relieve such  
7 difficulties or hardship; (2) where in an application or appeal  
8 relating to a specific piece of property the purposes of this act or the  
9 purposes of the "Educational Facilities Construction and Financing  
10 Act," P.L.2000, c.72 (C.18A:7G-1 et al.), would be advanced by a  
11 deviation from the zoning ordinance requirements and the benefits  
12 of the deviation would substantially outweigh any detriment, grant a  
13 variance to allow departure from regulations pursuant to article 8 of  
14 **[this act]** P.L.1975, c.291; provided, however, that the fact that a  
15 proposed use is an inherently beneficial use shall not be dispositive  
16 of a decision on a variance under this subsection and provided that  
17 no variance from those departures enumerated in subsection d. of  
18 this section shall be granted under this subsection; and provided  
19 further that the proposed development does not require approval by  
20 the planning board of a subdivision, site plan or conditional use, in  
21 conjunction with which the planning board has power to review a  
22 request for a variance pursuant to subsection a. of section 47 of  
23 **[this act]** P.L.1975, c.291; and

24 d. In particular cases for special reasons, grant a variance to  
25 allow departure from regulations pursuant to article 8 of **[this act]**  
26 P.L.1975, c.291 to permit:

27 (1) a use or principal structure in a district restricted against  
28 such use or principal structure**[,]**;

29 (2) an expansion of a nonconforming use**[,]**;

30 (3) deviation from a specification or standard pursuant to  
31 section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining solely to a  
32 conditional use**[,]**;

33 (4) an increase in the permitted floor area ratio as defined in  
34 section 3.1 of P.L.1975, c.291 (C.40:55D-4) **[,]**;

35 (5) an increase in the permitted density as defined in section 3.1  
36 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required  
37 lot area for a lot or lots for detached one or two dwelling unit  
38 buildings, which lot or lots are either an isolated undersized lot or  
39 lots resulting from a minor subdivision; or

40 (6) a height of a principal structure which exceeds by 10 feet or  
41 10% the maximum height permitted in the district for a principal  
42 structure. A variance under this subsection shall be granted only by  
43 affirmative vote of at least five members, in the case of a municipal  
44 board, or two-thirds of the full authorized membership, in the case  
45 of a regional board, pursuant to article 10 of **[this act]** P.L.1975,  
46 c.291.

1 If an application development requests one or more variances but  
2 not a variance for a purpose enumerated in subsection d. of this  
3 section, the decision on the requested variance or variances shall be  
4 rendered under subsection c. of this section.

5 No variance or other relief may be granted under the terms of  
6 this section, including a variance or other relief involving an  
7 inherently beneficial use, without a showing that such variance or  
8 other relief can be granted without substantial detriment to the  
9 public good and will not substantially impair the intent and the  
10 purpose of the zone plan and zoning ordinance.

11 In a municipality that has been deemed inclusionary pursuant to  
12 section 20 of P.L. , c. (C. ) (pending before the Legislature  
13 as this bill), the board shall not be required to review variances  
14 requested pursuant to this subsection for the development of  
15 affordable housing under inherently beneficial use standards, and a  
16 denial of a variance under such circumstances shall be  
17 presumptively valid.

18 e. In respect to any airport safety zones delineated under the  
19 "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et  
20 seq.), no variance or other relief may be granted under the terms of  
21 this section, permitting the creation or establishment of a  
22 nonconforming use which would be prohibited under standards  
23 promulgated pursuant to that act, except upon issuance of a permit  
24 by the Commissioner of Transportation. An application under this  
25 section may be referred to any appropriate person or agency for its  
26 report; provided that such reference shall not extend the period of  
27 time within which the zoning board of adjustment shall act.

28 f. Upon application, hear and determine which, where, and to  
29 what extent an alternative method described in section 22 of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill) of  
31 satisfying the set-aside requirements of section 21 of P.L. ,  
32 c. (C. ) (pending before the Legislature as this bill) may be  
33 employed.

34 (cf: P.L.2007, c.137, s.60)]<sup>1</sup>

35  
36 <sup>1</sup>[5.Section 9 of P.L.1966, c.293 (C.52:27D-9) is amended to  
37 read as follows:

38 9. The department shall, in addition to other powers and duties  
39 invested in it by this act, or by any other law:

40 (a) Assist in the coordination of State and Federal activities  
41 relating to local government;

42 (b) Advise and inform the Governor on the affairs and problems  
43 of local government and make recommendations to the Governor  
44 for proposed legislation pertaining thereto;

45 (c) Encourage cooperative action by local governments,  
46 including joint service agreements, regional compacts and other  
47 forms of regional cooperation;

- 1 (d) Assist local government in the solution of its problems, to  
2 strengthen local self-government;
- 3 (e) Study the entire field of local government in New Jersey;
- 4 (f) Collect, collate, publish and disseminate information  
5 necessary for the effective operation of the department and useful  
6 to local government;
- 7 (g) Maintain an inventory of data and information and act as a  
8 clearing house and referral agency for information on State and  
9 Federal services and programs;
- 10 (h) Stimulate local programs through publicity, education,  
11 guidance and technical assistance concerning Federal and State  
12 programs;
- 13 (i) Convene meetings of municipal, county or other local  
14 officials to discuss ways of cooperating to provide service more  
15 efficiently and economically; **[and]**
- 16 (j) Maintain and make available on request a list of persons  
17 qualified to mediate or arbitrate disputes between local units of  
18 government arising from joint service projects or other cooperative  
19 activities, and further to prescribe rates of compensation for all such  
20 mediation, factfinding or arbitration services; and
- 21 (k) Assume the duties of the Council on Affordable Housing  
22 that are not repealed by P.L. , c. (pending before the Legislature  
23 as this bill) and are transferred to the department pursuant to section  
24 2 of P.L. , c. (C. ) and section 18 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill).  
26 (cf: P.L.1973, c.208, s.10)]<sup>1</sup>
- 27
- 28 <sup>1</sup>[6.Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to  
29 read as follows:
- 30 2. The Legislature finds that:
- 31 a. The New Jersey Supreme Court, through its rulings in South  
32 Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975)  
33 and South Burlington County NAACP v. Mount Laurel, 92 N.J.158  
34 (1983), has determined that every municipality in a growth area has  
35 a constitutional obligation to provide through its land use  
36 regulations a realistic opportunity for a fair share of its region's  
37 present and prospective needs for housing for low and moderate  
38 income families.
- 39 b. In the second Mount Laurel ruling, the Supreme Court stated  
40 that the determination of the methods for satisfying this  
41 constitutional obligation "is better left to the Legislature," that the  
42 court has "always preferred legislative to judicial action in their  
43 field," and that the judicial role in upholding the Mount Laurel  
44 doctrine "could decrease as a result of legislative and executive  
45 action." As administered by the Council on Affordable Housing, the  
46 "Fair Housing Act," increased, rather than decreased, the judicial

1 role and added the expense of bureaucratic paper and process at  
2 both the State and local level.

3 c. **【The interest of all citizens, including low and moderate**  
4 **income families in need of affordable housing, and the needs of the**  
5 **workforce, would be best served by a comprehensive planning and**  
6 **implementation response to this constitutional obligation.】** (Deleted  
7 by amendment, P.L. , c. ) (pending before the Legislature as this  
8 bill)

9 d. **【There are a number of essential ingredients to a**  
10 **comprehensive planning and implementation response, including**  
11 **the establishment of reasonable fair share housing guidelines and**  
12 **standards, the initial determination of fair share by officials at the**  
13 **municipal level and the preparation of a municipal housing element,**  
14 **State review of the local fair share study and housing element, and**  
15 **continuous State funding for low and moderate income housing to**  
16 **replace the federal housing subsidy programs which have been**  
17 **almost completely eliminated.】** (Deleted by amendment, P.L. ,  
18 c. ) (pending before the Legislature as this bill)

19 e. **【The State can maximize the number of low and moderate**  
20 **income units provided in New Jersey by allowing its municipalities**  
21 **to adopt appropriate phasing schedules for meeting their fair share,**  
22 **so long as the municipalities permit a timely achievement of an**  
23 **appropriate fair share of the regional need for low and moderate**  
24 **income housing as required by the Mt. Laurel I and II opinions and**  
25 **other relevant court decisions.】** (Deleted by amendment, P.L. ,  
26 c. ) (pending before the Legislature as this bill)

27 f. The State can **【also】** maximize the number of low and  
28 moderate income units by creating new affordable housing and by  
29 rehabilitating existing, but substandard, housing in the State.  
30 Because the Legislature has determined, pursuant to P.L.2008, c.46  
31 (C.52:27D-329.1 et al.), that it is no longer appropriate or in  
32 harmony with the Mount Laurel doctrine to permit the transfer of  
33 the fair share obligations among municipalities within a housing  
34 region, it is necessary and appropriate to create a new program to  
35 create new affordable housing and to foster the rehabilitation of  
36 existing, but substandard, housing.

37 g. Since the urban areas are vitally important to the State,  
38 construction, conversion and rehabilitation of housing in our urban  
39 centers should be encouraged. However, the provision of housing  
40 in urban areas must be balanced with the need to provide housing  
41 throughout the State for the free mobility of citizens.

42 h. The Supreme Court of New Jersey in its Mount Laurel  
43 decisions demands that municipal land use regulations affirmatively  
44 afford a reasonable opportunity for a variety and choice of housing  
45 including low and moderate cost housing, to meet the needs of  
46 people desiring to live there. While provision for the actual  
47 construction of that housing by municipalities is not required, they



1 are encouraged but not mandated to expend their own resources to  
2 help provide low and moderate income housing.

3 i. **【Certain amendments to the enabling act of the Council on**  
4 **Affordable Housing are necessary to provide guidance to the**  
5 **council to ensure consistency with the legislative intent, while at the**  
6 **same time clarifying the limitations of the council in its rulemaking.**  
7 **Although the court has remarked in several decisions that the**  
8 **Legislature has granted the council considerable deference in its**  
9 **rulemaking, the Legislature retains its power and obligation to**  
10 **clarify and amend the enabling act from which the council derives**  
11 **its rulemaking power, from time to time, in order to better guide the**  
12 **council.】** (Deleted by amendment, P.L. , c. ) (pending before the  
13 Legislature as this bill)

14 j. The Legislature finds that the use of regional contribution  
15 agreements, which permits municipalities to transfer a certain  
16 portion of their fair share housing obligation outside of the  
17 municipal borders, should no longer be utilized as a mechanism for  
18 the creation of affordable housing **【by the council】**.

19 (cf: P.L.2008, c.46, s.4)】<sup>1</sup>  
20

21 <sup>1</sup>**【7.Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to**  
22 **read as follows:**

23 4. As used in this act:

24 a. "Council" means the Council on Affordable Housing  
25 established **【in this act】** by section 5 of P.L.1985, c.222 (C.52:27D-  
26 305), 【which shall have primary jurisdiction for the administration  
27 of housing obligations in accordance with sound regional planning  
28 considerations in this State】 and, pursuant to section 2 of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill) and  
30 subsequent to the effective date of P.L. , c. (C. ) (pending  
31 before the Legislature as this bill), the Department of Community  
32 Affairs.

33 b. "Housing region" means a geographic area of not less than  
34 two nor more than four contiguous, whole counties which exhibit  
35 significant social, economic and income similarities, and which  
36 constitute to the greatest extent practicable the primary metropolitan  
37 statistical areas as last defined by the United States Census Bureau  
38 **【prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et**  
39 **al.)】**.

40 c. "Low income housing" means housing affordable according  
41 to federal Department of Housing and Urban Development or other  
42 recognized standards for home ownership and rental costs and  
43 occupied or reserved for occupancy by households with a gross  
44 household income equal to 50% or less of the median gross  
45 household income for households of the same size within the  
46 housing region in which the housing is located.

- 1 d. "Moderate income housing" means housing affordable  
2 according to federal Department of Housing and Urban  
3 Development or other recognized standards for home ownership  
4 and rental costs and occupied or reserved for occupancy by  
5 households with a gross household income equal to more than 50%  
6 but less than 80% of the median gross household income for  
7 households of the same size within the housing region in which the  
8 housing is located.
- 9 e. **["Resolution of participation"** means a resolution adopted by  
10 a municipality in which the municipality chooses to prepare a fair  
11 share plan and housing element in accordance with this act.]  
12 (Deleted by amendment, P.L. , c. ) (pending before the  
13 Legislature as this bill)
- 14 f. "Inclusionary development" means a market rate residential  
15 housing development **[in which a substantial percentage of the**  
16 **housing units are provided for a reasonable income range of]** that  
17 includes units set-aside as housing affordable to low and moderate  
18 income households.
- 19 g. **["Conversion"** means the conversion of existing  
20 commercial, industrial, or residential structures for low and  
21 moderate income housing purposes where a substantial percentage  
22 of the housing units are provided for a reasonable income range of  
23 low and moderate income households.] (Deleted by amendment,  
24 P.L. , c. ) (pending before the Legislature as this bill)
- 25 h. "Development" means any development for which  
26 permission may be required pursuant to the "Municipal Land Use  
27 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
- 28 i. "Agency" means the New Jersey Housing and Mortgage  
29 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et  
30 seq.).
- 31 j. **["Prospective need"** means a projection of housing needs  
32 based on development and growth which is reasonably likely to  
33 occur in a region or a municipality, as the case may be, as a result  
34 of actual determination of public and private entities. In  
35 determining prospective need, consideration shall be given to  
36 approvals of development applications, real property transfers and  
37 economic projections prepared by the State Planning Commission  
38 established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-  
39 196 et seq.).] (Deleted by amendment, P.L. , c. ) (pending before  
40 the Legislature as this bill)
- 41 k. "Disabled person" means a person with a physical disability,  
42 infirmity, malformation or disfigurement which is caused by bodily  
43 injury, birth defect, aging or illness including epilepsy and other  
44 seizure disorders, and which shall include, but not be limited to, any  
45 degree of paralysis, amputation, lack of physical coordination,  
46 blindness or visual impediment, deafness or hearing impediment,

1 muteness or speech impediment or physical reliance on a service or  
2 guide dog, wheelchair, or other remedial appliance or device.

3 l. "Adaptable" means constructed in compliance with the  
4 technical design standards of the barrier free subcode adopted by  
5 the Commissioner of Community Affairs pursuant to the "State  
6 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119  
7 et seq.) and in accordance with the provisions of section 5 of  
8 P.L.2005, c.350 (C.52:27D-123.15).

9 m. "Very low income housing" means housing affordable  
10 according to federal Department of Housing and Urban  
11 Development or other recognized standards for home ownership  
12 and rental costs and occupied or reserved for occupancy by  
13 households with a gross household income equal to 30% or less of  
14 the median gross household income for households of the same size  
15 within the housing region in which the housing is located.

16 n. "Price restricted unit" means a residential dwelling unit that  
17 is price restricted, including: units that are deed restricted for  
18 occupancy by residents of low or moderate income; price restricted  
19 pursuant to covenants established for units financed by federal Low  
20 Income Housing Tax Credits; price restricted pursuant to covenants  
21 established for units developed pursuant to the "Neighborhood  
22 Revitalization State Tax Credit Act," P.L.2001, c.415 (C.52:27D-  
23 490 et seq.); units rehabilitated as either a sending or receiving  
24 municipality under a regional contribution agreement, and subject  
25 to price controls; units built or rehabilitated as part of a Community  
26 Development Block Grant, and subject to price controls; housing  
27 units operated by a Public Housing Authority; units constructed,  
28 rehabilitated, or receiving project-based assistance under the  
29 program authorized pursuant to section 8 of the United States  
30 Housing Act of 1937.

31 o. "Developable land" means undeveloped property having  
32 reasonable access to sewer service, having a slope of less than 15  
33 percent, that is not property owned by a municipality or county and  
34 designated by resolution or ordinance as open space, and located  
35 where development is not prohibited pursuant to the "Freshwater  
36 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
37 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
38 the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1  
39 et seq.), the "Highlands Water Protection and Planning Act,"  
40 P.L.2004, c.120 (C.13:20-1 et al.), or the Federal Clean Water Act,  
41 33 U.S.C. ss.1251 through 1376, "Hackensack Meadowlands  
42 Reclamation and Development Act" P.L.1968, c.404 (C.13:17-1 et  
43 seq.).

44 p. "Special needs housing" means housing, or the residential  
45 portion of a development that is permanent supportive housing, as  
46 defined in section 2 of P.L.2004, c.70 (C.34:1B-21.24), or a  
47 community residence that is primarily for occupancy by individuals

1 with special needs who shall occupy such housing as their usual and  
2 permanent residence.

3 q. "Special needs unit" means a single unit of special needs  
4 housing for one or more occupants that contains, at a minimum, a  
5 bedroom and a bathroom.

6 r. "Inclusionary municipality" means a municipality deemed,  
7 pursuant to section 20 of P.L. , c. (C. ) (pending before the  
8 Legislature as this bill), to have provided a variety and choice of  
9 housing as evidenced by the quantity of price-restricted units or  
10 amount of other units, the characteristics of which demonstrate an  
11 opportunity for low-income or moderate-income housing.

12 s. "Workforce housing" means housing affordable to,  
13 according to federal Department of Housing and Urban  
14 Development or other recognized standards for home ownership  
15 and rental costs, and occupied by, or reserved for occupancy by,  
16 households with a gross household income equal to or less than 120  
17 of the median gross household income for households of the same  
18 size within the housing region in which the housing is located.

19 t. "Residential development project" means new construction  
20 resulting in the production of five or more residential dwelling  
21 units, whether attached or detached.

22 u. "Small residential development project" means new  
23 construction resulting in the production of fewer than five  
24 residential dwelling units, whether attached or detached , and shall  
25 not mean any construction or reconstruction of a single-family  
26 dwelling that is occupied by, or intended to be occupied by, the  
27 owner.

28 (cf: P.L.2008, c.46, s.5)]<sup>1</sup>

30 <sup>1</sup>[8.Section 1 of P.L.1991, c.479 (C.52:27D-307.1) is amended  
31 to read as follows:

32 1. As used in [this act] P.L.1991, c.479 (C.52:27D-307.1 et  
33 al.):

34 "Agency" means the Housing and Mortgage Finance Agency  
35 established pursuant to section 4 of the "New Jersey Housing and  
36 Mortgage Finance Agency Law of 1983," P.L.1983, c.530  
37 (C.55:14K-4).

38 "Commissioner" means the Commissioner of Community  
39 Affairs.

40 "Council" means the Council on Affordable Housing created by  
41 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and,  
42 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
43 Legislature as this bill) and subsequent to the effective date of  
44 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
45 Department of Community Affairs.

46 "Department" means the Department of Community Affairs.

1 "Housing region" means a housing region as determined by the  
2 **【Council on Affordable Housing】** Department of Community  
3 Affairs pursuant to section **【7 of P.L.1985, c.222 (C.52:27D-307)】**  
4 18 of P.L. , c. (C. ) (pending before the Legislature as this  
5 bill).

6 "Project" or "housing project" means any specific work or  
7 undertaking for the purpose of providing housing accommodations,  
8 whether by new construction or by rehabilitation or adaptation of  
9 existing structures, that shall be affordable to persons and families  
10 of low or moderate income within the meaning of the "Fair Housing  
11 Act," P.L.1985, c.222 (C.52:27D-301 et al.). Such work or  
12 undertaking may include the acquisition, construction or  
13 rehabilitation of lands, buildings and improvements, and such  
14 stores, offices, and social, recreational, communal or other facilities  
15 as may be incidental or appurtenant to the housing accommodations  
16 that are to be provided.

17 "Register" means the Register of Housing Projects directed by  
18 section 2 of **【this act】** P.L.1991, c.479 (C.52:27D-307.2) to be  
19 established and maintained by the commissioner.  
20 (cf: P.L.1991, c.479, s.1)'<sup>1</sup>

21  
22 <sup>1</sup>**【9.Section 3 of P.L.1991, c.479 (C.52:27D-307.3) is amended**  
23 **to read as follows:**

24 3. a. The commissioner shall cause to be developed a system  
25 for assigning and designating priority ratings to each project  
26 included in the register. Priority ratings shall be based upon the  
27 following factors, giving to each factor such weight as the  
28 commissioner shall judge to be appropriate:

29 (1) Feasibility. Each project shall be evaluated for its physical  
30 and financial feasibility, giving consideration to the capabilities of  
31 the proposed sponsor or developer, market conditions and  
32 regulatory requirements in the locality for which it is proposed, and  
33 the availability of financing in sufficient amount and at reasonable  
34 cost.

35 (2) Desirability. Each project shall be evaluated with relation to  
36 its probable effect in meeting the affordable housing needs of the  
37 housing region in which it is to be located, in accordance with the  
38 standards and criteria of the **【council】** Department of Community  
39 Affairs. Consideration shall be given to (a) the number of  
40 affordable dwelling units that the project would provide, (b) the  
41 proportion of affordable units to the total number of units envisaged  
42 in the project plan, (c) the distribution of those affordable units as  
43 between those affordable to persons and families of low income and  
44 those of moderate income, considered in relation to the needs of the  
45 housing region, (d) appropriateness of the proposed tenure of the  
46 affordable units, whether to be rental or owner-occupied, in relation  
47 to the needs of the housing region, and (e) appropriateness of the

1 proposed distribution of units as to family size, in relation to the  
2 needs of the housing region.

3 (3) Efficiency. Each project shall be evaluated on the basis of  
4 the cost to the State, in terms of financial assistance granted or  
5 revenue forgone in order to further the project, for each affordable  
6 dwelling unit judged by the commissioner to be feasible and  
7 desirable according to the terms of the proposal or application made  
8 for such assistance.

9 b. In developing the system of assigning and designating  
10 priorities, and in evaluating individual projects for such assignment  
11 and designation in the register, the commissioner shall consult with  
12 the executive director of the agency and the [executive director of  
13 the council] Commissioner of Community Affairs. The [council]  
14 person having control over the project and the agency shall  
15 promptly and fully supply the commissioner with all relevant  
16 information necessary for the commissioner's timely and complete  
17 fulfillment of the requirements of this act.

18 (cf: P.L.1991, c.479, s.3)]<sup>1</sup>

19  
20 <sup>1</sup>[10. Section 4 of P.L.1991, c.479 (C.52:27D-307.4) is amended  
21 to read as follows:

22 4. a. Any officer or employee of the department, including any  
23 member, officer or employee of the agency [or the council], who  
24 receives from any person any solicitation, application, proposal or  
25 communication of any kind, whether oral or in writing, aimed at  
26 furthering the assistance of any project shall promptly report the  
27 same to the commissioner. The report shall identify the person or  
28 persons making such communication. If any such person is not  
29 identified in the register in accordance with the requirements of  
30 subsection b. of section 2 of this act, the report shall state the  
31 person's relationship to the sponsor or developer of the project and  
32 the capacity in which the person represents himself or herself to be  
33 acting on behalf of the sponsor or developer; or if the person fails or  
34 refuses to supply that information, the report shall so state.

35 b. The commissioner shall develop a procedure or procedures  
36 by which reports required under subsection a. of this section shall  
37 be made either to the commissioner directly or through such  
38 administrative channels as the commissioner shall devise and direct.  
39 Notwithstanding the provisions of subsection i. of section 4 of  
40 P.L.1983, c.530 (C.55:14K-4) [and subsection a. of section 5 of  
41 P.L.1985, c.222 (C.52:27D-305) ], the regulations adopted by the  
42 commissioner in fulfillment of this subsection shall be of full force  
43 and application on and within the agency [and the council]; and all  
44 members, officers and employees of the agency [and council] shall  
45 give full compliance with and obedience to the rules and orders of  
46 the commissioner made in pursuance of his duties and  
47 responsibilities under this act.

1 c. Reports made to the commissioner shall be promptly  
2 forwarded by him, not later than 10 days after their receipt, to the  
3 Governor and to the presiding officers of the Houses of the  
4 Legislature, who shall cause all members of their respective Houses  
5 to be notified of the receipt of those reports and shall make  
6 adequate provision for the inspection of the commissioner's reports  
7 by members and committees of either House, and for the  
8 dissemination of those reports to the public. The reports forwarded  
9 by the commissioner shall in each instance indicate the priority  
10 rating that has been assigned in the register to the project to which  
11 the report relates.  
12 (cf: P.L.1991, c.479, s.4)]<sup>1</sup>

13  
14 <sup>1</sup>[11. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended  
15 to read as follows:

16 11. a. [In adopting its housing element, the municipality may  
17 provide for its fair share of low and moderate income housing by  
18 means of any technique or combination of techniques which provide  
19 a realistic opportunity for the provision of the fair share. The  
20 housing element shall contain an analysis demonstrating that it will  
21 provide such a realistic opportunity, and the municipality shall  
22 establish that its land use and other relevant ordinances have been  
23 revised to incorporate the provisions for low and moderate income  
24 housing. In preparing the housing element, the municipality shall  
25 consider the following techniques for providing low and moderate  
26 income housing within the municipality, as well as such other  
27 techniques as may be published by the council or proposed by the  
28 municipality:

29 (1) Rezoning for densities necessary to assure the economic  
30 viability of any inclusionary developments, either through  
31 mandatory set-asides or density bonuses, as may be necessary to  
32 meet all or part of the municipality's fair share in accordance with  
33 the regulations of the council and the provision of subsection h. of  
34 this section;

35 (2) Determination of the total residential zoning necessary to  
36 assure that the municipality's fair share is achieved;

37 (3) Determination of measures that the municipality will take to  
38 assure that low and moderate income units remain affordable to low  
39 and moderate income households for an appropriate period of not  
40 less than six years;

41 (4) A plan for infrastructure expansion and rehabilitation if  
42 necessary to assure the achievement of the municipality's fair share  
43 of low and moderate income housing;

44 (5) Donation or use of municipally owned land or land  
45 condemned by the municipality for purposes of providing low and  
46 moderate income housing;

- 1 (6) Tax abatements for purposes of providing low and moderate  
2 income housing;
- 3 (7) Utilization of funds obtained from any State or federal  
4 subsidy toward the construction of low and moderate income  
5 housing;
- 6 (8) Utilization of municipally generated funds toward the  
7 construction of low and moderate income housing; and
- 8 (9) The purchase of privately owned real property used for  
9 residential purposes at the value of all liens secured by the property;  
10 excluding any tax liens, notwithstanding that the total amount of  
11 debt secured by liens exceeds the appraised value of the property,  
12 pursuant to regulations promulgated by the Commissioner of  
13 Community Affairs pursuant to subsection b. of section 41 of  
14 P.L.2000, c.126 (C.52:27D-311.2).] (Deleted by amendment,  
15 P.L. , c. ) (pending before the Legislature as this bill)
- 16 b. **【**The municipality may provide for a phasing schedule for  
17 the achievement of its fair share of low and moderate income  
18 housing.**】** (Deleted by amendment, P.L. , c. ) (pending before the  
19 Legislatre as this bill)
- 20 c. (Deleted by amendment, P.L.2008, c.46)
- 21 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) or in  
22 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
23 require a municipality to raise or expend municipal revenues in  
24 order to provide low and moderate income housing.
- 25 e. **【**When a municipality's housing element includes the  
26 provision of rental housing units in a community residence for the  
27 developmentally disabled, as defined in section 2 of P.L.1977,  
28 c.448 (C.30:11B-2), which will be affordable to persons of low and  
29 moderate income, and for which adequate measures to retain such  
30 affordability pursuant to paragraph (3) of subsection a. of this  
31 section are included in the housing element, those housing units  
32 shall be fully credited as permitted under the rules of the council  
33 towards the fulfillment of the municipality's fair share of low and  
34 moderate income housing.**】** (Deleted by amendment, P.L. , c. )  
35 (pending before the Legislature as this bill)
- 36 f. **【**It having been determined by the Legislature that the  
37 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is  
38 a public purpose, a municipality or municipalities may utilize public  
39 monies to make donations, grants or loans of public funds for the  
40 rehabilitation of deficient housing units and the provision of new or  
41 substantially rehabilitated housing for low and moderate persons,  
42 providing that any private advantage is incidental.**】** (Deleted by  
43 amendment, P.L. , c. ) (pending before the Legislature as this  
44 bill)
- 45 g. **【**A municipality which has received substantive certification  
46 from the council, and which has actually effected the construction  
47 of the affordable housing units it is obligated to provide, may



1 amend its affordable housing element or zoning ordinances without  
2 the approval of the council.】 (Deleted by amendment, P.L. , c. )  
3 (pending before the Legislature as this bill)

4 h. 【Whenever affordable housing units are proposed to be  
5 provided through an inclusionary development, a municipality shall  
6 provide, through its zoning powers, incentives to the developer,  
7 which shall include increased densities and reduced costs, in  
8 accordance with the regulations of the council and this subsection.】  
9 (Deleted by amendment, P.L. , c. ) (pending before the  
10 Legislature as this bill)

11 i. 【The council, upon the application of a municipality and a  
12 developer, may approve reduced affordable housing set-asides or  
13 increased densities to ensure the economic feasibility of an  
14 inclusionary development.】 (Deleted by amendment, P.L. , c. )  
15 (pending before the Legislature as this bill)  
16 (cf: P.L.2008, c.46, s.15)】<sup>1</sup>

17  
18 <sup>1</sup>【12. Section 1 of P.L.2005, c.350 (C.52:27D-311a) is amended  
19 to read as follows:

20 1. Beginning upon the effective date of P.L.2005, c.350  
21 (C.52:27D-311a et al.), in order to be considered a price restricted  
22 unit for purposes of a determination pursuant to subsection a. of  
23 section 20 of P.L. , c. (C. ), any new construction 【for which  
24 credit is sought against a fair share obligation】 shall be adaptable in  
25 accordance with the provisions of section 5 of P.L.2005, c.350  
26 (C.52:27D-123.15). For the purposes of P.L.2005, c.350  
27 (C.52:27D-311a et al.), "new construction" shall mean an entirely  
28 new improvement not previously occupied or used for any purpose.  
29 (cf: P.L.2005, c.350, s.1)】<sup>1</sup>

30  
31 <sup>1</sup>【13. Section 6 of P.L. 2005, c.350 (C.52:27D-311b) is amended  
32 to read as follows:

33 6. The 【council】 department may take such measures as are  
34 necessary to assure compliance with the adaptability requirements  
35 imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.),  
36 including the inspection of those units which are newly constructed  
37 and receive housing credit as provided under section 1 of P.L.2005,  
38 c.350 (C.52:27D-311a) and section 20 of P.L. , c. (C. )  
39 (pending before the Legislature as this bill) for adaptability, as part  
40 of the monitoring which occurs pursuant to P.L.1985, c.222  
41 (C.52:27D-301 et al.). 【If any units for which credit was granted in  
42 accordance with the provisions of P.L.2005, c.350 (C.52:27D-311a  
43 et al.) are found not to conform to the requirements of P.L.2005,  
44 c.350 (C.52:27D-311a et al.), the council may require the  
45 municipality to amend its fair share plan within 90 days of  
46 receiving notice from the council, to address its fair share obligation

pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). In the event that the municipality fails to amend its fair share plan within 90 days of receiving such notice, the council may revoke substantive certification.】

(cf: P.L.2005, c.350, s.6)】<sup>1</sup>

<sup>1</sup>【14. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to read as follows:

20. There is established in the Department of Community Affairs a separate trust fund, to be used for the exclusive purposes as provided in this section, and which shall be known as the "New Jersey Affordable Housing Trust Fund." The fund shall be a non-lapsing, revolving trust fund, and all monies deposited or received for purposes of the fund shall be accounted for separately, by source and amount, and remain in the fund until appropriated for such purposes. The fund shall be the repository of all State funds appropriated for affordable housing purposes, including, but not limited to, the proceeds from the receipts of the additional fee collected pursuant to paragraph (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the Statewide non-residential development fees collected pursuant to section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or reverting from municipal development trust funds, or other monies as may be dedicated, earmarked, or appropriated by the Legislature for the purposes of the fund. All references in any law, order, rule, regulation, contract, loan, document, or otherwise, to the "Neighborhood Preservation Nonlapsing Revolving Fund" shall mean the "New Jersey Affordable Housing Trust Fund." Not less than 13 percent of the total expenditures in any State fiscal year from the New Jersey Affordable Housing Trust Fund shall be used for housing projects and programs reserved for very low income households. The department shall be permitted to utilize annually up to 7.5 percent of the monies available in the fund for the payment of any necessary administrative costs related to the administration of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), the State Housing Commission, or any costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et al.) or P.L. , c. (C. ) (pending before the Legislature as this bill).

a. Except as permitted pursuant to subsection g. of this section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the commissioner shall award grants or loans from this fund for housing projects and programs in municipalities whose housing elements have received substantive certification from the council, in municipalities receiving State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), in municipalities subject to a builder's remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328) or in receiving municipalities in cases where the council has

1 approved a regional contribution agreement and a project plan  
2 developed by the receiving municipality.

3     **【Of those monies deposited into the "New Jersey Affordable**  
4 **Housing Trust Fund" that are derived from municipal development**  
5 **fee trust funds, or from available collections of Statewide non-**  
6 **residential development fees, a priority for funding shall be**  
7 **established for projects in municipalities that have petitioned the**  
8 **council for substantive certification】** The commissioner shall  
9 prioritize funding for projects that include special needs units when  
10 making grants and awards from the "New Jersey Affordable  
11 Housing Trust Fund."

12     Programs and projects in any municipality shall be funded only  
13 after receipt by the commissioner of a written statement in support  
14 of the program or project from the municipal governing body.

15     b. The commissioner shall establish rules and regulations  
16 governing the qualifications of applicants, the application  
17 procedures, and the criteria for awarding grants and loans and the  
18 standards for establishing the amount, terms and conditions of each  
19 grant or loan.

20     c. For any period which the council may approve, the  
21 commissioner may assist affordable housing programs which are  
22 not located in municipalities whose housing elements have been  
23 granted substantive certification or which are not in furtherance of a  
24 regional contribution agreement; provided that the affordable  
25 housing program will meet all or part of a municipal low and  
26 moderate income housing obligation.

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

32         (1) Rehabilitation of substandard housing units occupied or to  
33 be occupied by low and moderate income households;

34         (2) Creation of accessory apartments to be occupied by low and  
35 moderate income households;

36         (3) Conversion of non-residential space to residential purposes;  
37 provided a substantial percentage of the resulting housing units are  
38 to be occupied by low and moderate income households;

39         (4) Acquisition of real property, demolition and removal of  
40 buildings, or construction of new housing that will be occupied by  
41 low and moderate income households, or any combination thereof;

42         (5) Grants of assistance to eligible municipalities for costs of  
43 necessary studies, surveys, plans and permits; engineering,  
44 architectural and other technical services; costs of land acquisition  
45 and any buildings thereon; and costs of site preparation, demolition  
46 and infrastructure development for projects undertaken pursuant to  
47 an approved regional contribution agreement;

1 (6) Assistance to a local housing authority, nonprofit or limited  
2 dividend housing corporation or association or a qualified entity  
3 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for  
4 rehabilitation or restoration of housing units which it administers  
5 which: (a) are unusable or in a serious state of disrepair; (b) can be  
6 restored in an economically feasible and sound manner; and (c) can  
7 be retained in a safe, decent and sanitary manner, upon completion  
8 of rehabilitation or restoration; and

9 (7) Other housing programs for low and moderate income  
10 housing, including, without limitation, (a) infrastructure projects  
11 directly facilitating the construction of low and moderate income  
12 housing not to exceed a reasonable percentage of the construction  
13 costs of the low and moderate income housing to be provided and  
14 (b) alteration of dwelling units occupied or to be occupied by  
15 households of low or moderate income and the common areas of the  
16 premises in which they are located in order to make them accessible  
17 to handicapped persons.

18 e. Any grant or loan agreement entered into pursuant to this  
19 section shall incorporate contractual guarantees and procedures by  
20 which the division will ensure that any unit of housing provided for  
21 low and moderate income households shall continue to be occupied  
22 by low and moderate income households for at least 20 years  
23 following the award of the loan or grant, except that the division  
24 may approve a guarantee for a period of less than 20 years where  
25 necessary to ensure project feasibility.

26 f. Notwithstanding the provisions of any other law, rule or  
27 regulation to the contrary, in making grants or loans under this  
28 section, the department shall not require that tenants be certified as  
29 low or moderate income or that contractual guarantees or deed  
30 restrictions be in place to ensure continued low and moderate  
31 income occupancy as a condition of providing housing assistance  
32 from any program administered by the department, when that  
33 assistance is provided for a project of moderate rehabilitation if the  
34 project (1) contains 30 or fewer rental units and (2) is located in a  
35 census tract in which the median household income is 60 percent or  
36 less of the median income for the housing region in which the  
37 census tract is located, as determined for a three person household  
38 by the council in accordance with the latest federal decennial  
39 census. A list of eligible census tracts shall be maintained by the  
40 department and shall be adjusted upon publication of median  
41 income figures by census tract after each federal decennial census.

42 g. In addition to other grants or loans awarded pursuant to this  
43 section, and without regard to any limitations on such grants or  
44 loans for any other purposes herein imposed, the commissioner  
45 shall annually allocate such amounts as may be necessary in the  
46 commissioner's discretion, and in accordance with section 3 of  
47 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants

1 under the program created pursuant to P.L.2004, c.140 (C.52:27D-  
2 287.1 et al.). Such rental assistance grants shall be deemed  
3 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-  
4 301 et al.), in order to meet the housing needs of certain low income  
5 households who may not be eligible to occupy other housing  
6 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

7 h. The department and the State Treasurer shall submit the  
8 "New Jersey Affordable Housing Trust Fund" for an audit annually  
9 by the State Auditor or State Comptroller, at the discretion of the  
10 Treasurer. In addition, the department shall prepare an annual  
11 report for each fiscal year, and submit it by November 30th of each  
12 year to the Governor and the Legislature, and the Joint Committee  
13 on Housing Affordability, or its successor, and post the information  
14 to its web site, of all activity of the fund, including details of the  
15 grants and loans by number of units, number and income ranges of  
16 recipients of grants or loans, location of the housing renovated or  
17 constructed using monies from the fund, the number of units upon  
18 which affordability controls were placed, and the length of those  
19 controls. The report also shall include details pertaining to those  
20 monies allocated from the fund for use by the State rental assistance  
21 program pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3)  
22 and subsection g. of this section.

23 i. The commissioner may award or grant the amount of any  
24 appropriation deposited in the "New Jersey Affordable Housing  
25 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-  
26 320.1) to municipalities pursuant to the provisions of section 39 of  
27 P.L.2009, c.90 (C.40:55D-8.8).  
28 (cf: P.L.2009, c.90, s.38)]<sup>1</sup>

29

30 <sup>1</sup>[15. Section 41 of P.L.2009, c.90 (C.52:27D-320.1) is amended  
31 to read as follows:

32 41. a. Notwithstanding any law to the contrary, there is  
33 appropriated \$15 million to the "New Jersey Affordable Housing  
34 Trust Fund," established pursuant to section 20 of P.L.1985, c.222  
35 (C.52:27D-320) [, to replace the suspended non-residential  
36 development fee established under the provisions of the "Statewide  
37 Non-Residential Development Fee Act," sections 32 through 38 of  
38 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7)].

39 b. (1) Municipalities authorized by [the provisions of the  
40 "Statewide Non-Residential Development Fee Act," sections 32  
41 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-  
42 8.7)] section 27 of P.L. , c. (C. ) (pending before the  
43 Legislature as this bill) to directly receive and use development fees  
44 are permitted to petition the commissioner for the award of a grant  
45 or loan of any portion of the appropriation described in subsection  
46 a. of this section. The commissioner shall award grants or loans  
47 from the fund to municipalities that [incorporated] approve

1 anticipated or existing housing projects and programs funded by a  
2 municipal development trust fund [in a housing element submitted  
3 to the council pursuant to section 7 of P.L.1985, c.222 (C.52:27D-  
4 307)].

5 (2) The commissioner shall target the award of any grant or loan  
6 to municipalities based on the extent that their housing plan relied  
7 on housing projects or programs funded in part or in whole by  
8 municipal development trust fund revenues.

9 (cf: P.L.2009, c.90 s.41)]<sup>1</sup>

10

11 <sup>1</sup>[16. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended  
12 to read as follows:

13 18. a. [Notwithstanding any rules of the council to the contrary,  
14 for developments consisting of newly-constructed residential units  
15 located, or to be located, within the jurisdiction of any regional  
16 planning entity required to adopt a master plan or comprehensive  
17 management plan pursuant to statutory law, including the New  
18 Jersey Meadowlands Commission pursuant to subsection (i) of  
19 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission  
20 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,  
21 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization  
22 Planning Authority pursuant to section 5 of P.L.2006, c.16  
23 (C.52:27I-5), or its successor, and the Highlands Water Protection  
24 and Planning Council pursuant to section 11 of P.L.2004, c.120  
25 (C.13:20-11), but excluding joint planning boards formed pursuant  
26 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be  
27 required to be reserved for occupancy by low or moderate income  
28 households at least 20 percent of the residential units constructed, to  
29 the extent this is economically feasible.] (Deleted by amendment,  
30 P.L. , c. ) (pending before the Legislature as this bill)

31 b. A developer of a project consisting of newly-constructed  
32 residential units being financed in whole or in part with State funds,  
33 including, but not limited to, transit villages designated by the  
34 Department of Transportation, units constructed on State-owned  
35 property, and urban transit hubs as defined pursuant to section 2 of  
36 P.L.2007, c.346 (C.34:1B-208), shall be required to reserve at least  
37 **[20]** 10 percent of the residential units constructed for occupancy  
38 by low or moderate income households, as those terms are defined  
39 in section 4 of P.L.1985, c.222 (C.52:27D-304), with affordability  
40 controls as required under the rules of the **[council]** department,  
41 unless the municipality in which the property is located has  
42 received **[substantive certification from the council and such a**  
43 **reservation is not required under the approved affordable housing**  
44 **plan, or the municipality has been given]** a judgment of repose or a  
45 judgment of compliance by the court, and such a reservation is not  
46 required under the approved affordable housing plan or the

1 municipality has received substantive certification from the council  
 2 or has petitioned for substantive certification prior to the effective  
 3 date of P.L. \_\_, c. (C. \_\_) (pending before the Legislature as this  
 4 bill) and such petition has not been dismissed or otherwise  
 5 determined to be invalid. A municipality may satisfy the set-aside  
 6 requirements imposed by this subsection through any combination  
 7 of the alternate means provided for in section 22 of P.L. \_\_,  
 8 c. (C. \_\_) (pending before the Legislature as this bill).

9 c. [(1) The Legislature recognizes that regional planning  
 10 entities are appropriately positioned to take a broader role in the  
 11 planning and provision of affordable housing based on regional  
 12 planning considerations. In recognition of the value of sound  
 13 regional planning, including the desire to foster economic growth,  
 14 create a variety and choice of housing near public transportation,  
 15 protect critical environmental resources, including farmland and  
 16 open space preservation, and maximize the use of existing  
 17 infrastructure, there is created a new program to foster regional  
 18 planning entities.

19 (2) The regional planning entities identified in subsection a. of  
 20 this section shall identify and coordinate regional affordable  
 21 housing opportunities in cooperation with municipalities in areas  
 22 with convenient access to infrastructure, employment opportunities,  
 23 and public transportation. Coordination of affordable housing  
 24 opportunities may include methods to regionally provide housing in  
 25 line with regional concerns, such as transit needs or opportunities,  
 26 environmental concerns, or such other factors as the council may  
 27 permit; provided, however, that such provision by such a regional  
 28 entity may not result in more than a 50 percent change in the fair  
 29 share obligation of any municipality; provided that this limitation  
 30 shall not apply to affordable housing units directly attributable to  
 31 development by the New Jersey Sports and Exposition Authority  
 32 within the New Jersey Meadowlands District.

33 (3) In addition to the entities identified in subsection a. of this  
 34 section, the Casino Reinvestment Development Authority, in  
 35 conjunction with the Atlantic County Planning Board, shall identify  
 36 and coordinate regional affordable housing opportunities directly  
 37 attributable to Atlantic City casino development, which may be  
 38 provided anywhere within Atlantic County, subject to the  
 39 restrictions of paragraph (4) of this subsection.

40 (4) The coordination of affordable housing opportunities by  
 41 regional entities as identified in this section shall not include  
 42 activities which would provide housing units to be located in those  
 43 municipalities that are eligible to receive aid under the "Special  
 44 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
 45 are coextensive with a school district which qualified for  
 46 designation as a "special needs district" pursuant to the "Quality  
 47 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at

1 any time in the last 10 years has been qualified to receive assistance  
2 under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall within the  
3 jurisdiction of any of the regional entities specified in subsection a.  
4 of this section.】 (Deleted by amendment, P.L. , c. ) (pending  
5 before the Legislature as this bill)  
6 (cf: P.L.2008, c.46, s.18)】<sup>1</sup>

8 <sup>1</sup>【17. Section 30 of P.L.2008, c.46 (C.52:27D-329.19) is  
9 amended to read as follows:

10 30. a. The position of Senior Deputy Commissioner for Housing  
11 is established within the department, which position shall be filled  
12 by an individual with recognized and extensive experience in  
13 housing policy, planning, and development with particular emphasis  
14 on the planning and development of workforce housing and housing  
15 affordable to low, moderate, and middle income households.

16 b. The Senior Deputy Commissioner for Housing shall exercise  
17 oversight over the housing programs of the department, including,  
18 but not limited to, programs of the agency and the council.

19 c. The commissioner may appoint the Senior Deputy  
20 Commissioner for Housing as his or her designee to chair the  
21 agency, the commission, or the council, in which capacity or  
22 capacities the Senior Deputy Commissioner for Housing will have  
23 all of the powers vested in those positions by law.

24 (cf: P.L.2008, c.46, s.30)】<sup>1</sup>

26 <sup>1</sup>【18. (New section) It shall be the duty of the Department of  
27 Community Affairs to administer the "Fair Housing Act," P.L.1985,  
28 c.222 (C.52:27D-301 et al.) and to assist municipalities that are  
29 developing toward fulfilling their obligation to provide an  
30 appropriate variety and choice of housing, including housing for  
31 low- and moderate-income families. The department shall:

32 a. Determine the housing regions of the State, for the use and  
33 information of municipalities;

34 b. Promulgate guidelines and criteria for housing elements  
35 prepared pursuant to section 19 of the "Municipal Land Use Law,"  
36 P.L.1975, c.291 (C.40:55D-28);

37 c. Pursuant to subsection a. of section 20 of P.L. ,  
38 c. (C. ), make a determination of whether a municipality is an  
39 inclusionary municipality;

40 d. Establish guidelines or model language for covenants or  
41 other devices to maintain the affordability of inclusionary units  
42 developed pursuant to P.L. , c. (C. ) (pending before the  
43 Legislature as this bill);

44 e. Establish affirmative marketing requirements for those  
45 inclusionary units developed pursuant to section 19 of P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill); and



1 f. Review and grant approval or disapprove any petition for  
2 substantive certification filed prior to the effective date of P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill). The  
4 department may apply the regulations of the Council on Affordable  
5 Housing in effect at the time a petition for substantive certification  
6 was filed, or may adopt new regulations, or revisions or  
7 amendments to existing regulations, concerning petitions for  
8 substantive certification. The department shall conduct an interim  
9 review of the housing plan of any municipality granted substantive  
10 certification.

11 g. The department shall promulgate guidelines for development  
12 fees lieu of construction of fractional dwelling units.

13 Pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
14 (C.52:14B-1 et seq.), the Department of Community Affairs may  
15 promulgate any rules and regulations necessary to effectuate the  
16 purposes of this section.】<sup>1</sup>  
17

18 <sup>1</sup>【19. (New section) a. Within 60 days following the effective  
19 date of P.L. , c. (C. ), a municipality shall apply to the  
20 department for a determination of whether the municipality is an  
21 inclusionary municipality that shall be deemed to have provided for  
22 its portion of the region's opportunity for low- and moderate-  
23 income housing.

24 b. (1) A municipality that has not met the criteria in section 20  
25 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
26 may reapply to the department at any time during the six-year  
27 planning cycle, based upon additional evidence that those criteria  
28 have been satisfied.

29 (2) A municipality that does not meet the criteria in section 20  
30 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
31 may, nevertheless, be deemed to meet those criteria if it adopts an  
32 ordinance providing that at least one fifth of its developable  
33 property shall be reserved for use as workforce housing as defined  
34 in subsection s. of section 4 of P.L.1985, c.222 (C.52:27D-304).】<sup>1</sup>  
35

36 <sup>1</sup>【20. (New section) a. The department shall determine that a  
37 municipality is an inclusionary municipality if:

38 (1) at least seven and one-half percent of its total present  
39 housing stock is price restricted units; or

40 (2) at least 33 percent of the housing stock is: single-family  
41 attached housing; or mobile homes located in a mobile home park  
42 as defined in subsection d. of section 3 of P.L.1983, c.386  
43 (C.40:55D-102); or multiple dwellings as defined pursuant to  
44 subsection k. of section 3 of P.L.1967, c.76 (C.55:13A-3), provided  
45 no less than one-half of the housing stock described in this  
46 paragraph is rental housing; or

1 (3) it adopts zoning ordinances or incorporates into its Master  
2 Plan prepared pursuant to section 19 of P.L.1975, c.291 (C.40:55D-  
3 28) standards that contain:

4 (a) an analysis of the municipality's current housing stock;

5 (b) a plan pertaining to how the municipality will satisfy the  
6 obligation pursuant to Section 21 of P.L. , c. (C. ) (pending  
7 before the Legislature as this bill), which may include, the provision  
8 of funding sources and other incentives to encourage the  
9 development of on-site and off-site low and moderate income  
10 housing developments; construction by non-profit developers of  
11 100 percent low and moderate income housing developments; the  
12 construction of accessory apartments; programs to purchase and  
13 mark down existing units; construction of supportive and special  
14 needs housing; extension of existing affordability controls; and  
15 other innovative means to provide for a variety and choice of  
16 housing opportunities for low and moderate income citizens.

17 (c) a detailed analysis of the municipality's existing low and  
18 moderate income housing stock; and

19 (d) a detailed plan providing for any municipal action, including  
20 rehabilitation, necessary to address the needs of a municipality's  
21 low- and moderate-income households residing in dilapidated or  
22 unsuitable housing;

23 b. (1) In making a determination pursuant to subsection a.,  
24 paragraph (1) or (2), the department shall give special needs  
25 housing units newly constructed following the effective date of  
26 P.L. , c. (C. ) (pending before the Legislature as this bill)  
27 twice as much weight as their actual proportion of a municipality's  
28 housing stock when making a determination of whether a  
29 municipality is an inclusionary municipality.

30 (2) In making a determination pursuant to paragraph (2) of  
31 subsection a. of this section, the department may exclude buildings  
32 determined to be luxury dwellings.

33 (3) Upon filing of ordinances or Master Plan elements with the  
34 Department of Community Affairs pursuant to paragraph (3) of  
35 subsection a. of this section, the filing shall be deemed to satisfy the  
36 criteria in this section. In the event of a challenge to this filing, the  
37 Commissioner of Community Affairs will undertake a limited  
38 review of the municipality's filing, for the sole purpose of  
39 determining whether the filing meets the criteria of paragraph (3) of  
40 subsection a. of section 20.

41 c. For units constructed following the effective date of  
42 P.L.2005, c.350 (C.52:27D-311a et al.), to be considered price  
43 restricted for purposes of a determination pursuant to this section, a  
44 unit shall be adaptable as described in section 5 of P.L.2005, c.350  
45 (C.52:27D-123.15) and section 1 of P.L.2005, c.350 (C.52:27D-  
46 311a).

1 d. A municipality that received substantive certification under  
2 N.J.A.C.5:96 and N.J.A.C.5:97, the rules of the Council on  
3 Affordable Housing for the period beginning June 2, 2008, shall be  
4 considered an inclusionary municipality pursuant to this section  
5 until the end of its approved certification period; provided that the  
6 municipality continues to fully and faithfully implement the  
7 provisions of its fair-share plan.

8 e. The department shall review any application for a  
9 determination that a municipality is an inclusionary municipality  
10 and render a determination within 90 days. A determination of  
11 whether a municipality is inclusionary shall be based upon a  
12 municipality's existing housing stock. Units transferred through a  
13 regional contribution agreement shall be fully credited to the  
14 sending municipality for purposes of determining whether a  
15 municipality is an inclusionary municipality.

16 f. A determination by the Commissioner or department  
17 pursuant to this section shall be deemed a final agency action  
18 appealable to the Appellate Division of the Superior Court.

19 For purposes of this section, "single family attached housing"  
20 means two or more dwelling units sharing a wall that extends from  
21 ground to roof with an adjoining unit, with no other units above or  
22 below, with separate major utility systems and metering.】<sup>1</sup>  
23

24 <sup>1</sup>【21. (New section) a. (1) For any new residential development  
25 project, as defined in subsection t. of section 4 of P.L.1985, c.222  
26 (C.52:27D-304), and any redevelopment, rehabilitation, infill  
27 development, or adaptive reuse of a residential development project  
28 that would qualify as a residential development project if it was  
29 new construction, a municipality shall require that one out of every  
30 10 residential housing units proposed as part of that project be  
31 reserved for occupancy as low income or moderate income housing.  
32 For the purposes of this reservation, one special needs housing unit  
33 shall count as two housing units.

34 (2) For any new small residential development project, as  
35 defined in subsection u. of section 4 of P.L.1985, c.222 (C.52:27D-  
36 304), and any redevelopment, rehabilitation, infill development, or  
37 adaptive reuse of a residential or small residential development  
38 project that would qualify as a small residential development  
39 project if it was new construction, a municipality shall require that  
40 one out of every 20 residential housing units proposed as part of  
41 that project be reserved for occupancy as low-income or moderate-  
42 income housing. For the purposes of this reservation, one special  
43 needs housing unit shall count as two housing units. Nothing in this  
44 paragraph shall be construed to require the developer of a small  
45 residential development project to pay a development fee when the  
46 developer is providing for the on-site construction of affordable  
47 units.

1       b. Where land use or other local government approvals are  
2 required, a municipality shall make a reasonable effort to facilitate  
3 the economic viability of an inclusionary development developed  
4 pursuant to the requirements of this section.

5       c. A municipality, in evaluating the economic viability of an  
6 application for an inclusionary development, may be guided by the  
7 applicable provisions of N.J.A.C.5:96 and N.J.A.C.5:97, the  
8 regulations of the Council on Affordable Housing for the housing  
9 round beginning June 2, 2008.

10      d. Residential development projects resulting in a fractional  
11 unit reserved for occupancy by low-income or moderate-income  
12 households, shall deposit a development fee collected into a  
13 municipal trust fund established by a municipality pursuant to  
14 section 27 of P.L. , c. (C. ) (pending before the Legislature as  
15 this bill) or into the "New Jersey Affordable Housing Trust Fund,"  
16 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-  
17 320).

18      e. Nothing in this section shall preclude a municipality from  
19 imposing additional inclusionary requirements upon redevelopment  
20 or rehabilitation projects or any form of infill development or  
21 adaptive reuse of a residential development project.

22      f. Half of the units reserved for low-income or moderate-  
23 income housing pursuant to this section shall be reserved for low-  
24 income housing and half the units shall be reserved for moderate-  
25 income housing. If an odd number of affordable units is being  
26 constructed, rehabilitated or developed pursuant to this section, the  
27 higher number of units may be determined by the municipality.

28      g. At least 50 percent of the units reserved for low income or  
29 moderate income housing pursuant to this section shall be self-  
30 contained residential dwelling units with a kitchen, sanitary  
31 facilities, sleeping quarters and a private entrance, and which are  
32 available to the general public and not restricted to any specific  
33 segment of the population.

34      h. A municipality that has petitioned for substantive certification  
35 prior to the effective date of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), or that has received substantive  
37 certification from the former Council on Affordable Housing or the  
38 State Planning Commission, pursuant to section 18 of P.L. ,  
39 c. (C. ) (pending before the Legislature as this bill), shall be  
40 exempt from the requirements of this section for the duration of the  
41 housing round for which the municipality is certified. This  
42 paragraph shall not be construed to apply to a municipality whose  
43 petition for substantive certification is dismissed or otherwise  
44 determined to be invalid.

45      i. A municipality may withdraw a petition for substantive  
46 certification or act to withdraw its certification and elect to comply  
47 with the requirement of P.L. , c. (C. ) (pending before the

1 Legislature as this bill) by satisfying the requirements of this  
2 section.】<sup>1</sup>

3

4 <sup>1</sup>【22. (New section) a. A municipality may authorize the  
5 following alternate means to satisfy the set-aside requirements  
6 imposed by section 21 of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill):

8 (1) Permitting the required inclusionary units to be newly  
9 constructed off-site;

10 (2) Permitting the required inclusionary units to be provided off-  
11 site by rehabilitation of existing substandard units;

12 (3) Permitting a developer to pay a development fee in lieu of  
13 constructing a portion of the inclusionary units into a municipal  
14 trust fund for the construction of affordable housing pursuant to  
15 section 27 of P.L. , c. (C. ) (pending before the Legislature as  
16 this bill);

17 (4) Assisting a municipally-sponsored 100 percent affordable  
18 development;

19 (5) Permitting construction of Elder Cottage Housing  
20 Opportunity units;

21 (6) Permitting the construction off-site of accessory apartment  
22 units affordable to low- and moderate-income households;

23 (7) Permitting the purchase or subsidization of units that are  
24 subsequently sold or rented to low- and moderate-income  
25 households at affordable sale prices or rents ("buy down, write  
26 down"); and

27 (8) Permitting the construction of an assisted living residence in  
28 which all or a designated number of units are restricted to low- or  
29 moderate-income households.

30 b. Any person engaging in a residential development project  
31 shall file an application to the zoning board of adjustment for  
32 approval of alternate means of satisfying the set-aside requirements  
33 imposed by section 21 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill). In the case of an application, the board of  
35 adjustment shall limit its determination to approving and  
36 determining which, and to what extent alternate means may be  
37 employed, and shall include the reasons for its determination in the  
38 findings of its decision thereon.

39 For purposes of this section, "rehabilitation" means the repair,  
40 renovation, alteration, reconstruction of a building or structure  
41 containing a dwelling space, pursuant to the rehabilitation subcode  
42 adopted by the Commissioner of Community Affairs pursuant to  
43 section 5 of the "State Uniform Construction Code Act," P.L.1975,  
44 c.217 (C.52:27D-123), that includes the rehabilitation of a major  
45 system and a minimum average investment for hard costs of  
46 \$10,000 per unit. The Department of Community Affairs shall

1 develop standards for minimum documentation for qualifying  
2 rehabilitation.】<sup>1</sup>

3  
4 <sup>1</sup>【23. (New section) A municipality may provide a preference  
5 for occupancy of up to one-half of the units required to be provided  
6 pursuant to section 21 of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill), to those households that have at least one  
8 member who works in the municipality and to those households that  
9 have at least one member who resides in the municipality.】<sup>1</sup>

10  
11 <sup>1</sup>【24. (New section) a. In any municipality not determined to be  
12 an inclusionary municipality by the department as described in  
13 section 20 of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill), when a proposed residential development project in  
15 which at least 10 percent of the dwelling units are set aside for low-  
16 or moderate-income households requires approval pursuant to the  
17 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)  
18 of a subdivision, site plan or conditional use, or a variance,  
19 including a variance pursuant to subsection d. of section 57 of  
20 P.L.1975, c.291 (C.40:55D-70), the planning board shall, pursuant  
21 to section 47 of P.L.1975, c.291 (C.40:55D-60), review the request  
22 for a subdivision, site plan or conditional use, or a variance, and the  
23 development including an affordable housing unit shall be deemed  
24 to be an inherently beneficial use, and the developer shall be  
25 required to make only a showing that the variance or other relief  
26 can be granted without substantial detriment to the public good.

27 b. The provisions of this section shall only apply to a  
28 municipality's vacant, developable property.

29 c. The provisions of this section shall not apply to a  
30 municipality that has adopted an ordinance that reserves, for use as  
31 workforce housing as defined in subsection s. of section 4 of  
32 P.L.1985, c.222 (C.52:27D-304), at least one-fifth of its vacant,  
33 developable property having reasonable access to sewer service, for  
34 residential use.】<sup>1</sup>

35  
36 <sup>1</sup>【25. (New section) The Legislature finds and declares:

37 a. In July 2008, the New Jersey Legislature enacted a law  
38 imposing a fee on non-residential development to encourage the  
39 production of opportunities for affordable housing for low- and  
40 moderate-income New Jersey residents.

41 b. Since the adoption of this policy, the State and our nation  
42 have been engulfed in an economic recession that has resulted in  
43 substantial increases in unemployment, including an unemployment  
44 rate of more than nine percent, and substantial decreases in revenue  
45 to the State treasury.

46 c. Revenues actually collected pursuant to the "Statewide Non-  
47 Residential Development Fee Act," sections 32 through 38 of

1 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), fell far short  
2 of the amounts anticipated before the "New Jersey Economic  
3 Stimulus Act of 2009," P.L.2009, c.90 (C.52:27D-489a et al.)  
4 suspended implementation of the Statewide non-residential  
5 development fee.

6 d. It is undisputable that imposing fees at high levels dissuades  
7 commerce from locating within a State, municipality or locality,  
8 increases unemployment, and deters non-residential and residential  
9 development, and these ill effects impede the implicit constitutional  
10 requirement that government action provide for the general welfare  
11 of the State's citizens.

12 e. Continued imposition of the development fee will hamper  
13 the State's ability to recover from the economic recession, slowing  
14 job creation and development that normally are a source of revenue,  
15 increasing the revenue shortfall in the State's budget, further  
16 hampering the State's ability to provide for the general welfare  
17 needs of its residents, including, but not limited to, funding  
18 programs for the developmentally disabled, health care services for  
19 senior citizens and indigent families, financial support for special  
20 education services within local school districts, funding for State  
21 institutions for the mentally ill, and general financial support for  
22 municipal governments and local school districts.

23 f. The negative impact of a State policy that relies on a  
24 municipal fee structure and of State programs that require a  
25 municipality to impose fees and charges on developers must be  
26 balanced against any public good expected from such regulation.

27 g. It is essential to the public good to repeal the fee imposed  
28 under the "Statewide Non-Residential Development Fee Act,"  
29 sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through  
30 C.40:55D-8.7).<sup>1</sup>

31  
32 <sup>1</sup>[26. (New section) a. Notwithstanding any law, rule, or  
33 regulation to the contrary, no municipality shall adopt an ordinance  
34 imposing a fee upon the developer of non-residential property or  
35 construction to provide for affordable housing.

36 b. Any provision of a local ordinance which imposes a fee for  
37 the development of affordable housing upon a developer of non-  
38 residential property, including any and all development fee  
39 ordinances adopted in accordance with any regulations of the  
40 Council on Affordable Housing, or any provision of an ordinance  
41 which imposes an obligation relating to the provision of housing  
42 affordable to low and moderate income households, or development  
43 fee as a condition of non-residential development, shall be void and  
44 of no effect.

45 c. The provisions of this section shall not apply to a financial  
46 or other contribution that a developer made or committed itself to  
47 make for a non-residential property that received preliminary site

1 plan approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-  
2 46), or final approval, pursuant to section 38 of P.L.1975, c.291  
3 (C.40:55D-50) prior to July 17, 2008, or for a non-residential  
4 project that, prior to July 17, 2008, was referred to a planning board  
5 by the State, a governing body, or other public agency for review  
6 pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31).

7 d. The provisions of this section shall not apply to a financial  
8 or other contribution, including the investment obligations made  
9 pursuant to P.L.1977, c.110 (C.5:12-1 et seq.), that a developer of a  
10 non-residential development regulated under P.L.1977, c.110  
11 (C.5:12-1 et seq.) has made or committed itself to make relating to  
12 the provision of housing affordable to low, moderate, or middle-  
13 income households.】<sup>1</sup>

14  
15 <sup>1</sup>【27. (New section) a. A municipality may impose development  
16 fees of two and one-half percent of equalized assessed value for  
17 residential development projects.

18 b. A municipality shall deposit all payments collected into a  
19 trust fund dedicated to those purposes as required under this  
20 section. Each amount collected shall be deposited and shall be  
21 accounted for separately, by payer and date of deposit.

22 c. (1) A municipality may only spend development fees for an  
23 activity to address the municipality's obligation to provide its  
24 portion of the region's need for affordable housing.

25 (2) A municipality shall set aside a portion of its development  
26 fee trust fund for the purpose of providing affordability assistance  
27 to low and moderate income households in affordable units located  
28 in the municipality.

29 (a) Affordability assistance programs may include, but are not  
30 limited to, down payment assistance, security deposit assistance,  
31 low interest loans, common maintenance expenses for units located  
32 in condominiums, and rental assistance.

33 (b) Affordability assistance to households earning 30 percent or  
34 less of median income may include buying down the cost of low  
35 income units in a municipality to make them affordable to  
36 households earning 30 percent or less of median income.

37 (3) A municipality may contract with a private or public entity  
38 to administer any program facilitating housing affordable to low  
39 and moderate income households including the requirement for  
40 affordability assistance, or any program or activity for which the  
41 municipality expends development fee proceeds.

42 (4) Not more than 7.5 percent of the revenues collected as  
43 development fees shall be expended on administration, in  
44 accordance with rules of the department.

45 d. Notwithstanding any provision of this section, or regulations  
46 of the department, a municipality shall not collect a development  
47 fee from a developer whenever that developer is providing for the



1 construction of all of the low- and moderate-income housing units  
2 required by section 21 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill), either on-site or elsewhere within the  
4 municipality. A development fee may only be collected for the  
5 portion of the equalized assessed value attributable to the low- and  
6 moderate-income housing units required by section 21 of P.L. ,  
7 c. (C. ) (pending before the Legislature as this bill) that are not  
8 provided for by on-site construction or other alternate means  
9 specified in section 22 of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill).

11 e. All development fees collected and deposited in the trust  
12 fund shall be committed for expenditure within four years from the  
13 date of collection. A municipality that fails to commit to expend  
14 the balance required in the development fee trust fund by the time  
15 set forth in this subsection shall be required by the department to  
16 transfer the remaining unspent balance at the end of the four-year  
17 period to the "New Jersey Affordable Housing Trust Fund,"  
18 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-  
19 320), to be used in the housing region of the transferring  
20 municipality for the authorized purposes of that fund. A balance  
21 transferred to the "New Jersey Affordable Housing Trust Fund"  
22 from a municipality meeting the criteria described in subsection a.  
23 of section 18 of P.L. , c. (C. ) pending before the Legislature  
24 as this bill) shall be expended for the authorized purposes in the  
25 county in which the municipality where the funds were collected is  
26 located. A balance transferred to the "New Jersey Affordable  
27 Housing Trust Fund" from a municipality that does not meet the  
28 criteria described in subsection a. of section 18 of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill) shall be  
30 expended in the municipality where the funds were collected.】<sup>1</sup>

31

32 <sup>1</sup>【28. (New section) If any persons benefitting from a housing  
33 program established pursuant to P.L. , c. (C. ) (pending  
34 before the Legislature as this bill) that assists persons who have  
35 experienced, or may experience, the foreclosure and loss of their  
36 personal residence, or addresses the needs of low- and moderate-  
37 income households residing within the municipality, are otherwise  
38 income qualified to occupy such housing under federal or State law,  
39 then any affirmative marketing requirements contained in  
40 regulations promulgated to effectuate the program shall be waived  
41 to permit the persons to occupy, rent, or purchase new or  
42 rehabilitated affordable housing units that they may have previously  
43 occupied or owned.】<sup>1</sup>

44

45 <sup>1</sup>【29. (New section) a. A municipality shall not be liable for any  
46 unmet housing obligation based on regulations promulgated by the  
47 Council on Affordable Housing pursuant to the "Fair Housing Act,"

1 P.L.1985, c.222 (C.52:27D-301 et al.), or any law or fact in a time  
2 period prior to the effective date of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill).

4 b. Notwithstanding subsection a. of this section, a municipality  
5 shall not alter the zoning classification of any inclusionary  
6 development site that is by judgment of repose, court order, or  
7 settlement in exclusionary zoning litigation, designated or reserved  
8 for purposes of satisfying a municipality's fair share of the region's  
9 housing opportunities.

10 c. Subsection b. of this section shall not apply to any property  
11 that is the subject of pending exclusionary litigation that has not  
12 reached final judgment through and including all appeals, including  
13 an appeal to the New Jersey Supreme Court.】<sup>1</sup>

14  
15 <sup>1</sup>【30. (New section) a. No exclusionary zoning action naming a  
16 municipality as a defendant shall be filed for 365 days following the  
17 effective date of this act.

18 b. Subsection a. of this section shall not apply to a municipality  
19 subject to a court order to provide affordable housing prior to the  
20 effective date of P.L. , c. (C. ) (pending before the Legislature  
21 as this bill).

22 c. For any litigation involving exclusionary zoning instituted  
23 prior to the effective date of P.L. , c. (C. ) (pending before  
24 the Legislature as this bill), jurisdiction may remain with the court,  
25 which shall take judicial notice of the statutory intent stated  
26 hereunder.】<sup>1</sup>

27  
28 <sup>1</sup>【31. (New section) The provisions of P.L. , c. (C. )  
29 (pending before the Legislature as this bill) shall be severable, and  
30 if any of its provisions shall be held to be unconstitutional, the  
31 decision of the court shall not affect the validity of the remaining  
32 provisions of P.L. , c. (C. ) (pending before the Legislature as  
33 this bill).】<sup>1</sup>

34  
35 <sup>1</sup>【32. Section 7 of P.L.1985, c.222 (C.52:27D-307) is repealed.】<sup>1</sup>

36  
37 <sup>1</sup>【33. The following sections are repealed:

38 Section 32 of P.L.2008, c.46 (C.40:55D-8.1);

39 Section 33 of P.L.2008, c.46 (C.40:55D-8.2);

40 Section 34 of P.L.2008, c.46 (C.40:55D-8.3);

41 Section 35 of P.L.2008, c.46 (C.40:55D-8.4);

42 Section 36 of P.L.2008, c.46 (C.40:55D-8.5);

43 Section 37 of P.L.2008, c.46 (C.40:55D-8.6);

44 Section 38 of P.L.2008, c.46 (C.40:55D-8.7);

45 Section 39 of P.L.2009, c.90 (C.40:55D-8.8);

46 Section 5 of P.L.1985 c.222 (C.52:27D-305);

47 Section 6 of P.L.1985, c.222 (C.52:27D-306);

1 Section 6 of P.L.2001, c.435 (C.52:27D-307.6);  
 2 Section 8 of P.L.1985, c.222 (C.52:27D-308);  
 3 Section 9 of P.L.1985, c.222 (C.52:27D-309);  
 4 Section 10 of P.L.1985, c.222 (C.52:27D-310);  
 5 Section 1 of P.L.1995, c.231 (C.52:27D-310.1);  
 6 Section 2 of P.L.1995, c.231 (C.52:27D-310.2);  
 7 Section 40 of P.L.2009, c.90 (C. 52:27D-311.3);  
 8 Section 13 of P.L.1985 c.222 (C.52:27D-313);  
 9 Section 2 of P.L.1989, c.142 (C.52:27D-313.1);  
 10 Section 14 of P.L.1985 c.222 (C.52:27D-314);  
 11 Section 15 of P.L.1985 c.222 (C.52:27D-315);  
 12 Section 16 of P.L.1985, c.222 (C.52:27D-316);  
 13 Section 17 of P.L.1985, c.222 (C.52:27D-317);  
 14 Section 18 of P.L.1985, c.222 (C.52:27D-318);  
 15 Section 19 of P.L.1985 c.222 (C.52:27D-319);  
 16 Section 7 of P.L.2008, c.46 (C.52:27D-329.1);  
 17 Section 8 of P.L.2008, c.46 (C.52:27D-329.2);  
 18 Section 9 of P.L.2008, c.46 (C.52:27D-329.3);  
 19 Section 10 of P.L.2008, c.46 (C.52:27D-329.4);  
 20 Section 12 of P.L.2008, c.46 (C.52:27D-329.6); and  
 21 Section 14 of P.L.2008, c.46 (C.52:27D-329.8).<sup>1</sup>

22  
 23 <sup>1</sup>[34. This act shall take effect immediately, except that sections  
 24 2 and 32 shall be inoperative until the first day of the seventh month  
 25 following enactment.]<sup>1</sup>

26  
 27 <sup>1</sup>1. (New section) The Legislature finds and declares that:

28 a. In 1975, the New Jersey Supreme Court determined that  
 29 municipalities may not validly employ their zoning powers to  
 30 prevent the creation of a variety and choice of housing  
 31 opportunities. In response, the Legislature established the "Fair  
 32 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), which has  
 33 resulted in a complex system of administration that micromanages  
 34 all types of development, including market rate- and low- and  
 35 moderate-income residential development, as well as commercial,  
 36 retail, and industrial growth through a determination of each region  
 37 and municipality's housing needs based on difficult to predict and  
 38 fallible population and job growth projections.

39 b. The Legislature further finds that this approach has not  
 40 resulted in the creation of housing opportunities for all categories of  
 41 the State's citizens. During <sup>2</sup>the<sup>2</sup> first <sup>2</sup>[35] 25<sup>2</sup> years of the "Fair  
 42 Housing Act's" existence, this complex system of regulation has  
 43 resulted in scores of lawsuits and court decisions, and the  
 44 unnecessary expenditure of millions of dollars by municipalities,  
 45 developers, and the State. In 2010, the system remains tied up with  
 46 multiple legal challenges, preventing the creation of housing  
 47 opportunities within the State.

c. It is incumbent on the State's elected officials to develop a new approach that will result in the creation, through zoning requirements, of a realistic opportunity for a variety and choice of housing for low- and moderate-income families in each municipality of the State, in consideration of regional and Statewide needs for affordable housing. The welfare of the public requires a new approach that does not waste the limited resources needed to fulfill government's many functions, including public safety, health care, education and environmental protection, ensuring the affordability of mass transit, protection of civil rights, promotion of economic growth, and job creation.

d. A simple, rather than complex, system that maximizes the ability of the free market to produce a variety and choice of housing will most effectively provide housing opportunities for the low- and moderate-income residents of New Jersey. To ensure that New Jersey is an affordable, appealing home for all the State's residents, municipalities must have clear and realistic standards to guide municipal action.

e. Municipalities that already have a healthy mix of housing should not be encumbered with State zoning mandates that are needed to create an opportunity for an appropriate variety and choice of housing in municipalities where a reasonable mix of housing does not already exist.

f. By requiring those municipalities not already having a reasonable mix of housing to comply with the zoning mandates established hereunder, the State will maximize the opportunity for variety and choice of housing in those municipalities without wasting limited resources necessary to provide for the other governmental functions stated herein, which only represent some, but not all, of government's responsibility to provide for the general welfare of its residents<sup>2, 2</sup>

g. It is the public policy of this State to encourage the well-organized production of low- and moderate-income housing to serve the general welfare of all the State's residents by implementing a clear, intelligible regulatory system.<sup>1</sup>

<sup>2</sup>h. The State response to the constitutional obligation should include both production by for-profit developers seeking market opportunities and not-for-profit developers of homes for lower-income people and people with special needs, which require adequate funding opportunities from a range of sources as set forth in P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>2</sup>

<sup>1</sup>2. (New section) The Council on Affordable Housing established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) is abolished, and all of its powers, functions, and duties that are not repealed herein are continued in the Department of Community Affairs, established pursuant to section 1 of P.L.1966,

1 c.293 (C.52:27D-1), except as herein otherwise provided.  
 2 Whenever, in any law, rule, regulation, order, contract, document,  
 3 judicial or administrative proceeding, or otherwise, reference is  
 4 made to the Council on Affordable Housing, the same shall mean  
 5 and refer to the Department of Community Affairs. All  
 6 appropriations and other moneys available, and to become  
 7 available, to the Council on Affordable Housing are hereby  
 8 continued in the Department of Community Affairs, and shall be  
 9 available for the objects and purposes for which such moneys are  
 10 appropriated, subject to any terms, restriction, limitations, or other  
 11 requirements imposed by State or federal law.

12 To effectuate this transfer there shall also be transferred all  
 13 necessary records and papers of the Council on Affordable Housing.

14 This transfer shall be subject to the provisions of the "State  
 15 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).<sup>1</sup>

16  
 17 <sup>1</sup>3. Section 25 of P.L.2004, c.120 (C.13:20-23) is amended to  
 18 read as follows:

19 25. a. <sup>2</sup>~~【The】~~<sup>2</sup> ~~【Council on Affordable Housing】~~ <sup>2</sup>~~【department~~  
 20 shall take into consideration the regional master plan prior to  
 21 making any determination】<sup>2</sup> ~~【regarding the allocation of the~~  
 22 prospective fair share of the housing need in】 <sup>2</sup>~~【, or promulgating~~  
 23 any regulation specifically concerning, any municipality in the  
 24 Highlands Region under the "Fair Housing Act," P.L.1985, c.222  
 25 (C.52:27D-301 et al.)】<sup>2</sup> ~~【for the fair share period subsequent to~~  
 26 1999】 <sup>2</sup>~~(Deleted by amendment, P.L. , c. )~~<sup>2</sup>.

27 b. Nothing in <sup>2</sup>~~【this act】~~ P.L.2004, c.120 (C.13:20-1 et al.)<sup>2</sup>  
 28 shall affect protections provided through a grant of substantive  
 29 certification or a judgment of repose granted prior to <sup>2</sup>~~【the date of~~  
 30 enactment of this act】 August 10, 2004<sup>2, 1</sup>.  
 31 (cf: P.L.2004, c.120, s.25)

32  
 33 <sup>1</sup>4. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to  
 34 read as follows:

35 3. a. There is established in, but not of, the department a Site  
 36 Improvement Advisory Board, to devise statewide site improvement  
 37 standards pursuant to section 4 of this act. The board shall consist  
 38 of the commissioner or his designee, who shall be a non-voting  
 39 member of the board, the Director of the Division of <sup>2</sup>~~【Housing】~~  
 40 Codes and Standards<sup>2</sup> in the Department of Community Affairs,  
 41 who shall be a voting member of the board, and ~~【10】~~ nine  
 42 voting members, to be appointed by the commissioner. The other  
 43 members shall include two professional planners, one of whom  
 44 serves as a planner for a governmental entity or whose professional  
 45 experience is predominantly in the public sector and who has  
 46 worked in the public sector for at least the previous five years and

1 the other of whom serves as a planner in private practice and has  
2 particular expertise in private residential development and has been  
3 involved in private sector planning for at least the previous five  
4 years, and one representative each from:

- 5 (1) The New Jersey Society of Professional Engineers;
- 6 (2) The New Jersey Society of Municipal Engineers;
- 7 (3) The New Jersey Association of County Engineers;
- 8 (4) The New Jersey Federation of Planning Officials;
- 9 (5) **【The Council on Affordable Housing】** (Deleted by  
10 amendment, P.L. , c. <sup>2</sup>[(C. )]<sup>2</sup>;
- 11 (6) The New Jersey Builders' Association;
- 12 (7) The New Jersey Institute of Technology;
- 13 (8) The New Jersey State League of Municipalities.

14 b. Among the members to be appointed by the commissioner  
15 who are first appointed, four shall be appointed for terms of two  
16 years each, four shall be appointed for terms of three years each,  
17 and two shall be appointed for terms of four years each. Thereafter,  
18 each appointee shall serve for a term of four years. Vacancies in  
19 the membership shall be filled in the same manner as original  
20 appointments are made, for the unexpired term. The commission  
21 shall select from among its members a chairman. Members may be  
22 removed by the commissioner for cause.

23 c. Board members shall serve without compensation, but may  
24 be entitled to reimbursement, from moneys appropriated or  
25 otherwise made available for the purposes of this act, for expenses  
26 incurred in the performance of their duties.<sup>1</sup>

27 (cf: P.L.1993, c.32, s.3)

28

29 <sup>1</sup>5. Section 4 of P.L.1987, c.129 (C.40:55D-45.2) is amended to  
30 read as follows:

31 4. A general development plan may include, but not be limited  
32 to, the following:

33 a. A general land use plan at a scale specified by ordinance  
34 indicating the tract area and general locations of the land uses to be  
35 included in the planned development. The total number of dwelling  
36 units and amount of nonresidential floor area to be provided and  
37 proposed land area to be devoted to residential and nonresidential  
38 use shall be set forth. In addition, the proposed types of  
39 nonresidential uses to be included in the planned development shall  
40 be set forth, and the land area to be occupied by each proposed use  
41 shall be estimated. The density and intensity of use of the entire  
42 planned development shall be set forth, and a residential density  
43 and a nonresidential floor area ratio shall be provided;

44 b. A circulation plan showing the general location and types of  
45 transportation facilities, including facilities for pedestrian access,  
46 within the planned development and any proposed improvements to  
47 the existing transportation system outside the planned development;

- 1 c. An open space plan showing the proposed land area and  
2 general location of parks and any other land area to be set aside for  
3 conservation and recreational purposes and a general description of  
4 improvements proposed to be made thereon, including a plan for the  
5 operation and maintenance of parks and recreational lands;
- 6 d. A utility plan indicating the need for and showing the  
7 proposed location of sewage and water lines, any drainage facilities  
8 necessitated by the physical characteristics of the site, proposed  
9 methods for handling solid waste disposal, and a plan for the  
10 operation and maintenance of proposed utilities;
- 11 e. A storm water management plan setting forth the proposed  
12 method of controlling and managing storm water on the site;
- 13 f. An environmental inventory including a general description  
14 of the vegetation, soils, topography, geology, surface hydrology,  
15 climate and cultural resources of the site, existing man-made  
16 structures or features and the probable impact of the development  
17 on the environmental attributes of the site;
- 18 g. A community facility plan indicating the scope and type of  
19 supporting community facilities which may include, but not be  
20 limited to, educational or cultural facilities, historic sites, libraries,  
21 hospitals, firehouses, and police stations;
- 22 h. A housing plan outlining the number of housing units to be  
23 provided and the extent to which any affordable housing  
24 [obligation assigned to the municipality pursuant to P.L.1985,  
25 c.222 (C.52:27D-301 et al.) will be fulfilled] will be addressed by  
26 the development;
- 27 i. A local service plan indicating those public services which  
28 the applicant proposes to provide and which may include, but not be  
29 limited to, water, sewer, cable and solid waste disposal;
- 30 j. A fiscal report describing the anticipated demand on  
31 municipal services to be generated by the planned development and  
32 any other financial impacts to be faced by municipalities or school  
33 districts as a result of the completion of the planned development.  
34 The fiscal report shall also include a detailed projection of property  
35 tax revenues which will accrue to the county, municipality and  
36 school district according to the timing schedule provided under  
37 subsection k. of this section, and following the completion of the  
38 planned development in its entirety;
- 39 k. A proposed timing schedule in the case of a planned  
40 development whose construction is contemplated over a period of  
41 years, including any terms or conditions which are intended to  
42 protect the interests of the public and of the residents who occupy  
43 any section of the planned development prior to the completion of  
44 the development in its entirety; and
- 45 l. A municipal development agreement, which shall mean a  
46 written agreement between a municipality and a developer relating

1 to the planned development.<sup>1</sup>

2 (cf: P.L.1987, c.129, s.4)

3

4 <sup>1</sup>6. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to  
5 read as follows:

6 3. As used in **[this act]** P.L.1992, c.79 (C.40A:12A-1 et al.):

7 "Bonds" means any bonds, notes, interim certificates, debentures  
8 or other obligations issued by a municipality, county,  
9 redevelopment entity, or housing authority pursuant to P.L.1992,  
10 c.79 (C.40A:12A-1 et al.).

11 "Comparable, affordable replacement housing" means newly-  
12 constructed or substantially rehabilitated housing to be offered to a  
13 household being displaced as a result of a redevelopment project,  
14 that is affordable to that household based on its income under the  
15 guidelines established by **[the Council on Affordable Housing in]**  
16 the Department of Community Affairs for maximum affordable  
17 sales prices or maximum fair market rents, and that is comparable  
18 to the household's dwelling in the redevelopment area with respect  
19 to the size and amenities of the dwelling unit, the quality of the  
20 neighborhood, and the level of public services and facilities offered  
21 by the municipality in which the redevelopment area is located.

22 "Development" means the division of a parcel of land into two or  
23 more parcels, the construction, reconstruction, conversion,  
24 structural alteration, relocation, or enlargement of any building or  
25 other structure, or of any mining, excavation or landfill, and any use  
26 or change in the use of any building or other structure, or land or  
27 extension of use of land, for which permission may be required  
28 pursuant to the "Municipal Land Use Law," P.L.1975, c.291  
29 (C.40:55D-1 et seq.).

30 "Governing body" means the body exercising general legislative  
31 powers in a county or municipality according to the terms and  
32 procedural requirements set forth in the form of government  
33 adopted by the county or municipality.

34 "Housing authority" means a housing authority created or  
35 continued pursuant to this act.

36 "Housing project" means a project, or distinct portion of a  
37 project, which is designed and intended to provide decent, safe and  
38 sanitary dwellings, apartments or other living accommodations for  
39 persons of low and moderate income; such work or undertaking  
40 may include buildings, land, equipment, facilities and other real or  
41 personal property for necessary, convenient or desirable  
42 appurtenances, streets, sewers, water service, parks, site  
43 preparation, gardening, administrative, community, health,  
44 recreational, educational, welfare or other purposes. The term  
45 "housing project" also may be applied to the planning of the  
46 buildings and improvements, the acquisition of property, the  
47 demolition of existing structures, the construction, reconstruction,



1 alteration and repair of the improvements and all other work in  
2 connection therewith.

3 "Persons of low and moderate income" means persons or  
4 families who are, in the case of State assisted projects or programs,  
5 so defined by the Council on Affordable Housing in the Department  
6 of Community Affairs, or in the case of federally assisted projects  
7 or programs, defined as of "low and very low income" by the  
8 United States Department of Housing and Urban Development.

9 "Public body" means the State or any county, municipality,  
10 school district, authority or other political subdivision of the State.

11 "Public housing" means any housing for persons of low and  
12 moderate income owned by a municipality, county, the State or the  
13 federal government, or any agency or instrumentality thereof.

14 "Publicly assisted housing" means privately owned housing  
15 which receives public assistance or subsidy, which may be grants or  
16 loans for construction, reconstruction, conservation, or  
17 rehabilitation of the housing, or receives operational or maintenance  
18 subsidies either directly or through rental subsidies to tenants, from  
19 a federal, State or local government agency or instrumentality.

20 "Real property" means all lands, including improvements and  
21 fixtures thereon, and property of any nature appurtenant thereto or  
22 used in connection therewith, and every estate, interest and right,  
23 legal or equitable, therein, including terms for years and liens by  
24 way of judgment, mortgage or otherwise, and indebtedness secured  
25 by such liens.

26 "Redeveloper" means any person, firm, corporation or public  
27 body that shall enter into or propose to enter into a contract with a  
28 municipality or other redevelopment entity for the redevelopment or  
29 rehabilitation of an area in need of redevelopment, or an area in  
30 need of rehabilitation, or any part thereof, under the provisions of  
31 this act, or for any construction or other work forming part of a  
32 redevelopment or rehabilitation project.

33 "Redevelopment" means clearance, replanning, development and  
34 redevelopment; the conservation and rehabilitation of any structure  
35 or improvement, the construction and provision for construction of  
36 residential, commercial, industrial, public or other structures and  
37 the grant or dedication of spaces as may be appropriate or necessary  
38 in the interest of the general welfare for streets, parks, playgrounds,  
39 or other public purposes, including recreational and other facilities  
40 incidental or appurtenant thereto, in accordance with a  
41 redevelopment plan.

42 "Redevelopment agency" means a redevelopment agency created  
43 pursuant to subsection a. of section 11 of P.L.1992, c.79  
44 (C.40A:12A-11) or established heretofore pursuant to the  
45 "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et  
46 al.), repealed by this act, which has been permitted in accordance

1 with the provisions of this act to continue to exercise its  
2 redevelopment functions and powers.

3 "Redevelopment area" or "area in need of redevelopment" means  
4 an area determined to be in need of redevelopment pursuant to  
5 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6)  
6 or determined heretofore to be a "blighted area" pursuant to  
7 P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both  
8 determinations as made pursuant to the authority of Article VIII,  
9 Section III, paragraph 1 of the Constitution. A redevelopment area  
10 may include lands, buildings, or improvements which of themselves  
11 are not detrimental to the public health, safety or welfare, but the  
12 inclusion of which is found necessary, with or without change in  
13 their condition, for the effective redevelopment of the area of which  
14 they are a part.

15 "Redevelopment entity" means a municipality or an entity  
16 authorized by the governing body of a municipality pursuant to  
17 subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to  
18 implement redevelopment plans and carry out redevelopment  
19 projects in an area in need of redevelopment, or in an area in need  
20 of rehabilitation, or in both.

21 "Redevelopment plan" means a plan adopted by the governing  
22 body of a municipality for the redevelopment or rehabilitation of all  
23 or any part of a redevelopment area, or an area in need of  
24 rehabilitation, which plan shall be sufficiently complete to indicate  
25 its relationship to definite municipal objectives as to appropriate  
26 land uses, public transportation and utilities, recreational and  
27 municipal facilities, and other public improvements; and to indicate  
28 proposed land uses and building requirements in the redevelopment  
29 area or area in need of rehabilitation, or both.

30 "Redevelopment project" means any work or undertaking  
31 pursuant to a redevelopment plan; such undertaking may include  
32 any buildings, land, including demolition, clearance or removal of  
33 buildings from land, equipment, facilities, or other real or personal  
34 properties which are necessary, convenient, or desirable  
35 appurtenances, such as but not limited to streets, sewers, utilities,  
36 parks, site preparation, landscaping, and administrative, community,  
37 health, recreational, educational, and welfare facilities.

38 "Rehabilitation" means an undertaking, by means of extensive  
39 repair, reconstruction or renovation of existing structures, with or  
40 without the introduction of new construction or the enlargement of  
41 existing structures, in any area that has been determined to be in  
42 need of rehabilitation or redevelopment, to eliminate substandard  
43 structural or housing conditions and arrest the deterioration of that  
44 area.

45 "Rehabilitation area" or "area in need of rehabilitation" means  
46 any area determined to be in need of rehabilitation pursuant to

1 section 14 of P.L.1992, c.79 (C.40A:12A-14).<sup>1</sup>  
2 (cf: P.L.2008, c.46, s.1)

3  
4 '7. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to  
5 read as follows:

6 7. a. No redevelopment project shall be undertaken or carried  
7 out except in accordance with a redevelopment plan adopted by  
8 ordinance of the municipal governing body, upon its finding that the  
9 specifically delineated project area is located in an area in need of  
10 redevelopment or in an area in need of rehabilitation, or in both,  
11 according to criteria set forth in section 5 or section 14 of P.L.1992,  
12 c.79 (C.40A:12A-5 or 40A:12A-14), as appropriate.

13 The redevelopment plan shall include an outline for the planning,  
14 development, redevelopment, or rehabilitation of the project area  
15 sufficient to indicate:

16 (1) Its relationship to definite local objectives as to appropriate  
17 land uses, density of population, and improved traffic and public  
18 transportation, public utilities, recreational and community facilities  
19 and other public improvements.

20 (2) Proposed land uses and building requirements in the project  
21 area.

22 (3) Adequate provision for the temporary and permanent  
23 relocation, as necessary, of residents in the project area, including  
24 an estimate of the extent to which decent, safe and sanitary dwelling  
25 units affordable to displaced residents will be available to them in  
26 the existing local housing market.

27 (4) An identification of any property within the redevelopment  
28 area which is proposed to be acquired in accordance with the  
29 redevelopment plan.

30 (5) Any significant relationship of the redevelopment plan to (a)  
31 the master plans of contiguous municipalities, (b) the master plan of  
32 the county in which the municipality is located, and (c) the State  
33 Development and Redevelopment Plan adopted pursuant to the  
34 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

35 (6) As of the date of the adoption of the resolution finding the  
36 area to be in need of redevelopment, an inventory of all housing  
37 units affordable to low and moderate income households, as defined  
38 pursuant to section [4 of P.L.1985, c.222 (C.52:27D-304)] <sup>2</sup>[22]  
39 21<sup>2</sup> of P.L. , c. (C. ) (pending before the Legislature as this  
40 bill), that are to be removed as a result of implementation of the  
41 redevelopment plan, whether as a result of subsidies or market  
42 conditions, listed by affordability level, number of bedrooms, and  
43 tenure.

44 (7) A plan for the provision, through new construction or  
45 substantial rehabilitation of one comparable, affordable replacement  
46 housing unit for each affordable housing unit that has been  
47 occupied at any time within the last 18 months, that is subject to

1 affordability controls and that is identified as to be removed as a  
2 result of implementation of the redevelopment plan. Displaced  
3 residents of housing units provided under any State or federal  
4 housing subsidy program, or pursuant to the "Fair Housing Act,"  
5 P.L.1985, c.222 (C.52:27D-301 et al.), provided they are deemed to  
6 be eligible, shall have first priority for those replacement units  
7 provided under the plan; provided that any such replacement unit  
8 shall not be [credited against a prospective municipal obligation  
9 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et  
10 al.)] counted as qualified units, if the housing unit which is  
11 removed had previously been [credited toward satisfying the  
12 municipal fair share obligation] counted. To the extent reasonably  
13 feasible, replacement housing shall be provided within or in close  
14 proximity to the redevelopment area. A municipality shall report  
15 annually to the Department of Community Affairs on its progress in  
16 implementing the plan for provision of comparable, affordable  
17 replacement housing required pursuant to this section.

18 b. A redevelopment plan may include the provision of  
19 affordable housing in accordance with the "Fair Housing Act,"  
20 P.L.1985, c.222 (C.52:27D-301 et al.) and the housing element of  
21 the municipal master plan.

22 c. The redevelopment plan shall describe its relationship to  
23 pertinent municipal development regulations as defined in the  
24 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).  
25 The redevelopment plan shall supersede applicable provisions of the  
26 development regulations of the municipality or constitute an  
27 overlay zoning district within the redevelopment area. When the  
28 redevelopment plan supersedes any provision of the development  
29 regulations, the ordinance adopting the redevelopment plan shall  
30 contain an explicit amendment to the zoning district map included  
31 in the zoning ordinance. The zoning district map as amended shall  
32 indicate the redevelopment area to which the redevelopment plan  
33 applies. Notwithstanding the provisions of the "Municipal Land  
34 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no  
35 notice beyond that required for adoption of ordinances by the  
36 municipality shall be required for the hearing on or adoption of the  
37 redevelopment plan or subsequent amendments thereof.

38 d. All provisions of the redevelopment plan shall be either  
39 substantially consistent with the municipal master plan or designed  
40 to effectuate the master plan; but the municipal governing body may  
41 adopt a redevelopment plan which is inconsistent with or not  
42 designed to effectuate the master plan by affirmative vote of a  
43 majority of its full authorized membership with the reasons for so  
44 acting set forth in the redevelopment plan.

45 e. Prior to the adoption of a redevelopment plan, or revision or  
46 amendment thereto, the planning board shall transmit to the  
47 governing body, within 45 days after referral, a report containing its

1 recommendation concerning the redevelopment plan. This report  
2 shall include an identification of any provisions in the proposed  
3 redevelopment plan which are inconsistent with the master plan and  
4 recommendations concerning these inconsistencies and any other  
5 matters as the board deems appropriate. The governing body, when  
6 considering the adoption of a redevelopment plan or revision or  
7 amendment thereof, shall review the report of the planning board  
8 and may approve or disapprove or change any recommendation by a  
9 vote of a majority of its full authorized membership and shall  
10 record in its minutes the reasons for not following the  
11 recommendations. Failure of the planning board to transmit its  
12 report within the required 45 days shall relieve the governing body  
13 from the requirements of this subsection with regard to the pertinent  
14 proposed redevelopment plan or revision or amendment thereof.  
15 Nothing in this subsection shall diminish the applicability of the  
16 provisions of subsection d. of this section with respect to any  
17 redevelopment plan or revision or amendment thereof.

18 f. The governing body of a municipality may direct the  
19 planning board to prepare a redevelopment plan or an amendment  
20 or revision to a redevelopment plan for a designated redevelopment  
21 area. After completing the redevelopment plan, the planning board  
22 shall transmit the proposed plan to the governing body for its  
23 adoption. The governing body, when considering the proposed  
24 plan, may amend or revise any portion of the proposed  
25 redevelopment plan by an affirmative vote of the majority of its full  
26 authorized membership and shall record in its minutes the reasons  
27 for each amendment or revision. When a redevelopment plan or  
28 amendment to a redevelopment plan is referred to the governing  
29 body by the planning board under this subsection, the governing  
30 body shall be relieved of the referral requirements of subsection e.  
31 of this section.<sup>1</sup>

32 (cf: P.L.2008, c.46, s.2)

33

34 <sup>1</sup>8. Section 16 of P.L.1992, c.79 (C.40A:12A-16) is amended to  
35 read as follows:

36 16. a. In order to carry out the housing purposes of this act, a  
37 municipality, county, or housing authority may exercise the  
38 following powers, in addition to those set forth in section 22 of  
39 P.L.1992, c.79 (C.40A:12A-22):

40 (1) Plan, construct, own, and operate housing projects; maintain,  
41 reconstruct, improve, alter, or repair any housing project or any part  
42 thereof; and for these purposes, receive and accept from the State or  
43 federal government, or any other source, funds or other financial  
44 assistance;

45 (2) Lease or rent any dwelling house, accommodations, lands,  
46 buildings, structures or facilities embraced in any housing project;

1 and pursuant to the provisions of this act, establish and revise the  
2 rents and charges therefor;

3 (3) Acquire property pursuant to subsection i. of section 22 of  
4 P.L.1992, c.79 (C.40A:12A-22);

5 (4) Acquire, by condemnation, any land or building which is  
6 necessary for the housing project, pursuant to the provisions of the  
7 "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.);

8 (5) Issue bonds in accordance with the provisions of section 29  
9 of P.L.1992, c.79 (C.40A:12A-29);

10 (6) Cooperate with any other municipality, private, county, State  
11 or federal entity to provide funds to the municipality or other  
12 governmental entity and to homeowners, tenant associations,  
13 nonprofit or private developers to acquire, construct, rehabilitate or  
14 operate publicly assisted housing, and to provide rent subsidies for  
15 persons of low and moderate income, including the elderly,  
16 pursuant to applicable State or federal programs;

17 (7) Encourage the use of demand side subsidy programs such as  
18 certificates and vouchers for low-income families and promote the  
19 use of project based certificates which provide subsidies for units in  
20 newly constructed and substantially rehabilitated structures, and of  
21 tenant based certificates which subsidize rent in existing units;

22 (8) Cooperate with any State or federal entity to secure mortgage  
23 assistance for any person of low or moderate income;

24 (9) Provide technical assistance and support to nonprofit  
25 organizations and private developers interested in constructing low  
26 and moderate income housing;

27 (10) If it owns and operates public housing units, provide to the  
28 tenants public safety services, including protection against drug  
29 abuse, and social services, including counseling and financial  
30 management, in cooperation with other agencies;

31 (11) Provide emergency shelters, transitional housing and  
32 supporting services to homeless families and individuals.

33 b. All housing projects, programs and actions undertaken  
34 pursuant to this act shall accord with the housing element of the  
35 master plan of the municipality within which undertaken, and with  
36 [any fair share housing plan filed by the municipality with the  
37 Council on Affordable Housing, based upon the council's criteria  
38 and guidelines, pursuant to] the "Fair Housing Act," P.L.1985,  
39 c.222 (C.52:27D-301 et al.)[, whether or not the municipality has  
40 petitioned for substantive certification of the plan].<sup>1</sup>

41 (cf: P.L.1992, c.79, s.16)

42  
43 <sup>1</sup>9. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
44 read as follows:

45 2. a. The annual appropriations act for each State fiscal year  
46 shall, without other conditions, limitations or restrictions on the  
47 following:

1 (1) credit amounts paid to the State Treasurer, if any, in  
2 payment of fees collected pursuant to paragraph (1) or paragraph  
3 (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the  
4 "Shore Protection Fund" created pursuant to section 1 of P.L.1992,  
5 c.148 (C.13:19-16.1), the **【Neighborhood Preservation Nonlapsing**  
6 **Revolving Fund】** "New Jersey Affordable Housing Trust Fund,"  
7 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-  
8 320), and the "Highlands Protection Fund" created pursuant to  
9 section 21 of P.L.2004, c.120 (C.13:20-19), pursuant to the  
10 requirements of section 4 of P.L.1968, c.49 (C.46:15-8);

11 (2) appropriate the balance of the "Shore Protection Fund"  
12 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for  
13 the purposes of that fund;

14 (3) appropriate the balance of the **【Neighborhood Preservation**  
15 **Nonlapsing Revolving Fund】** "New Jersey Affordable Housing  
16 Trust Fund," established pursuant to section 20 of P.L.1985, c.222  
17 (C.52:27D-320), for the purposes of that fund, including any  
18 permitted transfer of monies to the "Urban Housing Assistance  
19 Fund," established pursuant to section 13 of P.L.2008, c.46  
20 (C.52:27D-329.7); and

21 (4) appropriate the balance of the "Highlands Protection Fund"  
22 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for  
23 the purposes of that fund.

24 b. If the requirements of subsection a. of this section are not  
25 met on the effective date of an annual appropriations act for the  
26 State fiscal year, or if an amendment or supplement to an annual  
27 appropriations act for the State fiscal year should violate any of the  
28 requirements of subsection a. of this section, the Director of the  
29 Division of Budget and Accounting in the Department of the  
30 Treasury shall, not later than five days after the enactment of the  
31 annual appropriations act, or an amendment or supplement thereto,  
32 that violates any of the requirements of subsection a. of this section,  
33 certify to the Director of the Division of Taxation that the  
34 requirements of subsection a. of this section have not been met.<sup>1</sup>

35 (cf: P.L.2004, c.120, s.62)

36

37 <sup>1</sup>10. Section 9 of P.L.1966, c.293 (C.52:27D-9) is amended to  
38 read as follows:

39 9. The department shall, in addition to other powers and duties  
40 invested in it by this act, or by any other law:

41 (a) Assist in the coordination of State and Federal activities  
42 relating to local government;

43 (b) Advise and inform the Governor on the affairs and problems  
44 of local government and make recommendations to the Governor  
45 for proposed legislation pertaining thereto;

1 (c) Encourage cooperative action by local governments,  
2 including joint service agreements, regional compacts and other  
3 forms of regional cooperation;

4 (d) Assist local government in the solution of its problems, to  
5 strengthen local self-government;

6 (e) Study the entire field of local government in New Jersey;

7 (f) Collect, collate, publish and disseminate information  
8 necessary for the effective operation of the department and useful  
9 to local government;

10 (g) Maintain an inventory of data and information and act as a  
11 clearing house and referral agency for information on State and  
12 Federal services and programs;

13 (h) Stimulate local programs through publicity, education,  
14 guidance and technical assistance concerning Federal and State  
15 programs;

16 (i) Convene meetings of municipal, county or other local  
17 officials to discuss ways of cooperating to provide service more  
18 efficiently and economically; **[and]**

19 (j) Maintain and make available on request a list of persons  
20 qualified to mediate or arbitrate disputes between local units of  
21 government arising from joint service projects or other cooperative  
22 activities, and further to prescribe rates of compensation for all such  
23 mediation, factfinding or arbitration services; and

24 (k) Assume the duties of the Council on Affordable Housing  
25 that are not repealed by P.L. , c. <sup>2</sup>(C. )<sup>2</sup> (pending before the  
26 Legislature as this bill) and are transferred to the department  
27 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
28 Legislature as this bill).<sup>1</sup>

29 (cf: P.L.1973, c.208, s.10)

30  
31 <sup>2</sup>**[**<sup>1</sup>11. Section 1 of P.L.1991, c.479 (C52:27D-307.1) is amended  
32 to read as follows:

33 1. As used in **[this act]** P.L.1991, c.479 (C52:27D-307.1 et  
34 seq.):

35 "Agency" means the Housing and Mortgage Finance Agency  
36 established pursuant to section 4 of the "New Jersey Housing and  
37 Mortgage Finance Agency Law of 1983," P.L.1983, c.530  
38 (C.55:14K-4).

39 "Commissioner" means the Commissioner of Community  
40 Affairs.

41 **["Council" means the Council on Affordable Housing created by**  
42 **the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)]**

43 "Department" means the Department of Community Affairs.

44 "Housing region" means a housing region as determined by the  
45 Council on Affordable Housing pursuant to section 7 of P.L.1985,  
46 c.222 (C.52:27D-307).



1 "Project" or "housing project" means any specific work or  
 2 undertaking for the purpose of providing housing accommodations,  
 3 whether by new construction or by rehabilitation or adaptation of  
 4 existing structures, that shall be affordable to persons and families  
 5 of low or moderate income within the meaning of the "Fair Housing  
 6 Act," P.L.1985, c.222 (C.52:27D-301 et al.). Such work or  
 7 undertaking may include the acquisition, construction or  
 8 rehabilitation of lands, buildings and improvements, and such  
 9 stores, offices, and social, recreational, communal or other facilities  
 10 as may be incidental or appurtenant to the housing accommodations  
 11 that are to be provided.

12 "Register" means the Register of Housing Projects directed by  
 13 section 2 of [this act] P.L.1991, c.479 (C.52:27D-307.2) to be  
 14 established and maintained by the commissioner.<sup>1</sup>  
 15 (cf: P.L.1991, c.479, s.1)]<sup>2</sup>

16  
 17 <sup>2</sup>[<sup>1</sup>12. Section 3 of P.L.1991, c.479 (C.52:27D-307.3) is  
 18 amended to read as follows:

19 3. a. The commissioner shall cause to be developed a system  
 20 for assigning and designating priority ratings to each project  
 21 included in the register. Priority ratings shall be based upon the  
 22 following factors, giving to each factor such weight as the  
 23 commissioner shall judge to be appropriate:

24 (1) Feasibility. Each project shall be evaluated for its physical  
 25 and financial feasibility, giving consideration to the capabilities of  
 26 the proposed sponsor or developer, market conditions and  
 27 regulatory requirements in the locality for which it is proposed, and  
 28 the availability of financing in sufficient amount and at reasonable  
 29 cost.

30 (2) Desirability. Each project shall be evaluated with relation to  
 31 its probable effect in meeting the affordable housing needs of the  
 32 housing region in which it is to be located, in accordance with the  
 33 standards and criteria of the [council] Department of Community  
 34 Affairs. Consideration shall be given to (a) the number of  
 35 affordable dwelling units that the project would provide, (b) the  
 36 proportion of affordable units to the total number of units envisaged  
 37 in the project plan, (c) the distribution of those affordable units as  
 38 between those affordable to persons and families of low income and  
 39 those of moderate income, considered in relation to the needs of the  
 40 housing region, (d) appropriateness of the proposed tenure of the  
 41 affordable units, whether to be rental or owner-occupied, in relation  
 42 to the needs of the housing region, and (e) appropriateness of the  
 43 proposed distribution of units as to family size, in relation to the  
 44 needs of the housing region.

45 (3) Efficiency. Each project shall be evaluated on the basis of  
 46 the cost to the State, in terms of financial assistance granted or  
 47 revenue forgone in order to further the project, for each affordable

1 dwelling unit judged by the commissioner to be feasible and  
2 desirable according to the terms of the proposal or application made  
3 for such assistance.

4 b. In developing the system of assigning and designating  
5 priorities, and in evaluating individual projects for such assignment  
6 and designation in the register, the commissioner shall consult with  
7 the executive director of the agency [and the executive director of  
8 the council]. The [council] person having control over the project  
9 and the agency shall promptly and fully supply the commissioner  
10 with all relevant information necessary for the commissioner's  
11 timely and complete fulfillment of the requirements of this act.<sup>1</sup>

12 (cf: P.L.1991, c.479, s.3)]<sup>2</sup>

13  
14 <sup>2</sup>[<sup>1</sup>13. Section 4 of P.L.1991, c.479 (C.52:27D-307.4) is  
15 amended to read as follows:

16 4. a. Any officer or employee of the department, including any  
17 member, officer or employee of the agency [or the council], who  
18 receives from any person any solicitation, application, proposal or  
19 communication of any kind, whether oral or in writing, aimed at  
20 furthering the assistance of any project shall promptly report the  
21 same to the commissioner. The report shall identify the person or  
22 persons making such communication. If any such person is not  
23 identified in the register in accordance with the requirements of  
24 subsection b. of section 2 of this act, the report shall state the  
25 person's relationship to the sponsor or developer of the project and  
26 the capacity in which the person represents himself or herself to be  
27 acting on behalf of the sponsor or developer; or if the person fails or  
28 refuses to supply that information, the report shall so state.

29 b. The commissioner shall develop a procedure or procedures  
30 by which reports required under subsection a. of this section shall  
31 be made either to the commissioner directly or through such  
32 administrative channels as the commissioner shall devise and direct.  
33 Notwithstanding the provisions of subsection i. of section 4 of  
34 P.L.1983, c.530 (C.55:14K-4) [and subsection a. of section 5 of  
35 P.L.1985, c.222 (C.52:27D-305)], the regulations adopted by the  
36 commissioner in fulfillment of this subsection shall be of full force  
37 and application on and within the agency [and the council]; and all  
38 members, officers and employees of the agency [and council] shall  
39 give full compliance with and obedience to the rules and orders of  
40 the commissioner made in pursuance of [his] the commissioner's  
41 duties and responsibilities under this act.

42 c. Reports made to the commissioner shall be promptly  
43 forwarded [by him], not later than 10 days after their receipt, to the  
44 Governor and to the presiding officers of the Houses of the  
45 Legislature, who shall cause all members of their respective Houses  
46 to be notified of the receipt of those reports and shall make

adequate provision for the inspection of the commissioner's reports by members and committees of either House, and for the dissemination of those reports to the public. The reports forwarded by the commissioner shall in each instance indicate the priority rating that has been assigned in the register to the project to which the report relates.<sup>1</sup>

(cf: P.L.1991, c.479, s.4)]<sup>2</sup>

<sup>2</sup>11. Section 11 of P.L.1979, c.111 (C.13:18A-12) is amended to read as follows:

11. a. The provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, within one year of the date of the adoption of the comprehensive management plan, or any revision thereof, each county located in whole or in part in the pinelands area shall submit to the commission such revisions of the county master plan as may be necessary in order to implement the objectives of the comprehensive management plan and conform with the minimum standards contained therein. After receiving and reviewing such revisions, as applicable to the development and use of land in the pinelands area, the commission shall approve, reject, or approve with conditions said revised plans, as it deems appropriate, after public hearing, within 60 days of the submission thereof.

Upon rejecting or conditionally approving any such revised plan, the commission shall identify such changes therein that it deems necessary for commission approval thereof, and the relevant county shall adopt and enforce such plan, as so changed.

b. Within one year of the date of the adoption of the comprehensive management plan, or any revision thereof, each municipality located in whole or in part in the pinelands area shall submit to the commission such revisions of the municipal master plan and local land use ordinances as may be necessary in order to implement the objectives of the comprehensive management plan and conform with the minimum standards contained therein. After receiving and reviewing such revisions, as applicable to the development and use of land in the pinelands area, the commission shall approve, reject, or approve with conditions said revised plans and ordinances, as it deems appropriate, after public hearing, within 120 days of the date of the submission thereof. [The number of low or moderate income housing units provided for in the revised plan shall not be used by the commission as a criterion for the approval, rejection, or conditional approval of the revised plan.]

The commission and each municipality located in whole or in part in the pinelands area are hereby authorized and directed to comply with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) and section 18 of P.L.2008, c.46 (C.52:27D-329.9), as amended by P.L. , c. (C. ) (pending

1 before the Legislature as this bill).

2       Upon rejecting or conditionally approving any such revised plan  
3 or ordinance, the commission shall identify such changes therein  
4 that it deems necessary for commission approval thereof, and the  
5 relevant municipality shall adopt and enforce such plan or  
6 ordinance, as so changed.

7       The commission may, as herein provided, delegate the review of  
8 any municipal master plan or land use ordinance to the planning  
9 board of the county wherein such municipality is located. Any such  
10 delegation shall be made only: (1) upon a finding by the  
11 commission that such delegation is consistent with the purposes and  
12 provisions of this act and the Federal Act; (2) if the commission has  
13 approved the master plan for such county; and (3) at the request of  
14 the governing body of such county. The results of any such county  
15 planning board review shall be transmitted to the commission prior  
16 to the commission's review and approval of any such municipal  
17 master plan or ordinance.

18       c. In the event that any county or municipality fails to adopt or  
19 enforce an approved revised master plan or implementing land use  
20 ordinances, as the case may be, including any condition thereto  
21 imposed by the commission, the commission shall adopt and  
22 enforce such rules and regulations as may be necessary to  
23 implement the minimum standards contained in the comprehensive  
24 management plan as applicable to any such county or municipality.

25       d. Any approval of any application for development granted by  
26 any municipality, county, or agency thereof in violation of the  
27 provisions of this section shall be null and void and of no force and  
28 effect at law or equity.<sup>2</sup>

29 (cf: P.L.1987, c.267, s.1)

30

31       <sup>2</sup>12. Section 14 of P.L.1979, c.111 (C.13:18A-15) is amended to  
32 read as follows:

33       14. Subsequent to the adoption of the comprehensive  
34 management plan, the commission is hereby authorized to  
35 commence a review, within 15 days after any final municipal or  
36 county approval thereof, of any application for development in the  
37 pinelands area. Upon determining to exercise such authority, the  
38 commission shall transmit, by certified mail, written notice thereof  
39 to the person who submitted such application. The commission  
40 shall, after public hearing thereon, approve, reject, or approve with  
41 conditions any such application within 45 days of transmitting such  
42 notice; provided, however, that such application shall not be  
43 rejected or conditionally approved unless the commission  
44 determines that such development does not conform with the  
45 comprehensive management plan or the minimum standards  
46 contained therein, as applicable to the county or municipality  
47 wherein such development is located, or that such development

1 could result in substantial impairment of the resources of the  
2 pinelands area. Such approval, rejection or conditional approval  
3 shall be binding upon the person who submitted such application,  
4 shall supersede any municipal or county approval of any such  
5 development, and shall be subject only to judicial review as  
6 provided in section 19 of this act.

7     【The number of low or moderate income housing units provided  
8 for in the application for development shall not be used as a  
9 criterion for the approval or rejection of the application.】 The  
10 commission is hereby authorized and directed to comply with  
11 section 18 of P.L.2008, c.46 (C. 52:27D-329.9), as amended by  
12 P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>2</sup>  
13 (cf: P.L.1987, c.267, s.2)

14  
15     <sup>2</sup>【'14.】 13.<sup>2</sup> Section 10 of P.L.1985, c.222 (C.52:27D-310) is  
16 amended to read as follows:

17     10. A municipality's housing element shall be designed to  
18 achieve the goal of access to affordable housing to 【meet present  
19 and prospective】 achieve the mix of housing stock described in  
20 paragraph (1) of subsection a. of section <sup>2</sup>【23】 22<sup>2</sup> of P.L. , c.  
21 (C. ) (pending before the Legislature as this bill), with particular  
22 attention to low and moderate income housing, and shall contain at  
23 least:

24     a. An inventory of the municipality's housing stock by age,  
25 condition, purchase or rental value, occupancy characteristics, and  
26 type, including the number of units affordable to low and moderate  
27 income households and substandard housing capable of being  
28 rehabilitated, and in conducting this inventory the municipality  
29 shall have access, on a confidential basis for the sole purpose of  
30 conducting the inventory, to all necessary property tax assessment  
31 records and information in the assessor's office, including but not  
32 limited to the property record cards;

33     b. A projection of the municipality's housing stock, including  
34 the probable future construction of low and moderate income  
35 housing, for the next ten years, taking into account, but not  
36 necessarily limited to, construction permits issued, approvals of  
37 applications for development and probable residential development  
38 of lands;

39     c. An analysis of the municipality's demographic  
40 characteristics, including but not necessarily limited to, household  
41 size, income level and age;

42     d. An analysis of the existing and probable future employment  
43 characteristics of the municipality;

44     e. A determination of the municipality's 【present and  
45 prospective fair share】 resources and need for low and moderate  
46 income housing and its capacity to accommodate its 【present and

prospective] housing needs, including [its fair share for] low and moderate income housing; and

f. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

g. An analysis calculating the number of existing substandard housing units in the municipality occupied by low and moderate income families and a plan for rehabilitating at least that number of units within the next 10 years.<sup>1</sup>

(cf: P.L.2001, c.435, s.2)

<sup>2</sup>[<sup>1</sup>15.] 14.<sup>2</sup> Section 1 of P.L.2005, c.350 (C.52:27D-311a) is amended to read as follows:

1. Beginning upon the effective date of P.L.2005, c.350 (C.52:27D-311a et al.), in order to be a qualified unit for purposes of P.L. , c. (C. ) (pending before the Legislature as this bill), any new construction for which credit is sought [against a fair share obligation] shall be adaptable in accordance with the provisions of section 5 of P.L.2005, c.350 (C.52:27D-123.15). For the purposes of P.L.2005, c.350 (C.52:27D-311a et al.), "new construction" shall mean an entirely new improvement not previously occupied or used for any purpose.<sup>1</sup>

(cf: P.L.2005, c.350, s.1)

<sup>2</sup>[<sup>1</sup>16.] 15.<sup>2</sup> Section 6 of P.L.2005, c.350 (C.52:27D-311b) is amended to read as follows:

6. The [council] department may take such measures as are necessary to assure compliance with the adaptability requirements imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.), including the inspection of those units which are newly constructed and receive housing credit as provided under section 1 of P.L.2005, c.350 (C.52:27D-311a) for adaptability, as part of the monitoring which occurs pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). [If any units for which credit was granted in accordance with the provisions of P.L.2005, c.350 (C.52:27D-311a et al.) are found not to conform to the requirements of P.L.2005, c.350 (C.52:27D-311a et al.), the council may require the municipality to amend its fair share plan within 90 days of receiving notice from the council, to address its fair share obligation pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). In the event that the municipality fails to amend its fair share plan within 90 days of receiving such notice, the council may revoke substantive certification.]<sup>1</sup>

(cf: P.L.2005, c.350, s.6)

1       <sup>2</sup>['17.] 16.<sup>2</sup> Section 20 of P.L.1985, c.222 (C.52:27D-320) is  
2 amended to read as follows:

3       20. There is established in the Department of Community  
4 Affairs a separate trust fund, to be used for the exclusive purposes  
5 as provided in this section, and which shall be known as the "New  
6 Jersey Affordable Housing Trust Fund." The fund shall be a non-  
7 lapsing, revolving trust fund, and all monies deposited or received  
8 for purposes of the fund shall be accounted for separately, by source  
9 and amount, and remain in the fund until appropriated for such  
10 purposes. The fund shall be the repository of all State funds  
11 appropriated for affordable housing purposes, including, but not  
12 limited to, the proceeds from the receipts of the additional fee  
13 collected pursuant to paragraph (2) of subsection a. of section 3 of  
14 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the  
15 Statewide non-residential development fees collected pursuant to  
16 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or  
17 reverting from municipal development trust funds, or other monies  
18 as may be dedicated, earmarked, or appropriated by the Legislature  
19 for the purposes of the fund. All references in any law, order, rule,  
20 regulation, contract, loan, document, or otherwise, to the  
21 "Neighborhood Preservation Nonlapsing Revolving Fund" shall  
22 mean the "New Jersey Affordable Housing Trust Fund." No less  
23 than 13 percent of the total expenditures in any State fiscal year  
24 from the New Jersey Affordable Housing Trust Fund shall be used  
25 for housing projects reserved for very low income households and  
26 special needs housing units. The department shall be permitted to  
27 utilize annually up to 7.5 percent of the monies available in the fund  
28 for the payment of any necessary administrative costs related to the  
29 administration of the "Fair Housing Act," P.L.1985, c.222  
30 (C.52:27D-301 et al.), the State Housing Commission, or any costs  
31 related to administration of P.L.2008, c.46 (C.52:27D-329.1 et al.).

32       a. **【Except as permitted pursuant to subsection g. of this**  
33 **section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the】**  
34 **The** commissioner shall award grants or loans from this fund for  
35 housing projects and programs **【in municipalities whose housing**  
36 **elements have received substantive certification from the council,】**  
37 <sup>2</sup>**【in municipalities receiving State aid pursuant to P.L.1978, c.14**  
38 **(C.52:27D-178 et seq.), and in municipalities subject to a builder's**  
39 **remedy】<sup>2</sup> 【as defined in section 28 of P.L.1985, c.222 (C.52:27D-**  
40 **328) or in receiving municipalities in cases where the council has**  
41 **approved a regional contribution agreement and a project plan**  
42 **developed by the receiving municipality.**

43       Of those monies deposited into the "New Jersey Affordable  
44 Housing Trust Fund" that are derived from municipal development  
45 fee trust funds, or from available collections of Statewide non-  
46 residential development fees, a priority for funding shall be  
47 established for projects in municipalities that have petitioned the

1 council for substantive certification]. The commissioner shall  
 2 <sup>2</sup>prioritize funding for non-profits and projects<sup>2</sup> that include special  
 3 needs units when making grants and awards from the "New Jersey  
 4 Affordable Housing Trust Fund." The commissioner shall assess  
 5 the housing need in each region of the State and consider the  
 6 assessment in prioritizing awards from the fund.

7 Programs and projects in any municipality shall be funded only  
 8 after receipt by the commissioner of a written statement in support  
 9 of the program or project from the municipal governing body.

10 b. The commissioner shall establish rules and regulations  
 11 governing the qualifications of applicants, the application  
 12 procedures, and the criteria for awarding grants and loans and the  
 13 standards for establishing the amount, terms and conditions of each  
 14 grant or loan.

15 c. For any period which the council may approve, the  
 16 commissioner may assist affordable housing programs which are  
 17 not located in municipalities whose housing elements have been  
 18 granted substantive certification or which are not in furtherance of a  
 19 regional contribution agreement; provided that the affordable  
 20 housing program will meet all or part of a municipal low and  
 21 moderate income housing obligation.] (Deleted by amendment,  
 22 P.L. , c. ) (pending before the Legislature as this bill).

23 d. Amounts deposited in the "New Jersey Affordable Housing  
 24 Trust Fund" shall be targeted to regions based on the region's  
 25 percentage of the State's low and moderate income housing need as  
 26 determined by the council] assist projects in municipalities that are  
 27 deemed compliant pursuant to section <sup>2</sup>[24] 23<sup>2</sup> of P.L. , c.  
 28 (C. ) <sup>2</sup>(<sup>2</sup> pending before the Legislature as this bill) <sup>2</sup>[or pursuant  
 29 to section 25 of P.L. , c. (C. ) (pending before the  
 30 Legislature as this bill)]<sup>2</sup>, and to assist projects in municipalities  
 31 that are neither compliant nor deemed compliant pursuant to P.L. ,  
 32 c. (C. ) (pending before the Legislature as this bill). Amounts  
 33 [in the fund] deposited in the "New Jersey Affordable Housing  
 34 Trust Fund" shall be applied for the following purposes in  
 35 designated neighborhoods:

36 (1) Rehabilitation of substandard housing units occupied or to  
 37 be occupied by low and moderate income households;

38 (2) Creation of accessory apartments to be occupied by low and  
 39 moderate income households;

40 (3) Conversion of non-residential space to residential purposes;  
 41 provided at least 10 percent of the resulting housing units are to be  
 42 occupied by low and moderate income households;

43 (4) Acquisition of real property, demolition and removal of  
 44 buildings, or construction of new housing that will be occupied by  
 45 low and moderate income households, or any combination thereof;



1 (5) Grants of assistance to eligible municipalities for costs of  
2 necessary studies, surveys, plans and permits; engineering,  
3 architectural and other technical services; costs of land acquisition  
4 and any buildings thereon; and costs of site preparation, demolition  
5 and infrastructure development for projects undertaken pursuant to  
6 an approved regional contribution agreement;

7 (6) Assistance to a local housing authority, nonprofit or limited  
8 dividend housing corporation or association or a qualified entity  
9 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for  
10 rehabilitation or restoration of housing units which it administers  
11 which: (a) are unusable or in a serious state of disrepair; (b) can be  
12 restored in an economically feasible and sound manner; and (c) can  
13 be retained in a safe, decent and sanitary manner, upon completion  
14 of rehabilitation or restoration; [and]

15 (7) Other housing programs for low and moderate income  
16 housing, including, without limitation, (a) infrastructure projects  
17 directly facilitating the construction of low and moderate income  
18 housing not to exceed a reasonable percentage of the construction  
19 costs of the low and moderate income housing to be provided and  
20 (b) alteration of dwelling units occupied or to be occupied by  
21 households of low or moderate income and the common areas of the  
22 premises in which they are located in order to make them accessible  
23 to handicapped persons; and

24 (8) Transfers authorized pursuant to this section to the "Urban  
25 Housing Assistance Fund" established by section 13 of P.L.2008,  
26 c.46 (C.52:27D-329.7) to provide assistance for rehabilitation and  
27 new construction through the Urban Housing Assistance Program  
28 pursuant to section 13 of P.L.2008, c.46 (C.52:27D-329.7).

29 e. Any grant or loan agreement entered into pursuant to this  
30 section shall incorporate contractual guarantees and procedures by  
31 which the division will ensure that any unit of housing provided for  
32 low and moderate income households shall continue to be occupied  
33 by low and moderate income households for at least 20 years  
34 following the award of the loan or grant, except that the division  
35 may approve a guarantee for a period of less than 20 years where  
36 necessary to ensure project feasibility.

37 f. Notwithstanding the provisions of any other law, rule or  
38 regulation to the contrary, in making grants or loans under this  
39 section, the department shall not require that tenants be certified as  
40 low or moderate income or that contractual guarantees or deed  
41 restrictions be in place to ensure continued low and moderate  
42 income occupancy as a condition of providing housing assistance  
43 from any program administered by the department, when that  
44 assistance is provided for a project of moderate rehabilitation if the  
45 project (1) contains 30 or fewer rental units and (2) is located in a  
46 census tract in which the median household income is 60 percent or  
47 less of the median income for the housing region in which the

1 census tract is located, as determined for a three person household  
2 by the council in accordance with the latest federal decennial  
3 census. A list of eligible census tracts shall be maintained by the  
4 department and shall be adjusted upon publication of median  
5 income figures by census tract after each federal decennial census.

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

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

34 i. The commissioner may award or grant the amount of any  
35 appropriation deposited in the "New Jersey Affordable Housing  
36 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-  
37 320.1) to municipalities pursuant to the provisions of section 39 of  
38 P.L.2009, c.90 (C.40:55D-8.8).

39 j. Not less than 10 percent and not more than 25 percent of the  
40 amount <sup>2</sup>[of the additional fees collected pursuant to paragraph (2)  
41 of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) and]<sup>2</sup>  
42 deposited in the "New Jersey Affordable Housing Trust Fund" <sup>2</sup>,  
43 available for the purposes set forth in subsection d. of this section  
44 during any fiscal year,<sup>2</sup> shall be transferred to the "Urban Housing  
45 Assistance Fund" in any State fiscal year.<sup>1</sup>

46 (cf: P.L.2009, c.90, s.38)

1       <sup>2</sup>[<sup>1</sup>18.] 17.<sup>2</sup> Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is  
2 amended to read as follows:

3       19. a. Notwithstanding any rules of the New Jersey Housing  
4 and Mortgage Finance Agency to the contrary, the allocation of low  
5 income tax credits shall be made by the agency to the full extent  
6 such credits are permitted to be allocated under federal law,  
7 including allocations of 4 percent or 9 percent federal low income  
8 tax credits, and including allocations allowable for partial credits.  
9 The affordable portion of any mixed income or mixed use  
10 development that is part of a [fair share] housing plan [approved  
11 by the council, or] including a development that has received a  
12 court-approved judgment of repose or compliance, including, but  
13 not limited to, a development that has received a density bonus,  
14 shall be permitted to receive allocations of low income tax credits,  
15 provided that the applicant can conclusively demonstrate that the  
16 market rate residential or commercial units are unable to internally  
17 subsidize the affordable units, and the affordable units are  
18 developed contemporaneously with the commercial or market rate  
19 residential units. In adopting the Qualified Allocation Plan  
20 pursuant to 26 U.S.C. s.42, and any rules promulgated thereunder,  
21 the agency shall, <sup>2</sup>assess the housing needs and resources in each  
22 region and consider the assessment in issuing credits. The agency  
23 shall, <sup>2</sup>in issuing the credits, prioritize applications from projects in  
24 municipalities that are deemed compliant pursuant to section <sup>2</sup>[24]  
25 23<sup>2</sup> of P.L. , c. (C. ) (pending before the Legislature as this bill)  
26 <sup>2</sup>[or pursuant to section to section 25 of P.L. , c. (C. ) (pending  
27 before the Legislature as this bill)]<sup>2</sup>, and to assist projects in  
28 municipalities that are neither compliant nor deemed compliant  
29 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
30 bill) <sup>2</sup>[, and that include at least 10 percent special needs or very  
31 low income units]<sup>2</sup>.

32       b. A housing unit financed in whole or in part through the  
33 allocation of federal Low-Income Housing Tax Credits shall be  
34 eligible to be counted as a qualified unit for purposes of  
35 determining whether a municipality is a compliant municipality  
36 pursuant to section <sup>2</sup>[21] 20<sup>2</sup> of P.L. , c. (C. ) (pending  
37 before the Legislature as this bill) if the requirements of federal law  
38 pursuant to 26 U.S.C. s.42 have been met for that unit.<sup>1</sup>

39 (cf: P.L.2008, c.46, s.19)

40

41       <sup>2</sup>[<sup>1</sup>19.] 18.<sup>2</sup> Section 13 of P.L.2008, c.46 (C.52:27D-329.7) is  
42 amended to read as follows:

43       13. a. There is established within the Department of Community  
44 Affairs an Urban Housing Assistance Program for the purposes of  
45 assisting certain municipalities in the provision of housing through

1 the rehabilitation of existing buildings or the construction of  
2 affordable housing.

3 b. Within the program there shall be established a trust fund to  
4 be known as the "Urban Housing Assistance Fund," into which may  
5 be deposited:

6 (1) monies which may be available to the fund from any other  
7 programs established for the purposes of housing rehabilitation[,  
8 other than monies from the "New Jersey Affordable Housing Trust  
9 Fund," established pursuant to section 20 of P.L.1985, c.222  
10 (C.52:27D-320)];

11 (2) monies appropriated by the Legislature to the fund; and

12 (3) any other funds made available through State or federal  
13 housing programs for the purposes of producing affordable housing  
14 [, other than monies from the "New Jersey Affordable Housing  
15 Trust Fund," established pursuant to section 20 of P.L.1985, c.222  
16 (C.52:27D-320)].

17 c. The Commissioner of Community Affairs shall develop a  
18 strategic five-year plan for the program aimed at developing  
19 strategies to assist municipalities in creating rehabilitation programs  
20 and other programs to produce safe, decent housing within the  
21 municipality.

22 d. The commissioner may award a housing rehabilitation grant  
23 to a municipality that qualifies for aid pursuant to P.L.1978, c.14  
24 (C.52:27D-178 et seq.), or a non-profit<sup>2</sup> or for-profit<sup>2</sup> corporation in  
25 a municipality that qualifies for such aid, and that has submitted a  
26 valid application to the Department of Community Affairs which  
27 details the manner in which the municipality will utilize funding in  
28 order to meet the municipality's need to rehabilitate or create safe,  
29 decent, and affordable housing.

30 e. The commissioner shall promulgate rules and regulations,  
31 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
32 (C.52:14B-1 et seq.), to effectuate the purposes of P.L.2008, c.46  
33 (C.52:27D-329.1 et al.); provided that the regulations shall permit a  
34 municipality broad discretion in shaping its housing rehabilitation  
35 and construction program, but shall not permit a municipality to  
36 provide assistance to any household having an income greater than  
37 120 percent of median household income for the housing region.  
38 The department may require a return of a grant upon its  
39 determination that a municipality is not performing in accordance  
40 with its grant or with the regulations.<sup>1</sup>

41 (cf: P.L.2008, c.46, s.13)

42

43 <sup>2</sup>[<sup>1</sup>20.] <sup>19.</sup><sup>2</sup> Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is  
44 amended to read as follows:

45 18. a. [Notwithstanding any rules of the council to the contrary,  
46 for developments consisting of newly-constructed residential units  
47 located, or to be located, within the jurisdiction of any regional

1 planning entity required to adopt a master plan or comprehensive  
 2 management plan pursuant to statutory law, including the New  
 3 Jersey Meadowlands Commission pursuant to subsection (i) of  
 4 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission  
 5 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,  
 6 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization  
 7 Planning Authority pursuant to section 5 of P.L.2006, c.16  
 8 (C.52:27I-5), or its successor, and the Highlands Water Protection  
 9 and Planning Council pursuant to section 11 of P.L.2004, c.120  
 10 (C.13:20-11), but excluding joint planning boards formed pursuant  
 11 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be  
 12 required to be reserved for occupancy by low or moderate income  
 13 households at least 20 percent of the residential units constructed, to  
 14 the extent this is economically feasible.] <sup>2</sup>[(Deleted by  
 15 amendment, P.L. , c. )]

16 In developments consisting of newly-constructed residential  
 17 units located, or to be located, within the jurisdiction of the New  
 18 Jersey Meadowlands Commission pursuant to section 6 of  
 19 P.L.1968, c.404 (C.13:17-6), the Pinelands Commission pursuant to  
 20 section 7 of the "Pinelands Protection Act," P.L.1979, c.111  
 21 (C.13:18A-8), the Fort Monmouth Economic Revitalization  
 22 Authority pursuant to section 9 of P.L.2010, c.51 (C.52:27I-26), or  
 23 its successor, and the Highlands Water Protection and Planning  
 24 Council pursuant to section 11 of P.L.2004, c.120 (C.13:20-11),  
 25 there shall be required to be reserved for occupancy as qualified  
 26 very-low, low, or moderate income housing units as those terms are  
 27 defined pursuant to section 21 of P.L. , c. (C. ) (pending  
 28 before the Legislature as this bill), between 15 and 20 percent of the  
 29 residential units constructed, in developments that meet or exceed  
 30 the minimum applicable densities as set forth in subsection d. of  
 31 section 23 of P.L. , c. (C. ) (pending before the Legislature  
 32 as this bill) <sup>2</sup>.

33 b. A developer of a project consisting of newly-constructed  
 34 residential units being financed in whole or in part with State funds,  
 35 including, but not limited to, transit villages designated by the  
 36 Department of Transportation, units constructed on State-owned  
 37 property, and urban transit hubs as defined pursuant to section 2 of  
 38 P.L.2007, c.346 (C.34:1B-208), shall be required to reserve <sup>2</sup>[at  
 39 least **[20]** 10 percent of the residential units constructed **[for**  
 40 **occupancy by]** as low or moderate income **[households]** housing,  
 41 as those terms are defined in section **[4** of P.L.1985, c.222  
 42 (C.52:27D-304)] 21 of P.L. , c. (C. ) (pending before the  
 43 Legislature as this bill), with affordability controls as required  
 44 under the rules of the **[council, unless the municipality in which the**  
 45 property is located has received substantive certification from the  
 46 council] department]<sup>2</sup> **[and such a reservation is not required under**

1 the approved affordable housing plan, or the municipality has been  
2 given a judgment of repose or a judgment of compliance by the  
3 court, and such a reservation is not required under the approved  
4 affordable housing plan] <sup>2</sup>between 15 and 20 percent of the  
5 residential units constructed in developments that meet or exceed  
6 the minimum applicable densities as set forth in section 23 of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill), as  
8 qualified very-low, low, and moderate income housing units as  
9 those terms are defined in section 21 of P.L. , c. (C. )  
10 (pending before the Legislature as this bill), with affordability  
11 controls as required by the department, unless the municipality in  
12 which the development is located is compliant pursuant to section  
13 24 of P.L. , c. (C. ) (pending before the Legislature as this  
14 bill)<sup>2</sup>.

15 c. [(1) The Legislature recognizes that regional planning entities  
16 are appropriately positioned to take a broader role in the planning  
17 and provision of affordable housing based on regional planning  
18 considerations. In recognition of the value of sound regional  
19 planning, including the desire to foster economic growth, create a  
20 variety and choice of housing near public transportation, protect  
21 critical environmental resources, including farmland and open space  
22 preservation, and maximize the use of existing infrastructure, there  
23 is created a new program to foster regional planning entities.

24 (2) The regional planning entities identified in subsection a. of  
25 this section shall identify and coordinate regional affordable  
26 housing opportunities in cooperation with municipalities in areas  
27 with convenient access to infrastructure, employment opportunities,  
28 and public transportation. Coordination of affordable housing  
29 opportunities may include methods to regionally provide housing in  
30 line with regional concerns, such as transit needs or opportunities,  
31 environmental concerns, or such other factors as the council may  
32 permit; provided, however, that such provision by such a regional  
33 entity may not result in more than a 50 percent change in the fair  
34 share obligation of any municipality; provided that this limitation  
35 shall not apply to affordable housing units directly attributable to  
36 development by the New Jersey Sports and Exposition Authority  
37 within the New Jersey Meadowlands District.

38 (3) In addition to the entities identified in subsection a. of this  
39 section, the Casino Reinvestment Development Authority, in  
40 conjunction with the Atlantic County Planning Board, shall identify  
41 and coordinate regional affordable housing opportunities directly  
42 attributable to Atlantic City casino development, which may be  
43 provided anywhere within Atlantic County, subject to the  
44 restrictions of paragraph (4) of this subsection.

45 (4) The coordination of affordable housing opportunities by  
46 regional entities as identified in this section shall not include  
47 activities which would provide housing units to be located in those

1 municipalities that are eligible to receive aid under the "Special  
2 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
3 are coextensive with a school district which qualified for  
4 designation as a "special needs district" pursuant to the "Quality  
5 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at  
6 any time in the last 10 years has been qualified to receive assistance  
7 under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall within the  
8 jurisdiction of any of the regional entities specified in subsection a.  
9 of this section.] <sup>2</sup>[(Deleted by amendment, P.L. , c. )]

10 (1) The Legislature recognizes that regional planning entities are  
11 appropriately positioned to take a broader role in the planning and  
12 provision of affordable housing based on regional planning  
13 considerations. In recognition of the value of sound regional  
14 planning, including the desire to foster economic growth, create a  
15 variety and choice of housing near public transportation, protect  
16 critical environmental resources, including farmland and open space  
17 preservation, and maximize the use of existing infrastructure, there  
18 is created a new program to foster regional planning entities.

19 (2) With the exception of the New Jersey Meadowlands  
20 Commission, the regional planning entities identified in subsection  
21 a. of this section shall identify and coordinate regional affordable  
22 housing opportunities in cooperation with municipalities in areas  
23 with convenient access to infrastructure, employment opportunities,  
24 and public transportation. Coordination of affordable housing  
25 opportunities may include methods to regionally provide housing in  
26 line with regional concerns, such as transit needs or opportunities,  
27 environmental concerns, or such other factors as the council may  
28 permit; provided, however, that such provision by such a regional  
29 entity may not result in more than a 50 percent change in the  
30 number of qualified housing units for which a realistic opportunity  
31 is required to be provided for in any municipality pursuant to  
32 section 23 of P.L. , c. (C. ) (pending before the Legislature  
33 as this bill) and that the sum of such changes may not reduce the  
34 aggregate number of qualified housing units required in the region  
35 as determined pursuant to section 23 of P.L. , c. (C. )  
36 (pending before the Legislature as this bill) in the current housing  
37 period.

38 (3) With the exception of the New Jersey Meadowlands  
39 Commission, the regional planning entities identified in subsection  
40 a. of this section shall adopt and promulgate, in accordance with the  
41 provisions of the "Administrative Procedure Act," P.L.1968, c. 410  
42 (C.52:14B-1 et seq.), all rules and regulations necessary or  
43 expedient for the prompt and effective carrying out of the  
44 provisions and purposes of this section. Within six months of the  
45 effective date of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill), each regional planning entity shall adopt  
47 regional housing plans identifying, among other things, to which

1 municipalities obligations have been transferred and the purpose for  
 2 doing so. The transfer of obligations to a municipality shall be at  
 3 the sole discretion of the regional planning entities subject to the  
 4 restrictions of this section. Except for municipalities located within  
 5 the jurisdiction of the New Jersey Meadowlands Commission,  
 6 municipalities located within the other regional planning entities  
 7 shall have another six-month period after the adoption of the  
 8 regional housing plans to file duly adopted and certified housing  
 9 elements and implementing ordinances with the department in  
 10 accordance with the standards governing such housing elements and  
 11 implementing ordinances set forth in section 23 of P.L. , c.  
 12 (C. ) (pending before the Legislature as this bill).

13 (4) The coordination of affordable housing opportunities by  
 14 regional entities as identified in this section shall not include  
 15 activities which would provide housing units to be located in those  
 16 municipalities that are eligible to receive aid under the "Special  
 17 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
 18 are coextensive with a "special needs district" pursuant to the  
 19 "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et  
 20 al.), or at any time in the last 10 years has been qualified to receive  
 21 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall  
 22 within the jurisdiction of any of the regional entities specified in  
 23 subsection a. of this section<sup>2, 1</sup>  
 24 (cf: P.L.2008, c.46, s.18)

25  
 26 <sup>2</sup>[<sup>1</sup>21.] 20.<sup>2</sup> (New section) <sup>2</sup>[To determine whether property  
 27 has access to sewer for purposes of determining whether the  
 28 property is developable land as defined in section 22 of P.L. , c.  
 29 (C. ) (pending before the Legislature as this bill), any] Any<sup>2</sup>  
 30 party, <sup>2</sup>including the property owner, municipality, or contract  
 31 purchaser,<sup>2</sup> may apply <sup>2</sup>, in such form and manner as shall be  
 32 established by the Commissioner of Environmental Protection,<sup>2</sup> to  
 33 the Department of Environmental Protection for a review <sup>2</sup>[or]  
 34 and<sup>2</sup> determination of site specific or project specific amendments  
 35 or revisions to wastewater management plans and water quality  
 36 management plans <sup>2</sup>, when those plans are submitted to achieve  
 37 compliance with P.L. , c. (C. ) (pending before the  
 38 Legislature as this bill), and where at least 15% of the units are  
 39 qualified units. The Department of Environmental Protection shall  
 40 review and act upon the amendments or revisions within 90 days of  
 41 receipt of a completed application for a determination and review<sup>2, 1</sup>  
 42

43 <sup>2</sup>[<sup>1</sup>22.] 21.<sup>2</sup> (New section) As used in P.L. , c. (C. )  
 44 (pending before the Legislature as this bill):

45 "Adaptable" means constructed in compliance with the technical  
 46 design standards of the barrier free subcode adopted by the



1 Commissioner of Community Affairs pursuant to the "State  
2 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119  
3 et seq.) and in accordance with the provisions of section 5 of  
4 P.L.2005, c.350 (C.52:27D-123.15).

5 "Affordability control" means any deed restriction, covenant, or  
6 other legally binding provision requiring that a low or moderate  
7 income housing unit remains affordable to and restricted to  
8 occupancy by low or moderate income households, as the case may  
9 be, for a period of 30 years from the date of initial occupancy of the  
10 unit <sup>2</sup>[, or for the time period required pursuant to any regulation in  
11 force at the time of sale of the unit ]<sup>2</sup>.

12 "Agency" means the New Jersey Housing and Mortgage Finance  
13 Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.).

14 "Attached housing" means any form of residential development  
15 other than detached single family housing, including, but not  
16 limited to, two-family housing, three-family housing, attached  
17 single family houses, multifamily apartments, and manufactured  
18 housing communities.

19 "Compliance threshold" means the percentage of a  
20 municipality's housing stock that is required to be qualified housing  
21 units in order for the municipality to be deemed a compliant  
22 municipality.

23 "Conversion" means the conversion of existing commercial,  
24 industrial, or residential structures for low and moderate income  
25 housing purposes where at least 10 percent of the housing units are  
26 provided for a reasonable income range of low and moderate  
27 income households.

28 "Council" means the former Council on Affordable Housing  
29 established by section 5 of P.L.1985, c.222, and, following the  
30 effective date of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill), the Department of Community Affairs,  
32 <sup>1</sup>[pursuant to] pursuant to section 2 of P.L. , c. (C. )  
33 (pending before the Legislature as this bill).

34 "Department" means the Department of Community Affairs  
35 established pursuant to section 1 of P.L.1966, 293 (C.52:27D-1).

36 "Development" means any development for which permission  
37 may be required pursuant to the "Municipal Land Use Law,"  
38 P.L.1975, c.291 (C.40:55D-1 et seq.).

39 "Developable land" means any lot or parcel, whether or not the  
40 parcel is vacant, or any part of a lot or parcel, having access to  
41 sewer service, or that has been determined by the Department of  
42 Environmental Protection, pursuant to section <sup>2</sup>[21] 20<sup>2</sup> of P.L. ,  
43 c. (C. ) (pending before the Legislature as this bill), to be  
44 legally able to connect to service, having a slope of less than 15  
45 percent, and that is not:

46 (1) land that is owned by a local government entity that as of the  
47 effective date of P.L. , c. (C. ) (pending before the

1 Legislature as this bill), has adopted, prior to the institution of a  
2 lawsuit seeking a builder's remedy, a resolution authorizing an  
3 execution of agreement that the land be utilized for a public purpose  
4 other than housing;

5 (2) <sup>2</sup>[any]<sup>2</sup> land listed on a master plan of a municipality as  
6 being dedicated, by easement or otherwise, for purposes of  
7 conservation, park lands <sup>2</sup>, active recreation,<sup>2</sup> or open space and  
8 which is owned, leased, licensed, or in any manner operated by a  
9 county, municipality or tax-exempt, nonprofit organization  
10 including a local board of education, or by more than one  
11 municipality by joint agreement pursuant to the "Uniform Shared  
12 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et  
13 seq.), for so long as the entity maintains such ownership, lease,  
14 license, or operational control of such land;

15 (3) <sup>2</sup>[any vacant]<sup>2</sup> contiguous <sup>2</sup>with other<sup>2</sup> parcels of land in  
16 private ownership <sup>2</sup>which when combined are<sup>2</sup> of a size which  
17 would accommodate fewer than five housing units <sup>2</sup>[if the  
18 economic viability standards of the department were applied  
19 pertaining to housing density] pursuant to the standards of  
20 paragraph (1) of subsection c. of section 23 of P.L. , c. (C. )  
21 (pending before the Legislature as this bill)<sup>2</sup>;

22 (4) <sup>2</sup>an<sup>2</sup> historic <sup>2</sup>[and] or<sup>2</sup> architecturally important <sup>2</sup>[sites]  
23 site<sup>2</sup> listed on the State Register of Historic Places or National  
24 Register of Historic Places <sup>2</sup>[prior to the effective date of P.L. , c.  
25 (C. ) (pending before the Legislature as this bill)] unless  
26 proposed for historically appropriate conversion or adaptive reuse<sup>2</sup>;

27 (5) agricultural <sup>2</sup>[lands when the] land for which<sup>2</sup> development  
28 rights <sup>2</sup>[to these lands]<sup>2</sup> have been purchased or restricted by  
29 covenant;

30 (6) <sup>2</sup>[sites designated for active recreation that are designated  
31 for recreational purposes in the municipal master plan; and

32 (7) <sup>2</sup>environmentally sensitive lands where development is  
33 prohibited by any State or federal agency, including prohibitions  
34 pursuant to the "Freshwater Wetlands Protection Act," P.L.1987,  
35 c.156 (C.13:9B-1 et seq.), the "Pinelands Protection Act," P.L.1979,  
36 c.111 (C.13:18A-1 et seq.), the "Coastal Area Facility Review Act,"  
37 P.L.1973, c.185 (C.13:19-1 et seq.), the "Highlands Water  
38 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.),  
39 the federal Clean Water Act, 33 U.S.C. ss.1251 et seq., or the  
40 "Hackensack Meadowlands Reclamation and Development Act<sup>1</sup>, <sup>1</sup>"  
41 P.L.1968, c.404 (C.13:17-1 et seq.).

42 Developable land shall include existing structures that are  
43 appropriate for conversion to or rehabilitation <sup>2</sup>or replacement<sup>2</sup> for  
44 housing, including, but not limited to, structures abandoned or  
45 underutilized.

1       <sup>2</sup>"Family housing" means self-contained, residential dwelling  
2       units, each having a lockable door on a private entrance, a kitchen,  
3       sanitary facilities, and separate sleeping quarters, and which are  
4       available to the general public and not restricted to any specific  
5       segment of the population by age or disability.<sup>2</sup>

6       "Housing region" means a geographic area of not less than two  
7       nor more than four contiguous, whole counties which exhibit  
8       significant social, economic and income similarities, and which  
9       constitute to the greatest extent practicable the primary metropolitan  
10      statistical areas as last defined by the United States Census Bureau  
11      prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).

12      <sup>2</sup>"Inclusionary zoning ordinance" means any zoning ordinance  
13      that provides for: qualified housing units as a portion of a  
14      residential development, or a redevelopment plan that provides  
15      qualified housing units as a portion of a residential development.

16      "Initial compliance period" means the period of 10 years  
17      beginning on the effective date of P.L. , c. (C. ) (pending  
18      before the Legislature as this bill).

19      "Licensed housing compliance professional" means an individual  
20      who is licensed by the State Board of Professional Planners to  
21      determine the sufficiency of, and certify, those housing elements  
22      and related ordinances submitted to the professional by a  
23      municipality pursuant to P.L. , c. (C. ) (pending before the  
24      Legislature as this bill).<sup>2</sup>

25      "Low income housing" means housing affordable according to  
26      federal Department of Housing and Urban Development or other  
27      recognized standards for home ownership and rental costs and  
28      occupied or reserved for occupancy by households with a gross  
29      household income equal to 50 percent or less of the median gross  
30      household income for households of the same size within the  
31      housing region in which the housing is located.

32      "Moderate income housing" means housing affordable according  
33      to federal Department of Housing and Urban Development or other  
34      recognized standards for home ownership and rental costs and  
35      occupied or reserved for occupancy by households with a gross  
36      household income equal to more than 50 percent but less than 80  
37      percent of the median gross household income for households of the  
38      same size within the housing region in which the housing is located.

39      "Person with a disability" means a person with a physical  
40      disability, infirmity, malformation or disfigurement which is caused  
41      by bodily injury, birth defect, aging or illness including epilepsy  
42      and other seizure disorders, and which shall include, but not be  
43      limited to, any degree of paralysis, amputation, lack of physical  
44      coordination, blindness or visual impediment, deafness or hearing  
45      impediment, muteness or speech impediment or physical reliance on  
46      a service or guide dog, wheelchair, or other remedial appliance or  
47      device.

1       "Qualified housing units" means <sup>2</sup>[the sum of housing units that  
2       are very low income housing, low income housing, moderate  
3       income housing, mobile home units, public housing units, and units  
4       whose deeds contain sale, resale or transfer price restrictions  
5       because the units were financed by federal Low Income Housing  
6       Tax Credits, received project-based assistance under the program  
7       authorized pursuant to section 8 of the United States Housing Act of  
8       1937 as added by the Housing and Community Development Act of  
9       1974, Pub.L.93-383 (42U.S.C. s. 1437f), or received financing from  
10       funds received pursuant to a Regional Contribution Agreement;]  
11       units subject to affordability controls, public housing, and  
12       supportive and special needs units. Housing units shall be deemed  
13       qualified housing units only if affordability controls or applicable  
14       affordability restrictions expire no sooner than the end of the  
15       current compliance period,<sup>2</sup> provided, that any qualified units shall  
16       be adaptable, as required by section 1 of P.L.2005, c.350  
17       (C.52:27D-311a).

18       "Qualified low income housing units" means <sup>2</sup>qualified<sup>2</sup> housing  
19       units that are affordable to and occupied by households earning no  
20       more than 50 percent of the median income for the region in which  
21       the municipality is located, as adjusted for family size, and which  
22       are subject to affordability controls.

23       "Qualified moderate income housing units" means <sup>2</sup>qualified<sup>2</sup>  
24       housing that is affordable to and occupied by households earning no  
25       more than 80 percent of the median income for the region in which  
26       the municipality is located, as adjusted for family size, and which is  
27       subject to affordability controls.

28       "Qualified very low income housing units" means <sup>2</sup>qualified<sup>2</sup>  
29       housing units that are affordable to and occupied by households  
30       earning no more than 30 percent of the median income for the  
31       region in which the municipality is located, as adjusted for family  
32       size, and which are subject to affordability controls.

33       "Rehabilitation project" <sup>2</sup>under P.L. , c. (C. ) (pending  
34       before the Legislature as this bill)<sup>2</sup> means a "gut rehabilitation"  
35       project where the extent and nature of the work is such that the  
36       work area cannot be occupied while the work is in progress and  
37       where a new certificate of occupancy is required before the work  
38       area can be reoccupied, pursuant to the Rehabilitation Subcode,  
39       N.J.A.C.5:23-6. Reconstruction shall not include projects comprised  
40       only of floor finish replacement, painting or wallpapering, or the  
41       replacement of equipment or furnishings. Asbestos hazard  
42       abatement and lead hazard abatement projects shall not be classified  
43       as reconstruction solely because occupancy of the work area is not  
44       permitted.

45       "Residential development project" means a new construction or  
46       any residential development project requiring a new certificate of  
47       occupancy, including, but not limited to any redevelopment,

1 rehabilitation, infill development, or adaptive reuse of property. A  
 2 "new residential development project" shall not mean any  
 3 construction or reconstruction of a single-family dwelling that is  
 4 occupied by, or intended to be occupied by, the owner.

5 <sup>2</sup>"Subsequent compliance period" means any period of 10 years  
 6 following the initial compliance period and beginning on the day  
 7 following the last day of the prior compliance period.<sup>2</sup>

8 "Supportive and special needs housing" means homes for persons  
 9 with developmental disabilities and mental illness that are designed  
 10 as permanent housing, and licensed or regulated by the New Jersey  
 11 Department of Human Services; permanent supportive housing; and  
 12 permanent supportive shared living housing. This term does not  
 13 include housing restricted to occupancy by persons under 18 years  
 14 of age. <sup>2</sup>Homes shall be affordable to and occupied by households  
 15 earning no more than 80 percent of the median income for the  
 16 region in which the municipality is located, as adjusted for family  
 17 size, and that are subject to affordability controls or established  
 18 with capital funding through a 20-year operating contract with the  
 19 Department of Human Services, Division of Developmental  
 20 Disabilities.<sup>2</sup>

21 <sup>2</sup>"Total current housing stock" means all occupied and vacant  
 22 dwelling units within a municipality which are potentially available  
 23 for rental or sale to the general public for permanent occupancy,  
 24 including dwelling units that are age-restricted, or restricted to  
 25 persons of low or moderate income, and licensed rooming or  
 26 boarding houses, as defined pursuant to section 3 of P.L.1979, c.496  
 27 (C.55:13B-3). The term shall not include hotels or motels, as  
 28 defined pursuant to section 3 of P.L.1967, c.76 (C.55:13A-3), or  
 29 other transient facilities, dwelling units that are available to only  
 30 employees of a particular employer, or occupied by students,  
 31 members of a particular religious group, or residents of a particular  
 32 institution, military housing, or units within a health care facility  
 33 regulated by the New Jersey Department of Health.<sup>2</sup>

34 "Very low income housing" means housing affordable according  
 35 to federal Department of Housing and Urban Development or other  
 36 recognized standards for home ownership and rental costs and  
 37 occupied or reserved for occupancy by households with a gross  
 38 household income equal to 30 percent or less of the median gross  
 39 household income for households of the same size within the  
 40 housing region in which the housing is located.<sup>1</sup>

41  
 42 <sup>2</sup>['23.1'] 22.<sup>2</sup> (New section) a. A municipality shall meet its  
 43 compliance threshold if it <sup>2</sup>duly adopts and files a housing element,  
 44 that has been prepared pursuant to section 10 of P.L.1985, c.222  
 45 (C.52:27D-310), within 60 days of the effective date of P.L. , c.  
 46 (C. ), and which element has been certified by a licensed housing

1 compliance professional that such housing element<sup>2</sup> demonstrates  
2 that:

3 (1) ~~12~~ 10 percent of <sup>2</sup>~~its~~ the municipality's<sup>2</sup> total current  
4 housing stock is qualified housing units; or

5 (2) <sup>2</sup>for municipalities in which<sup>2</sup> at least <sup>2</sup>~~25~~ 20<sup>2</sup>, but less than  
6 50, percent of the children enrolled in schools in the municipality in  
7 October of the preceding year were eligible for free or reduced price  
8 meals under the federal School Lunch Program <sup>2</sup>, eight percent of  
9 the municipality's total current housing stock is qualified housing  
10 units<sup>2</sup>.

11 b. For purposes of counting towards a compliance threshold  
12 determined pursuant to <sup>2</sup>~~(1) in~~<sup>2</sup> subsection a. of this section:

13 (1) at least 50 percent of the total number of qualified housing  
14 units in any municipality shall be qualified low income units <sup>2</sup>, at  
15 least 13 percent of the total qualified housing units in any  
16 municipality constructed after the effective date of P.L. , c.  
17 (C. ) (pending before the Legislature as this bill), shall be  
18 qualified very low income units<sup>2</sup>;

19 (2) no more than 25 percent of the total number of qualified low  
20 income housing units and qualified moderate income housing units  
21 in any municipality shall be age-restricted units as defined pursuant  
22 to section 2 of P.L.2009, c.82 (C.45:22A-46.4) <sup>2</sup>;

23 (3) at least 50 percent of the units reserved for each of very-low-  
24 income housing, low income, and moderate income housing and  
25 counted toward the compliance threshold pursuant to this section,  
26 shall be family housing; and

27 (4) no more than 25 percent of the total number of qualified  
28 housing units in any municipality shall be reserved for people living  
29 or working within that municipality<sup>2</sup>.

30 c. Each permanent supportive housing unit that receives a  
31 certificate of occupancy following the effective date of P.L. , c.  
32 (C. ) (pending before the Legislature as this bill), shall be  
33 counted as two units of qualified housing in the municipality in  
34 which the unit is located. Each new unit of housing for persons with  
35 developmental disabilities or mental illness, designed as permanent  
36 housing, and regulated by the New Jersey Department of Human  
37 Services, shall be counted as one and one-quarter unit of qualified  
38 housing in the municipality in which the unit is located. Each new  
39 bedroom in permanent supportive shared living housing created  
40 following the effective date of P.L. , c. (C. ) (pending before  
41 the Legislature as this bill), shall be counted as one and one-quarter  
42 unit of qualified housing in the municipality in which the unit is  
43 located. The total added additional units counted pursuant to this  
44 subsection shall not exceed 25 percent of the number of housing  
45 units affordable to low- and moderate-income people counted to  
46 determine that a municipality is a compliant municipality.

- 1 d. <sup>2</sup>[A] Each<sup>2</sup> municipality<sup>2</sup> [that is a compliant municipality  
2 pursuant to this section shall remain a compliant municipality as  
3 long as the requirements of this section are met, and the  
4 affordability controls on any required qualified housing units  
5 remain in effect. At the time the municipality files a resolution,  
6 pursuant to subsection e. of this section, the Department shall  
7 review affordability controls in effect for qualified units, where  
8 relevant, for compliance with the requirements of P.L. , c.  
9 (C. ) (pending before the Legislature as this bill)] adopting a  
10 housing element pursuant to this section shall file the housing  
11 element and other relevant information with the department in an  
12 electronic format pursuant to section 28 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill). Once the housing  
14 element has been reviewed and certified by a licensed housing  
15 compliance professional, the certified housing element and other  
16 relevant information shall also be filed with the department in an  
17 electronic format pursuant to section 28 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill), at which point the  
19 municipality shall be compliant<sup>2</sup>.
- 20 e. <sup>2</sup>[To demonstrate that it has met the compliance threshold, a  
21 municipal governing body shall adopt a resolution containing an  
22 analysis of data demonstrating that it met its threshold. Each] The  
23 housing element filed pursuant to subsection a. of this section shall  
24 be valid for 10 years from the effective date of P.L. , c. (C. )  
25 (pending before the Legislature as this bill). Anytime within the  
26 year prior to the expiration of the initial compliance period, or any  
27 subsequent compliance period, a<sup>2</sup> municipality<sup>2</sup> [adopting a  
28 resolution pursuant to this section shall file the resolution and other  
29 relevant information with the Department in an electronic format]  
30 seeking to demonstrate compliance for a subsequent compliance  
31 period may adopt and file a housing element for certification  
32 pursuant to this section<sup>2</sup>.
- 33 f. Any municipality demonstrating that it has met the  
34 compliance threshold pursuant to this section shall submit an  
35 analysis<sup>2</sup> as part of its housing element<sup>2</sup> calculating the number of  
36 existing substandard housing units in the municipality occupied by  
37 low and moderate income families, and a plan for rehabilitating at  
38 least that number of units within the next 10 years.
- 39 g. The department shall make any ordinances or housing  
40 element filed by a municipality available on the website established  
41 pursuant to section <sup>2</sup>[30] 28<sup>2</sup> of P.L. , c. (C. ) (pending  
42 before the Legislature as this bill).
- 43 <sup>2</sup>[h. Upon receipt of a municipality's filing, the Commissioner  
44 of Community Affairs will undertake a review of the municipality's  
45 filing, for the sole purpose of determining whether the filing  
46 accurately and completely represents the required composition of

1 the municipal housing stock and ordinances in conformance with  
2 the requirements of this section.]<sup>2</sup>

3 For purposes of this section, a municipality <sup>2</sup>[may] shall<sup>2</sup> rely  
4 upon a determination of the number of children enrolled in schools  
5 in the municipality in October of the <sup>2</sup>[preceding]<sup>2</sup> year <sup>2</sup>preceding  
6 the start of the relevant 10-year period as established in subsection  
7 e. of this section<sup>2</sup> that are eligible for free or reduced price meals  
8 under the federal School Lunch Program <sup>2</sup>[need for a period of up  
9 to 10 years] for the subsequent 10-year period<sup>2</sup> .<sup>1</sup>

10

11 <sup>2</sup>23. (New section) a. A municipality may be deemed to be a  
12 compliant municipality for the initial compliance period if, within  
13 eight months of the effective date of P.L. , c. (C. ) (pending  
14 before the Legislature as this bill) it duly adopts and files with the  
15 department a certified housing element and implementing  
16 ordinances that have been prepared pursuant to section 10 of  
17 P.L.1985, c.222 (C.52:27D-310) and meet the criteria of this  
18 section.

19 b. The housing element shall include an analysis of the number  
20 of qualified housing units already existing in the municipality and  
21 the number of qualified housing units required to satisfy the criteria  
22 set forth in subsection a. of section 22 of P.L. , c. (C. )  
23 (pending before the Legislature as this bill). In the initial  
24 compliance period, the housing element and implementing  
25 ordinances shall provide, in addition to the number of existing  
26 qualified housing units, a realistic opportunity for the least of the  
27 following:

28 (1) Sufficient qualified housing units to meet at least 50 percent  
29 of the difference between the number of qualified housing units  
30 already existing in the municipality and the number of qualified  
31 housing units required to satisfy the criteria set forth in subsection  
32 a. of section 22 of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill);

34 (2) 1000 qualified housing units; or

35 (3) A number of qualified housing units equal to the number for  
36 the municipality set forth in the table appearing at 40 N.J.R. 2942-  
37 2955 (June 2, 2008).

38 c. Within 12 months prior to the expiration of the initial  
39 compliance period or any subsequent compliance period, the  
40 municipality may be deemed compliant for the subsequent  
41 compliance period if it duly adopts and files with the department a  
42 certified housing element and implementing ordinances that have  
43 been prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-  
44 310) and meet the criteria of this section. Any such housing element  
45 and implementing ordinances shall not become effective until the  
46 commencement of the subsequent compliance period. The housing  
47 element shall include an analysis of the number of qualified housing



1 units already existing in the municipality and the number of  
2 qualified housing units required to satisfy the criteria set forth in  
3 subsection a. of section 22 of P.L. , c. (C. ) (pending before  
4 the Legislature as this bill). The housing element and implementing  
5 ordinances shall provide a realistic opportunity to meet the entire  
6 difference between the number of qualified units already existing in  
7 the municipality and the number of qualified units required to  
8 satisfy the criteria set forth in subsection a. of section 22 of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill).  
10 Notwithstanding the foregoing, the housing element and  
11 implementing ordinances may alternatively provide, in addition to  
12 the number of existing qualified housing units plus any additional  
13 qualified housing units not yet created that were or would have been  
14 required pursuant to this section for any and all previous  
15 compliance periods, a realistic opportunity for the lessor of the  
16 following:  
17 1000 qualified housing units; or  
18 A number of qualified housing units equal to the number for the  
19 municipality set forth in the table appearing at 40 N.J.R. 2942-2955  
20 (June 2, 2008).  
21 d. The municipality shall adopt inclusionary zoning ordinances  
22 on sites that are developable land as defined in section 21 of P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill) sufficient to  
24 meet at least 50 percent of the units required pursuant to subsection  
25 b. of this section, or such lower percentage of the units required as  
26 is practicable on the developable land in the municipality. Such  
27 zoning shall permit minimum densities and qualified housing set-  
28 asides as follows:  
29 (1) In municipalities with a gross population density of over  
30 5,000 people per square mile or more than twice the number of jobs  
31 as the number of homes, inclusionary zoning shall permit  
32 residential development at gross densities of between 10 and 50  
33 units per acre and a set-aside of qualified housing units of between  
34 15 and 20 percent of the total number of units in the development.  
35 (2) In all other municipalities, inclusionary zoning shall permit  
36 residential development at gross densities of between 6 and 20 units  
37 per acre and a set-aside of qualified housing units of between 15  
38 and 20 percent of the total number of units in the development.  
39 (3) In determining the gross density from the ranges above, the  
40 municipality shall take into consideration the current character of  
41 the municipality, surrounding residential and non-residential  
42 densities, the maximum densities permitted for residential and non-  
43 residential uses elsewhere in the municipality, access to  
44 employment, access to public transit, and the number of qualified  
45 housing units required pursuant to subsections b. and c. of this  
46 section.

1       (4) When the existing zoning on a site allows a density equal to  
2       or greater than the minimum densities provided in this section and  
3       does not require the a set-aside of affordable housing, a set-aside of  
4       affordable housing that does not exceed 15 percent may be imposed  
5       without a density increase.

6       (5) For any property located in an inclusionary zone, the  
7       developer may voluntarily elect at the time of application for  
8       development approvals to commit to developing the low and  
9       moderate units as rental units and maintaining them as rental units  
10       for a period of 30 years. This commitment shall be legally binding  
11       both on the developer and on all subsequent owners, and shall be  
12       expressly memorialized both in the resolution granting the  
13       development approval and in a recorded deed covenant. The set  
14       aside for qualified low and moderate income housing units shall be  
15       15 percent. The minimum gross density shall be increased by 20  
16       percent over the minimum gross density otherwise specified in the  
17       ordinance for inclusionary developments on that site.

18       (6) Half of the units reserved for low-income or moderate-  
19       income housing pursuant to this subsection shall be reserved for  
20       low- income housing and half the units shall be reserved for  
21       moderate- income housing. If an odd number of affordable units is  
22       being constructed, rehabilitated or developed pursuant to this  
23       subsection, the higher number of units shall be low-income housing.  
24       In rental developments, 13 percent of the units shall be reserved as  
25       qualified very-low-income units, which shall be included as part of  
26       the low-income housing total and shall not reduce the aggregate  
27       rents of the required qualified housing units in the development  
28       below the aggregate rents that would have resulted if the  
29       development did not include qualified very-low-income units. No  
30       municipality shall require qualified very-low-income units in an  
31       inclusionary development in which the qualified housing units are  
32       offered for sale.

33       (7) Upon the mutual agreement of the applicant for development  
34       and the municipality, the qualified very-low, low-, and moderate-  
35       income housing units may be provided in an off-site development in  
36       the municipality providing the same number and comparable type  
37       and tenure of qualified units, in a location that does not contribute  
38       to the concentration of poverty. Where no such mutual agreement  
39       exists, the qualified very-low, low- and moderate-income housing  
40       units shall be provided on site, and integrated throughout the  
41       development to the extent feasible.

42       (8) The municipality may not issue certificates of occupancy for  
43       the proposed project until a proportional share of the qualified  
44       housing units have been constructed and received certificates of  
45       occupancy, in accordance with the following schedule:

<u>Percentage of</u>	<u>Minimum Percentage of</u>
<u>Market-rate Units</u>	<u>Qualified Housing Units</u>
<u>Completed</u>	<u>Completed</u>
<u>25</u>	<u>0</u>
<u>25 plus 1 unit</u>	<u>10</u>
<u>50</u>	<u>50</u>
<u>75</u>	<u>75</u>
<u>90</u>	<u>100</u>

The municipality may modify the foregoing schedule for up to 25 percent of the market rate units for good cause shown for inclusionary developments in which the qualified housing units are offered for rent.

(9) For purposes of determining appropriate densities for inclusionary developments resulting from variances submitted pursuant to section 25 of P.L. , c. (C. ) (pending before the Legislature as this bill), the densities set forth in this section shall apply.

e. A municipality may also meet part of its compliance standards through municipally sponsored 100 percent affordable development, accessory apartment units affordable to low- and moderate-income households, the purchase or subsidization of units that are subsequently sold or rented to low- and moderate-income households at affordable sale prices or rents ("buy down, write down"); rehabilitation projects, and permitting the construction of an assisted living residence in which all or a designated number of units are restricted to low- or moderate-income households. In order to meet compliance standards through these means, the municipality shall:

(1) As a prerequisite for being deemed a compliant municipality, show for each proposed development pursuant to this subsection that the municipality or the developer controls a site that is developable land, as defined pursuant to section 21 of P.L. , c. (C. ) (pending before the Legislature as this bill), or that is on land that is not developable land but where development of 100% affordable housing is permitted by all relevant environmental statutes and regulations;

(2) Ensure construction of at least one-third of the total number of units pursuant to this subsection begins three years after the municipality is deemed to be a compliant municipality, at least one-third begins six years after, and the final third begins nine years after. At least two years prior to the date of completion required by this subsection, the municipality shall execute an agreement with the entity that will develop the site including a description of how the development will be funded and any necessary actions by the municipality to ensure the development will happen;

1     (3) If any construction required by this section does not occur,  
2     the municipality will no longer be deemed to be a compliant  
3     municipality.

4     f. The qualified very-low, low and moderate income units  
5     required to be provided pursuant to this section shall be subject to  
6     affordability controls of not less than 30 years' duration.

7     g. As a prerequisite to being deemed compliant pursuant to this  
8     section, a municipality shall include in its housing element an  
9     analysis calculating the number of existing substandard housing  
10    units in the municipality occupied by low and moderate income  
11    families and a plan for rehabilitating at least that number of units  
12    within the next 10 years.

13    h. Any housing element filed pursuant to this section shall  
14    identify, with specificity, the site of any qualified units that shall be  
15    built and are relied upon to meet the compliance threshold.

16    i. The governing body of a municipality seeking to be deemed a  
17    compliant municipality pursuant to this section shall require a  
18    licensed housing compliance professional designated by the State  
19    Board of Professional Planners pursuant to section 30 of P.L. , c.  
20    (C. ) (pending before the Legislature as this bill) to conduct a  
21    comprehensive and independent review of the adopted housing  
22    element and implementing ordinances. Upon transmission of the  
23    adopted housing element and implementing ordinances to the  
24    licensed housing compliance professional review, the municipality  
25    shall submit the adopted housing element, implementing  
26    ordinances, and the name and the contact information of the  
27    licensed housing compliance professional to the department  
28    pursuant to section 28 of P.L. , c. (C. ) (pending before the  
29    Legislature as this bill).

30    j. Upon certification by the licensed housing compliance  
31    professional in accordance with section 30 of P.L. , c. (C. )  
32    (pending before the Legislature as this bill), any municipality  
33    adopting ordinances and a housing element pursuant to this section  
34    shall file its ordinances, housing element, and the certification of  
35    the licensed housing compliance professional with the department  
36    in an electronic format, in accordance with section 28 of P.L. , c.  
37    (C. ) (pending before the Legislature as this bill). If a  
38    municipality does not file with the department a duly adopted and  
39    certified housing element and implementing ordinances prior to the  
40    dates set forth in this section, it may be deemed to be a compliant  
41    municipality for the remainder of the compliance period if it  
42    subsequently duly adopts and files with the department a certified  
43    housing element and implementing ordinances that have been  
44    prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310)  
45    and meet the criteria of this section. The municipality shall be  
46    deemed to be compliant from the date it files the certified housing  
47    element and implementing ordinances with the department.

1     k. In any exclusionary zoning litigation, such certified housing  
2 element and implementing ordinances filed with the department in  
3 compliance with this section for the current compliance period and  
4 prior to the filing of the litigation shall bear a presumption of  
5 validity which shall only be overcome by clear and convincing  
6 evidence that the plan does not meet the standards established in  
7 P.L. , c. (C. ) (pending before the Legislature as this bill). The  
8 filing described in this section shall be the sole means, other than  
9 entry of a judgment of compliance in exclusionary zoning litigation  
10 brought against a municipality, by which a municipality that is not  
11 compliant pursuant to section 22 of P.L. , c. (C. ) (pending  
12 before the Legislature as this bill) may be deemed to be compliant  
13 and secure the presumption of validity pursuant to this subsection  
14 and exemption from the variance requirements set forth in section  
15 25 of P.L. , c. (C. ) (pending before the Legislature as this  
16 bill).

17     l. To continue being deemed compliant pursuant to this section,  
18 the municipality shall submit in an electronic format to the  
19 department annual status updates demonstrating that the  
20 municipality is affirmatively complying with the requirements of  
21 this section. The Department of Community Affairs shall make all  
22 filings available through the Internet website established pursuant to  
23 section 28 of P.L. , c. (C. ) (pending before the Legislature as  
24 this bill).<sup>2</sup>

25  
26     <sup>2</sup>[<sup>1</sup>24. (New section) a. Notwithstanding the provisions of  
27 section 23 of P.L. , c. (C. ) (pending before the Legislature  
28 as this bill) a municipality may be deemed to be a compliant  
29 municipality if it adopts an ordinance providing that at least 20  
30 percent of its developable property is zoned for use as housing  
31 affordable to, according to federal Department of Housing and  
32 Urban Development or other recognized standards for home  
33 ownership and rental costs, and occupied by, or reserved for  
34 occupancy by, households with a gross household income equal to  
35 or less than 150 percent of the median gross household income for  
36 households of the same size within the housing region in which the  
37 housing is located, and zoning permitting minimum presumptive  
38 densities as follows:

39     (1) Residential development resulting in single-family, detached  
40 homes must allow for such development at a minimum gross  
41 density of at least 4 dwelling units or greater per acre; and

42     (2) Residential development resulting in attached townhouses or  
43 multi-family must allow for such development at a minimum gross  
44 density of at least 8 dwelling units per acre.

45     When developable land in a municipality is subject to a federal  
46 or State law or regulation that permits development, but restrict the  
47 gross average density of a parcel or portion of a parcel to a density

below that specified by this subsection, a municipality shall comply with this section by zoning for the greatest average density allowed by law.

b. As a prerequisite to being deemed compliant pursuant to this section, a municipality shall submit an analysis calculating the number of existing substandard housing units in the municipality occupied by low and moderate income families and a plan for rehabilitating at least those units within the next 10 years.

c. Any municipality adopting an ordinance, a housing element, or a rehabilitation plan pursuant to this section shall file its zoning and development ordinances, housing element, or rehabilitation plan with the Department in an electronic format. The Department of Community Affairs shall make the filings available through the internet website established pursuant to section 30 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. Upon receipt of a municipality's filing, the Commissioner of Community Affairs will undertake a review of the municipality's filing, for the sole purpose of determining whether the filing accurately and completely represents the required composition of the municipal housing stock and ordinances in conformance with the requirements of this section.<sup>1</sup><sup>2</sup>

<sup>2</sup>[<sup>1</sup>25. (New section) a. Notwithstanding the provisions of section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill) a municipality may be deemed to be a compliant municipality if it adopts and files a housing element, prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), with the department.

b. The housing element may provide for the qualified units described in paragraph (1) of subsection a. of section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill) by means of any technique approved by the department, including, but not limited to, inclusionary zoning, and the creation of opportunities for affordable housing through development including, but not limited to, new construction, rehabilitation, and redevelopment. The housing element shall take into consideration any weighted counting authorized by subsection c. of section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill). The department shall approve at least the following techniques for providing opportunities for affordable housing:

(1) Permitting the required inclusionary units to be newly constructed off-site;

(2) Permitting the required inclusionary units to be provided off-site by rehabilitation of existing substandard units;

(3) Permitting a developer to pay a development fee in lieu of constructing a portion of the inclusionary units into a municipal trust fund for the construction of affordable housing pursuant to

1 section 34 of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill);

3 (4) Assisting a municipally-sponsored 100 percent affordable  
4 development;

5 (5) Permitting construction of Elder Cottage Housing  
6 Opportunity units;

7 (6) Permitting the construction off-site of accessory apartment  
8 units affordable to low- and moderate-income households;

9 (7) Permitting the purchase or subsidization of units that are  
10 subsequently sold or rented to low- and moderate-income  
11 households at affordable sale prices or rents ("buy down, write  
12 down");

13 (8) Permitting the construction of an assisted living residence in  
14 which all or a designated number of units are restricted to low- or  
15 moderate-income households.

16 c. The governing body of a municipality seeking to be deemed  
17 compliant pursuant to this section shall, by ordinance, require a  
18 professional planner or consultant regularly employed or retained  
19 by the planning board or zoning board of adjustment for the  
20 municipality to certify to the accuracy and veracity of the element.

21 d. Prior to filing the plan with the department, the county  
22 planning board by resolution shall adopt the housing element. In  
23 adopting the housing element or any amendment thereto the board  
24 shall hold at least one public hearing for presentation and review of  
25 the housing element. Notice of the time and place of the meeting  
26 shall be given by one publication in a newspaper of general  
27 circulation in the county and by the transmission by delivery or by  
28 certified mail, at least 20 days prior to such hearing. The  
29 department shall provide any technical assistance required by the  
30 county planning board.

31 e. The municipality shall act in good faith in complying with  
32 the requirements of this section, including preparation of the  
33 housing element. To continue being deemed compliant pursuant to  
34 this section, the municipality shall submit interim status updates  
35 demonstrating that the municipality is affirmatively complying with  
36 the requirements of this section.

37 f. Any housing element filed pursuant to this section shall  
38 identify, with specificity, the site of any qualified units that shall be  
39 built and are relied upon to meet the compliance threshold.<sup>1</sup><sup>2</sup>  
40

41 <sup>2</sup>[<sup>1</sup>26.] 24.<sup>2</sup> (New section) a. Any municipality in which 50  
42 percent or more of the children enrolled in schools in the  
43 municipality in October of the <sup>2</sup>[preceding]<sup>2</sup> year <sup>2</sup>preceding the  
44 start of the relevant 10-year period as calculated in subsection e. of  
45 section 22 of P.L. , c. (C. )<sup>2</sup> were eligible for free or reduced  
46 price meals under the federal School Lunch Program shall be  
47 compliant pursuant to P.L. , c. (C. ) upon filing an analysis

1 <sup>2</sup>with the department pursuant to section 30 of P.L. , c. (C. )  
 2 (pending before the Legislature as this bill)<sup>2</sup> calculating the number  
 3 of existing substandard housing units in the municipality occupied  
 4 by low and moderate income families, and a plan for rehabilitating  
 5 at least those units within the next 10 years.

6 b. Nothing in this section shall be construed to prohibit a  
 7 municipality from adopting an ordinance requiring that units  
 8 proposed as part of a residential development project be set aside  
 9 for low- or moderate-income households, or establishing an  
 10 affordable housing trust fund and adopting corresponding fee  
 11 ordinances, pursuant to <sup>2</sup>[paragraph (2) of subsection b. of]<sup>2</sup>  
 12 section <sup>2</sup>[28] 26<sup>2</sup> of P.L. , c. (C. ) (pending before the  
 13 Legislature as this bill) and section 8 of P.L.2008, c.46 (C.52:27D-  
 14 329.2). For purposes of this section, a municipality <sup>2</sup>[may] shall<sup>2</sup>  
 15 rely upon a determination of the number of children enrolled in  
 16 schools in the municipality in October of the <sup>2</sup>[preceding]<sup>2</sup> year  
 17 <sup>2</sup>preceding the start of the relevant 10-year period as established in  
 18 subsection e. of section 22 of P.L. , c. (C. ) (pending before  
 19 the Legislature as this bill)<sup>2</sup> that are eligible for free or reduced  
 20 price meals under the federal School Lunch Program need for <sup>2</sup>[a]  
 21 the subsequent 10-year<sup>2</sup> period <sup>2</sup>[of up to 10 years]<sup>2,1</sup>  
 22

23 <sup>2</sup>[<sup>1</sup>27.<sup>1</sup>] 25.<sup>2</sup> (New section) a. In a municipality that is not a  
 24 compliant municipality pursuant to section <sup>2</sup>[23] 22<sup>2</sup> of P.L. , c.  
 25 (C. ) (pending before the Legislature as this bill), or deemed  
 26 compliant pursuant to section <sup>2</sup>[24] 23<sup>2</sup> of P.L. , c. (C. )  
 27 pending before the Legislature as this bill) <sup>2</sup>[or pursuant to section  
 28 25<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature as this  
 29 bill)]<sup>2</sup>, a developer requesting a variance or other relief pursuant to  
 30 subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) for a  
 31 proposed development, in which at least 20 percent of any dwelling  
 32 units are set aside for housing affordable to low income and  
 33 moderate income households, shall be required to make only a  
 34 showing that the variance or other relief can be granted without  
 35 substantial detriment to the public good. A development proposed  
 36 pursuant to this subsection shall be deemed to be inherently  
 37 beneficial.

38 b. The provisions of this section shall only apply to  
 39 applications under the "Municipal Land Use Law," P.L.1975, c.210  
 40 (C.40:55D-1 et seq.) concerning lots or parcels within a  
 41 municipality's developable property.<sup>1</sup>  
 42

43 <sup>2</sup>26. (New section) a. Every municipality of the State, except  
 44 municipalities compliant pursuant to section 24 of P.L. , c.  
 45 (C. ) (pending before the Legislature as this bill), shall require  
 46 that a developer of any new residential development project pay a



1 development fee of 1.5 percent of the equalized assessed value of  
2 the development into the municipal affordable housing trust fund as  
3 a precondition to issuance of a certificate of occupancy.

4 b. Any residential development which has received preliminary  
5 or final approval pursuant to section 38 of P.L.1975, c.291  
6 (C.40:55D-50) on or before the effective date of P.L. , c.  
7 (C. ) (pending before the Legislature as this bill) and proceeds  
8 based on those approvals without seeking a revised approval shall  
9 be exempt from any set-aside requirement created by P.L. , c.  
10 (C. ) (pending before the Legislature as this bill) and the terms  
11 of the approval previously issued by the municipality shall govern  
12 the development.

13 c. A municipality shall not impose any additional financial  
14 obligation related to affordable housing on a developer that has  
15 complied with the provisions of this section.

16 d. A municipality shall not impose any fee pursuant to this  
17 section for any inclusionary development that is a part of a housing  
18 element pursuant to section 23 of P.L. , c. (C. ), and  
19 constructs the required qualified units.

20 e. Municipalities that, as of the date of the enactment of P.L. ,  
21 c. (C. ) (pending before the Legislature as this bill), collect a  
22 development fee on residential development pursuant to ordinance,  
23 shall continue to collect a development fee at that present rate until  
24 12 months after the date of the enactment of P.L. , c. (C. )  
25 (pending before the Legislature as this bill). Municipalities that, as  
26 of the date of the enactment of P.L. , c. (C. ) (pending before  
27 the Legislature as this bill), do not collect a development fee on  
28 residential development pursuant to ordinance, may not collect any  
29 development fee until 12 months after the date of the enactment of  
30 P.L. , c. (C. ) (pending before the Legislature as this bill).  
31 Beginning 12 months after the date of the enactment of P.L. , c.  
32 (C. ) (pending before the Legislature as this bill), all  
33 municipalities shall collect a residential development fee pursuant  
34 to subsection a. of this section.<sup>2</sup>

35  
36 <sup>2</sup>[<sup>1</sup>28. (New section) a. Every municipality of the State, except  
37 municipalities described in section 26 of P.L. , c. (C. ) (pending  
38 before the Legislature as this bill) shall require that no less than 10  
39 percent of the residential housing units proposed as part of any new  
40 residential development project resulting in 10 or more units be  
41 reserved for occupancy as low income or moderate income housing.

42 b. (1) The municipality may waive, by resolution or ordinance  
43 of the governing body, the requirement of this section that an  
44 individual development include a set-aside of qualified units,  
45 provided that, at the time the municipality and developer enter into  
46 and execute any developer's agreement that proposes 10 or more  
47 units, the developer's agreement contains provisions identifying one

1 or more activities that will result in creation of a number of new  
2 qualified housing units elsewhere in the municipality that is no less  
3 than the number that would have been required in the development  
4 pursuant to subsection a. of this section.

5 (2) The municipality may waive, by resolution or ordinance of  
6 the governing body, the requirement of this section that an  
7 individual development include a set-aside of qualified units,  
8 provided that any such resolution shall require that a developer  
9 proposing 10 or more units pays a development fee instead of  
10 actually constructing the affordable units. A developer of a project  
11 in a municipality that has met its compliance threshold pursuant to  
12 section 23 of P.L. , c. (C. ) (pending before the Legislature as  
13 this bill) shall make a payment of two percent of the equalized  
14 assessed value of the development, and a developer in any other  
15 municipality shall make a payment of three percent of the equalized  
16 assessed value of the development, into the municipal affordable  
17 housing trust fund as a precondition to issuance of a certificate of  
18 occupancy.

19 (3) The municipality may waive, by resolution or ordinance of  
20 the governing body, the requirement of this section that an  
21 individual development include a set-aside of qualified units,  
22 provided that, at the time the municipality and developer enter into  
23 and execute any developer's agreement that proposes 10 or more  
24 units, the developer's agreement contains provisions identifying one  
25 or more rehabilitation projects that will result in creation of a  
26 number of qualified housing units elsewhere in the municipality that  
27 is no less than the number that would have been required in the  
28 development pursuant to subsection a. of this section.

29 c. The municipality shall modify zoning ordinances to  
30 authorize an increase in gross average density to facilitate the  
31 economic viability of any residential development to which this  
32 section applies. A municipality, in evaluating the economic viability  
33 of an application for an inclusionary development, may be guided  
34 by the applicable provisions of N.J.A.C.5:96 and N.J.A.C.5:97, the  
35 regulations of the Council on Affordable Housing for the housing  
36 round beginning June 2, 2008.

37 d. For any new residential development project resulting in the  
38 production of fewer than 10 units, the developer shall pay a  
39 residential development fee of one and one-half percent of the  
40 equalized assessed value of the project at completion, or a  
41 municipality shall require that five percent of residential housing  
42 units proposed as part of that project be reserved for occupancy as  
43 low-income or moderate- income housing. For the purposes of this  
44 reservation, one special needs housing unit shall count as two  
45 housing units.

46 e. A municipality shall be permitted to give preference for  
47 occupancy for up to 25 percent of the low and moderate income

units required to be provided pursuant to this section to those households that have at least one member who works or resides in the municipality.

f. The low and moderate income units required to be provided pursuant to this section shall be subject to affordability controls of not less than 30 years' duration.

g. Any residential development which has received final approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50) on or before the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and proceeds based on those approvals without seeking a revised approval shall be exempt from any set-aside requirement created by P.L. , c. (C. ) (pending before the Legislature as this bill) and the terms of the approval previously issued by the municipality shall govern the development.

h. Half of the units reserved for low-income or moderate-income housing pursuant to this section shall be reserved for low-income housing and half the units shall be reserved for moderate-income housing. If an odd number of affordable units is being constructed, rehabilitated or developed pursuant to this section, the higher number of units may be determined by the municipality.

i. A municipality shall not impose any additional financial or other obligation related to affordable housing on a developer that has complied with the provisions of this section.<sup>1</sup><sup>2</sup>

<sup>2</sup>[<sup>1</sup>29.] 27.<sup>2</sup> (New section) The Department of Community Affairs, Department of Environmental Protection, and the Department Transportation shall promulgate regulations to provide that a municipality that has filed with the Department of Community Affairs as a compliant municipality <sup>2</sup>[.] or<sup>2</sup> a municipality deemed compliant pursuant to section <sup>2</sup>[24] 23<sup>2</sup> of P.L. , c. (C. ) (pending before the Legislature as this bill) <sup>2</sup>[or pursuant to section 25 of P.L. , c. (C. ) (pending before the Legislature as this bill) , or a municipality described by section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill).]<sup>2</sup> shall receive preference with respect to discretionary grant programs administered by those departments for which municipal governments are eligible, and shall prioritize and expedite applications from developments included in a housing element prepared and filed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>1</sup>

<sup>2</sup>[<sup>1</sup>30.] 28.<sup>2</sup> (New section) a. The department shall design, establish, and maintain a searchable Internet website accessible to the general public for no charge. This website shall contain data and information concerning affordable housing in each municipality of the State <sup>2</sup>including applications for such housing and other

1 information for people seeking such housing<sup>2</sup>. The department may  
2 consult with the Division of Information Technology in the  
3 Department of the Treasury in order to develop the Internet website.

4 b. At least the following information about each municipality  
5 shall be made available on the website:

6 (1) the total number of additional housing units created and the  
7 number lost through demolition or other causes since the effective  
8 date of P.L. , c. (C. ) (pending before the Legislature as this  
9 bill) in the municipality;

10 (2) the number of additional housing units created in the  
11 municipality that are qualified very low income, low income or  
12 moderate income housing and an itemized listing of these units,  
13 whether they are restricted to seniors or people with special needs,  
14 and the income levels served;

15 (3) the number of previously existing qualified very low income,  
16 low income or qualified moderate income housing units which have  
17 been demolished or are no longer subject to affordability controls;

18 (4) the amount of development fees collected and uses for these  
19 fees as required pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.)  
20 and P.L. , c. (C. ) (pending before the legislature as this bill);  
21 and

22 (5) Housing elements <sup>2</sup>, notices, updates, certifications and  
23 reports and determinations related to certifications, ordinances, <sup>2</sup> and  
24 amendments to municipal housing elements required to be posted  
25 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
26 bill).

27 c. Each municipality shall <sup>2</sup>report any information required in  
28 other sections of P.L. , c. (C. ) (pending before the  
29 Legislature as this bill) at the time required by those sections and<sup>2</sup>  
30 annually report the information described in subsection b. of this  
31 section to the department. The department shall ensure that the  
32 information is available to the public on the website within seven  
33 business days of receipt. To facilitate this process, the department  
34 may choose to create a system in which municipalities may directly  
35 enter this information in the internet website established pursuant to  
36 this section.<sup>1</sup>

37  
38 <sup>2</sup>[<sup>1</sup>31.] 29.<sup>2</sup> (New section) a. Nothing in P.L. , c. (C. )  
39 (pending before the Legislature as this bill) shall require a  
40 municipality to raise or expend municipal revenues in order to  
41 provide a realistic opportunity for low and moderate income  
42 housing.

43 b. <sup>2</sup>[Notwithstanding any law or rule to the contrary, a  
44 municipality shall not alter the zoning of any development site  
45 during the period that the site is subject to a judgment of repose, or  
46 was, by court order, mediation settlement, or settlement in  
47 exclusionary zoning litigation, designated or reserved for

1 purposes of affordable housing】 Any property included or the  
 2 subject of substantive certification, or a judgment of repose, court  
 3 order, mediation agreement or settlement in exclusionary zoning  
 4 litigation entered prior to the effective date of P.L. , c. (C. )  
 5 (pending before the Legislature as this bill) which requires or  
 6 provides for zoning or rezoning of specified property for affordable  
 7 housing purposes shall continue to be subject to the terms of that  
 8 judgment, order, substantive certification, agreement, or settlement.  
 9 A municipality shall not, unless so required by substantive  
 10 certification, or a judgment of repose, court order, mediation  
 11 agreement or settlement in exclusionary zoning litigation, alter the  
 12 zoning of such property<sup>2</sup>.

13 c. <sup>2</sup>A municipality shall not alter the zoning classification of any  
 14 inclusionary development site that during a judgment of repose  
 15 period was designated or reserved for purposes of satisfying a  
 16 municipality's fair share of the region's housing opportunities.

17 d. <sup>2</sup> Except as provided in subsection b., for any litigation  
 18 involving exclusionary zoning instituted prior to the effective date  
 19 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
 20 jurisdiction may remain with the court <sup>2</sup>【, which shall take judicial  
 21 notice of the statutory intent stated hereunder】 , unless all parties  
 22 stipulate that it should be dismissed on mutually agreed terms.  
 23 Such litigation shall proceed expeditiously towards a judgment of  
 24 compliance at most eight months after the effective date of P.L. ,  
 25 c. (C. ) (pending before the Legislature as this bill). The  
 26 number of qualified housing units required shall be based upon the  
 27 standards of section 22 of P.L. , c. (C. ) (pending before the  
 28 Legislature as this bill)<sup>2</sup>.

29 <sup>2</sup>【d.】 e. <sup>2</sup> No exclusionary zoning action naming a municipality  
 30 as a defendant shall be filed <sup>2</sup>【for 365 days following the effective  
 31 date of this act】 prior to (1) eight months following the effective  
 32 date of this act: or, (2) the filing by the municipality with the  
 33 department of a housing element and implementing ordinances that  
 34 have been duly adopted and certified by licensed housing  
 35 compliance professional in accordance with the provisions of  
 36 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>2</sup> .<sup>1</sup>

37  
 38 <sup>2</sup>【<sup>1</sup>32. Section 34 of P.L.2008, c.46 (C.40:55D-8.3) is amended  
 39 to read as follows:

40 34. As used in sections 32 through 38 of P.L.2008, c.46  
 41 (C.40:55D-8.1 through C.40:55D-8.7):

42 "Construction" means new construction and additions, but does  
 43 not include alterations, reconstruction, renovations, and repairs as  
 44 those terms are defined under the State Uniform Construction Code  
 45 promulgated pursuant to the "State Uniform Construction Code  
 46 Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

1 "Commissioner" means the Commissioner of Community  
2 Affairs.

3 ["Council" means the Council on Affordable Housing,  
4 established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).]

5 "Developer" means the legal or beneficial owner or owners of a  
6 lot or of any land proposed to be included in a proposed  
7 development, including the holder of an option or contract to  
8 purchase, or other person having an enforceable proprietary interest  
9 in such land.

10 "Equalized assessed value" means the assessed value of a  
11 property divided by the current average ratio of assessed to true  
12 value for the municipality in which the property is situated, as  
13 determined in accordance with sections 1, 5, and 6 of P.L.1973,  
14 c.123 (C.54:1-35a through C.54:1-35c).

15 "Mixed use development" means any development which  
16 includes both a non-residential development component and a  
17 residential development component, and shall include developments  
18 for which (1) there is a common developer for both the residential  
19 development component and the non-residential development  
20 component, provided that for purposes of this definition, multiple  
21 persons and entities may be considered a common developer if there  
22 is a contractual relationship among them obligating each entity to  
23 develop at least a portion of the residential or non-residential  
24 development, or both, or otherwise to contribute resources to the  
25 development; and (2) the residential and non-residential  
26 developments are located on the same lot or adjoining lots,  
27 including but not limited to lots separated by a street, a river, or  
28 another geographical feature.

29 "Non-residential development" means: (1) any building or  
30 structure, or portion thereof, including but not limited to any  
31 appurtenant improvements, which is designated to a use group other  
32 than a residential use group according to the State Uniform  
33 Construction Code promulgated to effectuate the "State Uniform  
34 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.),  
35 including any subsequent amendments or revisions thereto; (2)  
36 hotels, motels, vacation timeshares, and child-care facilities; and (3)  
37 the entirety of all continuing care facilities within a continuing care  
38 retirement community which is subject to the "Continuing Care  
39 Retirement Community Regulation and Financial Disclosure Act,"  
40 P.L.1986, c.103 (C.52:27D-330 et seq.).

41 "Non-residential development fee" means the fee authorized to  
42 be imposed pursuant to sections 32 through 38 of P.L.2008, c.46  
43 (C.40:55D-8.1 through C.40:55D-8.7).

44 "Relating to the provision of housing" shall be liberally  
45 construed to include the construction, maintenance, or operation of  
46 housing, including but not limited to the provision of services to  
47 such housing and the funding of any of the above.

1 "Spending plan" means a method of allocating funds collected  
2 and to be collected pursuant to an approved municipal development  
3 fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.)  
4 for the purpose of meeting the housing needs of low and moderate  
5 income individuals.

6 "Treasurer" means the Treasurer of the State of New Jersey.<sup>1</sup>  
7 (cf: P.L.2008 c.46, s.34)]<sup>2</sup>  
8

9 <sup>2</sup>30. (New section) a. A municipal housing element and  
10 implementing ordinance may be certified as compliant with the  
11 requirements of section 23 only by a housing compliance  
12 professional licensed by the State Board of Professional Planners.

13 b. The State Board of Professional Planners shall have the  
14 following powers and duties, in addition to any other powers or  
15 duties established by law:

16 (1) To promulgate and administer standards and requirements for  
17 licensing housing compliance professionals, which may include  
18 preparation and administration of licensing examinations;

19 (2) To review and approve or deny applications for licensing  
20 housing compliance professionals;

21 (3) To issue licenses and license renewals to all qualifying  
22 housing compliance professionals;

23 (4) To establish procedures for random assignment of licensed  
24 housing compliance professionals to municipalities for the purpose  
25 of conducting comprehensive and independent reviews of housing  
26 elements and implementing ordinances;

27 (5) To promulgate a standard schedule of fees for the  
28 performance of comprehensive and independent reviews of housing  
29 elements and implementing ordinances and other related services;

30 (6) To promulgate and administer standards and requirements for  
31 continuing education of licensed housing compliance professionals;

32 (7) To establish and collect fees for examinations, licenses,  
33 renewals, or any other services required for the licensing of housing  
34 compliance professionals;

35 (8) To promulgate and administer standards for professional  
36 conduct for licensed housing compliance professionals;

37 (9) To promulgate procedures for the receipt of complaints,  
38 imposition of discipline, suspension or revocation of licenses of  
39 housing compliance professionals;

40 (10) To investigate complaints, impose discipline, and suspend  
41 and revoke licenses of housing compliance professionals;

42 (11) To publish and maintain a list of the names and contact  
43 information of all licensed housing compliance professionals;

44 (12) To publish and maintain a list of all housing compliance  
45 professionals whose license has been suspended or revoked by the  
46 board and make the list available on the board's internet website.

1     c. An applicant shall be eligible to be licensed as a housing  
2     compliance professional if the applicant:

3         (1) is a professional planner licensed by the State Board of  
4         Professional Planners for and has actively engaged in the practice of  
5         a licensed professional planner for at least eight years.

6         (2) has substantial experience in the preparation or independent  
7         review of affordable housing elements for municipalities under New  
8         Jersey law. Such experience shall include the personal preparation,  
9         or the independent review culminating in a written report, of at least  
10        20 affordable housing elements for municipalities under New Jersey  
11        law ;

12        (3) demonstrates through examination or other means established  
13        by the State Board of Professional Planners knowledge of the legal  
14        and constitutional standards governing the affordable housing  
15        elements and of the planning, engineering, environmental,  
16        economic and social considerations that affect whether mechanisms  
17        for the provision of affordable housing create realistic housing  
18        opportunities;

19        (4) has not been convicted of, or plead guilty to, any crime  
20        concerning public office or employment, or any crime involving  
21        fraud, theft by deception, forgery or any similar or related offense  
22        under federal or state law; and

23        (5) has not had a professional license revoked by any state  
24        licensing board or any other professional licensing agency within  
25        the previous 10 years.

26     d. For a period of one year following the effective date of  
27     P.L. , c. (C. ) (pending before the Legislature as this bill),  
28     the State Board of Professional Planners may issue temporary  
29     licenses for housing compliance professionals to persons who  
30     satisfy all standards set forth in subsection c., except those set forth  
31     in paragraph (3) of that subsection. The State Board of Professional  
32     Planners shall commence issuing temporary licenses for housing  
33     compliance professionals no later than four months after the  
34     enactment of P.L. , c. (C. ) (pending before the Legislature  
35     as this bill).

36     e. Each license shall be issued to an individual, shall be valid  
37     only for the individual to whom it is issued, and shall not be  
38     transferable. Each license, other than a temporary license, issued  
39     shall be valid for a period not to exceed three years, unless a shorter  
40     period is specified therein, or unless suspended or revoked. Each  
41     temporary license shall be valid for one year.

42     f. Any certification by a licensed housing compliance  
43     professional shall be based upon an independent review under  
44     standards promulgated by the State Board of Professional Planners.  
45     The standards shall provide that a licensed housing compliance  
46     professional may not certify a housing element:



1     (1) which he or she prepared or which was prepared by any  
2     person employed by the same entity as the licensed housing  
3     compliance professional;

4     (2) for a municipality by which he or she, or any person  
5     employed by the same entity, was employed, in any capacity,  
6     including by any municipal commission or board, during the  
7     previous two years;

8     (3) for a municipality to which he or she, or any person  
9     employed by the same entity, provided professional services,  
10    including but not limited to planning, engineering, or land  
11    surveying services, in any capacity, including to any municipal  
12    commission or board, during the previous three years. Independent  
13    review of a municipality's housing element in the capacity of an  
14    employee of the New Jersey Council on Affordable Housing, the  
15    New Jersey Housing and Mortgage Finance Agency, the  
16    Department of Community Affairs or as a court-appointed master  
17    shall not be deemed to be the provision of professional services  
18    under this paragraph; and

19    (4) for a municipality in which the licensed housing compliance  
20    professional, or a member of licensed housing compliance  
21    professional's family or households, owns real property or holds  
22    local public office.

23    g. Upon request by a municipality, the State Board of  
24    Professional Planners shall designate a licensed housing compliance  
25    professional to conduct a comprehensive and independent review of  
26    the municipality's housing element and implementing ordinances.  
27    The State Board of Professional Planners shall randomly select the  
28    licensed housing compliance professional from the list of licensed  
29    housing compliance professionals maintained by the State Board of  
30    Professional Planners in accordance with the procedures established  
31    by the State Board of Professional Planners.

32    h. A municipality that has requested the State Board of  
33    Professional Planners to designate a licensed housing compliance  
34    professional to conduct a comprehensive and independent review of  
35    its housing element and implementing ordinances shall pay the fees  
36    and reasonable expenses of the licensed housing compliance  
37    professional in accordance with the standards established by the  
38    State Board of Professional Planners. Such fees and reasonable  
39    expenses may be paid for out of the administrative portion of the  
40    municipal housing trust fund pursuant to the standards of section 8  
41    of P.L.2008, c.46 (C.52:27D-329.2), as amended by section 31 of  
42    P.L. , c. (C. ) (pending before the Legislature as this bill).

43    i. A licensed housing compliance professional shall certify a  
44    municipal housing element if, after conducting a comprehensive  
45    and independent review, the licensed housing compliance  
46    professional makes a determination that the housing element and  
47    implementing ordinances (1) accurately and completely represent

1 the qualified housing units already existing in the municipality and  
2 the number of qualified housing units required to satisfy the criteria  
3 set forth in subsections a. through c. of section 22 of P.L. , c.  
4 (C. ) (pending before the Legislature as this bill); (2) create  
5 sufficient realistic opportunities for the development of qualified  
6 very-low, low and moderate income housing units to bring the  
7 municipality into compliance with the standards set forth in section  
8 23 of P.L. , c. (C. ) (pending before the Legislature as this  
9 bill); and (3) comply with all relevant standards under P.L. , c.  
10 (C. ) (pending before the Legislature as this bill) and any  
11 regulations implementing P.L. , c. (C. ) (pending before the  
12 Legislature as this bill). The determination shall be set forth in a  
13 written report which shall state with specificity the factual basis for  
14 the licensed housing compliance professional's conclusions. If,  
15 after conducting a comprehensive and independent review, the  
16 licensed housing compliance professional determines that the  
17 municipal housing element and implementing ordinances does not  
18 satisfy the criteria set forth in subsection c. (1)(g) of section 23 of  
19 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
20 licensed housing compliance professional shall make a written  
21 determination to that effect. The determination shall be set forth in  
22 a written report which shall state with specificity the factual basis  
23 for this conclusion, shall identify the deficiencies in the municipal  
24 housing element and implementing ordinances, and shall make non-  
25 binding recommendations as to how the deficiencies in housing  
26 element and implementing ordinances might be rectified.

27 j. The licensed housing compliance professional shall complete  
28 the determinations provided for in subsection i. no later than 90  
29 days after the submission of the housing element to the department  
30 pursuant to section 23 of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill).

32 k. A licensed housing compliance professional designated  
33 pursuant to subsection g. may conduct a comprehensive and  
34 independent review pursuant to subsection i. of a municipal housing  
35 element and implementing ordinances that was the subject of a prior  
36 unfavorable determination, and resubmitted to the department  
37 pursuant to section 23 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill), but shall not certify the housing element  
39 and implementing ordinances unless the housing element and  
40 implementing ordinances satisfy the criteria in subsection i. and

41 (1) the prior determination was withdrawn by the Board of  
42 Professional Planners under subsection m., or

43 (2) the licensed housing compliance professional determines,  
44 based on the new comprehensive and independent review, that  
45 material changes have been made to the housing element and  
46 implementing ordinances that rectify the deficiencies specified in  
47 the prior determination.

1     1. A licensed housing compliance professional's highest priority  
2     in the performance of professional services in that capacity shall be  
3     the protection of the interests of low and moderate income  
4     individuals and families in need of safe, decent affordable housing.

5     (1) A licensed housing compliance professional shall exercise  
6     reasonable care and diligence, and shall apply the knowledge and  
7     skill ordinarily exercised by licensed housing compliance  
8     professionals in good standing practicing in the state at the time the  
9     services are performed.

10    (2) A licensed housing compliance professional shall exercise  
11    independent professional judgment, make a reasonable effort to  
12    identify and obtain the relevant and material facts, data, reports and  
13    other information concerning the extent to which the municipal  
14    housing element creates realistic housing opportunities and to  
15    which the municipal housing element complies with applicable  
16    standards under P.L. , c. (C. ) (pending before the  
17    Legislature as this bill) and any regulations implementing P.L. , c.  
18    (C. ) (pending before the Legislature as this bill), including both  
19    facts, data, reports and other information in possession of the  
20    municipality and facts, data, reports and other information that are  
21    otherwise available, including information provided to the licensed  
22    housing compliance professional by members of the public. The  
23    licensed housing compliance professional shall personally inspect,  
24    and communicate with the owners of, all sites proposed in the  
25    housing element for qualified housing units, whether through  
26    inclusionary zoning or other means. The licensed housing  
27    compliance professional shall disclose and explain in his or her  
28    report any facts, data, information, qualifications, or limitations  
29    known by the licensed housing compliance professional that are not  
30    supportive of the conclusions reached in the report.

31    (3) A licensed housing compliance professional may  
32    communicate with representatives of the municipality during the  
33    course of his or her comprehensive and independent review, request  
34    additional information, make suggestions as to modification of the  
35    housing element and implementing ordinances to bring them into  
36    compliance with the criteria set forth in subsection c. (1)(g) of  
37    section 23 of P.L. , c. (C. ) (pending before the Legislature  
38    as this bill), and provide interim reports. Such communications are  
39    not confidential but shall be included in the written report of the  
40    licensed housing compliance professional.

41    (4) A licensed housing compliance professional who learns of  
42    material facts, data or other information subsequent to making a  
43    determination which would result in a determination with material  
44    differences from that determination, shall promptly amend or  
45    supplement that determination, and, if appropriate, withdraw the  
46    certification of the municipal housing element.

1     (5) If a licensed housing compliance professional learns of an  
2     action or decision by a municipality, or any municipal board,  
3     authority, or commission, that results in a deviation from a housing  
4     element and implementing ordinances that the housing compliance  
5     professional previously certified, the licensed housing compliance  
6     professional shall promptly make a written report of that deviation  
7     and its effect on the previous determination, and, if appropriate,  
8     withdraw the certification of the municipal housing element.

9     (6) A licensed housing compliance professional shall promptly  
10    provide all determinations, reports, and certifications to the  
11    municipality and shall file them with the department, which shall  
12    make them available to the public and post them on them on a  
13    public website maintained by the department pursuant to section 28  
14    of P.L. , c. (C. ) (pending before the Legislature as this bill).

15    (7) A licensed housing compliance professional may only be  
16    discharged by the municipality by good cause with approval of the  
17    board. If the board approves discharge of a licensed housing  
18    compliance professional, the licensed housing compliance  
19    professional shall provide any reports made prior to that discharge  
20    to the municipality and the department.

21    (8) A licensed housing compliance professional shall maintain  
22    and preserve for a period of not less than 10 years all data,  
23    documents, and information concerning each municipal housing  
24    element and implementing ordinances the licensed affordable  
25    housing professional has reviewed.

26    (9) A licensed housing compliance professional shall cooperate  
27    in an investigation by the State Board of Professional Planners or  
28    the department by promptly furnishing, in response to formal  
29    requests, orders or subpoenas, any information the board or the  
30    department, or persons duly authorized by the board or the  
31    department, deems necessary to perform its duties. In an  
32    investigation by the board of a license application or a license  
33    suspension or revocation, a licensed housing compliance  
34    professional shall not:

35       (a) knowingly make a false statement of material fact;

36       (b) fail to disclose a fact necessary to correct a material  
37    misunderstanding known by the licensed housing compliance  
38    professional to have arisen in the matter;

39       (c) knowingly and materially falsify, tamper with, alter, conceal,  
40    or destroy any document, or data record that is relevant to the  
41    investigation, without obtaining the prior approval of the board or  
42    department; or

43       (d) knowingly allow or tolerate any employee, agent, or  
44    contractor of the licensed housing compliance professional to  
45    engage in any of the foregoing activities.

46    m. The State Board of Professional Planners may impose  
47    sanctions under the following circumstances:

1     (1) In accordance with procedures established in its regulations,  
2     the State Board of Professional Planners shall direct the licensed  
3     housing compliance professional to withdraw any determination,  
4     report, or certification filed with the department if it finds that the  
5     determination, report, or certification

6     (a) Was not the product of a review that was independent under  
7     standards promulgated by the State Board of Professional Planners;

8     (b) Was the product of fraud or coercion; or

9     (c) Contains misrepresentations of fact that would materially  
10    alter the conclusions reached in the determination, report, or  
11    certification.

12    (d) Egregiously violates P.L. , c. (C. ) (pending before  
13    the Legislature as this bill) or standards promulgated by the State  
14    Board of Professional Planners.

15    (2) In accordance with procedures established in its regulations,  
16    the State Board of Professional Planners may, if it finds that a  
17    licensed housing compliance professional is in violation of P.L. ,  
18    c. (C. ) (pending before the Legislature as this bill), or any  
19    rule, regulation, or order adopted or issued pursuant thereto, or who  
20    knowingly has made any false statement, representation, or  
21    certification in any documents or information required to be  
22    submitted to the State Board of Professional Planners or the  
23    Department of Community Affairs.

24    (a) revoke or suspend the license to practice as a housing  
25    compliance professional;

26    (b) revoke or suspend the license to practice as professional  
27    planner; or

28    (c) assess a civil administrative penalty of not more than \$10,000  
29    for a first violation and not more than \$20,000 for every subsequent  
30    violation of the provisions of P.L. , c. (C. ) (pending before  
31    the Legislature as this bill), or any rule, regulation, code of conduct,  
32    or order adopted or issued pursuant thereto.

33    (3) Nothing in this section shall be deemed to create an  
34    administrative remedy that must be exhausted prior to the filing of  
35    any litigation against a municipality. The actions of a licensed  
36    housing compliance professional shall not be deemed to be the  
37    action of a State agency.

38    n. No person shall take retaliatory action if a licensed housing  
39    compliance professional:

40    (1) discloses, or undertakes to disclose, to the State Board of  
41    Professional Planners or to the department an activity, policy or  
42    practice that the licensed housing compliance professional  
43    reasonably believes: (a) is a violation of law, or a rule or regulation  
44    adopted pursuant to law; or (b) is fraudulent or criminal, including  
45    any activity, policy or practice of deception or misrepresentation  
46    that the housing compliance professional reasonably believes may

1 defraud a municipality, property owner, low or moderate income  
2 person or any other governmental entity;

3 (2) provides information to, or testifies before, any public body  
4 conducting an investigation, hearing, or inquiry into any violation  
5 of law, or a rule or regulation adopted pursuant to law, by a  
6 municipality, including any violation involving deception of, or  
7 misrepresentation to, any client, customer, the department or any  
8 other governmental entity; or

9 (3) objects to, or refuses to participate in, any activity, policy or  
10 practice which the licensed housing compliance professional  
11 reasonably believes:

12 (a) is in violation of law, or a rule or regulation adopted pursuant  
13 to law;

14 (b) is fraudulent or criminal, including any activity, policy or  
15 practice of deception or misrepresentation which the licensed  
16 housing compliance professional reasonably believes including any  
17 activity, policy or practice of deception or misrepresentation that  
18 the housing compliance professional reasonably believes may  
19 defraud a municipality, property owner, low or moderate income  
20 person or any other governmental entity; or

21 (c) is incompatible with a clear mandate of public policy  
22 concerning the provision of safe, decent affordable housing to low  
23 and moderate income households.<sup>2</sup>

24  
25 <sup>2</sup>[<sup>1</sup>33. Section 35 of P.L.2008, c.46 (C.40:55D-8.4) is amended  
26 to read as follows:

27 35. a. Beginning on the effective date of P.L.2008, c.46  
28 (C.52:27D-329.1 et al.), a fee is imposed on all construction  
29 resulting in non-residential development, as follows:

30 (1) A fee equal to two and one-half percent of the equalized  
31 assessed value of the land and improvements, for all new non-  
32 residential construction on an unimproved lot or lots; or

33 (2) A fee equal to two and one-half percent of the increase in  
34 equalized assessed value, of the additions to existing structures to  
35 be used for non-residential purposes[.]; provided, that the fee shall  
36 be imposed as described in this section and phased in pursuant to  
37 section 34 of P.L. , c. (C. ) (pending before the Legislature as  
38 this bill).

39 b. All non-residential construction of buildings or structures on  
40 property used by churches, synagogues, mosques, and other houses  
41 of worship, and property used for educational purposes, which is  
42 tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the  
43 imposition of a non-residential development fee pursuant to this  
44 section, provided that the property continues to maintain its tax  
45 exempt status under that statute for a period of at least three years  
46 from the date of issuance of the certificate of occupancy. In

1 addition, the following shall be exempt from the imposition of a  
2 non-residential development fee:

3 (1) parking lots and parking structures, regardless of whether the  
4 parking lot or parking structure is constructed in conjunction with a  
5 non-residential development, such as an office building, or whether  
6 the parking lot is developed as an independent non-residential  
7 development;

8 (2) any non-residential development which is an amenity to be  
9 made available to the public, including, but not limited to,  
10 recreational facilities, community centers, and senior centers, which  
11 are developed in conjunction with or funded by a non-residential  
12 developer;

13 (3) non-residential construction resulting from a relocation of or  
14 an on-site improvement to a nonprofit hospital or a nursing home  
15 facility;

16 (4) projects that are located within a specifically delineated  
17 urban transit hub, as defined pursuant to section 2 of P.L.2007,  
18 c.346 (C.34:1B-208);

19 (5) projects that are located within an eligible municipality, as  
20 defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a  
21 majority of the project is located within a one-half mile radius of  
22 the midpoint of a platform area for a light rail system; **[and]**

23 (6) projects determined by the New Jersey Transit Corporation to  
24 be consistent with a transit village plan developed by a transit  
25 village designated by the Department of Transportation.

26 A **[developer of a]** non-residential development exempted from  
27 the non-residential development fee pursuant to this section shall be  
28 subject to **[it]** the fee at such time the basis for the exemption set  
29 forth in this subsection no longer applies, and the owner of the  
30 property at that time shall make the payment of the non-residential  
31 development fee**[, in that event,]** within three years after that event  
32 or after the issuance of the final certificate of occupancy of the non-  
33 residential development, whichever is later.

34 For purposes of this subsection, "recreational facilities and  
35 community center" means any indoor or outdoor buildings, spaces,  
36 structures, or improvements intended for active or passive  
37 recreation, including but not limited to ball fields, meeting halls,  
38 and classrooms, accommodating either organized or informal  
39 activity; and "senior center" means any recreational facility or  
40 community center with activities and services oriented towards  
41 serving senior citizens.

42 If a property which was exempted from the collection of a non-  
43 residential development fee thereafter ceases to be exempt from  
44 property taxation, the owner of the property shall remit the fees  
45 required pursuant to this section within 45 days of the termination  
46 of the property tax exemption. Unpaid non-residential development

1 fees under these circumstances may be enforceable by the  
2 municipality as a lien against the real property of the owner.

3 c. [(1) Unless authorized to pay directly to the municipality in  
4 which the non-residential construction is occurring in accordance  
5 with paragraph (2) of this subsection, developers shall pay non-  
6 residential development fees imposed pursuant to P.L.2008, c.46  
7 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with  
8 subsection g. of this section in a manner and on such forms as  
9 required by the Treasurer, provided that a certified proof concerning  
10 the payment shall be furnished by the Treasurer, to the  
11 municipality.

12 (2) The council shall maintain on its website a list of each  
13 municipality that is authorized to use the development fees  
14 collected pursuant to this section and that has a confirmed status of  
15 compliance with the "Fair Housing Act," P.L.1985, c.222  
16 (C.52:27D-301 et al.), which compliance shall include a spending  
17 plan authorized by the council for all development fees collected. ]  
18 (Deleted by amendment, P.L. \_\_, c. \_\_).

19 d. The payment of non-residential development fees required  
20 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1  
21 through C.40:55D-8.7) shall be made prior to the issuance of a  
22 certificate of occupancy for such development. A final certificate  
23 of occupancy shall not be issued for any non-residential  
24 development until such time as the fee imposed pursuant to this  
25 section has been paid by the developer. A non-residential developer  
26 may deposit with the appropriate entity the development fees as  
27 calculated by the municipality under protest, and the local code  
28 enforcement official shall thereafter issue the certificate of  
29 occupancy provided that the construction is otherwise eligible for a  
30 certificate of occupancy.

31 e. The construction official responsible for the issuance of a  
32 building permit shall notify the local tax assessor of the issuance of  
33 the first building permit for a development which may be subject to  
34 a non-residential development fee. Within 90 days of receipt of that  
35 notice, the municipal tax assessor, based on the plans filed, shall  
36 provide an estimate of the equalized assessed value of the non-  
37 residential development. The construction official responsible for  
38 the issuance of a final certificate of occupancy shall notify the local  
39 assessor of any and all requests for the scheduling of a final  
40 inspection on property which may be subject to a non-residential  
41 development fee. Within 10 business days of a request for the  
42 scheduling of a final inspection, the municipal assessor shall  
43 confirm or modify the previously estimated equalized assessed  
44 value of the improvements of the non-residential development in  
45 accordance with the regulations adopted by the Treasurer pursuant  
46 to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential  
47 development fee pursuant to sections 32 through 38 of P.L.2008,



1 c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the  
2 developer of the amount of the non-residential development fee.  
3 Should the municipality fail to determine or notify the developer of  
4 the amount of the non-residential development fee within 10  
5 business days of the request for final inspection, the developer may  
6 estimate the amount due and pay that estimated amount consistent  
7 with the dispute process set forth in subsection b. of section 37 of  
8 P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-  
9 residential development fee, provided the developer is in full  
10 compliance with all other applicable laws, the municipality shall  
11 issue a final certificate of occupancy for the subject property.  
12 Failure of the municipality to comply with the timeframes or  
13 procedures set forth in this subsection may subject it to penalties to  
14 be imposed by the commissioner; any penalties so imposed shall be  
15 deposited into the "New Jersey Affordable Housing Trust Fund"  
16 established pursuant to section 20 of P.L.1985, c.222 as amended  
17 by section 17 of P.L.2008, c.46 (C.52:27D-320).

18 A developer of a mixed use development shall be required to pay  
19 the Statewide non-residential development fee relating to the non-  
20 residential development component of a mixed use development  
21 subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).  
22 Non-residential construction which is connected with the relocation  
23 of the facilities of a for-profit hospital shall be subject to the fee  
24 authorized to be imposed under this section to the extent of the  
25 increase in equalized assessed valuation in accordance with  
26 regulations to be promulgated by the Director of the Division of  
27 Taxation, Department of the Treasury.

28 f. Any municipality that is not in compliance with the  
29 requirements established pursuant to sections 32 through 38 of  
30 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or  
31 regulations of the **【council】** department adopted thereto, may be  
32 subject to forfeiture of any or all funds remaining within its  
33 municipal development trust fund. Any funds so forfeited shall be  
34 deposited into the New Jersey Affordable Housing Trust Fund  
35 established pursuant to section 20 of P.L.1985, c.222 as amended  
36 by section 17 of P.L.2008, c.46 (C.52:27D-320) and shall be subject  
37 to the requirements of subsection b. of section 8 of P.L.2008, c.46  
38 (C.52:27D-329.2).

39 g. **【The Treasurer shall credit to the "Urban Housing Assistance**  
40 **Fund,"** established pursuant to section 13 of P.L.2008, c.46  
41 (C.52:27D-329.7) annually from the receipts of the fees authorized  
42 to be imposed pursuant to this section an amount equal to \$20  
43 million; all receipts in excess of this amount shall be deposited into  
44 the "New Jersey Affordable Housing Trust Fund," established  
45 pursuant to section 20 of P.L.1985, c.222 as amended by section 17  
46 of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of

that fund.】 (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill).

h. The fee imposed pursuant to the "Statewide Non-Residential Development Fee Act," sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), shall be collected by the municipality in which the non-residential development is located, pursuant to this section. Each amount collected shall be deposited and shall be accounted for separately, by payer and date of deposit. A municipality shall deposit 80 percent of all non-residential development fees collected into a trust fund dedicated to those purposes as set forth in section 34 of P.L. , c. (C. ) (pending before the Legislature as this bill). The remaining 20 percent shall be transferred to the State Treasurer for deposit into the "Urban Housing Assistance Fund" pursuant to section 13 of P.L. 2008, c. 46 (C.52:27D-329.7).

The Treasurer shall adopt such regulations as necessary to effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).<sup>1</sup> (cf: P.L.2008, c.46, s.35)]<sup>2</sup>

<sup>2</sup>[<sup>1</sup>34.] 33.<sup>2</sup> (New section) Beginning July 1, 2010, the fee imposed on all construction resulting in non-residential development pursuant to section 35 of P.L.2008, c.46 (C.40:55D-8.4) shall be phased in as follows:

a. No fee shall be imposed on projects receiving a construction permit in the two years next following the enactment date of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. For projects receiving construction permits in the third year next following the enactment date of P.L. , c. (C. ) (pending before the Legislature as this bill), a fee equal to one percent of the equalized assessed value of the land and improvements shall be imposed on all new non-residential construction on an unimproved lot or lots; and a fee equal to one percent of the increase in equalized assessed value shall be imposed on additions to existing structures to be used for non-residential purposes.

c. For projects receiving construction permits in the fourth year next following the enactment date of P.L. , c. (C. ) (pending before the Legislature as this bill) a fee equal to two percent of the equalized assessed value of the land and improvements shall be imposed on all new non-residential construction on an unimproved lot or lots; and a fee equal to two percent of the increase in equalized assessed value shall be imposed on additions to existing structures to be used for non-residential purposes.

d. For projects receiving construction permits in the fifth year next following the enactment date of P.L. , c. (C. ) (pending before the Legislature as this bill) and later, a fee equal to two and

1 one half percent of the equalized assessed value of the land and  
2 improvements shall be imposed on all new non-residential  
3 construction on an unimproved lot or lots; and a fee equal to two  
4 and one half percent of the increase in equalized assessed value  
5 shall be imposed on additions to existing structures to be used for  
6 non-residential purposes.'<sup>2</sup>

7  
8 <sup>2</sup>['35. Section 36 of P.L.2008, c.46 (C.40:55D-8.5) is amended  
9 to read as follows:

10 36. a. The commissioner, in consultation with the [council]  
11 Treasurer, shall promulgate, in accordance with the provisions of  
12 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
13 seq.), [such] regulations [as are necessary for the prompt and  
14 effective implementation of the provisions and purposes of  
15 P.L.2008, c.46 (C.52:27D-329.1 et al.),] concerning non-residential  
16 development fees including, but not limited to, provisions for the  
17 payment of any necessary administrative costs related to the  
18 assessment of properties and collection of any development fees by  
19 a municipality.

20 b. [Notwithstanding the authority granted to the commissioner  
21 herein, the council] The commissioner shall adopt and promulgate,  
22 in accordance with the provisions of the "Administrative Procedure  
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such regulations as are  
24 necessary for the effectuation of P.L.2008, c.46 (C.52:27D-329.1 et  
25 al.), including but not limited to, regulations necessary for the  
26 establishment, implementation, review, monitoring, and  
27 enforcement of a municipal affordable housing trust fund and  
28 spending plan.<sup>1</sup>

29 (cf: P.L.2008, c.46, s.36)]<sup>2</sup>

30  
31 <sup>2</sup>['36. Section 38 of P.L.2008, c.46 (C.40:55D-8.7) is amended  
32 to read as follows:

33 38. a. Except as expressly provided in P.L.2008, c.46  
34 (C.52:27D-329.1 et al.) including subsection b. of this section, any  
35 provision of a local ordinance which imposes a fee for the  
36 development of affordable housing upon a developer of non-  
37 residential property, including any and all development fee  
38 ordinances adopted in accordance with any regulations of the  
39 [Council on Affordable Housing] commissioner, or any provision  
40 of an ordinance which imposes an obligation relating to the  
41 provision of housing affordable to low and moderate income  
42 households, or payment in-lieu of building as a condition of non-  
43 residential development, shall be void and of no effect. A provision  
44 of an ordinance which imposes a development fee which is not  
45 prohibited by any provision of P.L.2008, c.46 (C.52:27D-329.1 et  
46 al.) shall not be invalidated by this section.

b. No affordable housing obligation shall be imposed concerning a mixed use development that would result in an affordable housing obligation greater than that which would have been imposed if the residential portion of the mixed use development had been developed independently of the non-residential portion of the mixed use development.

c. Whenever the developer of a non-residential development regulated under P.L.1977, c.110 (C.5:12-1 et seq.) has made or committed itself to make a financial or other contribution relating to the provision of housing affordable to low and moderate income households, the non-residential development fee authorized pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) shall be satisfied through the investment obligations made pursuant to P.L.1977, c.110 (C.5:12-1 et seq.).<sup>1</sup>  
(cf: P.L.2008, c.46, s.38)]<sup>2</sup>

<sup>2</sup>[<sup>1</sup>37.] 31.<sup>2</sup> Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to read as follows:

8. a. [The council may authorize a municipality that has petitioned for substantive certification, or that has been so authorized by a court of competent jurisdiction, and which that has adopted a municipal development fee] <sup>2</sup>[A] Every<sup>2</sup> municipality <sup>2</sup>[may] , other than a municipality compliant pursuant to section 24 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall<sup>2</sup> adopt an ordinance to impose and collect [development] fees from developers of residential property, in accordance with <sup>2</sup>[paragraph (2) of subsection b. of section 28 of]<sup>2</sup> P.L. , c. (C. ) <sup>2</sup>(pending before the Legislature as this bill), this section,<sup>2</sup> and rules promulgated by the [council] department. Each amount collected shall be deposited and shall be accounted for separately, by payer and date of deposit.

[A municipality may not spend or commit to spend any affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, without first obtaining the council's approval of the expenditure. The council shall promulgate regulations regarding the establishment, administration and enforcement of the expenditure of affordable housing development fees by municipalities. The council shall have exclusive jurisdiction regarding the enforcement of these regulations, provided that any] <sup>2</sup>[Any municipality which is not in compliance with the regulations adopted by the]<sup>2</sup> [council] <sup>2</sup>[department may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320).]<sup>2</sup>

1       b. A municipality shall deposit all fees collected, whether or  
2 not such collections were derived from fees imposed upon non-  
3 residential or residential construction into a trust fund dedicated to  
4 those purposes as required under this section, and such additional  
5 purposes as may be approved by the [council] department.  
6 <sup>2</sup>[Within one year of the effective date of P.L. , c. (C. )  
7 (pending before the Legislature as this bill), any municipality with  
8 funds remaining in a municipal development trust fund and  
9 collected pursuant to the "Statewide Non-Residential Development  
10 Fee Act," P.L.2008, c.46 P.L.2008, c.46 prior to the enactment date  
11 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
12 shall develop and submit to the department a spending plan for  
13 those funds.]<sup>2</sup>

14       c. (1) A municipality may only spend development fees for an  
15 activity <sup>2</sup>set forth in this section or<sup>2</sup> approved by the [council]  
16 department to address the municipal [fair share] affordable housing  
17 obligation.

18       (2) Municipal development trust funds shall not be expended to  
19 reimburse municipalities for activities which occurred prior to the  
20 <sup>2</sup>[authorization of] adoption of a municipal ordinance authorizing<sup>2</sup>  
21 a municipality to collect development fees.

22       (3) A municipality <sup>2</sup>[shall] may<sup>2</sup> set aside <sup>2</sup>[a portion of] not  
23 more than 30 percent of its<sup>2</sup> development fee trust fund for the  
24 purpose of providing affordability assistance to low and moderate  
25 income households in affordable units [included in a municipal fair  
26 share plan, in accordance with rules of the council].

27       (a) Affordability assistance programs may include down  
28 payment assistance, security deposit assistance, low interest loans,  
29 common maintenance expenses for units located in condominiums,  
30 rental assistance, and any other program authorized by the  
31 [council] department.

32       (b) Affordability assistance to households earning 30 percent or  
33 less of median income may include buying down the cost of low  
34 income units [in a municipal fair share plan] to make them  
35 affordable to households earning 30 percent or less of median  
36 income. <sup>2</sup>[The use of development fees in this manner shall not  
37 entitle a municipality to bonus credits except as may be provided by  
38 the rules of the]<sup>2</sup> [council] <sup>2</sup>[department.]<sup>2</sup>

39       (4) A municipality may contract with a private or public entity  
40 to administer any part of its housing element and [fair share]  
41 affordable housing plan, including <sup>2</sup>[the requirement for] any<sup>2</sup>  
42 affordability assistance, or <sup>2</sup>[any] other<sup>2</sup> program or activity for  
43 which the municipality expends development fee proceeds, in  
44 accordance with rules of the [council] department.

45       (5) Not more than 20 percent of the revenues collected from  
46 development fees <sup>2</sup>and expended for housing programs or activities<sup>2</sup>

1 shall be expended on administration, in accordance with rules of the  
2 **【council】** department.

3 d. <sup>2</sup>**【The】**<sup>2</sup> **【council】** <sup>2</sup>**【department** shall establish a time by  
4 which all **】** (1) All<sup>2</sup> development fees collected <sup>2</sup>**【within a calendar**  
5 year shall be expended; provided, however, that all fees **】** by a  
6 municipality<sup>2</sup> shall be committed for expenditure within <sup>2</sup>**【four】**  
7 two<sup>2</sup> years from the date of collection <sup>2</sup>**【and disbursed within three**  
8 years of collection, provided however, that where a project or  
9 activity requires the disbursement of funds through a series of  
10 payments through a schedule, this requirement shall be satisfied if  
11 the initial payment is made within three years<sup>2</sup>. <sup>2</sup>**【A municipality**  
12 that fails to expend the balance required in the development fee  
13 trust fund by the time set forth in this section shall be required by  
14 the <sup>2</sup>**【council】** <sup>2</sup>**【department** to transfer the remaining unspent  
15 balance at the end of the four-year period to the "New Jersey  
16 Affordable Housing Trust Fund," established pursuant to section 20  
17 of P.L.1985, c.222 (C.52:27D-320), as amended by P.L.2008, c.46  
18 (C.52:27D-329.1 et al.), to be used in the <sup>2</sup>**【housing region of the】**  
19 <sup>2</sup>**【transferring municipality for the authorized purposes of that**  
20 **fund.】**

21 (2) For purposes of this section, "committed" shall mean that the  
22 funds have been allocated to a specific activity authorized by  
23 subsection c. of this section subject to a legally binding agreement  
24 ensuring that the funds will be used for that purpose by a date  
25 certain specified in the agreement, and "disbursed" shall mean that  
26 the funds have been transferred from the municipality to the entity  
27 responsible for the production, preservation or improvement of the  
28 housing specified in the agreement. Within one year of the  
29 effective date of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill), any municipality with funds remaining in a  
31 municipal development trust fund collected prior to the effective  
32 date of P.L. , c. (C. ) (pending before the Legislature as this  
33 bill) shall commit to expend those funds and within two years of the  
34 effective date of P.L. , c. (C. ) (pending before the  
35 Legislature as this bill), shall disburse those funds.

36 (3) Any funds that are not committed or disbursed as required by  
37 this section automatically shall be deemed excess funds. The  
38 department shall provide notice of availability of any excess funds  
39 within five (5) business days of the funds being deemed excess  
40 funds, on the department's Internet website pursuant to section 28 of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>2</sup>

42 e. Notwithstanding any provision of this section, or regulations  
43 of the **【council】** department, a municipality shall not collect a  
44 development fee from a developer whenever that developer is  
45 providing for the construction of <sup>2</sup>the required number of qualified<sup>2</sup>  
46 affordable units, either on-site or elsewhere within the municipality.

1       【This section shall not apply to the collection of a Statewide  
2 development fee imposed upon non-residential development  
3 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1  
4 et seq.) by the State Treasurer, when such collection is not  
5 authorized to be retained by a municipality.】<sup>1</sup>

6       <sup>2</sup>f. Any county that has established or establishes at any time a  
7 homelessness trust fund pursuant to P.L.2009, c.123 or serves as an  
8 urban county for purposes of administering federal Community  
9 Development Block Grant funds or Home Investment Partnerships  
10 funds may, through resolution of the governing body of the county,  
11 elect to receive the excess funds as described in paragraph (3) of  
12 subsection d. of this section from all municipalities in the county.  
13 The funds shall be kept in a segregated account. In all counties  
14 other than counties that make the election described in this  
15 subsection, the excess funds shall be placed in a segregated account  
16 by the municipality.

17       g. Any not-for-profit or for-profit organization may make an  
18 application to a county that has elected to receive excess funds  
19 pursuant to subsection f. of this section to develop qualified housing  
20 units using those excess funds for a portion or all development  
21 costs. The organization shall include in its request a detailed plan  
22 describing how the funds will be spent, how they will benefit low or  
23 moderate income households, and how the entity is qualified to use  
24 the funds.

25       h. A county administering excess funds shall review and  
26 approve projects based on the procedures and guidelines described  
27 in subsection f. of this section. Any county electing to receive  
28 excess funds shall adopt and disseminate written guidelines,  
29 priorities and application procedures to govern the use and  
30 distribution of those funds in municipalities that are deemed  
31 compliant or neither compliant nor deemed compliant. These  
32 guidelines, priorities, and procedures shall be posted on the  
33 department's Internet website pursuant to section 28 of P.L.     , c.  
34 (C.     ) (pending before the Legislature as this bill).

35       (1) Any not-for-profit or for-profit organization may make an  
36 application to a county that has elected to receive excess funds  
37 pursuant to subsection f. of this section to develop qualified housing  
38 units using those excess funds for a portion or all development  
39 costs. The organization shall include in its request a detailed plan  
40 describing how the funds will be spent, how they will benefit low or  
41 moderate income households, and how the entity is qualified to use  
42 the funds.

43       (2) (a) Any county electing to receive excess funds shall adopt  
44 and disseminate written guidelines, priorities and application  
45 procedures to govern the use and distribution of those funds in  
46 municipalities that are deemed compliant or neither compliant nor  
47 deemed compliant. These guidelines, priorities, and procedures

1 shall be posted on the department's Internet website pursuant to  
 2 section 28 of P.L. , c. (C. ) (pending before the Legislature  
 3 as this bill).

4 (b) These guidelines shall preference funds for not-for-profit  
 5 organizations seeking to create qualified housing units within the  
 6 municipality, taking into consideration the provision of social  
 7 services, a demonstrated history of working in the community, the  
 8 inclusion of qualified very low income units in the project, and an  
 9 ongoing commitment and involvement in maintaining the standards  
 10 of the housing.

11 (3) In a municipality that is located in any county that has not  
 12 elected to administer excess funds pursuant to subsection f. of this  
 13 section, any not-for-profit or for-profit organization may submit a  
 14 request for funds to the department within 30 days of the funds  
 15 being deemed excess funds to the municipal governing body. The  
 16 department shall decide among all received applications within 60  
 17 days of the end of the time period for submission of applications.  
 18 In making its determination, the department shall preference funds  
 19 for non-for-profit organizations identified in the municipality's  
 20 housing element for municipalities that are deemed compliant. For  
 21 all other municipalities, the department shall preference not-for-  
 22 profits seeking to create qualified housing units within the  
 23 municipality, taking into consideration the provision of social  
 24 services, a demonstrated history of working in the community, the  
 25 inclusion of qualified very low income units in the project, and an  
 26 ongoing commitment and involvement in maintaining the standards  
 27 of the housing.

28 The department may award the funds to help develop qualified  
 29 housing units contained in a housing element adopted elsewhere in  
 30 the county, provided that no such funds may be used in  
 31 municipalities described in section 24 of P.L. , c. (C. )  
 32 (pending before the Legislature as this bill). An entity making an  
 33 application under this section may also make an application  
 34 pursuant to the process described in section 27 of P.L. , c. (C. )  
 35 (pending before the Legislature as this bill) in any municipality for  
 36 which that process is otherwise permitted pursuant to P.L. , c.  
 37 (C. ) (pending before the Legislature as this bill).<sup>2</sup>

38 (cf: P.L.2008, c.46, s.8)

40 <sup>2</sup>[<sup>1</sup>38.] <sup>2</sup>32. (New section) It shall be the duty of the  
 41 Department of Community Affairs to administer the "Fair Housing  
 42 Act," P.L.1985, c.222 (C:52:27D-301 et al.) and to assist  
 43 municipalities in implementing the provisions of the act. When  
 44 appropriate, the Commissioner <sup>2</sup>[Pursuant] of Community Affairs  
 45 pursuant<sup>2</sup> to the "Administrative Procedure Act," P.L.1968, c.410  
 46 (C.52:14B-1 et seq.), the Department of Community Affairs may  
 47 promulgate any rules and regulations necessary to effectuate the



1 purposes of P.L. , c. (C. ) (pending before the Legislature as this  
2 bill), including:

3 a. Guidelines or model language for covenants or other devices  
4 to maintain the affordability of affordable units developed pursuant  
5 to P.L. , c. (C. ) (pending before the Legislature as this bill);

6 b. Affirmative marketing requirements for affordable units,  
7 whether or not developed pursuant to <sup>2</sup>[section 28 of]<sup>2</sup> P.L. ,  
8 c. (C. ) (pending before the Legislature as this bill);

9 c. <sup>2</sup>[Guidelines concerning the crediting and counting of  
10 qualified units;

11 d.]<sup>2</sup> Guidelines concerning the application of covenants or other  
12 affordability controls for affordable units <sup>2</sup>[: and

13 e. Guidelines for zoning to assure the economic viability of a  
14 project]<sup>2, 1</sup>

15  
16 <sup>2</sup>33. Section 39 of P.L.2008, c.46 (C.40:55D-8.8) is amended to  
17 read as follows:

18 39. The provisions of this section shall apply only to those  
19 developments for which a fee was imposed pursuant to sections 32  
20 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7),  
21 known as the "Statewide Non-residential Development Fee Act."

22 a. A developer of a property that received preliminary site plan  
23 approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46),  
24 or final approval, pursuant to section 38 of P.L.1975, c.291  
25 (C.40:55D-50) prior to July 17, 2008 and that was subject to the  
26 payment of a nonresidential development fee prior to the enactment  
27 of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a  
28 return of any moneys paid that represent the difference between  
29 moneys committed prior to July 17, 2008 and monies paid on or  
30 after that date.

31 b. A developer of a non-residential project that, prior to July  
32 17, 2008, has been referred to a planning board by the State, a  
33 governing body, or other public agency for review pursuant to  
34 section 22 of P.L.1975, c.291 (C. 40:55D-31) and that was subject  
35 to the payment of a nonresidential development fee prior to the  
36 enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be  
37 entitled to a return of any moneys paid that represent the difference  
38 between monies committed prior to July 17, 2008 and moneys paid  
39 on or after that date.

40 c. If moneys are required to be returned under subsection a., b.  
41 or d. of this section, a claim shall be submitted, in writing, to the  
42 same entity to which the moneys were paid, within 120 days of the  
43 effective date of P.L.2009, c.90 (C.52:27D-489a et al.). The entity  
44 to whom the funds were paid shall promptly review all requests for  
45 returns, and the fees paid shall be returned to the claimant within 30  
46 days of receipt of the claim for return.

d. (1) A developer of a non-residential project that paid a fee imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to July 17, 2008 but prior to the effective date of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to the return of those monies paid, provided that the provisions of section 37 of P.L.2008, c.46 (C.40:55D-8.6), as amended by P.L.2009, c.90 do not permit the imposition of a fee upon the developer of that non-residential property.

(2) A developer of a non-residential project that was subject to the payment of a nonresidential development fee subsequent to July 1, 2010, shall be entitled to a return of any moneys paid in the same manner as set forth in subsection c. of this section.

e. Notwithstanding the provisions of subsections a., b., c., and d. of this section, if, on the effective date of P.L.2009, c.90 (C.52:27D-489a et al.), a municipality that has returned all or a portion of non-residential fees in accordance with subsection a. or b. of this section shall be reimbursed from the funds available through the appropriation made into the "New Jersey Affordable Housing Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-320.1) within 30 days of the municipality providing written notice to the Council on Affordable Housing.<sup>2</sup> (cf: P.L.2009, c.90, s.39)

<sup>2</sup>[<sup>1</sup>39.] 34.<sup>2</sup> (New section) The provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>1</sup>

<sup>2</sup>[<sup>1</sup>40.] 35.<sup>2</sup> (New section) Within two years of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the Department of Community Affairs shall report to the Legislature assessing and evaluating the progress and results of affordable housing efforts in New Jersey following the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill). The report shall be forwarded to the Assembly Housing and Local Government Committee or its successor.<sup>1</sup>

<sup>2</sup>[<sup>1</sup>41.] 36.<sup>2</sup> The following sections are repealed:

<sup>2</sup>Section 32 of P.L.2008, c.46 (C.40:55D-8.1);

Section 33 of P.L.2008, c.46 (C.40:55D-8.2);

Section 34 of P.L.2008, c.46 (C.40:55D-8.3);

Section 35 of P.L.2008, c.46 (C.40:55D-8.4);

Section 36 of P.L.2008, c.46 (C.40:55D-8.5);

Section 37 of P.L.2008, c.46 (C.40:55D-8.6);

Section 38 of P.L.2008, c.46 (C.40:55D-8.7);<sup>2</sup>

1 Section 14 of P.L.2009, c.82 (C.45:22A-46.16);  
2 Section 5 of P.L.1985 c.222 (C.52:27D-304);  
3 Section 5 of P.L.1985 c.222 (C.52:27D-305);  
4 Section 6 of P.L.1985, c.222 (C.52:27D-306);  
5 Section 7 of P.L.1985, c.222 (C.52:27D-307);  
6 <sup>2</sup>Section 1 of P.L.1991, c.479 (C.52:27D-307.1);  
7 Section 2 of P.L.1991, c.479 (C.52:27D-307.2);  
8 Section 3 of P.L.1991, c.479 (C.52:27D-307.3);  
9 Section 4 of P.L.1991, c.479 (C.52:27D-307.4);  
10 Section 5 of P.L.1991, c.479 (C.52:27D-307.5);<sup>2</sup>  
11 Section 6 of P.L.2001, c.435 (C.52:27D-307.6);  
12 Section 8 of P.L.1985, c.222 (C.52:27D-308);  
13 Section 9 of P.L.1985, c.222 (C.52:27D-309);  
14 Section 1 of P.L.1995, c.231 (C.52:27D-310.1);  
15 Section 2 of P.L.1995, c.231 (C.52:27D-310.2);  
16 Section 11 of P.L.1985, c.222 (C.52:27D-311);  
17 Section 40 of P.L.2009, c.90 (C. 52:27D-311.3);  
18 Section 13 of P.L.1985 c.222 (C.52:27D-313);  
19 Section 2 of P.L.1989, c.142 (C.52:27D-313.1);  
20 Section 14 of P.L.1985 c.222 (C.52:27D-314);  
21 Section 15 of P.L.1985 c.222 (C.52:27D-315);  
22 Section 16 of P.L.1985, c.222 (C.52:27D-316);  
23 Section 17 of P.L.1985, c.222 (C.52:27D-317);  
24 Section 18 of P.L.1985, c.222 (C.52:27D-318);  
25 Section 19 of P.L.1985 c.222 (C.52:27D-319);  
26 Section 22 of P.L.1985, c.222 (C.52:27D-322);  
27 Section 28 of P.L.1985, c.222 (C.52:27D-328);  
28 Section 7 of P.L.2008, c.46 (C.52:27D-329.1);  
29 Section 9 of P.L.2008, c.46 (C.52:27D-329.3);  
30 Section 12 of P.L.2008, c.46 (C.52:27D-329.6);  
31 Section 14 of P.L.2008, c.46 (C.52:27D-329.8);  
32 Section 21 of P.L.2008, c.46 (C.52:27D-329.10);  
33 Section 22 of P.L.2008, c.46 (C.52:27D-329.11);  
34 Section 23 of P.L.2008, c.46 (C.52:27D-329.12);  
35 Section 24 of P.L.2008, c.46 (C.52:27D-329.13);  
36 Section 25 of P.L.2008, c.46 (C.52:27D-329.14);  
37 Section 26 of P.L.2008, c.46 (C.52:27D-329.15);  
38 Section 27 of P.L.2008, c.46 (C.52:27D-329.16) <sup>2,2</sup>  
39 Section 28 of P.L.2008, c.46 (C.52:27D-329.17) <sup>2,2</sup>  
40 Section 29 of P.L.2008, c.46 (C.52:27D-329.18); and  
41 Section 30 of P.L.2008, c.46 (C.52:27D-329.19).<sup>1</sup>  
42

43 <sup>2</sup>[<sup>1</sup>42.] 37.<sup>2</sup> <sup>2</sup>[This] Section 30 of this act shall take effect  
44 immediately and the remainder of this<sup>2</sup> act shall take effect on the  
45 first day of the fourth month next following enactment.<sup>1</sup>