

**ASSEMBLY, No. 1728**

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**STATE OF NEW JERSEY**

**215th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Assemblyman JERRY GREEN**

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

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblywoman Spencer**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 3/9/2012)**

1   **AN ACT** concerning affordable housing and revising and  
2       supplementing 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       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 the first 25 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, through zoning  
30      requirements, of a realistic opportunity for a variety and choice of  
31      housing for low- and moderate-income families in each  
32      municipality of the State, in consideration of regional and Statewide  
33      needs for affordable housing. The welfare of the public requires a  
34      new approach that does not waste the limited resources needed to  
35      fulfill government's many functions, including public safety, health  
36      care, education and environmental protection, ensuring the  
37      affordability of mass transit, protection of civil rights, promotion of  
38      economic growth, and job creation.

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

**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.

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

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

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

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

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

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

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

45  
46 3. Section 25 of P.L.2004, c.120 (C.13:20-23) is amended to  
47 read as follows:

1       25. a. **【The Council on Affordable Housing shall take into**  
2       consideration the regional master plan prior to making any  
3       determination regarding the allocation of the prospective fair share  
4       of the housing need in any municipality in the Highlands Region  
5       under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et  
6       al.) for the fair share period subsequent to 1999**】** (Deleted by  
7       amendment, P.L. , c. ).

8       b. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall  
9       affect protections provided through a grant of substantive  
10      certification or a judgment of repose granted prior to **【the date of**  
11      enactment of this act**】** August 10, 2004.  
12      (cf: P.L.2004, c.120, s.25)

13

14      4. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to  
15      read as follows:

16      3. a. There is established in, but not of, the department a Site  
17      Improvement Advisory Board, to devise statewide site improvement  
18      standards pursuant to section 4 of this act. The board shall consist  
19      of the commissioner or his designee, who shall be a non-voting  
20      member of the board, the Director of the Division of **【Housing】**  
21      Codes and Standards in the Department of Community Affairs, who  
22      shall be a voting member of the board, and **【10】** nine other voting  
23      members, to be appointed by the commissioner. The other  
24      members shall include two professional planners, one of whom  
25      serves as a planner for a governmental entity or whose professional  
26      experience is predominantly in the public sector and who has  
27      worked in the public sector for at least the previous five years and  
28      the other of whom serves as a planner in private practice and has  
29      particular expertise in private residential development and has been  
30      involved in private sector planning for at least the previous five  
31      years, and one representative each from:

32      (1) The New Jersey Society of Professional Engineers;  
33      (2) The New Jersey Society of Municipal Engineers;  
34      (3) The New Jersey Association of County Engineers;  
35      (4) The New Jersey Federation of Planning Officials;  
36      (5) **【The Council on Affordable Housing】** (Deleted by  
37      amendment, P.L. , c. (C. );

38      (6) The New Jersey Builders' Association;  
39      (7) The New Jersey Institute of Technology;  
40      (8) The New Jersey State League of Municipalities.

41      b. Among the members to be appointed by the commissioner  
42      who are first appointed, four shall be appointed for terms of two  
43      years each, four shall be appointed for terms of three years each,  
44      and two shall be appointed for terms of four years each. Thereafter,  
45      each appointee shall serve for a term of four years. Vacancies in  
46      the membership shall be filled in the same manner as original  
47      appointments are made, for the unexpired term. The commission

1 shall select from among its members a chairman. Members may be  
2 removed by the commissioner for cause.

3 c. Board members shall serve without compensation, but may  
4 be entitled to reimbursement, from moneys appropriated or  
5 otherwise made available for the purposes of this act, for expenses  
6 incurred in the performance of their duties.

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

8

9 5. Section 4 of P.L.1987, c.129 (C.40:55D-45.2) is amended to  
10 read as follows:

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

13 a. A general land use plan at a scale specified by ordinance  
14 indicating the tract area and general locations of the land uses to be  
15 included in the planned development. The total number of dwelling  
16 units and amount of nonresidential floor area to be provided and  
17 proposed land area to be devoted to residential and nonresidential  
18 use shall be set forth. In addition, the proposed types of  
19 nonresidential uses to be included in the planned development shall  
20 be set forth, and the land area to be occupied by each proposed use  
21 shall be estimated. The density and intensity of use of the entire  
22 planned development shall be set forth, and a residential density  
23 and a nonresidential floor area ratio shall be provided;

24 b. A circulation plan showing the general location and types of  
25 transportation facilities, including facilities for pedestrian access,  
26 within the planned development and any proposed improvements to  
27 the existing transportation system outside the planned development;

28 c. An open space plan showing the proposed land area and  
29 general location of parks and any other land area to be set aside for  
30 conservation and recreational purposes and a general description of  
31 improvements proposed to be made thereon, including a plan for the  
32 operation and maintenance of parks and recreational lands;

33 d. A utility plan indicating the need for and showing the  
34 proposed location of sewage and water lines, any drainage facilities  
35 necessitated by the physical characteristics of the site, proposed  
36 methods for handling solid waste disposal, and a plan for the  
37 operation and maintenance of proposed utilities;

38 e. A storm water management plan setting forth the proposed  
39 method of controlling and managing storm water on the site;

40 f. An environmental inventory including a general description  
41 of the vegetation, soils, topography, geology, surface hydrology,  
42 climate and cultural resources of the site, existing man-made  
43 structures or features and the probable impact of the development  
44 on the environmental attributes of the site;

45 g. A community facility plan indicating the scope and type of  
46 supporting community facilities which may include, but not be

- 1 limited to, educational or cultural facilities, historic sites, libraries,
- 2 hospitals, firehouses, and police stations;
- 3 h. A housing plan outlining the number of housing units to be
- 4 provided and the extent to which any affordable housing
- 5 **【obligation assigned to the municipality pursuant to P.L.1985,**
- 6 **c.222 (C.52:27D-301 et al.) will be fulfilled】 will be addressed by**
- 7 **the development;**
- 8 i. A local service plan indicating those public services which
- 9 the applicant proposes to provide and which may include, but not be
- 10 limited to, water, sewer, cable and solid waste disposal;
- 11 j. A fiscal report describing the anticipated demand on
- 12 municipal services to be generated by the planned development and
- 13 any other financial impacts to be faced by municipalities or school
- 14 districts as a result of the completion of the planned development.
- 15 The fiscal report shall also include a detailed projection of property
- 16 tax revenues which will accrue to the county, municipality and
- 17 school district according to the timing schedule provided under
- 18 subsection k. of this section, and following the completion of the
- 19 planned development in its entirety;
- 20 k. A proposed timing schedule in the case of a planned
- 21 development whose construction is contemplated over a period of
- 22 years, including any terms or conditions which are intended to
- 23 protect the interests of the public and of the residents who occupy
- 24 any section of the planned development prior to the completion of
- 25 the development in its entirety; and
- 26 l. A municipal development agreement, which shall mean a
- 27 written agreement between a municipality and a developer relating
- 28 to the planned development.
- 29 (cf: P.L.1987, c.129, s.4)
- 30
- 31 6. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to
- 32 read as follows:
- 33 3. As used in **【this act】** P.L.1992, c.79 (C.40A:12A-1 et seq.):
- 34 "Bonds" means any bonds, notes, interim certificates, debentures
- 35 or other obligations issued by a municipality, county,
- 36 redevelopment entity, or housing authority pursuant to P.L.1992,
- 37 c.79 (C.40A:12A-1 et al.).
- 38 "Comparable, affordable replacement housing" means newly-
- 39 constructed or substantially rehabilitated housing to be offered to a
- 40 household being displaced as a result of a redevelopment project,
- 41 that is affordable to that household based on its income under the
- 42 guidelines established by **【the Council on Affordable Housing in】**
- 43 the Department of Community Affairs for maximum affordable
- 44 sales prices or maximum fair market rents, and that is comparable
- 45 to the household's dwelling in the redevelopment area with respect
- 46 to the size and amenities of the dwelling unit, the quality of the

1 neighborhood, and the level of public services and facilities offered  
2 by the municipality in which the redevelopment area is located.

3 "Development" means the division of a parcel of land into two or  
4 more parcels, the construction, reconstruction, conversion,  
5 structural alteration, relocation, or enlargement of any building or  
6 other structure, or of any mining, excavation or landfill, and any use  
7 or change in the use of any building or other structure, or land or  
8 extension of use of land, for which permission may be required  
9 pursuant to the "Municipal Land Use Law," P.L.1975, c.291  
10 (C.40:55D-1 et seq.).

11 "Governing body" means the body exercising general legislative  
12 powers in a county or municipality according to the terms and  
13 procedural requirements set forth in the form of government  
14 adopted by the county or municipality.

15 "Housing authority" means a housing authority created or  
16 continued pursuant to this act.

17 "Housing project" means a project, or distinct portion of a  
18 project, which is designed and intended to provide decent, safe and  
19 sanitary dwellings, apartments or other living accommodations for  
20 persons of low and moderate income; such work or undertaking  
21 may include buildings, land, equipment, facilities and other real or  
22 personal property for necessary, convenient or desirable  
23 appurtenances, streets, sewers, water service, parks, site  
24 preparation, gardening, administrative, community, health,  
25 recreational, educational, welfare or other purposes. The term  
26 "housing project" also may be applied to the planning of the  
27 buildings and improvements, the acquisition of property, the  
28 demolition of existing structures, the construction, reconstruction,  
29 alteration and repair of the improvements and all other work in  
30 connection therewith.

31 "Persons of low and moderate income" means persons or  
32 families who are, in the case of State assisted projects or programs,  
33 so defined by the Council on Affordable Housing in the Department  
34 of Community Affairs, or in the case of federally assisted projects  
35 or programs, defined as of "low and very low income" by the  
36 United States Department of Housing and Urban Development.

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

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

42 "Publicly assisted housing" means privately owned housing  
43 which receives public assistance or subsidy, which may be grants or  
44 loans for construction, reconstruction, conservation, or  
45 rehabilitation of the housing, or receives operational or maintenance  
46 subsidies either directly or through rental subsidies to tenants, from  
47 a federal, State or local government agency or instrumentality.

1 "Real property" means all lands, including improvements and  
2 fixtures thereon, and property of any nature appurtenant thereto or  
3 used in connection therewith, and every estate, interest and right,  
4 legal or equitable, therein, including terms for years and liens by  
5 way of judgment, mortgage or otherwise, and indebtedness secured  
6 by such liens.

7 "Redeveloper" means any person, firm, corporation or public  
8 body that shall enter into or propose to enter into a contract with a  
9 municipality or other redevelopment entity for the redevelopment or  
10 rehabilitation of an area in need of redevelopment, or an area in  
11 need of rehabilitation, or any part thereof, under the provisions of  
12 this act, or for any construction or other work forming part of a  
13 redevelopment or rehabilitation project.

14 "Redevelopment" means clearance, replanning, development and  
15 redevelopment; the conservation and rehabilitation of any structure  
16 or improvement, the construction and provision for construction of  
17 residential, commercial, industrial, public or other structures and  
18 the grant or dedication of spaces as may be appropriate or necessary  
19 in the interest of the general welfare for streets, parks, playgrounds,  
20 or other public purposes, including recreational and other facilities  
21 incidental or appurtenant thereto, in accordance with a  
22 redevelopment plan.

23 "Redevelopment agency" means a redevelopment agency created  
24 pursuant to subsection a. of section 11 of P.L.1992, c.79  
25 (C.40A:12A-11) or established heretofore pursuant to the  
26 "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et  
27 al.), repealed by this act, which has been permitted in accordance  
28 with the provisions of this act to continue to exercise its  
29 redevelopment functions and powers.

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

42 "Redevelopment entity" means a municipality or an entity  
43 authorized by the governing body of a municipality pursuant to  
44 subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to  
45 implement redevelopment plans and carry out redevelopment  
46 projects in an area in need of redevelopment, or in an area in need  
47 of rehabilitation, or in both.



1 "Redevelopment plan" means a plan adopted by the governing  
2 body of a municipality for the redevelopment or rehabilitation of all  
3 or any part of a redevelopment area, or an area in need of  
4 rehabilitation, which plan shall be sufficiently complete to indicate  
5 its relationship to definite municipal objectives as to appropriate  
6 land uses, public transportation and utilities, recreational and  
7 municipal facilities, and other public improvements; and to indicate  
8 proposed land uses and building requirements in the redevelopment  
9 area or area in need of rehabilitation, or both.

10 "Redevelopment project" means any work or undertaking  
11 pursuant to a redevelopment plan; such undertaking may include  
12 any buildings, land, including demolition, clearance or removal of  
13 buildings from land, equipment, facilities, or other real or personal  
14 properties which are necessary, convenient, or desirable  
15 appurtenances, such as but not limited to streets, sewers, utilities,  
16 parks, site preparation, landscaping, and administrative, community,  
17 health, recreational, educational, and welfare facilities.

18 "Rehabilitation" means an undertaking, by means of extensive  
19 repair, reconstruction or renovation of existing structures, with or  
20 without the introduction of new construction or the enlargement of  
21 existing structures, in any area that has been determined to be in  
22 need of rehabilitation or redevelopment, to eliminate substandard  
23 structural or housing conditions and arrest the deterioration of that  
24 area.

25 "Rehabilitation area" or "area in need of rehabilitation" means  
26 any area determined to be in need of rehabilitation pursuant to  
27 section 14 of P.L.1992, c.79 (C.40A:12A-14).

28 (cf: P.L.2008, c.46, s.1)

29

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

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

39 The redevelopment plan shall include an outline for the planning,  
40 development, redevelopment, or rehabilitation of the project area  
41 sufficient to indicate:

42 (1) Its relationship to definite local objectives as to appropriate  
43 land uses, density of population, and improved traffic and public  
44 transportation, public utilities, recreational and community facilities  
45 and other public improvements.

46 (2) Proposed land uses and building requirements in the project  
47 area.

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

6 (4) An identification of any property within the redevelopment  
7 area which is proposed to be acquired in accordance with the  
8 redevelopment plan.

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

14 (6) As of the date of the adoption of the resolution finding the  
15 area to be in need of redevelopment, an inventory of all housing  
16 units affordable to low and moderate income households, as defined  
17 pursuant to section [4 of P.L.1985, c.222 (C.52:27D-304)] 21 of  
18 P.L. , c. (C. ) (pending before the Legislature as this bill), that  
19 are to be removed as a result of implementation of the  
20 redevelopment plan, whether as a result of subsidies or market  
21 conditions, listed by affordability level, number of bedrooms, and  
22 tenure.

23 (7) A plan for the provision, through new construction or  
24 substantial rehabilitation of one comparable, affordable replacement  
25 housing unit for each affordable housing unit that has been  
26 occupied at any time within the last 18 months, that is subject to  
27 affordability controls and that is identified as to be removed as a  
28 result of implementation of the redevelopment plan. Displaced  
29 residents of housing units provided under any State or federal  
30 housing subsidy program, or pursuant to the "Fair Housing Act,"  
31 P.L.1985, c.222 (C.52:27D-301 et al.), provided they are deemed to  
32 be eligible, shall have first priority for those replacement units  
33 provided under the plan; provided that any such replacement unit  
34 shall not be [credited against a prospective municipal obligation  
35 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et  
36 al.)] counted as qualified units, if the housing unit which is  
37 removed had previously been [credited toward satisfying the  
38 municipal fair share obligation] counted. To the extent reasonably  
39 feasible, replacement housing shall be provided within or in close  
40 proximity to the redevelopment area. A municipality shall report  
41 annually to the Department of Community Affairs on its progress in  
42 implementing the plan for provision of comparable, affordable  
43 replacement housing required pursuant to this section.

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

1 c. The redevelopment plan shall describe its relationship to  
2 pertinent municipal development regulations as defined in the  
3 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).  
4 The redevelopment plan shall supersede applicable provisions of the  
5 development regulations of the municipality or constitute an  
6 overlay zoning district within the redevelopment area. When the  
7 redevelopment plan supersedes any provision of the development  
8 regulations, the ordinance adopting the redevelopment plan shall  
9 contain an explicit amendment to the zoning district map included  
10 in the zoning ordinance. The zoning district map as amended shall  
11 indicate the redevelopment area to which the redevelopment plan  
12 applies. Notwithstanding the provisions of the "Municipal Land  
13 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no  
14 notice beyond that required for adoption of ordinances by the  
15 municipality shall be required for the hearing on or adoption of the  
16 redevelopment plan or subsequent amendments thereof.

17 d. All provisions of the redevelopment plan shall be either  
18 substantially consistent with the municipal master plan or designed  
19 to effectuate the master plan; but the municipal governing body may  
20 adopt a redevelopment plan which is inconsistent with or not  
21 designed to effectuate the master plan by affirmative vote of a  
22 majority of its full authorized membership with the reasons for so  
23 acting set forth in the redevelopment plan.

24 e. Prior to the adoption of a redevelopment plan, or revision or  
25 amendment thereto, the planning board shall transmit to the  
26 governing body, within 45 days after referral, a report containing its  
27 recommendation concerning the redevelopment plan. This report  
28 shall include an identification of any provisions in the proposed  
29 redevelopment plan which are inconsistent with the master plan and  
30 recommendations concerning these inconsistencies and any other  
31 matters as the board deems appropriate. The governing body, when  
32 considering the adoption of a redevelopment plan or revision or  
33 amendment thereof, shall review the report of the planning board  
34 and may approve or disapprove or change any recommendation by a  
35 vote of a majority of its full authorized membership and shall  
36 record in its minutes the reasons for not following the  
37 recommendations. Failure of the planning board to transmit its  
38 report within the required 45 days shall relieve the governing body  
39 from the requirements of this subsection with regard to the pertinent  
40 proposed redevelopment plan or revision or amendment thereof.  
41 Nothing in this subsection shall diminish the applicability of the  
42 provisions of subsection d. of this section with respect to any  
43 redevelopment plan or revision or amendment thereof.

44 f. The governing body of a municipality may direct the  
45 planning board to prepare a redevelopment plan or an amendment  
46 or revision to a redevelopment plan for a designated redevelopment  
47 area. After completing the redevelopment plan, the planning board

1 shall transmit the proposed plan to the governing body for its  
2 adoption. The governing body, when considering the proposed  
3 plan, may amend or revise any portion of the proposed  
4 redevelopment plan by an affirmative vote of the majority of its full  
5 authorized membership and shall record in its minutes the reasons  
6 for each amendment or revision. When a redevelopment plan or  
7 amendment to a redevelopment plan is referred to the governing  
8 body by the planning board under this subsection, the governing  
9 body shall be relieved of the referral requirements of subsection e.  
10 of this section.

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

12

13 8. Section 16 of P.L.1992, c.79 (C.40A:12A-16) is amended to  
14 read as follows:

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

19 (1) Plan, construct, own, and operate housing projects; maintain,  
20 reconstruct, improve, alter, or repair any housing project or any part  
21 thereof; and for these purposes, receive and accept from the State or  
22 federal government, or any other source, funds or other financial  
23 assistance;

24 (2) Lease or rent any dwelling house, accommodations, lands,  
25 buildings, structures or facilities embraced in any housing project;  
26 and pursuant to the provisions of this act, establish and revise the  
27 rents and charges therefor;

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

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

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

35 (6) Cooperate with any other municipality, private, county, State  
36 or federal entity to provide funds to the municipality or other  
37 governmental entity and to homeowners, tenant associations,  
38 nonprofit or private developers to acquire, construct, rehabilitate or  
39 operate publicly assisted housing, and to provide rent subsidies for  
40 persons of low and moderate income, including the elderly,  
41 pursuant to applicable State or federal programs;

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

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

3 (9) Provide technical assistance and support to nonprofit  
4 organizations and private developers interested in constructing low  
5 and moderate income housing;

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

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

12 b. All housing projects, programs and actions undertaken  
13 pursuant to this act shall accord with the housing element of the  
14 master plan of the municipality within which undertaken, and with  
15 [any fair share housing plan filed by the municipality with the  
16 Council on Affordable Housing, based upon the council's criteria  
17 and guidelines, pursuant to] the "Fair Housing Act," P.L.1985,  
18 c.222 (C.52:27D-301 et al.)[, whether or not the municipality has  
19 petitioned for substantive certification of the plan].

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

21

22 9. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
23 read as follows:

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

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

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

40 (3) appropriate the balance of the [Neighborhood Preservation  
41 Nonlapsing Revolving Fund] "New Jersey Affordable Housing  
42 Trust Fund," established pursuant to section 20 of P.L.1985, c.222  
43 (C.52:27D-320), for the purposes of that fund, including any  
44 permitted transfer of monies to the "Urban Housing Assistance  
45 Fund," established pursuant to section 13 of P.L.2008, c.46  
46 (C.52:27D-329.7); and

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

4 b. If the requirements of subsection a. of this section are not  
5 met on the effective date of an annual appropriations act for the  
6 State fiscal year, or if an amendment or supplement to an annual  
7 appropriations act for the State fiscal year should violate any of the  
8 requirements of subsection a. of this section, the Director of the  
9 Division of Budget and Accounting in the Department of the  
10 Treasury shall, not later than five days after the enactment of the  
11 annual appropriations act, or an amendment or supplement thereto,  
12 that violates any of the requirements of subsection a. of this section,  
13 certify to the Director of the Division of Taxation that the  
14 requirements of subsection a. of this section have not been met.

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

16  
17 10. Section 9 of P.L.1966, c.293 (C.52:27D-9) is amended to  
18 read as follows:

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

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

23 (b) Advise and inform the Governor on the affairs and problems  
24 of local government and make recommendations to the Governor  
25 for proposed legislation pertaining thereto;

26 (c) Encourage cooperative action by local governments,  
27 including joint service agreements, regional compacts and other  
28 forms of regional cooperation;

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

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

32 (f) Collect, collate, publish and disseminate information  
33 necessary for the effective operation of the department and useful  
34 to local government;

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

38 (h) Stimulate local programs through publicity, education,  
39 guidance and technical assistance concerning Federal and State  
40 programs;

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

44 (j) Maintain and make available on request a list of persons  
45 qualified to mediate or arbitrate disputes between local units of  
46 government arising from joint service projects or other cooperative

1 activities, and further to prescribe rates of compensation for all such  
2 mediation, factfinding or arbitration services; and

3 (k) Assume the duties of the Council on Affordable Housing  
4 that are not repealed by P.L. , c. (pending before the Legislature  
5 as this bill) and are transferred to the department pursuant to section  
6 2 of P.L. , c. (C. ) (pending before the Legislature as this  
7 bill).

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

9  
10 11. Section 11 of P.L.1979, c.111 (C.13:18A-12) is amended to  
11 read as follows:

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

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

29 b. Within one year of the date of the adoption of the  
30 comprehensive management plan, or any revision thereof, each  
31 municipality located in whole or in part in the pinelands area shall  
32 submit to the commission such revisions of the municipal master  
33 plan and local land use ordinances as may be necessary in order to  
34 implement the objectives of the comprehensive management plan  
35 and conform with the minimum standards contained therein. After  
36 receiving and reviewing such revisions, as applicable to the  
37 development and use of land in the pinelands area, the commission  
38 shall approve, reject, or approve with conditions said revised plans  
39 and ordinances, as it deems appropriate, after public hearing, within  
40 120 days of the date of the submission thereof. [The number of low  
41 or moderate income housing units provided for in the revised plan  
42 shall not be used by the commission as a criterion for the approval,  
43 rejection, or conditional approval of the revised plan.]

44 The commission and each municipality located in whole or in  
45 part in the pinelands area are hereby authorized and directed to  
46 comply with the provisions of P.L. , c. (C. ) (pending before  
47 the Legislature as this bill) and section 18 of P.L.2008, c.46

1 (C.52:27D-329.9), as amended by P.L. , c. (C. ) (pending  
2 before the Legislature as this bill).

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

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

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

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

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

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

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



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

8 **【The number of low or moderate income housing units provided**  
9 **for in the application for development shall not be used as a**  
10 **criterion for the approval or rejection of the application.】** The  
11 commission is hereby authorized and directed to comply with  
12 section 18 of P.L.2008, c.46 (C. 52:27D-329.9), as amended by  
13 P.L. , c. (C. ) (pending before the Legislature as this bill).  
14 (cf: P.L.1987, c.267, s.2)  
15

16 13. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to  
17 read as follows:

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

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

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

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

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

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

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

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

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

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

14  
15 14. Section 1 of P.L.2005, c.350 (C.52:27D-311a) is amended to  
16 read as follows:

17 1. Beginning upon the effective date of P.L.2005, c.350  
18 (C.52:27D-311a et al.), in order to be a qualified unit for purposes  
19 of P.L. , c. (C. ), any new construction for which credit is  
20 sought [against a fair share obligation] shall be adaptable in  
21 accordance with the provisions of section 5 of P.L.2005, c.350  
22 (C.52:27D-123.15). For the purposes of P.L.2005, c.350  
23 (C.52:27D-311a et al.), "new construction" shall mean an entirely  
24 new improvement not previously occupied or used for any purpose.  
25 (cf: P.L.2005, c.350, s.1)

26  
27 15. Section 6 of P.L.2005, c.350 (C.52:27D-311b) is amended to  
28 read as follows:

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

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

1       16. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to  
2 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, in  
37 municipalities receiving State aid pursuant to P.L.1978, c.14  
38 (C.52:27D-178 et seq.), in municipalities subject to a builder's  
39 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328)  
40 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 prioritize funding for non-profits and projects 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, P.L.~~  
22 ~~, 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 23 of P.L. , c. (C. )  
28 pending before the Legislature as this bill), and to assist projects in  
29 municipalities that are neither compliant nor deemed compliant  
30 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
31 this bill). Amounts ~~【in the fund】~~ deposited in the "New Jersey  
32 Affordable Housing Trust Fund" shall be applied for the following  
33 purposes in designated neighborhoods:

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

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

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

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

44 (5) Grants of assistance to eligible municipalities for costs of  
45 necessary studies, surveys, plans and permits; engineering,  
46 architectural and other technical services; costs of land acquisition  
47 and any buildings thereon; and costs of site preparation, demolition

1 and infrastructure development for projects undertaken pursuant to  
2 an approved regional contribution agreement;

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

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

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

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

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

1 department and shall be adjusted upon publication of median  
2 income figures by census tract after each federal decennial census.

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

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

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

36 j. Not less than 10 percent and not more than 25 percent of the  
37 amount deposited in the "New Jersey Affordable Housing Trust  
38 Fund", available for the purposes set forth in subsection d. of this  
39 section during any fiscal year, shall be transferred to the "Urban  
40 Housing Assistance Fund" in any State fiscal year.

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

42

43 17. Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is amended  
44 to read as follows:

45 19. a. Notwithstanding any rules of the New Jersey Housing  
46 and Mortgage Finance Agency to the contrary, the allocation of low  
47 income tax credits shall be made by the agency to the full extent

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

24 b. A housing unit financed in whole or in part through the  
 25 allocation of federal Low-Income Housing Tax Credits shall be  
 26 eligible to be counted as a qualified unit for purposes of  
 27 determining whether a municipality is a compliant municipality  
 28 pursuant to section 20 of P.L. , c. (C. ) (pending before the  
 29 Legislature as this bill) if the requirements of federal law pursuant  
 30 to 26 U.S.C. s.42 have been met for that unit.

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

32  
 33 18. Section 13 of P.L.2008, c.46 (C.52:27D-329.7) is amended  
 34 to read as follows:

35 13. a. There is established within the Department of Community  
 36 Affairs an Urban Housing Assistance Program for the purposes of  
 37 assisting certain municipalities in the provision of housing through  
 38 the rehabilitation of existing buildings or the construction of  
 39 affordable housing.

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

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

1 (2) monies appropriated by the Legislature to the fund; and  
2 (3) any other funds made available through State or federal  
3 housing programs for the purposes of producing affordable housing  
4 **[, other than monies from the "New Jersey Affordable Housing**  
5 **Trust Fund," established pursuant to section 20 of P.L.1985, c.222**  
6 **(C.52:27D-320)]**.

7 c. The Commissioner of Community Affairs shall develop a  
8 strategic five-year plan for the program aimed at developing  
9 strategies to assist municipalities in creating rehabilitation programs  
10 and other programs to produce safe, decent housing within the  
11 municipality.

12 d. The commissioner may award a housing rehabilitation grant  
13 to a municipality that qualifies for aid pursuant to P.L.1978, c.14  
14 (C.52:27D-178 et seq.), or a non-profit or for-profit corporation in a  
15 municipality that qualifies for such aid, and that has submitted a  
16 valid application to the Department of Community Affairs which  
17 details the manner in which the municipality will utilize funding in  
18 order to meet the municipality's need to rehabilitate or create safe,  
19 decent, and affordable housing.

20 e. The commissioner shall promulgate rules and regulations,  
21 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
22 (C.52:14B-1 et seq.), to effectuate the purposes of P.L.2008, c.46  
23 (C.52:27D-329.1 et al.); provided that the regulations shall permit a  
24 municipality broad discretion in shaping its housing rehabilitation  
25 and construction program, but shall not permit a municipality to  
26 provide assistance to any household having an income greater than  
27 120 percent of median household income for the housing region.  
28 The department may require a return of a grant upon its  
29 determination that a municipality is not performing in accordance  
30 with its grant or with the regulations.  
31 (cf: P.L.2008, c.46, s.13)

32  
33 19. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended  
34 to read as follows:

35 18. a. **[Notwithstanding any rules of the council to the contrary,**  
36 **for developments consisting of newly-constructed residential units**  
37 **located, or to be located, within the jurisdiction of any regional**  
38 **planning entity required to adopt a master plan or comprehensive**  
39 **management plan pursuant to statutory law, including the New**  
40 **Jersey Meadowlands Commission pursuant to subsection (i) of**  
41 **section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission**  
42 **pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,**  
43 **c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization**  
44 **Planning Authority pursuant to section 5 of P.L.2006, c.16**  
45 **(C.52:27I-5), or its successor, and the Highlands Water Protection**  
46 **and Planning Council pursuant to section 11 of P.L.2004, c.120**  
47 **(C.13:20-11), but excluding joint planning boards formed pursuant**



1 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be  
2 required to be reserved for occupancy by low or moderate income  
3 households at least 20 percent of the residential units constructed, to  
4 the extent this is economically feasible.】

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

22 b. A developer of a project consisting of newly-constructed  
23 residential units being financed in whole or in part with State funds,  
24 including, but not limited to, transit villages designated by the  
25 Department of Transportation, units constructed on State-owned  
26 property, and urban transit hubs as defined pursuant to section 2 of  
27 P.L.2007, c.346 (C.34:1B-208), shall be required to reserve 【at  
28 least 20 percent of the residential units constructed for occupancy  
29 by low or moderate income households, as those terms are defined  
30 in section 4 of P.L.1985, c.222 (C.52:27D-304), with affordability  
31 controls as required under the rules of the council, unless the  
32 municipality in which the property is located has received  
33 substantive certification from the council and such a reservation is  
34 not required under the approved affordable housing plan, or the  
35 municipality has been given a judgment of repose or a judgment of  
36 compliance by the court, and such a reservation is not required  
37 under the approved affordable housing plan】 between 15 and 20  
38 percent of the residential units constructed in developments that  
39 meet or exceed the minimum applicable densities as set forth in  
40 section 23 of P.L. , c. (C. ) (pending before the Legislature  
41 as this bill), as qualified very-low, low, and moderate income  
42 housing units as those terms are defined in section 21 of P.L. , c.  
43 (C. ) (pending before the Legislature as this bill), with  
44 affordability controls as required by the department, unless the  
45 municipality in which the development is located is compliant  
46 pursuant to section 24 of P.L. , c. (C. ) (pending before the  
47 Legislature as this bill).

1       【c. (1) The Legislature recognizes that regional planning entities  
2 are appropriately positioned to take a broader role in the planning  
3 and provision of affordable housing based on regional planning  
4 considerations. In recognition of the value of sound regional  
5 planning, including the desire to foster economic growth, create a  
6 variety and choice of housing near public transportation, protect  
7 critical environmental resources, including farmland and open space  
8 preservation, and maximize the use of existing infrastructure, there  
9 is created a new program to foster regional planning entities.

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

24       (3) In addition to the entities identified in subsection a. of this  
25 section, the Casino Reinvestment Development Authority, in  
26 conjunction with the Atlantic County Planning Board, shall identify  
27 and coordinate regional affordable housing opportunities directly  
28 attributable to Atlantic City casino development, which may be  
29 provided anywhere within Atlantic County, subject to the  
30 restrictions of paragraph (4) of this subsection.

31       (4) The coordination of affordable housing opportunities by  
32 regional entities as identified in this section shall not include  
33 activities which would provide housing units to be located in those  
34 municipalities that are eligible to receive aid under the "Special  
35 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
36 are coextensive with a school district which qualified for  
37 designation as a "special needs district" pursuant to the "Quality  
38 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at  
39 any time in the last 10 years has been qualified to receive assistance  
40 under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall within the  
41 jurisdiction of any of the regional entities specified in subsection a.  
42 of this section.】

43       c. (1) The Legislature recognizes that regional planning entities  
44 are appropriately positioned to take a broader role in the planning  
45 and provision of affordable housing based on regional planning  
46 considerations. In recognition of the value of sound regional  
47 planning, including the desire to foster economic growth, create a

1 variety and choice of housing near public transportation, protect  
2 critical environmental resources, including farmland and open space  
3 preservation, and maximize the use of existing infrastructure, there  
4 is created a new program to foster regional planning entities.

5 (2) With the exception of the New Jersey Meadowlands  
6 Commission, the regional planning entities identified in subsection  
7 a. of this section shall identify and coordinate regional affordable  
8 housing opportunities in cooperation with municipalities in areas  
9 with convenient access to infrastructure, employment opportunities,  
10 and public transportation. Coordination of affordable housing  
11 opportunities may include methods to regionally provide housing in  
12 line with regional concerns, such as transit needs or opportunities,  
13 environmental concerns, or such other factors as the council may  
14 permit; provided, however, that such provision by such a regional  
15 entity may not result in more than a 50 percent change in the  
16 number of qualified housing units for which a realistic opportunity  
17 is required to be provided for in any municipality pursuant to  
18 section 23 of P.L. , c. (C. ) (pending before the Legislature  
19 as this bill) and that the sum of such changes may not reduce the  
20 aggregate number of qualified housing units required in the region  
21 as determined pursuant to section 23 of P.L. , c. (C. )  
22 (pending before the Legislature as this bill) in the current housing  
23 period.

24 (3) With the exception of the New Jersey Meadowlands  
25 Commission, the regional planning entities identified in subsection  
26 a. of this section shall adopt and promulgate, in accordance with the  
27 provisions of the "Administrative Procedure Act," P.L.1968, c. 410  
28 (C.52:14B-1 et seq.), all rules and regulations necessary or  
29 expedient for the prompt and effective carrying out of the  
30 provisions and purposes of this section. Within six months of the  
31 effective date of P.L. , c. (pending before the Legislature as this  
32 bill), each regional planning entity shall adopt regional housing  
33 plans identifying, among other things, to which municipalities  
34 obligations have been transferred and the purpose for doing so. The  
35 transfer of obligations to a municipality shall be at the sole  
36 discretion of the regional planning entities subject to the restrictions  
37 of this section. Except for municipalities located within the  
38 jurisdiction of the New Jersey Meadowlands Commission,  
39 municipalities located within the other regional planning entities  
40 shall have another six-month period after the adoption of the  
41 regional housing plans to file duly adopted and certified housing  
42 elements and implementing ordinances with the department in  
43 accordance with the standards governing such housing elements and  
44 implementing ordinances set forth in section 23 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill).

46 (4) The coordination of affordable housing opportunities by  
47 regional entities as identified in this section shall not include

1 activities which would provide housing units to be located in those  
2 municipalities that are eligible to receive aid under the "Special  
3 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
4 are coextensive with a "special needs district" pursuant to the  
5 "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et  
6 al.), or at any time in the last 10 years has been qualified to receive  
7 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall  
8 within the jurisdiction of any of the regional entities specified in  
9 subsection a. of this section.

10 (cf: P.L.2008, c.46, s.18)

11

12 20. (New section) Any party, including the property owner,  
13 municipality, or contract purchaser, may apply, in such form and  
14 manner as shall be established by the Commissioner of  
15 Environmental Protection, to the Department of Environmental  
16 Protection for a review and determination of site specific or project  
17 specific amendments or revisions to wastewater management plans  
18 and water quality management plans, when those plans are  
19 submitted to achieve compliance with P.L. , c. (C. ) (pending  
20 before the Legislature as this bill), and where at least 15% of the  
21 units are qualified units. The Department of Environmental  
22 Protection shall review and act upon the amendments or revisions  
23 within 90 days of receipt of a completed application for a  
24 determination and review.

25

26 21. (New section) As used in P.L. , c. (C. ) (pending  
27 before the Legislature as this bill):

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

34 "Affordability control" means any deed restriction, covenant, or  
35 other legally binding provision requiring that a low or moderate  
36 income housing unit remains affordable to and restricted to  
37 occupancy by low or moderate income households, as the case may  
38 be, for a period of 30 years from the date of initial occupancy of the  
39 unit.

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

42 "Attached housing" means any form of residential development  
43 other than detached single family housing, including, but not  
44 limited to, two-family housing, three-family housing, attached  
45 single family houses, multifamily apartments, and manufactured  
46 housing communities.

1 "Compliance threshold" means the percentage of a  
2 municipality's housing stock that is required to be qualified housing  
3 units in order for the municipality to be deemed a compliant  
4 municipality.

5 "Conversion" means the conversion of existing commercial,  
6 industrial, or residential structures for low and moderate income  
7 housing purposes where at least 10 percent of the housing units are  
8 provided for a reasonable income range of low and moderate  
9 income households.

10 "Council" means the former Council on Affordable Housing  
11 established by section 5 of P.L.1985, c.222, and, following the  
12 effective date of P.L. , c. (C. ) (pending before the  
13 Legislature as this bill), the Department of Community Affairs,  
14 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill).

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

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

21 "Developable land" means any lot or parcel, whether or not the  
22 parcel is vacant, or any part of a lot or parcel, having access to  
23 sewer service, or that has been determined by the Department of  
24 Environmental Protection, pursuant to section 20 of P.L. , c. (C.  
25 ) (pending before the Legislature as this bill), to be legally able to  
26 connect to service, having a slope of less than 15 percent, and that  
27 is not:

28 (1) land that is owned by a local government entity that as of the  
29 effective date of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill), has adopted, prior to the institution of a  
31 lawsuit seeking a builder's remedy, a resolution authorizing an  
32 execution of agreement that the land be utilized for a public purpose  
33 other than housing;

34 (2) land listed on a master plan of a municipality as being  
35 dedicated, by easement or otherwise, for purposes of conservation,  
36 park lands, active recreation, or open space and which is owned,  
37 leased, licensed, or in any manner operated by a county,  
38 municipality or tax-exempt, nonprofit organization including a local  
39 board of education, or by more than one municipality by joint  
40 agreement pursuant to the "Uniform Shared Services and  
41 Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et seq.), for so  
42 long as the entity maintains such ownership, lease, license, or  
43 operational control of such land;

44 (3) contiguous with other parcels of land in private ownership  
45 which when combined are of a size which would accommodate  
46 fewer than five housing units pursuant to the standards of paragraph

1 (1) of subsection c. of section 23 of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill);

3 (4) an historic or architecturally important site listed on the  
4 State Register of Historic Places or National Register of Historic  
5 Places unless proposed for historically appropriate conversion or  
6 adaptive reuse;

7 (5) agricultural land for which development rights have been  
8 purchased or restricted by covenant;

9 (6) environmentally sensitive lands where development is  
10 prohibited by any State or federal agency, including prohibitions  
11 pursuant to the "Freshwater Wetlands Protection Act," P.L.1987,  
12 c.156 (C.13:9B-1 et seq.), the "Pinelands Protection Act," P.L.1979,  
13 c.111 (C.13:18A-1 et seq.), the "Coastal Area Facility Review Act,"  
14 P.L.1973, c.185 (C.13:19-1 et seq.), the "Highlands Water  
15 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.),  
16 the federal Clean Water Act, 33 U.S.C. ss.1251 et seq., or the  
17 "Hackensack Meadowlands Reclamation and Development Act,"  
18 P.L.1968, c.404 (C.13:17-1 et seq.).

19 Developable land shall include existing structures that are  
20 appropriate for conversion to or rehabilitation or replacement for  
21 housing, including, but not limited to, structures abandoned or  
22 underutilized.

23 "Family housing" means self-contained, residential dwelling  
24 units, each having a lockable door on a private entrance, a kitchen,  
25 sanitary facilities, and separate sleeping quarters, and which are  
26 available to the general public and not restricted to any specific  
27 segment of the population by age or disability.

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

34 "Inclusionary zoning ordinance" means any zoning ordinance  
35 that provides for: qualified housing units as a portion of a  
36 residential development, or a redevelopment plan that provides  
37 qualified housing units as a portion of a residential development.

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

41 "Licensed housing compliance professional" means an individual  
42 who is licensed by the State Board of Professional Planners to  
43 determine the sufficiency of, and certify, those housing elements  
44 and related ordinances submitted to the professional by a  
45 municipality pursuant to P.L. , c. (C. ) (pending before the  
46 Legislature as this bill).

1 "Low income housing" means housing affordable according to  
2 federal Department of Housing and Urban Development or other  
3 recognized standards for home ownership and rental costs and  
4 occupied or reserved for occupancy by households with a gross  
5 household income equal to 50 percent or less of the median gross  
6 household income for households of the same size within the  
7 housing region in which the housing is located.

8 "Moderate income housing" means housing affordable according  
9 to federal Department of Housing and Urban Development or other  
10 recognized standards for home ownership and rental costs and  
11 occupied or reserved for occupancy by households with a gross  
12 household income equal to more than 50 percent but less than 80  
13 percent of the median gross household income for households of the  
14 same size within the housing region in which the housing is located.

15 "Person with a disability" means a person with a physical  
16 disability, infirmity, malformation or disfigurement which is caused  
17 by bodily injury, birth defect, aging or illness including epilepsy  
18 and other seizure disorders, and which shall include, but not be  
19 limited to, any degree of paralysis, amputation, lack of physical  
20 coordination, blindness or visual impediment, deafness or hearing  
21 impediment, muteness or speech impediment or physical reliance on  
22 a service or guide dog, wheelchair, or other remedial appliance or  
23 device.

24 "Qualified housing units" means units subject to affordability  
25 controls, public housing, and supportive and special needs units.  
26 Housing units shall be deemed qualified housing units only if  
27 affordability controls or applicable affordability restrictions expire  
28 no sooner than the end of the current compliance period, provided,  
29 that any qualified units shall be adaptable, as required by section 1  
30 of P.L.2005, c.350 (C.52:27D-311a).

31 "Qualified low income housing units" means qualified housing  
32 units that are affordable to and occupied by households earning no  
33 more than 50 percent of the median income for the region in which  
34 the municipality is located, as adjusted for family size, and which  
35 are subject to affordability controls.

36 "Qualified moderate income housing units" means qualified  
37 housing that is affordable to and occupied by households earning no  
38 more than 80 percent of the median income for the region in which  
39 the municipality is located, as adjusted for family size, and which is  
40 subject to affordability controls.

41 "Qualified very low income housing units" means qualified  
42 housing units that are affordable to and occupied by households  
43 earning no more than 30 percent of the median income for the  
44 region in which the municipality is located, as adjusted for family  
45 size, and which are subject to affordability controls.

46 "Rehabilitation project" under P.L. , c. (C. ) (pending  
47 before the Legislature as this bill) means a "gut rehabilitation"

1 project where the extent and nature of the work is such that the  
2 work area cannot be occupied while the work is in progress and  
3 where a new certificate of occupancy is required before the work  
4 area can be reoccupied, pursuant to the Rehabilitation Subcode,  
5 N.J.A.C.5:23-6. Reconstruction shall not include projects comprised  
6 only of floor finish replacement, painting or wallpapering, or the  
7 replacement of equipment or furnishings. Asbestos hazard  
8 abatement and lead hazard abatement projects shall not be classified  
9 as reconstruction solely because occupancy of the work area is not  
10 permitted.

11 "Residential development project" means a new construction or  
12 any residential development project requiring a new certificate of  
13 occupancy, including, but not limited to any redevelopment,  
14 rehabilitation, infill development, or adaptive reuse of property. A  
15 "new residential development project" shall not mean any  
16 construction or reconstruction of a single-family dwelling that is  
17 occupied by, or intended to be occupied by, the owner.

18 "Subsequent compliance period" means any period of 10 years  
19 following the initial compliance period and beginning on the day  
20 following the last day of the prior compliance period.

21 "Supportive and special needs housing" means homes for persons  
22 with developmental disabilities and mental illness that are designed  
23 as permanent housing, and licensed or regulated by the New Jersey  
24 Department of Human Services; permanent supportive housing; and  
25 permanent supportive shared living housing. This term does not  
26 include housing restricted to occupancy by persons under 18 years  
27 of age. Homes shall be affordable to and occupied by households  
28 earning no more than 80 percent of the median income for the  
29 region in which the municipality is located, as adjusted for family  
30 size, and that are subject to affordability controls or established  
31 with capital funding through a 20-year operating contract with the  
32 Department of Human Services, Division of Developmental  
33 Disabilities.

34 "Total current housing stock" means all occupied and vacant  
35 dwelling units within a municipality which are potentially available  
36 for rental or sale to the general public for permanent occupancy,  
37 including dwelling units that are age-restricted, or restricted to  
38 persons of low or moderate income, and licensed rooming or  
39 boarding houses, as defined pursuant to section 3 of P.L.1979, c.496  
40 (C.55:13B-3). The term shall not include hotels or motels, as  
41 defined pursuant to section 3 of P.L.1967, c.76 (C.55:13A-3), or  
42 other transient facilities, dwelling units that are available to only  
43 employees of a particular employer, or occupied by students,  
44 members of a particular religious group, or residents of a particular  
45 institution, military housing, or units within a health care facility  
46 regulated by the New Jersey Department of Health.



1 "Very low income housing" means housing affordable according  
2 to federal Department of Housing and Urban Development or other  
3 recognized standards for home ownership and rental costs and  
4 occupied or reserved for occupancy by households with a gross  
5 household income equal to 30 percent or less of the median gross  
6 household income for households of the same size within the  
7 housing region in which the housing is located.

8  
9 22. (New section) a. A municipality shall meet its compliance  
10 threshold if it duly adopts and files a housing element, that has been  
11 prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310),  
12 within 60 days of the effective date of P.L. , c. (C. ), and  
13 which element has been certified by a licensed housing compliance  
14 professional that such housing element demonstrates that:

15 (1) 10 percent of the municipality's total current housing stock  
16 is qualified housing units; or

17 (2) for municipalities in which at least 20, but less than 50,  
18 percent of the children enrolled in schools in the municipality in  
19 October of the preceding year were eligible for free or reduced price  
20 meals under the federal School Lunch Program, eight percent of the  
21 municipality's total current housing stock is qualified housing units.

22 b. For purposes of counting towards a compliance threshold  
23 determined pursuant to subsection a. of this section:

24 (1) at least 50 percent of the total number of qualified housing  
25 units in any municipality shall be qualified low income units, at  
26 least 13 percent of the total of qualified housing units in any  
27 municipality constructed after the effective date of P.L. , c. (C. )  
28 (pending before the Legislature as this bill), shall be qualified very  
29 low income units;

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

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

38 (4) no more than 25 percent of the total number of qualified  
39 housing units in any municipality shall be reserved for people living  
40 or working within that municipality.

41 c. Each permanent supportive housing unit that receives a  
42 certificate of occupancy following the effective date of P.L. , c.  
43 (C. ) (pending before the Legislature as this bill), shall be  
44 counted as two units of qualified housing in the municipality in  
45 which the unit is located. Each new unit of housing for persons with  
46 developmental disabilities or mental illness, designed as permanent  
47 housing, and regulated by the New Jersey Department of Human

1 Services, shall be counted as one and one-quarter unit of qualified  
2 housing in the municipality in which the unit is located. Each new  
3 bedroom in permanent supportive shared living housing created  
4 following the effective date of P.L. , c. (C. ) (pending before  
5 the Legislature as this bill), shall be counted as one and one-quarter  
6 unit of qualified housing in the municipality in which the unit is  
7 located. The total added additional units counted pursuant to this  
8 subsection shall not exceed 25 percent of the number of housing  
9 units affordable to low- and moderate-income people counted to  
10 determine that a municipality is a compliant municipality.

11 d. Each municipality adopting a housing element pursuant to  
12 this section shall file the housing element and other relevant  
13 information with the department in an electronic format pursuant to  
14 section 28 of P.L. , c. (C. ) (pending before the Legislature  
15 as this bill). Once the housing element has been reviewed and  
16 certified by a licensed housing compliance professional, the  
17 certified housing element and other relevant information shall also  
18 be filed with the department in an electronic format pursuant to  
19 section 28 of P.L. , c. (C. ) (pending before the Legislature  
20 as this bill), at which point the municipality shall be compliant.

21 e. The housing element filed pursuant to subsection a. of this  
22 section shall be valid for 10 years from the effective date of P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill). Anytime  
24 within the year prior to the expiration of the initial compliance  
25 period, or any subsequent compliance period, a municipality  
26 seeking to demonstrate compliance for a subsequent compliance  
27 period may adopt and file a housing element for certification  
28 pursuant to this section.

29 f. Any municipality demonstrating that it has met the  
30 compliance threshold pursuant to this section shall submit an  
31 analysis as part of its housing element calculating the number of  
32 existing substandard housing units in the municipality occupied by  
33 low and moderate income families, and a plan for rehabilitating at  
34 least that number of units within the next 10 years.

35 g. The department shall make any ordinances or housing  
36 element filed by a municipality available on the website established  
37 pursuant to section 28 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill).

39 For purposes of this section, a municipality shall rely upon a  
40 determination of the number of children enrolled in schools in the  
41 municipality in October of the year preceding the start of the  
42 relevant 10-year period as established in subsection e. of this  
43 section that are eligible for free or reduced price meals under the  
44 federal School Lunch Program for the subsequent 10-year period.

45

46 23. (New section) a. A municipality may be deemed to be a  
47 compliant municipality for the initial compliance period if, within

1 eight months of the effective date of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill) it duly adopts and files with the  
3 department a certified housing element and implementing  
4 ordinances that have been prepared pursuant to section 10 of  
5 P.L.1985, c.222 (C.52:27D-310) and meet the criteria of this  
6 section.

7 b. The housing element shall include an analysis of the number  
8 of qualified housing units already existing in the municipality and  
9 the number of qualified housing units required to satisfy the criteria  
10 set forth in subsection a. of section 22 of P.L. , c. (C. )  
11 (pending before the Legislature as this bill). In the initial  
12 compliance period, the housing element and implementing  
13 ordinances shall provide, in addition to the number of existing  
14 qualified housing units, a realistic opportunity for the least of the  
15 following:

16 (1) Sufficient qualified housing units to meet at least 50 percent  
17 of the difference between the number of qualified housing units  
18 already existing in the municipality and the number of qualified  
19 housing units required to satisfy the criteria set forth in subsection  
20 a. of section 22 of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill);

22 (2) 1000 qualified housing units; or

23 (3) A number of qualified housing units equal to the number for  
24 the municipality set forth in the table appearing at 40 N.J.R. 2942-  
25 2955 (June 2, 2008).

26 c. Within 12 months prior to the expiration of the initial  
27 compliance period or any subsequent compliance period, the  
28 municipality may be deemed compliant for the subsequent  
29 compliance period if it duly adopts and files with the department a  
30 certified housing element and implementing ordinances that have  
31 been prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-  
32 310) and meet the criteria of this section. Any such housing element  
33 and implementing ordinances shall not become effective until the  
34 commencement of the subsequent compliance period. The housing  
35 element shall include an analysis of the number of qualified housing  
36 units already existing in the municipality and the number of  
37 qualified housing units required to satisfy the criteria set forth in  
38 subsection a. of section 22 of P.L. , c. (C. ) (pending before  
39 the Legislature as this bill). The housing element and implementing  
40 ordinances shall provide a realistic opportunity to meet the entire  
41 difference between the number of qualified units already existing in  
42 the municipality and the number of qualified units required to  
43 satisfy the criteria set forth in subsection a. of section 22 of P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill).  
45 Notwithstanding the foregoing, the housing element and  
46 implementing ordinances may alternatively provide, in addition to  
47 the number of existing qualified housing units plus any additional

1 qualified housing units not yet created that were or would have been  
2 required pursuant to this section for any and all previous  
3 compliance periods, a realistic opportunity for the lessor of the  
4 following:

5 1000 qualified housing units; or

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

9 d. The municipality shall adopt inclusionary zoning ordinances  
10 on sites that are developable land as defined in section 21 of P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill) sufficient to  
12 meet at least 50 percent of the units required pursuant to subsection  
13 b. of this section, or such lower percentage of the units required as  
14 is practicable on the developable land in the municipality. Such  
15 zoning shall permit minimum densities and qualified housing set-  
16 asides as follows:

17 (1) In municipalities with a gross population density of over  
18 5,000 people per square mile or more than twice the number of jobs  
19 as the number of homes, inclusionary zoning shall permit  
20 residential development at gross densities of between 10 and 50  
21 units per acre and a set-aside of qualified housing units of between  
22 15 and 20 percent of the total number of units in the development.

23 (2) In all other municipalities, inclusionary zoning shall permit  
24 residential development at gross densities of between 6 and 20 units  
25 per acre and a set-aside of qualified housing units of between 15  
26 and 20 percent of the total number of units in the development.

27 (3) In determining the gross density from the ranges above, the  
28 municipality shall take into consideration the current character of  
29 the municipality, surrounding residential and non-residential  
30 densities, the maximum densities permitted for residential and non-  
31 residential uses elsewhere in the municipality, access to  
32 employment, access to public transit, and the number of qualified  
33 housing units required pursuant to subsections b. and c. of this  
34 section.

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

40 (5) For any property located in an inclusionary zone, the  
41 developer may voluntarily elect at the time of application for  
42 development approvals to commit to developing the low and  
43 moderate units as rental units and maintaining them as rental units  
44 for a period of 30 years. This commitment shall be legally binding  
45 both on the developer and on all subsequent owners, and shall be  
46 expressly memorialized both in the resolution granting the  
47 development approval and in a recorded deed covenant. The set

1 aside for qualified low and moderate income housing units shall be  
 2 15 percent. The minimum gross density shall be increased by 20  
 3 percent over the minimum gross density otherwise specified in the  
 4 ordinance for inclusionary developments on that site.

5 (6) Half of the units reserved for low-income or moderate-  
 6 income housing pursuant to this subsection shall be reserved for  
 7 low- income housing and half the units shall be reserved for  
 8 moderate- income housing. If an odd number of affordable units is  
 9 being constructed, rehabilitated or developed pursuant to this  
 10 subsection, the higher number of units shall be low-income housing.  
 11 In rental developments, 13 percent of the units shall be reserved as  
 12 qualified very-low-income units, which shall be included as part of  
 13 the low-income housing total and shall not reduce the aggregate  
 14 rents of the required qualified housing units in the development  
 15 below the aggregate rents that would have resulted if the  
 16 development did not include qualified very-low-income units. No  
 17 municipality shall require qualified very-low-income units in an  
 18 inclusionary development in which the qualified housing units are  
 19 offered for sale.

20 (7) Upon the mutual agreement of the applicant for development  
 21 and the municipality, the qualified very-low, low-, and moderate-  
 22 income housing units may be provided in an off-site development in  
 23 the municipality providing the same number and comparable type  
 24 and tenure of qualified units, in a location that does not contribute  
 25 to the concentration of poverty. Where no such mutual agreement  
 26 exists, the qualified very-low, low- and moderate-income housing  
 27 units shall be provided on site, and integrated throughout the  
 28 development to the extent feasible.

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

34	Percentage of	Minimum Percentage of
35	Market-rate Units	Qualified Housing Units
36	Completed	Completed
37		
38	25	0
39	25 plus 1 unit	10
40	50	50
41	75	75
42	90	100

43 The municipality may modify the foregoing schedule for up to  
 44 25 percent of the market rate units for good cause shown for  
 45 inclusionary developments in which the qualified housing units are  
 46 offered for rent.

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

6       e. A municipality may also meet part of its compliance standards  
7 through municipally sponsored 100 percent affordable development,  
8 accessory apartment units affordable to low- and moderate-income  
9 households, 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"); rehabilitation projects, and permitting the construction of  
13 an assisted living residence in which all or a designated number of  
14 units are restricted to low- or moderate-income households. In  
15 order to meet compliance standards through these means, the  
16 municipality shall:

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

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

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

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

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

- 1       h. Any housing element filed pursuant to this section shall  
2 identify, with specificity, the site of any qualified units that shall be  
3 built and are relied upon to meet the compliance threshold.
- 4       i. The governing body of a municipality seeking to be deemed  
5 a compliant municipality pursuant to this section shall require a  
6 licensed housing compliance professional designated by the State  
7 Board of Professional Planners pursuant to section 30 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
9 conduct a comprehensive and independent review of the adopted  
10 housing element and implementing ordinances. Upon transmission  
11 of the adopted housing element and implementing ordinances to the  
12 licensed housing compliance professional review, the municipality  
13 shall submit the adopted housing element, implementing  
14 ordinances, and the name and the contact information of the  
15 licensed housing compliance professional to the department  
16 pursuant to section 28 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).
- 18       j. Upon certification by the licensed housing compliance  
19 professional in accordance with section 30 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill), any municipality  
21 adopting ordinances and a housing element pursuant to this section  
22 shall file its ordinances, housing element, and the certification of  
23 the licensed housing compliance professional with the department  
24 in an electronic format, in accordance with section 28 of P.L. , c.  
25 (C. ) (pending before the Legislature as this bill). If a  
26 municipality does not file with the department a duly adopted and  
27 certified housing element and implementing ordinances prior to the  
28 dates set forth in this section, it may be deemed to be a compliant  
29 municipality for the remainder of the compliance period if it  
30 subsequently duly adopts and files with the department a certified  
31 housing element and implementing ordinances that have been  
32 prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310)  
33 and meet the criteria of this section. The municipality shall be  
34 deemed to be compliant from the date it files the certified housing  
35 element and implementing ordinances with the department.
- 36       k. In any exclusionary zoning litigation, such certified housing  
37 element and implementing ordinances filed with the department in  
38 compliance with this section for the current compliance period and  
39 prior to the filing of the litigation shall bear a presumption of  
40 validity which shall only be overcome by clear and convincing  
41 evidence that the plan does not meet the standards established in  
42 P.L. , c. (C. ) (pending before the Legislature as this bill). The  
43 filing described in this section shall be the sole means, other than  
44 entry of a judgment of compliance in exclusionary zoning litigation  
45 brought against a municipality, by which a municipality that is not  
46 compliant pursuant to section 22 of P.L. , c. (C. ) (pending  
47 before the Legislature as this bill) may be deemed to be compliant

1 and secure the presumption of validity pursuant to this subsection  
2 and exemption from the variance requirements set forth in section  
3 25 of P.L. , c. (C. ) (pending before the Legislature as this  
4 bill).

5 1. To continue being deemed compliant pursuant to this  
6 section, the municipality shall submit in an electronic format to the  
7 department annual status updates demonstrating that the  
8 municipality is affirmatively complying with the requirements of  
9 this section. The Department of Community Affairs shall make all  
10 filings available through the Internet website established pursuant to  
11 section 28 of P.L. , c. (C. ) (pending before the Legislature as  
12 this bill).

13

14 24. (New section) a. Any municipality in which 50 percent or  
15 more of the children enrolled in schools in the municipality in  
16 October of the year preceding the start of the relevant 10-year  
17 period as calculated in subsection e. of section 22 of P.L. , c. (C.  
18 ) were eligible for free or reduced price meals under the federal  
19 School Lunch Program shall be compliant pursuant to P.L. , c.  
20 (C. ) upon filing an analysis with the department pursuant to  
21 section 30 of P.L. , c. (C. ) (pending before the Legislature  
22 as this bill) calculating the number of existing substandard housing  
23 units in the municipality occupied by low and moderate income  
24 families, and a plan for rehabilitating at least those units within the  
25 next 10 years.

26 b. Nothing in this section shall be construed to prohibit a  
27 municipality from adopting an ordinance requiring that units  
28 proposed as part of a residential development project be set aside  
29 for low- or moderate-income households, or establishing an  
30 affordable housing trust fund and adopting corresponding fee  
31 ordinances, pursuant to section 26 of P.L. , c. (C. ) (pending  
32 before the Legislature as this bill) and section 8 of P.L.2008, c.46  
33 (C.52:27D-329.2). For purposes of this section, a municipality  
34 shall rely upon a determination of the number of children enrolled  
35 in schools in the municipality in October of the year preceding the  
36 start of the relevant ten year period as established in subsection e. of  
37 section 22 of P.L. , c. (C. ) (pending before the Legislature  
38 as this bill) that are that are eligible for free or reduced price meals  
39 under the federal School Lunch Program need for the subsequent  
40 10-year period.

41

42 25. (New section) a. In a municipality that is not a compliant  
43 municipality pursuant to section 22 of P.L. , c. (C. ) (pending  
44 before the Legislature as this bill), or deemed compliant pursuant to  
45 section 23 of P.L. , c. (C. ) pending before the Legislature as  
46 this bill), a developer requesting a variance or other relief pursuant  
47 to subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) for



1 a proposed development, in which at least 20 percent of any  
2 dwelling units are set aside for housing affordable to low income  
3 and moderate income households, shall be required to make only a  
4 showing that the variance or other relief can be granted without  
5 substantial detriment to the public good. A development proposed  
6 pursuant to this subsection shall be deemed to be inherently  
7 beneficial.

8 b. The provisions of this section shall only apply to  
9 applications under the "Municipal Land Use Law," P.L.1975, c.210  
10 (C.40:55D-1 et seq.) concerning lots or parcels within a  
11 municipality's developable property.

12  
13 26. a. Every municipality of the State, except municipalities  
14 compliant pursuant to section 24 of P.L. , c. (C. ) (pending  
15 before the Legislature as this bill), shall require that a developer of  
16 any new residential development project pay a development fee of  
17 1.5 percent of the equalized assessed value of the development into  
18 the municipal affordable housing trust fund as a precondition to  
19 issuance of a certificate of occupancy.

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

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

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

36 e. Municipalities that, as of the date of the enactment of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill),  
38 collect a development fee on residential development pursuant to  
39 ordinance, shall continue to collect a development fee at that  
40 present rate until 12 months after the date of the enactment of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill).  
42 Municipalities that, as of the date of the enactment of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill), do  
44 not collect a development fee on residential development pursuant  
45 to ordinance, may not collect any development fee until 12 months  
46 after the date of the enactment of P.L. , c. (C. ) (pending  
47 before the Legislature as this bill). Beginning 12 months after the

1 date of the enactment of P.L. , c. (C. ) (pending before the  
2 Legislature as this bill), all municipalities shall collect a residential  
3 development fee pursuant to subsection a. of this section.  
4

5 27. (New section) The Department of Community Affairs,  
6 Department of Environmental Protection, and the Department  
7 Transportation shall promulgate regulations to provide that a  
8 municipality that has filed with the Department of Community  
9 Affairs as a compliant municipality or a municipality deemed  
10 compliant pursuant to section 23 of P.L. , c. (C. ) (pending  
11 before the Legislature as this bill) shall receive preference with  
12 respect to discretionary grant programs administered by those  
13 departments for which municipal governments are eligible, and  
14 shall prioritize and expedite applications from developments  
15 included in a housing element prepared and filed pursuant to P.L.  
16 , c. (C. ) (pending before the Legislature as this bill).  
17

18 28. (New section) a. The department shall design, establish, and  
19 maintain a searchable Internet website accessible to the general  
20 public for no charge. This website shall contain data and  
21 information concerning affordable housing in each municipality of  
22 the State including applications for such housing and other  
23 information for people seeking such housing. The department may  
24 consult with the Division of Information Technology in the  
25 Department of the Treasury in order to develop the Internet website.  
26

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

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

33 (2) the number of additional housing units created in the  
34 municipality that are qualified very low income, low income or  
35 moderate income housing and an itemized listing of these units,  
36 whether they are restricted to seniors or people with special needs,  
37 and the income levels served;

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

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

45 (5) Housing elements, notices, updates, certifications and  
46 reports and determinations related to certifications, ordinances, and  
47 amendments to municipal housing elements required to be posted  
pursuant to P.L. , c. (pending before the Legislature as this bill).

1 c. Each municipality shall report any information required in  
2 other sections of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill) at the time required by those sections and  
4 annually report the information described in subsection b. of this  
5 section to the department. The department shall ensure that the  
6 information is available to the public on the website within seven  
7 business days of receipt. To facilitate this process, the department  
8 may choose to create a system in which municipalities may directly  
9 enter this information in the internet website established pursuant to  
10 this section.

11

12 29. (New section) a. Nothing in P.L. , c. (C. ) (pending  
13 before the Legislature as this bill) shall require a municipality to  
14 raise or expend municipal revenues in order to provide a realistic  
15 opportunity for low and moderate income housing.

16 b. Any property included or the subject of substantive  
17 certification, or a judgment of repose, court order, mediation  
18 agreement or settlement in exclusionary zoning litigation entered  
19 prior to the effective date of P.L. , c. (C. ) (pending before  
20 the Legislature as this bill) which requires or provides for zoning or  
21 rezoning of specified property for affordable housing purposes shall  
22 continue to be subject to the terms of that judgment, order,  
23 substantive certification, agreement, or settlement. A municipality  
24 shall not, unless so required by substantive certification, or a  
25 judgment of repose, court order, mediation agreement or settlement  
26 in exclusionary zoning litigation, alter the zoning of such property.

27 c. A municipality shall not alter the zoning classification of  
28 any inclusionary development site that during a judgment of repose  
29 period was designated or reserved for purposes of satisfying a  
30 municipality's fair share of the region's housing opportunities.

31 d. Except as provided in subsection b., for any litigation  
32 involving exclusionary zoning instituted prior to the effective date  
33 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
34 jurisdiction may remain with the court, unless all parties stipulate  
35 that it should be dismissed on mutually agreed terms. Such  
36 litigation shall proceed expeditiously towards a judgment of  
37 compliance at most eight months after the effective date of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill). The  
39 number of qualified housing units required shall be based upon the  
40 standards of section 22 of P.L. , c. (C. ) (pending before the  
41 Legislature as this bill).

42 e. No exclusionary zoning action naming a municipality as a  
43 defendant shall be filed prior to (1) eight months following the  
44 effective date of this act: or, (2) the filing by the municipality with  
45 the department of a housing element and implementing ordinances  
46 that have been duly adopted and certified by licensed housing

1 compliance professional in accordance with the provisions of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3

4 30. (New section) a. A municipal housing element and  
5 implementing ordinance may be certified as compliant with the  
6 requirements of section 23 only by a housing compliance  
7 professional licensed by the State Board of Professional Planners.

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

11 (1) To promulgate and administer standards and requirements  
12 for licensing housing compliance professionals, which may include  
13 preparation and administration of licensing examinations;

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

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

18 (4) To establish procedures for random assignment of licensed  
19 housing compliance professionals to municipalities for the purpose  
20 of conducting comprehensive and independent reviews of housing  
21 elements and implementing ordinances;

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

25 (6) To promulgate and administer standards and requirements  
26 for continuing education of licensed housing compliance  
27 professionals;

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

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

33 (9) To promulgate procedures for the receipt of complaints,  
34 imposition of discipline, suspension or revocation of licenses of  
35 housing compliance professionals;

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

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

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

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

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

1       (2) has substantial experience in the preparation or independent  
2 review of affordable housing elements for municipalities under New  
3 Jersey law. Such experience shall include the personal preparation,  
4 or the independent review culminating in a written report, of at least  
5 20 affordable housing elements for municipalities under New Jersey  
6 law ;

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

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

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

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

31       e. Each license shall be issued to an individual, shall be valid  
32 only for the individual to whom it is issued, and shall not be  
33 transferable. Each license, other than a temporary license, issued  
34 shall be valid for a period not to exceed three years, unless a shorter  
35 period is specified therein, or unless suspended or revoked. Each  
36 temporary license shall be valid for one year.

37       f. Any certification by a licensed housing compliance  
38 professional shall be based upon an independent review under  
39 standards promulgated by the State Board of Professional Planners.  
40 The standards shall provide that a licensed housing compliance  
41 professional may not certify a housing element:

42       (1). which he or she prepared or which was prepared by any  
43 person employed by the same entity as the licensed housing  
44 compliance professional;

45       (2). for a municipality by which he or she, or any person  
46 employed by the same entity, was employed, in any capacity,

1 including by any municipal commission or board, during the  
2 previous two years;

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

14 (4) for a municipality in which the licensed housing compliance  
15 professional, or a member of licensed housing compliance  
16 professional's family or households, owns real property or holds  
17 local public office.

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

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

38 i. A licensed housing compliance professional shall certify a  
39 municipal housing element if, after conducting a comprehensive  
40 and independent review, the licensed housing compliance  
41 professional makes a determination that the housing element and  
42 implementing ordinances (1) accurately and completely represent  
43 the qualified housing units already existing in the municipality and  
44 the number of qualified housing units required to satisfy the criteria  
45 set forth in subsections a. through c. of section 22 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill); (2)  
47 create sufficient realistic opportunities for the development of

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

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

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

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

38 (2) the licensed housing compliance professional determines,  
39 based on the new comprehensive and independent review, that  
40 material changes have been made to the housing element and  
41 implementing ordinances that rectify the deficiencies specified in  
42 the prior determination.

43 l. A licensed housing compliance professional's highest  
44 priority in the performance of professional services in that capacity  
45 shall be the protection of the interests of low and moderate income  
46 individuals and families in need of safe, decent affordable housing.

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

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

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

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

44 (5) If a licensed housing compliance professional learns of an  
45 action or decision by a municipality, or any municipal board,  
46 authority, or commission, that results in a deviation from a housing  
47 element and implementing ordinances that the housing compliance



1 professional previously certified, the licensed housing compliance  
2 professional shall promptly make a written report of that deviation  
3 and its effect on the previous determination, and, if appropriate,  
4 withdraw the certification of the municipal housing element.

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

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

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

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

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

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

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

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

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

44 (1) In accordance with procedures established in its regulations,  
45 the State Board of Professional Planners shall direct the licensed  
46 housing compliance professional to withdraw any determination,

- 1 report, or certification filed with the department if it finds that the  
2 determination, report, or certification
- 3 (a) Was not the product of a review that was independent under  
4 standards promulgated by the State Board of Professional Planners;  
5 (b) Was the product of fraud or coercion; or  
6 (c) Contains misrepresentations of fact that would materially  
7 alter the conclusions reached in the determination, report, or  
8 certification.
- 9 (d) Egregiously violates P.L. , c. (C. ) (pending before  
10 the Legislature as this bill) or standards promulgated by the State  
11 Board of Professional Planners.
- 12 (2) In accordance with procedures established in its regulations,  
13 the State Board of Professional Planners may, if it finds that a  
14 licensed housing compliance professional is in violation of P.L. ,  
15 c. (C. ) (pending before the Legislature as this bill), or any  
16 rule, regulation, or order adopted or issued pursuant thereto, or who  
17 knowingly has made any false statement, representation, or  
18 certification in any documents or information required to be  
19 submitted to the State Board of Professional Planners or the  
20 Department of Community Affairs,
- 21 (a) revoke or suspend the license to practice as a housing  
22 compliance professional;
- 23 (b) revoke or suspend the license to practice as professional  
24 planner; or
- 25 (c) assess a civil administrative penalty of not more than  
26 \$10,000 for a first violation and not more than \$20,000 for every  
27 subsequent violation of the provisions of P.L. , c. (C. )  
28 (pending before the Legislature as this bill), or any rule, regulation,  
29 code of conduct, or order adopted or issued pursuant thereto.
- 30 (3) Nothing in this section shall be deemed to create an  
31 administrative remedy that must be exhausted prior to the filing of  
32 any litigation against a municipality. The actions of a licensed  
33 housing compliance professional shall not be deemed to be the  
34 action of a State agency.
- 35 n. No person shall take retaliatory action if a licensed housing  
36 compliance professional:
- 37 (1) discloses, or undertakes to disclose, to the State Board of  
38 Professional Planners or to the department an activity, policy or  
39 practice that the licensed housing compliance professional  
40 reasonably believes: (a) is a violation of law, or a rule or regulation  
41 adopted pursuant to law; or (b) is fraudulent or criminal, including  
42 any activity, policy or practice of deception or misrepresentation  
43 that the housing compliance professional reasonably believes may  
44 defraud a municipality, property owner, low or moderate income  
45 person or any other governmental entity;
- 46 (2) provides information to, or testifies before, any public body  
47 conducting an investigation, hearing, or inquiry into any violation

1 of law, or a rule or regulation adopted pursuant to law, by a  
2 municipality, including any violation involving deception of, or  
3 misrepresentation to, any client, customer, the department or any  
4 other governmental entity; or

5 (3) objects to, or refuses to participate in, any activity, policy or  
6 practice which the licensed housing compliance professional  
7 reasonably believes:

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

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

17 (c) is incompatible with a clear mandate of public policy  
18 concerning the provision of safe, decent affordable housing to low  
19 and moderate income households.

20  
21 31. Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to  
22 read as follows:

23 8. a. **【The council may authorize a municipality that has**  
24 **petitioned for substantive certification, or that has been so**  
25 **authorized by a court of competent jurisdiction, and which that has**  
26 **adopted a municipal development fee】**Every municipality, other  
27 than a municipality complaint pursuant to section 24 of P.L. , c.  
28 (C. ) (pending before the Legislature as this bill), shall adopt an  
29 ordinance to impose and collect 【development】 fees from  
30 developers of residential property, in accordance with P.L. , c.  
31 (C. ) (pending before the Legislature as this bill), this section,  
32 and rules promulgated by the 【council】 department. Each amount  
33 collected shall be deposited and shall be accounted for separately,  
34 by payer and date of deposit.

35 **【A municipality may not spend or commit to spend any**  
36 **affordable housing development fees, including Statewide non-**  
37 **residential fees collected and deposited into the municipal**  
38 **affordable housing trust fund, without first obtaining the council's**  
39 **approval of the expenditure. The council shall promulgate**  
40 **regulations regarding the establishment, administration and**  
41 **enforcement of the expenditure of affordable housing development**  
42 **fees by municipalities. The council shall have exclusive**  
43 **jurisdiction regarding the enforcement of these regulations,**  
44 **provided that any municipality which is not in compliance with the**  
45 **regulations adopted by the council may be subject to forfeiture of**  
46 **any or all funds remaining within its municipal trust fund. Any**  
47 **funds so forfeited shall be deposited into the "New Jersey**

- 1 Affordable Housing Trust Fund" established pursuant to section 20  
2 of P.L.1985, c.222 (C.52:27D-320).】
- 3 b. A municipality shall deposit all fees collected, whether or  
4 not such collections were derived from fees imposed upon non-  
5 residential or residential construction into a trust fund dedicated to  
6 those purposes as required under this section, and such additional  
7 purposes as may be approved by the 【council】 department.
- 8 c. (1) A municipality may only spend development fees for an  
9 activity set forth in this section or approved by the 【council】  
10 department to address the municipal 【fair share】 affordable housing  
11 obligation.
- 12 (2) Municipal development trust funds shall not be expended to  
13 reimburse municipalities for activities which occurred prior to the  
14 【authorization of】 adoption of a municipal ordinance authorizing a  
15 municipality to collect development fees.
- 16 (3) A municipality 【shall】 may set aside 【a portion of】 not  
17 more than 30 percent of its development fee trust fund for the  
18 purpose of providing affordability assistance to low and moderate  
19 income households in affordable units 【included in a municipal fair  
20 share plan, in accordance with rules of the council】.
- 21 (a) Affordability assistance programs may include down  
22 payment assistance, security deposit assistance, low interest loans,  
23 common maintenance expenses for units located in condominiums,  
24 rental assistance, and any other program authorized by the  
25 【council】 department.
- 26 (b) Affordability assistance to households earning 30 percent or  
27 less of median income may include buying down the cost of low  
28 income units 【in a municipal fair share plan】 to make them  
29 affordable to households earning 30 percent or less of median  
30 income. 【The use of development fees in this manner shall not  
31 entitle a municipality to bonus credits except as may be provided by  
32 the rules of the council.】
- 33 (4) A municipality may contract with a private or public entity  
34 to administer any part of its housing element and 【fair share】  
35 affordable housing plan, including 【the requirement for】 any  
36 affordability assistance, or 【any】 other program or activity for  
37 which the municipality expends development fee proceeds, in  
38 accordance with rules of the 【council】 department.
- 39 (5) Not more than 20 percent of the revenues collected from  
40 development fees and expended for housing programs or activities  
41 shall be expended on administration, in accordance with rules of the  
42 【council】 department.
- 43 d. 【The council shall establish a time by which all】 (1) All  
44 development fees collected 【within a calendar year shall be  
45 expended; provided, however, that all fees】 by a municipality shall

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

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

30 (3) Any funds that are not committed or disbursed as required  
31 by this section automatically shall be deemed excess funds. The  
32 department shall provide notice of availability of any excess funds  
33 within five (5) business days of the funds being deemed excess  
34 funds, on the department's Internet website pursuant to section 28 of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill).

36 e. Notwithstanding any provision of this section, or regulations  
37 of the **【council】** department, a municipality shall not collect a  
38 development fee from a developer whenever that developer is  
39 providing for the construction of the required number of qualified  
40 affordable units, either on-site or elsewhere within the municipality.

41 **【This section shall not apply to the collection of a Statewide**  
42 **development fee imposed upon non-residential development**  
43 **pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1**  
44 **et seq.) by the State Treasurer, when such collection is not**  
45 **authorized to be retained by a municipality.】**

46 f. Any county that has established or establishes at any time a  
47 homelessness trust fund pursuant to P.L.2009, c.123 or serves as an

1 urban county for purposes of administering federal Community  
2 Development Block Grant funds or Home Investment Partnerships  
3 funds may, through resolution of the governing body of the county,  
4 elect to receive the excess funds as described in paragraph (3) of  
5 subsection d. of this section from all municipalities in the county.  
6 The funds shall be kept in a segregated account. In all counties  
7 other than counties that make the election described in this  
8 subsection, the excess funds shall be placed in a segregated account  
9 by the municipality.

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

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

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

36 (2) (a) Any county electing to receive excess funds shall adopt  
37 and disseminate written guidelines, priorities and application  
38 procedures to govern the use and distribution of those funds in  
39 municipalities that are deemed compliant or neither compliant nor  
40 deemed compliant. These guidelines, priorities, and procedures  
41 shall be posted on the department's Internet website pursuant to  
42 section 28 of P.L. , c. (C. ) (pending before the Legislature  
43 as this bill).

44 (b) These guidelines shall preference funds for not-for-profit  
45 organizations seeking to create qualified housing units within the  
46 municipality, taking into consideration the provision of social  
47 services, a demonstrated history of working in the community, the

1 inclusion of qualified very low income units in the project, and an  
2 ongoing commitment and involvement in maintaining the standards  
3 of the housing.

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

21 The department may award the funds to help develop qualified  
22 housing units contained in a housing element adopted elsewhere in  
23 the county, provided that no such funds may be used in  
24 municipalities described in section 24 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill). An entity making an  
26 application under this section may also make an application  
27 pursuant to the process described in section 25 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill) in any municipality for  
29 which that process is otherwise permitted pursuant to  
30 P.L. , c. (C. ) (pending before the Legislature as this bill).  
31 (cf: P.L.2008, c.46, s.8)

32  
33 32. (New section) It shall be the duty of the Department of  
34 Community Affairs to administer the "Fair Housing Act," P.L.1985,  
35 c.222 (C:52:27D-301 et al.) and to assist municipalities in  
36 implementing the provisions of the act. When appropriate, the  
37 Commissioner Pursuant to the "Administrative Procedure Act,"  
38 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of  
39 Community Affairs may promulgate any rules and regulations  
40 necessary to effectuate the purposes of P.L. , c. (C. ) (pending  
41 before the Legislature as this bill), including:

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

45 b. Affirmative marketing requirements for affordable units,  
46 whether or not developed pursuant to P.L. , c. (C. ) (pending  
47 before the Legislature as this bill);

1 c. Guidelines concerning the application of covenants or other  
2 affordability controls for affordable units.

3  
4 33. Section 39 of P.L.2008, c.46 (C.40:55D-8.8) is amended to  
5 read as follows:

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

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

19 b. A developer of a non-residential project that, prior to July  
20 17, 2008, has been referred to a planning board by the State, a  
21 governing body, or other public agency for review pursuant to  
22 section 22 of P.L.1975, c.291 (C. 40:55D-31) and that was subject  
23 to the payment of a nonresidential development fee prior to the  
24 enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be  
25 entitled to a return of any moneys paid that represent the difference  
26 between monies committed prior to July 17, 2008 and moneys paid  
27 on or after that date.

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

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

43 (2) A developer of a non-residential project that was subject to  
44 the payment of a nonresidential development fee subsequent to July  
45 1, 2010, shall be entitled to a return of any moneys paid in the same  
46 manner as set forth in subsection c. of this section.

47 e. Notwithstanding the provisions of subsections a., b., c., and



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

10  
11 34. (New section) The provisions of P.L. , c. (C. )  
12 (pending before the Legislature as this bill) shall be severable, and  
13 if any of its provisions shall be held to be unconstitutional, the  
14 decision of the court shall not affect the validity of the remaining  
15 provisions of P.L. , c. (C. ) (pending before the Legislature as  
16 this bill).

17  
18 35. (New section) Within two years of the effective date of P.L.  
19 , c. (C. ) (pending before the Legislature as this bill), the  
20 Department of Community Affairs shall report to the Legislature  
21 assessing and evaluating the progress and results of affordable  
22 housing efforts in New Jersey following the enactment of P.L. , c.  
23 (C. ) (pending before the Legislature as this bill). The report shall  
24 be forwarded to the Assembly Housing and Local Government  
25 Committee or its successor.

26  
27 36. The following sections are repealed:

28 Section 32 of P.L.2008, c.46 (C.40:55D-8.1);  
29 Section 33 of P.L.2008, c.46 (C.40:55D-8.2);  
30 Section 34 of P.L.2008, c.46 (C.40:55D-8.3);  
31 Section 35 of P.L.2008, c.46 (C.40:55D-8.4);  
32 Section 36 of P.L.2008, c.46 (C.40:55D-8.5);  
33 Section 37 of P.L.2008, c.46 (C.40:55D-8.6);  
34 Section 38 of P.L.2008, c.46 (C.40:55D-8.7);  
35 Section 14 of P.L.2009, c.82 (C.45:22A-46.16);  
36 Section 5 of P.L.1985 c.222 (C.52:27D-304);  
37 Section 5 of P.L.1985 c.222 (C.52:27D-305);  
38 Section 6 of P.L.1985, c.222 (C.52:27D-306);  
39 Section 7 of P.L.1985, c.222 (C.52:27D-307);  
40 Section 1 of P.L.1991, c.479 (C.52:27D-307.1);  
41 Section 2 of P.L.1991, c.479 (C.52:27D-307.2);  
42 Section 3 of P.L.1991, c.479 (C.52:27D-307.3);  
43 Section 4 of P.L.1991, c.479 (C.52:27D-307.4);  
44 Section 5 of P.L.1991, c.479 (C.52:27D-307.5);  
45 Section 6 of P.L.2001, c.435 (C.52:27D-307.6);  
46 Section 8 of P.L.1985, c.222 (C.52:27D-308);  
47 Section 9 of P.L.1985, c.222 (C.52:27D-309);

1 Section 1 of P.L.1995, c.231 (C.52:27D-310.1);  
2 Section 2 of P.L.1995, c.231 (C.52:27D-310.2);  
3 Section 11 of P.L.1985, c.222 (C.52:27D-311);  
4 Section 40 of P.L.2009, c.90 (C. 52:27D-311.3);  
5 Section 13 of P.L.1985 c.222 (C.52:27D-313);  
6 Section 2 of P.L.1989, c.142 (C.52:27D-313.1);  
7 Section 14 of P.L.1985 c.222 (C.52:27D-314);  
8 Section 15 of P.L.1985 c.222 (C.52:27D-315);  
9 Section 16 of P.L.1985, c.222 (C.52:27D-316);  
10 Section 17 of P.L.1985, c.222 (C.52:27D-317);  
11 Section 18 of P.L.1985, c.222 (C.52:27D-318);  
12 Section 19 of P.L.1985 c.222 (C.52:27D-319);  
13 Section 22 of P.L.1985, c.222 (C.52:27D-322);  
14 Section 28 of P.L.1985, c.222 (C.52:27D-328);  
15 Section 7 of P.L.2008, c.46 (C.52:27D-329.1);  
16 Section 9 of P.L.2008, c.46 (C.52:27D-329.3);  
17 Section 12 of P.L.2008, c.46 (C.52:27D-329.6);  
18 Section 14 of P.L.2008, c.46 (C.52:27D-329.8);  
19 Section 21 of P.L.2008, c.46 (C.52:27D-329.10);  
20 Section 22 of P.L.2008, c.46 (C.52:27D-329.11);  
21 Section 23 of P.L.2008, c.46 (C.52:27D-329.12);  
22 Section 24 of P.L.2008, c.46 (C.52:27D-329.13);  
23 Section 25 of P.L.2008, c.46 (C.52:27D-329.14);  
24 Section 26 of P.L.2008, c.46 (C.52:27D-329.15);  
25 Section 27 of P.L.2008, c.46 (C.52:27D-329.16)  
26 Section 28 of P.L.2008, c.46 (C.52:27D-329.17)  
27 Section 29 of P.L.2008, c.46 (C.52:27D-329.18); and  
28 Section 30 of P.L.2008, c.46 (C.52:27D-329.19).  
29

30 37. Section 30 of this act shall take effect immediately and the  
31 remainder of this act shall take effect on the first day of the fourth  
32 month next following enactment.  
33  
34

#### 35 STATEMENT

36  
37 This bill would modify the “Fair Housing Act,” P.L.1985, c.222,  
38 and other laws related to affordable housing development in New  
39 Jersey. If enacted, this legislation would abolish the Council on  
40 Affordable Housing and would permit municipalities to control  
41 planning for affordable housing within their boundaries while  
42 ensuring that municipalities “make realistically possible an  
43 appropriate variety and choice of housing” Mt. Laurel I, 67 N.J.  
44 168, 174 (1973).

45 The bill abolishes the Council on Affordable Housing established  
46 by the 1985 "Fair Housing Act." The bill transfers the Council's  
47 remaining duties to the Department of Community Affairs. The bill

1 also requires the Council to transfer necessary records to the  
2 department.

3 Under the bill, in order to meet its compliance threshold, a  
4 municipality must duly adopt and file a housing element prepared in  
5 accordance with N.J.S.A.52:27D-310 within 60 days of the  
6 effective date of the bill. The housing element must have been  
7 certified by a licensed housing compliance professional, a position  
8 created by the bill. Pursuant to the bill, the housing element for the  
9 initial compliance period must demonstrate that 10 percent of the  
10 municipality's total housing stock is qualified housing units,  
11 defined in the bill as units subject to affordability controls, public  
12 housing, and supportive and special needs units. Housing units  
13 shall be deemed qualified housing units only if affordability  
14 controls or applicable affordability restrictions expire no sooner  
15 than the end of the current compliance period and provided that any  
16 qualified units are adaptable, as required by section 1 of P.L.2005,  
17 c.350 (C.52:27D-311a). The initial compliance period would be for  
18 ten years after the effective date of the bill.

19 If a municipality does not demonstrate that 10 percent of its  
20 housing stock is affordable, the municipality may meet a lower  
21 compliance threshold of 8 percent if it can demonstrate that at least  
22 20 percent, but less than 50 percent of the children enrolled in  
23 schools in the municipality in October of the preceding year were  
24 eligible for free or reduced price meals under the federal School  
25 Lunch Program. For purposes of meeting the compliance threshold:

26

- 27 • at least 50 percent of the total number of qualified housing  
28 units in any municipality shall be qualified low income  
29 units, and at least 13 percent of the total of qualified housing  
30 units in any municipality constructed after the effective date  
31 of the bill are qualified very-low-income units;
- 32 • no more than 25 percent of the total number of qualified low  
33 income housing units and qualified moderate income  
34 housing units in any municipality shall be age-restricted  
35 units as defined pursuant to section 2 of P.L.2009, c.82  
36 (C.45:22A-46.4);
- 37 • at least 50 percent of the units reserved for each of very-low-  
38 income housing, low income, and moderate income housing  
39 and counted toward the compliance threshold pursuant to  
40 this section, shall be family housing; and
- 41 • no more than 25 percent of the total number of qualified  
42 housing units in any municipality shall be reserved for  
43 people living or working within that municipality.

44

45 A municipality may also be deemed compliant if, within eight  
46 months of the effective date of the bill, it adopts and files with the  
47 department a certified housing element and implementing

ordinances that have been prepared pursuant to N.J.S.A.52:27D-310 and which meet the following criteria:

- The housing element must include an analysis of the number of qualified housing units already existing in the municipality and the number of qualified housing units required to satisfy the criteria under the bill. In the initial compliance period, the housing element and implementing ordinances shall provide, in addition to the number of existing qualified housing units, a realistic opportunity for the least of the following:
- Sufficient qualified housing units to meet at least 50 percent of the difference between the number of qualified housing units already existing in the municipality and the number of qualified housing units required to satisfy the criteria set forth in the bill;
- 1,000 qualified housing units; or
- A number of qualified housing units equal to the number for the municipality set forth in the table appearing at 40 N.J.R. 2942-2955 (June 2, 2008).

The bill sets forth specific densities and numbers of housing units required to maintain compliance, including a requirement to adopt inclusionary zoning ordinances on developable land sufficient to meet at least 50 percent of the units required to meet the threshold compliance number of units set forth in the bill. In addition, compliance for future periods may be obtained by meeting certain criteria set forth in the bill. Under this bill, all municipalities are required to plan for the rehabilitation of substandard units within their boundaries.

The bill provides for an expedited variance procedure in municipalities that refuse to comply with the law. In a non-complying municipality, projects including 20 percent affordable units will be deemed to be an inherently beneficial use. These projects will need to prove only the "negative" criteria of the standard for a variance under the "Municipal Land Use Law," N.J.S.A.40:55D-1 et seq. The variance procedure would be available for any project in which 10 percent or more of the proposed units will be affordable housing, including mixed-use projects, conventional residential developments, and 100 percent affordable developments. The bill clarifies that that proposed developments under that section are deemed inherently beneficial.

The inclusionary zoning ordinance requirement would not apply in municipalities in which 50 percent or more of the students are eligible for free or reduced-price meals, although the bill creates incentives and makes financing available for affordable units in these municipalities.

1       The bill would also maintain the provisions in the existing "Fair  
2       Housing Act" that require affordable units to be adaptable. In  
3       addition, the legislation provides regulatory incentives to encourage  
4       development of special needs housing and permanent supportive  
5       housing.

6       The legislation also repeals the "Statewide Non-Residential  
7       Development Fee Act," N.J.S.A.40:55D-8.1 et seq. and provides for  
8       the reimbursement of any fees collected since July 1, 2010.  
9       Because the elimination of the non-residential development fee  
10      would reduce collections deposited in the "Urban Housing  
11      Assistance Fund," this bill authorizes transfers from the "New  
12      Jersey Affordable Housing Trust Fund" to the "Urban Housing  
13      Assistance Fund." The bill directs that not less than 10 percent and  
14      not more than 25 percent of the amount deposited in the "New  
15      Jersey Affordable Housing Trust Fund" and available under specific  
16      provisions of the "Fair Housing Act" during any fiscal year shall be  
17      transferred to the "Urban Housing Assistance Fund" in any State  
18      fiscal year. Also, this legislation retains the statutory authorization  
19      for municipalities to collect residential development fees and  
20      provides that these fees shall be deposited in a municipal affordable  
21      housing trust fund. Pursuant to this bill, fees collected could only  
22      be committed for expenditure within two years and disbursed within  
23      three years with an exception for projects requiring scheduled  
24      payments. The bill provides that funds that are not committed or  
25      disbursed by the dates required are to be deemed excess funds. The  
26      department will post a notice of the availability of any excess funds  
27      on its Internet website for non-profit organizations in a county that  
28      elects to receive excess funds to develop qualified housing units.  
29      Counties electing to receive excess funds shall adopt and  
30      disseminate written guidelines, priorities, and application  
31      procedures to govern the use and distribution of those funds. The  
32      department will establish guidelines for the administration of excess  
33      funds for municipalities located in counties that have not elected to  
34      administer excess funds.

35      The bill establishes a new licensed position entitled "housing  
36      compliance professional." A housing compliance professional will  
37      be subject to standards for licensure promulgated by the State Board  
38      of Professional Planners. The professional shall have been actively  
39      engaged in the practice of a licensed professional planner for at  
40      least eight years, and have substantial experience in the preparation  
41      or independent review of affordable housing elements.

42      Upon request by a municipality, the State Board of Professional  
43      Planners shall designate a licensed housing compliance professional  
44      to conduct a comprehensive and independent review of the  
45      municipality's housing element and implementing ordinances. The  
46      State Board of Professional Planners shall randomly select the  
47      licensed housing compliance professional from the list of licensed

1 housing compliance professionals maintained by the State Board of  
2 Professional Planners in accordance with the procedures established  
3 by the State Board of Professional Planners.

4 A municipality that has requested the State Board of Professional  
5 Planners to designate a licensed housing compliance professional to  
6 conduct a comprehensive and independent review of its housing  
7 element and implementing ordinances shall pay the fees and  
8 reasonable expenses of the licensed housing compliance  
9 professional in accordance with the standards established by the  
10 State Board of Professional Planners. Such fees and reasonable  
11 expenses may be paid for out of the administrative portion of the  
12 municipal housing trust fund.

13 A licensed housing compliance professional shall certify a  
14 municipal housing element if, after conducting a comprehensive  
15 and independent review, the licensed housing compliance  
16 professional makes a determination that the housing element and  
17 implementing ordinances (1) accurately and completely represent  
18 the qualified housing units already existing in the municipality and  
19 the number of qualified housing units required to satisfy the criteria  
20 set forth in the bill; (2) create sufficient realistic opportunities for  
21 the development of qualified very-low, low and moderate income  
22 housing units to bring the municipality into compliance with the  
23 standards set forth in the bill; and (3) comply with all relevant  
24 standards under the bill.

25 Under the bill, the Department of Community Affairs will be  
26 required to establish an online, searchable website containing  
27 housing information. The department will be required to post all  
28 municipal housing planning information that it receives on the  
29 website.