

ASSEMBLY, No. 4674

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 29, 2015

Sponsored by:

Assemblyman DAVID P. RIBLE

District 30 (Monmouth and Ocean)

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

Assemblywoman MARY PAT ANGELINI

District 11 (Monmouth)

Assemblywoman CAROLINE CASAGRANDE

District 11 (Monmouth)

Co-Sponsored by:

Assemblymen Wolfe, McGuckin, O'Scanlon and Assemblywoman Handlin

SYNOPSIS

Establishes "Superstorm Sandy Homeowners Protection Act."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the "Superstorm Sandy Homeowners
2 Protection Act" and supplementing P.L.2013, c.37 (C.52:15D-1
3 et seq.).
4

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

8 1. This act shall be known and may be cited as the "Superstorm
9 Sandy Homeowners Protection Act."
10

11 2. Unless the context clearly indicates otherwise, as used in
12 P.L. , c. (C.) (pending before the Legislature as this bill):

13 "Act in reliance" means that, in response to reaching grant award
14 completion, the applicant moves out of the home, moves the
15 contents of the home into temporary storage containers, makes
16 financial commitments, or takes other substantial action in
17 anticipation of RREM program or LMI program work that would
18 not have been taken but for reaching grant award completion.

19 "Applicant" means an individual that has applied for, is applying
20 for, or is receiving benefits under a recovery and rebuilding
21 program.

22 "Commissioner" means the Commissioner of Community Affairs
23 or an individual authorized to act on his behalf.

24 "Builder" means a home improvement contractor, home
25 elevation contractor, new home builder or any other person,
26 including a subcontractor, who performs or contracts to perform a
27 home improvement, elevation, or construction project for a program
28 participant through, or paid for with funds provided by, the RREM
29 program or LMI program.

30 "Debar" means to permanently ban a builder from conducting
31 any work in New Jersey consisting of the construction of a "new
32 home," as defined under section 2 of "The New Home Warranty and
33 Builders' Registration Act," P.L.1977, c.467 (C.46:3B-2), and
34 "home improvements," as defined under section 2 of the
35 "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-137).

36 "Department" means the Department of Community Affairs.

37 "FEMA" means the Federal Emergency Management Agency.

38 "Final inspection" means a property review conducted by a
39 RREM/LMI contractor after the builder has completed construction
40 on a Sandy-impacted property utilizing RREM or LMI program
41 funding.

42 "Grant award" means an estimate of construction costs for a
43 home improvement, elevation, or construction project.

44 "Grant award completion" means that the department, or its
45 agents or contractors, has led the applicant through the RREM
46 program or LMI program application process, has prepared a grant
47 award agreement document containing all necessary award
48 calculations, and has offered the document to the applicant for the
49 applicant's signature.

1 "Home improvement, elevation, or construction project" means
2 the remodeling, altering, painting, repairing, renovating, restoring,
3 moving, demolishing, modernizing, elevating, rebuilding, or
4 construction of residential or noncommercial property or the
5 making of additions thereto, and includes, but is not limited to, the
6 construction, installation, replacement, improvement, or repair of
7 driveways; sidewalks; swimming pools; terraces; patios;
8 landscaping; fences; porches; windows; doors; cabinets; kitchens;
9 bathrooms; garages; basements, including basement waterproofing;
10 fire protection devices; security protection devices; central heating
11 and air conditioning equipment; water softeners, heaters, and
12 purifiers; solar heating or water systems; insulation; siding; wall-to-
13 wall carpeting or attached or inlaid floor coverings; and other
14 changes, repairs, or improvements made in or on, attached to or
15 forming a part of the residential or noncommercial property. The
16 term includes converting existing commercial structures into
17 residential or noncommercial property, and includes any of the
18 above activities performed under emergency conditions

19 "Housing advisor" means a professional, assigned by a
20 RREM/LMI contractor, whose principal duty is to help applicants
21 navigating the RREM or LMI program by assisting the applicants
22 with eligibility determinations, application processing, and
23 execution of grant awards.

24 "Homeowner-selected builder" means a builder participating in
25 Pathway B.

26 "Initial site inspection" means an in-person property review of a
27 Sandy-impacted property by a RREM/LMI contractor to confirm
28 existing site conditions and to collect information about the project
29 site to be utilized in making property eligibility determinations.

30 "LMI program" means the Low-to-Moderate Income
31 Homeowners Rebuilding Program.

32 "Notice to Proceed" means a letter to the builder stating the date
33 the builder can begin work, subject to the conditions of the
34 construction contract.

35 "Pathway B" means the option for completing home
36 improvement, elevation, or construction projects utilizing RREM
37 funds in which the applicant seeks, identifies, and selects his own
38 general contractor.

39 "Pathway C" means the option for completing home
40 improvement, elevation, or construction projects utilizing RREM
41 funds in which the applicant uses an assigned builder selected by
42 the RREM program.

43 "Pre-construction meeting" means a meeting, coordinated by the
44 RREM/LMI contractor, between the RREM/LMI contractor,
45 housing advisor, and applicant to execute an Amendment to the
46 Homeowner Grant Agreement, a Private Escrow Agreement, and
47 sign Exhibit J of the Design/Build Agreement.

48 "Principal residence" means a home which an applicant occupied
49 as his or her primary residence on October 29, 2012. Principal

1 residence does not mean second homes, vacation homes, or rental
2 properties.

3 "Program participant" means an applicant who has reached grant
4 award completion in the RREM program or the LMI program.

5 "Project manager" means a professional, assigned by a
6 RREM/LMI contractor, whose responsibilities include coordinating
7 with applicants, providing RREM and LMI program details, and
8 offering technical assistance for the completion of an applicant's
9 scope of work to ensure it complies with LMI and RREM
10 construction standards. The project manager also inspects the
11 construction while it is in progress and approves payment requests
12 as construction is completed.

13 "Recovery and rebuilding program" means the use of funding
14 provided by the federal government intended to help to rebuild and
15 recover from Superstorm Sandy, through the RREM program or
16 LMI program.

17 "RREM/LMI contractor" means an entity selected by the
18 department to manage the implementation and operation of the
19 RREM and LMI programs.

20 "RREM program" means the Reconstruction, Rehabilitation,
21 Elevation, and Mitigation Program.

22 "RREM-selected builder" means a builder participating in
23 Pathway C.

24 "Substantiated complaint" means a complaint against a builder
25 that, after reasonable inquiry, in the commissioner's opinion, would
26 lead a reasonable person to doubt the builder's ability or willingness
27 to complete RREM or LMI work in a responsible manner.

28 "Superstorm Sandy-impacted property" means a structure or
29 property that existed on October 28, 2012 and was damaged or
30 destroyed by Superstorm Sandy or damaged or destroyed by water,
31 wind, or flood incidental to Superstorm Sandy, and the
32 reconstruction or renovation of which is funded through the RREM
33 program or LMI program.

34 "Superstorm Sandy recovery and rebuilding program contract"
35 means a written agreement for the performance of a home
36 improvement, elevation, or construction project, including all
37 agreements under which the builder is to perform labor, render
38 services, or furnish materials in connection therewith, for a program
39 participant through, or paid for with funds provided by, the RREM
40 program or LMI program.

41

42 3. a. If the department allows an applicant, whose principal
43 residence has been damaged as a result of Superstorm Sandy, to
44 reach grant award completion under the RREM program or LMI
45 program even though federal law, rules, regulations, or policy
46 guidelines do not permit the grant award, and the applicant signs the
47 agreement and acts in reliance, then the department shall pay the
48 applicant the equivalent of the full amount of funding necessary to
49 improve the applicant's principal residence in accordance with the

1 terms of the grant award agreement, up to the full amount of the
2 grant award agreement. These payments shall be provided through
3 the funding allocated under section 18 of P.L. , c. (C.)
4 (pending before the Legislature as this bill).

5 b. The applicant shall not be entitled to full payment if any
6 portion of the RREM or LMI grant would have amounted to a
7 duplicative benefit under the RREM or LMI programs, pursuant to
8 the Robert T. Stafford Disaster Relief and Emergency Assistance
9 Act, (42 U.S.C. s.5121 et seq.). In such case, the applicant shall
10 still be entitled to any portion of the grant award that is not
11 duplicative.

12 c. The applicant shall not be entitled to payment if the
13 applicant misrepresents information essential to the department in
14 determining RREM or LMI eligibility.

15 d. The department shall identify and notify applicants who may
16 be entitled to payment under this section and shall collect
17 information from the applicant necessary for the department to
18 determine that the applicant is entitled to relief under this section.

19
20 4. a. Notwithstanding the limit on applicability to new home
21 builders contained in subsection a. of section 5 of the "Contractors'
22 Registration Act," P.L.2004, c.16 (C.56:8-140), or any other
23 provision of law to the contrary, it is deemed an unlawful practice
24 under, what is commonly referred to as the New Jersey consumer
25 fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any builder, in
26 connection with the performance of any home improvement,
27 elevation, or construction project that is the subject of a Superstorm
28 Sandy recovery and rebuilding program contract, to:

29 (1) use or employ any unconscionable commercial practice,
30 deception, fraud, false pretense, false promise, misrepresentation, or
31 the knowing concealment, suppression, or omission of any material
32 fact with intent that others rely upon such concealment,
33 suppression, or omission with respect to the home improvement,
34 elevation, or construction project or the work performed or to be
35 performed;

36 (2) perform work that, after a reasonable opportunity to correct,
37 materially fails to comply with the standards and requirements set
38 forth in the Superstorm Sandy recovery and rebuilding program
39 contract;

40 (3) perform work that, after a reasonable opportunity to correct,
41 fails to comply with applicable provisions of rules and regulations
42 promulgated pursuant to the "State Uniform Construction Code
43 Act," P.L.1975, c.217 (C.52:27D-119 et seq.); or

44 (4) willfully or unreasonably fail to timely perform material
45 work required under the terms of a Superstorm Sandy recovery and
46 rebuilding program contract.

47 b. Notwithstanding the bar after an election of remedies set
48 forth in section 9 of "The New Home Warranty and Builders'
49 Registration Act," P.L.1977, c.467 (C.46:3B-9), or any other

1 provision of law to the contrary, the initiation of a procedure to
2 enforce a remedy under "The New Home Warranty and Builders'
3 Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), or an action
4 to enforce any other remedy, shall not prohibit a program
5 participant from initiating an action under what is commonly
6 referred to as the New Jersey consumer fraud act, P.L.1960,
7 c.39 (C.56:8-1 et seq.), for any unlawful practice of a builder set
8 forth in subsection a. of this section, provided that no award or
9 settlement agreement has been reached or judgment rendered prior
10 to the effective date of P.L. , c. (C.) (pending before the
11 Legislature as this bill), and provided that the program participant
12 withdraws from arbitration, and withdraws any other complaint, as
13 applicable, prior to initiating an action under P.L.1960,
14 c.39 (C.56:8-1 et seq.).

15 c. For the purposes of P.L. , c. (C.) (pending before
16 the Legislature as this bill), a program participant may withdraw
17 from arbitration under "The New Home Warranty and Builders'
18 Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), at any time
19 prior to the rendering of a judgment, or prior to the parties reaching
20 an award agreement.

21

22 5. a. The Attorney General shall establish a confidential intake
23 procedure for program participants to submit complaints about
24 builders, which procedure shall ensure that complaints are referred
25 to:

26 (1) the department, so that the department may have an
27 opportunity to take the actions permitted under section 6 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill); and

29 (2) the Division of Consumer Affairs in the Department of Law
30 and Public Safety, so that the division may have an opportunity to
31 take action to address the complaints.

32 b. The department shall establish a telephone hotline and an
33 Internet-based method to accept complaints concerning
34 homeowner-selected builders, RREM-selected builders, and LMI
35 program builders from applicants. The department shall categorize
36 the complaints it receives pursuant to this section in a manner that
37 the department determines will increase the transparency and
38 efficiency of the RREM and LMI programs.

39 c. The department shall publish substantiated complaints,
40 received pursuant to subsections a. and b. of this section, on its
41 Internet website. The department shall publish on its Internet
42 website all penalties and fines assessed against homeowner-selected
43 builders and LMI program builders, by the State, a county,
44 municipality, or any political subdivision thereof, concerning the
45 builder's performance on LMI or RREM program-funded projects.

46 d. The department shall publish on its Internet website
47 licensing information for all homeowner-selected builders, RREM-
48 selected builders, and LMI program builders, which the State
49 requires to perform work under the LMI and RREM programs. At

1 the request of the department, the Division of Consumer Affairs in
2 the Department of Law and Public Safety shall provide the
3 department with licensing information for home improvement
4 contractors and homebuilders.

5 e. The department shall notify all applicants, through e-mail or
6 by mailed letter, that the department accepts complaints about
7 homeowner-selected builders, RREM-selected builders, and LMI
8 program builders submitted to the department by program
9 participants via a telephone hotline and on its Internet website and
10 that certain substantiated complaints are accessible to the public.

11

12 6. a. The commissioner may notify applicants who have
13 applied for assistance through the RREM program under Pathway B
14 or through the LMI program, but have not yet selected builders for
15 such work, of any builder who has been the subject of substantiated
16 complaints pursuant to section 5 of P.L. , c. (C.) (pending
17 before the Legislature as this bill), or other complaints, including
18 but not limited to those received pursuant to section 6 of "The New
19 Home Warranty and Builders' Registration Act," P.L.1977,
20 c.467 (C.46:3B-6).

21 b. Upon receipt of a complaint pursuant to section 5 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), or other
23 complaints, including but not limited to those received pursuant to
24 section 6 of "The New Home Warranty and Builders' Registration
25 Act," P.L.1977, c.467 (C.46:3B-6), the commissioner may conduct
26 investigations into allegations against a builder. In pursuit of such
27 investigations, the commissioner shall be authorized to hold
28 hearings in accordance with the provisions of the "Administrative
29 Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) applicable to
30 contested cases, to subpoena witnesses and compel their attendance,
31 to require the production of papers, records or documents,
32 administer oaths or affirmations to witnesses, to inspect such
33 relevant books, papers, records, or documents of such builder at his
34 place of business during business hours, and to conduct inspections
35 of RREM and LMI construction sites on which the builder has
36 worked.

37 c. The commissioner, in consultation with the Division of
38 Consumer Affairs in the Department of Law and Public Safety, may
39 deny, suspend, or revoke any certificate of registration of a builder,
40 or may debar a builder, after affording the builder the opportunity
41 for a hearing in accordance with the provisions of the
42 "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et
43 seq.) applicable to contested cases, if, in connection to RREM
44 program or LMI program work, the builder has:

45 (1) willfully committed fraud in connection to a Superstorm
46 Sandy recovery and rebuilding program contract;

47 (2) completed a home improvement, elevation, or construction
48 project in a grossly negligent manner; or

1 (3) willfully violated applicable provisions of rules and
2 regulations promulgated pursuant to the "State Uniform
3 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.),
4 despite a reasonable opportunity to correct.

5
6 7. a. To the greatest extent feasible, the builder shall refrain
7 from asking an applicant to leave the applicant's home until the
8 need to disconnect utilities, begin renovation work, or other project
9 needs, make the applicant's continued presence untenable.

10 b. If a RREM-selected builder cannot complete agreed-upon
11 construction within 90 days of the issuance of the Notice to
12 Proceed, then the RREM-selected builder shall provide rental
13 compensation for each unexcused day that the applicant is required
14 to vacate the house while construction occurs. The amount of
15 compensation the RREM-selected builder shall provide an applicant
16 shall be based on the United States Department of Housing and
17 Urban Development's fair market rental cost and utility cost formula
18 for the county of the damaged home and how many bedrooms are in
19 that home.

20 c. Notwithstanding the provisions of subsection b. of this
21 section, the department, in consultation with the project manager,
22 may excuse a RREM-selected builder from paying rental
23 compensation pursuant to subsection b. of this section if the RREM-
24 selected builder missed the 90-day deadline due to circumstances
25 beyond the RREM-selected builder's control.

26 d. On the first of each month following the effective date of
27 P.L. , c. (C.) (pending before the Legislature as this bill),
28 the department shall publish on its Internet website the names of
29 RREM-selected builders that have still not completed construction
30 two weeks after the expiration of the 90-day deadline; provided,
31 however, that the department shall not publish the names of RREM-
32 selected builders that it has excused from paying rental
33 compensation pursuant to subsection c. of this section. The
34 department shall publish on its Internet website the RREM-selected
35 builder's reason for the delay and the date on which the 90-day
36 period expired.

37 e. The department shall refer a RREM-selected builder to the
38 Division of Consumer Affairs in the Department of Law and Public
39 Safety for review if the commissioner suspects that a violation of
40 subsection a. of section 4 of P.L. , c. (C.) (pending before
41 the Legislature as this bill) contributed to the RREM-selected
42 builder's failure to meet the 90-day deadline.

43
44 8. Within 60 days of the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill), the department shall
46 publish on its Internet website:

47 a. Integrity oversight monitor reports provided to the State
48 Treasurer for distribution, pursuant to section 2 of P.L.2013,
49 c.37 (C.52:15D-2).

1 b. Audits prepared by the State Comptroller, pursuant to
2 P.L.2007, c.52 (C.52:15C-1 et seq.), and any non-privileged,
3 investigative materials concerning the performance and
4 management of recovery and rebuilding programs utilized during
5 the course of the State Comptroller's investigation.

6 c. A comprehensive description of the process through which
7 applicants may challenge their estimated cost of repair or work in
8 place assessment, including:

9 (1) a statement notifying applicants that the estimated cost of
10 repair provided by a project manager is only an estimate, and is subject
11 to change as work on the residence proceeds; and

12 (2) a statement notifying applicants that they may seek two scope
13 of work adjustments for additional LMI and RREM funding if the cost
14 of work on Superstorm Sandy-impacted property exceeds the amount
15 indicated in the applicant's estimated cost of repair, so long as the
16 applicant does not exceed the maximum grant permitted under the
17 LMI or RREM programs.

18 d. Federally-required Quarterly Performance Reports completed
19 by New York and Connecticut, reflecting their progress in
20 disbursing federal aid money for Superstorm Sandy recovery.

21 e. A plain language description of Increased Cost of
22 Compliance coverage, understandable to a person with little or no
23 experience in construction, insurance, and the administration of
24 federal grant money for disaster relief and recovery.

25 f. An explanation of the categories of repairs for which LMI and
26 RREM program funding is available, including a definition of
27 "reasonable and necessary costs."

28 g. Notification to applicants that FEMA has reopened some
29 Sandy-related claims under the National Flood Insurance Program and
30 has mailed thousands of letters to applicants who were originally
31 denied coverage for their Sandy-related losses, and that applicants
32 must respond to FEMA's letters within 90 days.

33 h. Questions frequently received from applicants concerning
34 recovery and rebuilding programs and the answers thereto. The
35 answers provided by the department shall be understandable to a
36 person with little or no experience in construction and the
37 administration of federal grant money for disaster relief and
38 recovery.

39 i. An organizational chart providing the name, title, phone
40 number, and e-mail address of department personnel involved in the
41 disbursement of funds through the RREM and LMI programs.

42 j. A list of hyperlinks to other federal, State, or local
43 government websites, which, in the department's opinion, provide
44 important information about the RREM and LMI programs.

45
46 9. The department shall provide to all applicants in Pathway B
47 and the LMI program, at the pre-construction meeting, a best
48 practices tip sheet, which shall include, but not be limited to:

- 1 a. The department's recommendation that applicants in
2 Pathway B and the LMI program only hire builders that have posted
3 a \$25,000 performance bond;
4 b. A reminder to applicants to check the department's website
5 for background information and performance data on certain
6 builders and subcontractors;
7 c. A notice that applicants should retain all documents received
8 from housing advisors, project managers, builders, and federal,
9 State, and local agencies concerning their grant award; and
10 d. A reminder that applicants may submit complaints
11 concerning recovery and rebuilding programs to their project
12 manager, the department, or the Attorney General.

13
14 10. a. At a minimum, the project manager shall be present at the
15 initial site inspection, pre-construction meeting, and RREM final
16 inspection. The project manager shall give an applicant five days'
17 notice when scheduling an in-person visit. The applicant may invite
18 his homeowner-selected builder to any meeting between the
19 applicant and the project manager, and the homeowner-selected
20 builder shall make every reasonable effort to attend the meeting
21 upon the applicant's request.

22 b. A project manager in Pathway B shall present the grant
23 award summary to the applicant, in writing, and shall explain the
24 grant award summary to the applicant in a manner understandable
25 to a person with little or no experience in construction and the
26 administration of federal grant money for disaster relief and
27 recovery. At the request of an applicant, a project manager in
28 Pathway B shall provide the estimated cost of repair to the
29 applicant.

30 c. At the pre-construction meeting, a Pathway B project
31 manager shall explain to the applicant that the RREM program
32 allows for two scope of work adjustments, one adjustment available
33 during construction and one adjustment available to the applicant at
34 the completion of the grant award. A Pathway B project manager
35 shall explain the scope of work adjustment process in a manner
36 understandable to a person with little or no experience in
37 construction and the administration of federal grant money for
38 disaster relief and recovery.

39
40 11. a. An applicant, for whose benefit an agreement is made
41 between a RREM-selected builder and its subcontractor, by way of
42 a written or oral contract, shall have the same right to enforce the
43 agreement as the applicant would have had if the agreement had
44 been made directly with the applicant.

45 b. An agreement between a RREM-selected builder and its
46 subcontractor to perform work on an applicant's property for which
47 the subcontractor is compensated, in whole or in part, using RREM
48 program funding, shall be construed to have been made for the
49 benefit of the applicant.

1 c. The rights of an applicant pursuant to this section shall be
2 deemed to have become vested, subject always to such express or
3 implied conditions, limitations, or infirmities of the contract to
4 which the rights of the RREM-selected builder or the agreement are
5 subject, without any act or knowledge on the part of the applicant,
6 the moment the agreement becomes legally binding on the
7 subcontractor, unless there is some stipulation, agreement, or
8 understanding in the contract to the contrary.

9
10 12. a. At the regular meeting held between the department and
11 RREM/LMI contractors, the department shall continue to ensure
12 that RREM/LMI contractors have a complete understanding of the
13 requirements for grant funding through recovery and rebuilding
14 programs. Upon request from a RREM/LMI contractor at one of
15 the regular meetings, the department shall provide to the
16 RREM/LMI contractor, access to department personnel with
17 expertise in recovery and rebuilding programs to advise the
18 RREM/LMI contractor.

19 b. RREM and LMI project managers and housing advisors shall
20 respond within one business day to any question or request made by
21 an applicant with whom the project manager or housing advisor has
22 a duty to provide services pursuant to the RREM program or LMI
23 program. A project manager or housing advisor may seek advice or
24 assistance from a RREM/LMI contractor, who may consult with
25 department personnel with expertise in recovery and rebuilding
26 programs at the regular meetings between RREM/LMI contractors
27 and the department. A project manager or housing advisor that
28 contacts an applicant within one business day to notify the applicant
29 that the project manager or housing advisor has sought assistance
30 from a RREM/LMI contractor shall be deemed to have complied
31 with the one-day requirement set forth in this subsection.

32 c. If an applicant requests a meeting with his project manager
33 or housing advisor, then the project manager or housing advisor
34 shall meet with the applicant within five business days from the
35 applicant's request for a meeting.

36 d. (1) The department shall notify project managers and
37 housing advisors of any material changes to the LMI program or
38 RREM program within two business days of the change.

39 (2) The project manager shall notify all applicants with whom
40 he has contracted to provide services under the LMI program or
41 RREM program of the material changes within one business day of
42 receiving notice from the department.

43 e. A project manager or housing advisor that resigns or is
44 discharged from his position as a project manager or housing
45 advisor shall notify all applicants with whom the project manager or
46 housing advisor contracted to provide services under the LMI
47 program or RREM program of the departure within one business
48 day. The RREM/LMI contractor shall assign a replacement project
49 manager or housing advisor to all applicants with whom the

1 outgoing project manager or housing advisor contracted to provide
2 services under the LMI program or RREM program within five
3 business days.

4
5 13. a. A project manager shall monitor the progress of work
6 performed pursuant to a RREM or LMI grant and assist the
7 applicant with the project schedule agreed to by the applicant and
8 his builder.

9 b. A RREM/LMI contractor shall submit, at a minimum,
10 biweekly reports to the department on the progress of projects for
11 which the project manager is responsible. The reports required
12 pursuant to this subsection may be submitted to the department at
13 the regular meetings held between the department and RREM/LMI
14 contractors.

15 c. A project manager shall receive complaints about
16 homeowner-selected builders and LMI builders, and, if appropriate,
17 deliver the complaints to a representative with the Division of
18 Consumer Affairs in the Department of Law and Public Safety. The
19 division shall investigate complaints submitted by project managers
20 for violations of subsection a. of section 4 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), and take such other
22 licensing and regulatory action as may be appropriate.

23 d. Throughout an investigation conducted by the Division of
24 Consumer Affairs in the Department of Law and Public Safety,
25 pursuant to subsection c. of this section, the project manager shall
26 make reasonable efforts to provide updates to the applicant who
27 submitted the complaint, concerning the status of the investigation.

28 e. Project managers, homeowner-selected builders, RREM-
29 selected builders, and LMI builders shall have a duty to report, to
30 the Division of Consumer Affairs in the Department of Law and
31 Public Safety, suspected violations of subsection a. of section 4 of
32 P.L. , c. (C.) (pending before the Legislature as this bill).

33
34 14. Where feasible, an applicant shall obtain an elevation
35 certificate from a licensed land surveyor, registered professional
36 engineer, registered architect, or other community official
37 authorized by State or local law to certify elevation information
38 prior to the initial site inspection. If an applicant is unable to obtain
39 an elevation certificate prior to the initial site inspection, then the
40 applicant's builder may seek a scope of work adjustment in the
41 event the estimated cost of repair changes after the applicant obtains
42 an elevation certificate.

43
44 15. a. The construction code official, planning board, board of
45 adjustment, and other local officials and offices, shall, to the
46 greatest extent feasible, expedite all site plans, variances,
47 construction permits, road opening permits, and other applications
48 for program participants, and shall be as responsive as possible to
49 questions from program participants.

1 For many homeowners, the process for obtaining RREM funding
2 has been time-consuming and frustrating. To add to this frustration,
3 some homeowners have fully completed the application process and
4 closed on a RREM grant, only to later be informed that the State
5 had made a mistake, and due to federal rules, the homeowner is not
6 entitled to RREM funding. This bill aims to address the current
7 problems in the RREM program, while ensuring that the LMI
8 program does not run into similar frustrations.

9 This bill requires that if the DCA allows an applicant to complete
10 the RREM or LMI application process, and close on a RREM or
11 LMI grant even though federal law does not permit the award, then
12 the DCA shall pay the applicant the full amount of funding
13 necessary to improve the applicant's property, up to the amount of
14 the grant agreement. This requirement will only apply if the
15 applicant acts in reliance on the RREM or LMI grant by taking
16 anticipatory action, such as moving out of the home, moving the
17 contents of the home into temporary storage containers, making
18 financial commitments, or by taking other substantial action that
19 would not have been taken but for reliance on the RREM or LMI
20 grant. The DCA's repayment requirement will not apply if such
21 repayment would amount to a duplicative benefit under federal law,
22 meaning the funding is already covered by other sources. The
23 applicant also will not be entitled to DCA repayment if they have
24 misrepresented information essential to the RREM or LMI
25 application process. The repayments required under this bill shall
26 be provided through an annual appropriation to the DCA from the
27 general fund.

28 In order to most effectively respond to the imperative public
29 purpose of recovering from Superstorm Sandy, and to correct
30 injustices that storm victims have experienced during the recovery,
31 this bill narrowly extends the protections of the New Jersey
32 consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) ("CFA"), to
33 homeowners who have navigated the process of applying for and
34 receiving benefits under a recovery and rebuilding program. Under
35 the bill, a contractor, including a new homebuilder, is deemed to
36 have violated the CFA if the contractor has:

- 37 1. Used or employed any unconscionable commercial practice,
38 deception, fraud, false pretense, false promise,
39 misrepresentation, or the knowing concealment, suppression,
40 or omission of any material fact with intent that others rely
41 upon such concealment, suppression, or omission with
42 respect to the home improvement, elevation, or construction
43 project or the work performed or to be performed;
- 44 2. Performed work that, after a reasonable opportunity to
45 correct, materially fails to comply with the standards and
46 requirements set forth in the Superstorm Sandy recovery and
47 rebuilding program contract;

- 1 3. Performed work that, after a reasonable opportunity to
 - 2 correct, fails to comply with applicable provisions of the
 - 3 "State Uniform Construction Code Act"; or
 - 4 4. Willfully or unreasonably failed to timely perform material
 - 5 work required under the terms of a Superstorm Sandy
 - 6 recovery and rebuilding program contract.
- 7 The bill further allows a program participant who has already
- 8 initiated a different action against a builder prior to this bill's
- 9 effective date, to instead sue under the CFA, so long as no
- 10 agreement or decision has been reached under the other action, and
- 11 the person first withdraws the other action.
- 12 The Commissioner of Community Affairs may deny, suspend, or
- 13 revoke any certificate of registration of a Superstorm Sandy
- 14 recovery and rebuilding program builder, or may permanently debar
- 15 the builder from construction work in New Jersey, including non-
- 16 Sandy related work, if the builder willfully commits fraud,
- 17 completes work in a grossly negligent manner, or willfully violates
- 18 provisions of the "State Uniform Construction Code Act,"
- 19 N.J.S.A.52:27D-119 et seq., despite a reasonable opportunity to
- 20 correct. A debarment would involve permanently banning the
- 21 builder from new home construction and home improvements,
- 22 including home elevation work.
- 23 The bill creates several mechanisms for recovery and rebuilding
- 24 program applicants to submit complaints about builders and other
- 25 actors in the grant process. The DCA will have an opportunity to
- 26 review the complaints and, if appropriate, publish information about
- 27 the complaints on its Internet website.
- 28 The bill requires builders, to the greatest extent feasible, to
- 29 refrain from asking a resident to leave a home until the need to
- 30 disconnect utilities, begin renovation work, or other project needs,
- 31 make the resident's continued presence untenable. A RREM-
- 32 selected builder that cannot complete agreed-upon construction on a
- 33 Sandy-damaged home within 90 days of the issuance of the Notice
- 34 to Proceed must provide rental compensation to the displaced
- 35 homeowner for each unexcused day that the homeowner is required
- 36 to remain out of the house while construction occurs. The amount
- 37 of compensation the RREM-selected builder must provide to an
- 38 applicant will be based on the United States Department of Housing
- 39 and Urban Development's fair market rental cost and utility cost
- 40 formula for the county of the damaged home and how many
- 41 bedrooms are in that home. The DCA may excuse a RREM-
- 42 selected builder from paying rental compensation if the delay
- 43 resulted from circumstances outside of the builder's control.
- 44 Moreover, the DCA may publish information about excessive
- 45 delays by RREM-selected builders on its website, including the
- 46 remedies available to homeowners experiencing unreasonable
- 47 delays.
- 48 In addition, this bill requires the DCA to post information about
- 49 recovery and rebuilding programs on its website, including an

1 organizational chart providing the name, title, email address, and
2 phone number of department personnel involved in the
3 disbursement of funds through recovery and rebuilding programs.
4 The DCA must publish information about the process for
5 challenging an estimated cost of repair or work in place assessment.
6 The bill requires the DCA to publish questions frequently asked by
7 applicants and the answers thereto on its Internet website.
8 Furthermore, the bill requires the DCA to post information
9 concerning the way in which New York and Connecticut have
10 disbursed federal aid money for Sandy recovery in order to give the
11 State's residents a glimpse of how New Jersey is performing
12 relative to other states.

13 In 2013, a system of integrity oversight monitors was established
14 to enhance transparency in Superstorm Sandy-related spending.
15 The integrity oversight monitors have now provided several reports,
16 but concerns have arisen over the level of public accessibility to the
17 reports. To address these issues, this bill requires the reports to be
18 available on the website of the DCA, in addition to the State
19 Treasurer's website, where they are currently available.
20 Additionally, the bill requires the DCA to publish on its Internet
21 website audits by the State Comptroller concerning recovery and
22 rebuilding programs and any non-privilege investigative materials
23 utilized by the State Comptroller to conduct the audits. The bill
24 also requires the DCA to publish a best practices tip sheet, which
25 the DCA must provide to all applicants in the RREM and LMI
26 programs at the pre-construction meeting.

27 The bill requires recovery and rebuilding program project
28 managers to attend at least three in-person meetings at the
29 applicant's property. Project managers and housing advisors must
30 assist applicants with navigating the application and building
31 process.

32 The bill requires the DCA to notify project managers and
33 housing advisors of any material changes to the RREM or LMI
34 program within two business days. The project manager must then
35 forward that information to applicants with whom the project
36 manager has contracted within one business day.

37 The bill allows applicants to file suit or seek other legal remedies
38 against subcontractors in Pathway C for the work performed by the
39 subcontractor, on behalf of the general contractor, on the applicant's
40 property. The bill requires homeowners to make every effort to
41 obtain an elevation certificate prior to the issuance of the final grant
42 award. The bill requires local construction code officials to
43 cooperate with the DCA, project managers, contractors, and
44 applicants. The bill also requires the DCA to provide personnel
45 from the Division of Codes and Standards to assist local code
46 officials with the inspection of Sandy-damaged property and with
47 construction code enforcement.

48 The bill also requires planning and zoning boards to grandfather
49 approval of pre-existing conditions on site plans using the same

1 footprint as the destroyed home so long as the board does not view
2 this treatment as likely to result in a safety hazard. Lastly, the bill
3 requires the State, project managers, housing advisors, and
4 contractors to treat applicants with dignity and respect throughout
5 the application and rebuilding process.