

# ASSEMBLY, No. 1340

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

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District 30 (Monmouth and Ocean)

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District 30 (Monmouth and Ocean)

**Co-Sponsored by:**

Assemblymen **Wolfe, McGuckin, O'Scanlon** and Assemblywoman **Handlin**

**SYNOPSIS**

Establishes "Superstorm Sandy Homeowners Protection Act."

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/8/2017)

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

1 calculations, and has offered the document to the applicant for the  
2 applicant's signature.

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

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

26 "Homeowner-selected builder" means a builder participating in  
27 Pathway B.

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

32 "LMI program" means the Low-to-Moderate Income  
33 Homeowners Rebuilding Program.

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

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

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

45 "Pre-construction meeting" means a meeting, coordinated by the  
46 RREM/LMI contractor, between the RREM/LMI contractor,  
47 housing advisor, and applicant to execute an Amendment to the

1 Homeowner Grant Agreement, a Private Escrow Agreement, and  
2 sign Exhibit J of the Design/Build Agreement.

3 "Principal residence" means a home which an applicant occupied  
4 as his or her primary residence on October 29, 2012. Principal  
5 residence does not mean second homes, vacation homes, or rental  
6 properties.

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

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

17 "Recovery and rebuilding program" means the use of funding  
18 provided by the federal government intended to help to rebuild and  
19 recover from Superstorm Sandy, through the RREM program or  
20 LMI program.

21 "RREM/LMI contractor" means an entity selected by the  
22 department to manage the implementation and operation of the  
23 RREM and LMI programs.

24 "RREM program" means the Reconstruction, Rehabilitation,  
25 Elevation, and Mitigation Program.

26 "RREM-selected builder" means a builder participating in  
27 Pathway C.

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

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

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

45

46 3. a. If the department allows an applicant, whose principal  
47 residence has been damaged as a result of Superstorm Sandy, to  
48 reach grant award completion under the RREM program or LMI

1 program even though federal law, rules, regulations, or policy  
2 guidelines do not permit the grant award, and the applicant signs the  
3 agreement and acts in reliance, then the department shall pay the  
4 applicant the equivalent of the full amount of funding necessary to  
5 improve the applicant's principal residence in accordance with the  
6 terms of the grant award agreement, up to the full amount of the  
7 grant award agreement. These payments shall be provided through  
8 the funding allocated under section 18 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill).

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

17 c. The applicant shall not be entitled to payment if the  
18 applicant misrepresents information essential to the department in  
19 determining RREM or LMI eligibility.

20 d. The department shall identify and notify applicants who may  
21 be entitled to payment under this section and shall collect  
22 information from the applicant necessary for the department to  
23 determine that the applicant is entitled to relief under this section.  
24

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

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

41 (2) perform work that, after a reasonable opportunity to correct,  
42 materially fails to comply with the standards and requirements set  
43 forth in the Superstorm Sandy recovery and rebuilding program  
44 contract;

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

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

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

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

27  
28 5. a. The Attorney General shall establish a confidential intake  
29 procedure for program participants to submit complaints about  
30 builders, which procedure shall ensure that complaints are referred  
31 to:

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

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

38 b. The department shall establish a telephone hotline and an  
39 Internet-based method to accept complaints concerning  
40 homeowner-selected builders, RREM-selected builders, and LMI  
41 program builders from applicants. The department shall categorize  
42 the complaints it receives pursuant to this section in a manner that  
43 the department determines will increase the transparency and  
44 efficiency of the RREM and LMI programs.

45 c. The department shall publish substantiated complaints,  
46 received pursuant to subsections a. and b. of this section, on its  
47 Internet website. The department shall publish on its Internet  
48 website all penalties and fines assessed against homeowner-selected

1 builders and LMI program builders, by the State, a county,  
2 municipality, or any political subdivision thereof, concerning the  
3 builder's performance on LMI or RREM program-funded projects.

4 d. The department shall publish on its Internet website  
5 licensing information for all homeowner-selected builders, RREM-  
6 selected builders, and LMI program builders, which the State  
7 requires to perform work under the LMI and RREM programs. At  
8 the request of the department, the Division of Consumer Affairs in  
9 the Department of Law and Public Safety shall provide the  
10 department with licensing information for home improvement  
11 contractors and homebuilders.

12 e. The department shall notify all applicants, through e-mail or  
13 by mailed letter, that the department accepts complaints about  
14 homeowner-selected builders, RREM-selected builders, and LMI  
15 program builders submitted to the department by program  
16 participants via a telephone hotline and on its Internet website and  
17 that certain substantiated complaints are accessible to the public.

18

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

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

44 c. The commissioner, in consultation with the Division of  
45 Consumer Affairs in the Department of Law and Public Safety, may  
46 deny, suspend, or revoke any certificate of registration of a builder,  
47 or may debar a builder, after affording the builder the opportunity  
48 for a hearing in accordance with the provisions of the

1 "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et  
2 seq.) applicable to contested cases, if, in connection to RREM  
3 program or LMI program work, the builder has:

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

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

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

12

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

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

27 c. Notwithstanding the provisions of subsection b. of this  
28 section, the department, in consultation with the project manager,  
29 may excuse a RREM-selected builder from paying rental  
30 compensation pursuant to subsection b. of this section if the RREM-  
31 selected builder missed the 90-day deadline due to circumstances  
32 beyond the RREM-selected builder's control.

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

44 e. The department shall refer a RREM-selected builder to the  
45 Division of Consumer Affairs in the Department of Law and Public  
46 Safety for review if the commissioner suspects that a violation of  
47 subsection a. of section 4 of P.L. , c. (C. ) (pending before



1 the Legislature as this bill) contributed to the RREM-selected  
2 builder's failure to meet the 90-day deadline.

3

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

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

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

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

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

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

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

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

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

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

42 h. Questions frequently received from applicants concerning  
43 recovery and rebuilding programs and the answers thereto. The  
44 answers provided by the department shall be understandable to a  
45 person with little or no experience in construction and the  
46 administration of federal grant money for disaster relief and  
47 recovery.

- 1 i. An organizational chart providing the name, title, phone  
2 number, and e-mail address of department personnel involved in the  
3 disbursement of funds through the RREM and LMI programs.
- 4 j. A list of hyperlinks to other federal, State, or local  
5 government websites, which, in the department's opinion, provide  
6 important information about the RREM and LMI programs.  
7
- 8 9. The department shall provide to all applicants in Pathway B  
9 and the LMI program, at the pre-construction meeting, a best  
10 practices tip sheet, which shall include, but not be limited to:
- 11 a. The department's recommendation that applicants in  
12 Pathway B and the LMI program only hire builders that have posted  
13 a \$25,000 performance bond;
- 14 b. A reminder to applicants to check the department's website  
15 for background information and performance data on certain  
16 builders and subcontractors;
- 17 c. A notice that applicants should retain all documents received  
18 from housing advisors, project managers, builders, and federal,  
19 State, and local agencies concerning their grant award; and
- 20 d. A reminder that applicants may submit complaints  
21 concerning recovery and rebuilding programs to their project  
22 manager, the department, or the Attorney General.  
23
- 24 10. a. At a minimum, the project manager shall be present at the  
25 initial site inspection, pre-construction meeting, and RREM final  
26 inspection. The project manager shall give an applicant five days'  
27 notice when scheduling an in-person visit. The applicant may invite  
28 his homeowner-selected builder to any meeting between the  
29 applicant and the project manager, and the homeowner-selected  
30 builder shall make every reasonable effort to attend the meeting  
31 upon the applicant's request.
- 32 b. A project manager in Pathway B shall present the grant  
33 award summary to the applicant, in writing, and shall explain the  
34 grant award summary to the applicant in a manner understandable  
35 to a person with little or no experience in construction and the  
36 administration of federal grant money for disaster relief and  
37 recovery. At the request of an applicant, a project manager in  
38 Pathway B shall provide the estimated cost of repair to the  
39 applicant.
- 40 c. At the pre-construction meeting, a Pathway B project  
41 manager shall explain to the applicant that the RREM program  
42 allows for two scope of work adjustments, one adjustment available  
43 during construction and one adjustment available to the applicant at  
44 the completion of the grant award. A Pathway B project manager  
45 shall explain the scope of work adjustment process in a manner  
46 understandable to a person with little or no experience in  
47 construction and the administration of federal grant money for  
48 disaster relief and recovery.

1       11. a. An applicant, for whose benefit an agreement is made  
2 between a RREM-selected builder and its subcontractor, by way of  
3 a written or oral contract, shall have the same right to enforce the  
4 agreement as the applicant would have had if the agreement had  
5 been made directly with the applicant.

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

11       c. The rights of an applicant pursuant to this section shall be  
12 deemed to have become vested, subject always to such express or  
13 implied conditions, limitations, or infirmities of the contract to  
14 which the rights of the RREM-selected builder or the agreement are  
15 subject, without any act or knowledge on the part of the applicant,  
16 the moment the agreement becomes legally binding on the  
17 subcontractor, unless there is some stipulation, agreement, or  
18 understanding in the contract to the contrary.

19

20       12. a. At the regular meeting held between the department and  
21 RREM/LMI contractors, the department shall continue to ensure  
22 that RREM/LMI contractors have a complete understanding of the  
23 requirements for grant funding through recovery and rebuilding  
24 programs. Upon request from a RREM/LMI contractor at one of  
25 the regular meetings, the department shall provide to the  
26 RREM/LMI contractor, access to department personnel with  
27 expertise in recovery and rebuilding programs to advise the  
28 RREM/LMI contractor.

29       b. RREM and LMI project managers and housing advisors shall  
30 respond within one business day to any question or request made by  
31 an applicant with whom the project manager or housing advisor has  
32 a duty to provide services pursuant to the RREM program or LMI  
33 program. A project manager or housing advisor may seek advice or  
34 assistance from a RREM/LMI contractor, who may consult with  
35 department personnel with expertise in recovery and rebuilding  
36 programs at the regular meetings between RREM/LMI contractors  
37 and the department. A project manager or housing advisor that  
38 contacts an applicant within one business day to notify the applicant  
39 that the project manager or housing advisor has sought assistance  
40 from a RREM/LMI contractor shall be deemed to have complied  
41 with the one-day requirement set forth in this subsection.

42       c. If an applicant requests a meeting with his project manager  
43 or housing advisor, then the project manager or housing advisor  
44 shall meet with the applicant within five business days from the  
45 applicant's request for a meeting.

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

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

5 e. A project manager or housing advisor that resigns or is  
6 discharged from his position as a project manager or housing  
7 advisor shall notify all applicants with whom the project manager or  
8 housing advisor contracted to provide services under the LMI  
9 program or RREM program of the departure within one business  
10 day. The RREM/LMI contractor shall assign a replacement project  
11 manager or housing advisor to all applicants with whom the  
12 outgoing project manager or housing advisor contracted to provide  
13 services under the LMI program or RREM program within five  
14 business days.

15

16 13. a. A project manager shall monitor the progress of work  
17 performed pursuant to a RREM or LMI grant and assist the  
18 applicant with the project schedule agreed to by the applicant and  
19 his builder.

20 b. A RREM/LMI contractor shall submit, at a minimum,  
21 biweekly reports to the department on the progress of projects for  
22 which the project manager is responsible. The reports required  
23 pursuant to this subsection may be submitted to the department at  
24 the regular meetings held between the department and RREM/LMI  
25 contractors.

26 c. A project manager shall receive complaints about  
27 homeowner-selected builders and LMI builders, and, if appropriate,  
28 deliver the complaints to a representative with the Division of  
29 Consumer Affairs in the Department of Law and Public Safety. The  
30 division shall investigate complaints submitted by project managers  
31 for violations of subsection a. of section 4 of P.L. , c. (C. )  
32 (pending before the Legislature as this bill), and take such other  
33 licensing and regulatory action as may be appropriate.

34 d. Throughout an investigation conducted by the Division of  
35 Consumer Affairs in the Department of Law and Public Safety,  
36 pursuant to subsection c. of this section, the project manager shall  
37 make reasonable efforts to provide updates to the applicant who  
38 submitted the complaint, concerning the status of the investigation.

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

44

45 14. Where feasible, an applicant shall obtain an elevation  
46 certificate from a licensed land surveyor, registered professional  
47 engineer, registered architect, or other community official  
48 authorized by State or local law to certify elevation information

1 prior to the initial site inspection. If an applicant is unable to obtain  
2 an elevation certificate prior to the initial site inspection, then the  
3 applicant's builder may seek a scope of work adjustment in the  
4 event the estimated cost of repair changes after the applicant obtains  
5 an elevation certificate.

6  
7 15. a. The construction code official, planning board, board of  
8 adjustment, and other local officials and offices, shall, to the  
9 greatest extent feasible, expedite all site plans, variances,  
10 construction permits, road opening permits, and other applications  
11 for program participants, and shall be as responsive as possible to  
12 questions from program participants.

13 b. Upon request from a local construction code official, the  
14 department shall provide to the local construction code official,  
15 additional construction code enforcement personnel from the  
16 Division of Codes and Standards in the department to assist with  
17 inspection of Sandy-impacted property receiving RREM or LMI  
18 funding and enforcement of the State Uniform Construction Code.  
19 The department shall provide personnel from the department within  
20 five business days of the local construction code official's request.

21  
22 16. For the purposes of site plan and variance approval of a  
23 Superstorm Sandy-impacted property that adheres to the same  
24 footprint as the destroyed home, the planning board and board of  
25 adjustment shall continue any non-conforming use designation on  
26 the property and grandfather pre-existing conditions, so long as the  
27 board does not view this treatment as likely to result in a safety  
28 hazard.

29  
30 17. All homeowners and other persons impacted by Superstorm  
31 Sandy shall be treated with dignity and respect throughout the  
32 continuing process of recovery.

33  
34 18. The Legislature shall annually appropriate such sums as are  
35 necessary to make the payments required under section 3 of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill) following  
37 request by the commissioner. The State Treasurer, upon warrant of  
38 the Director of the Office of Management and Budget in the  
39 Department of the Treasury, shall pay such costs from moneys  
40 appropriated for the purposes of section 3 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill).

42  
43 19. This act shall take effect immediately.

STATEMENT

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On October 29, 2012, Superstorm Sandy devastated New Jersey's shoreline, communities as well as many other communities in the State. The storm inflicted tens of billions of dollars in damage to New Jersey, and severely damaged many thousands of homes. To help homeowners impacted by Sandy, the State established the Reconstruction, Rehabilitation, Elevation, and Mitigation ("RREM") Program, and the Low-to-Moderate Income Homeowners Rebuilding ("LMI") Program, to distribute federal Community Development Block Grant – Disaster Recovery funds. This bill consists of various measures intended to enhance the accountability and transparency of decisions made for the dispersal of Superstorm Sandy aid, focusing on the RREM and LMI programs.

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

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

In order to most effectively respond to the imperative public purpose of recovering from Superstorm Sandy, and to correct injustices that storm victims have experienced during the recovery, this bill narrowly extends the protections of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) ("CFA"), to homeowners who have navigated the process of applying for and

1 receiving benefits under a recovery and rebuilding program. Under  
2 the bill, a contractor, including a new homebuilder, is deemed to  
3 have violated the CFA if the contractor has:

- 4 1. Used or employed any unconscionable commercial practice,  
5 deception, fraud, false pretense, false promise,  
6 misrepresentation, or the knowing concealment, suppression,  
7 or omission of any material fact with intent that others rely  
8 upon such concealment, suppression, or omission with  
9 respect to the home improvement, elevation, or construction  
10 project or the work performed or to be performed;
- 11 2. Performed work that, after a reasonable opportunity to  
12 correct, materially fails to comply with the standards and  
13 requirements set forth in the Superstorm Sandy recovery and  
14 rebuilding program contract;
- 15 3. Performed work that, after a reasonable opportunity to  
16 correct, fails to comply with applicable provisions of the  
17 "State Uniform Construction Code Act"; or
- 18 4. Willfully or unreasonably failed to timely perform material  
19 work required under the terms of a Superstorm Sandy  
20 recovery and rebuilding program contract.

21 The bill further allows a program participant who has already  
22 initiated a different action against a builder prior to this bill's  
23 effective date, to instead sue under the CFA, so long as no  
24 agreement or decision has been reached under the other action, and  
25 the person first withdraws the other action.

26 The Commissioner of Community Affairs may deny, suspend, or  
27 revoke any certificate of registration of a Superstorm Sandy  
28 recovery and rebuilding program builder, or may permanently debar  
29 the builder from construction work in New Jersey, including non-  
30 Sandy related work, if the builder willfully commits fraud,  
31 completes work in a grossly negligent manner, or willfully violates  
32 provisions of the "State Uniform Construction Code Act,"  
33 N.J.S.A.52:27D-119 et seq., despite a reasonable opportunity to  
34 correct. A debarment would involve permanently banning the  
35 builder from new home construction and home improvements,  
36 including home elevation work.

37 The bill creates several mechanisms for recovery and rebuilding  
38 program applicants to submit complaints about builders and other  
39 actors in the grant process. The DCA will have an opportunity to  
40 review the complaints and, if appropriate, publish information about  
41 the complaints on its Internet website.

42 The bill requires builders, to the greatest extent feasible, to  
43 refrain from asking a resident to leave a home until the need to  
44 disconnect utilities, begin renovation work, or other project needs,  
45 make the resident's continued presence untenable. A RREM-  
46 selected builder that cannot complete agreed-upon construction on a  
47 Sandy-damaged home within 90 days of the issuance of the Notice  
48 to Proceed must provide rental compensation to the displaced

1 homeowner for each unexcused day that the homeowner is required  
2 to remain out of the house while construction occurs. The amount  
3 of compensation the RREM-selected builder must provide to an  
4 applicant will be based on the United States Department of Housing  
5 and Urban Development's fair market rental cost and utility cost  
6 formula for the county of the damaged home and how many  
7 bedrooms are in that home. The DCA may excuse a RREM-  
8 selected builder from paying rental compensation if the delay  
9 resulted from circumstances outside of the builder's control.  
10 Moreover, the DCA may publish information about excessive  
11 delays by RREM-selected builders on its website, including the  
12 remedies available to homeowners experiencing unreasonable  
13 delays.

14 In addition, this bill requires the DCA to post information about  
15 recovery and rebuilding programs on its website, including an  
16 organizational chart providing the name, title, email address, and  
17 phone number of department personnel involved in the  
18 disbursement of funds through recovery and rebuilding programs.  
19 The DCA must publish information about the process for  
20 challenging an estimated cost of repair or work in place assessment.  
21 The bill requires the DCA to publish questions frequently asked by  
22 applicants and the answers thereto on its Internet website.  
23 Furthermore, the bill requires the DCA to post information  
24 concerning the way in which New York and Connecticut have  
25 disbursed federal aid money for Sandy recovery in order to give the  
26 State's residents a glimpse of how New Jersey is performing  
27 relative to other states.

28 In 2013, a system of integrity oversight monitors was established  
29 to enhance transparency in Superstorm Sandy-related spending.  
30 The integrity oversight monitors have now provided several reports,  
31 but concerns have arisen over the level of public accessibility to the  
32 reports. To address these issues, this bill requires the reports to be  
33 available on the website of the DCA, in addition to the State  
34 Treasurer's website, where they are currently available.  
35 Additionally, the bill requires the DCA to publish on its Internet  
36 website audits by the State Comptroller concerning recovery and  
37 rebuilding programs and any non-privilege investigative materials  
38 utilized by the State Comptroller to conduct the audits. The bill  
39 also requires the DCA to publish a best practices tip sheet, which  
40 the DCA must provide to all applicants in the RREM and LMI  
41 programs at the pre-construction meeting.

42 The bill requires recovery and rebuilding program project  
43 managers to attend at least three in-person meetings at the  
44 applicant's property. Project managers and housing advisors must  
45 assist applicants with navigating the application and building  
46 process.

47 The bill requires the DCA to notify project managers and  
48 housing advisors of any material changes to the RREM or LMI



1 program within two business days. The project manager must then  
2 forward that information to applicants with whom the project  
3 manager has contracted within one business day.

4 The bill allows applicants to file suit or seek other legal remedies  
5 against subcontractors in Pathway C for the work performed by the  
6 subcontractor, on behalf of the general contractor, on the applicant's  
7 property. The bill requires homeowners to make every effort to  
8 obtain an elevation certificate prior to the issuance of the final grant  
9 award. The bill requires local construction code officials to  
10 cooperate with the DCA, project managers, contractors, and  
11 applicants. The bill also requires the DCA to provide personnel  
12 from the Division of Codes and Standards to assist local code  
13 officials with the inspection of Sandy-damaged property and with  
14 construction code enforcement.

15 The bill also requires planning and zoning boards to grandfather  
16 approval of pre-existing conditions on site plans using the same  
17 footprint as the destroyed home so long as the board does not view  
18 this treatment as likely to result in a safety hazard. Lastly, the bill  
19 requires the State, project managers, housing advisors, and  
20 contractors to treat applicants with dignity and respect throughout  
21 the application and rebuilding process.