ASSEMBLY, No. 2025



STATE OF NEW JERSEY

217th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

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.



An Act concerning affordable housing and revising and supplementing various parts of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cf: P.L.2004, c.120, s.25)

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

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

(1) The New Jersey Society of Professional Engineers;

(2) The New Jersey Society of Municipal Engineers;

(3) The New Jersey Association of County Engineers;

(4) The New Jersey Federation of Planning Officials;

(5) **[**The Council on Affordable Housing**]** (Deleted by amendment, P.L. , c. (C. );

(6) The New Jersey Builders' Association;

(7) The New Jersey Institute of Technology;

(8) The New Jersey State League of Municipalities.

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

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

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

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

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

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

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

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

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

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

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

g. A community facility plan indicating the scope and type of supporting community facilities which may include, but not be limited to, educational or cultural facilities, historic sites, libraries, hospitals, firehouses, and police stations;

h. A housing plan outlining the number of housing units to be provided and the extent to which any affordable housing **[**obligation assigned to the municipality pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) will be fulfilled**]** will be addressed by the development;

i. A local service plan indicating those public services which the applicant proposes to provide and which may include, but not be limited to, water, sewer, cable and solid waste disposal;

j. A fiscal report describing the anticipated demand on municipal services to be generated by the planned development and any other financial impacts to be faced by municipalities or school districts as a result of the completion of the planned development. The fiscal report shall also include a detailed projection of property tax revenues which will accrue to the county, municipality and school district according to the timing schedule provided under subsection k. of this section, and following the completion of the planned development in its entirety;

k. A proposed timing schedule in the case of a planned development whose construction is contemplated over a period of years, including any terms or conditions which are intended to protect the interests of the public and of the residents who occupy any section of the planned development prior to the completion of the development in its entirety; and

l. A municipal development agreement, which shall mean a written agreement between a municipality and a developer relating to the planned development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

f. The governing body of a municipality may direct the planning board to prepare a redevelopment plan or an amendment or revision to a redevelopment plan for a designated redevelopment area. After completing the redevelopment plan, the planning board shall transmit the proposed plan to the governing body for its adoption. The governing body, when considering the proposed plan, may amend or revise any portion of the proposed redevelopment plan by an affirmative vote of the majority of its full authorized membership and shall record in its minutes the reasons for each amendment or revision. When a redevelopment plan or amendment to a redevelopment plan is referred to the governing body by the planning board under this subsection, the governing body shall be relieved of the referral requirements of subsection e. of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. Subsequent to the adoption of the comprehensive management plan, the commission is hereby authorized to commence a review, within 15 days after any final municipal or county approval thereof, of any application for development in the pinelands area. Upon determining to exercise such authority, the commission shall transmit, by certified mail, written notice thereof to the person who submitted such application. The commission shall, after public hearing thereon, approve, reject, or approve with conditions any such application within 45 days of transmitting such notice; provided, however, that such application shall not be rejected or conditionally approved unless the commission determines that such development does not conform with the comprehensive management plan or the minimum standards contained therein, as applicable to the county or municipality wherein such development is located, or that such development could result in substantial impairment of the resources of the pinelands area. Such approval, rejection or conditional approval shall be binding upon the person who submitted such application, shall supersede any municipal or county approval of any such development, and shall be subject only to judicial review as provided in section 19 of this act.

**[**The number of low or moderate income housing units provided for in the application for development shall not be used as a criterion for the approval or rejection of the application.**]** The commission is hereby authorized and directed to comply with section 18 of P.L.2008, c.46 (C.52:27D-329.9), as amended by P.L.    , c.    (C.      ) (pending before the Legislature as this bill).

(cf: P.L.1987, c.267, s.2)

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

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

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

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

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

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

e. A determination of the municipality's **[**present and prospective fair share**]** resources and need for low and moderate income housing and its capacity to accommodate its **[**present and prospective**]** housing needs, including **[**its fair share for**]** low and moderate income housing; and

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

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

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

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

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

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

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

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

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

16. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to read as follows:

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

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

Of those monies deposited into the "New Jersey Affordable Housing Trust Fund" that are derived from municipal development fee trust funds, or from available collections of Statewide non-residential development fees, a priority for funding shall be established for projects in municipalities that have petitioned the council for substantive certification**]**. The commissioner shall prioritize funding for non-profits and projects that include special needs units when making grants and awards from the "New Jersey Affordable Housing Trust Fund." The commissioner shall assess the housing need in each region of the State and consider the assessment in prioritizing awards from the fund.

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

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

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

d. Amounts deposited in the "New Jersey Affordable Housing Trust Fund" shall be targeted to **[**regions based on the region's percentage of the State's low and moderate income housing need as determined by the council**]** assist projects in municipalities that are deemed compliant pursuant to section 23 of P.L.    , c.   (C.      ) pending before the Legislature as this bill), and to assist projects in municipalities that are neither compliant nor deemed compliant pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill). Amounts **[**in the fund**]** deposited in the "New Jersey Affordable Housing Trust Fund" shall be applied for the following purposes in designated neighborhoods:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19. a. Notwithstanding any rules of the New Jersey Housing and Mortgage Finance Agency to the contrary, the allocation of low income tax credits shall be made by the agency to the full extent such credits are permitted to be allocated under federal law, including allocations of 4 percent or 9 percent federal low income tax credits, and including allocations allowable for partial credits. The affordable portion of any mixed income or mixed use development that is part of a **[**fair share**]** housing plan **[**approved by the council, or**]** including a development that has received a court-approved judgment of repose or compliance, including, but not limited to, a development that has received a density bonus, shall be permitted to receive allocations of low income tax credits, provided that the applicant can conclusively demonstrate that the market rate residential or commercial units are unable to internally subsidize the affordable units, and the affordable units are developed contemporaneously with the commercial or market rate residential units. In adopting the Qualified Allocation Plan pursuant to 26 U.S.C. s.42, and any rules promulgated thereunder, the agency shall, assess the housing needs and resources in each region and consider the assessment in issuing credits. The agency shall, in issuing the credits, prioritize applications from projects in municipalities that are deemed compliant pursuant to section 23of P.L. , c. (C. ) (pending before the Legislature as this bill), and to assist projects in municipalities that are neither compliant nor deemed compliant pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.). "Attached housing" means any form of residential development other than detached single family housing, including, but not limited to, two-family housing, three-family housing, attached single family houses, multifamily apartments, and manufactured housing communities.

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

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

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

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

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

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

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

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

(3) contiguous with other parcels of land in private ownership which when combined are of a size which would accommodate fewer than five housing units pursuant to the standards of paragraph (1) of subsection c. of section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The housing element shall 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 set forth in subsection a. of section 22 of P.L. , c. (C. ) (pending before the Legislature as this 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:

(1) 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 subsection a. of section 22 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) 1000 qualified housing units; or

(3) 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).

c. Within 12 months prior to the expiration of the initial compliance period or any subsequent compliance period, the municipality may be deemed compliant for the subsequent compliance period if it duly adopts and files with the department a certified housing element and implementing ordinances that have been prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310) and meet the criteria of this section. Any such housing element and implementing ordinances shall not become effective until the commencement of the subsequent compliance period. The housing element shall 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 set forth in subsection a. of section 22 of P.L. , c. (C. ) (pending before the Legislature as this bill). The housing element and implementing ordinances shall provide a realistic opportunity to meet the entire difference between the number of qualified units already existing in the municipality and the number of qualified units required to satisfy the criteria set forth in subsection a. of section 22 of P.L. , c. (C. ) (pending before the Legislature as this bill). Notwithstanding the foregoing, the housing element and implementing ordinances may alternatively provide, in addition to the number of existing qualified housing units plus any additional qualified housing units not yet created that were or would have been required pursuant to this section for any and all previous compliance periods, a realistic opportunity for the lessor of the following:

1000 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).

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

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

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

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

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

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

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

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

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

Percentage of Minimum Percentage of

Market-rate Units Qualified Housing Units

Completed Completed

25 0

25 plus 1 unit 10

50 50

75 75

90 100

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. Municipalities that, as of the date of the enactment of P.L.    , c.    (C.      ) (pending before the Legislature as this bill), collect a development fee on residential development pursuant to ordinance, shall continue to collect a development fee at that present rate until 12 months after the date of the enactment of P.L.    , c.    (C.      ) (pending before the Legislature as this bill). Municipalities that, as of the date of the enactment of P.L.    , c.    (C.      ) (pending before the Legislature as this bill), do not collect a development fee on residential development pursuant to ordinance, may not collect any development fee until 12 months after the date of the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill). Beginning 12 months after the date of the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), all municipalities shall collect a residential development fee pursuant to subsection a. of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

e. No exclusionary zoning action naming a municipality as a defendant shall be filed prior to (1) eight months following the effective date of this act: or, (2) the filing by the municipality with the department of a housing element and implementing ordinances that have been duly adopted and certified by licensed housing compliance professional in accordance with the provisions of P.L.    , c.    (C.      ) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. Upon request by a municipality, the State Board of Professional Planners shall designate a licensed housing compliance professional to conduct a comprehensive and independent review of the municipality’s housing element and implementing ordinances. The State Board of Professional Planners shall randomly select the licensed housing compliance professional from the list of licensed housing compliance professionals maintained by the State Board of Professional Planners in accordance with the procedures established by the State Board of Professional Planners.

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

i. A licensed housing compliance professional shall certify a municipal housing element if, after conducting a comprehensive and independent review, the licensed housing compliance professional makes a determination that the housing element and implementing ordinances (1) accurately and completely represent the qualified housing units already existing in the municipality and the number of qualified housing units required to satisfy the criteria set forth in subsections a. through c. of section 22 of P.L.    , c.    (C.      ) (pending before the Legislature as this bill); (2) create sufficient realistic opportunities for the development of qualified very-low, low and moderate income housing units to bring the municipality into compliance with the standards set forth in section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill); and (3) comply with all relevant standards under P.L.    , c.    (C.       ) (pending before the Legislature as this bill) and any regulations implementing P.L. , c. (C. ) (pending before the Legislature as this bill). The determination shall be set forth in a written report which shall state with specificity the factual basis for the licensed housing compliance professional’s conclusions. If, after conducting a comprehensive and independent review, the licensed housing compliance professional determines that the municipal housing element and implementing ordinances does not satisfy the criteria set forth in subsection c. (1)(g) of section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill), the licensed housing compliance professional shall make a written determination to that effect. The determination shall be set forth in a written report which shall state with specificity the factual basis for this conclusion, shall identify the deficiencies in the municipal housing element and implementing ordinances, and shall make non-binding recommendations as to how the deficiencies in housing element and implementing ordinances might be rectified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) discloses, or undertakes to disclose, to the State Board of Professional Planners or to the department an activity, policy or practice that the licensed housing compliance professional reasonably believes: (a) is a violation of law, or a rule or regulation adopted pursuant to law; or (b) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation that the housing compliance professional reasonably believes may defraud a municipality, property owner, low or moderate income person or any other governmental entity;

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

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

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

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

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

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

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

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

b. A municipality shall deposit all fees collected, whether or not such collections were derived from fees imposed upon non-residential or residential construction into a trust fund dedicated to those purposes as required under this section, and such additional purposes as may be approved by the **[**council**]** department.

c. (1) A municipality may only spend development fees for an activity set forth in this section or approved by the **[**council**]** department to address the municipal **[**fair share**]** affordable housing obligation.

(2) Municipal development trust funds shall not be expended to reimburse municipalities for activities which occurred prior to the **[**authorization of**]** adoption of a municipal ordinance authorizing a municipality to collect development fees.

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

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

(b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low income units **[**in a municipal fair share plan**]** to make them affordable to households earning 30 percent or less of median income. **[**The use of development fees in this manner shall not entitle a municipality to bonus credits except as may be provided by the rules of the council.**]**

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

(5) Not more than 20 percent of the revenues collected from development fees and expended for housing programs or activities shall be expended on administration, in accordance with rules of the **[**council**]** department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A developer of a non-residential project that was subject to the payment of a nonresidential development fee subsequent to July 1, 2010, shall be entitled to a return of any moneys paid in the same manner as set forth in subsection c. of this section. e. Notwithstanding the provisions of subsections a., b., c., and d. of this section, if, on the effective date of P.L.2009, c.90 (C.52:27D-489a et al.), a municipality that has returned all or a portion of non-residential fees in accordance with subsection a. or b. of this section shall be reimbursed from the funds available through the appropriation made into the "New Jersey Affordable Housing Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-320.1) within 30 days of the municipality providing written notice to the Council on Affordable Housing.

(cf: P.L.2009, c.90, s.39)

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

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

36. The following sections are repealed:

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

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

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

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

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

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

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

Section 14 of P.L.2009, c.82 (C.45:22A-46.16);

Section 5 of P.L.1985 c.222 (C.52:27D-304);

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

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

Section 7 of P.L.1985, c.222 (C.52:27D-307);

Section 1 of P.L.1991, c.479 (C.52:27D-307.1);

Section 2 of P.L.1991, c.479 (C.52:27D-307.2);

Section 3 of P.L.1991, c.479 (C.52:27D-307.3);

Section 4 of P.L.1991, c.479 (C.52:27D-307.4);

Section 5 of P.L.1991, c.479 (C.52:27D-307.5);

Section 6 of P.L.2001, c.435 (C.52:27D-307.6);

Section 8 of P.L.1985, c.222 (C.52:27D-308);

Section 9 of P.L.1985, c.222 (C.52:27D-309);

Section 1 of P.L.1995, c.231 (C.52:27D-310.1);

Section 2 of P.L.1995, c.231 (C.52:27D-310.2);

Section 11 of P.L.1985, c.222 (C.52:27D-311);

Section 40 of P.L.2009, c.90 (C. 52:27D-311.3);

Section 13 of P.L.1985 c.222 (C.52:27D-313);

Section 2 of P.L.1989, c.142 (C.52:27D-313.1);

Section 14 of P.L.1985 c.222 (C.52:27D-314);

Section 15 of P.L.1985 c.222 (C.52:27D-315);

Section 16 of P.L.1985, c.222 (C.52:27D-316);

Section 17 of P.L.1985, c.222 (C.52:27D-317);

Section 18 of P.L.1985, c.222 (C.52:27D-318);

Section 19 of P.L.1985 c.222 (C.52:27D-319);

Section 22 of P.L.1985, c.222 (C.52:27D-322);

Section 28 of P.L.1985, c.222 (C.52:27D-328);

Section 7 of P.L.2008, c.46 (C.52:27D-329.1);

Section 9 of P.L.2008, c.46 (C.52:27D-329.3);

Section 12 of P.L.2008, c.46 (C.52:27D-329.6);

Section 14 of P.L.2008, c.46 (C.52:27D-329.8);

Section 21 of P.L.2008, c.46 (C.52:27D-329.10);

Section 22 of P.L.2008, c.46 (C.52:27D-329.11);

Section 23 of P.L.2008, c.46 (C.52:27D-329.12);

Section 24 of P.L.2008, c.46 (C.52:27D-329.13);

Section 25 of P.L.2008, c.46 (C.52:27D-329.14);

Section 26 of P.L.2008, c.46 (C.52:27D-329.15);

Section 27 of P.L.2008, c.46 (C.52:27D-329.16)

Section 28 of P.L.2008, c.46 (C.52:27D-329.17)

Section 29 of P.L.2008, c.46 (C.52:27D-329.18); and

Section 30 of P.L.2008, c.46 (C.52:27D-329.19).

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

STATEMENT

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

The bill abolishes the Council on Affordable Housing established by the 1985 "Fair Housing Act." The bill transfers the Council's remaining duties to the Department of Community Affairs. The bill also requires the Council to transfer necessary records to the department.

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

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

* at least 50 percent of the total number of qualified housing units in any municipality shall be qualified low income units, and at least 13 percent of the total of qualified housing units in any municipality constructed after the effective date of the bill are qualified very-low-income units;
* no more than 25 percent of the total number of qualified low income housing units and qualified moderate income housing units in any municipality shall be age-restricted units as defined pursuant to section 2 of P.L.2009, c.82 (C.45:22A-46.4);
* at least 50 percent of the units reserved for each of very-low-income housing, low income, and moderate income housing and counted toward the compliance threshold pursuant to this section, shall be family housing; and
* no more than 25 percent of the total number of qualified housing units in any municipality shall be reserved for people living or working within that municipality.

A municipality may also be deemed compliant if, within eight months of the effective date of the bill, it adopts and files with the 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.

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

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

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

Upon request by a municipality, the State Board of Professional Planners shall designate a licensed housing compliance professional to conduct a comprehensive and independent review of the municipality’s housing element and implementing ordinances. The State Board of Professional Planners shall randomly select the licensed housing compliance professional from the list of licensed housing compliance professionals maintained by the State Board of Professional Planners in accordance with the procedures established by the State Board of Professional Planners.

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

A licensed housing compliance professional shall certify a municipal housing element if, after conducting a comprehensive and independent review, the licensed housing compliance professional makes a determination that the housing element and implementing ordinances (1) accurately and completely represent the 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; (2) create sufficient realistic opportunities for the development of qualified very-low, low and moderate income housing units to bring the municipality into compliance with the standards set forth in the bill; and (3) comply with all relevant standards under the bill.

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