

ASSEMBLY, No. 367

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

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District 30 (Monmouth and Ocean)

SYNOPSIS

Directs COAH to adopt regulations to require municipalities to prioritize current residents in affordable housing applications.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning residency considerations in affordable housing
2 applications and amending P.L.1985, c.222.

3

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

6

7 1. Section 7 of P.L.1985, c.222 (C.52:27D-307) is amended to
8 read as follows:

9 7. It shall be the duty of the council, seven months after the
10 confirmation of the last member initially appointed to the council,
11 or January 1, 1986, whichever is earlier, and from time to time
12 thereafter, to:

13 a. Determine housing regions of the State;

14 b. Estimate the present and prospective need for low and
15 moderate income housing at the State and regional levels;

16 c. Adopt criteria and guidelines for:

17 (1) Municipal determination of its present and prospective fair
18 share of the housing need in a given region which shall be
19 computed for a 10-year period.

20 Municipal fair share shall be determined after crediting on a one-
21 to-one basis each current unit of low and moderate income housing
22 of adequate standard, including any such housing constructed or
23 acquired as part of a housing program specifically intended to
24 provide housing for low and moderate income households.
25 Notwithstanding any other law to the contrary, a municipality shall
26 be entitled to a credit for a unit if it demonstrates that (a) the
27 municipality issued a certificate of occupancy for the unit, which
28 was either newly constructed or rehabilitated between April 1, 1980
29 and December 15, 1986; (b) a construction code official certifies,
30 based upon a visual exterior survey, that the unit is in compliance
31 with pertinent construction code standards with respect to structural
32 elements, roofing, siding, doors and windows; (c) the household
33 occupying the unit certifies in writing, under penalty of perjury, that
34 it receives no greater income than that established pursuant to
35 section 4 of P.L.1985, c.222 (C.52:27D-304) to qualify for
36 moderate income housing; and (d) the unit for which credit is
37 sought is affordable to low and moderate income households under
38 the standards established by the council at the time of filing of the
39 petition for substantive certification. It shall be sufficient if the
40 certification required in subparagraph (c) is signed by one member
41 of the household. A certification submitted pursuant to this
42 paragraph shall be reviewable only by the council or its staff and
43 shall not be a public record;

44 Nothing in P.L.1995, c.81 shall affect the validity of substantive
45 certification granted by the council prior to November 21, 1994, or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of a judgment of compliance entered by any court of competent
2 jurisdiction prior to that date. Additionally, any municipality that
3 received substantive certification or a judgment of compliance prior
4 to November 21, 1994 and filed a motion prior to November 21,
5 1994 to amend substantive certification or a judgment of
6 compliance for the purpose of obtaining credits, shall be entitled to
7 a determination of its right to credits pursuant to the standards
8 established by the Legislature prior to P.L.1995, c.81. Any
9 municipality that filed a motion prior to November 21, 1994 for the
10 purpose of obtaining credits, which motion was supported by the
11 results of a completed survey performed pursuant to council rules,
12 shall be entitled to a determination of its right to credits pursuant to
13 the standards established by the Legislature prior to P.L.1995, c.81;

14 (2) Municipal adjustment of the present and prospective fair
15 share based upon available vacant and developable land,
16 infrastructure considerations or environmental or historic
17 preservation factors and adjustments shall be made whenever:

18 (a) The preservation of historically or important architecture and
19 sites and their environs or environmentally sensitive lands may be
20 jeopardized,

21 (b) The established pattern of development in the community
22 would be drastically altered,

23 (c) Adequate land for recreational, conservation or agricultural
24 and farmland preservation purposes would not be provided,

25 (d) Adequate open space would not be provided,

26 (e) The pattern of development is contrary to the planning
27 designations in the State Development and Redevelopment Plan
28 prepared pursuant to sections 1 through 12 of P.L.1985, c.398
29 (C.52:18A-196 et seq.),

30 (f) Vacant and developable land is not available in the
31 municipality, and

32 (g) Adequate public facilities and infrastructure capacities are
33 not available, or would result in costs prohibitive to the public if
34 provided.

35 (3) (Deleted by amendment, P.L.1993, c.31).

36 d. Provide population and household projections for the State
37 and housing regions;

38 e. In its discretion, place a limit, based on a percentage of
39 existing housing stock in a municipality and any other criteria
40 including employment opportunities which the council deems
41 appropriate, upon the aggregate number of units which may be
42 allocated to a municipality as its fair share of the region's present
43 and prospective need for low and moderate income housing. No
44 municipality shall be required to address a fair share of housing
45 units affordable to households with a gross household income of
46 less than 80% of the median gross household income beyond 1,000
47 units within ten years from the grant of substantive certification,
48 unless it is demonstrated, following objection by an interested party

1 and an evidentiary hearing, based upon the facts and circumstances
2 of the affected municipality that it is likely that the municipality
3 through its zoning powers could create a realistic opportunity for
4 more than 1,000 low and moderate income units within that ten-
5 year period. For the purposes of this section, the facts and
6 circumstances which shall determine whether a municipality's fair
7 share shall exceed 1,000 units, as provided above, shall be a finding
8 that the municipality has issued more than 5,000 certificates of
9 occupancy for residential units in the ten-year period preceding the
10 petition for substantive certification in connection with which the
11 objection was filed.

12 For the purpose of crediting low and moderate income housing
13 units in order to arrive at a determination of present and prospective
14 fair share, as set forth in paragraph (1) of subsection c. of this
15 section, housing units comprised in a community residence for the
16 developmentally disabled, as defined in section 2 of P.L.1977,
17 c.448 (C.30:11B-2), shall be fully credited pursuant to rules
18 promulgated or to be promulgated by the council, to the extent that
19 the units are affordable to persons of low and moderate income and
20 are available to the general public.

21 The council, with respect to any municipality seeking substantive
22 certification, shall require that a minimum percentage of housing
23 units in any residential development resulting from a zoning change
24 made to a previously non-residentially-zoned property, where the
25 change in zoning precedes or follows the application for residential
26 development by no more than 24 months, be reserved for occupancy
27 by low or moderate income households, which percentage shall be
28 determined by the council based on economic feasibility with
29 consideration for the proposed density of development.

30 In carrying out the above duties, including, but not limited to,
31 present and prospective need estimations the council shall give
32 appropriate weight to pertinent research studies, government
33 reports, decisions of other branches of government, implementation
34 of the State Development and Redevelopment Plan prepared
35 pursuant to sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196
36 et seq.) and public comment. To assist the council, the State
37 Planning Commission established under that act shall provide the
38 council annually with economic growth, development and decline
39 projections for each housing region for the next ten years. The
40 council shall develop procedures for periodically adjusting regional
41 need based upon the low and moderate income housing that is
42 provided in the region through any federal, State, municipal or
43 private housing program.

44 No housing unit subject to the provisions of section 5 of
45 P.L.2005, c.350 (C.52:27D-123.15) and to the provisions of the
46 barrier free subcode adopted by the Commissioner of Community
47 Affairs pursuant to the "State Uniform Construction Code Act,"
48 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be eligible for

1 inclusion in the municipal fair share plan certified by the council
2 unless the unit complies with the requirements set forth thereunder.

3 The council, or its successor, shall promulgate rules and
4 regulations to provide a preference for persons and families who
5 have applied for affordable housing assistance and reside in the
6 municipality in which they have applied.

7 (cf: P.L.2008, c.46, s.6)

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9 2. This act shall take effect immediately.

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12 STATEMENT

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14 This bill directs the Council on Affordable Housing, or its
15 successor, to promulgate rules and regulations to provide a
16 preference for persons and families who have applied for affordable
17 housing assistance and reside in the municipality in which they
18 have applied.