

ASSEMBLY, No. 1813

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Requires calculation of need for low and moderate income housing units to be based current percentage of units occupied by low and moderate income individuals or families; revises “Local Redevelopment and Housing Law” to allow for senior citizen housing and community development.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning low and moderate income housing, amending
2 P.L.1992, c.79, and supplementing and amending P.L.1985,
3 c.222.
4

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

8 1. (New section) a. A municipality's fair share housing
9 obligation for each 10-year period shall be deemed satisfied if at
10 least 20 percent of the housing stock for that municipality is
11 occupied by low-and moderate-income households and units used
12 as disabled housing. A municipality shall demonstrate that this
13 requirement is satisfied through the calculation set forth in
14 subsection c. of this section. The calculation of a municipality's
15 need for low and moderate income housing shall be based on this
16 threshold.

17 b. A municipality which has less than 20 percent of its housing
18 stock occupied by low and moderate income individuals or families
19 shall be required to provide for the reasonable opportunity to
20 develop additional low-and moderate-income housing stock at a
21 level so as to meet the 20 percent requirement. A municipality
22 which has demonstrated to a court or administrative agency, as
23 appropriate, that the 20 percent threshold is satisfied, shall receive
24 substantive certification and shall not be subject to a builder's
25 remedy, as defined in section 28 of P.L.1985, c.222 (C.52:27D-
26 328).

27 c. The calculation of the percentage of housing stock occupied
28 by low-and moderate-income individuals or families shall be
29 determined by the municipality no later than the 181st day after of
30 the publication of the federal decennial census using census data.
31 The calculation shall be made by the following equation: the total
32 number of households in a municipality earning less than the most
33 recent affordable housing regional income limits established by the
34 New Jersey Council on Affordable Housing, or its successor, plus
35 the number of bedroom units in the municipality used for disabled
36 housing, divided by the total number of households in the
37 municipality, multiplied by 100.

38 d. Housing units occupied by low and moderate income senior
39 citizen households may constitute up to 60 percent of low-and
40 moderate-income housing stock in a municipality for the purposes
41 of complying with the requirements of this section.
42

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

45 3. As used in this act:

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

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

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

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

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

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

44 "Persons of low and moderate income" means persons or
45 families who are, in the case of State assisted projects or programs,
46 so defined by the Council on Affordable Housing in the Department
47 of Community Affairs, or in the case of federally assisted projects
48 or programs, defined as of "low and very low income" by the

1 United States Department of Housing and Urban Development , or
2 persons earning less than the most recent affordable housing
3 regional income limits established by the New Jersey Council on
4 Affordable Housing, or its successor.

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

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

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

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

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

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

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

45 "Redevelopment area" or "area in need of redevelopment" means
46 an area determined to be in need of redevelopment pursuant to
47 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6)

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

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

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

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

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

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

43 "Senior citizen" means a person 65 years of age or over and shall
44 include a surviving spouse if that surviving spouse is 55 years of
45 age or over.

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

1 3. Section 5 of P.L.1992, c.79 (C.40A:12A-5) is amended to
2 read as follows:

3 5. A delineated area may be determined to be in need of
4 redevelopment if, after investigation, notice and hearing as provided
5 in section 6 of P.L.1992, c.79 (C.40A:12A-6), the governing body
6 of the municipality by resolution concludes that within the
7 delineated area any of the following conditions is found:

8 a. The generality of buildings are substandard, unsafe,
9 unsanitary, dilapidated, or obsolescent, or possess any of such
10 characteristics, or are so lacking in light, air, or space, as to be
11 conducive to unwholesome living or working conditions.

12 b. The discontinuance of the use of buildings previously used
13 for commercial, manufacturing, or industrial purposes; the
14 abandonment of such buildings; or the same being allowed to fall
15 into so great a state of disrepair as to be untenable.

16 c. Land that is owned by the municipality, the county, a local
17 housing authority, redevelopment agency or redevelopment entity,
18 or unimproved vacant land that has remained so for a period of ten
19 years prior to adoption of the resolution, and that by reason of its
20 location, remoteness, lack of means of access to developed sections
21 or portions of the municipality, or topography, or nature of the soil,
22 is not likely to be developed through the instrumentality of private
23 capital.

24 d. Areas with buildings or improvements which, by reason of
25 dilapidation, obsolescence, overcrowding, faulty arrangement or
26 design, lack of ventilation, light and sanitary facilities, excessive
27 land coverage, deleterious land use or obsolete layout, or any
28 combination of these or other factors, are detrimental to the safety,
29 health, morals, or welfare of the community.

30 e. A growing lack or total lack of proper utilization of areas
31 caused by the condition of the title, diverse ownership of the real
32 properties therein or other similar conditions which impede land
33 assemblage or discourage the undertaking of improvements,
34 resulting in a stagnant and unproductive condition of land
35 potentially useful and valuable for contributing to and serving the
36 public health, safety and welfare, which condition is presumed to be
37 having a negative social or economic impact or otherwise being
38 detrimental to the safety, health, morals, or welfare of the
39 surrounding area or the community in general.

40 f. Areas, in excess of five contiguous acres, whereon buildings
41 or improvements have been destroyed, consumed by fire,
42 demolished or altered by the action of storm, fire, cyclone, tornado,
43 earthquake or other casualty in such a way that the aggregate
44 assessed value of the area has been materially depreciated.

45 g. In any municipality in which an enterprise zone has been
46 designated pursuant to the "New Jersey Urban Enterprise Zones
47 Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the
48 actions prescribed in that act for the adoption by the municipality

1 and approval by the New Jersey Urban Enterprise Zone Authority
2 of the zone development plan for the area of the enterprise zone
3 shall be considered sufficient for the determination that the area is
4 in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,
5 c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax
6 exemptions within the enterprise zone district pursuant to the
7 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption
8 of a tax abatement and exemption ordinance pursuant to the
9 provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The
10 municipality shall not utilize any other redevelopment powers
11 within the urban enterprise zone unless the municipal governing
12 body and planning board have also taken the actions and fulfilled
13 the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.)
14 for determining that the area is in need of redevelopment or an area
15 in need of rehabilitation and the municipal governing body has
16 adopted a redevelopment plan ordinance including the area of the
17 enterprise zone.

18 h. The designation of the delineated area is consistent with
19 smart growth planning principles adopted pursuant to law or
20 regulation.

21 i. Areas, in excess of five contiguous acres, whereon
22 residential housing and commercial properties could be developed
23 to serve the needs of persons of low and moderate income who are
24 senior citizens.

25 (cf: P.L.2013, c.159, s.1)

26
27 4. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to
28 read as follows:

29 10. A municipality's housing element shall be designed to
30 achieve the goal of access to affordable housing to meet present and
31 prospective housing needs, with particular attention to low and
32 moderate income housing, and shall contain at least:

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

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

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

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

6 e. A determination of the municipality's present and
7 prospective fair share for low and moderate income housing and its
8 capacity to accommodate its present and prospective housing needs,
9 including its fair share for low and moderate income housing; and

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

16 g. An estimate of the percentage of housing stock, within the
17 municipality, occupied by low-and moderate-income individuals or
18 families, to be determined as follows: the total number of
19 households in a municipality earning less than the most recent
20 affordable housing regional income limits established by the New
21 Jersey Council on Affordable Housing, or its successor, divided by
22 the total number of households in the municipality, multiplied by
23 100. This calculation shall be used to calculate the need for
24 additional housing units as set forth in section 1 of P.L. , c. (C.)
25 (pending before the Legislature as this bill).
26 (cf: P.L.2001, c.435, s.1)

27
28 5. This act shall take effect immediately.
29
30

31 STATEMENT

32
33 This bill establishes a simple, understandable requirement and
34 formula to be used to calculate a municipality's need for low and
35 moderate income housing. Under the bill, a municipality's fair
36 share housing obligation shall be deemed satisfied if at least 20
37 percent of the housing in the municipality is occupied by low and
38 moderate income individuals or families and units of disabled
39 housing.

40 The calculation of the percentage of housing stock occupied by
41 low-and moderate-income individuals or families would be
42 determined through the following equation: the total number of
43 households in a municipality earning most recent affordable
44 housing regional income limits established by the New Jersey
45 Council on Affordable Housing, or its successor, plus the number of
46 disabled bedroom units in the municipality, divided by the total
47 number of households in the municipality, multiplied by 100.

1 Under the bill, housing units occupied by low and moderate
2 income senior citizen households may constitute up to 60 percent of
3 low-and moderate-income housing stock in a municipality for the
4 purposes of complying with affordable housing requirements. The
5 bill also amends the local redevelopment housing law to encourage
6 the development of communities that meet the needs of persons of
7 low and moderate income who are senior citizens.

8 The current state of affordable housing in New Jersey creates a
9 multitude of unknowns for municipalities throughout the State. The
10 administrative process to address these matters has faltered after
11 years of political strife. This bill would take a realistic, rational,
12 and holistic approach to determining the need for affordable units in
13 each municipality. The result of this bill would be the increased
14 availability of low and moderate income housing in regions where
15 the need is greatest, and would provide clear guidance for
16 municipalities and the courts.