

ASSEMBLY, No. 1930

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

SYNOPSIS

Requires COAH to subtract affordable units from municipality's fair share affordable housing obligation to reflect job loss upon closure of federal military installation.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** permitting adjustments to affordable housing calculations
2 to reflect job loss 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
46 of a judgment of compliance entered by any court of competent
47 jurisdiction prior to that date. Additionally, any municipality that

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

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

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

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

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

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

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

28 (f) Vacant and developable land is not available in the
 29 municipality, and

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

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

34 d. Provide population and household projections for the State
 35 and housing regions;

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

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

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

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

28 The council shall adjust the fair share obligation of a
29 municipality within which a federal military installation is
30 decommissioned. In the event that the council adopts a
31 methodology that calculates housing need on the basis of job
32 growth in the municipality, the council shall ensure that the
33 methodology subtracts affordable units from the fair share
34 obligation of the municipality to reflect job loss or decline during
35 the same period.

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

1 provided in the region through any federal, State, municipal or
2 private housing program.

3 No housing unit subject to the provisions of section 5 of
4 P.L.2005, c.350 (C.52:27D-123.15) and to the provisions of the
5 barrier free subcode adopted by the Commissioner of Community
6 Affairs pursuant to the "State Uniform Construction Code Act,"
7 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be eligible for
8 inclusion in the municipal fair share plan certified by the council
9 unless the unit complies with the requirements set forth thereunder.
10 (cf: P.L.2008, c.46, s.6)

11

12 2. This act shall take effect immediately.

13

14

15 STATEMENT

16

17 This bill amends the "Fair Housing Act," P.L.1985, c.222
18 (C.52:27D-301 et al.) to require the Council on Affordable Housing
19 ("COAH") adjust the a municipality's fair share obligations to
20 reflect job loss upon closure of a federal military installation within
21 the municipality. This bill provides that COAH shall subtract
22 affordable units from a municipality's fair share affordable housing
23 obligation to reflect jobs lost upon closure of a federal military
24 installation in the municipality.