

ASSEMBLY, No. 1959

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

Assemblyman EDWARD H. THOMSON

District 30 (Monmouth and Ocean)

SYNOPSIS

Establishes program providing grants for Superstorm Sandy recovery in exchange for reduction of affordable housing obligation.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning Superstorm Sandy reconstruction and
2 affordable housing obligations and supplementing Title 52 of the
3 Revised Statutes.

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

7
8 1. a. For the purposes of P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Eligible property owner” means a property owner who was
11 deemed eligible by the Department Community Affairs to receive
12 federal funds dedicated through the Low-to-Moderate Income
13 Homeowners Rebuilding Program as a result of Superstorm Sandy.

14 b. There is established a special, dedicated, and non-lapsing
15 account in the General Fund called the Superstorm Sandy
16 Neighborhood Rebuilding Account. Funds deposited in the account
17 shall be used exclusively for the purposes established in
18 P.L. , c. (C.) (pending before the Legislature as this bill) and
19 shall be used for no other purpose.

20 c. An eligible property owner may apply to the Department of
21 Community Affairs for a grant of an amount necessary to complete
22 the rehabilitation of a property damaged by Superstorm Sandy, up
23 to \$50,000, to be paid from the Superstorm Sandy Neighborhood
24 Rebuilding Account.

25 d. In exchange for the receipt of grant funds from the
26 Superstorm Sandy Neighborhood Rebuilding Account established in
27 P.L. , c. (C.) (pending before the Legislature as this bill), an
28 eligible property owner shall record the following deed restriction
29 with the county recording officer:

30 DEED RESTRICTION

31 In consideration of the grant received from the Sandy
32 Neighborhood Rebuilding Account, the Owner hereby agrees to
33 abide by the covenants, terms, and conditions set forth in this Deed
34 restriction, with respect to the land and improvements located at
35 block ___, lot ___ in the municipality of _____, County of
36 _____, State of New Jersey, and known by street address
37 _____.

38 The covenants contained herein shall run with the land as
39 follows:

40 (1) For a period of 15 years from the date upon which funds are
41 awarded to the Owner from the Superstorm Sandy Neighborhood
42 Rebuilding Account pursuant to P.L. , c. (C.) (pending before
43 the Legislature as this bill), the following restrictions on the
44 property shall be in effect:

45 Article 1. Sales price restriction

46 A. The sale of the property subject to this deed restriction is
47 subject to regulations governing controls on affordability, which are
48 found in New Jersey Administrative Code at Title 5, chapter 93,

1 subchapter 9 (N.J.A.C. 5:93-9.1 et seq.), and chapter 80,
2 subchapter 26 (N.J.A.C. 5:80-26.1 et seq.).

3 B. The property subject to this deed restriction may be conveyed
4 only to one or more members of a household who have been
5 approved in advance and in writing by the Commissioner of
6 Community affairs, or his designee.

7 C. No sale of the property subject to this deed restriction shall
8 be lawful, unless approved in advance and in writing by the
9 Commissioner of Community affairs, or his designee, and no sale
10 shall be for a consideration greater than the maximum permitted
11 price ("Maximum Resale Price," or "MRP") as determined by the
12 Commissioner of Community Affairs, or his designee.

13 D. No refinancing, equity loan, secured letter of credit, or any
14 other mortgage obligation or other debt (collectively, "Debt")
15 secured by the property subject to this deed restriction, may be
16 incurred except as approved in advance and in writing by the
17 Commissioner of Community Affairs. At no time shall the
18 Commissioner of Community Affairs approve any such Debt, if
19 incurring the Debt would make the total of all such Debt exceed
20 Ninety-Five Percent (95%) of the applicable MRP.

21 E The Owner of the property subject to this deed restriction
22 shall at all times maintain the property subject to this deed
23 restriction as his or her principal place of residence.

24 F. Except as set forth in Article 2, below, at no time shall the
25 Owner of the property subject to this deed restriction lease or rent
26 the property subject to this deed restriction to any person or
27 persons, except on a short-term hardship basis as approved in
28 advance and in writing by the Commissioner of Community Affairs.

29 G. No improvements may be made to the property subject to this
30 deed restriction that would affect its bedroom configuration, and in
31 any event, no improvement made to the property subject to this
32 deed restriction will be taken into consideration to increase the
33 MRP, except for improvements approved in advance and in writing
34 by the Commissioner of Community Affairs.

35 H. The affordable housing covenants, declarations and
36 restrictions implemented by this deed restriction and by
37 incorporation, N.J.A.C. 5:80-26.1 et seq., shall remain in effect
38 despite the entry and enforcement of any judgment of foreclosure
39 with respect to the property subject to this deed restriction so long
40 as the property remains subject to the affordability controls being
41 implemented by this deed restriction.

42 I. The property subject to this deed restriction is subject to a
43 fifteen (15) year affordability control period that commenced on the
44 date upon which funds were awarded to the Owner from the
45 Superstorm Sandy Neighborhood Rebuilding Account pursuant to
46 P.L. , c. (C.) (pending before the Legislature as this bill),
47 which is _____.

1 Article 2. Rental Price Restriction

2 A. Rental of the property subject to this deed restriction subject
3 to regulations known as the Uniform Housing Affordability
4 Controls, which are found in New Jersey Administrative Code at
5 Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq, the
6 “Uniform Controls”).

7 B. If the property subject to this deed restriction is to be rented
8 to an eligible tenant, the property shall be used solely for the
9 purpose of providing rental dwelling units for low- or moderate-
10 income households, and no commitment for any such dwelling unit
11 shall be given or implied, without exception, to any person who has
12 not been certified for that unit in writing by the Commissioner of
13 Community Affairs or his designee.

14 C. No improvements may be made to the property subject to this
15 deed restriction that would affect the bedroom configuration of any
16 of its dwelling units, and any improvements to the property subject
17 to this deed restriction must be approved in advance and in writing
18 by the Commissioner of Community Affairs or his designee.

19 D. The Owner shall notify the Commissioner of Community
20 Affairs of any foreclosure actions filed with respect to the property
21 within five (5) business days of service upon Owner.

22 E. The Owner shall notify the Commissioner of Community
23 Affairs within three (3) business days of the filing of any petition
24 for protection from creditors or reorganization filed by or on behalf
25 of the Owner.

26 Article 3. Foreclosure

27 A. This deed restriction shall not be terminated in the event of a
28 Judgment of Foreclosure on the property subject to this deed
29 restriction.

30 B. The terms and restrictions of this property subject to this
31 deed restriction shall be subordinated only to the First Purchase
32 Money Mortgage lien on the Affordable Housing Property and in no
33 way shall impair the First Purchase Money Mortgagee’s ability to
34 exercise the contract remedies available to it in the event of any
35 default of such mortgage as such remedies are set forth in the First
36 Purchase Money Mortgage documents for the property subject to
37 this deed restriction.

38 C. An Execution of Foreclosure sale by any other class of
39 creditor or mortgagee shall not result in a release of the property
40 subject to this deed restriction from the provisions and restrictions
41 of this deed restriction.

42 Article 4. Remedies for Breach of Affordable Housing Covenants

43 A. A breach of the covenants described herein will cause
44 irreparable harm to the public, in light of the public policies set
45 forth in the New Jersey Fair Housing Act, the Uniform Housing
46 Affordability Control rules found at N.J.A.C. 5:80-26, and the
47 obligation for the provision of low and moderate-income housing.

1 B. In the event of a threatened breach of any of the covenants
2 contained herein by the Owner, or any successor in interest of the
3 property subject to this deed restriction, the Commissioner of
4 Community Affairs shall have all remedies provided at law or
5 equity, including the right to seek injunctive relief or specific
6 performance.

7 (2) If the Owner retains ownership of the property subject to this
8 deed restriction for longer than 15 years from the date upon which
9 funds were awarded to the Owner from the Superstorm Sandy
10 Neighborhood Rebuilding Account, the Owner shall, upon the first
11 subsequent transfer of the ownership of the property, pay an amount
12 equal to the amount received from Superstorm Sandy Neighborhood
13 Rebuilding Account to the Department of Community Affairs for
14 deposit into the New Jersey Affordable Housing Trust Fund
15 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-
16 320).

17 e. The grant of funds to an eligible property owner from the
18 Superstorm Sandy Neighborhood Rebuilding Account in exchange
19 for the recording of a deed restriction shall constitute a binding
20 contract between the eligible property owner and the Department of
21 Community Affairs.

22
23 2. a. Notwithstanding any law, rule, or regulation to the
24 contrary, a municipality located within a county which was
25 impacted by Superstorm Sandy may propose the transfer of up to
26 20% of its fair share affordable housing obligation by depositing
27 funds into the Superstorm Sandy Neighborhood Rebuilding
28 Account.

29 b. A municipality which is a defendant in an exclusionary
30 zoning suit and which has not obtained substantive certification
31 pursuant to P.L.1985, c.222 (C.52:27D:3011 et al.) may request the
32 court to be permitted to fulfill a portion of its fair share affordable
33 housing obligation by donating funds to the Superstorm Sandy
34 Neighborhood Rebuilding Account, established pursuant to section
35 1 of P.L. , c. (C.) (pending before the Legislature as this bill).
36 If the court believes the request to be reasonable, and determines
37 that a deposit into the Superstorm Sandy Neighborhood Rebuilding
38 Account would result in an increase in deed-restricted affordable
39 units for a period of at least 15 years, the court shall request the
40 Commissioner of Community Affairs to review the proposed
41 agreement and to determine a match with an eligible property
42 owner, as defined in subsection a. of section 1 of P.L. , c. (C.)
43 (pending before the Legislature as this bill). The court may
44 establish time limitations for the commissioner's review, and shall
45 retain jurisdiction over the matter during the period of review. If
46 the court determines that the agreement provides a realistic
47 opportunity for the provision of low and moderate income housing,
48 it shall provide the sending municipality a credit against its fair

1 share affordable housing obligation in the manner provided in this
2 section.

3 c. The schedule for fulfilling a portion of a municipality's fair
4 share affordable housing obligation, up to 20%, in exchange for a
5 deposit into the Superstorm Sandy Neighborhood Rebuilding
6 Account, shall be at the rate of two units for every \$50,000
7 deposited; provided, however, that the minimum donation
8 increment shall be \$50,000.

9
10 3. The Commissioner of Community Affairs, pursuant to the
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.), shall adopt rules and regulations necessary to effectuate the
13 provisions of this act, which may include revisions to the deed
14 restriction language established in section 1 of P.L. , c. (C.)
15 (pending before the Legislature as this bill).

16
17 4. This act shall take effect immediately.

18

19

20 STATEMENT

21

22 This bill establishes the Superstorm Sandy Neighborhood
23 Rebuilding Account. Under the bill, a municipality in one of the
24 counties impacted by Superstorm Sandy may deposit funds into the
25 account in exchange for a reduction in its affordable housing
26 obligation at the rate of two units for every \$50,000 deposited. A
27 property owner who was deemed eligible by the Department
28 Community Affairs (DCA) to receive federal funds dedicated for
29 Low and Moderate Income homeowners through the federal
30 Rehabilitation, Reconstruction, Elevation and Mitigation Program
31 would be permitted to apply to DCA for a grant of up to \$50,000.

32 In exchange for the receipt of grant funds from the Superstorm
33 Sandy Neighborhood Rebuilding Account, an eligible property
34 owner would be required to record a 15-year deed restriction to
35 establish affordability controls on the property. During the 15-year
36 period, the rental price and sales price of the property would be
37 restricted in accordance with existing affordability control
38 regulations. If the owner does not sell property until after the
39 conclusion of the 15-year period, the owner would be required to
40 pay the amount originally granted from the "Superstorm Sandy
41 Neighborhood Rebuilding Account" into the New Jersey Affordable
42 Housing Trust Fund to be used for the construction and
43 rehabilitation of affordable units throughout the State.