

[First Reprint]

ASSEMBLY, No. 2636

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

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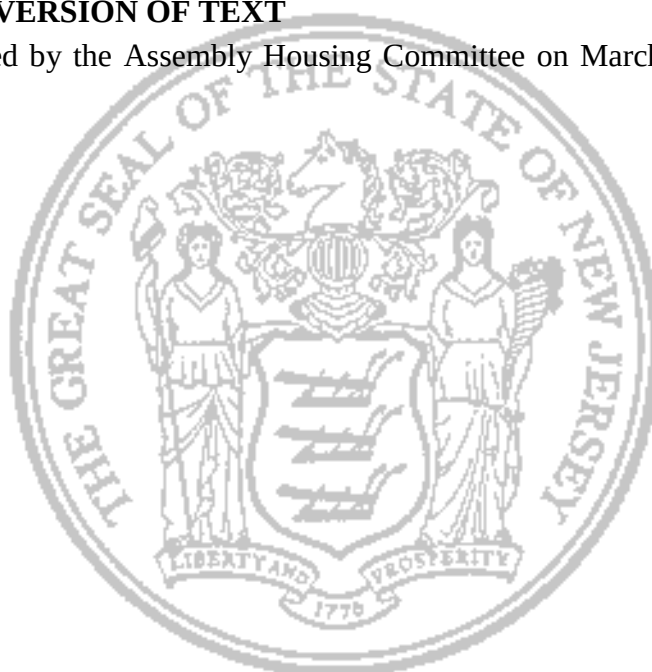
Assemblywomen Speight, Carter and Tucker

SYNOPSIS

Concerns online marketing of affordable housing units.

CURRENT VERSION OF TEXT

As reported by the Assembly Housing Committee on March 5, 2020, with amendments.



(Sponsorship Updated As Of: 6/25/2020)

1 AN ACT concerning online marketing of affordable housing units
2 and supplementing P.L.1985, c.222 (C.52:27D-301 et al.).
3

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

7 1. The Legislature finds and declares that:

8 a. In recent years, housing costs in New Jersey have increased
9 dramatically at rates that have outpaced rises in income, making the
10 State the sixth most expensive in the United States and growing the
11 number of renters and homeowners that are housing cost-burdened,
12 spending a disproportionate percentage of their income on high rent
13 or mortgage payments;

14 b. To address the Statewide shortage in affordable housing,
15 tens of thousands of affordable housing units have been and will be
16 made available to very low-, low-, and moderate-income families,
17 the elderly, and persons with disabilities in New Jersey through a
18 wide variety of federal and State programs, including those
19 implemented under the "Fair Housing Act," P.L.1985, c.222
20 (C.52:27D-301 et al.);

21 c. Current rules designed to implement the "Fair Housing Act"
22 require that the developer or administrative agent of the affordable
23 units affirmatively market their units through newspaper and radio
24 or television, but digital marketing is not explicitly required;

25 d. Due to the fragmentation of information consumption and
26 the advent of housing search websites, an increasing number of
27 residents are conducting their housing searches online;

28 e. The manner in which residents are searching for affordable
29 housing and the existing rules for affirmatively marketing
30 affordable units are no longer compatible due to changes in
31 technology and, therefore, necessitate an update to facilitate more
32 effective, streamlined, and fair searches of affordable housing for
33 very low-, low-, and moderate-income residents of New Jersey in
34 the furtherance of the "Fair Housing Act";

35 f. An infrastructure for hosting the increased postings already
36 exists as the New Jersey Housing Resource Center, an affordable
37 housing listing portal overseen by the New Jersey Housing and
38 Mortgage Finance Agency; and

39 g. It is, therefore, in the interest of the residents of the State,
40 and necessary for ensuring that the State's municipalities are
41 compliant with their constitutional responsibility to affirmatively
42 afford a reasonable opportunity for low- and moderate-income
43 families to reside in their boundaries, that the agency, developers,
44 and municipalities comply with P.L. , c. (C.) (pending
45 before the Legislature as this bill).

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted March 5, 2020.

1 2. As used in P.L. , c. (C.) (pending before the
2 Legislature as this bill):

3 “Affirmative marketing plan” means a regional marketing
4 strategy designed to attract buyers, renters, or both to housing units
5 which are being marketed by a developer or sponsor of affordable
6 housing. An affirmative marketing plan shall target eligible persons
7 who are least likely to apply for affordable units in the region.

8 "Agency" means the Housing and Mortgage Finance Agency
9 established pursuant to section 4 of the "New Jersey Housing and
10 Mortgage Finance Agency Law of 1983," P.L.1983, c.530
11 (C.55:14K-4).

12 “Development” means any residential development in which
13 housing for very low-, low-, or moderate-income households is
14 required, including developments receiving credit in a municipal
15 housing element and fair share plan or otherwise approved by the
16 council or court, or in which such housing is required via land use
17 approvals from any municipal land use board.

18

19 3. The agency shall administer the Housing Resource Center,
20 or a designated successor, as an online portal for income-restricted
21 housing listings and searches.

22

23 4. a. The owner, developer, property manager, or other
24 administrative entity required to implement the affirmative
25 marketing plan of a newly constructed development where
26 affordable housing units will be leased or sold for the first time
27 shall be required to post a listing on the Housing Resource Center
28 of the available affordable housing units, on or before the earlier of:
29 (1) at least 60 days prior to conducting a lottery of the applicants; or
30 (2) within one day following when the owner, developer, property
31 manager, or other administrative entity provides any information
32 regarding how to apply for units to prospective applicants or solicits
33 any applications from potential applicants through any other means.
34 The posting shall include, at a minimum, the date that the
35 affordable housing units are expected to be completed, the date of
36 the lottery, the number of affordable housing units, an accounting of
37 how many of the affordable housing units will be available to very
38 low-, low-, and moderate-income households, and each bedroom
39 size that will be available.

40 b. The owner, developer, property manager, or other
41 administrative entity required to implement the affirmative
42 marketing plan of an existing development where one or more
43 affordable housing units becomes available shall post vacancies and
44 waitlist openings for any such unit on the Housing Resource Center
45 and the requirements set forth in the affirmative marketing plan of
46 the municipality where the development is located. The posting
47 shall be made within one day of accepting applications and shall
48 include, at a minimum, the expected date that the affordable

1 housing units will become available, the number of affordable
2 housing units, an accounting of how many of the affordable housing
3 units will be available to very low-, low-, and moderate-income
4 households, and each bedroom size that will be available.

5 c. From time to time the owner, developer, property manager,
6 or administrative entity required to implement the affirmative
7 marketing plan of an existing development may elect to conduct a
8 new lottery to generate or expand the pool of applicants, provided
9 that applicants already on a waitlist for a particular unit type are not
10 displaced from their place in the queue in the lottery. In such cases,
11 the owner, developer, property manager, or other administrative
12 entity shall be required to post a listing on the Housing Resource
13 Center website at least 60 days prior to conducting the lottery of the
14 applicants, or within one day of when the owner, developer,
15 property manager, or other administrative entity provides any
16 information regarding how to apply for the lottery to prospective
17 applicants or solicits any applications from potential applicants
18 through any other means, whichever is earlier.

19 d. The owner, developer, property manager, or other
20 administrative entity shall submit evidence of the listing of their
21 available units and waitlist openings, as required by this section, to
22 the administrative agent for the municipality.

23 e. ¹(1)¹ The administrative agent for the municipality ¹and the
24 municipal housing liaison¹ shall ensure compliance with the
25 provisions of this section.

26 ¹(2) The administrative agent for the municipality and the
27 municipal housing liaison shall have the authority to levy fines
28 against the owner of the development for instances of
29 noncompliance, following written notice to the owner. The fine for
30 the first offense of noncompliance shall be \$5,000, the fine for the
31 second offense of noncompliance shall be \$10,000, and the fine for
32 each subsequent offense of noncompliance shall be \$15,000.

33 (3) The Executive Director of the agency may adjust the fine
34 schedule, but shall not adjust the fine schedule until at least sixty
35 months after the effective date of P.L. , c. (C.) (pending
36 before the Legislature as this bill).

37 (4) All revenue generated from the fines levied pursuant to this
38 section shall be deposited into the municipality's affordable housing
39 trust fund.

40 (5) A fine shall not be issued pursuant to this subsection unless
41 the administrative agent for the municipality or the municipal
42 housing liaison first provides the owner with written notice no less
43 than two months prior to the date the fine is levied. A fine shall
44 only be issued if the offense has not been cured within that two-
45 month timeframe.

46 ¹(6)¹ The administrative agent ¹and the municipal housing
47 liaison¹ shall have the authority to require the owner, developer,

1 property manager, or administrative entity to conduct a new lottery
2 if the provisions of this section are not implemented properly.

3 f. If a municipality fails to comply with the provisions of this
4 section, then the municipality shall be considered non-compliant
5 with the affirmative marketing plan requirements, except in cases in
6 which the municipality takes appropriate corrective action pursuant
7 to this section that such corrective action shall be construed as
8 remaining in compliance.

9
10 5. This act shall take effect on the first day of the fourth month
11 next following the date of enactment.