

[Second Reprint]

ASSEMBLY, No. 2636

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

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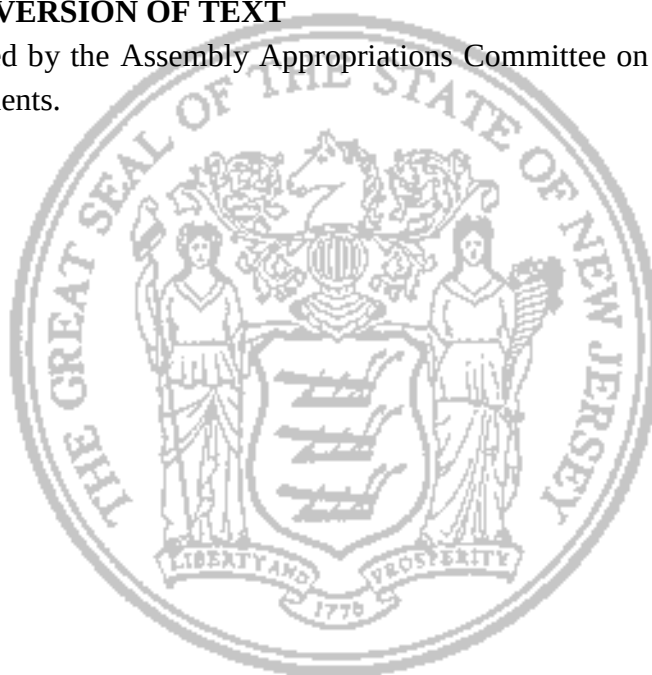
Assemblywomen Speight, Carter and Tucker

SYNOPSIS

Concerns online marketing of affordable housing units.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 25, 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.

²Assembly AAP committee amendments adopted June 25, 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. ²(1)² 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 ²(2) A lottery shall not take place less than 60 days following
41 posting on the Housing Resource Center. Any posting on the
42 Housing Resource Center shall provide a link to an online fillable
43 form or Portable Document Format (PDF) form of the application
44 for the affordable housing units on the website of the owner,
45 developer, property manager, or other administrative entity and
46 information on how to request a paper copy of the application from
47 the owner, developer, property manager, or other administrative
48 entity.²

1 b. The owner, developer, property manager, or other
2 administrative entity required to implement the affirmative
3 marketing plan of an existing development where one or more
4 affordable housing units becomes available shall post vacancies and
5 waitlist openings for any such unit on the Housing Resource Center
6 and the requirements set forth in the affirmative marketing plan of
7 the municipality where the development is located. The posting
8 shall be made within one day of accepting applications and shall
9 include, at a minimum, the expected date that the affordable
10 housing units will become available, the number of affordable
11 housing units, an accounting of how many of the affordable housing
12 units will be available to very low-, low-, and moderate-income
13 households, and each bedroom size that will be available.

14 c. ²(1)² From time to time the owner, developer, property
15 manager, or administrative entity required to implement the
16 affirmative marketing plan of an existing development may elect to
17 conduct a new lottery to generate or expand the pool of applicants,
18 provided that applicants already on a waitlist for a particular unit
19 type are not displaced from their place in the queue in the lottery. In
20 such cases, the owner, developer, property manager, or other
21 administrative entity shall be required to post a listing on the
22 Housing Resource Center website at least 60 days prior to
23 conducting the lottery of the applicants, or within one day of when
24 the owner, developer, property manager, or other administrative
25 entity provides any information regarding how to apply for the
26 lottery to prospective applicants or solicits any applications from
27 potential applicants through any other means, whichever is earlier.

28 ²(2) A lottery shall not take place less than 60 days following
29 posting on the Housing Resource Center. Any posting on the
30 Housing Resource Center shall provide a link to an online fillable
31 form or Portable Document Format (PDF) form of the application
32 for the affordable housing units on the website of the owner,
33 developer, property manager, or other administrative entity and
34 information on how to request a paper copy of the application from
35 the owner, developer, property manager, or other administrative
36 entity.²

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

41 e. ¹(1)¹ The administrative agent for the municipality ¹and
42 the municipal housing liaison¹ shall ensure compliance with the
43 provisions of this section.

44 ¹(2) The administrative agent for the municipality and the
45 municipal housing liaison shall have the authority to levy fines
46 against the owner of the development for instances of
47 noncompliance, following written notice to the owner. The fine for

1 the first offense of noncompliance shall be \$5,000, the fine for the
2 second offense of noncompliance shall be \$10,000, and the fine for
3 each subsequent offense of noncompliance shall be \$15,000.

4 (3) The Executive Director of the agency may adjust the fine
5 schedule, but shall not adjust the fine schedule until at least
6 ²~~【sixty】~~ 60² months after the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill).

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

11 (5) A fine shall not be issued pursuant to this subsection unless
12 the administrative agent for the municipality or the municipal
13 housing liaison first provides the owner with written notice no less
14 than two months prior to the date the fine is levied. A fine shall
15 only be issued if the offense has not been cured within that two-
16 month timeframe.¹ ²Issuance of a written notice or a fine shall not
17 provide exemption to the requirement of conducting a lottery no
18 less than 60 days following posting on the Housing Resource
19 Center.²

20 ¹(6)¹ The administrative agent ¹and the municipal housing
21 liaison¹ shall have the authority to require the owner, developer,
22 property manager, or administrative entity to conduct a new lottery
23 if the provisions of this section are not implemented properly.

24 f. If a municipality fails to comply with the provisions of this
25 section, then the municipality shall be considered non-compliant
26 with the affirmative marketing plan requirements, except in cases in
27 which the municipality takes appropriate corrective action pursuant
28 to this section that such corrective action shall be construed as
29 remaining in compliance.

30 ²g. With respect to the affirmative advertising required through
31 newspaper and radio or television, or other affirmative marketing
32 provisions currently required, such advertising shall not be
33 eliminated under the provisions of P.L. , c. (C.) (pending
34 before the Legislature as this bill), and shall continue as required,
35 including the provisions of the Uniform Housing Affordability
36 Controls promulgated by the New Jersey Housing and Mortgage
37 Finance Agency.²

38
39 5. This act shall take effect on the first day of the fourth month
40 next following the date of enactment.