

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2636

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2020

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2636 (1R).

Current rules designed to implement the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) require that the developer or administrative agent of the affordable units affirmatively market their units through newspaper and radio or television, but digital marketing is not explicitly required.

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

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

Under this bill, as amended, the owner, developer, property manager, or other administrative entity required to implement the affirmative marketing plan of a newly constructed development where affordable housing units will be leased or sold for the first time is required to post a listing on the Housing Resource Center. All municipalities seeking substantive certification or a judgment of repose of their Housing Element and Fair Share Plan are required to adopt an affirmative marketing plan and to require conformance to that plan from any developer constructing affordable housing within the municipality.

The owner, developer, property manager, or other administrative entity required to implement the affirmative marketing plan of an existing development where one or more affordable housing units becomes available is required to post vacancies and waitlist openings for any such unit on the Housing Resource Center. From time to time, a new lottery may be conducted to generate or expand the pool of applicants, provided that applicants already on a waitlist for a particular unit type are not displaced from their place in the queue in the lottery.

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

The owner, developer, property manager, or other administrative entity is required to submit evidence of the listing of their available units and waitlist openings to the administrative agent for the municipality.

Under the bill, the administrative agent for the municipality and the municipal housing liaison would have the authority to levy fines against the owner of the development for instances of noncompliance. The fine for the first offense of noncompliance would be \$5,000, the fine for the second offense would be \$10,000, and the fine for each subsequent offense would be \$15,000. The Executive Director of the New Jersey Housing and Mortgage Finance Agency would have the authority to adjust the fine schedule, but may not adjust the fine schedule until 60 months after the effective date of the bill. Issuance of a written notice or a fine would not provide exemption to the requirement of conducting a lottery no less than 60 days following posting on the Housing Resource Center.

The bill requires the administrative agent for the municipality to ensure that the provisions of the bill are properly implemented. If a municipality fails to comply with those provisions, then the municipality shall be considered non-compliant with the affirmative marketing plan requirements, except in cases in which the municipality takes appropriate corrective action.

With respect to the affirmative advertising required through newspaper and radio or television, or other affirmative marketing provisions currently required, such advertising would not be eliminated under the provisions this bill, and would continue as required, including the provisions of the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency.

COMMITTEE AMENDMENTS:

The committee amendments:

- Provide the administrative agent for the municipality and the municipal housing liaison with the authority to levy fines against the owner of a development for instances of noncompliance with the affirmative marketing requirements of the bill;
- Establish the amount of the fine for the first, second, and each subsequent instance of noncompliance;

- Prohibit a fine from being issued unless the owner is provided with written notice and an opportunity to cure no less than two months prior to the date the fine is levied;
- Authorize the Executive Director of the New Jersey Housing and Mortgage Finance Agency to adjust the fine schedule beginning sixty months after the effective date of the bill;
- Clarify that a lottery would not take place less than 60 days following posting on the Housing Resource Center, and any posting on the Housing Resource Center would be required to provide a link to an online fillable form or Portable Document Format (PDF) form of the application for the affordable housing units on the website of the owner, developer, property manager, or other administrative entity and information on how to request a paper copy of the application from the owner, developer, property manager, or other administrative entity; and
- Clarify that, with respect to the affirmative advertising required through newspaper and radio or television, or other affirmative marketing provisions currently required, such advertising would not be eliminated under the provisions this bill, and would continue as required, including the provisions of the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency, such as N.J.A.C.5:80-26.15.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.