ASSEMBLY, No. 4982

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 16, 2020

Sponsored by:
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District 24 (Morris, Sussex and Warren)
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SYNOPSIS

Provides municipality with affordable housing credit toward its municipal fair share housing obligation for funds transferred to the New Jersey Affordable Housing Trust Fund pursuant to P.L.2008, c.46.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning municipal affordable housing credit and amending P.L.2008, c.46.

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

1. Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to read as follows:

8. a. The council may authorize a municipality that has petitioned for substantive certification, or that has been so authorized by a court of competent jurisdiction, and which has adopted a municipal development fee ordinance to impose and collect development fees from developers of residential property, in accordance with rules promulgated by the council. Each amount collected shall be deposited and shall be accounted for separately, by payer and date of deposit.

A municipality may not spend or commit to spend any affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, without first obtaining the council's approval of the expenditure. The council shall promulgate regulations regarding the establishment, administration and enforcement of the expenditure of affordable housing development fees by municipalities. The council shall have exclusive jurisdiction regarding the enforcement of these regulations, provided that any municipality which is not in compliance with the regulations adopted by the council may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320).

b. A municipality shall deposit all fees collected, whether or not such collections were derived from fees imposed upon non-residential or residential construction into a trust fund dedicated to those purposes as required under this section, and such additional purposes as may be approved by the council.

c. (1) A municipality may only spend development fees for an activity approved by the council to address the municipal fair share obligation.

(2) Municipal development trust funds shall not be expended to reimburse municipalities for activities which occurred prior to the authorization of a municipality to collect development fees.

(3) A municipality shall set aside a portion of its development fee trust fund for the purpose of providing affordability assistance to low and moderate income households in affordable units included in a municipal fair share plan, in accordance with rules of the council.

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 <u>thus</u> is new matter.

(a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, common maintenance expenses for units located in condominiums, rental assistance, and any other program authorized by the council.

(b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low income units in a municipal fair share plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall not entitle a municipality to bonus credits except as may be provided by the rules of the council.

(4) A municipality may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds, in accordance with rules of the council.

(5) Not more than 20 percent of the revenues collected from development fees shall be expended on administration, in accordance with rules of the council.

d. The council shall establish a time by which all development fees collected within a calendar year shall be expended; provided, however, that all fees shall be committed for expenditure within four years from the date of collection. A municipality that fails to commit to expend the balance required in the development fee trust fund by the time set forth in this section shall be required by the council to transfer the remaining unspent balance at the end of the four-year period to the "New Jersey Affordable Housing Trust Fund," established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), as amended by P.L.2008, c.46 (C.52:27D-329.1 et al.), to be used in the housing region of the transferring municipality for the authorized purposes of that fund.

(1) A municipality that transfers its development fee trust fund balance to the "New Jersey Affordable Housing Trust Fund" pursuant to the provisions of this section shall receive one unit of affordable housing credit, as of the date of the fund balance transfer, towards its municipal fair share obligation in proportion to the minimum per unit amount for the housing region of the transferring municipality as established by the council.

e. Notwithstanding any provision of this section, or regulations of the council, a municipality shall not collect a development fee from a developer whenever that developer is providing for the construction of affordable units, either on-site or elsewhere within the municipality.

This section shall not apply to the collection of a Statewide development fee imposed upon non-residential development pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 et seq.) by the State Treasurer, when such collection is not authorized to be retained by a municipality.

(cf: P.L.2008, c.46, s.8)

2. Section 9 of P.L.2008, c.46 (C.52:27D-329.3) is amended to read as follows:

9. a. The council may authorize a municipality that has petitioned for substantive certification to impose and collect payments-in-lieu of constructing affordable units on site upon the construction of residential development, which payments may be imposed and collected as provided pursuant to the rules of the council. Payment-in-lieu fees shall be deposited into a trust fund, and accounted for separately from any other fees collected by a municipality. Whenever a payment-in-lieu is charged by a municipality pursuant to this subsection, a development fee authorized pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) shall not be charged in connection with the same development.

b. A municipality shall commit to expend collections from payments-in-lieu imposed pursuant to subsection a. of this section within four years of the date of collection. The council may extend this deadline if the municipality submits sufficient proof of building or other permits, or other efforts concerning land acquisition or project development. The council shall provide such administrative assistance as may be required to aid in the construction of affordable housing units. A municipality that fails to commit to expend the amounts collected pursuant to this section within the timeframes established shall be required to transfer any unexpended revenue collected pursuant to subsection a. of this section to the "New Jersey Affordable Housing Trust Fund," established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), to be used within the same housing region for the authorized purposes of that fund, in accordance with regulations promulgated by the council.

(1) A municipality that transfers its payments-in-lieu balance to the "New Jersey Affordable Housing Trust Fund" pursuant to the provisions of this section shall receive one unit of affordable housing credit, as of the date of the fund balance transfer, towards its municipal fair share obligation in proportion to the minimum per unit amount for the housing region of the transferring municipality as established by the council.

(cf: P.L.2008, c.46, s.9)

3. This act shall take effect immediately.

STATEMENT

This bill provides municipalities with affordable housing credit toward their municipal fair share housing obligation for funds transferred to the “New Jersey Affordable Housing Trust Fund” pursuant to P.L.2008, c.46. Under the provisions of the bill, a municipality that has transferred its development fee trust fund or payments-in-lieu balances to the “New Jersey Affordable Housing

Trust Fund" would receive one unit of affordable housing credit in proportion to the minimum per unit amount established for the housing region of the transferring municipality by the Council on Affordable Housing ("council").

As a point of reference, under N.J.A.C.5:97-7.1 (the council's substantive rules for the period beginning June 2, 2008) the minimum per unit transfer amount pursuant to a regional contribution agreement by housing region was: Housing Region 1 (Northeast) -- $80,000; Housing Region 2 (Northwest) -- $67,000; Housing Region 3 (West Central) -- $67,000; Housing Region 4 (East Central) -- $70,000; Housing Region 5 (Southwest) -- $71,000; and Housing Region 6 (South-Southwest) -- $80,000.