

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 248

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2020

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 248, with committee amendments.

As amended, this bill requires the New Jersey Housing and Mortgage Finance Agency (NJHMFA) to reserve not less than 30 percent of the annual allocation of low-income housing tax credits (LIHTCs) through the family cycle and senior cycle for certain qualified projects located in certain high-opportunity areas.

Under the LIHTC program, the federal government allocates tax credits to designated State agencies (e.g., the NJHMFA), which award the tax credits to the developers of qualified projects in order to subsidize the construction of affordable rental housing. Subject to federal constraints, each State agency awards LIHTCs based on standards and procedures set forth in a Qualified Allocation Plan, which may reserve a portion of LIHTCs for projects located in certain targeted areas. The NJHMFA currently awards LIHTCs through a family cycle, senior cycle, and supportive cycle, each of which dedicates tax credits to specific types of housing developments.

Specifically, the bill requires the NJHMFA to reserve not less than 30 percent of its annual allocation of LIHTCs through the family cycle and the senior cycle for qualified projects that: (1) meet a court-settled fair share plan, or are subject to a requirement to begin construction under a specific performance clause; and (2) which are located within:

(a) a high-performing public school district if the tax credit is awarded through the family cycle;

(b) a census tract with a poverty rate below the State average;

(c) one-half mile of public transportation, or if the tax credit is awarded through the senior cycle, any project that provides transportation for residents no fewer than two days per week; and

(d) three miles of not less than half of the designated positive land uses set forth in the bill, including, but not limited to, grocery stores, health care facilities, recreational facilities, and other civic institutions. If the tax credit is awarded through the family cycle, these designated positive land uses would also include a public school, a licensed day care provider, and a Family Success Center. As such, the number of designated positive land uses would differ depending on whether the LIHTCs are awarded through the family cycle or senior cycle.

Under the bill, if a LIHTC is awarded through the senior cycle for a qualified project that has committed to providing transportation for its residents, then following the completion of the project, the owner or operator of the project would be required to annually certify with the NJHMFA that such transportation is provided. Any owner or operator who fails to provide this transportation would be liable for a clawback payment in an amount determined by the Executive Director of the NJHMFA.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments provide that the requirements of the bill would only apply to LIHTCs through the family cycle and senior cycle.

The amendments also revise the criteria used to determine whether a qualified project is eligible for the 30 percent set-aside of LIHTCs. The amendments provide that a qualified project is required to meet a court-settled fair share plan, or be subject to a requirement to begin construction under a specific performance clause, in order to be eligible for the LIHTCs provided through this set-aside. Additionally, the amendments provide that a qualified project would only need to be located within a high-performing school district if it receives a LIHTC through the family cycle.

The amendments also provide that if the LIHTC is provided through the senior cycle, and the qualified project is not located within one-half mile of public transportation, then the project would remain eligible for the 30 percent set-aside if it provides transportation for its residents no fewer than two days per week. However, in this situation, after the project is completed, the owner or operator of the project would be required to annually certify with the NJHMFA that such transportation is provided. Any owner or operator who fails to provide this transportation would be liable for a clawback payment in an amount determined by the Executive Director of the NJHMFA.

Lastly, the amendments provide that an eligible project is required to be located within three miles of not less than half of the applicable positive land uses set forth in the bill. The amendments also provide that a project's proximity to a public school, licensed day care provider, and Family Success Center would only be considered for LIHTCs awarded through the family cycle.