

[First Reprint]

SENATE, No. 2544

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Expands financing opportunities for low and moderate income housing.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on November 9, 2020, with amendments.



(Sponsorship Updated As Of: 10/22/2020)

1 AN ACT concerning financing for affordable housing and amending
 2 and supplementing chapter 14K of Title 55 of the Revised
 3 Statutes.

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

7
 8 1. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to
 9 read as follows:

10 3. As used in this act:

11 a. "Agency" means the New Jersey Housing and Mortgage
 12 Finance Agency as consolidated by section 4 of P.L.1983, c.530
 13 (C.55:14K-4), or, if that agency shall be abolished by law, the
 14 person, board, body or commission succeeding to the powers and
 15 duties thereof or to whom its powers and duties shall be given by
 16 law.

17 b. "Boarding house" means any building, together with any
 18 related structure, accessory building, any land appurtenant thereto,
 19 and any part thereof, which contains two or more units of dwelling
 20 space arranged or intended for single room occupancy, exclusive of
 21 any such unit occupied by an owner or operator, including:

22 (1) any residential hotel or congregate living arrangement, but
 23 excluding any hotel, motel or established guesthouse wherein a
 24 minimum of 85% of the units of dwelling space are offered for
 25 limited tenure only; (2) a residential health care facility as defined
 26 in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to
 27 P.L.1971, c.136 (C.26:2H-1 et seq.); (3) any resource family home
 28 as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any
 29 community residence for the developmentally disabled as defined in
 30 section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory
 31 owned or operated on behalf of any nonprofit institution of primary,
 32 secondary or higher education for the use of its students; (6) any
 33 building arranged for single room occupancy wherein the units of
 34 dwelling space are occupied exclusively by students enrolled in a
 35 full-time course of study at an institution of higher education
 36 approved by the Department of Higher Education; and (7) any
 37 facility or living arrangement operated by, or under contract with,
 38 any State department or agency.

39 c. "Bonds" mean any bonds, notes, bond anticipation notes,
 40 debentures or other evidences of financial indebtedness issued by
 41 the agency pursuant to this act.

42 d. "Continuing-care retirement community" means any work or
 43 undertaking, whether new construction, improvement or
 44 rehabilitation, which may be financed in part or in whole by the
 45 agency and which is designed to complement fully independent

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:

¹Senate SCU committee amendments adopted November 9, 2020.

1 residential units with social and health care services (usually
2 including nursing and medical services) for retirement families and
3 which is intended to provide continuing care for the term of a
4 contract in return for an entrance fee or periodic payments, or both,
5 and which may include such appurtenances and facilities as the
6 agency deems to be necessary, convenient or desirable.

7 e. "Eligible loan" means a loan, secured or unsecured, made for
8 the purpose of financing the operation, maintenance, construction,
9 acquisition, rehabilitation or improvement of property, or the
10 acquisition of a direct or indirect interest in property, located in the
11 State, which is or shall be: (1) primarily residential in character or
12 (2) used or to be used to provide services to the residents of an area
13 or project which is primarily residential in character. The agency
14 shall adopt regulations defining the term "primarily residential in
15 character," which may include single-family, multi-family and
16 congregate or other single room occupancy housing, continuing-
17 care retirement communities, assisted living communities, mobile
18 homes and nonhousing properties and facilities which enhance the
19 livability of the residential property or area; and specifying the
20 types of residential services and facilities for which eligible loans
21 may be made, which may include, but shall not be limited to,
22 parking facilities, streets, sewers, utilities, and administrative,
23 community, educational, welfare and recreational facilities, food,
24 laundry, health and other services and commercial establishments
25 and professional offices providing supplies and services enhancing
26 the area. The term "loan" includes an obligation the return on
27 which may vary with any appreciation in value of the property or
28 interest in property financed with the proceeds of the loan, or a co-
29 ventured instrument by which an institutional lender or the agency
30 assumes an equity position in the property. Any undivided interest
31 in an eligible loan shall qualify as an eligible loan.

32 f. "Family" means two or more persons who live or expect to
33 live together as a single household in the same dwelling unit; but
34 any individual who (1) has attained retirement age as defined in
35 section 216a of the federal Social Security Act, or (2) is under a
36 disability as defined in section 223 of that act, or (3) such other
37 individuals as the agency by rule or regulation shall include, shall
38 be considered as a family for the purpose of this act; and the
39 surviving member of a family whose other members died during
40 occupancy of a housing project shall be considered as a family for
41 the purposes of permitting continued occupancy of the dwelling unit
42 occupied by such family.

43 g. "Gross aggregate family income" means the total annual
44 income of all members of a family, from whatever source derived,
45 including but not limited to, pension, annuity, retirement and social
46 security benefits; except that there may be excluded from income
47 (1) such reasonable allowances for dependents, (2) such reasonable

1 allowances for medical expenses, (3) all or any proportionate part
2 of the earnings of gainfully employed minors, or (4) such income as
3 is not received regularly, as the agency by rule or regulation may
4 determine.

5 h. "Housing project" or "project" means any work or
6 undertaking, [other than a continuing-care community,] whether
7 new construction, improvement, rehabilitation, or acquisition of
8 existing buildings or units which is designed for the primary
9 purpose of providing multi-family rental housing or acquisition of
10 sites for future multi-family rental housing.

11 i. "Housing sponsor" means any person, partnership,
12 corporation or association, whether organized as for profit or not for
13 profit, to which the agency has made or proposes to make a loan,
14 either directly or through an institutional lender, for a housing
15 project.

16 j. "Institutional lender" means any bank or trust company,
17 savings bank, national banking association, savings and loan
18 association, or building and loan association maintaining an office
19 in the State, or any insurance company or any mortgage banking
20 firm or mortgage banking corporation authorized to transact
21 business in the State.

22 k. "Life safety improvement" means any addition, modification
23 or repair to a boarding house which is necessary to improve the life
24 safety of the residents of the boarding house, as certified by the
25 Department of Community Affairs, including, but not limited to, the
26 correction of a violation of the "State Uniform Construction Code
27 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), the "Rooming and
28 Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-
29 1 et seq.), or the "Uniform Fire Safety Act," P.L.1983, c.383
30 (C.52:27D-192 et seq.) and the administrative regulations
31 promulgated in accordance with these acts.

32 l. "Life safety improvement loan" means an eligible loan the
33 proceeds of which are to be used to finance, in whole or in part, the
34 construction, acquisition or rendering of life safety improvements at
35 or to boarding houses.

36 m. "Loan originator" means any bank or trust company, savings
37 bank, national banking association, savings and loan association, or
38 building and loan association maintaining an office in the State, or
39 any insurance company or any mortgage banking firm or mortgage
40 banking corporation authorized to transact business in the State, or
41 any agency or instrumentality of the United States or the State or a
42 political subdivision of the State, which is authorized to make
43 eligible loans.

44 n. "Municipality" means any city of any class or any town,
45 township, village or borough.

46 o. "Mutual housing" means a housing project operated or to be
47 operated upon completion of construction, improvement or

1 rehabilitation exclusively for the benefit of the families who are
2 entitled to occupancy by reason of ownership of stock in the
3 housing sponsor, or by reason of co-ownership of premises in a
4 horizontal property regime pursuant to P.L.1963, c.168; but the
5 agency may adopt rules and regulations permitting a reasonable
6 percentage of space in such project to be rented for residential or
7 for commercial use.

8 p. "Persons and families of low and moderate income" mean
9 persons and families, irrespective of race, creed, national origin or
10 sex, determined by the agency to require assistance on account of
11 personal or family income being not sufficient to afford adequate
12 housing. In making such determination the agency shall take into
13 account the following:

14 (1) the amount of the total income of such persons and families
15 available for housing needs, (2) the size of the family, (3) the cost
16 and condition of housing facilities available and (4) the eligibility
17 of such persons and families to compete successfully in the normal
18 housing market and to pay the amounts at which private enterprise
19 is providing sanitary, decent and safe housing. In the case of
20 projects with respect to which income limits have been established
21 by any agency of the federal government having jurisdiction
22 thereover for the purpose of defining eligibility of low and
23 moderate income families, the agency may determine that the limits
24 so established shall govern. In all other cases income limits for the
25 purpose of defining low or moderate income persons shall be
26 established by the agency in its rules and regulations.

27 q. "Project cost" means the sum total of all costs incurred in the
28 acquisition, development, construction, improvement or
29 rehabilitation of a housing project, which are approved by the
30 agency as reasonable or necessary, which costs shall include, but
31 are not necessarily limited to, (1) cost of land acquisition and any
32 buildings thereon, (2) cost of site preparation, demolition and
33 development, (3) architect, engineer, legal, agency and other fees
34 paid or payable in connection with the planning, execution and
35 financing of the project, (4) cost of necessary studies, surveys, plans
36 and permits, (5) insurance, interest, financing, tax and assessment
37 costs and other operating and carrying costs during construction, (6)
38 cost of construction, reconstruction, fixtures, and equipment related
39 to the real property, (7) cost of land improvements, (8) necessary
40 expenses in connection with initial occupancy of the project, (9) a
41 reasonable profit or fee to the builder and developer, in accordance
42 with the industry standard applicable to similar federal programs,
43 (10) an allowance established by the agency for working capital and
44 contingency reserves, and reserves for any operating deficits, (11)
45 costs of guarantees, insurance or other additional financial security
46 for the project and (12) the cost of such other items, including
47 tenant relocation, as the agency shall determine to be reasonable

1 and necessary for the development of the project, less any and all
2 net rents and other net revenues received from the operation of the
3 real and personal property on the project site during construction,
4 improvement or rehabilitation.

5 All costs shall be subject to approval and audit by the agency.
6 The agency may adopt rules and regulations specifying in detail the
7 types and categories of cost which shall be allowable if actually
8 incurred in the development, acquisition, construction,
9 improvement or rehabilitation of a housing project.

10 r. "Retirement family" means one or more persons related by
11 blood, marriage or adoption who live or expect to live together as a
12 single household in the same dwelling unit, provided that at least
13 one of the persons is an individual who (1) has attained retirement
14 age as defined in section 216a of the Federal Social Security Act, or
15 (2) is under a disability as defined in section 223 of that act, or (3)
16 such individuals as the agency by rule or regulation shall include;
17 and provided further, that the surviving member of a retirement
18 family whose other members died during occupancy of a
19 continuing-care retirement community shall be considered as a
20 retirement family for purposes of permitting continued occupancy
21 of the dwelling unit occupied by such retirement family.

22 (cf: P.L.2004, c.130, s.124)

23
24 2. Section 5 of P.L.1983, c.530 (C.55:14K-5) is amended to
25 read as follows:

26 5. In order to carry out the purposes and provisions of this act,
27 the agency, in addition to any powers granted to it elsewhere in this
28 act, shall have the following powers:

29 a. To adopt bylaws for the regulation of its affairs and the
30 conduct of its business; to adopt an official seal and alter the same
31 at pleasure; to maintain an office at such place or places within the
32 State as it may designate; to sue and be sued in its own name;

33 b. To conduct examinations and hearings and to hear testimony
34 and take proof, under oath or affirmation, at public or private
35 hearings, on any matter material for its information and necessary
36 to carry out the provisions of this act;

37 c. To issue subpoenas requiring the attendance of witnesses
38 and the production of books and papers pertinent to any hearing
39 before the agency, or before one or more of the members of the
40 agency appointed by it to conduct a hearing;

41 d. To apply to any court, having territorial jurisdiction of the
42 offense, to have punished for contempt any witness who refuses to
43 obey a subpoena, or who refuses to be sworn or affirmed to testify,
44 or who is guilty of any contempt after summons to appear;

45 e. To acquire by purchase, gift, foreclosure or condemnation
46 any real or personal property, or any interest therein, to enter into
47 any lease of property and to hold, sell, assign, lease, encumber,

- 1 mortgage or otherwise dispose of any real or personal property, or
2 any interest therein, or mortgage lien interest owned by it or under
3 its control, custody or in its possession and release or relinquish
4 any right, title, claim, lien, interest, easement or demand however
5 acquired, including any equity or right of redemption, in property
6 foreclosed by it and to do any of the foregoing by public or private
7 sale, with or without public bidding, notwithstanding the provisions
8 of any other law;
- 9 f. To acquire, hold, use and dispose of its income revenues,
10 funds and moneys;
- 11 g. To adopt rules and regulations expressly authorized by this
12 act and such additional rules and regulations as shall be necessary
13 or desirable to carry out the purposes of this act. The agency shall
14 adopt regulations which provide for consultation with housing
15 sponsors regarding the formulation of agency rules and regulations
16 governing the operation of housing projects and which require the
17 agency to consult with the affected housing sponsor prior to taking
18 any and all specific proposed agency actions relating to the
19 sponsor's housing project. The proposed rules and regulations, and
20 any subsequent proposed amendments, shall be posted on the
21 agency's website at least 45 days prior to the agency adopting the
22 rules and regulations. The agency shall publish all rules and
23 regulations which have been adopted and file them with the
24 Secretary of State;
- 25 h. To borrow money or secure credit on a temporary, short-
26 term, interim or long-term basis, and to issue negotiable bonds and
27 to secure the payment thereof and to provide for the rights of the
28 holders thereof;
- 29 i. To make and enter into and enforce all contracts and
30 agreements necessary, convenient or desirable to the performance
31 of its duties and the execution of its powers under this act, including
32 contracts or agreements with qualified financial institutions for the
33 servicing and processing of eligible loans owned by the agency;
- 34 j. To appoint and employ an executive director, who shall be
35 the chief executive officer of the agency, and additional officers,
36 who need not be members of the agency as the agency deems
37 advisable, and to employ architects, engineers, attorneys,
38 accountants, construction and financial experts and other
39 employees and agents as may be necessary in its judgment and to
40 determine their qualifications, terms of office, duties and
41 compensation; and to promote and discharge such officers,
42 employees and agents, all without regard to the provisions of Title
43 11 of the Revised Statutes, Civil Service;
- 44 k. To contract for and to receive and accept any gifts, grants,
45 loans or contributions from any source, of money, property, labor or
46 other things of value, to be held, used and applied to carry out the
47 purposes of this act subject to the conditions upon which the grants

1 and contributions may be made, including, but not limited to, gifts
2 or grants from any department or agency of the United States or the
3 State for payment of rent supplements to eligible families or for the
4 payment in whole or in part of the interest expense for a housing
5 project or for any other purpose consistent with this act;

6 l. To enter into agreements to pay annual sums in lieu of taxes
7 to any political subdivision of the State with respect to any real
8 property owned **【or】**, operated directly by the agency, or financed
9 by the agency;

10 m. To procure insurance against any loss in connection with its
11 operations, property and other assets (including eligible loans) in
12 the amounts and from the insurers it deems desirable;

13 n. To the extent permitted under its contract with the holders of
14 bonds of the agency, to consent to any modification with respect to
15 rate of interest, time and payment of any installment of principal or
16 interest, security or any other terms of any loan to an institutional
17 lender, eligible loan, loan commitment, contract or agreement of
18 any kind to which the agency is a party;

19 o. To the extent permitted under its contract with the holders of
20 bonds of the agency, to enter into contracts with any housing
21 sponsor containing provisions enabling the housing sponsor to
22 reduce the rental or carrying charges to persons unable to pay the
23 regular schedule of charges where, by reason of other income or
24 payment from the agency, any department or agency of the United
25 States or the State, these reductions can be made without
26 jeopardizing the economic stability of the housing project;

27 p. To make and collect the fees and charges it determines are
28 reasonable;

29 q. To the extent permitted under its contract with the holders of
30 bonds of the agency, to invest and reinvest any moneys of the
31 agency not required for immediate use, including proceeds from the
32 sale of any obligations of the agency, in obligations, securities or
33 other investments as the agency deems prudent. All functions,
34 powers and duties relating to the investment or reinvestment of
35 these funds, including the purchase, sale or exchange of any
36 investments or securities may, upon the request of the agency, be
37 exercised and performed by the Director of the Division of
38 Investment in the Department of the Treasury, in accordance with
39 written directions of the agency signed by an authorized officer,
40 without regard to any other law relating to investments by the
41 Director of the Division of Investment;

42 r. To provide, contract or arrange for, where, by reason of the
43 financing arrangement, review of the application and proposed
44 construction of a project is required by or in behalf of any
45 department or agency of the United States, consolidated processing
46 of the application or supervision or, in the alternative, to delegate
47 the processing in whole or in part to any such department or agency;

1 s. To make eligible loans, and to participate with any
2 department, agency or authority of the United States or of any state
3 thereof, this State, a municipality, or any banking institution,
4 foundation, labor union, insurance company, trustee or fiduciary in
5 an eligible loan, secured by a single participating mortgage, by
6 separate mortgages or by other security agreements, the interest of
7 each having equal priority as to lien in proportion to the amount of
8 the loan so secured, but which need not be equal as to interest rate,
9 time or rate of amortization or otherwise, and to undertake
10 commitments to make such loans;

11 t. To assess from time to time the housing needs of any
12 municipality which is experiencing housing shortages as a result of
13 the authorization of casino gaming and to address those needs when
14 planning its programs, as well as considering municipal obligations
15 set by a court or other instrumentality of the State engaged in
16 efforts to increase access to affordable housing within that
17 municipality;

18 u. To sell any eligible loan made by the agency or any loan to
19 an institutional lender owned by the agency, at public or private
20 sale, with or without bidding, either singly or in groups, or in shares
21 of loans or shares of groups of loans, issue securities, certificates or
22 other evidence of ownership secured by such loans or groups of
23 loans, sell the same to investors, arrange for the marketing of the
24 same; and to deposit and invest the funds derived from such sales
25 in any manner authorized by this act;

26 v. To make commitments to purchase, and to purchase, service
27 and sell, eligible loans, pools of loans or securities based on loans,
28 insured or issued by any department or agency of the United States,
29 and to make loans directly upon the security of any such loan, pools
30 of loans or securities;

31 w. To provide such advisory consultation, training and
32 educational services as will assist in the planning, construction,
33 rehabilitation and operation of housing including but not limited to
34 assistance in community development and organization, home
35 management and advisory services for residents and to encourage
36 community organizations and local governments to assist in
37 developing housing;

38 x. To encourage research in and demonstration projects to
39 develop new and better techniques and methods for increasing the
40 supply, types and financing of housing and housing projects in the
41 State and to engage in these research and demonstration projects
42 and to receive and accept contributions, grants or aid, from any
43 source, public or private, including but not limited to the United
44 States and the State, for carrying out this purpose;

45 y. To provide to housing sponsors, through eligible loans or
46 otherwise, financing, refinancing or financial assistance for fully
47 completed, as well as partially completed, projects which may or

1 may not be occupied, if the projects meet all the requirements of
2 this act, except that, prior to the making of the mortgage loans by
3 the agency, said projects need not have complied with sections
4 7a.(9) and 42 of this act;

5 z. To encourage and stimulate **【cooperatives and other forms**
6 **of housing with tenant】** participation through financial incentives
7 for the development of affordable housing projects with New Jersey
8 qualified minority and women-owned companies and certified New
9 Jersey not-for-profit organizations;

10 aa. To promote innovative programs for home ownership,
11 including but not limited to lease-purchase programs, employer-
12 sponsored housing programs, and tenant cooperatives;

13 bb. To set aside and designate, out of the funds that are or may
14 become available to it for the purpose of financing housing in this
15 State pursuant to the terms of this act, certain sums or proportions
16 thereof to be used for the financing of housing and home-ownership
17 opportunities, including specifically lease-purchase arrangements,
18 provided by employers to their employees through nonprofit or for
19 profit, limited-dividend corporations or associations created by
20 employers for that purpose; and to establish priority in funding,
21 offer bonus fund allocations, and institute other incentives to
22 encourage such employer-sponsored housing and home-ownership
23 opportunities;

24 cc. Subject to any agreement with bondholders, to collect,
25 enforce the collection of, and foreclose on any property or collateral
26 securing its eligible loan or loans to institutional lenders and
27 acquire or take possession of such property or collateral and sell the
28 same at public or private sale, with or without bidding, and
29 otherwise deal with such collateral as may be necessary to protect
30 the interests of the agency therein;

31 dd. To administer and to enter into agreements to administer
32 programs of the federal government or any other entity which are in
33 furtherance of the purposes of this act;

34 ee. To do and perform any acts and things authorized by this act
35 under, through, or by means of its officers, agents or employees or
36 by contract with any person, firm or corporation; and

37 ff. To do any acts and things necessary or convenient to carry
38 out the powers expressly granted in this act so long as no
39 duplication of authority or actions impact the efficiency of the
40 programs to produce, manage, or maintain the financial viability of
41 projects.

42 (cf: P.L.1983, c.530, s.5)

43

44 3. (New Section) The agency shall accept third party
45 verification of compliance, eliminate duplicative reviews, and
46 streamline the approval of individuals seeking affordable housing.
47 The agency shall not establish any program, rule, or regulation

1 which unnecessarily obstructs or discourages participation by a
2 “minority business” or a “women’s business,” as defined pursuant
3 to Section 2 of P.L.1986, c.195 (C.52:27H-21.18). To the extent
4 permitted by law, the agency shall encourage participation by a
5 “minority business” or a “women’s business,” as defined pursuant
6 to Section 2 of P.L.1986, c.195 (C.52:27H-21.18) in all programs.
7

8 4. Section 4 of P.L.1990, c.90 (C.55:14K-5.1) is amended to
9 read as follows:

10 4. a. The executive director of the New Jersey Housing and
11 Mortgage Finance Agency shall provide written notice to a county
12 or municipality, as appropriate, when any funding is provided to a
13 local or regional housing authority, or to a redevelopment
14 corporation, agency or authority, or private developer for the
15 purpose of financing a housing development project within the
16 county or municipality. Such notification shall be made within five
17 calendar days of the decision to provide the funding.

18 b. In the case of a county organized under the "Optional
19 County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), written
20 notice shall be provided to the county executive or other appropriate
21 executive officer, and to the board of chosen freeholders. In all
22 other counties, written notice shall be provided to the members of
23 the board of chosen freeholders.

24 In the case of a municipality other than a municipality organized
25 under the council-manager plan pursuant to the "Optional
26 Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.),
27 written notice shall be provided to the mayor and to the members of
28 the council. In the case of a municipality organized under the
29 council-manager plan pursuant to the "Optional Municipal Charter
30 Law," P.L.1950, c.210 (C.40:69A-1 et seq.), written notice shall be
31 provided to the manager and to the members of the council.

32 (cf: P.L.1990, c.90, s.4)
33

34 5. Section 1 of P.L.1992, c.186 (C.55:14K-5.2) is amended to
35 read as follows:

36 1. In addition to the powers otherwise granted in P.L.1983,
37 c.530 (C.55:14K-1 et seq.), the New Jersey Housing and Mortgage
38 Finance Agency shall set aside and designate, out of the funds that
39 are or may become available to it for the purpose of assisting the
40 production of affordable housing in the State, certain amounts to be
41 used for assisting in the development of homeownership
42 opportunities for residents of public housing who seek to acquire
43 ownership of their residential units as part of a resident
44 management corporation, a cooperative corporation or a
45 condominium association formed by the residents of that public
46 housing project through the program established pursuant to
47 Subtitle B of Title IV of Pub.L.101-625 (42 U.S.C. s.12871 et seq.)

1 or any other program administered by the federal government for
2 extending homeownership opportunities to residents of public
3 housing or programs intended to privatize public housing, including
4 the federal Department of Housing and Urban Development's
5 Rental Assistance Demonstration program. Nothing in this act
6 shall, in any way, relieve a housing authority of the need to submit
7 a plan for replacement housing, as required under 24 CFR 970.11.
8 (cf: P.L.1992, c.186, s.1)

9
10 6. Section 6 of P.L.1983, c.530 (C.55:14K-6) is amended to
11 read as follows:

12 6. a. The agency, in order to encourage the development,
13 operation, maintenance, construction, improvement and
14 rehabilitation and preservation of safe and adequate housing in the
15 State, is hereby authorized and empowered to finance, by the
16 making of eligible loans or otherwise, the construction,
17 improvement or rehabilitation of housing projects in the State.

18 b. The agency, in order to carry out the purposes of subsection
19 a. of this section, may:

20 (1) accept applications for loans;

21 (2) enter into agreements with housing sponsors for permanent
22 loans and temporary loans or advances in anticipation of permanent
23 loans for the development, operation, maintenance, construction,
24 improvement or rehabilitation of housing projects; and

25 (3) make permanent loans and temporary loans or advances in
26 anticipation of permanent loans to housing sponsors under the
27 provisions of this act.

28 c. **【No application for a loan for the construction, improvement**
29 **or rehabilitation of a housing project containing rental units to be**
30 **rented at below market rates to be located in any municipality shall**
31 **be processed unless there is already filed with the secretary of the**
32 **agency a certified copy of a resolution adopted by the municipality**
33 **reciting that there is a need for such housing project in the**
34 **municipality.】** (Deleted by amendment, P.L. , c.) (pending
35 before the Legislature as this bill).

36 d. Every application for a loan to a housing sponsor shall be
37 made on forms furnished by the agency and shall contain such
38 information as the agency shall require.

39 e. In considering any application for a loan for a housing
40 project **1【or allocation of any State of federal subsidy, including the**
41 **Federal Low Income Housing Tax Credit Program and State**
42 **Economic Redevelopment and Growth Grant Program】¹,** the
43 agency shall give first priority to applications for loans for the
44 preservation, construction, improvement or rehabilitation of
45 housing projects which will be a part of or constructed in
46 connection with an urban redevelopment program, and also shall
47 give consideration to:

- 1 (1) the comparative need of the area to be served by the
2 proposed project for housing;
- 3 (2) the ability of the applicant to construct, operate, manage and
4 maintain the proposed housing project;
- 5 (3) the existence of zoning or other regulations to protect
6 adequately the proposed housing project against detrimental future
7 uses which could cause undue depreciation in the value of the
8 project;
- 9 (4) the availability of adequate parks, recreational areas,
10 utilities, schools, transportation and parking;
- 11 (5) the availability of adequate, accessible places of
12 employment; **【and】**
- 13 (6) where applicable, the eligibility of the applicant to make
14 payments to the municipality **【in which the housing project is**
15 **located in lieu of local property taxes】** under a payment in lieu of
16 taxation agreement; and
- 17 (7) Whether the applicant is a qualified New Jersey based
18 nonprofit or New Jersey based minority and women owned
19 development firm having a valid certification as a “minority
20 business” or a “women’s owned business” pursuant to P.L.1986,
21 c.195 (C.52:27H-21.17 et seq.).
22 (cf: P.L.1983, c.530, s.6)
- 23
- 24 7. Section 7 of P.L.1983, c.530 (C.55:14K-7) is amended to
25 read as follows:
- 26 7. a. Loans made by the agency to finance housing projects
27 shall be subject to the following terms and conditions:
- 28 (1) The loan shall be for a period of time not in excess of 50
29 years as determined by the agency;
- 30 (2) The amount of the loan shall not exceed 90% of the total
31 project cost as determined by the agency, except that as to projects
32 to be owned, constructed, improved, rehabilitated, operated,
33 managed and maintained as mutual housing or by any corporation
34 or association organized not for profit which has as one of its
35 purposes the construction, improvement or rehabilitation of housing
36 projects, the amount of the loan shall not exceed 100% of the total
37 project cost as determined by the agency; but the agency may make
38 additional loans to a housing sponsor to which a loan by the agency
39 for the cost of a project is outstanding if and to the extent that the
40 agency finds that such additional loan is required to more
41 adequately secure and protect the project or to avoid a default by
42 the sponsor on the original loan for the cost of the project and is in
43 the best interest of the agency and the holders of its bonds issued to
44 finance the original loan for the cost of the project;
- 45 (3) The interest rate on the loan shall be established by the
46 agency at the lowest level consistent with the agency's capital cost
47 **【of operation】** and its responsibilities to the holders of its bonds;

1 (4) The loan shall be evidenced by a mortgage note or bond and
2 by a mortgage which shall be a first recorded lien on the project and
3 which shall contain such terms and provisions and be in a form
4 approved by the agency. The agency shall require the qualified
5 housing sponsor receiving a loan or its contractor to post security,
6 either by performance bond or other acceptable means, including
7 letters of credit, in amounts related to the project cost as established
8 by regulation and to execute such other assurances and guarantees
9 as the agency may deem necessary and may require its principals or
10 stockholders to also execute such other assurances and guarantees
11 as the agency may deem necessary;

12 (5) The loan shall be subject to an agreement between the
13 agency and the housing sponsor which will subject the housing
14 sponsor and its principals or stockholders to limitations established
15 by the agency as to rentals and other charges, builders' and
16 developers' profits and fees, and the disposition of its property and
17 franchises to the extent more restrictive limitations are not provided
18 by the law under which the borrower is incorporated or organized;

19 (6) The loan shall be subject to an agreement between the
20 agency and the housing sponsor limiting the housing sponsor and its
21 principals or stockholders to such rate of return on its investment in
22 the housing project to be assisted with a loan from the agency as
23 shall be fixed from time to time by the agency in its regulations
24 which shall take into account the prevailing rates of return available
25 for similar investments and the risks associated with the
26 development of the project, together with factors designed to
27 promote the objectives of providing affordable housing,
28 encouraging investment in urban development areas, maintaining
29 and improving the existing housing stock, and other objectives of
30 this act; but agreements entered into by the predecessors of the
31 agency prior to the effective date of this act shall continue to be
32 subject to any restrictions on rate of return imposed by prior law
33 unless those restrictions are expressly modified pursuant to
34 regulations of the agency. No housing sponsor which is permitted
35 by the provisions of the law under which it is organized or
36 incorporated to earn a return on its investment, nor any of the
37 principals or stockholders of that housing sponsor, shall earn,
38 accept or receive a return on investment greater than the rate of
39 return fixed by the agency in any housing project assisted with a
40 loan from the agency, whether upon the completion of the
41 construction, improvement or rehabilitation of the project, or upon
42 the operation thereof, or upon the sale, assignment or lease of the
43 project to any other person, association or corporation. Any person,
44 association or corporation who violates the provisions of this
45 subsection is guilty of a crime of the fourth degree;

46 (7) No loan shall be executed except a loan made to a
47 corporation or association organized not for profit which has as one

1 of its purposes the development, construction, improvement or
2 rehabilitation of housing projects or for mutual housing unless the
3 housing sponsor agrees (a) to certify upon completion of project
4 construction, improvement or rehabilitation, subject to audit by the
5 agency, either that the actual project cost as defined herein
6 exceeded the amount of the loan proceeds by 10% or more, or the
7 amount by which the loan proceeds exceed 90% of the total project
8 cost, and (b) to pay forthwith to the agency, for application to
9 reduction of the principal of the loan, the amount, if any, of such
10 excess loan proceeds, subject to audit and determination by the
11 agency. No loan shall be made to a corporation or association
12 organized not for profit or for mutual housing unless the
13 corporation or association organized not for profit or for mutual
14 housing agrees to certify the actual project cost upon completion of
15 the project, subject to audit and determination by the agency, and
16 further agrees to pay forthwith to the agency, for application to
17 reduction of the principal of the loan, the amount, if any, by which
18 the proceeds of the loan exceed the certified project cost subject to
19 audit and determination by the agency. Notwithstanding the
20 provisions of this paragraph, the agency may accept, in lieu of any
21 certification of project cost as provided herein, such other
22 assurances of the project cost in any form or manner whatsoever, as
23 will enable the agency to determine with reasonable accuracy the
24 amount of the project cost;

25 (8) No loan shall be made for the construction, improvement or
26 rehabilitation of a housing project for which tax exemption is
27 granted by a municipality unless the tax exemption remains in
28 effect during the entire term of the loan, unless a lesser period of
29 tax exemption is approved by the agency; and

30 (9) The loan shall be subject to an agreement between the
31 agency and the qualified housing sponsor which contains a
32 provision stating the prevailing wage rate, as determined by either
33 the Commissioner of Labor and Industry or the Secretary of the
34 United States Department of Labor in accordance with the
35 provisions of section 42 of this act, which can be paid to the
36 workmen employed in the performance of any contract for the
37 construction or rehabilitation of any housing project, and which
38 stipulates that the qualified housing sponsor, or any builder,
39 contractor or subcontractor thereof, shall pay to such workmen not
40 less than the applicable prevailing wage rate pursuant to that
41 section.

42 b. As a condition of any loan to finance a housing project, the
43 agency shall have the power at all times during the construction,
44 improvement or rehabilitation of a housing project and the
45 operation thereof:

46 (1) To enter upon and inspect without prior notice any project,
47 including all parts thereof, for the purpose of investigating the

1 physical and financial condition thereof, and its construction,
2 improvement, rehabilitation, operation, management and
3 maintenance, and to examine all books and records with respect to
4 capitalization, income and other matters relating thereto and to
5 make such charges as may be required to cover the cost of such
6 inspections and examinations;

7 (2) To order such alterations, changes or repairs as may be
8 necessary to protect the security of its investment in a housing
9 project or the health, safety, and welfare of the occupants thereof;

10 (3) To order any managing agent, project manager or owner of a
11 housing project to do such acts as may be necessary to comply with
12 the provisions of all applicable laws or ordinances or any rule or
13 regulation of the agency or the terms of any agreement concerning
14 the project or to refrain from doing any acts in violation thereof and
15 in this regard the agency shall be a proper party to file a complaint
16 and to prosecute thereon for any violations of law or ordinances as
17 set forth herein;

18 (4) To require the adoption and continuous use of uniform
19 systems of accounts and records for a project and to require all
20 owners or managers of a project to file annual reports containing
21 that information and verified in such manner as the agency shall
22 require, and to file at the times and on the forms as it may prescribe,
23 reports and answers to specific inquiries required by the agency to
24 determine the extent of compliance with any agreement, the terms
25 of the loan, the provisions of this act and any other applicable law;

26 (5) To enforce, by court action if necessary, the terms and
27 provisions of any agreement between the agency and the housing
28 sponsor and the terms of any agreement between the housing
29 sponsor and any municipality granting tax exemption, as to
30 schedules of rental or carrying charges, income limits as applied to
31 tenants or occupants, or any other limitation imposed upon the
32 housing sponsor as to financial structure, construction or operation
33 of the project;

34 (6) Subject to the provisions of paragraph (7) of subsection b. of
35 this section, in the event of a violation by the housing sponsor of
36 the terms of any agreement between the agency and the housing
37 sponsor, or between the municipality granting tax exemption and
38 the housing sponsor, or in the event of a violation by the housing
39 sponsor of this act or of the terms of the loan agreement or of any
40 rules and regulations of the agency duly promulgated pursuant to
41 this act, or in the event that the agency shall determine that any loan
42 or advance from the Housing Development Fund pursuant to section
43 30 of this act is in jeopardy of not being repaid, the agency may,
44 without resort to any judicial process, assume all of the powers and
45 duties of the housing sponsor in the management and operation of
46 the project, including but not limited to the power to receive all
47 revenues and pay all expenses of the project and the power to

1 control all property, including bank accounts and cash, owned by
2 the housing sponsor. The agency may appoint such person or
3 persons whom the agency in its sole discretion deems advisable,
4 including officers or employees of the agency, to perform the
5 functions of the officers or other controlling persons of the housing
6 sponsor. Persons so appointed need not be stockholders or meet
7 other qualifications which may be prescribed by the certificate of
8 incorporation, bylaws or partnership agreement of the housing
9 sponsor. In the absence of fraud or bad faith, persons so appointed
10 shall not be personally liable for debts, obligations or liabilities of
11 the housing sponsor. Persons so appointed shall serve only for a
12 period coexistent with the duration of the violation or until the
13 agency is assured in a manner satisfactory to it that the violation, or
14 violations of a similar nature, will not recur. Persons so appointed
15 shall serve in such capacity without compensation, but shall be
16 entitled to be reimbursed, if and as the certificate of incorporation,
17 bylaws or partnership agreement of the housing sponsor may
18 provide, for all necessary expenses incurred in the discharge of their
19 duties as determined by the agency; and

20 (7) The provisions of this subsection and this act pertaining to
21 the regulation of housing sponsors shall be for purposes of
22 protecting the collateral for any loan or loans; implementing or
23 enforcing any condition, requirement or criterion for loans as
24 provided in this act or other applicable law; and securing the rights
25 and remedies of lenders and bond holders to the extent of the
26 undertakings of the agency. Subject to the foregoing, the agency
27 shall permit, provide for and encourage the right of local housing
28 sponsors to exercise their own initiative and competence in the
29 administration of their assets and the conduct and operation of
30 housing projects and exercise their rights and responsibilities to the
31 fullest extent permitted by law. Therefore, the agency shall
32 exercise its remedies and powers under paragraph (6) of this
33 subsection only with regard to material violations and only after
34 reasonable notice and reasonable opportunity to correct the
35 violation is provided to the housing sponsor in accordance with
36 regulations adopted by the agency.

37 (cf: P.L.1983, c.530, s.7)

38

39 8. Section 8 of P.L.1983, c.350 (C.55:14K-8) is amended to
40 read as follows:

41 8. a. **【**Admission to housing projects constructed, improved or
42 rehabilitated under this act shall be limited to families whose gross
43 aggregate family income at the time of admission does not exceed
44 six times the annual rental or carrying charges, including the value
45 or cost to them of heat, light, water, sewerage, parking facilities and
46 cooking fuel, of the dwellings that may be furnished to such
47 families, or seven times those charges if there are three or more

1 dependents. There may be included in the carrying charges to any
2 family for residence in any mutual housing project constructed,
3 improved or rehabilitated with a loan from the agency an amount
4 equal to 6% of the original cash investment of the family in the
5 mutual housing project and, to the extent authorized by the agency
6 where not included in the carrying charges, the value or cost of
7 repainting the apartment and replacing any fixtures or appliances.
8 Notwithstanding the provisions of this section, no family or
9 individual shall be eligible for admission to any housing project
10 constructed, improved or rehabilitated with a loan from the agency,
11 whose gross aggregate family income exceeds such amount as shall
12 be established from time to time by the agency, by rules or
13 regulations promulgated hereunder; except that with respect to any
14 project financed by an agency loan insured or guaranteed by the
15 United States of America or any agency or instrumentality thereof,
16 the agency may adopt the admission standards for such projects
17 then currently utilized or required by the guarantor or insurer.

18 The provisions of this subsection shall not apply to any housing
19 project that the agency determines is necessary to promote the long
20 term development and viability of a neighborhood and spur its
21 revitalization or is situated in a qualified municipality that is
22 constructed, improved or rehabilitated on or after the date upon
23 which the commissioner determines that the municipality fulfills the
24 definition of a qualified municipality pursuant to section 4 of
25 P.L.2002, c.43 (C.52:27BBB-4). (Deleted by amendment,
26 P.L. , c.) (pending before the Legislature as this bill).

27 b. The agency shall by rules and regulations provide for the
28 periodic examination of the income of any person or family residing
29 in any housing project constructed, improved or rehabilitated with a
30 loan from the agency. If the gross aggregate family income of a
31 family residing in a housing project increases and the ratio to the
32 current rental or carrying charges of the dwelling unit becomes
33 greater than the ratio prescribed for admission **[in subsection a. of**
34 **this section]** but is not more than 25% above the family income so
35 prescribed for admission to the project, the owner or managing
36 agent of the housing project shall permit the family to continue to
37 occupy the unit. The agency or (with the approval of the agency)
38 the housing sponsor of any housing project constructed, improved
39 or rehabilitated with a loan from the agency, may terminate the
40 tenancy or interest of any family residing in the housing project
41 whose gross aggregate family income exceeds by 25% or more the
42 amount prescribed herein and which continues to do so for a period
43 of six months or more; but no tenancy or interest of any such family
44 in any such housing project shall be terminated except upon
45 reasonable notice and opportunity to obtain suitable alternate
46 housing, in accordance with rules and regulations of the agency;
47 and any such family, with the approval of the agency, may be

1 permitted to continue to occupy the unit, subject to payment of a
2 rent or carrying charge surcharge to the housing sponsor in
3 accordance with a schedule of surcharges fixed by the agency. The
4 housing sponsor shall pay the surcharge to the municipality granting
5 tax exemption, but only up to an amount that together with
6 payments made to the municipality in lieu of taxes and for any land
7 taxes equals 25% of the total rents or carrying charges of the
8 housing project for the current and any prior years that the project
9 has been in operation.

10 The provisions of this subsection shall not apply to any housing
11 project situated in a qualified municipality that is constructed,
12 improved or rehabilitated on or after the date upon which the
13 commissioner determines that the municipality fulfills the definition
14 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
15 (C.52:27BBB-4).

16 c. For projects on which the agency has made a loan and
17 financed the loan with the proceeds of bonds issued prior to January
18 1, 1973, any remainder of the surcharge, or the total surcharge if tax
19 exemption has not been granted, shall be paid into the housing
20 finance fund securing the bonds issued to finance the project for the
21 use of the agency; for projects financed on or after January 1, 1973,
22 any remainder of the surcharge, or the total surcharge if tax
23 exemption has not been granted, shall be paid to the agency.

24 d. Any family residing in a mutual housing project required to
25 remove from the project because of excessive income as herein
26 provided shall be discharged from liability on any note, bond or
27 other evidence of indebtedness relating thereto and shall be
28 reimbursed, in accordance with the rules of the agency, for all sums
29 paid by the family to the housing sponsor on account of the
30 purchase of stock or debentures as a condition of occupancy or on
31 account of the acquisition of title for such purpose.

32 The provisions of this subsection shall not apply to any housing
33 project situated in a qualified municipality that is constructed,
34 improved or rehabilitated on or after the date upon which the
35 commissioner determines that the municipality fulfills the definition
36 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
37 (C.52:27BBB-4).

38 e. The agency shall establish admission rules and regulations
39 for any housing project financed in whole or in part by loans
40 authorized hereunder which shall provide priority categories for
41 persons displaced by urban renewal projects, highway programs or
42 other public works, persons living in substandard housing, persons
43 and families who, by reason of family income, family size or
44 disabilities, have special needs, elderly persons and families living
45 under conditions violative of minimum health and safety standards.

46 The provisions of this subsection shall not apply to any housing
47 project situated in a qualified municipality that is constructed,

1 improved or rehabilitated on or after the date upon which the
2 commissioner determines that the municipality fulfills the definition
3 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
4 (C.52:27BBB-4).

5 f. Notwithstanding the provisions of subsection e. of this
6 section, the Commissioner of Community Affairs, in consultation
7 with the Adjutant General of Military and Veterans' Affairs, shall
8 promulgate admission rules and regulations for any housing project,
9 financed in whole or in part by loans authorized hereunder, to
10 provide a housing preference for veterans and surviving spouses, as
11 those terms are defined under subsection (h) of section 1 of
12 P.L.1963, c.171 (C.54:4-8.10), who qualify for public housing
13 assistance, and for the spouses of veterans who currently so qualify.
14 (cf: P.L.2016, c.19, s.1)

15
16 9. Section 31 of P.L.1983, c.530 (C.55:14K-31) is amended to
17 read as follows:

18 31. a. The agency shall establish and maintain a fund called the
19 "General Fund" which shall consist of all moneys of the agency not
20 required to be deposited in any other fund of the agency, which the
21 agency may deposit therein. To the extent available, after paying
22 all the operating costs of the agency, the moneys remaining in the
23 General Fund may be used for the payment of the principal of and
24 interest on the bonds issued by the agency or for such other
25 corporate purposes of the agency as this act authorizes.

26 b. The agency may establish such additional and further funds
27 as may be necessary and desirable to accomplish any agency
28 purpose or to comply with the provisions of any agreement made by
29 the agency or any resolution approved by the agency. The
30 resolution establishing such a fund shall specify the source of
31 moneys from which it shall be funded and the purposes for which
32 moneys held in the fund shall be disbursed.

33 c. In the event the agency refinances or discharges any bonds
34 which were used to finance an existing project, and the refinancing
35 or discharge reduces the effective rate on the bond payments, the
36 agency shall provide to projects participating in that financing a
37 proportionate share of savings, including the calculation of
38 administrative costs incurred by the agency in carrying out this
39 section. Commencing on the first day of the eleventh calendar year
40 next following the issuance of a mortgage financed by the agency,
41 project sponsors shall be permitted to repay any mortgage at any
42 time without penalty.

43 (cf: P.L.1983, c.530, s.31)

44
45 10. Section 37 of P.L.1983, c.530 (C.55:14K-37) is amended to
46 read as follows:

1 37. a. It is the intent of the Legislature that in the event of any
2 conflict or inconsistency in the provisions of this act and any other
3 acts concerning housing sponsors or any rules and regulations
4 adopted thereunder, to the extent of such conflict or inconsistency,
5 the provisions of this act shall be enforced and the provisions of
6 such other acts and rules and regulations adopted thereunder shall
7 be of no effect.

8 b. The governing body of any municipality in which a housing
9 project financed or to be financed by the agency is or is to be
10 located may by ordinance or resolution, as appropriate, provide that
11 such project shall be exempt from real property taxation, if the
12 housing sponsor enters into an agreement with the municipality for
13 payments to the municipality in lieu of taxes for municipal services.
14 Any such agreement may require the housing sponsor to pay to the
15 municipality an amount up to ~~20%~~ 10% of the annual ~~gross~~ net
16 revenue from each housing project situated on such real property
17 for each year of operation thereof following the substantial
18 completion thereof. For the purpose of this section, "annual ~~gross~~
19 net revenue" means the total annual gross rental or carrying charge
20 and other income of a housing sponsor ~~from~~ minus utility
21 expenses of and federal subsidy for a housing project. If any such
22 agreement is entered into from the date of recording the mortgage
23 on the project to the date of substantial completion of the project,
24 the annual amount payable to the municipality as taxes or as
25 payments in lieu of taxes in respect of the project site shall not be in
26 excess of the amount of taxes on the project site for the year
27 preceding the recording of the mortgage. Any agreement between
28 any housing sponsor and a municipality pursuant to this subsection
29 shall be submitted to the agency for review in order to avoid
30 duplicating, overlapping or inconsistent regulations or provisions.
31 Any exemption from taxation pursuant to the provisions of this
32 section shall not extend beyond the date on which the eligible loan
33 made by the agency on the project is paid in full.

34 (cf: P.L.1983, c.530, s.37)

35
36 11. This act shall take effect immediately.