

SENATE, No. 3085

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED OCTOBER 29, 2020

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Permits municipalities to establish affordable housing preference for first responders.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning an affordable housing preference for first
2 responders and amending P.L.1985, c.222.

3

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

6

7 1. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to
8 read as follows:

9 11. a. In adopting its housing element, the municipality may
10 provide for its fair share of low and moderate income housing by
11 means of any technique or combination of techniques which provide
12 a realistic opportunity for the provision of the fair share. The
13 housing element shall contain an analysis demonstrating that it will
14 provide such a realistic opportunity, and the municipality shall
15 establish that its land use and other relevant ordinances have been
16 revised to incorporate the provisions for low and moderate income
17 housing. In preparing the housing element, the municipality shall
18 consider the following techniques for providing low and moderate
19 income housing within the municipality, as well as such other
20 techniques as may be published by the council or proposed by the
21 municipality:

22 (1) Rezoning for densities necessary to assure the economic
23 viability of any inclusionary developments, either through
24 mandatory set-asides or density bonuses, as may be necessary to
25 meet all or part of the municipality's fair share in accordance with
26 the regulations of the council and the provisions of subsection h. of
27 this section;

28 (2) Determination of the total residential zoning necessary to
29 assure that the municipality's fair share is achieved;

30 (3) Determination of measures that the municipality will take to
31 assure that low and moderate income units remain affordable to low
32 and moderate income households for an appropriate period of not
33 less than six years;

34 (4) A plan for infrastructure expansion and rehabilitation if
35 necessary to assure the achievement of the municipality's fair share
36 of low and moderate income housing;

37 (5) Donation or use of municipally owned land or land
38 condemned by the municipality for purposes of providing low and
39 moderate income housing;

40 (6) Tax abatements for purposes of providing low and moderate
41 income housing;

42 (7) Utilization of funds obtained from any State or federal
43 subsidy toward the construction of low and moderate income
44 housing;

45 (8) Utilization of municipally generated funds toward the

**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.

1 construction of low and moderate income housing; and

2 (9) The purchase of privately owned real property used for
3 residential purposes at the value of all liens secured by the property,
4 excluding any tax liens, notwithstanding that the total amount of
5 debt secured by liens exceeds the appraised value of the property,
6 pursuant to regulations promulgated by the Commissioner of
7 Community Affairs pursuant to subsection b. of section 41 of
8 P.L.2000, c.126 (C.52:27D-311.2).

9 b. The municipality may provide for a phasing schedule for the
10 achievement of its fair share of low and moderate income housing.

11 c. (Deleted by amendment, P.L.2008, c.46)

12 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
13 require a municipality to raise or expend municipal revenues in
14 order to provide low and moderate income housing.

15 e. When a municipality's housing element includes the
16 provision of rental housing units in a community residence for the
17 developmentally disabled, as defined in section 2 of P.L.1977,
18 c.448 (C.30:11B-2), which will be affordable to persons of low and
19 moderate income, and for which adequate measures to retain such
20 affordability pursuant to paragraph (3) of subsection a. of this
21 section are included in the housing element, those housing units
22 shall be fully credited as permitted under the rules of the council
23 towards the fulfillment of the municipality's fair share of low and
24 moderate income housing.

25 f. It having been determined by the Legislature that the
26 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
27 a public purpose, a municipality or municipalities may utilize public
28 monies to make donations, grants or loans of public funds for the
29 rehabilitation of deficient housing units and the provision of new or
30 substantially rehabilitated housing for low and moderate income
31 persons, providing that any private advantage is incidental.

32 g. A municipality which has received substantive certification
33 from the council, and which has actually effected the construction
34 of the affordable housing units it is obligated to provide, may
35 amend its affordable housing element or zoning ordinances without
36 the approval of the council.

37 h. Whenever affordable housing units are proposed to be
38 provided through an inclusionary development, a municipality shall
39 provide, through its zoning powers, incentives to the developer,
40 which shall include increased densities and reduced costs, in
41 accordance with the regulations of the council and this subsection.

42 i. The council, upon the application of a municipality and a
43 developer, may approve reduced affordable housing set-asides or
44 increased densities to ensure the economic feasibility of an
45 inclusionary development.

46 j. A municipality may enter into an agreement with a
47 developer or residential development owner to provide a preference
48 for affordable housing to low to moderate income veterans who

1 served in time of war or other emergency, as defined in section 1 of
2 P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable
3 units in that particular project. This preference shall be established
4 in the applicant selection process for available affordable units so
5 that applicants who are veterans who served in time of war or other
6 emergency, as referenced in this subsection, and who apply within
7 90 days of the initial marketing period shall receive preference for
8 the rental of the agreed-upon percentage of affordable units. After
9 the first 90 days of the initial 120-day marketing period, if any of
10 those units subject to the preference remain available, then
11 applicants from the general public shall be considered for
12 occupancy. Following the initial 120-day marketing period,
13 previously qualified applicants and future qualified applicants who
14 are veterans who served in time of war or other emergency, as
15 referenced in this subsection, shall be placed on a special waiting
16 list as well as the general waiting list. The veterans on the special
17 waiting list shall be given preference for affordable units, as the
18 units become available, whenever the percentage of preference-
19 occupied units falls below the agreed upon percentage. Any
20 agreement to provide affordable housing preferences for veterans
21 pursuant to this subsection shall not affect a municipality's ability to
22 receive credit for the unit from the council, or its successor.

23 k. A municipality may enter into an agreement with a
24 developer or residential development owner to provide a preference
25 for affordable housing to low and moderate income first responders
26 of up to 50 percent of the affordable units in that particular project.
27 This preference shall be established in the applicant selection
28 process for available affordable units so that applicants who are
29 first responders, and who apply within 90 days of the initial 120-
30 day marketing period, shall receive preference for the rental of the
31 agreed-upon percentage of affordable units. After the first 90 days
32 of the initial 120-day marketing period, if any of those units subject
33 to the preference remain available, then applicants from the general
34 public shall be considered for occupancy. Following the initial
35 120-day marketing period, previously qualified applicants and
36 future qualified applicants who are first responders shall be placed
37 on a special waiting list as well as the general waiting list. The first
38 responders on the special waiting list shall be given preference for
39 affordable units, as the units become available, whenever the
40 percentage of preference-occupied units falls below the agreed upon
41 percentage. Any agreement to provide affordable housing
42 preferences for first responders pursuant to this subsection shall not
43 affect a municipality's ability to receive credit for the unit from the
44 council, or its successor.

45 For the purposes of this subsection, "first responder" means a
46 law enforcement officer; paid or volunteer firefighter; paid or
47 volunteer member of a duly incorporated first aid, emergency,
48 ambulance, or rescue squad association; or any other person who, in

1 the course of the person's employment, is dispatched to the scene of
2 a motor vehicle accident or other emergency situation for the
3 purpose of providing medical care or other emergency assistance;
4 and who, in the case of all the foregoing, has served in that capacity
5 for at least two years.

6 (cf: P.L.2013, c.6, s.1)

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8 2. This act shall take effect immediately.

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11 STATEMENT

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13 This bill permits municipalities to establish an affordable
14 housing preference for first responders. Under the bill, a
15 municipality would be authorized to enter into agreements with
16 developers to provide affordable housing occupancy preferences for
17 low and moderate income first responders, who meet certain service
18 requirements, of up to 50 percent of the affordable units in a
19 particular project. Current law does not provide any preference for
20 first responders who otherwise qualify for affordable housing.

21 For the purposes of the bill, "first responder" is defined as a law
22 enforcement officer; paid or volunteer firefighter; paid or volunteer
23 member of a duly incorporated first aid, emergency, ambulance, or
24 rescue squad association; or any other person who, in the course of
25 the person's employment, is dispatched to the scene of a motor
26 vehicle accident or other emergency situation for the purpose of
27 providing medical care or other assistance; and who, in the case of
28 all the foregoing, has served in that capacity for at least two years.