

SENATE, No. 3645

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED APRIL 19, 2021

Sponsored by:
Senator HOLLY T. SCHEPISI
District 39 (Bergen and Passaic)

SYNOPSIS

Allows municipalities to establish affordable housing preference for their residents.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** allowing municipalities to establish an affordable housing
2 preference for their residents 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:*

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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;

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 (8) Utilization of municipally generated funds toward the
2 construction of low and moderate income housing; and
- 3 (9) The purchase of privately owned real property used for
4 residential purposes at the value of all liens secured by the property,
5 excluding any tax liens, notwithstanding that the total amount of
6 debt secured by liens exceeds the appraised value of the property,
7 pursuant to regulations promulgated by the Commissioner of
8 Community Affairs pursuant to subsection b. of section 41 of
9 P.L.2000, c.126 (C.52:27D-311.2).
- 10 b. The municipality may provide for a phasing schedule for the
11 achievement of its fair share of low and moderate income housing.
- 12 c. (Deleted by amendment, P.L.2008, c.46)
- 13 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
14 require a municipality to raise or expend municipal revenues in
15 order to provide low and moderate income housing.
- 16 e. When a municipality's housing element includes the
17 provision of rental housing units in a community residence for the
18 developmentally disabled, as defined in section 2 of P.L.1977,
19 c.448 (C.30:11B-2), which will be affordable to persons of low and
20 moderate income, and for which adequate measures to retain such
21 affordability pursuant to paragraph (3) of subsection a. of this
22 section are included in the housing element, those housing units
23 shall be fully credited as permitted under the rules of the council
24 towards the fulfillment of the municipality's fair share of low and
25 moderate income housing.
- 26 f. It having been determined by the Legislature that the
27 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
28 a public purpose, a municipality or municipalities may utilize public
29 monies to make donations, grants or loans of public funds for the
30 rehabilitation of deficient housing units and the provision of new or
31 substantially rehabilitated housing for low and moderate income
32 persons, providing that any private advantage is incidental.
- 33 g. A municipality which has received substantive certification
34 from the council, and which has actually effected the construction
35 of the affordable housing units it is obligated to provide, may
36 amend its affordable housing element or zoning ordinances without
37 the approval of the council.
- 38 h. Whenever affordable housing units are proposed to be
39 provided through an inclusionary development, a municipality shall
40 provide, through its zoning powers, incentives to the developer,
41 which shall include increased densities and reduced costs, in
42 accordance with the regulations of the council and this subsection.
- 43 i. The council, upon the application of a municipality and a
44 developer, may approve reduced affordable housing set-asides or
45 increased densities to ensure the economic feasibility of an
46 inclusionary development.
- 47 j. A municipality may enter into an agreement with a
48 developer or residential development owner to provide a preference

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

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

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

1 2. This act shall take effect immediately.

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STATEMENT

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6 This bill would allow a municipality to enter into agreements
7 with developers to provide affordable housing occupancy
8 preferences for low and moderate income current residents of the
9 municipality of up to 50 percent of the affordable units in a
10 particular project. Current law does not provide any preference for
11 residents of a municipality for affordable housing located in the
12 municipality. This bill would help residents of a municipality in
13 need of affordable housing to be able to stay in their hometowns.