

CHAPTER 78

AN ACT concerning housing assistance for certain homebuyers and developers, supplementing Title 55 of the Revised Statutes and Title 52 of the Revised Statutes.

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

C.55:14K-104 Definitions.

1. As used in P.L.2023, c.78 (C.55:14K-104 et al.):

"Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of P.L.1983, c.530 (C.55:14K-4).

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Down payment assistance" or "assistance" means financial assistance for first-time homebuyers to acquire single-family housing for principal residence through the loan program.

"Executive director" means the Executive Director of the New Jersey Housing and Mortgage Finance Agency.

"First-generation homebuyer" means a first-time homebuyer, who is:

a. an individual:

(1) whose parents or legal guardians do not have any present ownership interest in any residential real property in any state or territory of the United States, or outside of the United States; and

(2) whose spouse, or domestic partner, and each member of whose household has not, during the 3-year period ending upon acquisition of the eligible home to be acquired using such assistance, had any present ownership interest in any residential real property used as their principal residence in any state or territory of the United States, or outside of the United States; or

b. an individual who has at any time been placed in foster care in the State.

"First-time homebuyer" means a homebuyer who, in accordance with rules and regulations adopted by the agency, has not owned any residential real property as their principal residence within the preceding three years, and is utilizing a mortgage product offered by the agency through an agency homebuyer program to purchase single-family housing, and has a gross household income that does not exceed a limitation determined by the agency.

"Loan program" means the zero-interest, forgivable loan program established pursuant to section 2 of P.L.2023, c.78 (C.55:14K-105).

"Principal residence" means a homestead that is actually and continually occupied as the permanent residence of a household, as distinguished from a vacation home, real property owned and rented or offered for rent by the household, or other secondary real property holdings.

"Single-family housing" means a one- to four-family residence, a condominium unit, a cooperative unit, a combination of a manufactured housing and lot, or a manufactured housing lot.

C.55:14K-105 Zero-interest, forgivable loan program, down payment assistance; rules, regulations; report to Governor, Legislature.

2. a. There is established in the agency a zero-interest, forgivable loan program to provide down payment assistance for first-time homebuyers to achieve homeownership. The loan program shall provide down payment assistance to defray the costs associated with acquiring single-family housing for principal residence, as provided for in subsection b. of this section. A first-time homebuyer shall commit to use the home as their principal residence for five years following the purchase of the home. The agency shall forgive the loan, provided that the five-year commitment

is satisfied and the first-time homebuyer meets the other requirements established pursuant to subsection c. of this section.

b. (1) The down payment assistance provided pursuant to this section shall be in the form of a zero-interest, forgivable loan award. The loan award shall be in the amount of \$15,000.

(2) In addition to a loan award that may be provided pursuant to paragraph (1) of this subsection, a first-generation homebuyer shall be eligible for a zero-interest, forgivable loan award of an additional award amount of not less than \$7,000 and not more than \$10,000 to be used for down payment assistance.

(3) Each first-time homebuyer who receives down payment assistance through the loan program shall, prior to the award of down payment assistance, complete not less than eight hours of a homebuyer counseling course, as directed by the agency pursuant to subsection c. of this section. The homebuyer counseling course shall include, but not be limited to, coursework concerning:

(a) the maintenance of housing costs, including methods for budgeting mortgage payments, utility charges, property taxes, and any other applicable housing cost;

(b) the basics of home finance, property taxes, home warranties, and home inspection;

(c) the legal components of finalizing a home purchase; and

(d) the process of finding an appropriate house, including how to search real estate listings through a real estate agent or other sources.

c. The executive director shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate, administer, and accomplish the purposes of the loan program. Notwithstanding the limitations established in section 1 of P.L.2011, c.215 (C.52:14B-3a) on the use of regulatory guidance documents, the executive director shall prepare and disseminate guidelines or regulatory guidance documents, on or before the first day of the third month next following the enactment of P.L.2023, c.78 (C.55:14K-104 et al.), in advance of the adoption of rules and regulations to effectuate, administer, and accomplish the purposes of the loan program. The guidelines, guidance documents, and rules and regulations shall, at a minimum, set forth the requirements for application submissions, the criteria for application selections, the eligible uses of down payment assistance, eligibility as a first-time or first-generation homebuyer, and the curriculum and provision of the homebuyer counseling course.

d. The agency shall permit an individual to establish eligibility for the loan program as a first-generation homebuyer via self-attestation, under penalty of perjury. However, nothing in this subsection shall preclude the agency from establishing measures to identify and deter fraudulent attestations. If it is established that an individual has received assistance as a result of a fraudulent attestation, the individual shall reimburse the agency for the assistance.

e. A down payment assistance loan shall be recoverable as a lien on the real property that the loan is used to purchase, and shall have the priority of a mortgage lien.

f. The annual appropriations act for State fiscal year 2024 shall include an appropriation from the General Fund to the loan program, and the annual appropriations acts following State fiscal year 2024 shall appropriate not less than \$25 million from the General Fund to the agency, during each State fiscal year in which the loan program remains in operation, to effectuate the purposes of the loan program, and defray the costs associated with administering the loan program, except that the agency shall retain not more than five percent of the annual appropriation for administrative costs. Of the total amount of down payment assistance funding awarded each State fiscal year through the loan program, no less than 50 percent shall be awarded to first-generation

homebuyers, unless the agency determines that 50 percent of the down payment assistance funding cannot be awarded to first-generation homebuyers, because too few first-generation homebuyers have applied for the loan program, in which case, more than 50 percent of the funding shall be awarded to first-time homebuyers who are not first-generation homebuyers.

g. No later than the 730th day next following the effective date of P.L.2023, c.78 (C.55:14K-104 et al.), the agency shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The report shall analyze the efficacy of the loan program. The report shall provide an overview of the total amount of down payment assistance provided by the agency, with information by census tract on the race and ethnicity of the recipients of assistance. The report also shall analyze:

(1) the impact of the down payment assistance on the total housing costs of the recipients of such assistance;

(2) the impact of the additional loan award for first-generation homebuyers provided pursuant to paragraph (2) of subsection b. of this section, and the other components of the loan program, on first-generation homeownership; and

(3) any other information determined by the agency to be relevant to the costs and benefits of the loan program.

C.52:27D-161.1 "Resilient Home Construction Pilot Program" established.

3. a. There is established in the Department of Community Affairs a Resilient Home Construction Pilot Program for the purpose of providing funding for developers to rehabilitate existing homes and construct new affordable homes for sale.

b. As part of the pilot program, the department shall develop an application process and promulgate criteria that enables a developer to qualify for funding for the rehabilitation or construction of homes for sale. Among such other criteria as the department deems necessary, the department shall require that:

(1) the homes rehabilitated or constructed for sale are not located in the 500-year floodplain or the inland or coastal climate adjusted floodplain, as defined by Department of Environmental Protection;

(2) the homes rehabilitated or constructed are to be sold to households with a gross household income not to exceed 120 percent of the median gross household income for households of the same size within the housing region in which the housing is located;

(3) the prospective homebuyer is a renter that has been impacted by a storm or natural disaster that has prompted the governor to declare a state of emergency; or a first-time homebuyer, including a first-time homebuyer receiving financial assistance from the agency;

(4) the developer include a purchase discount on the home sale price, as established in accordance with criteria developed by the department; and

(5) the homes for sale contain a minimum period of affordability as determined by the department.

c. Funding to successful pilot program applicants shall be provided in a manner determined by the department and pursuant to an agreement between the department and a successful pilot program applicant, and shall be conditioned upon compliance with the provisions of such an agreement as determined by the department.

d. As part of the pilot program, the department shall permit local government entities to apply for funding to provide to developers to rehabilitate existing homes and construct new, affordable homes for sale, so long as: (1) the application process and criteria imposed by the local government entity on developers is the same as the criteria developed pursuant to subsection b. of this section;

(2) the local government entity and the developer enter into an agreement subject to the same requirements as an agreement pursuant to subsection c. of this section; and that funding to the local government entity is conditioned upon compliance with the provisions of an agreement as determined by the department.

e. In addition to the funding provided to developers pursuant to the pilot program, the department may establish incentives to encourage homebuyers to remain in the homes developed pursuant to this pilot program, including through the provision of down payment assistance as a zero-interest forgivable loan for homebuyers who are not eligible or do not qualify for down payment assistance through other State programs including the program established pursuant to section 2 of P.L.2023, c.78 (C.55:14K-105).

f. For the purpose of determining the amount of purchase discount, provided pursuant to paragraph (4) of subsection b. of this section, the department shall establish a sale price, pursuant to an appraisal conducted by a professional appraiser hired by the department.

C.52:27D-161.2 Application, eligibility criteria, guidelines.

4. Notwithstanding the limitations established in section 1 of P.L.2011, c.215 (C.52:14B-3a) on the use of regulatory guidance documents, the commissioner may promulgate application and eligibility criteria and guidelines regarding the pilot program through regulatory guidance documents as defined in subsection d. of section 1 of P.L.2011, c.215 (C.52:14B-3a).

5. a. The pilot program shall be eligible for funding from the federal "American Rescue Plan Act of 2021," Pub.L.117-2 to the Division of Disaster Recovery and Mitigation in the Department of Community Affairs for the Resilient Home Construction Pilot Program, established pursuant to section 3 of P.L.2023, c.78 (C.52:27D-161.1), and other funding sources, and of such amounts provided, not more than five percent shall be utilized by the department for organizational, administrative, and other work and services, including salaries, equipment, services, and materials necessary to administer the activities authorized by this subsection.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, the division may transfer the uncommitted balance of any funds made available pursuant to this section for any use authorized pursuant to P.L.2023, c.78 (C.55:14K-104 et al.). The division shall submit notice to the Joint Budget Oversight Committee, or its successor, no less than five calendar days before the date of a transfer made pursuant to this subsection. The notice shall indicate the amount of the transferred funds and the purpose for which the funds are transferred.

6. This act shall take effect immediately.

Approved June 30, 2023.