

[Second Reprint]

SENATE, No. 50

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED JANUARY 9, 2024

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator NICHOLAS P. SCUTARI

District 22 (Somerset and Union)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Co-Sponsored by:

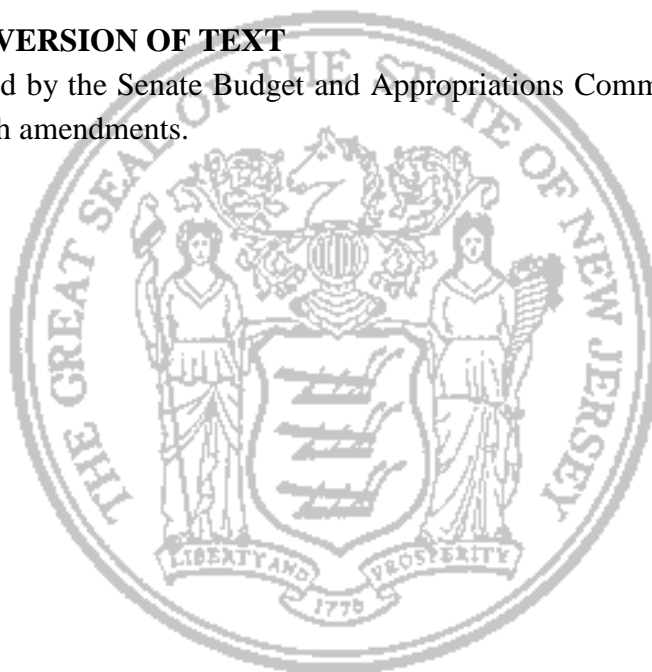
Senators Beach, Burgess, Timberlake, McKnight and Pou

SYNOPSIS

Reforms municipal responsibilities concerning provision of affordable housing; abolishes COAH; appropriates \$16 million.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 11, 2024, with amendments.



(Sponsorship Updated As Of: 3/18/2024)

1 AN ACT concerning affordable housing, including administration
2 and municipal obligations, amending, supplementing, and
3 repealing various parts of the statutory law, and making an
4 appropriation.

5

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

8

9 1. Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to
10 read as follows:

11 2. The Legislature finds that:

12 a. The New Jersey Supreme Court, through its rulings in
13 **【South】** Southern Burlington County NAACP v. Mount Laurel, 67
14 N.J. 151 (1975) and **【South】** Southern Burlington County NAACP
15 v. Mount Laurel, 92 N.J. 158 (1983), has determined that every
16 municipality in a growth area has a constitutional obligation to
17 provide through its land use regulations a realistic opportunity for a
18 fair share of its region's present and prospective needs for housing
19 for **【low and moderate income】** low- and moderate-income
20 families.

21 b. In the second Mount Laurel ruling, the Supreme Court stated
22 that the determination of the methods for satisfying this
23 constitutional obligation "is better left to the Legislature," that the
24 court has "always preferred legislative to judicial action in their
25 field," and that the judicial role in upholding the Mount Laurel
26 doctrine "could decrease as a result of legislative and executive
27 action."

28 c. The interest of all citizens, including **【low and moderate**
29 **income】** low- and moderate-income families in need of affordable
30 housing, and the needs of the workforce, would be best served by a
31 comprehensive planning and implementation response to this
32 constitutional obligation.

33 d. There are a number of essential ingredients to a
34 comprehensive planning and implementation response, including
35 the establishment of reasonable fair share housing guidelines and
36 standards, the initial determination of fair share by officials at the
37 municipal level and the preparation of a municipal housing element,
38 State review of the local fair share study and housing element, and
39 continuous State funding for **【low and moderate income】** low- and
40 moderate-income housing to replace the federal housing subsidy
41 programs which have been almost completely eliminated.

42 e. The State can maximize the number of **【low and moderate**
43 **income】** low- and moderate-income units provided in New Jersey

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 January 25, 2024.

²Senate SBA committee amendments adopted March 11, 2024.

1 by allowing its municipalities to adopt appropriate phasing
2 schedules for meeting their fair share, so long as the municipalities
3 permit a timely achievement of an appropriate fair share of the
4 regional need for **low and moderate income** low- and moderate-
5 income housing as required by the Mt. Laurel I and II opinions and
6 other relevant court decisions.

7 f. The State can also maximize the number of **low and**
8 **moderate income** low- and moderate-income units by creating new
9 affordable housing and by rehabilitating existing, but substandard,
10 housing in the State. Because the Legislature has determined,
11 pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.), that it is no
12 longer appropriate or in harmony with the Mount Laurel doctrine to
13 permit the transfer of the fair share obligations among
14 municipalities within a housing region, it is necessary and
15 appropriate to create a new program to create new affordable
16 housing and to foster the rehabilitation of existing, but substandard,
17 housing.

18 g. Since the urban areas are vitally important to the State,
19 construction, conversion and rehabilitation of housing in our urban
20 centers should be encouraged. However, the provision of housing
21 in urban areas must be balanced with the need to provide housing
22 throughout the State for the free mobility of citizens.

23 h. The Supreme Court of New Jersey in its Mount Laurel
24 decisions demands that municipal land use regulations affirmatively
25 afford a **reasonable** realistic opportunity for a variety and choice
26 of housing including low and moderate cost housing, to meet the
27 needs of people desiring to live there. While provision for the
28 actual construction of that housing by municipalities is not required,
29 they are encouraged but not mandated to expend their own
30 resources to help provide **low and moderate income** low- and
31 moderate-income housing.

32 i. **Certain amendments to the enabling act of the Council on**
33 **Affordable Housing are necessary to provide guidance to the**
34 **council to ensure consistency with the legislative intent, while at the**
35 **same time clarifying the limitations of the council in its rulemaking.**
36 **Although the court has remarked in several decisions that the**
37 **Legislature has granted the council considerable deference in its**
38 **rulemaking, the Legislature retains its power and obligation to**
39 **clarify and amend the enabling act from which the council derives**
40 **its rulemaking power, from time to time, in order to better guide the**
41 **council.】** (Deleted by amendment, P.L. , c.) (pending before the
42 Legislature as this bill)

43 j. The Legislature finds that the use of regional contribution
44 agreements, which permits municipalities to transfer a certain
45 portion of their fair share housing obligation outside of the
46 municipal borders, should no longer be utilized as a mechanism for
47 the creation of affordable housing **by the council**.

1 k. The Legislature finds that the role of the Council on
2 Affordable Housing, as intended in the original enactment of the
3 "Fair Housing Act," has not developed in practice as was intended
4 in the legislation.

5 l. The council's inability to function ultimately led the Supreme
6 Court in 2015 to order the temporary dissolution of the requirement
7 that administrative remedies be exhausted prior to resolving
8 affordable housing disputes before the court, and allowed the courts
9 to resume their role as the forum of first resort for evaluating
10 municipal compliance with Mount Laurel obligations pursuant to
11 guidelines laid out by the Supreme Court's order.

12 m. The Legislature finds that the council's inability to function
13 led to a "gap period" that frustrated the intent of the Legislature and
14 compliance with constitutional and statutory obligations, and that it
15 is necessary to establish definitive deadlines for municipal action
16 and any challenges to those actions to avoid such a "gap period"
17 from being repeated in the future.

18 n. The Legislature finds that although the court-led system that
19 has developed since 2015 has resulted in a significant number of
20 settlement agreements and increased production of affordable
21 housing, the system could operate more expeditiously to produce
22 affordable housing, and at a lower cost to all parties, if appropriate
23 standards are established by the Legislature to be applied
24 throughout the State including more clarity on calculation on fair
25 share affordable housing obligations using transparent and
26 established data sources to eliminate the lengthy and costly
27 processes of determining those obligations that have characterized
28 both the Council on Affordable Housing and court-led system.

29 o. The Legislature determines that, considering the unique
30 history of the "Fair Housing Act," the Council on Affordable
31 Housing shall be abolished, and that, pursuant to the formulas and
32 process established pursuant to sections 6 and 7 of P.L. _____,
33 c. (C. _____ and C. _____) (pending before the Legislature as this
34 bill), a municipality shall be authorized to seek approval of its fair
35 share affordable housing obligation, adopted pursuant to binding
36 resolution and then filed with the court, with the guidance of
37 calculations published by the Department of Community Affairs,
38 but that advocates for the low- and moderate-income households of
39 the State shall be provided with an opportunity to contest the
40 municipal determination.

41 p. ²The Legislature declares that the "Fair Housing Act,"
42 P.L.1985, c.222 (C.52:27D-301 et al.), as amended and
43 supplemented by P.L. _____, c. (C. _____) (pending before the
44 Legislature as this bill), is intended to implement the Mount Laurel
45 doctrine, and that municipalities in compliance with the "Fair
46 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) are also in
47 compliance with the Mount Laurel doctrine.

1 q.² The Legislature finds that the population of persons aged 65
 2 years and older in the State has grown from approximately 13
 3 percent in 1990, to 17 percent in 2021, and that such growth, in
 4 conjunction with expected future growth, makes it appropriate for
 5 the Legislature to ²["continue to"]² allow up to ²["25"] 30² percent of
 6 the units towards a municipality's prospective affordable housing
 7 obligation to be satisfied through the creation of age-restricted
 8 housing.

9 ²r. The "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et
 10 al.) and the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et
 11 al.) were enacted concurrently to address the ruling of the New
 12 Jersey Supreme Court in Southern Burlington County NAACP v.
 13 Mount Laurel, 92 N.J. 158 (1983) and associated land use planning
 14 concerns.

15 s. The Legislature, in amending and supplementing the "Fair
 16 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), intends to
 17 facilitate comprehensive planning in alignment with smart growth
 18 principles, and the State Development and Redevelopment Plan.

19 t. The Legislature declares that the changes made to affordable
 20 housing methodologies, obligations, and fair share plans, as
 21 determined to be a necessity by the Legislature, through the
 22 enactment of P.L. , c. (C.) (pending before the Legislature
 23 as this bill), are made with the intention of furthering consistency
 24 with the State Development and Redevelopment Plan.²

25 (cf: P.L.2008, c.46, s.4)

26
 27 2. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to
 28 read as follows:

29 4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):

30 a. "Council" means the Council on Affordable Housing
 31 established in P.L.1985, c.222 (C.52:27D-301 et al.), **["which shall**
 32 **have primary jurisdiction for the administration of housing**
 33 **obligations in accordance with sound regional planning**
 34 **considerations in this State"] abolished pursuant to section 3 of**
 35 **P.L. , c. (C.) (pending before the Legislature as this bill).**

36 b. "Housing region" means a geographic area **["of not less than**
 37 **two nor more than four contiguous, whole counties which exhibit**
 38 **significant social, economic and income similarities, and which**
 39 **constitute to the greatest extent practicable the primary metropolitan**
 40 **statistical areas as last defined by the United States Census Bureau**
 41 **prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.)"]**
 42 **established pursuant to subsection b. of section 6 of**
 43 **P.L. , c. (C.) (pending before the Legislature as this bill).**

44 c. **["Low income"]** "Low-income housing" means housing
 45 affordable according to federal Department of Housing and Urban
 46 Development or other recognized standards for home ownership
 47 and rental costs and occupied or reserved for occupancy by

1 households with a gross household income equal to 50 percent or
2 less of the median gross household income for households of the
3 same size within the housing region in which the housing is located.

4 d. **["Moderate income"]** "Moderate-income housing" means
5 housing affordable according to federal Department of Housing and
6 Urban Development or other recognized standards for home
7 ownership and rental costs and occupied or reserved for occupancy
8 by households with a gross household income equal to more than 50
9 **[%]** percent but less than 80 percent of the median gross household
10 income for households of the same size within the housing region in
11 which the housing is located.

12 e. **["Resolution of participation"]** means a resolution adopted by
13 a municipality in which the municipality chooses to prepare a fair
14 share plan and housing element in accordance with P.L.1985, c.222
15 (C.52:27D-301 et al.). **](Deleted by amendment, P.L. _____, c. _____)**
16 (pending before the Legislature as this bill)

17 f. "Inclusionary development" means a residential housing
18 development in which a substantial percentage of the housing units
19 are provided for a reasonable income range of **[low and moderate**
20 **income]** low- and moderate-income households.

21 g. "Conversion" means the conversion of existing commercial,
22 industrial, or residential structures for **[low and moderate income]**
23 low- and moderate-income housing purposes where a substantial
24 percentage of the housing units are provided for a reasonable
25 income range of **[low and moderate income]** low- and moderate-
26 income households.

27 h. "Development" means any development for which
28 permission may be required pursuant to the "Municipal Land Use
29 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

30 i. "Agency" means the New Jersey Housing and Mortgage
31 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et
32 seq.).

33 j. "Prospective need" means a projection of housing needs
34 based on development and growth which is reasonably likely to
35 occur in a region or a municipality, as the case may be, as a result
36 of actual determination of public and private entities. **[In**
37 **determining prospective need, consideration shall be given to**
38 **approvals of development applications, real property transfers, and**
39 **economic projections prepared by the State Planning Commission**
40 **established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-**
41 **196 et seq.)]** Prospective need shall be determined by the
42 methodology set forth pursuant to sections 6 and 7 of P.L. _____,
43 c. (C. _____ and C. _____) (pending before the Legislature as this
44 bill) for the fourth round and all future rounds of housing
45 obligations.

46 k. "Person with a disability" means a person with a physical
47 disability, infirmity, malformation, or disfigurement which is

1 caused by bodily injury, birth defect, aging, or illness including
2 epilepsy and other seizure disorders, and which shall include, but
3 not be limited to, any degree of paralysis, amputation, lack of
4 physical coordination, blindness or visual impairment, deafness or
5 hearing impairment, the inability to speak or a speech impairment,
6 or physical reliance on a service animal, wheelchair, or other
7 remedial appliance or device.

8 l. "Adaptable" means constructed in compliance with the
9 technical design standards of the barrier free subcode adopted by
10 the Commissioner of Community Affairs pursuant to the "State
11 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
12 et seq.) and in accordance with the provisions of section 5 of
13 P.L.2005, c.350 (C.52:27D-123.15).

14 m. "Very **[low income]** low-income housing" means housing
15 affordable according to federal Department of Housing and Urban
16 Development or other recognized standards for home ownership
17 and rental costs and occupied or reserved for occupancy by
18 households with a gross household income equal to 30 percent or
19 less of the median gross household income for households of the
20 same size within the housing region in which the housing is located.

21 n. "Accessory dwelling unit" means a residential dwelling unit
22 that provides complete independent living facilities with a private
23 entrance for one or more persons, consisting of provisions for
24 living, sleeping, eating, sanitation, and cooking, including a stove
25 and refrigerator, and is located within a proposed or existing
26 primary dwelling, within an existing or proposed structure that is
27 accessory to a dwelling on the same lot, constructed in whole or
28 part as an extension to a proposed or existing primary dwelling, or
29 constructed as a separate detached structure on the same lot as the
30 existing or proposed primary dwelling.

31 o. "Builder's remedy" means court imposed site-specific relief
32 for a litigant who seeks to build affordable housing for which the
33 court requires a municipality to utilize zoning techniques such as
34 mandatory set-asides or density bonuses, including techniques
35 which provide for the economic viability of a residential
36 development by including housing that is not for low- and
37 moderate-income households.

38 p. "Commissioner" means the Commissioner of Community
39 Affairs.

40 q. "Compliance certification" means the certification obtained
41 by a municipality pursuant to section 3 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), that protects the
43 municipality from ²[a builder's remedy] exclusionary zoning
44 litigation² during the current round of present and prospective need
45 and through July 1 of the year the next round begins, which is also
46 known as a "judgment of compliance" or "judgment of repose."
47 The term "compliance certification" shall include a judgment of

1 repose granted in an action filed pursuant to section 13 of P.L.1985,
2 c.222 (C.52:27D-313).

3 r. "County level housing judge" means a judge appointed
4 pursuant to section 5 of P.L. , c. (C.) (pending before the
5 Legislature as this bill), to resolve disputes over the compliance of
6 municipal fair share affordable housing obligations and municipal
7 fair share plans and housing elements, with the "Fair Housing Act,"
8 P.L.1985, c.222 (C.52:27D-301 et al.

9 s. "Deficient housing unit" means housing that: (1) is over fifty
10 years old and overcrowded; (2) lacks complete plumbing; or (3)
11 lacks complete kitchen facilities.

12 t. "Department" means the Department of Community Affairs.

13 u. ²"Exclusionary zoning litigation" means litigation to
14 challenge the fair share plan, housing element, or ordinances or
15 resolutions implementing the fair share plan or housing element of a
16 municipality based on alleged noncompliance with the "Fair
17 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount
18 Laurel doctrine, which litigation shall include, but shall not be
19 limited to, litigation seeking a builder's remedy.

20 v. ²"Fair share plan" means the plan or proposal that is in a form
21 which may readily be adopted, with accompanying ordinances and
22 resolutions, pursuant to subsection f. of section 3 of
23 P.L. , c. (C.) (pending before the Legislature as this bill),
24 by which a municipality proposes to satisfy its obligation to create a
25 realistic opportunity to meet its fair share of low- and moderate-
26 income housing needs of its region and which details the
27 affirmative measures the municipality proposes to undertake to
28 achieve its fair share of low- and moderate-income housing, as
29 provided in the municipal housing element, and addresses the
30 development regulations necessary to implement the housing
31 element, including, but not limited to, inclusionary requirements
32 and development fees, and the elimination of unnecessary housing
33 cost-generating features from the municipal land use ordinances and
34 regulations.

35 ²[v.] w. "Highlands-conforming municipality" means a
36 municipality that has adopted a land development ordinance
37 implementing the municipality's plan conformance petition and
38 which land development ordinance has been certified by the
39 Highlands Water Protection and Planning Council as consistent
40 with the "Highlands Water Protection and Planning Act," P.L.2004,
41 c.120 (C.13:20-1 et seq.), the Highlands regional master plan, and
42 the municipality's plan conformance approval. The term "land
43 development ordinance" shall be inclusive of any amendment to the
44 municipality's land development ordinances that is adopted to
45 further the municipality's petition of plan conformance.

46 x. ²"Housing element" means that portion of a municipality's
47 master plan consisting of reports, statements, proposals, maps,
48 diagrams, and text designed to meet the municipality's fair share of

1 its region's present and prospective housing needs, particularly with
 2 regard to low- and moderate-income housing, and which shall
 3 contain the municipal present and prospective obligation for
 4 affordable housing, determined pursuant to subsection f. of section
 5 3 of P.L. , c. (C.) (pending before the Legislature as this
 6 bill).

7 ²[w.] y.² "Program" means the Affordable Housing Dispute
 8 Resolution Program, established pursuant to section 5 of P.L. ,
 9 c. (C.) (pending before the Legislature as this bill).

10 ²[x.] z. "State Development and Redevelopment Plan" or "State
 11 Plan" means the plan prepared pursuant to sections 1 through 12 of
 12 the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.),
 13 designed to represent a balance of development and conservation
 14 objectives best suited to meet the needs of the State, and for the
 15 purpose of coordinating planning activities and establishing
 16 Statewide planning objectives in the areas of land use, housing,
 17 economic development, transportation, natural resource
 18 conservation, agriculture and farmland retention, recreation, urban
 19 and suburban redevelopment, historic preservation, public facilities
 20 and services, and intergovernmental coordination pursuant to
 21 subsection f. of section 5 of P.L.1985,c.398 (C.52:18A-200).

22 aa.² "Transitional housing" means temporary housing that:

23 (1) includes, but is not limited to, single-room occupancy
 24 housing or shared living and supportive living arrangements;

25 (2) provides access to on-site or off-site supportive services for
 26 very low-income households who have recently been homeless or
 27 lack stable housing;

28 (3) is licensed by the department; and

29 (4) allows households to remain for a minimum of six months.

30 (cf: P.L.2017, c.131, s.199)

31
 32 3. (New section) a. The Council on Affordable Housing,
 33 established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
 34 301 et al.), is abolished. Each municipality shall determine its
 35 municipal present and prospective obligations in accordance with
 36 the formulas established in sections 6 and 7 of P.L. ,
 37 c. (C. and C.) (pending before the Legislature as this
 38 bill) and may take into consideration the calculations in the report
 39 published by the department in accordance with this section.

40 b. Following the expiration of the third round of affordable
 41 housing obligations on July 1, 2025, a municipality shall have
 42 immunity from ²[a builder's remedy] exclusionary zoning
 43 litigation² if the municipality complies with the deadlines
 44 established in P.L. , c. (C.) (pending before the Legislature
 45 as this bill) for both determining present and prospective
 46 obligations, and for adopting a housing element and fair share plan
 47 to meet those obligations.

1 ²(1) Immunity from exclusionary zoning litigation shall not limit
2 the ability of an interested party to challenge a municipality for
3 failure to comply with the terms of its compliance certification.
4 However, a municipality's actions to comply with the terms of its
5 compliance certification shall retain a presumption of validity if
6 challenged for an alleged failure described in this paragraph.

7 (2) Immunity from exclusionary zoning litigation shall not limit
8 the ability of an interested party to bring a challenge before the
9 program alleging that, despite the issuance of compliance
10 certification, a municipality's fair share obligation, fair share plan,
11 housing element, or ordinances implementing the fair share plan or
12 housing element are in violation of the Mount Laurel doctrine.
13 However, the decisions of the program shall retain a presumption of
14 validity if challenged for an alleged violation described in this
15 paragraph.²

16 c. Prior to the beginning of each new 10-year round of housing
17 obligations beginning with the fourth round on July 1, 2025, the
18 Department of Community Affairs shall conduct a calculation of
19 regional need and municipal present and prospective obligations in
20 accordance with the formulas established in sections 6 and 7 of
21 P.L. , c. (C. and C.) (pending before the Legislature as
22 this bill).

23 d. For the fourth round of affordable housing obligations, the
24 department shall prepare and submit a report to the Governor, and,
25 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
26 Legislature providing a report on the calculations of regional need
27 and municipal obligations for each region of the State ¹on or
28 before August within the earlier of seven months following the
29 effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill) or December¹ 1, 2024. ²To assist in this
31 calculation, the Highlands Water Protection and Planning Council
32 shall provide a list of Highlands-conforming municipalities to the
33 department no less than five business days following the effective
34 date of P.L. , c. (C.) (pending before the Legislature as this
35 bill).² The department shall provide the report to each municipality
36 in the State at the same time that it submits the report to the
37 Governor and Legislature and shall also publish such report on the
38 department's Internet website. For the fifth round, and each
39 subsequent new round of housing obligations, the department shall
40 prepare and submit a report to each municipality in the State, the
41 Governor, and, pursuant to section 2 of P.L.1991, c.164
42 (C.52:14-19.1), to the Legislature on these calculations on or before
43 August 1 of the year prior to the start of the new round and shall
44 also publish such report on the department's Internet website. For
45 each 10-year round of housing obligations, a municipality may take
46 into consideration the calculations in the report prepared by the

1 department pursuant to this subsection in determining its present
2 and prospective obligations.

3 e. Nothing in the provisions of subsections c., d., or f. of this
4 section shall be interpreted to render any calculation in a report by
5 the department published pursuant to this section binding on any
6 municipality or other entity, nor to render any failure by the
7 department to timely conduct the calculations or publish a report
8 required by this section to alter the deadlines or process set forth in
9 this section. The ultimate determination of a municipality's present
10 and prospective need shall be through the process as set forth
11 below.

12 f. (1) (a) With consideration of the calculations contained in
13 the relevant report published by the department pursuant to this
14 section, for each 10-year round of affordable housing obligations
15 beginning with the fourth round, a municipality shall determine its
16 present and prospective fair share obligation for affordable housing
17 in accordance with the formulas established in sections 6 and 7 of
18 P.L. , c. (C. and C.) (pending before the Legislature as
19 this bill) by resolution, which shall describe the basis for the
20 municipality's determination and bind the municipality to adopt a
21 housing element and fair share plan pursuant to paragraph (2) of
22 this subsection based on this determination as may be adjusted by
23 the program as set forth in this subsection.

24 (b) For the fourth round of affordable housing obligations, this
25 determination of present and prospective fair share obligation shall
26 be made by binding resolution no later than January 31, 2025.
27 After adoption of this binding resolution, the municipality shall file
28 an action regarding the resolution with the program no later than 48
29 hours following adoption. The resolution, along with the date of
30 filing with the program, shall be published on the program's
31 publicly accessible Internet website. The municipality shall also
32 publish the resolution on its publicly accessible Internet website, if
33 the municipality maintains one. If the municipality does not meet
34 this deadline, it ²**[immediately]**² shall lose immunity from
35 ²**[builder's remedy] exclusionary zoning**² litigation until such time
36 as the municipality is determined to have come into compliance
37 with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)
38 and the Mount Laurel doctrine. A determination of the
39 municipality's present and prospective obligation may be
40 established before a county level housing judge as part of any
41 resulting declaratory judgment action pursuant to section 13 of
42 P.L.1985, c.222 (C.52:27D-313), as amended by P.L. ,
43 c. (C.) (pending before the Legislature as this bill), or
44 through ²**[builder's remedy] exclusionary zoning**² litigation. If the
45 municipality meets this January 31 deadline, then the municipality's
46 determination of its obligation shall be established by default ², and
47 shall bear a presumption of validity² beginning on March 1, 2025,
48 as the municipality's obligation for the fourth round, unless

1 challenged by an interested party on or before February 28, 2025.
2 ²The municipality's determination of its fair share obligation shall
3 have a presumption of validity, if established in accordance with
4 sections 6 and 7 of P.L. , c. (C. and C.) (pending
5 before the Legislature as this bill), in any challenge initiated
6 through the program.² An interested party may file a challenge
7 with the program, after adoption of the binding resolution and prior
8 to March 1, 2025, alleging that the municipality's determination of
9 its present and prospective obligation does not comply with the
10 requirements of sections 6 and 7 of P.L. ,
11 c. (C. and C.) (pending before the Legislature as this
12 bill). For the fifth round, and each subsequent new round of
13 housing obligations, the deadlines established in this subparagraph
14 shall be on the last day of January, the last day of February, and the
15 first day of March, respectively, of the year of the start of each new
16 round.

17 (c) The Administrative Director of the Courts shall establish
18 procedures for the program to consider a challenge and resolve a
19 dispute initiated by an interested party pursuant to subparagraph (b)
20 of this paragraph. To resolve a challenge, the program shall apply
21 an objective assessment standard to determine whether or not the
22 municipality's calculation of its obligation is compliant with the
23 requirements of sections 6 and 7 of P.L. ,
24 c. (C. and C.) (pending before the Legislature as this
25 bill). Any challenge must state with particularity how the
26 municipal calculation fails to comply with sections 6 and 7 of
27 P.L. , c. (C. and C.) (pending before the Legislature as
28 this bill) and include the challenger's own calculation of the fair
29 share obligations in compliance with sections 6 and 7 of P.L. ,
30 c. (C. and C.) (pending before the Legislature as this
31 bill). The program shall establish procedures to summarily dismiss
32 any objection or challenge that does not meet these minimum
33 standards. For the purpose of efficiency, the program shall, in its
34 own discretion, permit multiple challenges to the same municipal
35 determination to be consolidated. The program's approach to
36 resolving a dispute may include: (i) a finding that the municipality's
37 determination of its present and prospective need obligation did not
38 facially comply with the requirements of sections 6 and 7 of P.L. ,
39 c. (C. and C.) (pending before the Legislature as this
40 bill) and thus the municipality's immunity shall be revoked; (ii) an
41 adjustment of the municipality's determination of its present and
42 prospective need obligation to comply with the requirements of
43 sections 6 and 7 of P.L. , c. (C. and C.) (pending
44 before the Legislature as this bill) without revoking immunity; or
45 (iii) a rejection of a challenge and affirm the municipality's
46 determination. The decision shall be provided to the municipality
47 and all parties that have filed challenges no later than March 31 of
48 the year when the current round is expiring and the new round is

1 beginning and concurrently posted on the program's Internet
2 website. The Administrative Director of the Courts shall establish
3 procedures for any further appellate review of such determinations,
4 and may establish an expedited process for consolidated review of
5 any such challenges by the Supreme Court, provided that any party
6 seeking appellate review shall not change the deadlines established
7 for municipal filing of a housing element and fair share plan, and
8 implementing ordinances.

9 (2) (a) A municipality shall adopt a housing element and fair
10 share plan as provided for by the "Fair Housing Act," P.L.1985,
11 c.222 (C.52:27D-301 et al.), and propose drafts of the appropriate
12 zoning and other ordinances and resolutions to implement its
13 present and prospective obligation established in paragraph (1) of
14 this subsection on or before June 30, 2025. After adoption of the
15 housing element and fair share plan, and the proposal of drafts of
16 the appropriate zoning and other ordinances and resolutions, the
17 municipality shall within 48 hours of adoption or by June 30, 2025,
18 whichever is sooner, file the same with the program as part of the
19 action initiated pursuant to subparagraph (b) of paragraph (1) of this
20 subsection through the program's Internet website. Any
21 municipality that does not do so by June 30, 2025, shall not retain
22 immunity from ²**builder's remedy** exclusionary zoning² litigation
23 until such time as the municipality is determined to have come into
24 compliance with the "Fair Housing Act," P.L.1985, c.222
25 (C.52:27D-301 et al.) and the Mount Laurel doctrine and shall be
26 subject to review through the declaratory judgment process as
27 established in paragraph (3) of this subsection. As part of its
28 housing element and fair share plan, the municipality shall include
29 an assessment of the degree to which the municipality has met its
30 fair share obligation from the prior rounds of affordable housing
31 obligations as established by prior court approval, or approval by
32 the council, and determine to what extent this obligation is
33 unfulfilled or whether the municipality has credits in excess of its
34 prior round obligations. If a prior round obligation remains
35 unfulfilled, or a municipality never received an approval from court
36 or the council for any prior round, the municipality shall address
37 such unfulfilled prior round obligation in its housing element and
38 fair share plan. Units included as part of the municipality's
39 unfulfilled prior round obligation shall not count towards the cap on
40 units in the municipality's prospective need obligation. In
41 addressing prior round obligations, the municipality shall retain any
42 sites that, in furtherance of the prior round obligation, are the
43 subject of a contractual agreement with a developer, or for which
44 the developer has filed a complete application seeking subdivision
45 or site plan approval prior to the date by which the housing element
46 and fair share plan are required to be submitted, and shall
47 demonstrate how any sites that were not built in the prior rounds
48 continue to present a realistic opportunity, which may include

1 proposing changes to the zoning on the site to make its development
2 more likely, and which may also include the dedication of
3 municipal affordable housing trust fund dollars or other monetary or
4 in-kind resources. The municipality shall only plan to replace any
5 sites planned for development as provided by a prior court approval,
6 settlement agreement, or approval by the council, with alternative
7 development plans, if it is determined that the previously planned
8 sites no longer present a realistic opportunity, and the sites in the
9 alternative development plan provide at least an equivalent number
10 of affordable units and are otherwise in compliance with the "Fair
11 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount
12 Laurel doctrine. If a municipality proposes to replace a site for
13 which a complete application seeking subdivision or site plan
14 approval has not been filed prior to date by which the housing
15 element and fair share plan is required to be submitted, there shall
16 be a rebuttable presumption in any challenge filed to the
17 municipality's plan that any site for which a zoning designation was
18 adopted creating a realistic opportunity for the development of a
19 site prior to July 1, 2020, or July 1 of every 10th year thereafter, as
20 applicable, may be replaced with one or more alternative sites that
21 provide a realistic opportunity for at least the same number of
22 affordable units and is otherwise in compliance with the "Fair
23 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount
24 Laurel doctrine. To the extent a municipality has credits, including
25 bonus credits, from units created during a prior round that are
26 otherwise permitted to be allocated toward the municipality's
27 unfulfilled prior round obligation or present or prospective need
28 obligation in an upcoming round, the municipality shall be entitled
29 to rely on the rules, including rules for bonus credits, applicable for
30 the round during which those credits were accumulated. If a
31 municipality has credits in excess of its prior round obligations, and
32 such excess credits represent housing that will continue to be deed-
33 restricted and affordable through the current round, the municipality
34 may include such housing, and applicable bonus credits, towards
35 addressing the municipality's new calculation of prospective need.
36 Consistent with subsection k. of section 11 of P.L.1985, c.222
37 (C.52:27D-311), the total number of bonus credits shall in no
38 circumstance exceed 25 percent of the municipality's prospective
39 obligation in any round. The municipality may in its plan lower its
40 prospective need obligation to the extent necessary to prevent
41 establishing a prospective need obligation that requires the
42 municipality to provide a realistic opportunity for more than 1,000
43 housing units, after the application of any excess credits, or to
44 prevent a prospective need obligation that exceeds 20 percent of the
45 total number of households in a municipality according to the most
46 recent federal decennial census, not including any prior round
47 obligation. If a municipality is subject to both a 1,000 unit cap or
48 20 percent cap it may apply whichever cap results in a lower

1 prospective need obligation. For the fifth round, and for each
2 subsequent new round of housing obligations, the deadlines in this
3 paragraph shall be June 30 for the adoption of the housing element
4 and fair share plan, and the proposal of drafts of the appropriate
5 zoning and other ordinances and resolutions to implement its
6 present and prospective obligation, of the year of the start of the
7 new round.

8 (b) Following the filing, in an action, of an adopted housing
9 element and fair share plan pursuant to subparagraph (a) of this
10 paragraph, an interested party may file a response on or before
11 August 31, 2025 alleging that the municipality's fair share plan and
12 housing element are not in compliance with the "Fair Housing Act,"
13 P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine.
14 Such allegation shall not include a claim that a site on real property
15 proposed by the interested party is a better site than a site in the
16 plan, but rather shall be based on whether the housing element and
17 fair share plan as proposed is compliant with the "Fair Housing
18 Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel
19 doctrine. To resolve a challenge, the program shall apply an
20 objective assessment standard to determine whether or not the
21 municipality's housing element and fair share plan is compliant
22 with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)
23 and the Mount Laurel doctrine. Any interested party that files a
24 challenge shall specify with particularity which sites or elements of
25 the municipal fair share plan do not comply with the "Fair Housing
26 Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel
27 doctrine, and the basis for alleging such non-compliance. The
28 program shall establish procedures to summarily dismiss any
29 objection or challenge that does not meet these minimum standards.
30 For the purpose of efficiency, the program shall, in its own
31 discretion, permit multiple challenges to the same municipal
32 housing element and fair share plan to be consolidated. If a
33 municipality's fair share plan and housing element is not challenged
34 on or before August 31, 2025, then the program shall ²apply an
35 objective standard to conduct a limited² review ²of² the fair share
36 plan and housing element for consistency and to determine whether
37 it ²enables the municipality to satisfy the fair share obligation,
38 applies compliant mechanisms, meets the threshold requirements
39 for rental and family units, does not exceed limits on other unit or
40 category types, and² is compliant with the "Fair Housing Act,"
41 P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel
42 doctrine ²[, and] . The program shall² issue a compliance
43 certification unless these objective standards are not met. The
44 program shall facilitate communication between the municipality
45 and any interested parties for a challenge, and provide the
46 municipality until December 31, 2025 to commit to revising its fair
47 share plan and housing element in compliance with the changes
48 requested in the challenge, or provide an explanation as to why it

1 will not make all of the requested changes, or both. Upon
2 resolution of a challenge, the program shall issue compliance
3 certification, conditioned on the municipality's commitment, as
4 necessary, to revise its fair share plan and housing element in
5 accordance with the resolution of the challenge. The program may
6 also terminate immunity if it finds that the municipality is not
7 determined to come into constitutional compliance at any point in
8 the process. If by December 31, 2025, the municipality and any
9 interested party that filed a response have resolved the issues raised
10 in the response through agreement or withdrawal of the filing, then
11 the program shall review the fair share plan and housing element for
12 consistency and to determine whether it is compliant with the "Fair
13 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount
14 Laurel doctrine, and issue a compliance certification unless these
15 objective standards are not met. For the fifth round, and each
16 subsequent new round of housing obligations, the deadline
17 established in this subparagraph for an interested party to file a
18 challenge shall be August 31, and for the municipality to revise its
19 housing element and fair share plan in response, shall be December
20 31, of the year of the beginning of the new round.

21 (c) For the fourth round of affordable housing obligations, the
22 implementing ordinances and resolutions, proposed pursuant to
23 subparagraph (a) of this paragraph, and incorporating any changes
24 from the program, shall be adopted on or before March 15, 2026.
25 For the fifth round, and each subsequent new round of housing
26 obligations, the deadline established in this subparagraph for the
27 implementing ordinances and resolutions shall be on March 15 of
28 the year following the beginning of the new round. After adoption
29 of the implementing ordinances and resolutions by the municipality,
30 the municipality shall immediately file the ordinances and
31 resolutions with the program through the program's Internet
32 website. Failure to meet the March 15 deadline shall result in the
33 municipality losing immunity from ²**[builder's remedy]**
34 exclusionary zoning² litigation.

35 (d) The program may permit a municipality that still has a
36 remaining dispute by interested parties to retain immunity from
37 ²**[builder's remedy]** exclusionary zoning² litigation into the year
38 following the year in which a new round begins if the program, or
39 county level housing judge, determines that the municipality has
40 been unable to resolve the issues disputed despite being determined
41 to come into constitutional compliance. The Administrative
42 Director of the Courts shall develop procedures to enable a county
43 level housing judge to resolve this dispute over the issuance of
44 compliance certification through a summary proceeding in Superior
45 Court following the year in which the new round begins. A judge
46 shall be permitted to serve as a county level housing judge for more
47 than one county in the same vicinage. The pendency of such a
48 dispute shall not stay the deadline for adoption of implementing

1 ordinances and resolutions pursuant to this paragraph. ²The
2 implementing ordinances and resolutions adopted prior to the
3 resolution of the dispute may be subject to changes to reflect the
4 results of the dispute. As an alternative to adopting all necessary
5 implementing ordinances and resolutions by the March 15 deadline,
6 a municipality involved in a continuing dispute over the issuance of
7 compliance certification may adopt a binding resolution by this date
8 to commit to adopting the implementing ordinances and resolutions
9 following resolution of the dispute, with necessary adjustments to
10 reflect the resolution of the dispute.²

11 (e) Once a municipality has received a compliance certification
12 or otherwise has had its fair share obligation and housing element
13 and fair share plan finally determined via judgment of repose or
14 other judgment, the municipality shall make the municipality's fair
15 share plan and housing element, as well as any subsequently
16 adopted implementing ordinances and resolutions, or amendments
17 thereto, available to the department and the program for publication
18 on the department's and program's respective Internet websites.

19 (3) (a) If a municipality fails to ²materially² adhere to any of
20 the deadlines established in paragraphs (1) or (2) of this subsection
21 due to circumstances beyond the control of the municipality,
22 including but not limited to an inability to meet a deadline due to an
23 extreme weather event, then the program, or the county level
24 housing judge, in accordance with court rules, may permit a
25 municipality to have a grace period to come into compliance with
26 the timeline, the length of which, and effect of which on later
27 deadlines, shall be determined on a case-by-case basis.

28 (b) A municipality that has not adopted and published a binding
29 resolution pursuant to paragraph (1) of this subsection or that has
30 not adopted and filed a housing element and fair share plan pursuant
31 to paragraph (2) of this subsection may seek compliance
32 certification by filing an action pursuant to section 13 of P.L.1985,
33 c.222 (C.52:27D-313), provided that any ²**【builder's remedy】**
34 exclusionary zoning² litigation filed by a plaintiff against such a
35 municipality prior to such time may proceed notwithstanding such
36 filing. In a municipality that has adopted and published a binding
37 resolution pursuant to paragraph (1) of this subsection and has
38 adopted and filed a housing element and fair share plan pursuant to
39 paragraph (2) of this subsection, a court shall not ²**【grant a builder's**
40 **remedy to a plaintiff in】** consider² exclusionary zoning litigation
41 during the timeframe after the timely submission of a binding
42 resolution or fair share plan and housing element of a municipality,
43 or both, and before a challenge is submitted, or during the
44 timeframe of a challenge that is pending resolution with the
45 program pursuant to this subsection. A court may ²**【grant a**
46 **builder's remedy to a plaintiff in】** consider² exclusionary zoning
47 litigation after such timeframe upon a finding that the municipality:

1 (i) is determined to be constitutionally noncompliant with its
 2 responsibilities pursuant to the "Fair Housing Act," P.L.1985, c.222
 3 (C.52:27D-301 et al.) or is participating in the program in bad faith;
 4 (ii) has failed to meet the deadlines established pursuant to P.L. ,
 5 c. (C.) (pending before the Legislature as this bill); or (iii)
 6 has, after receiving compliance certification, failed to comply with
 7 the terms of that certification by not actually allowing for the
 8 development of the affordable housing as provided for in its fair
 9 share plan and housing element through actions, omissions, or both,
 10 of a municipality or its subordinate boards.

11 (c) All parties shall bear their own fees and costs in proceedings
 12 before the program.

13 (d) A determination by the program as to the present and
 14 prospective need obligation or as to issuance of compliance
 15 certification pursuant to this section shall be considered a final
 16 decision, subject to appellate review pursuant to the procedures set
 17 forth in subparagraph (c) of paragraph (1) of subsection f. of this
 18 section.

19 (e) A municipality shall not be deemed out of compliance with
 20 the deadlines of P.L. , c. (C.) (pending before the
 21 Legislature as this bill), or lose immunity from ²**builder's remedy**
 22 exclusionary zoning² litigation, due to a failure by the program to
 23 promptly maintain and update its Internet website, or other
 24 operational failure of the program.

25 ²g. A compliance certification, issued pursuant to P.L. ,
 26 c. (C.) (pending before the Legislature as this bill), shall be
 27 accompanied by a written report that shall set forth the basis of the
 28 issuance of the certification, and shall be in a format to be
 29 developed and approved by the Administrative Director of the
 30 Courts.²

31

32 4. Section 13 of P.L.1985, c.222 (C.52:27D-313) is amended to
 33 read as follows:

34 13. a. **[A]** If a municipality [which] has [filed a housing
 35 element may, at any time during a two-year period following the
 36 filing of the housing element, petition the council for a substantive
 37 certification of its element and ordinances or] **adopted a housing**
 38 element and fair share plan pursuant to section 3 of P.L. ,
 39 c. (C.) (pending before the Legislature as this bill), but has
 40 failed to satisfy the June 30 deadline established pursuant to
 41 paragraph (2) of subsection f. of section 3 of P.L. , c. (C.)
 42 (pending before the Legislature as this bill), for any round of
 43 affordable housing obligations, the municipality may request and be
 44 provided with a grace period pursuant to paragraph (3) of
 45 subsection f. of section 3 of P.L. , c. (C.) (pending before
 46 the Legislature as this bill), if authorized by the program or county
 47 level housing judge, as determined by the rules of court. If a

1 municipality that has not satisfied this June 30 deadline is not
2 provided with a grace period, the municipality may institute an
3 action for declaratory judgment granting it repose in the Superior
4 Court **】, but in no event shall a grant of substantive certification**
5 extend beyond a 10-year period starting on the date the municipality
6 files its housing element with the council **】 for the 10-year period**
7 constituting the current round of fair share obligations. The
8 municipality shall publish notice of its **【petition】** filing of a
9 declaratory judgment action in a newspaper of general circulation
10 within the municipality and county and shall make available to the
11 public information on the element and ordinances by submitting
12 such information to the program to be published on the Internet
13 website of the program in accordance with **【such procedures as the**
14 council shall establish. The council shall also establish a procedure
15 for providing public notice of each petition which it receives **】**
16 section 3 of P.L. , c. (C.) (pending before the Legislature
17 as this bill).

18 b. **【Notwithstanding the provisions of subsection a. of this**
19 section, a municipality which filed a housing element prior to the
20 effective date of P.L.1990, c.121, shall be permitted to petition for
21 substantive certification at any time within two years following that
22 filing, or within one year following the effective date of P.L.1990,
23 c.121, whichever shall result in permitting the municipality the
24 longer period of time within which to petition. **】** (Deleted by
25 amendment, P.L. , c. (pending before the Legislature as this bill)

26 **【The Council shall establish procedures for】** c. (1) A
27 municipality or other interested party may file an action through the
28 program seeking a realistic opportunity review **【at the midpoint of**
29 the certification period and shall provide for notice to the public】 at
30 the midpoint of the certification period and shall provide for notice
31 to the public, including a realistic opportunity review of any
32 inclusionary development site in the housing element and fair share
33 plan that has not received preliminary site plan approval prior to the
34 midpoint of the 10-year round. If such an action is initiated by a
35 municipality, the municipality ²**【shall】 may²** propose one or more
36 alternative sites with an accompanying development plan or plans
37 that provide a realistic opportunity for the same number of
38 affordable units and is otherwise in compliance with the "Fair
39 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount
40 Laurel doctrine, provided that if the facts demonstrate that the
41 municipality or its subordinate boards have prevented the site from
42 receiving site plan approval, then the program shall reject the
43 municipality's challenge.

44 (2) Any party may file a request for information from the
45 program regarding the progress of development at any inclusionary
46 development site in the housing element and fair share plan of a
47 municipality, or at any alternative site proposed by the

1 municipality. The program may respond to a request independently
2 or in coordination with the department.

3 (cf: P.L.2001, c.435, s.5)

4

5 5. (New section) a. There is established an Affordable Housing
6 Dispute Resolution Program that shall have the purpose of
7 efficiently resolving disputes involving the "Fair Housing Act,"
8 P.L.1985, c.222 (C.52:27D-301 et al.), to consist of an odd number
9 of members, of at least three and no more than seven members who
10 shall lead the administration of the program. The ¹【Chief Justice of
11 the Supreme Court】 Administrative Director of the Courts¹ shall
12 update the assignment of designated Mount Laurel judges to
13 indicate which current or retired and on recall judges of the
14 Superior Court shall serve as members, within ¹【40】 60¹ days
15 following the effective date of P.L. , c. (C.) (pending
16 before the Legislature as this bill). The ¹【Chief Justice of the
17 Supreme Court】 Administrative Director of the Courts¹ may
18 appoint other qualified experts as members if sufficient current and
19 retired judges are unavailable. The ¹【Chief Justice of the Supreme
20 Court】 Administrative Director of the Courts¹ shall take into
21 consideration in making such appointments experience in the
22 employment of alternative dispute resolution methods and in
23 relevant subject matter.

24 b. The ¹【Chief Justice of the Supreme Court】 Administrative
25 Director of the Courts¹ shall designate a member to serve as chair.
26 The ¹【Chief Justice of the Supreme Court】 Administrative Director
27 of the Courts¹ shall make new appointments as needs arise for new
28 appointments.

29 c. The program, in its discretion and in accordance with Rules of
30 Court, may consult or employ the services of one or more special
31 masters or staff to assist it in rendering determinations, resolving
32 disputes, and facilitating communication as required by
33 subparagraph (b) of paragraph (2) of subsection f. of section 3 of
34 P.L. , c. (C.) (pending before the Legislature as this bill).
35 In addition, the program may incorporate any existing or newly
36 established court mediation or alternative dispute resolution process
37 to assist the program in resolving disputes and facilitating
38 communication among municipalities and interested parties.

39 d. The Administrative Director of the Courts shall establish a
40 filing system via an Internet website in which the public is able to
41 access, without cost, filings made pursuant to P.L. , c. (C.)
42 (pending before the Legislature as this bill) and such other related
43 filings as the Administrative Director of the Courts may include on
44 the filing system.

45 e. The Administrative Director of the Courts may assign
46 additional responsibilities to the program for resolving disputes

1 arising out of or related to the "Fair Housing Act," P.L.1985, c.222
2 (C.52:27D-301 et al.).

3 f. The Administrative Director of the Courts shall establish
4 procedures for the purpose of efficiently resolving disputes
5 involving the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301
6 et al.), for circumstances in which the program is unable to address
7 the dispute within the time limitations established pursuant to
8 section 3 of P.L. , c. (C.) (pending before the Legislature
9 as this bill). As a part of the procedures established pursuant to this
10 section, in order to facilitate an appropriate level of localized
11 control of affordable housing decisions, for each vicinage, the Chief
12 Justice of the Supreme Court shall designate a Superior Court judge
13 who sits within the vicinage, or a retired judge who, during the
14 judge's tenure as a judge, served within the vicinage, to serve as
15 county level housing judge to resolve disputes over the compliance,
16 of fair share plans and housing elements of municipalities within
17 their designated county or counties, with the "Fair Housing Act,"
18 P.L.1985, c.222 (C.52:27D-301 et al.), as well as disputes that arise
19 with respect to ongoing compliance or noncompliance with
20 obligations created by fair share plans, housing elements, and the
21 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). A
22 judge shall be permitted to serve as a county level housing judge for
23 more than one county in the same vicinage.

24 g. The Administrative Director of the Courts shall promulgate,
25 maintain, and apply a Code of Ethics that is modeled upon the Code
26 of Judicial Conduct of the American Bar Association, as amended
27 and adopted by the Supreme Court of New Jersey, and may
28 establish additional, more restrictive ethical standards in order to
29 meet the specific needs of the program, and of county level housing
30 judges.

31

32 6. (New section) a. Municipal present need for each 10-year
33 round of affordable housing obligations shall be determined by
34 estimating the deficient housing units occupied by low- and
35 moderate-income households in the region, following a
36 methodology similar to the methodology used to determine third
37 round municipal present need, through the use of most recent
38 datasets made available through the federal decennial census and
39 the American Community Survey ², including the Comprehensive
40 Housing Affordability Strategy dataset thereof².

41 b. For the purpose of determining regional need for the 10-year
42 round of low- and moderate-income housing obligations, running
43 from July 1, 2025 through June 30, 2035, and each 10-year round
44 thereafter:

45 (1) The regions of the State shall be comprised as follows:

46 (a) Region 1 shall consist of the counties of Bergen, Hudson,
47 Passaic, and Sussex;

- 1 (b) Region 2 shall consist of the counties of Essex, Morris,
2 Union, and Warren;
- 3 (c) Region 3 shall consist of the counties of Hunterdon,
4 Middlesex, and Somerset;
- 5 (d) Region 4 shall consist of the counties of Mercer, Monmouth,
6 and Ocean;
- 7 (e) Region 5 shall consist of the counties of Burlington,
8 Camden, and Gloucester; and
- 9 (f) Region 6 shall consist of the counties of Atlantic, Cape May,
10 Cumberland, and Salem.

11 (2) Regional prospective need for a 10-year round of low- and
12 moderate-income housing obligations shall be determined through
13 the calculation provided in this subsection. Projected household
14 change for a 10-year round in a region shall be estimated by
15 establishing the household change experienced in the region
16 between the most recent federal decennial census, and the second-
17 most recent federal decennial census. This household change, if
18 positive, shall be divided by 2.5 to estimate the number of low- and
19 moderate-income homes needed to address low- and moderate-
20 income household change in the region, and to determine the
21 regional prospective need for a 10-year round of low- and
22 moderate-income housing obligations. If household change is zero
23 or negative, the number of low- and moderate-income homes
24 needed to address low- and moderate-income household change in
25 the region and the regional prospective need shall be zero.

26

27 7. (New section) a. The present and prospective fair share
28 obligation for low- and moderate-income housing for each
29 municipality in the State shall be determined as described in this
30 section. In addition, the March 8, 2018 unpublished decision of the
31 Superior Court, Law Division, Mercer County, In re Application of
32 Municipality of Princeton shall be referenced as to datasets and
33 methodologies that are not explicitly addressed by this section.
34 These determinations of municipal present and prospective need
35 shall be based on a determination of the present and prospective
36 regional need for low- and moderate-income housing, established
37 pursuant to section 6 of P.L. , c. (C.) (pending before the
38 Legislature as this bill). These calculations of municipal present
39 and prospective need shall use necessary datasets that are updated
40 to the greatest extent practicable.

41 b. A municipality's present need obligation shall be determined
42 by estimating the existing deficient housing units currently
43 occupied by low- and moderate-income households within the
44 municipality, following a methodology comparable to the
45 methodology used to determine third round present need, through
46 the use of datasets made available through the federal decennial
47 census and the American Community Survey ², including the
48 Comprehensive Housing Affordability Strategy dataset thereof².

1 c. A municipality's prospective fair share obligation of the
2 regional prospective need for the upcoming 10-year round shall be
3 determined in accordance with this subsection:

4 (1) If a municipality is a qualified urban aid municipality, the
5 municipality shall be exempt from responsibility for any fair share
6 prospective need obligation for the upcoming 10-year round. For
7 the purposes of this section, a municipality is a qualified urban aid
8 municipality if the municipality, as of July 1 of the year prior to the
9 beginning of a new round, is designated by the department, pursuant
10 to P.L.1978, c.14 (C.52:27D-178 et seq.), to receive State aid, and
11 the municipality meets at least one of the following criteria:

12 (a) The ratio of substandard existing deficient housing units
13 currently occupied by low- and moderate-income households within
14 the municipality, compared to all existing housing in the
15 municipality, is greater than the equivalent ratio in the region;

16 (b) The municipality has a population density greater than
17 10,000 persons per square mile of land area; or

18 (c) The municipality has a population density of more than
19 6,000, but less than 10,000 persons per square mile of land area,
20 and less than five percent vacant parcels not used as farmland, as
21 measured by the average of:

22 (i) The number of vacant land parcels in the municipality as a
23 percentage of the total number of parcels in the municipality; and

24 (ii) The valuation of vacant land in the municipality as a
25 percentage of total valuations in the municipality.

26 (2) A municipality's equalized nonresidential valuation factor
27 shall be determined. To determine this factor, the changes in
28 nonresidential property valuations in the municipality, since the
29 beginning of the round preceding the round being calculated, shall
30 be calculated using data published by the Division of Local
31 Government Services in the department. ²For the purposes of this
32 paragraph, the beginning of the round of affordable housing
33 obligations preceding the fourth round shall be the beginning of the
34 gap period in 1999.² The change in the municipality's
35 nonresidential valuations shall be divided by the regional total
36 change in nonresidential valuations to determine the municipality's
37 share of the regional change as the equalized nonresidential
38 valuation factor.

39 (3) A municipality's income capacity factor shall be determined.
40 This factor shall be determined by calculating the average of the
41 following measures:

42 (a) The municipal share of the regional sum of the differences
43 between the median municipal household income, according to the
44 most recent American Community Survey Five-Year Estimates, and
45 an income floor of \$100 below the lowest median household
46 income in the region; and

47 (b) The municipal share of the regional sum of the differences
48 between the median municipal household incomes and an income

1 floor of \$100 below the lowest median household income in the
2 region, weighted by the number of the households in the
3 municipality.

4 (4) A municipality's land capacity factor shall be determined.
5 This factor shall be determined by estimating the area of
6 developable ²~~and redevelopable~~² land in the municipality's
7 boundaries, and regional boundaries, that may accommodate
8 development through the use of the "land use / land cover data"
9 most recently published by the Department of Environmental
10 Protection, ²data from the American Community Survey and
11 Comprehensive Housing Affordability Strategy dataset thereof,
12 MOD-IV Property Tax List data from the Division of Taxation in
13 the Department of the Treasury, and construction permit data from
14 the Department of Community Affairs,² and weighing such land
15 based on the planning area type in which such land is located. After
16 the weighing factors are applied, the sum of the total developable
17 ²~~and redevelopable~~² land area that may accommodate
18 development in the municipality, and in the region shall be
19 determined. The municipality's share of its region's developable
20 ²~~and redevelopable~~² land shall be its land capacity factor.
21 Developable ²~~and redevelopable~~² land that may accommodate
22 development shall be weighted based on the planning area type in
23 which such land is located, as designated pursuant to P.L.1985,
24 c.398 (C.52:18A-196 et seq.), P.L.1979, c.111 (C.13:18A-1 et seq.),
25 or P.L.2004, c.120 (C.13:20-1 et seq.), as follows:

26 (a) Planning Area 1 (Metropolitan) shall have a weighting factor
27 of 1.0;

28 (b) Planning Area 2 (Suburban) shall have a weighting factor of
29 1.0;

30 (c) Planning Area 3 (Fringe) shall have a weighting factor of
31 0.5;

32 (d) Planning Area 4 (Rural) shall have a weighting factor of 0.0;

33 (e) Planning Area 5 (Environmentally Sensitive) shall have a
34 weighting factor of 0.0;

35 (f) Centers in Planning Areas 1 and 2 shall have a weighting
36 factor of 1.0;

37 (g) Centers in Planning Areas 3, 4, and 5 shall have a weighting
38 factor of 0.5;

39 (h) Pinelands Regional Growth Area shall have a weighting
40 factor of 0.5;

41 (i) Pinelands Town shall have a weighting factor of 0.5;

42 (j) All other Pinelands shall have a weighting factor of 0.0;

43 (k) Meadowlands shall have a weighting factor of 1.0;

44 (l) Meadowlands Center shall have a weighting factor of 1.0;

45 (m) Highlands Preservation Area shall have a weighting factor
46 of 0.0;

1 (n) Highlands Planning Area Existing Community Zone ²【,
2 opted in municipality by May 1, 2022】 and Highlands Designated
3 Center in a Highlands-conforming municipality, as determined by
4 the Highlands Water Protection and Planning Council pursuant to
5 the list provided to the department pursuant to subsection d. of
6 section 3 of P.L. , c. (C.) (pending before the Legislature
7 as this bill),² shall have a weighting factor of 1.0;

8 (o) Highlands Planning Area, State-designated sewer service
9 area, ²【municipality not opted in by May 1, 2022】 Highlands
10 municipality that is not a Highlands-conforming municipality as
11 determined by the Highlands Water Protection and Planning
12 Council pursuant to the list provided to the department pursuant to
13 subsection d. of section 3 of P.L. , c. (C.) (pending before
14 the Legislature as this bill)², shall have a weighting factor of 1.0;
15 and

16 (p) All other Highlands Planning Areas shall have a weighting
17 factor of 0.0.

18 (5) The equalized nonresidential valuation factor, income
19 capacity factor, and land capacity factor, determined in paragraphs
20 (2), (3), and (4) of this subsection, shall be averaged to yield the
21 municipality's average allocation factor for distributing gross
22 regional prospective need to the municipality. The regional
23 prospective need shall then be multiplied by the municipality's
24 average allocation factor to determine the municipality's gross
25 prospective need for the 10-year round.

26 ²【(6) Secondary sources of supply and demand shall be adjusted
27 for by first calculating demolitions of low- and moderate-income
28 housing, and housing creation through low- and moderate-income
29 residential conversions. A municipality's share of low- and
30 moderate-income conversions shall then be subtracted from the sum
31 of each municipality's allocated share of gross prospective need and
32 demolitions of low- and moderate-income housing.】²

33
34 8. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to read
35 as follows:

36 4. a. Upon failure to perform any obligation of a residential
37 mortgage by the residential mortgage debtor and before any
38 residential mortgage lender may accelerate the maturity of any
39 residential mortgage obligation and commence any foreclosure or
40 other legal action to take possession of the residential property
41 which is the subject of the mortgage, the residential mortgage
42 lender shall give a notice of intention, which shall include a notice
43 of the right to cure the default as provided in section 5 of P.L.1995,
44 c.244 (C.2A:50-57), at least 30 days, but not more than 180 days, in
45 advance of such action as provided in this section, to the residential
46 mortgage debtor, and, if the mortgage is secured by a residence for
47 which a restriction on affordability was recorded in the county in

1 which the property is located, the clerk of the municipality in which
2 the subject property is located, the municipal housing liaison, if one
3 has been appointed by the municipality [pursuant to the regulations
4 of the Council on Affordable Housing, and the Commissioner of
5 Community Affairs]. For the purposes of this section, "restriction
6 on affordability" means any conditions recorded with a mortgage or
7 a deed which would limit the sale of such property to income
8 qualified households pursuant to the rules adopted to effectuate the
9 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

10 b. Notice of intention to take action as specified in subsection
11 a. of this section shall be in writing, provided to the Department of
12 Community Affairs in accordance with subsection a. of section 2 of
13 P.L.2019, c.134 (C.46:10B-49.2), sent to the debtor by registered or
14 certified mail, return receipt requested, at the debtor's last known
15 address, and, if different, to the address of the property which is the
16 subject of the residential mortgage. The notice is deemed to have
17 been effectuated on the date the notice is delivered in person or
18 mailed to the party.

19 c. The written notice shall clearly and conspicuously state in a
20 manner calculated to make the debtor aware of the situation:

21 (1) the particular obligation or real estate security interest;

22 (2) the nature of the default claimed;

23 (3) the right of the debtor to cure the default as provided in
24 section 5 of P.L.1995, c.244 (C.2A:50-57);

25 (4) what performance, including what sum of money, if any, and
26 interest, shall be tendered to cure the default as of the date specified
27 under paragraph (5) of this subsection c.;

28 (5) the date by which the debtor shall cure the default to avoid
29 initiation of foreclosure proceedings, which date shall not be less
30 than 30 days after the date the notice is effective, and the name and
31 address and phone number of a person to whom the payment or
32 tender shall be made;

33 (6) that if the debtor does not cure the default by the date
34 specified under paragraph (5) of this subsection c., the lender may
35 take steps to terminate the debtor's ownership in the property by
36 commencing a foreclosure suit in a court of competent jurisdiction;

37 (7) that if the lender takes the steps indicated pursuant to
38 paragraph (6) of this subsection c., a debtor shall still have the right
39 to cure the default pursuant to section 5 of P.L.1995, c.244
40 (C.2A:50-57), but that the debtor shall be responsible for the
41 lender's court costs and attorneys' fees in an amount not to exceed
42 that amount permitted pursuant to the Rules Governing the Courts
43 of the State of New Jersey;

44 (8) the right, if any, of the debtor to transfer the real estate to
45 another person subject to the security interest and that the transferee
46 may have the right to cure the default as provided in P.L.1995,
47 c.244 (C.2A:50-53 et seq.), subject to the mortgage documents;

1 (9) that the debtor is advised to seek counsel from an attorney of
2 the debtor's own choosing concerning the debtor's residential
3 mortgage default situation, and that, if the debtor is unable to obtain
4 an attorney, the debtor may communicate with the New Jersey Bar
5 Association or Lawyer Referral Service in the county in which the
6 residential property securing the mortgage loan is located; and that,
7 if the debtor is unable to afford an attorney, the debtor may
8 communicate with the Legal Services Office in the county in which
9 the property is located;

10 (10) the possible availability of financial assistance for curing a
11 default from programs operated by the State or federal government
12 or nonprofit organizations, if any, as identified by the
13 Commissioner of Banking and Insurance and, if the property is
14 subject to restrictions on affordability, the address and phone
15 number of the municipal affordable housing liaison and of the New
16 Jersey Housing and Mortgage Finance Agency. This requirement
17 shall be satisfied by attaching a list of such programs promulgated
18 by the commissioner;

19 (11) the name and address of the lender and the telephone
20 number of a representative of the lender whom the debtor may
21 contact if the debtor disagrees with the lender's assertion that a
22 default has occurred or the correctness of the mortgage lender's
23 calculation of the amount required to cure the default;

24 (12) that if the lender takes the steps indicated pursuant to
25 paragraph (6) of this subsection, the debtor has the option to
26 participate in the Foreclosure Mediation Program following the
27 filing of a mortgage foreclosure complaint by initiating mediation
28 pursuant to paragraph (2) of subsection a. of section 4 of P.L.2019,
29 c.64 (C.2A:50-77). Notice of the option to participate in the
30 Foreclosure Mediation Program shall adhere to the requirements of
31 section 3 of P.L.2019, c.64 (C.2A:50-76) and any court rules,
32 procedures, or guidelines adopted by the Supreme Court;

33 (13) that the debtor is entitled to housing counseling, at no cost
34 to the debtor, through the Foreclosure Mediation Program
35 established by the New Jersey Judiciary, including information on
36 how to contact the program;

37 (14) that if the property which is the subject of the mortgage has
38 more than one dwelling unit but less than five, one of which is
39 occupied by the debtor or a member of the debtor's immediate
40 family as the debtor's or member's residence at the time the loan is
41 originated, and is not properly maintained and meets the necessary
42 conditions for receivership eligibility, established pursuant to
43 section 4 of the "Multifamily Housing Preservation and
44 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential
45 mortgage lender shall file an order to show cause to appoint a
46 receiver; and

47 (15) that the lender is either licensed in accordance with the
48 "New Jersey Residential Mortgage Lending Act," sections 1

1 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89)
2 or exempt from licensure under the act in accordance with
3 applicable law.

4 d. The notice of intention to foreclose required to be provided
5 pursuant to this section shall not be required if the debtor has
6 voluntarily surrendered the property which is the subject of the
7 residential mortgage.

8 e. The duty of the lender under this section to serve notice of
9 intention to foreclose is independent of any other duty to give
10 notice under the common law, principles of equity, State or federal
11 statute, or rule of court and of any other right or remedy the debtor
12 may have as a result of the failure to give such notice.

13 f. Compliance with this section and subsection a. of section 2
14 of P.L.2019, c.134 (C.46:10B-49.2) shall be set forth in the
15 pleadings of any legal action referred to in this section. If the
16 plaintiff in any complaint seeking foreclosure of a residential
17 mortgage alleges that the property subject to the residential
18 mortgage has been abandoned or voluntarily surrendered, the
19 plaintiff shall plead the specific facts upon which this allegation is
20 based.

21 g. If more than 180 days have elapsed since the date the notice
22 required pursuant to this section is sent, and any foreclosure or
23 other legal action to take possession of the residential property
24 which is the subject of the mortgage has not yet been commenced,
25 the lender shall send a new written notice at least 30 days, but not
26 more than 180 days, in advance of that action.

27 h. If the property which is the subject of the notice of intention
28 to foreclose has more than one dwelling unit but less than five, one
29 of which is occupied by the debtor or a member of the debtor's
30 immediate family as the debtor's or member's residence at the time
31 the loan is originated, and is not properly maintained and meets the
32 necessary conditions for receivership eligibility, established
33 pursuant to section 4 of the "Multifamily Housing Preservation and
34 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential
35 mortgage lender shall file an order to show cause to appoint a
36 receiver.

37 (cf: P.L.2019, c.134, s.4)

38

39 9. Section 2 of P.L.2005, c.306 (C.5:18-2) is amended to read as
40 follows:

41 2. The New Jersey Council on Physical Fitness and Sports,
42 established under P.L.1999, c.265 (C.26:1A-37.5 et seq.) is
43 authorized to provide grants to assist low-income families in
44 purchasing the protective eyewear. As used in this section, a "low-
45 income family" means a family which qualifies for low-income
46 housing under the standards promulgated by the **【Council on**
47 **Affordable Housing】** New Jersey Housing and Mortgage Finance

1 Agency pursuant to the "Fair Housing Act," P.L.1985, c.222
2 (C.52:27D-301 et al.).
3 (cf: P.L.2005, c.306, s.2)
4

5 10. Section 25 of P.L.2004, c.120 (C.13:20-23) is amended to
6 read as follows:

7 25. a. The **【Council on Affordable Housing shall take into**
8 **consideration the】** regional master plan **【prior to making any】** shall
9 be taken into account as part of the determination of obligations
10 pursuant to the method in section 7 of P.L. , c. (C.)
11 (pending before the Legislature as this bill) regarding the allocation
12 of the prospective fair share of the housing need **【in any**
13 **municipality in the Highlands Region】** under the "Fair Housing
14 Act," P.L.1985, c.222 (C.52:27D-301 et al.) for **【the】** any fair share
15 period subsequent to **【1999】** the effective date of
16 P.L. , c. (C.) (pending before the Legislature as this bill) if
17 a municipality is in the Highlands Region.

18 b. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall
19 affect protections provided through a grant of substantive
20 certification or a judgment of repose granted prior to **【the date of**
21 **enactment of this act】** August 10, 2004.
22 (cf: P.L.2004, c.120, s.25)
23

24 11. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
25 read as follows:

26 5. The requirements of this act shall not apply to:

27 a. Depository institutions; but subsidiaries and service
28 corporations of these institutions shall not be exempt. A depository
29 institution may register with the department for the purpose of
30 sponsoring individuals, licensed as mortgage loan originators
31 subject to subparagraph (b) of paragraph (1) of subsection c. of
32 section 4 of P.L.2009, c.53 (C.17:11C-54), provided that such
33 registered entity obtains and maintains bond coverage for mortgage
34 loan originators consistent with section 13 of P.L.2009, c.53
35 (C.17:11C-63). A depository institution registered with the
36 department in accordance with this subsection a. shall otherwise
37 remain exempt from the licensing requirements of P.L.2009, c.53
38 (C.17:11C-51 et seq.).

39 b. A registered mortgage loan originator that is registered
40 under the federal "Secure and Fair Enforcement for Mortgage
41 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
42 et seq.).

43 c. A licensed attorney who negotiates the terms of a residential
44 mortgage loan on behalf of a client as an ancillary matter to the
45 attorney's representation of the client, unless the attorney is
46 compensated by a residential mortgage lender, residential mortgage
47 broker, or mortgage loan originator.

1 d. A person licensed as a real estate broker or salesperson
2 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
3 residential mortgage lender or residential mortgage broker. Any
4 person holding a license under this act as a residential mortgage
5 lender or broker shall be exempt from the licensing and other
6 requirements of R.S.45:15-1 et seq. in the performance of those
7 functions authorized by this act.

8 e. Any employer, other than a residential mortgage lender, who
9 provides residential mortgage loans to his employees as a benefit of
10 employment which are at an interest rate which is not in excess of
11 the usury rate in existence at the time the loan is made, as
12 established in accordance with the law of this State, and on which
13 the borrower has not agreed to pay, directly or indirectly, any
14 charge, cost, expense or any fee whatsoever, other than that interest.

15 f. The State of New Jersey or a municipality, or any agency or
16 instrumentality thereof, which, in accordance with a housing
17 element that has previously received substantive certification from
18 the Council on Affordable Housing, or a judgment of repose or
19 other court approval, pursuant to the "Fair Housing Act," P.L.1985,
20 c.222 (C.52:27D-301 et al.), or in fulfillment of a regional
21 contribution agreement with a municipality that has received a
22 certification, employs or proposes to employ municipally generated
23 funds, funds obtained through any State or federal subsidy, or funds
24 acquired by the municipality under a regional contribution
25 agreement, to finance the provision of affordable housing by
26 extending loans or advances, the repayment of which is secured by
27 a lien, subordinate to any prior lien, upon the property that is to be
28 rehabilitated.

29 g. Any individual who offers or negotiates terms of a
30 residential mortgage loan:

- 31 (1) with or on behalf of an immediate family member; or
32 (2) secured by a dwelling that serves as the individual's
33 residence.

34 h. Any person who, during a calendar year takes three or fewer
35 residential mortgage loan applications or offers or negotiates the
36 terms of three or fewer residential mortgage loans or makes three or
37 fewer residential mortgage loans related to manufactured housing
38 structures which are:

- 39 (1) titled by the New Jersey Motor Vehicle Commission;
40 (2) located in a mobile home park as defined in subsection e. of
41 section 3 of P.L.1983, c.400 (C.54:4-1.4); and
42 (3) exempt from taxation as real property pursuant to subsection
43 b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

44 i. A bona fide not for profit entity and any individuals directly
45 employed by that entity, so long as the entity maintains its tax
46 exempt status under Section 501(c)(3) of the Internal Revenue Code
47 of 1986 and otherwise meets the definition of "bona fide not for
48 profit entity" in section 3 of P.L.2009, c.53 (C.17:11C-53), as

1 periodically determined by the department in accordance with rules
2 established by the commissioner.

3 (cf: P.L.2018, c.108, s.3)

4

5 12. Section 2 of P.L.1991, c.465 (C.39:4-10.2) is amended to
6 read as follows:

7 2. a. A person who violates a requirement of this act shall be
8 warned of the violation by the enforcing official. The parent or
9 legal guardian of that person also may be fined a maximum of \$25
10 for the person's first offense and a maximum of \$100 for a
11 subsequent offense if it can be shown that the parent or guardian
12 failed to exercise reasonable supervision or control over the
13 person's conduct. Penalties provided in this section for a failure to
14 wear a helmet may be waived if an offender or his parent or legal
15 guardian presents suitable proof that an approved helmet was
16 owned at the time of the violation or has been purchased since the
17 violation occurred.

18 b. All money collected as fines under subsection a. of this
19 section and subsection a. of section 2 of P.L.1997, c.411
20 (C.39:4-10.6) shall be deposited in a nonlapsing revolving fund to
21 be known as the "Bicycle and Skating Safety Fund." Interest earned
22 on money deposited in the fund shall accrue to the fund. Money in
23 the fund shall be utilized by the director to provide educational
24 programs devoted to bicycle, roller skating and skateboarding
25 safety. If the director determines that sufficient money is available
26 in the fund, he also may use, in a manner prescribed by rule and
27 regulation, the money to assist **[low income]** low-income families
28 in purchasing approved bicycle helmets. For the purposes of this
29 subsection, **["low income family"]** "low-income family" means a
30 family which qualifies for **[low income]** low-income housing under
31 the standards promulgated by the **[Council on Affordable Housing]**
32 New Jersey Housing and Mortgage Finance Agency pursuant to the
33 provisions of P.L.1985, c.222 (C.52:27D-301 et seq.).

34 (cf: P.L.1997, c.411, s.11)

35

36 13. Section 33 of P.L.2008, c.46 (C.40:55D-8.2) is amended to
37 read as follows:

38 33. The Legislature finds and declares:

39 a. The collection of development fees from builders of
40 residential and non-residential properties has been authorized by the
41 court through the powers **[delegated to the Council on Affordable**
42 **Housing]** established pursuant to the "Fair Housing Act," P.L.1985,
43 c.222 (C.52:27D-301 et al.). Due to the Legislature's determination
44 that the role of the Council on Affordable Housing has not
45 developed in practice as intended, the Legislature further
46 determines that authority relating to rulemaking on the collection of
47 residential and non-residential development fees is appropriately

1 delegated to the Department of Community Affairs, given the
2 department's existing roles related to local government finance and
3 the funding and financing of affordable housing throughout the
4 State.

5 b. New Jersey's land resources are becoming more scarce, while
6 its redevelopment needs are increasing. In order to balance the
7 needs of developing and redeveloping communities, a reasonable
8 method of providing for the housing needs of **【low and moderate**
9 **income】** low-, moderate-, and 【middle income】 middle-income
10 households, without mandating the inclusion of housing in every
11 non-residential project, must be established.

12 c. A Statewide non-residential development fee program, which
13 permits municipalities **【under the council's jurisdiction】** that have
14 obtained or are in the process of seeking compliance certification
15 to retain these fees for use in the municipality will provide a fair and
16 balanced funding method to address the State's affordable housing
17 needs, while providing an incentive to all municipalities to 【seek
18 substantive】 obtain compliance certification 【from the council】.

19 d. Whereas, pursuant to P.L.1977, c.110 (C.5:12-1 et seq.),
20 organizations are directed to invest in the Casino Reinvestment
21 Development Authority to ensure that the development of housing
22 for families of **【low and moderate income】** low- and moderate-
23 income shall be provided. The Casino Reinvestment Development
24 Authority **【, in consultation with the council,】** shall work to
25 effectuate the purpose and intent of P.L.1985, c.222 (C.52:27D-301
26 et al.).

27 e. **【The "Statewide Non-Residential Development Fee Act,"**
28 **sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through**
29 **C.40:55D-8.7), prohibits municipalities from imposing their own**
30 **fees to fund affordable housing on non-residential development, and**
31 **P.L.2009, c.90 (C.52:27D-489a et al.) is not intended to alter this**
32 **underlying policy.】** Deleted by amendment P.L. , c. (pending
33 before the Legislature as this bill)

34 f. The negative impact of a State policy that over-relies on a
35 municipal fee structure and of State programs that require a
36 municipality to impose fees and charges on developers must be
37 balanced against any public good expected from such regulation. It
38 is undisputable that the charging of fees at high levels dissuades
39 commerce from locating within a State or municipality or locality
40 and halts non-residential and residential development, and these ill
41 effects directly increase the overall costs of housing, and could
42 impede the constitutional obligation to provide for a realistic
43 opportunity for housing for families at all income levels.
44 (cf: P.L.2009, c.90, s.36)

45
46 14. Section 34 of P.L.2008, c.46 (C.40:55D-8.3) is amended to
47 read as follows:

1 34. As used in sections 32 through 38 of P.L.2008, c.46
2 (C.40:55D-8.1 through C.40:55D-8.7):

3 "Construction" means new construction and additions, but does
4 not include alterations, reconstruction, renovations, and repairs as
5 those terms are defined under the State Uniform Construction Code
6 promulgated pursuant to the "State Uniform Construction Code
7 Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

8 "Commissioner" means the Commissioner of Community
9 Affairs.

10 **["Council" means the Council on Affordable Housing,
11 established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).]**

12 "Department" means the Department of Community Affairs.

13 "Developer" means the legal or beneficial owner or owners of a
14 lot or of any land proposed to be included in a proposed
15 development, including the holder of an option or contract to
16 purchase, or other person having an enforceable proprietary interest
17 in such land.

18 "Equalized assessed value" means the assessed value of a
19 property divided by the current average ratio of assessed to true
20 value for the municipality in which the property is situated, as
21 determined in accordance with sections 1, 5, and 6 of P.L.1973,
22 c.123 (C.54:1-35a through C.54:1-35c).

23 "Mixed use development" means any development which
24 includes both a non-residential development component and a
25 residential development component, and shall include developments
26 for which (1) there is a common developer for both the residential
27 development component and the non-residential development
28 component, provided that for purposes of this definition, multiple
29 persons and entities may be considered a common developer if there
30 is a contractual relationship among them obligating each entity to
31 develop at least a portion of the residential or non-residential
32 development, or both, or otherwise to contribute resources to the
33 development; and (2) the residential and non-residential
34 developments are located on the same lot or adjoining lots,
35 including but not limited to lots separated by a street, a river, or
36 another geographical feature.

37 "Non-residential development" means: (1) any building or
38 structure, or portion thereof, including but not limited to any
39 appurtenant improvements, which is designated to a use group other
40 than a residential use group according to the State Uniform
41 Construction Code promulgated to effectuate the "State Uniform
42 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.),
43 including any subsequent amendments or revisions thereto; (2)
44 hotels, motels, vacation timeshares, and child-care facilities; and (3)
45 the entirety of all continuing care facilities within a continuing care
46 retirement community which is subject to the "Continuing Care
47 Retirement Community Regulation and Financial Disclosure Act,"
48 P.L.1986, c.103 (C.52:27D-330 et seq.).

1 "Non-residential development fee" means the fee authorized to
2 be imposed pursuant to sections 32 through 38 of P.L.2008, c.46
3 (C.40:55D-8.1 through C.40:55D-8.7).

4 "Relating to the provision of housing" shall be liberally
5 construed to include the construction, maintenance, or operation of
6 housing, including but not limited to the provision of services to
7 such housing and the funding of any of the above.

8 "Spending plan" means a method of allocating funds collected
9 and to be collected pursuant to an approved municipal development
10 fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.)
11 for the purpose of meeting the housing needs of low and moderate
12 income individuals.

13 "Treasurer" means the Treasurer of the State of New Jersey.

14 (cf: P.L.2008, c.46, s.34)

15
16 15. Section 35 of P.L.2008, c.46 (C.40:55D-8.4) is amended to
17 read as follows:

18 35. a. Beginning on the effective date of P.L.2008, c.46
19 (C.52:27D-329.1 et al.), a fee is imposed on all construction
20 resulting in non-residential development, as follows:

21 (1) A fee equal to two and one-half percent of the equalized
22 assessed value of the land and improvements, for all new non-
23 residential construction on an unimproved lot or lots; or

24 (2) A fee equal to two and one-half percent of the increase in
25 equalized assessed value, of the additions to existing structures to
26 be used for non-residential purposes.

27 b. All non-residential construction of buildings or structures on
28 property used by churches, synagogues, mosques, and other houses
29 of worship, and property used for educational purposes, which is
30 tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the
31 imposition of a non-residential development fee pursuant to this
32 section, provided that the property continues to maintain its tax
33 exempt status under that statute for a period of at least three years
34 from the date of issuance of the certificate of occupancy. In
35 addition, the following shall be exempt from the imposition of a
36 non-residential development fee:

37 (1) parking lots and parking structures, regardless of whether the
38 parking lot or parking structure is constructed in conjunction with a
39 non-residential development, such as an office building, or whether
40 the parking lot is developed as an independent non-residential
41 development;

42 (2) any non-residential development which is an amenity to be
43 made available to the public, including, but not limited to,
44 recreational facilities, community centers, and senior centers, which
45 are developed in conjunction with or funded by a non-residential
46 developer;

1 (3) non-residential construction resulting from a relocation of or
2 an on-site improvement to a nonprofit hospital or a nursing home
3 facility;

4 (4) projects that are located within a specifically delineated
5 urban transit hub, as defined pursuant to section 2 of P.L.2007,
6 c.346 (C.34:1B-208);

7 (5) projects that are located within an eligible municipality, as
8 defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a
9 majority of the project is located within a one-half mile radius of
10 the midpoint of a platform area for a light rail system; and

11 (6) projects determined by the New Jersey Transit Corporation
12 to be consistent with a transit village plan developed by a transit
13 village designated by the Department of Transportation.

14 A developer of a non-residential development exempted from the
15 non-residential development fee pursuant to this section shall be
16 subject to it at such time the basis for the exemption set forth in this
17 subsection no longer applies, and shall make the payment of the
18 non-residential development fee, in that event, within three years
19 after that event or after the issuance of the final certificate of
20 occupancy of the non-residential development whichever is later.

21 For purposes of this subsection, "recreational facilities and
22 community center" means any indoor or outdoor buildings, spaces,
23 structures, or improvements intended for active or passive
24 recreation, including but not limited to ball fields, meeting halls,
25 and classrooms, accommodating either organized or informal
26 activity; and "senior center" means any recreational facility or
27 community center with activities and services oriented towards
28 serving senior citizens.

29 If a property which was exempted from the collection of a non-
30 residential development fee thereafter ceases to be exempt from
31 property taxation, the owner of the property shall remit the fees
32 required pursuant to this section within 45 days of the termination
33 of the property tax exemption. Unpaid non-residential development
34 fees under these circumstances may be enforceable by the
35 municipality as a lien against the real property of the owner.

36 c. (1) Unless authorized to pay directly to the municipality in
37 which the non-residential construction is occurring in accordance
38 with paragraph (2) of this subsection, developers shall pay non-
39 residential development fees imposed pursuant to P.L.2008, c.46
40 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with
41 subsection g. of this section in a manner and on such forms as
42 required by the Treasurer, provided that a certified proof concerning
43 the payment shall be furnished by the Treasurer, to the
44 municipality.

45 (2) The **【council】** department shall maintain on its Internet
46 website a list of each municipality that is authorized to use the
47 development fees collected pursuant to this section and that has a
48 confirmed status of compliance with the "Fair Housing Act,"

1 P.L.1985, c.222 (C.52:27D-301 et al.) , or is in the process of
2 seeking compliance certification, which compliance shall include a
3 spending plan **[authorized by the council]** pursuant to section 8 of
4 P.L.2008, c.46 (C.52:27D-329.2) for all development fees collected.

5 (3) No later than 90 days following the enactment of P.L. _____,
6 c. _____ (C. _____) (pending before the Legislature as this bill), any
7 municipality that is or has been authorized to retain and expend
8 non-residential development fees shall provide the department with
9 a detailed accounting of all such fees that have been collected and
10 expended since the inception of the municipal authorization to
11 collect and retain said fees.

12 (4) Beginning with the year after the enactment of P.L. _____,
13 c. _____ (C. _____) (pending before the Legislature as this bill), by
14 ²[January] February² 15, every municipality that is or has been
15 authorized to retain and expend non-residential development fees
16 shall provide the department with a detailed accounting of all such
17 fees that have been collected and expended previous year.

18 d. The payment of non-residential development fees required
19 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
20 through C.40:55D-8.7) shall be made prior to the issuance of a
21 certificate of occupancy for such development. A final certificate
22 of occupancy shall not be issued for any non-residential
23 development until such time as the fee imposed pursuant to this
24 section has been paid by the developer. A non-residential developer
25 may deposit with the appropriate entity the development fees as
26 calculated by the municipality under protest, and the local code
27 enforcement official shall thereafter issue the certificate of
28 occupancy provided that the construction is otherwise eligible for a
29 certificate of occupancy.

30 e. The construction official responsible for the issuance of a
31 building permit shall notify the local tax assessor of the issuance of
32 the first building permit for a development which may be subject to
33 a non-residential development fee. Within 90 days of receipt of that
34 notice, the municipal tax assessor, based on the plans filed, shall
35 provide an estimate of the equalized assessed value of the non-
36 residential development. The construction official responsible for
37 the issuance of a final certificate of occupancy shall notify the local
38 assessor of any and all requests for the scheduling of a final
39 inspection on property which may be subject to a non-residential
40 development fee. Within 10 business days of a request for the
41 scheduling of a final inspection, the municipal assessor shall
42 confirm or modify the previously estimated equalized assessed
43 value of the improvements of the non-residential development in
44 accordance with the regulations adopted by the Treasurer pursuant
45 to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential
46 development fee pursuant to sections 32 through 38 of P.L.2008,
47 c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the
48 developer of the amount of the non-residential development fee.

1 Should the municipality fail to determine or notify the developer of
2 the amount of the non-residential development fee within 10
3 business days of the request for final inspection, the developer may
4 estimate the amount due and pay that estimated amount consistent
5 with the dispute process set forth in subsection b. of section 37 of
6 P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-
7 residential development fee, provided the developer is in full
8 compliance with all other applicable laws, the municipality shall
9 issue a final certificate of occupancy for the subject property.
10 Failure of the municipality to comply with the timeframes or
11 procedures set forth in this subsection may subject it to penalties to
12 be imposed by the commissioner; any penalties so imposed shall be
13 deposited into the "New Jersey Affordable Housing Trust Fund"
14 established pursuant to section 20 of P.L.1985, c.222 as amended
15 by section 17 of P.L.2008, c.46 (C.52:27D-320).

16 A developer of a mixed use development shall be required to pay
17 the Statewide non-residential development fee relating to the non-
18 residential development component of a mixed use development
19 subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

20 Non-residential construction which is connected with the
21 relocation of the facilities of a for-profit hospital shall be subject to
22 the fee authorized to be imposed under this section to the extent of
23 the increase in equalized assessed valuation in accordance with
24 regulations to be promulgated by the Director of the Division of
25 Taxation, Department of the Treasury.

26 f. Any municipality that is not in compliance with the
27 requirements established pursuant to sections 32 through 38 of
28 P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or
29 regulations of the **【council】** commissioner adopted thereto, may be
30 subject to forfeiture of any or all funds remaining within its
31 municipal development trust fund. Any funds so forfeited shall be
32 deposited into the New Jersey Affordable Housing Trust Fund
33 established pursuant to section 20 of P.L.1985, c.222 as amended
34 by section 17 of P.L.2008, c.46 (C.52:27D-320).

35 g. The Treasurer shall credit to the "Urban Housing Assistance
36 Fund," established pursuant to section 13 of P.L.2008, c.46
37 (C.52:27D-329.7) annually from the receipts of the fees authorized
38 to be imposed pursuant to this section an amount equal to \$20
39 million; all receipts in excess of this amount shall be deposited into
40 the "New Jersey Affordable Housing Trust Fund," established
41 pursuant to section 20 of P.L.1985, c.222 as amended by section 17
42 of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of
43 that fund.

44 The Treasurer shall adopt such regulations as necessary to
45 effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
46 through C.40:55D-8.7), in accordance with the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

48 (cf: P.L.2008, c.46, s.35)

1 16. Section 36 of P.L.2008, c.46 (C.40:55D-8.5) is amended to
2 read as follows:

3 36. a. The commissioner **【**, in consultation with the council,**】**
4 shall promulgate, in accordance with the provisions of the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), such regulations as are necessary for the prompt and effective
7 implementation of the provisions and purposes of **【**P.L.2008, c.46
8 (C.52:27D-329.1 et al.)**】** section 8 of P.L.2008, c.46 (C.52:27D-
9 329.2), including, but not limited to, provisions for the payment of
10 any necessary administrative costs related to the assessment of
11 properties and collection of any development fees by a
12 municipality.

13 b. **【**Notwithstanding the authority granted to the commissioner
14 herein, the council**】** The commissioner shall adopt and promulgate,
15 in accordance with the provisions of the "Administrative Procedure
16 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such regulations as are
17 necessary for the effectuation of P.L.2008, c.46 (C.52:27D-329.1 et
18 al.), including but not limited to, regulations necessary for the
19 establishment, implementation, review, monitoring, and
20 enforcement of a municipal affordable housing trust fund and
21 spending plan.

22 (cf: P.L.2008, c.46, s.36)

23

24 17. Section 38 of P.L.2008, c.46 (C.40:55D-8.7) is amended to
25 read as follows:

26 38. a. Except as expressly provided in P.L.2008, c.46
27 (C.52:27D-329.1 et al.),₂ including subsection b. of this section, any
28 provision of a local ordinance which imposes a fee for the
29 development of affordable housing upon a developer of non-
30 residential property, including any and all development fee
31 ordinances adopted in accordance with any regulations of the
32 **【**Council on Affordable Housing**】** department, or any provision of
33 an ordinance which imposes an obligation relating to the provision
34 of housing affordable to **【**low and moderate income**】** low- and
35 moderate-income households, or payment in-lieu of building as a
36 condition of non-residential development, shall be void and of no
37 effect. A provision of an ordinance which imposes a development
38 fee which is not prohibited by any provision of P.L.2008, c.46
39 (C.52:27D-329.1 et al.) shall not be invalidated by this section.

40 b. No affordable housing obligation shall be imposed
41 concerning a mixed use development that would result in an
42 affordable housing obligation greater than that which would have
43 been imposed if the residential portion of the mixed use
44 development had been developed independently of the non-
45 residential portion of the mixed use development.

46 c. Whenever the developer of a non-residential development
47 regulated under P.L.1977, c.110 (C.5:12-1 et seq.) has made or

1 committed itself to make a financial or other contribution relating to
2 the provision of housing affordable to low and moderate income
3 households, the non-residential development fee authorized
4 pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) shall be satisfied
5 through the investment obligations made pursuant to P.L.1977,
6 c.110 (C.5:12-1 et seq.).
7 (cf: P.L.2008, c.46, s.38)

8
9 18. Section 39 of P.L.2009, c.90 (C.40:55D-8.8) is amended to
10 read as follows:

11 39. The provisions of this section shall apply only to those
12 developments for which a fee was imposed pursuant to sections 32
13 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7),
14 known as the "Statewide Non-residential Development Fee Act."

15 a. A developer of a property that received preliminary site plan
16 approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46),
17 or final approval, pursuant to section 38 of P.L.1975, c.291
18 (C.40:55D-50) prior to July 17, 2008 and that was subject to the
19 payment of a nonresidential development fee prior to the enactment
20 of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a
21 return of any moneys paid that represent the difference between
22 moneys committed prior to July 17, 2008 and monies paid on or
23 after that date.

24 b. A developer of a non-residential project that, prior to July
25 17, 2008, has been referred to a planning board by the State, a
26 governing body, or other public agency for review pursuant to
27 section 22 of P.L.1975, c.291 (C.40:55D-31) and that was subject to
28 the payment of a nonresidential development fee prior to the
29 enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be
30 entitled to a return of any moneys paid that represent the difference
31 between moneys committed prior to July 17, 2008 and moneys paid
32 on or after that date.

33 c. If moneys are required to be returned under subsection a., b.
34 or d. of this section, a claim shall be submitted, in writing, to the
35 same entity to which the moneys were paid, within 120 days of the
36 effective date of P.L.2009, c.90 (C.52:27D-489a et al.). The entity
37 to whom the funds were paid shall promptly review all requests for
38 returns, and the fees paid shall be returned to the claimant within 30
39 days of receipt of the claim for return.

40 d. A developer of a non-residential project that paid a fee
41 imposed pursuant to sections 32 through 38 of P.L.2008, c.46
42 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to July 17, 2008
43 but prior to the effective date of P.L.2009, c.90 (C.52:27D-489a et
44 al.), shall be entitled to the return of those moneys paid, provided
45 that the provisions of section 37 of P.L.2008, c.46 (C.40:55D-8.6),
46 as amended by P.L.2009, c.90 do not permit the imposition of a fee
47 upon the developer of that non-residential property.

1 e. **【**Notwithstanding the provisions of subsections a., b., c., and
2 d. of this section, if, on the effective date of P.L.2009, c.90
3 (C.52:27D-489a et al.), a municipality that has returned all or a
4 portion of non-residential fees in accordance with subsection a. or
5 b. of this section shall be reimbursed from the funds available
6 through the appropriation made into the "New Jersey Affordable
7 Housing Trust Fund" pursuant to section 41 of P.L.2009, c.90
8 (C.52:27D-320.1) within 30 days of the municipality providing
9 written notice to the Council on Affordable Housing. **】** (Deleted by
10 amendment, P.L. , c.) (pending before the Legislature as this
11 bill)

12 f. A developer of a non-residential project that paid a fee
13 imposed pursuant to sections 32 through 38 of P.L.2008, c.46
14 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to June 30, 2010
15 but prior to the effective date of P.L.2011, c.122, shall be entitled to
16 the return of those monies paid, provided that said monies have not
17 already been expended by the municipality on affordable housing
18 projects, and provided that the provisions of section 37 of P.L.2008,
19 c.46 (C.40:55D-8.6), as amended by P.L.2011, c.122 do not permit
20 the imposition of a fee upon the developer of that non-residential
21 property. If moneys are eligible to be returned under this
22 subsection, a claim shall be submitted, in writing, to the same entity
23 to which the moneys were paid, within 120 days of the effective
24 date of P.L.2011, c.122. The entity to whom the funds were paid
25 shall promptly review all requests for returns, to ensure
26 applicability of section 37 of P.L.2008, c.46 (C.40:55D-8.6) and the
27 fees paid shall be returned to the claimant within 30 days of receipt
28 of the claim for return.

29 (cf: P.L.2011, c.122, s.2)

30

31 19. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to
32 read as follows:

33 3. a. There is established in, but not of, the department a Site
34 Improvement Advisory Board, to devise statewide site improvement
35 standards pursuant to section 4 of **【this act】** P.L.1993, c.32
36 (C.40:55D-40.4). The board shall consist of the commissioner or
37 **【his】** the commissioner's designee, who shall be a non-voting
38 member of the board, the Director of the Division of **【Housing】**
39 Codes and Standards in the Department of Community Affairs, who
40 shall be a voting member of the board, the Executive Director of the
41 New Jersey Housing and Mortgage Finance Agency, or the
42 executive director's designee, who shall be a voting member of the
43 board, and **【10】** nine other voting members, to be appointed by the
44 commissioner. The other members shall include two professional
45 planners, one of whom serves as a planner for a governmental entity
46 or whose professional experience is predominantly in the public
47 sector and who has worked in the public sector for at least the

1 previous five years and the other of whom serves as a planner in
2 private practice and has particular expertise in private residential
3 development and has been involved in private sector planning for at
4 least the previous five years, and one representative each from:

- 5 (1) The New Jersey Society of Professional Engineers;
- 6 (2) The New Jersey Society of Municipal Engineers;
- 7 (3) The New Jersey Association of County Engineers;
- 8 (4) The New Jersey Federation of Planning Officials;
- 9 (5) **【The Council on Affordable Housing】** (Deleted by
10 amendment, P.L. , c. (pending before the Legislature as this
11 bill);
- 12 (6) The New Jersey Builders' Association;
- 13 (7) The New Jersey Institute of Technology;
- 14 (8) The New Jersey State League of Municipalities.

15 b. Among the members to be appointed by the commissioner
16 who are first appointed, four shall be appointed for terms of two
17 years each, four shall be appointed for terms of three years each,
18 and two shall be appointed for terms of four years each. Thereafter,
19 each appointee shall serve for a term of four years. Vacancies in
20 the membership shall be filled in the same manner as original
21 appointments are made, for the unexpired term. The **【commission】**
22 board shall select a chair from among its members **【a chairman】**.
23 Members may be removed by the commissioner for cause.

24 c. Board members shall serve without compensation, but may
25 be entitled to reimbursement, from moneys appropriated or
26 otherwise made available for the purposes of this act, for expenses
27 incurred in the performance of their duties.

28 (cf: P.L.1993, c.32, s.3)

29

30 20. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to
31 read as follows:

32 3. As used in **【this act】** P.L.1992, c.79 (C.40A:12A-1 et seq.):

33 "Bonds" means any bonds, notes, interim certificates, debentures
34 or other obligations issued by a municipality, county,
35 redevelopment entity, or housing authority pursuant to P.L.1992,
36 c.79 (C.40A:12A-1 et al.).

37 "Comparable, affordable replacement housing" means newly-
38 constructed or substantially rehabilitated housing to be offered to a
39 household being displaced as a result of a redevelopment project,
40 that is affordable to that household based on its income under the
41 guidelines established by the **【Council on Affordable Housing in**
42 **the Department of Community Affairs】** New Jersey Housing and
43 Mortgage Finance Agency for maximum affordable sales prices or
44 maximum fair market rents, and that is comparable to the
45 household's dwelling in the redevelopment area with respect to the
46 size and amenities of the dwelling unit, the quality of the

1 neighborhood, and the level of public services and facilities offered
2 by the municipality in which the redevelopment area is located.

3 "Development" means the division of a parcel of land into two or
4 more parcels, the construction, reconstruction, conversion,
5 structural alteration, relocation, or enlargement of any building or
6 other structure, or of any mining, excavation or landfill, and any use
7 or change in the use of any building or other structure, or land or
8 extension of use of land, for which permission may be required
9 pursuant to the "Municipal Land Use Law," P.L.1975, c.291
10 (C.40:55D-1 et seq.).

11 "Electric vehicle charging station" means an electric component
12 assembly or cluster of component assemblies designed specifically
13 to charge batteries within electric vehicles by permitting the transfer
14 of electric energy to a battery or other storage device in an electric
15 vehicle.

16 "Governing body" means the body exercising general legislative
17 powers in a county or municipality according to the terms and
18 procedural requirements set forth in the form of government
19 adopted by the county or municipality.

20 "Housing authority" means a housing authority created or
21 continued pursuant to this act.

22 "Housing project" means a project, or distinct portion of a
23 project, which is designed and intended to provide decent, safe and
24 sanitary dwellings, apartments or other living accommodations for
25 persons of **low and moderate income** low- and moderate-income;
26 such work or undertaking may include buildings, land, equipment,
27 facilities and other real or personal property for necessary,
28 convenient or desirable appurtenances, streets, sewers, water
29 service, parks, site preparation, gardening, administrative,
30 community, health, recreational, educational, welfare or other
31 purposes. The term "housing project" also may be applied to the
32 planning of the buildings and improvements, the acquisition of
33 property, the demolition of existing structures, the construction,
34 reconstruction, alteration and repair of the improvements and all
35 other work in connection therewith.

36 "Parking authority" means a public corporation created pursuant
37 to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et
38 seq.), and authorized to exercise redevelopment powers within the
39 municipality.

40 "Persons of **low and moderate income** low- and moderate-
41 income" means persons or families who are, in the case of State
42 assisted projects or programs, so defined by the **Council on**
43 **Affordable Housing in the Department of Community Affairs** New
44 Jersey Housing and Mortgage Finance Agency, or in the case of
45 federally assisted projects or programs, defined as of **["low and**
46 **very low income"]** "low- and very low-income" by the United
47 States Department of Housing and Urban Development.

1 "Public body" means the State or any county, municipality,
2 school district, authority or other political subdivision of the State.

3 "Public electric vehicle charging station" means an electric
4 vehicle charging station located at a publicly available parking
5 space.

6 "Public housing" means any housing for persons of [low and
7 moderate income] low- and moderate-income owned by a
8 municipality, county, the State or the federal government, or any
9 agency or instrumentality thereof.

10 "Public hydrogen fueling station" means publicly available
11 equipment to store and dispense hydrogen fuel to vehicles
12 according to industry codes and standards.

13 "Publicly assisted housing" means privately owned housing
14 which receives public assistance or subsidy, which may be grants or
15 loans for construction, reconstruction, conservation, or
16 rehabilitation of the housing, or receives operational or maintenance
17 subsidies either directly or through rental subsidies to tenants, from
18 a federal, State or local government agency or instrumentality.

19 "Publicly available parking space" means a parking space that is
20 available to, and accessible by, the public and may include on-street
21 parking spaces and parking spaces in surface lots or parking
22 garages, but shall not include: a parking space that is part of, or
23 associated with, a private residence; or a parking space that is
24 reserved for the exclusive use of an individual driver or vehicle or
25 for a group of drivers or vehicles, such as employees, tenants,
26 visitors, residents of a common interest development, or residents
27 of an adjacent building.

28 "Real property" means all lands, including improvements and
29 fixtures thereon, and property of any nature appurtenant thereto or
30 used in connection therewith, and every estate, interest and right,
31 legal or equitable, therein, including terms for years and liens by
32 way of judgment, mortgage or otherwise, and indebtedness secured
33 by such liens.

34 "Redeveloper" means any person, firm, corporation or public
35 body that shall enter into or propose to enter into a contract with a
36 municipality or other redevelopment entity for the redevelopment or
37 rehabilitation of an area in need of redevelopment, or an area in
38 need of rehabilitation, or any part thereof, under the provisions of
39 this act, or for any construction or other work forming part of a
40 redevelopment or rehabilitation project.

41 "Redevelopment" means clearance, replanning, development and
42 redevelopment; the conservation and rehabilitation of any structure
43 or improvement, the construction and provision for construction of
44 residential, commercial, industrial, public or other structures and
45 the grant or dedication of spaces as may be appropriate or necessary
46 in the interest of the general welfare for streets, parks, playgrounds,
47 or other public purposes, including recreational and other facilities

1 incidental or appurtenant thereto, in accordance with a
2 redevelopment plan.

3 "Redevelopment agency" means a redevelopment agency created
4 pursuant to subsection a. of section 11 of P.L.1992, c.79
5 (C.40A:12A-11) or established heretofore pursuant to the
6 "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et
7 al.), repealed by this act, which has been permitted in accordance
8 with the provisions of **[this act]** P.L.1992, c.79 (C.40A:12A-1 et
9 seq.) to continue to exercise its redevelopment functions and
10 powers.

11 "Redevelopment area" or "area in need of redevelopment" means
12 an area determined to be in need of redevelopment pursuant to
13 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6)
14 or determined heretofore to be a "blighted area" pursuant to
15 P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both
16 determinations as made pursuant to the authority of Article VIII,
17 Section III, paragraph 1 of the Constitution. A redevelopment area
18 may include lands, buildings, or improvements which of themselves
19 are not detrimental to the public health, safety or welfare, but the
20 inclusion of which is found necessary, with or without change in
21 their condition, for the effective redevelopment of the area of which
22 they are a part.

23 "Redevelopment entity" means a municipality or an entity
24 authorized by the governing body of a municipality pursuant to
25 subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to
26 implement redevelopment plans and carry out redevelopment
27 projects in an area in need of redevelopment, or in an area in need
28 of rehabilitation, or in both.

29 "Redevelopment plan" means a plan adopted by the governing
30 body of a municipality for the redevelopment or rehabilitation of all
31 or any part of a redevelopment area, or an area in need of
32 rehabilitation, which plan shall be sufficiently complete to indicate
33 its relationship to definite municipal objectives as to appropriate
34 land uses, public transportation and utilities, recreational and
35 municipal facilities, and other public improvements; and to indicate
36 proposed land uses and building requirements in the redevelopment
37 area or area in need of rehabilitation, or both.

38 "Redevelopment project" means any work or undertaking
39 pursuant to a redevelopment plan; such undertaking may include
40 any buildings, land, including demolition, clearance or removal of
41 buildings from land, equipment, facilities, or other real or personal
42 properties which are necessary, convenient, or desirable
43 appurtenances, such as but not limited to streets, sewers, utilities,
44 parks, site preparation, landscaping, and administrative, community,
45 health, recreational, educational, and welfare facilities, and zero-
46 emission vehicle fueling and charging infrastructure.

47 "Rehabilitation" means an undertaking, by means of extensive
48 repair, reconstruction or renovation of existing structures, with or

1 without the introduction of new construction or the enlargement of
2 existing structures, in any area that has been determined to be in
3 need of rehabilitation or redevelopment, to eliminate substandard
4 structural or housing conditions and arrest the deterioration of that
5 area.

6 "Rehabilitation area" or "area in need of rehabilitation" means
7 any area determined to be in need of rehabilitation pursuant to
8 section 14 of P.L.1992, c.79 (C.40A:12A-14).

9 "Zero-emission vehicle" means a vehicle certified as a zero
10 emission vehicle pursuant to the California Air Resources Board
11 zero emission vehicle standards for the applicable model year,
12 including but not limited to, battery electric-powered vehicles and
13 hydrogen fuel cell vehicles.

14 "Zero-emission vehicle fueling and charging infrastructure"
15 means infrastructure to charge or fuel zero-emission vehicles,
16 including but not limited to, public electric vehicle charging
17 stations and public hydrogen fueling stations.

18 (cf: P.L.2021, c.168, s.1)

19

20 21. Section 16 of P.L.1992, c.79 (C.40A:12A-16) is amended to
21 read as follows:

22 16. a. In order to carry out the housing purposes of this act, a
23 municipality, county, or housing authority may exercise the
24 following powers, in addition to those set forth in section 22 of
25 P.L.1992, c.79 (C.40A:12A-22):

26 (1) Plan, construct, own, and operate housing projects; maintain,
27 reconstruct, improve, alter, or repair any housing project or any part
28 thereof; and for these purposes, receive and accept from the State or
29 federal government, or any other source, funds or other financial
30 assistance;

31 (2) Lease or rent any dwelling house, accommodations, lands,
32 buildings, structures or facilities embraced in any housing project;
33 and pursuant to the provisions of this act, establish and revise the
34 rents and charges therefor;

35 (3) Acquire property pursuant to subsection i. of section 22 of
36 P.L.1992, c.79 (C.40A:12A-22);

37 (4) Acquire, by condemnation, any land or building which is
38 necessary for the housing project, pursuant to the provisions of the
39 "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.);

40 (5) Issue bonds in accordance with the provisions of section 29
41 of P.L.1992, c.79 (C.40A:12A-29);

42 (6) Cooperate with any other municipality, private, county, State
43 or federal entity to provide funds to the municipality or other
44 governmental entity and to homeowners, tenant associations,
45 nonprofit or private developers to acquire, construct, rehabilitate or
46 operate publicly assisted housing, and to provide rent subsidies for
47 persons of **low and moderate income** low- and moderate-income,

1 including the elderly, pursuant to applicable State or federal
2 programs;

3 (7) Encourage the use of demand side subsidy programs such as
4 certificates and vouchers for low-income families and promote the
5 use of project based certificates which provide subsidies for units in
6 newly constructed and substantially rehabilitated structures, and of
7 tenant based certificates which subsidize rent in existing units;

8 (8) Cooperate with any State or federal entity to secure
9 mortgage assistance for any person of **low or moderate income**
10 low- or moderate-income;

11 (9) Provide technical assistance and support to nonprofit
12 organizations and private developers interested in constructing **low**
13 **and moderate income** low- and moderate-income housing;

14 (10) If it owns and operates public housing units, provide to the
15 tenants public safety services, including protection against
16 substance use disorder, and social services, including counseling
17 and financial management, in cooperation with other agencies;

18 (11) Provide emergency shelters, transitional housing and
19 supporting services to homeless families and individuals.

20 b. All housing projects, programs and actions undertaken
21 pursuant to this act shall accord with the housing element of the
22 master plan of the municipality within which undertaken, and with
23 any fair share housing plan **filed by** of the municipality **with the**
24 **Council on Affordable Housing, based upon the council's criteria**
25 **and guidelines**, adopted pursuant to the "Fair Housing Act,"
26 P.L.1985, c.222 (C.52:27D-301 et al.) **],** whether or not the
27 municipality has petitioned for substantive certification of the
28 **plan**.

29 (cf: P.L.2017, c.131, s.176)

30
31 22. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to
32 read as follows:

33 10. A municipality's housing element shall be designed to
34 achieve the goal of access to affordable housing to meet present and
35 prospective housing needs, with particular attention to **low and**
36 **moderate income** low- and moderate-income housing, and shall
37 contain at least:

38 a. An inventory of the municipality's housing stock by age,
39 condition, purchase or rental value, occupancy characteristics, and
40 type, including the number of units affordable to **low and moderate**
41 **income** low- and moderate-income households and substandard
42 housing capable of being rehabilitated, and in conducting this
43 inventory the municipality shall have access, on a confidential basis
44 for the sole purpose of conducting the inventory, to all necessary
45 property tax assessment records and information in the assessor's
46 office, including but not limited to the property record cards;

- 1 b. A projection of the municipality's housing stock, including
2 the probable future construction of **[low and moderate income]**
3 low- and moderate-income housing, for the next ten years, taking
4 into account, but not necessarily limited to, construction permits
5 issued, approvals of applications for development and probable
6 residential development of lands;
- 7 c. An analysis of the municipality's demographic
8 characteristics, including but not necessarily limited to, household
9 size, income level and age;
- 10 d. An analysis of the existing and probable future employment
11 characteristics of the municipality;
- 12 e. A determination of the municipality's present and prospective
13 fair share for **[low and moderate income]** low- and moderate-
14 income housing and its capacity to accommodate its present and
15 prospective housing needs, including its fair share for **[low and**
16 **moderate income]** low- and moderate-income housing, as
17 established pursuant to section 3 of P.L. , c. (C.) (pending
18 before the Legislature as this bill);
- 19 f. A consideration of the lands that are most appropriate for
20 construction of **[low and moderate income]** low- and moderate-
21 income housing and of the existing structures most appropriate for
22 conversion to, or rehabilitation for, **[low and moderate income]**
23 low- and moderate-income housing, including a consideration of
24 lands of developers who have expressed a commitment to provide
25 **[low and moderate income]** low- and moderate-income housing;
26 ²**[and]**²
- 27 g. An analysis of the extent to which municipal ordinances and
28 other local factors advance or detract from the goal of preserving
29 multigenerational family continuity as expressed in the
30 recommendations of the Multigenerational Family Housing
31 Continuity Commission, adopted pursuant to paragraph (1) of
32 subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20) ²;
- 33 h. For a municipality located within the jurisdiction of the
34 Highlands Water Protection and Planning Council, established
35 pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of
36 compliance of the housing element with the Highlands Regional
37 Master Plan of lands in the Highlands Preservation Area, and lands
38 in the Highlands Planning Area for Highlands-conforming
39 municipalities. This analysis shall include consideration of the
40 municipality's most recent Highlands Municipal Build Out Report,
41 consideration of opportunities for redevelopment of existing
42 developed lands into inclusionary or 100 percent affordable
43 housing, or both, and opportunities for 100 percent affordable
44 housing in both the Highlands Planning Area and Highlands
45 Preservation Area that are consistent with the Highlands regional
46 master plan; and

1 i. An analysis of consistency with the State Development and
2 Redevelopment Plan, including water, wastewater, stormwater, and
3 multi-modal transportation based on guidance and technical
4 assistance from the State Planning Commission².

5 (cf: P.L.2021, c.273, s.2)

6
7 23. Section 1 of P.L.1995, c.231 (C.52:27D-310.1) is amended
8 to read as follows:

9 1. Any municipality that receives an adjustment of its
10 prospective need obligations for the fourth round or subsequent
11 rounds based on a lack of vacant land shall as part of the process of
12 adopting and implementing its housing element and fair share plan
13 identify sufficient parcels likely to redevelop during the current
14 round of obligations to address at least 25 percent of the prospective
15 need obligation that has been adjusted, and adopt realistic zoning
16 that allows for such adjusted obligation, or demonstrate why the
17 municipality is unable to do so. When computing a municipal
18 adjustment regarding available land resources as part of the
19 determination of a municipality's fair share of affordable housing,
20 the **【Council on Affordable Housing】** municipality, in filing a
21 housing element and fair share plan pursuant to subsection f. of
22 section 3 of P.L. , c. (C. and C.) (pending before the
23 Legislature as this bill), shall exclude from designating , and the
24 process set forth pursuant to sections 3 and 4 of P.L. ,
25 c. (C. and C.) (pending before the Legislature as this
26 bill) shall confirm was correctly excluded, as vacant land:

27 (a) any land that is owned by a local government entity that as
28 of January 1, 1997, has adopted, prior to the institution of a lawsuit
29 seeking a builder's remedy or prior to the filing of a petition for
30 substantive certification of a housing element and fair share plan, a
31 resolution authorizing an execution of agreement that the land be
32 utilized for a public purpose other than housing;

33 (b) any land listed on a master plan of a municipality as being
34 dedicated, by easement or otherwise, for purposes of conservation,
35 park lands or open space and which is owned, leased, licensed, or in
36 any manner operated by a county, municipality or tax-exempt,
37 nonprofit organization including a local board of education, or by
38 more than one municipality by joint agreement pursuant to
39 P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity
40 maintains such ownership, lease, license, or operational control of
41 such land;

42 (c) any vacant contiguous parcels of land in private ownership
43 of a size which would accommodate fewer than five housing units
44 **【if current standards of the council were applied】** based on
45 appropriate standards pertaining to housing density;

46 (d) historic and architecturally important sites listed on the State
47 Register of Historic Places or National Register of Historic Places
48 prior to the **【submission of the petition of substantive certification】**

1 date of filing a housing element and fair share plan pursuant to
 2 section 3, or initiation of an action pursuant to section 4 of P.L. ,
 3 c. (C. or C.) (pending before the Legislature as this
 4 bill);

5 (e) agricultural lands when the development rights to these
 6 lands have been purchased or restricted by covenant;

7 (f) sites designated for active recreation that are designated for
 8 recreational purposes in the municipal master plan; and

9 (g) environmentally sensitive lands where development is
 10 prohibited by any State or federal agency ², including, but not
 11 limited to, the Highlands Water Protection and Planning Council,
 12 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), for
 13 lands in the Highlands Preservation Area, and lands in the
 14 Highlands Planning Area for Highlands-conforming
 15 municipalities².

16 No municipality shall be required to utilize for affordable
 17 housing purposes land that is excluded from being designated as
 18 vacant land.

19 (cf: P.L.2008, c.46, s.39)

20

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

23 11. a. In adopting its housing element, the municipality may
 24 provide for its fair share of **【low and moderate income】** low- and
 25 moderate-income housing by means of any technique or
 26 combination of techniques which provide a realistic opportunity for
 27 the provision of the fair share. The housing element shall contain
 28 an analysis demonstrating that it will provide such a realistic
 29 opportunity, and the municipality shall establish that its land use
 30 and other relevant ordinances have been revised to incorporate the
 31 provisions for **【low and moderate income】** low- and moderate-
 32 income housing. In preparing the housing element, the municipality
 33 shall consider the following techniques for providing **【low and**
 34 **moderate income】** low- and moderate-income housing within the
 35 municipality, as well as such other appropriate techniques as have
 36 been established through applicable precedent and may be
 37 **【published by the council or proposed】** employed by the
 38 municipality:

39 (1) Rezoning for densities necessary to assure the economic
 40 viability of any inclusionary developments, either through
 41 mandatory set-asides or density bonuses, as may be necessary to
 42 meet all or part of the municipality's fair share in accordance with
 43 **【the regulations of the council and】** the provisions of subsection h.
 44 of this section;

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

- 1 (3) Determination of measures that the municipality will take to
2 assure that **low and moderate income** low- and moderate-income
3 units remain affordable to **low and moderate income** low- and
4 moderate-income households for an appropriate period of not less
5 than **six years** the period required by the regulations adopted by
6 the Department of Community Affairs pursuant to section 21 of
7 P.L.1985, c.222 (C.52:27D-321);
- 8 (4) A plan for infrastructure expansion and rehabilitation and
9 conversion or redevelopment of unused or underutilized real
10 property, including existing structures, if necessary to assure the
11 achievement of the municipality's fair share of **low and moderate**
12 **income** low- and moderate-income housing;
- 13 (5) Donation or use of municipally owned land or land
14 condemned by the municipality for purposes of providing **low and**
15 **moderate income** low- and moderate-income housing;
- 16 (6) Tax abatements for purposes of providing **low and**
17 **moderate income** low- and moderate-income housing;
- 18 (7) Utilization of funds obtained from any State or federal
19 subsidy toward the construction of **low and moderate income**
20 low- and moderate-income housing;
- 21 (8) Utilization of municipally generated funds toward the
22 construction of **low and moderate income** low- and moderate-
23 income housing; and
- 24 (9) The purchase of privately owned real property used for
25 residential purposes at the value of all liens secured by the property,
26 excluding any tax liens, notwithstanding that the total amount of
27 debt secured by liens exceeds the appraised value of the property,
28 pursuant to regulations promulgated by the Commissioner of
29 Community Affairs pursuant to subsection b. of section 41 of
30 P.L.2000, c.126 (C.52:27D-311.2).
- 31 b. The municipality may provide for a phasing schedule for the
32 achievement of its fair share of **low and moderate income** low-
33 and moderate-income housing.
- 34 c. (Deleted by amendment, P.L.2008, c.46)
- 35 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
36 require a municipality to raise or expend municipal revenues in
37 order to provide **low and moderate income** low- and moderate-
38 income housing.
- 39 e. When a municipality's housing element includes the
40 provision of rental housing units in a community residence for the
41 developmentally disabled , for the mentally ill, or for persons with
42 head injuries, as those terms are defined in section 2 of P.L.1977,
43 c.448 (C.30:11B-2), or in transitional housing, which will be
44 affordable to persons of **low and moderate income** low- and
45 moderate-income, and for which adequate measures to retain such
46 affordability pursuant to paragraph (3) of subsection a. of this
47 section are included in the housing element, those housing units

1 shall be fully credited **【as permitted under the rules of the council】**
2 towards the fulfillment of the municipality's fair share of **【low and**
3 **moderate income】** low- and moderate-income housing. A
4 municipality shall not credit transitional housing units towards more
5 than 10 percent of the municipality's fair share obligation.

6 f. It having been determined by the Legislature that the
7 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
8 a public purpose, a municipality or municipalities may utilize public
9 monies to make donations, grants or loans of public funds for the
10 rehabilitation of deficient housing units and the provision of new or
11 substantially rehabilitated housing for **【low and moderate income】**
12 low- and moderate-income persons, providing that any private
13 advantage is incidental.

14 g. A municipality **【which】** that has received **【substantive**
15 **certification from the council】** approval of its housing element and
16 fair share plan for the current round, and **【which】** that has actually
17 effected the construction of the affordable housing units it is
18 obligated to provide, may amend its affordable housing element or
19 zoning ordinances without **【the approval of the council】** losing
20 immunity from ²**【builder's remedy】** exclusionary zoning ² litigation.

21 h. Whenever affordable housing units are proposed to be
22 provided through an inclusionary development, a municipality shall
23 provide, through its zoning powers, incentives to the developer,
24 which shall include increased densities and reduced costs **【,**
25 **in accordance with the regulations of the council and this subsection】**.

26 i. **【The council, upon the application of a】** A municipality and
27 a developer **【,】** may **【approve】** request a modification of a
28 compliance certification involving reduced affordable housing set-
29 asides or increased densities to ensure the economic feasibility of an
30 inclusionary development , if any such application demonstrates
31 how any shortfall in meeting the municipal fair share obligation will
32 then be addressed. Such a request may be granted only if the
33 municipality and developer have demonstrated that the project has
34 been impacted by market conditions beyond their reasonable
35 control.

36 j. A municipality may enter into an agreement with a
37 developer or residential development owner to provide a preference
38 for affordable housing to **【low and moderate income】** low- and
39 moderate-income veterans who served in time of war or other
40 emergency, as defined in section 1 of P.L.1963, c.171
41 (C.54:4-8.10), of up to 50 percent of the affordable units in that
42 particular project. This preference shall be established in the
43 applicant selection process for available affordable units so that
44 applicants who are veterans who served in time of war or other
45 emergency, as referenced in this subsection, and who apply within
46 90 days of the initial marketing period shall receive preference for
47 the rental of the agreed-upon percentage of affordable units. After

1 the first 90 days of the initial 120-day marketing period, if any of
2 those units subject to the preference remain available, then
3 applicants from the general public shall be considered for
4 occupancy. Following the initial 120-day marketing period,
5 previously qualified applicants and future qualified applicants who
6 are veterans who served in time of war or other emergency, as
7 referenced in this subsection, shall be placed on a special waiting
8 list as well as the general waiting list. The veterans on the special
9 waiting list shall be given preference for affordable units, as the
10 units become available, whenever the percentage of preference-
11 occupied units falls below the agreed upon percentage. Any
12 agreement to provide affordable housing preferences for veterans
13 pursuant to this subsection shall not affect a municipality's ability to
14 receive credit for the unit **【from the council, or its successor】**.

15 k. In the fourth round, and in subsequent rounds of affordable
16 housing obligations, a municipality shall be able to receive one
17 credit against its affordable housing obligation for each unit of low-
18 or moderate-income housing, and shall not receive bonus credit for
19 any particular type of low- or moderate-income housing, unless
20 authority to obtain bonus credit is expressly provided pursuant to
21 this section, or other sections of the "Fair Housing Act," P.L.1985,
22 c.222 (C.52:27D-301 et al.). A municipality shall not receive more
23 than one type of bonus credit for any unit, and a municipality shall
24 not be permitted to satisfy more than 25 percent of its prospective
25 need obligation in the fourth round or any subsequent round
26 through the use of bonus credits. This subsection shall not be
27 construed to limit the ability of a municipality to receive a unit of
28 credit for a low- or moderate-income housing unit that is subject to
29 affordability controls that are scheduled to expire, but are extended
30 ²【in accordance with the Uniform Housing Affordability Controls
31 promulgated by the New Jersey Housing and Mortgage Finance
32 Agency】 pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321)²
33 , to the extent that this affordability control extension would
34 otherwise generate this credit. As a part of a fair share plan and
35 housing element adopted pursuant to subsection f. of section 3 of
36 P.L. , c. (C.) (pending before the Legislature as this bill), a
37 municipality shall:

38 (1) receive one unit of credit and one bonus credit for each unit
39 of low- or moderate-income housing for individuals with special
40 needs or permanent supportive housing, as those terms are defined
41 in section 2 of P.L. 2004, c.70 (C.34:1B-21.24);

42 (2) receive one unit of credit and one-half bonus credit for each
43 low- or moderate-income ownership unit created in partnership
44 sponsorship with a non-profit housing developer;

45 (3) receive one unit of credit and one-half bonus credit for each
46 unit of low- or moderate-income housing located within a one-half
47 mile radius, or one-mile radius for projects located in a Garden

1 State Growth Zone, as defined in section 2 of P.L.2011, c.149
2 (C.34:1B-243), surrounding a New Jersey Transit Corporation, Port
3 Authority Transit Corporation, or Port Authority Trans-Hudson
4 Corporation rail, bus, or ferry station, including all light rail
5 stations. For the purpose of this subparagraph, the distance from
6 the bus, rail, or ferry station to a housing unit shall be measured
7 from the closest point on the outer perimeter of the station,
8 including any associated park-and-ride lot, to the closest point of
9 the housing project property;

10 (4) receive one unit of credit and one-half bonus credit for a unit
11 of age-restricted housing, provided that a bonus credit for age-
12 restricted housing shall not be applied to more than ²[15] 10²
13 percent of the units of age-restricted housing constructed in
14 compliance with the Uniform Housing Affordability Controls
15 promulgated by the New Jersey Housing and Mortgage Finance
16 Agency in a municipality that count towards the municipality's
17 affordable housing obligation for any single 10-year round of
18 affordable housing obligations;

19 (5) receive one unit of credit and one-half bonus credit for each
20 unit of low- or moderate-income family housing with at least three
21 bedrooms above the minimum number required by the bedroom
22 distribution ²[in a given development] . This bonus credit shall be
23 calculated by taking into account the full municipal fair share plan
24 and housing element, and the number of units with at least three
25 bedrooms required for projects satisfying the minimum 50 percent
26 family housing requirements. A municipality shall receive the
27 bonus credit pursuant to this paragraph for each unit with at least
28 three bedrooms that are above the minimum number required for
29 the bedroom distribution determined pursuant to the Uniform
30 Housing Affordability Controls promulgated by the New Jersey
31 Housing and Mortgage Finance Agency²;

32 (6) receive one unit of credit and one-half bonus credit for a unit
33 of low- or moderate-income housing constructed on land that is or
34 was previously developed and utilized for retail, office, or
35 commercial space;

36 (7) receive one unit of credit and one-half bonus credit for each
37 existing low- or moderate-income rental housing unit for which
38 affordability controls are extended for a new term of affordability,
39 in compliance with the Uniform Housing Affordability Controls
40 promulgated by the New Jersey Housing and Mortgage Finance
41 Agency, and the municipality contributes funding towards the costs
42 necessary for this preservation;

43 (8) receive one unit of credit and ²[one-half] one² bonus credit
44 for each unit of low- or moderate-income housing in a 100 percent
45 affordable housing project ²[toward] for² which the municipality
46 ²[either contributes property without which the project would not
47 be feasible, or makes contributions from the municipal affordable

1 housing trust fund that cover no less than 10 percent of the project
2 cost] contributes toward the costs of the project. This contribution
3 may consist of: (a) real property donations that enable siting and
4 construction of the project; or (b) contributions from the municipal
5 affordable housing trust fund in support of the project, if the
6 contribution consists of no less than three percent of the project
7 cost²; ²[and]²

8 (9) receive one unit of credit and one-half bonus credit for each
9 unit of very low-income housing for families above the 13 percent
10 of units required to be reserved for very low-income housing
11 pursuant to section 7 of P.L.2008, c.46 (C.52:27D-329.1). ²In
12 accordance with section 7 of P.L.2008, c.46 (C.52:27D-329.1), a
13 municipality shall not be required to provide that a specific
14 percentage of the units in any specific project be reserved as very
15 low-income housing in order to obtain this bonus credit, and the 13
16 percent level, for the purpose of bonus credits, shall be calculated
17 against the full prospective need obligation provided pursuant to the
18 fair share plan; and

19 (10) receive one unit of credit and one bonus credit for each unit
20 of low- or moderate-income housing created by transforming an
21 existing rental or ownership unit from a market rate unit to an
22 affordable housing unit. A municipality may only rely on this
23 bonus credit as part of its fair share plan and housing element if the
24 municipality demonstrates that a commitment to follow through
25 with this market to affordable agreement has been made and: (a)
26 this agreement has been signed by the property owner; or (b) the
27 municipality has obtained ownership of the property.²

28 l. A municipality may not satisfy more than ²[25] 30² percent
29 of the affordable housing units, exclusive of any bonus credits, to
30 address its prospective need affordable housing obligation through
31 the creation of age-restricted housing. A municipality shall satisfy
32 a minimum of 50 percent of the actual affordable housing units,
33 exclusive of any bonus credits, created to address its prospective
34 need affordable housing obligation through the creation of housing
35 available to families with children and otherwise in compliance
36 with the requirements and controls established pursuant to section
37 21 of P.L.1985, c.222 (C.52:27D-321). A municipality shall satisfy
38 a minimum of 25 percent of the actual affordable housing units,
39 exclusive of any bonus credits, to address its prospective need
40 affordable housing obligation, through rental housing, including at
41 least half of that number available to families with children. All
42 units referred to in this section shall otherwise be in compliance
43 with the requirements and controls established pursuant to section
44 21 of P.L.1985, c.222 (C.52:27D-321).

45 m. All parties shall be entitled to rely upon regulations on
46 municipal credits, adjustments, and compliance mechanisms
47 adopted by the Council on Affordable Housing unless those
48 regulations are contradicted by statute, including but not limited to

1 P.L. , c. (C.) (pending before the Legislature as this bill),
2 or binding court decisions.

3 ²n. P.L. , c. (C.) (pending before the Legislature as this
4 bill) shall not be construed to require a municipality to fund
5 infrastructure improvements for affordable housing projects beyond
6 any commitments made in a fair share plan and housing element
7 that has been provided with compliance certification. A
8 municipality may fund infrastructure improvements for affordable
9 housing projects, through the adoption of a development agreement
10 with the applicant, beyond any commitments made in a fair share
11 plan and housing element that has been provided with compliance
12 certification.²

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

14

15 25. Section 6 of P.L.2005, c.350 (C.52:27D-311b) is amended to
16 read as follows:

17 6. **【The council】** A municipality may take such measures as are
18 necessary to assure compliance with the adaptability requirements
19 imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.),
20 including the inspection of those units which are newly constructed
21 and receive housing credit as provided under section 1 of P.L.2005,
22 c.350 (C.52:27D-311a) for adaptability, as part of the monitoring
23 which occurs pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).
24 No housing unit subject to the provisions of section 5 of P.L.2005,
25 c.350 (C.52:27D-123.15) and to the provisions of the barrier free
26 subcode adopted by the Commissioner of Community Affairs
27 pursuant to the "State Uniform Construction Code Act," P.L.1975,
28 c.217 (C.52:27D-119 et seq.) shall be eligible for inclusion in a
29 municipal fair share plan unless the unit complies with the
30 requirements set forth thereunder. If any units for which credit was
31 granted in accordance with the provisions of P.L.2005, c.350
32 (C.52:27D-311a et al.) are found not to conform to the requirements
33 of P.L.2005, c.350 (C.52:27D-311a et al.), **【the council may】** any
34 party representing the interests of households with disabilities may
35 seek a modification to the approval of the municipal fair share plan
36 to require the municipality to amend its fair share plan within 90
37 days of **【receiving notice from the council】** such a finding, to
38 address its fair share obligation pursuant to P.L.1985, c.222
39 (C.52:27D-301 et al.). In the event that the municipality fails to
40 amend its fair share plan within 90 days of **【receiving such notice,**
41 the council may revoke substantive certification **】** such a finding, the
42 municipality shall lose immunity to ²**【a builder's remedy】**
43 exclusionary zoning litigation² for the portion of its obligation that
44 is found not to conform to the requirements of P.L.2005, c.350
45 (C.52:27D-311a et al.).

46 (cf: P.L.2005, c.350, s.6)

1 26. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
2 read as follows:

3 20. There is established in the Department of Community
4 Affairs a separate trust fund, to be used for the exclusive purposes
5 as provided in this section, and which shall be known as the "New
6 Jersey Affordable Housing Trust Fund." The fund shall be a non-
7 lapsing, revolving trust fund, and all monies deposited or received
8 for purposes of the fund shall be accounted for separately, by source
9 and amount, and remain in the fund until appropriated for such
10 purposes. The fund shall be the repository of all State funds
11 appropriated for affordable housing purposes, including, but not
12 limited to, the proceeds from the receipts of the additional fee
13 collected pursuant to paragraph (2) of subsection a. of section 3 of
14 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the
15 Statewide non-residential development fees collected pursuant to
16 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or
17 reverting from municipal development trust funds, or other monies
18 as may be dedicated, earmarked, or appropriated by the Legislature
19 for the purposes of the fund. All references in any law, order, rule,
20 regulation, contract, loan, document, or otherwise, to the
21 "Neighborhood Preservation Nonlapsing Revolving Fund" shall
22 mean the "New Jersey Affordable Housing Trust Fund." The
23 department shall be permitted to utilize annually up to 7.5 percent
24 of the monies available in the fund for the payment of any
25 necessary administrative costs related to the administration of the
26 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any
27 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et
28 al.).

29 a. Except as permitted pursuant to subsection g. of this section,
30 and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the
31 commissioner shall award grants or loans from this fund for
32 housing projects and programs in municipalities whose housing
33 elements have **【received substantive certification from the council,】**
34 obtained compliance certification pursuant to section 3 of P.L. _____,
35 c. _____ (C. _____) (pending before the Legislature as this bill), or in
36 municipalities receiving State aid pursuant to P.L.1978, c.14
37 (C.52:27D-178 et seq.) 【, in municipalities subject to a builder's
38 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),
39 or in receiving municipalities in cases where the council has
40 approved a regional contribution agreement and a project plan
41 developed by the receiving municipality】.

42 Of those monies deposited into the "New Jersey Affordable
43 Housing Trust Fund" that are derived from municipal development
44 fee trust funds, or from available collections of Statewide non-
45 residential development fees, a priority for funding shall be
46 established for projects in municipalities that have **【petitioned the**
47 **council for substantive】** received compliance certification.

1 Programs and projects in any municipality shall be funded only
2 after receipt by the commissioner of a written statement in support
3 of the program or project from the municipal governing body.

4 b. The commissioner shall establish rules and regulations
5 governing the qualifications of applicants, the application
6 procedures, and the criteria for awarding grants and loans and the
7 standards for establishing the amount, terms, and conditions of each
8 grant or loan.

9 c. For any period which the **[council]** commissioner may
10 approve, the commissioner may assist affordable housing programs
11 **[which] that are [not]** located in municipalities **[whose housing**
12 **elements have been granted substantive certification or which are**
13 **not in furtherance of a regional contribution agreement]** that have a
14 pending request for compliance certification; provided that the
15 affordable housing program will meet all or part of a municipal
16 **[low and moderate income]** low- and moderate-income housing
17 obligation.

18 d. Amounts deposited in the "New Jersey Affordable Housing
19 Trust Fund" shall be targeted to regions based on the region's
20 percentage of the State's **[low and moderate income]** low- and
21 moderate-income housing need as determined **[by the council]**
22 pursuant to the low- and moderate-income household growth over
23 the prior 10 years, as calculated pursuant to section 6 of P.L. _____,
24 c. (C. _____) (pending before the Legislature as this bill). Amounts
25 in the fund shall be applied for the following purposes in designated
26 neighborhoods:

27 (1) Rehabilitation of substandard housing units occupied or to
28 be occupied by **[low and moderate income]** low- and moderate-
29 income households;

30 (2) Creation of accessory **[apartments]** dwelling units to be
31 occupied by **[low and moderate income]** low- and moderate-
32 income households;

33 (3) Conversion of non-residential space to residential purposes;
34 provided a substantial percentage of the resulting housing units are
35 to be occupied by **[low and moderate income]** low- and moderate-
36 income households;

37 (4) Acquisition of real property, demolition and removal of
38 buildings, or construction of new housing that will be occupied by
39 **[low and moderate income]** low- and moderate-income households,
40 or any combination thereof;

41 (5) Grants of assistance to eligible municipalities for costs of
42 necessary studies, surveys, plans, and permits; engineering,
43 architectural, and other technical services; costs of land acquisition
44 and any buildings thereon; and costs of site preparation, demolition,
45 and infrastructure development for projects undertaken pursuant to
46 an approved regional contribution agreement;

1 (6) Assistance to a local housing authority, nonprofit or limited
2 dividend housing corporation, or association or a qualified entity
3 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for
4 rehabilitation or restoration of housing units which it administers
5 which: (a) are unusable or in a serious state of disrepair; (b) can be
6 restored in an economically feasible and sound manner; and (c) can
7 be retained in a safe, decent, and sanitary manner, upon completion
8 of rehabilitation or restoration; and

9 (7) Other housing programs for **low and moderate income**
10 low- and moderate-income housing, including, without limitation,
11 (a) infrastructure projects directly facilitating the construction of
12 **low and moderate income** low- and moderate-income housing not
13 to exceed a reasonable percentage of the construction costs of the
14 **low and moderate income** low- and moderate-income housing to
15 be provided and (b) alteration of dwelling units occupied or to be
16 occupied by households of **low or moderate income** low- or
17 moderate-income and the common areas of the premises in which
18 they are located in order to make them accessible to persons with
19 disabilities.

20 e. Any grant or loan agreement entered into pursuant to this
21 section shall incorporate contractual guarantees and procedures by
22 which the division **will** shall ensure that any unit of housing
23 provided for **low and moderate income** low- and moderate-
24 income households shall continue to be occupied by **low and**
25 **moderate income** low- and moderate-income households for **at**
26 **least 20 years** a period that conforms to the requirements of
27 subsection f. of section 21 of P.L.1985, c.222 (C.52:27D-321)
28 following the award of the loan or grant, except that the division
29 may approve a guarantee for a period of less **than 20 years**
30 duration where necessary to ensure project feasibility.

31 f. Notwithstanding the provisions of any other law, rule, or
32 regulation to the contrary, in making grants or loans under this
33 section, the department shall not require that tenants be certified as
34 **low or moderate income** low- or moderate-income or that
35 contractual guarantees or deed restrictions be in place to ensure
36 continued **low and moderate income** low- and moderate-income
37 occupancy as a condition of providing housing assistance from any
38 program administered by the department, when that assistance is
39 provided for a project of moderate rehabilitation if the project: (1)
40 contains 30 or fewer rental units; and (2) is located in a census tract
41 in which the median household income is 60 percent or less of the
42 median income for the housing region in which the census tract is
43 located, as determined for a three person household by the
44 **council** department in accordance with the latest federal
45 decennial census. A list of eligible census tracts shall be
46 maintained by the department and shall be adjusted upon

1 publication of median income figures by census tract after each
2 federal decennial census.

3 g. In addition to other grants or loans awarded pursuant to this
4 section, and without regard to any limitations on such grants or
5 loans for any other purposes herein imposed, the commissioner
6 shall annually allocate such amounts as may be necessary in the
7 commissioner's discretion, and in accordance with section 3 of
8 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
9 under the program created pursuant to P.L.2004, c.140
10 (C.52:27D-287.1 et al.). Such rental assistance grants shall be
11 deemed necessary and authorized pursuant to P.L.1985, c.222
12 (C.52:27D-301 et al.), in order to meet the housing needs of certain
13 **low income** low-income households who may not be eligible to
14 occupy other housing produced pursuant to P.L.1985, c.222
15 (C.52:27D-301 et al.).

16 h. The department and the State Treasurer shall submit the
17 "New Jersey Affordable Housing Trust Fund" for an audit annually
18 by the State Auditor or State Comptroller, at the discretion of the
19 Treasurer. In addition, the department shall prepare an annual
20 report for each fiscal year, and submit it by November 30th of each
21 year to the Governor and the Legislature, and the Joint Committee
22 on Housing Affordability, or its successor, and post the information
23 to its **web site** Internet website, of all activity of the fund,
24 including details of the grants and loans by number of units, number
25 and income ranges of recipients of grants or loans, location of the
26 housing renovated or constructed using monies from the fund, the
27 number of units upon which affordability controls were placed, and
28 the length of those controls. The report also shall include details
29 pertaining to those monies allocated from the fund for use by the
30 State rental assistance program pursuant to section 3 of P.L.2004,
31 c.140 (C.52:27D-287.3) and subsection g. of this section.

32 i. The commissioner may award or grant the amount of any
33 appropriation deposited in the "New Jersey Affordable Housing
34 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-
35 320.1) to municipalities pursuant to the provisions of section 39 of
36 P.L.2009, c.90 (C.40:55D-8.8).
37 (cf: P.L.2017, c.131, s.200)

38

39 27. Section 21 of P.L.1985, c.222 (C.52:27D-321) is amended to
40 read as follows:

41 21. The agency shall establish affordable housing programs to
42 assist municipalities in meeting the obligation of developing
43 communities to provide **low and moderate income** low- and
44 moderate-income housing.

45 a. Of the bond authority allocated to it under section 24 of
46 P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a
47 reasonable period of time established by its board, no less than
48 **25%** 25 percent to be used in conjunction with housing to be

1 constructed or rehabilitated with assistance under **[this act]**
2 P.L.1985, c.222 (C.52:27D-301 et al.).

3 b. The agency shall to the extent of available funds, award
4 assistance to affordable housing programs located in municipalities
5 whose housing elements have **[received substantive]** obtained
6 compliance certification **[from the council]** , or which have been
7 subject to a builder's remedy **[or which are in furtherance of a**
8 **regional contribution agreement approved by the council]**. During
9 **[the first 12 months from the effective date of this act and for]** any
10 **[additional]** period which the **[council]** agency may approve, the
11 agency may assist affordable housing programs **[which are not**
12 **located in municipalities whose housing elements have been granted**
13 **substantive certification or which are not in furtherance of a**
14 **regional contribution agreement]** that have a pending request for
15 compliance certification; provided the affordable housing program
16 will meet all or in part a municipal **[low and moderate income]**
17 low- and moderate-income housing obligation.

18 c. Assistance provided pursuant to this section may take the
19 form of grants or awards to municipalities, prospective home
20 purchasers, housing sponsors as defined in P.L.1983, c.530
21 (C.55:14K-1 et seq.), or as contributions to the issuance of
22 mortgage revenue bonds or multi-family housing development
23 bonds which have the effect of achieving the goal of producing
24 affordable housing.

25 d. Affordable housing programs which may be financed or
26 assisted under this provision may include, but are not limited to:

27 (1) Assistance for home purchase and improvement including
28 interest rate assistance, down payment and closing cost assistance,
29 and direct grants for principal reduction;

30 (2) Rental programs including loans or grants for developments
31 containing **[low and moderate income]** low- and moderate-income
32 housing, moderate rehabilitation of existing rental housing,
33 congregate care and retirement facilities;

34 (3) Financial assistance for the conversion of nonresidential
35 space to residences;

36 (4) Other housing programs for **[low and moderate income]**
37 low- and moderate-income housing, including infrastructure
38 projects directly facilitating the construction of **[low and moderate**
39 **income]** low- and moderate-income housing; and

40 (5) Grants or loans to municipalities, housing sponsors and
41 community organizations to encourage development of innovative
42 approaches to affordable housing, including:

43 (a) Such advisory, consultative, training and educational
44 services as will assist in the planning, construction, rehabilitation
45 and operation of housing; and

46 (b) Encouraging research in and demonstration projects to
47 develop new and better techniques and methods for increasing the

1 supply, types and financing of housing and housing projects in the
2 State.

3 e. The agency shall establish procedures and guidelines
4 governing the qualifications of applicants, the application
5 procedures and the criteria for awarding grants and loans for
6 affordable housing programs and the standards for establishing the
7 amount, terms and conditions of each grant or loan.

8 f. ~~【In consultation with the council, the】~~ The agency, in
9 consultation with the department, shall establish requirements and
10 controls to ~~【insure】~~ ensure the maintenance of housing assisted
11 under ~~【this act】~~ P.L.1985, c.222 (C.52:27D-301 et al.) as affordable
12 to ~~【low and moderate income】~~ low- and moderate-income
13 households for a period of not less than 40 years for ²newly
14 created² rental units ²【and, 20】 , 30² years for for-sale units
15 ²【provided that the agency】² 【may establish a shorter period upon a
16 determination that the economic feasibility of the program is
17 jeopardized by the requirement and the public purpose served by the
18 program outweighs the shorter period】 ², and 30 years for housing
19 units for which affordability controls are extended for a new term of
20 affordability, provided that the minimum extension term may be
21 limited to no less than 20 years as long as the original and extended
22 term, in combination, total at least 60 years. Any 100 percent
23 affordable rental property shall have a right to extinguish a deed
24 restriction regardless of original length, beginning 30 years
25 following the start of the deed restriction, provided a refinancing or
26 rehabilitation, or both, for the purpose of preservation is
27 commenced and that a new deed restriction of at least 30 years is
28 provided. A municipality shall be eligible to receive credits for all
29 preserved units pursuant to this subsection, as long as the original
30 and extended term total at least 60 years, and this credit may be
31 obtained at the time of preservation. All 100 percent affordable
32 projects shall be eligible for any affordable housing preservation
33 program administered by the State, beginning 30 years following
34 the start of the deed restriction, regardless of original length of the
35 deed restriction. Any State administered preservation program may
36 allow a refinancing funding process to commence prior to the 30th
37 year of the deed restriction when such refinancing or rehabilitation
38 funding is needed to preserve affordable housing. The agency² may
39 update or amend any controls previously adopted by the agency, in
40 consultation with the Council on Affordable Housing, prior to the
41 effective date of P.L. _____, c. _____ (C. _____) (pending before the
42 Legislature as this bill), provided that the requirements and controls
43 shall, at a minimum, be consistent with the controls as in effect
44 immediately prior to the effective date of P.L. _____, c. _____)
45 (pending before the Legislature as this bill), including, but not
46 limited to, any requirements concerning bedroom distributions,
47 affordability averages, and affirmative marketing. The controls

1 may include, among others, requirements for recapture of assistance
2 provided pursuant to **【this act】** P.L.1985, c.222 (C.52:27D-301 et
3 al.) or restrictions on return on equity in the event of failure to meet
4 the requirements of the program. With respect to rental housing
5 financed by the agency pursuant to **【this act】** P.L.1985, c.222
6 (C.52:27D-301 et al.) or otherwise which promotes the provision or
7 maintenance of **【low and moderate income】** low- and moderate-
8 income housing, the agency may waive restrictions on return on
9 equity required pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.)
10 which is gained through the sale of the property or of any interest in
11 the property or sale of any interest in the housing sponsor. The
12 agency shall promulgate updated regulations no later than nine
13 months following the effective date of P.L. , c. (C.)
14 (pending before the Legislature as this bill). All parties may
15 continue to rely on regulations previously adopted by the agency
16 pursuant to the authority provided by this section as in effect
17 immediately prior to the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill) until new rules and
19 regulations are adopted by the agency. Notwithstanding the
20 provisions of the "Administrative Procedure Act," P.L.1968, c.410
21 (C.52:14B-1 et seq.) to the contrary, the agency, after consultation
22 with department, may adopt, immediately, upon filing with the
23 Office of Administrative Law, said regulations, which shall be
24 effective for a period not to exceed one year from the date of the
25 filing. The agency shall thereafter amend, adopt, or readopt the
26 regulations in accordance with the requirements of P.L.1968, c.410
27 (C.52:14B-1 et seq.).

28 g. The agency may establish affordable housing programs
29 through the use or establishment of subsidiary corporations or
30 development corporations as provided in P.L.1983, c.530
31 (C.55:14K-1 et seq.). The subsidiary corporations or development
32 corporations shall be eligible to receive funds provided under **【this**
33 **act】** P.L.1985, c.222 (C.52:27D-301 et al.) for any permitted
34 purpose.

35 h. The agency shall provide assistance, through its bonding
36 powers or in any other manner within its powers, to the grant and
37 loan program established pursuant to section 20 of P.L.1985, c.222
38 (C.52:27D-320).

39 i. (1) The department shall promulgate processes and standards
40 for the certification of administrative agents and municipal housing
41 liaisons in the State, as well as standards for measuring
42 performance of and enforcing compliance by administrative agents
43 and municipal housing liaisons in implementing the affordable
44 housing requirements and controls established pursuant to
45 subsection f. of this section.

46 (2) Administrative agents shall be responsible for implementing
47 the requirements and controls set by the regulations promulgated

1 pursuant to subsection ²[(f)] f.² of this section. The department
2 may bring via summary proceeding any findings of violation of the
3 responsibilities set forth in this section before a county level
4 housing judge, to docket the violation and issue corrective orders
5 and levy fines.

6 (3) Municipal housing liaisons shall be responsible for
7 monitoring administrative agents within their municipality's
8 jurisdiction to ensure compliance with the requirements and
9 controls set by regulation under subsection f. of this section.

10 (4) Municipal housing liaisons, the department, and interested
11 parties may bring a challenge before a county level housing judge to
12 determine whether properties subject to the regulations set forth by
13 this section are out of compliance with the regulations. A finding
14 of deliberate noncompliance may result in the department removing
15 the administrative agent's certification.

16 (5) A County level housing judge may issue fines and order
17 corrective actions for violations and may consider patterns of
18 violations in determining whether a municipality is meeting its
19 obligations under the compliance certification established by
20 section 3 of P.L. , c. (C.) (pending before the Legislature
21 as this bill).

22 (6) Notwithstanding the provisions of the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
24 contrary, the department may adopt, immediately, upon filing with
25 the Office of Administrative Law, regulations to implement the
26 provisions of this subsection, which shall be effective for a period
27 not to exceed one year from the date of the filing. The department
28 shall thereafter amend, adopt, or readopt the regulations in
29 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
30 et seq.).

31 (cf: P.L.2004, c.140, s.5)

32

33 28. Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is amended
34 to read as follows:

35 19. Notwithstanding any rules of the New Jersey Housing and
36 Mortgage Finance Agency to the contrary, the allocation of **[low**
37 **income]** low-income tax credits shall be made by the agency to the
38 full extent such credits are permitted to be allocated under federal
39 law, including allocations of **[4]** four percent or **[9]** nine percent
40 federal **[low income]** low-income tax credits, and including
41 allocations allowable for partial credits. The affordable portion of
42 any mixed income or mixed use development that is part of a fair
43 share housing plan **[approved by the council, or]** that has obtained
44 compliance certification, including a court-approved judgment of
45 repose or compliance, including, but not limited to, a development
46 that has received a density bonus, shall be permitted to receive
47 allocations of **[low income]** low-income tax credits, provided that

1 the applicant can conclusively demonstrate that the market rate
2 residential or commercial units are unable to internally subsidize
3 the affordable units, and the affordable units are developed
4 contemporaneously with the commercial or market rate residential
5 units.

6 (cf: P.L.2008, c.46, s.19)

7

8 29. Section 7 of P.L.2008, c.46 (C.52:27D-329.1) is amended to
9 read as follows:

10 7. **【**The council shall coordinate and review the housing
11 elements as filed pursuant to section 11 of P.L.1985, c.222
12 (C.52:27D-311), and the housing activities under section 20 of
13 P.L.1985, c.222 (C.52:27D-320), at least once every three years, to**】**
14 Housing elements and fair share plans adopted pursuant to section 3
15 of P.L. , c. (C.) (pending before the Legislature as this bill)
16 shall ensure that at least 13 percent of the housing units made
17 available for occupancy by low-income and **【**moderate income**】**
18 moderate-income households to address a municipality's
19 prospective need obligation will be reserved for occupancy by very
20 low income households, as that term is defined pursuant to section 4
21 of P.L.1985, c.222 (C.52:27D-304), with at least half of such units
22 made available for families with children. The 13 percent shall
23 count towards the minimum 50 percent of the housing units
24 required to be made available for occupancy by low-income
25 households to address a municipality's prospective need obligation.
26 Nothing in this section shall require that a specific percentage of the
27 units in any specific project be reserved as very **【**low income**】** low-
28 income housing; provided, however, that a municipality shall not
29 receive bonus credits for the provision of housing units reserved for
30 occupancy by very **【**low income**】** low-income households unless
31 the 13 percent target has been exceeded within that municipality **【**.
32 The council shall coordinate all efforts to meet the goal of this
33 section in a manner that will result in a balanced number of housing
34 units being reserved for very low income households throughout all
35 housing regions. For the purposes of this section, housing activities
36 under section 20 of P.L.1985, c.222 (C.52:27D-320) shall include
37 any project-based assistance provided from the "New Jersey
38 Affordable Housing Trust Fund" pursuant to P.L.2004, c.140
39 (C.52:27D-287.1 et al.), regardless of whether the housing activity
40 is counted toward the municipal obligation under the "Fair Housing
41 Act," P.L.1985, c.222 (C.52:27D-301 et al.)**】** , and that the agency
42 shall update the regulations adopted pursuant to section 21 of
43 P.L.1985, c.222 (C.52:27D-321) to replace any requirements for
44 very low-income housing inconsistent with the percentages and
45 definitions established pursuant to P.L. , c. (C.)
46

1 (pending before the Legislature as this bill) with the percentage and
2 definition specified in this section.

3 (cf: P.L.2008, c.46, s.7)

4

5 30. Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to
6 read as follows:

7 8. a. **【The council may authorize a】** (1) A municipality that is
8 in the process of seeking compliance certification, has 【petitioned
9 for substantive】 obtained compliance certification, ²is a qualified
10 urban aid municipality, as determined pursuant to paragraph (1) of
11 subsection c. of section 7 of P.L. , c. (C.) (pending before
12 the Legislature as this bill),² or that has been so authorized by a
13 court of competent jurisdiction, and which has adopted a municipal
14 development fee ordinance shall be authorized to impose and
15 collect development fees from developers of residential property, in
16 accordance with rules promulgated by the 【council】 department.
17 Each amount collected shall be deposited and shall be accounted for
18 separately, by payer and date of deposit.

19 (2) No later than ²【90】 180² days following the enactment of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 any municipality that is or has been authorized to impose and
22 collect development fees from developers of residential property, or
23 payments in lieu of constructing affordable housing, shall provide
24 the Department of Community Affairs with a detailed accounting of
25 all such fees that have been collected and expended since the
26 inception of the municipal authorization to collect the fees.

27 (3) Beginning with the year after the enactment of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), by
29 ²【January】 February² 15, every municipality that is or has been
30 authorized to impose and collect development fees from developers
31 of residential property, or payments in lieu of constructing
32 affordable housing, shall provide the Department of Community
33 Affairs with a detailed accounting of all such fees that have been
34 collected and expended the previous year.

35 (4) A municipality may not spend or commit to spend any
36 affordable housing development fees, including Statewide non-
37 residential fees collected and deposited into the municipal
38 affordable housing trust fund, without first obtaining the 【council's】
39 approval of the expenditure as part of its compliance certification or
40 by the department. A municipality shall include in its housing
41 element and fair share plan adopted pursuant to section 3 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) a
43 spending plan for current funds in the municipal affordable housing
44 trust fund and projected funds through the current round. Review
45 of that spending plan for consistency with applicable law and the
46 municipality's Housing Element and Fair Share Plan shall be part of
47 the process specified in section 3 of P.L. , c. (C.) (pending

1 before the Legislature as this bill). The **【council】** department shall
2 promulgate updated regulations no later than nine months following
3 the effective date of P.L. _____, c. _____ (C. _____) (pending before the
4 Legislature as this bill) regarding the establishment, administration,
5 reporting, and enforcement of the expenditure of affordable housing
6 development fees by municipalities, which shall include
7 establishing an expedited process for approving spending plan
8 expenditures for emergent opportunities to create affordable
9 housing after a municipality has obtained compliance certification
10 and procedures for monitoring the collection and expenditure of
11 trust funds. The department shall develop and publish on the
12 department's Internet website a detailed summary of the municipal
13 affordable housing trust fund expenditures for each municipality,
14 and shall update each summary on an annual basis. As part of the
15 regulations adopted pursuant to this section and section 10 of
16 P.L.2008, c.46 (C.52:27D-329.4), the department shall adopt
17 reporting requirements applicable to municipal affordable housing
18 trust funds to facilitate fulfillment of the department's obligations
19 pursuant to this section. Municipalities may continue to rely on
20 regulations on development fees and spending plans previously
21 adopted by the council until new rules and regulations are adopted
22 by the department. The **【council】** department shall have
23 **【exclusive】** jurisdiction regarding the enforcement of these
24 regulations, provided that any municipality which is not in
25 compliance with the regulations adopted by the **【council】**
26 department may be subject to forfeiture of any or all funds
27 remaining within its municipal trust fund. Any funds so forfeited
28 shall be deposited into the "New Jersey Affordable Housing Trust
29 Fund" established pursuant to section 20 of P.L.1985, c.222
30 (C.52:27D-320).

31 b. A municipality shall deposit all fees collected, whether or
32 not such collections were derived from fees imposed upon non-
33 residential or residential construction into a trust fund dedicated to
34 those purposes as required under this section, and such additional
35 purposes as may be approved by the **【council】** department.

36 c. (1) A municipality ², other than a qualified urban aid
37 municipality, as determined pursuant to paragraph (1) of subsection
38 c. of section 7 of P.L. _____, c. _____ (C. _____) (pending before the
39 Legislature as this bill),² may only spend development fees for an
40 activity approved by the **【council】** department to address the
41 municipal fair share obligation, or approved as part of compliance
42 certification.

43 (2) Municipal development trust funds shall not be expended
44 unless the municipality has immunity from ²**【builder's remedy】**
45 exclusionary zoning² litigation at the time of the expenditure ²**【**,
46 and**】** , or said municipality has previously collected such funds
47 while under the protection of presumptive validity or immunity

1 from exclusionary zoning litigation and in accordance with an
2 approved spending plan. However, municipal development trust
3 funds may be expended by a municipality if the municipality is a
4 qualified urban aid municipality, as determined pursuant to
5 paragraph (1) of subsection c. of section 7 of P.L. , c. (C.)
6 (pending before the Legislature as this bill), with a development fee
7 ordinance and spending plan approved by the department or a court
8 of competent jurisdiction, regardless of whether this approval
9 occurs prior to or subsequent to the effective date of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11 Municipal development fee trust funds² shall not be expended:

12 (a) to reimburse municipalities for activities which occurred
13 prior to the authorization of a municipality to collect development
14 fees; or

15 (b) (i) on administrative costs, attorney fees or court costs to
16 obtain a judgment of repose; (ii) to contest a determination of the
17 municipality's fair share obligation; or (iii) on costs of any
18 challenger in connection to a challenge to the municipality's
19 obligation, housing element, or fair share plan.

20 (3) A municipality shall set aside a portion of its development
21 fee trust fund for the purpose of providing affordability assistance
22 to **low and moderate income** low- and moderate-income
23 households in affordable units included in a municipal fair share
24 plan, in accordance with rules of the **council** department.

25 (a) Affordability assistance programs may include down
26 payment assistance, security deposit assistance, low interest loans,
27 common maintenance expenses for units located in condominiums,
28 rental assistance, and any other program authorized by the
29 **council** department.

30 (b) Affordability assistance to households earning 30 percent or
31 less of median income may include buying down the cost of **low**
32 **income** low-income units in a municipal fair share plan to make
33 them affordable to households earning 30 percent or less of median
34 income. The use of development fees in this manner shall not
35 entitle a municipality to bonus credits except as may **be provided**
36 **by the rules of the council** otherwise be allowed by applicable
37 precedent.

38 (4) A municipality may contract with a private or public entity
39 to administer any part of its housing element and fair share plan,
40 including the requirement for affordability assistance, or any
41 program or activity for which the municipality expends
42 development fee proceeds, in accordance with rules of the
43 **council** department.

44 (5) Not more than 20 percent of the revenues collected from
45 development fees shall be expended on administration, in
46 accordance with rules of the **council** department. Such
47 administration may include expending a portion of its affordable

1 housing trust fund on actions and efforts reasonably related to the
2 determination of its fair share obligation and the development of its
3 housing element and fair share plan pursuant to paragraphs (1) and
4 (2) of subsection f. of section 3 of P.L. , c. (C.) (pending
5 before the Legislature as this bill), and for expenses that are
6 reasonably necessary for compliance with the processes of the
7 program, including but not limited to, the costs to the municipality
8 of resolving a challenge under the program.

9 d. The **【council】** department shall establish a time by which all
10 development fees collected within a calendar year shall be
11 expended; provided, however, that all fees shall be committed for
12 expenditure within four years from the date of collection. A
13 municipality that fails to commit to expend the balance required in
14 the development fee trust fund by the time set forth in this section
15 shall be required by the council to transfer the remaining unspent
16 balance at the end of the four-year period to the "New Jersey
17 Affordable Housing Trust Fund," established pursuant to section 20
18 of P.L.1985, c.222 (C.52:27D-320), as amended by P.L.2008, c.46
19 (C.52:27D-329.1 et al.), to be used in the housing region of the
20 transferring municipality for the authorized purposes of that fund.

21 e. Notwithstanding any provision of this section, or regulations
22 of the **【council】** department, a municipality shall not collect a
23 development fee from a developer whenever that developer is
24 providing for the construction of affordable units, either on-site or
25 elsewhere within the municipality.

26 This section shall not apply to the collection of a Statewide
27 development fee imposed upon non-residential development
28 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
29 **【et seq.】** through C.40:55D-8.7) by the State Treasurer, when such
30 collection is not authorized to be retained by a municipality.

31 (cf: P.L.2008, c.46, s.8)

32
33 31. Section 10 of P.L.2008, c.46 (C.52:27D-329.4) is amended
34 to read as follows:

35 10. a. The **【council】** department shall maintain on its Internet
36 website, and also publish on 【a regular】 an annual basis, an up-to-
37 date municipal status report 【concerning the petitions for
38 substantive certification of each municipality that has submitted to
39 the council's jurisdiction, and shall collect and publish】 based on its
40 collection and publication of information concerning the number
41 affordable of housing units actually constructed, construction starts,
42 certificates of occupancy granted, 【rental units maintained, and the
43 number of housing units transferred or sold within the previous 12-
44 month period】 the start and expiration dates of deed restrictions,
45 and residential and non-residential development fees collected and
46 expended, including purposes and amounts of such expenditures,
47 along with the current balance in the municipality's affordable

1 housing trust funds. With respect to units actually constructed, the
 2 information shall specify the characteristics of the housing,
 3 including housing type, tenure, affordability level, number of
 4 bedrooms, date and expiration of affordability controls, and whether
 5 occupancy is reserved for families, senior citizens, or other special
 6 populations. **【No later than 60 months after the effective date of**
 7 **P.L.2008, c.46 (C.52:27D-329.1 et al.), the council shall require**
 8 **each municipality, as a condition of substantive certification, to**
 9 **provide, in a standardized electronic media format as determined by**
 10 **the council, the details of the fair share plan as adopted by the**
 11 **municipality and approved by the council. The council shall**
 12 **publish and maintain such approved plans on its website.】**

13 b. (1) No later than ²【90】 180² days following the enactment of
 14 P.L. , c. (C.) (pending before the Legislature as this bill),
 15 each municipality shall provide the department with the information
 16 necessary to comply with this section.

17 (2) Beginning with the year after the enactment of P.L. ,
 18 c. (C.) (pending before the Legislature as this bill), by
 19 ²【January】 February² 15, each municipality shall provide the
 20 department with the information necessary to comply with this
 21 section.

22 c. The department may adopt, pursuant to the "Administrative
 23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
 24 regulations as may be necessary to effectuate the provisions of this
 25 section, including rules and regulations to ensure that municipalities
 26 and developers report any information as may be necessary for the
 27 department to fulfill its obligations pursuant to this section.

28 (cf: P.L.2008, c.46, s.10)

29

30 32. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended
 31 to read as follows:

32 18. a. Notwithstanding any rules **【of the council】** to the
 33 contrary, for developments consisting of newly-constructed
 34 residential units located, or to be located, within the jurisdiction of
 35 any regional planning entity required to adopt a master plan or
 36 comprehensive management plan pursuant to statutory law,
 37 including the New Jersey Meadowlands Commission pursuant to
 38 subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6), the
 39 Pinelands Commission pursuant to section 7 of the "Pinelands
 40 Protection Act," P.L.1979, c.111 (C.13:18A-8), the Fort Monmouth
 41 Economic Revitalization Planning Authority pursuant to section 5
 42 of P.L.2006, c.16 (C.52:27I-5), or its successor, and the Highlands
 43 Water Protection and Planning Council pursuant to section 11 of
 44 P.L.2004, c.120 (C.13:20-11), but excluding joint planning boards
 45 formed pursuant to section 64 of P.L.1975, c.291 (C.40:55D-77),
 46 there shall be required to be reserved for occupancy by **【low or**
 47 **moderate income】** low- or moderate-income households at least 20

1 percent of the residential units constructed **】, to the extent this is**
2 **economically feasible**】** with affordability controls as required
3 pursuant to the rules and regulations of the agency.**

4 b. Subject to the provisions of subsection d. of this section, a
5 developer of a project consisting of newly-constructed residential
6 units being financed in whole or in part with State funds, including,
7 but not limited to, transit villages designated by the Department of
8 Transportation and units constructed on State-owned property, shall
9 be required to reserve at least 20 percent of the residential units
10 constructed for occupancy by **【low or moderate income**】** low- or**
11 moderate-income households, as those terms are defined in section
12 4 of P.L.1985, c.222 (C.52:27D-304), with affordability controls as
13 required under the rules of the **【council, unless the municipality in**
14 **which the property is located has received substantive certification**
15 **from the council and such a reservation is not required under the**
16 **approved affordable housing plan, or the municipality has been**
17 **given a judgment of repose or a judgment of compliance by the**
18 **court, and such a reservation is not required under the approved**
19 **affordable housing plan**】** agency.**

20 c. **【(1) The Legislature recognizes that regional planning**
21 **entities are appropriately positioned to take a broader role in the**
22 **planning and provision of affordable housing based on regional**
23 **planning considerations. In recognition of the value of sound**
24 **regional planning, including the desire to foster economic growth,**
25 **create a variety and choice of housing near public transportation,**
26 **protect critical environmental resources, including farmland and**
27 **open space preservation, and maximize the use of existing**
28 **infrastructure, there is created a new program to foster regional**
29 **planning entities.**

30 (2) The regional planning entities identified in subsection a. of
31 this section shall identify and coordinate regional affordable
32 housing opportunities in cooperation with municipalities in areas
33 with convenient access to infrastructure, employment opportunities,
34 and public transportation. Coordination of affordable housing
35 opportunities may include methods to regionally provide housing in
36 line with regional concerns, such as transit needs or opportunities,
37 environmental concerns, or such other factors as the council may
38 permit; provided, however, that such provision by such a regional
39 entity may not result in more than a 50 percent change in the fair
40 share obligation of any municipality; provided that this limitation
41 shall not apply to affordable housing units directly attributable to
42 development by the New Jersey Sports and Exposition Authority
43 within the New Jersey Meadowlands District.

44 (3) In addition to the entities identified in subsection a. of this
45 section, the Casino Reinvestment Development Authority, in
46 conjunction with the Atlantic County Planning Board, shall identify
47 and coordinate regional affordable housing opportunities directly

1 attributable to Atlantic City casino development, which may be
2 provided anywhere within Atlantic County, subject to the
3 restrictions of paragraph (4) of this subsection.

4 (4) The coordination of affordable housing opportunities by
5 regional entities as identified in this section shall not include
6 activities which would provide housing units to be located in those
7 municipalities that are eligible to receive aid under the "Special
8 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
9 are coextensive with a school district which qualified for
10 designation as a "special needs district" pursuant to the "Quality
11 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at
12 any time in the last 10 years have been qualified to receive
13 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall
14 within the jurisdiction of any of the regional entities specified in
15 subsection a. of this section. **】** (Deleted by amendment,
16 P.L. , c.) (pending before the Legislature as this bill)

17 d. Notwithstanding the provisions of subsection b. of this
18 section, or any other law or regulation to the contrary, for purposes
19 of mixed use projects or qualified residential projects in which a
20 business receives a tax credit pursuant to P.L.2007, c.346
21 (C.34:1B-207 et seq.) or a tax credit pursuant to section 35 of
22 P.L.2009, c.90 (C.34:1B-209.3), or both, an "eligible municipality,"
23 as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), shall have
24 the option of deciding the percentage of newly-constructed
25 residential units within the project, up to 20 percent of the total,
26 required to be reserved for occupancy by **】low or moderate income】**
27 low- or moderate-income households. For a mixed use project or a
28 qualified residential project that has received preliminary or final
29 site plan approval prior to the effective date of P.L.2011, c.89, the
30 percentage shall be deemed to be the percentage, if any, of units
31 required to be reserved for **】low or moderate income】** low- or
32 moderate-income households in accordance with the terms and
33 conditions of such approval.

34 (cf: P.L.2011, c.89, s.5)

35

36 33. Section 3 of P.L.1995, c.343 (C.55:14K-56) is amended to
37 read as follows:

38 3. As used in this act:

39 "Affordable Home Ownership Opportunities Bonds" means any
40 bonds of the New Jersey Housing and Mortgage Finance Agency
41 that provide funds to facilitate the provisions of this act.

42 "Agency" means the New Jersey Housing and Mortgage Finance
43 Agency.

44 "Annual income" means total income, from all sources, during
45 the last full calendar year preceding the filing of an application for a
46 loan pursuant to this act.

1 "Bonds" means bonds, notes or any other form of evidence of
2 indebtedness of the agency, bearing either a fixed rate or a variable
3 rate of interest, issued by the agency.

4 "Eligible project" means a project for the creation of low or
5 moderate income housing which meets the standards of eligibility
6 for loans under the program created by this act.

7 "Eligible purchaser" means a purchaser of a dwelling unit in an
8 eligible project to whom a loan may be made under the program
9 pursuant to section 5 of this act.

10 "Fund" means the Affordable Home Ownership Opportunities
11 Fund established by section 5 of this act.

12 "Housing region" means a housing region as defined in
13 subsection b. of section 4 of the "Fair Housing Act," P.L.1985,
14 c.222 (C.52:27D-304) and determined **【**by the Council on
15 Affordable Housing pursuant to section 7 of that act, P.L.1985,
16 c.222 (C.52:27D-307)**】** pursuant to subsection b. of section 6 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).

18 "Local enforcement authority" means any officer or agency of
19 local government responsible for the implementation or
20 enforcement of land-use and building regulations established by or
21 pursuant to the "State Uniform Construction Code Act," P.L.1975,
22 c.217 (C.52:27D-119 et seq.) or the "Municipal Land Use Law,"
23 P.L.1975, c.291 (C.40:55D-1 et seq.).

24 "Low income" means a gross annual household income equal to
25 50% or less of the median gross annual household income for
26 households of the same size within the relevant housing region.

27 "Moderate income" means a gross annual household income
28 equal to not more than 80%, but more than 50% of the median gross
29 annual household income for households of the same size within the
30 relevant housing region.

31 "Program" means the Affordable Home Ownership Opportunities
32 Program created by this act.

33 "Qualified nonprofit organization" means any corporation or
34 association of persons organized under Title 15A of the New Jersey
35 Statutes, having for its principal purpose, or as a purpose ancillary
36 to its principal purpose, the improvement of realistic opportunities
37 for low income and moderate income housing, as defined pursuant
38 to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.),
39 being within the description of section 501(c)(3) of the United
40 States Internal Revenue Code (26 U.S.C. 501(c)(3)), having been
41 determined by the agency to be a bona fide organization not under
42 the effective control of any for-profit organization or governmental
43 entity, and appearing capable, by virtue of past activities,
44 qualifications of staff or board, or other features, of furthering the
45 purposes of this act.

46 "Substantial rehabilitation" means repair, reconstruction or
47 renovation which (1) costs in excess of 60% of the fair market value
48 of a rehabilitated dwelling after such repair, reconstruction or

1 renovation, or (2) renders a previously vacant and uninhabitable
2 dwelling safe, sanitary and decent for residential purposes, or (3)
3 converts to safe, sanitary and decent residential use a structure
4 previously in non-residential use.

5 (cf: P.L.1995, c.343, s.3)

6

7 34. Section 7 of P.L.1995, c.343 (C.55:14K-60) is amended to
8 read as follows:

9 7. A project of new construction or substantial rehabilitation by
10 a nonprofit organization shall be eligible for a loan under this act if
11 (1) the homes to be constructed or substantially rehabilitated under
12 the project are located within an identifiable neighborhood in which
13 median family income does not exceed the current standard of
14 "moderate income" pursuant to the contemporaneous standards [of
15 the Council on Affordable Housing] established pursuant to the
16 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.); (2) the
17 homes to be constructed or substantially rehabilitated under the
18 project are sufficient in number and located on the same or
19 contiguous parcels of land or within such proximity to each other as
20 to render the cost per unit of housing practicable for acquisition by
21 lower-income purchasers; and (3) each home constructed or
22 substantially rehabilitated within the project will conform to all
23 requirements of the State Uniform Construction Code, except as to
24 the waiver of any fee or other requirement pursuant to subsection b.
25 of section 9 of this act.

26 (cf: P.L.1995, c.343, s.7)

27

28 35. Section 3 of P.L.1998, c.128 (C.55:14K-74) is amended to
29 read as follows:

30 3. As used in this act:

31 "Agency" means the New Jersey Housing and Mortgage Finance
32 Agency.

33 "Annual income" means total income, from all sources, during
34 the last full calendar year preceding the filing of an application for a
35 loan pursuant to this act.

36 "Bonds" means bonds, notes or any other form of evidence of
37 indebtedness of the agency, bearing either a fixed rate or a variable
38 rate of interest, issued by the agency.

39 "Eligible project" means a project undertaken by a qualified
40 housing sponsor to create housing for shared occupancy by seniors
41 or persons with disability of low or moderate income, whether for
42 home ownership or rental, which meets the standards of eligibility
43 for loans under the program created by section 4 of P.L.1998, c.128
44 (C.55:14K-75).

45 "Eligible purchaser" means a purchaser of a dwelling unit in an
46 eligible project who fulfills the definition of a senior or person with
47 disability pursuant to this section, is of low or moderate income and

1 to whom a loan may be made under the program pursuant to section
2 4 of P.L.1998, c.128 (C.55:14K-75).

3 "Fund" means the Senior and Disabled Cooperative Housing
4 Incentive Fund established by section 6 of P.L.1998, c.128
5 (C.55:14K-77).

6 "Housing region" means a housing region as defined in
7 subsection b. of section 4 of P.L.1985, c.222 (C.52:27D-304) and
8 determined **【**by the Council on Affordable Housing pursuant to
9 section 7 of P.L.1985, c.222 (C.52:27D-307)**】** pursuant to
10 subsection b. of section 6 of P.L. , c. (C.) (pending before
11 the Legislature as this bill).

12 "Low income" means a gross annual household income equal to
13 50% or less of the median gross annual household income for
14 households of the same size within the relevant housing region.

15 "Moderate income" means a gross annual household income
16 equal to not more than 80%, but more than 50% of the median gross
17 annual household income for households of the same size within the
18 relevant housing region.

19 "Person with disability" means any person who is 18 years of age
20 or older and who fulfills the definition of having a "disability"
21 pursuant to section 3 of the "Americans with Disabilities Act of
22 1990," 42 U.S.C. s.12102).

23 "Program" means the New Jersey Senior and Disabled
24 Cooperative Housing Finance Incentive Program created by
25 P.L.1998, c.128 (C.55:14K-72 et seq.).

26 "Qualified housing sponsor" means any corporation or
27 association of persons organized under the New Jersey Statutes, or
28 any other corporation having for one of its purposes the
29 improvement of realistic opportunities for low income and moderate
30 income housing, as defined pursuant to the "Fair Housing Act,"
31 P.L.1985, c.222 (C.52:27D-301 et al.), and appearing capable, by
32 virtue of past activities, qualifications of staff or board, or other
33 features, of furthering the purposes of P.L.1998, c.128
34 (C.55:14K-72 et seq.).

35 "Retrofitting" means renovating or remodeling an existing
36 residential or non-residential structure to allow for cooperative
37 living.

38 "Senior" means an individual who is 55 years of age or older.

39 "Substantial rehabilitation" means repair, reconstruction or
40 renovation which (1) costs in excess of 60% of the fair market value
41 of a rehabilitated dwelling after such repair, reconstruction or
42 renovation, or (2) renders a previously vacant and uninhabitable
43 dwelling safe, sanitary and decent for residential purposes or (3)
44 converts to safe, sanitary and decent residential use a structure
45 previously in non-residential use.

46 (cf: P.L.1998, c.128, s.3)

1 36. (New section) a. (1) Notwithstanding the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.) to the contrary, the Commissioner of Community Affairs
4 shall, in consultation with the Administrative Director of the Courts
5 and the Executive Director of the New Jersey Housing and
6 Mortgage Finance Agency, adopt, immediately upon filing with the
7 Office of Administrative Law, no later than nine months after the
8 effective date of P.L. , c. (C.) (pending before the
9 Legislature as this bill), such transitional rules and regulations as
10 necessary for the implementation of P.L. , c. (C.) (pending
11 before the Legislature as this bill), including for ²: (a)² the
12 identification of any vestigial duties of the Council on Affordable
13 Housing and ²[for]² the transfer of those duties within the
14 Department of Community Affairs to the extent that those duties are
15 not otherwise assumed, pursuant to P.L. , c. (C.) (pending
16 before the Legislature as this bill), by municipalities or the
17 Affordable Housing Dispute Resolution Program ²; and (b) the
18 establishment of policies regarding the cost of the assessments and
19 fees of planned real estate developments, as defined in section 3 of
20 P.L.1977, c.419 (C.45:22A-23), on low- and moderate-income
21 housing units².

22 (2) The department, in consultation with the agency, shall
23 thereafter amend, adopt, or readopt the regulations in accordance
24 with the requirements of the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.).

26 b. The Executive Director of the New Jersey Housing and
27 Mortgage Finance Agency ², in consultation with the department,²
28 shall adopt, pursuant to the "Administrative Procedure Act,"
29 P.L.1968, c.410 (C.52:14B-1 et seq.), no later than nine months
30 after the effective date of P.L. , c. (C.) (pending before the
31 Legislature as this bill), rules and regulations to update the Uniform
32 Housing Affordability Controls as required pursuant to the "Fair
33 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). As part of
34 updating the Uniform Housing Affordability Controls, the agency
35 shall set rules establishing that, for the purpose of ²newly created²
36 low- and moderate-income rental units, a 40-year minimum deed
37 restriction shall be required. For the purpose of for-sale units, a
38 ²[20-year] 30-year² minimum deed restriction shall be required.
39 ²For the purpose of housing units for which affordability controls
40 are extended for a new term of affordability, a 30-year minimum
41 deed restriction shall be required, provided that the minimum
42 extension term may be limited to no less than 20 years as long as
43 the original and extended term, in combination, total at least 60
44 years. Any 100 percent affordable rental property shall have a right
45 to extinguish a deed restriction regardless of original length,
46 beginning 30 years following the start of the deed restriction,
47 provided a refinancing or rehabilitation, or both, for the purpose of

1 preservation is commenced and that a new deed restriction of at
2 least 30 years is provided. A municipality shall be eligible to
3 receive credits for all preserved units pursuant to this subsection, as
4 long as the original and extended term total at least 60 years, and
5 this credit may be obtained at the time of preservation. All 100
6 percent affordable projects shall be eligible for any affordable
7 housing preservation program administered by the State, beginning
8 30 years following the start of the deed restriction, regardless of
9 original length of the deed restriction. Any State administered
10 preservation program may allow a refinancing funding process to
11 commence prior to the 30th year of the deed restriction when such
12 refinancing or rehabilitation funding is needed to preserve
13 affordable housing.²

14

15 37. The following sections are repealed:

16 Section 5 of P.L.1985 c.222 (C.52:27D-305);
17 Section 6 of P.L.1985, c.222 (C.52:27D-306);
18 Section 7 of P.L.1985, c.222 (C.52:27D-307);
19 Section 1 of P.L.1991, c.479 (C.52:27D-307.1);
20 Section 2 of P.L.1991, c.479 (C.52:27D-307.2);
21 Section 3 of P.L.1991, c.479 (C.52:27D-307.3);
22 Section 4 of P.L.1991, c.479 (C.52:27D-307.4);
23 Section 5 of P.L.1991, c.479 (C.52:27D-307.5);
24 Section 6 of P.L.2001, c.435 (C.52:27D-307.6);
25 Section 8 of P.L.1985, c.222 (C.52:27D-308);
26 Section 9 of P.L.1985, c.222 (C.52:27D-309);
27 Section 40 of P.L.2009, c.90 (C.52:27D-311.3);
28 Section 2 of P.L.1989, c.142 (C.52:27D-313.1);
29 Section 14 of P.L.1985, c.222 (C.52:27D-314);
30 Section 15 of P.L.1985, c.222 (C.52:27D-315);
31 Section 16 of P.L.1985, c.222 (C.52:27D-316);
32 Section 17 of P.L.1985, c.222 (C.52:27D-317);
33 Section 18 of P.L.1985, c.222 (C.52:27D-318);
34 Section 19 of P.L.1985 c.222 (C.52:27D-319);
35 Section 22 of P.L.1985, c.222 (C.52:27D-322);
36 Section 26 of P.L.1985, c.222 (C.52:27D-326);
37 Section 28 of P.L.1985, c.222 (C.52:27D-328); and
38 Section 9 of P.L.2008, c.46 (C.52:27D-329.3).

39

40 38. a. There is appropriated to the Affordable Housing Dispute
41 Resolution Program, established pursuant to subsection a. of section
42 5 of P.L. , c. (C.) (pending before the Legislature as this
43 bill), from the General Fund \$12,000,000 for the purposes of
44 carrying out its responsibilities for the fourth round of affordable
45 housing obligations, as established pursuant to section 5 of
46 P.L. , c. (C.) (pending before the Legislature as this bill).

47 b. There is appropriated to the Department of Community
48 Affairs, from the General Fund, \$4,000,000 for the purposes of

1 carrying out responsibilities allocated to it pursuant to P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

3

4 39. This act shall take effect immediately, and shall apply to
5 each new round of affordable housing obligations that begins
6 following enactment.