

SENATE, No. 210

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senator Holzapfel

SYNOPSIS

Establishes "Superstorm Sandy Homeowners Protection Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT establishing the "Superstorm Sandy Homeowners
2 Protection Act" and supplementing P.L.2013, c.37 (C.52:15D-
3 1 et seq.).
4

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

8 1. This act shall be known and may be cited as the "Superstorm
9 Sandy Homeowners Protection Act."
10

11 2. Unless the context clearly indicates otherwise, as used in
12 P.L. , c. (C.) (pending before the Legislature as this
13 bill):

14 "Act in reliance" means that, in response to reaching grant award
15 completion, the applicant moves out of the home, moves the
16 contents of the home into temporary storage containers, makes
17 financial commitments, or takes other substantial action in
18 anticipation of RREM program or LMI program work that would
19 not have been taken but for reaching grant award completion.

20 "Applicant" means an individual that has applied for, is applying
21 for, or is receiving benefits under a recovery and rebuilding
22 program.

23 "Commissioner" means the Commissioner of Community Affairs
24 or an individual authorized to act on his behalf.

25 "Builder" means a home improvement contractor, home
26 elevation contractor, new home builder or any other person,
27 including a subcontractor, who performs or contracts to perform a
28 home improvement, elevation, or construction project for a program
29 participant through, or paid for with funds provided by, the RREM
30 program or LMI program.

31 "Debar" means to permanently ban a builder from conducting
32 any work in New Jersey consisting of the construction of a "new
33 home," as defined under section 2 of "The New Home Warranty and
34 Builders' Registration Act," P.L.1977, c.467 (C.46:3B-2), and
35 "home improvements," as defined under section 2 of the
36 "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-137).

37 "Department" means the Department of Community Affairs.

38 "FEMA" means the Federal Emergency Management Agency.

39 "Final inspection" means a property review conducted by a
40 RREM/LMI contractor after the builder has completed construction
41 on a Sandy-impacted property utilizing RREM or LMI program
42 funding.

43 "Grant award" means an estimate of construction costs for a
44 home improvement, elevation, or construction project.

45 "Grant award completion" means that the department, or its
46 agents or contractors, has led the applicant through the RREM
47 program or LMI program application process, has prepared a grant
48 award agreement document containing all necessary award

1 calculations, and has offered the document to the applicant for the
2 applicant's signature.

3 "Home improvement, elevation, or construction project" means
4 the remodeling, altering, painting, repairing, renovating, restoring,
5 moving, demolishing, modernizing, elevating, rebuilding, or
6 construction of residential or noncommercial property or the
7 making of additions thereto, and includes, but is not limited to, the
8 construction, installation, replacement, improvement, or repair of
9 driveways; sidewalks; swimming pools; terraces; patios;
10 landscaping; fences; porches; windows; doors; cabinets; kitchens;
11 bathrooms; garages; basements, including basement waterproofing;
12 fire protection devices; security protection devices; central heating
13 and air conditioning equipment; water softeners, heaters, and
14 purifiers; solar heating or water systems; insulation; siding; wall-to-
15 wall carpeting or attached or inlaid floor coverings; and other
16 changes, repairs, or improvements made in or on, attached to or
17 forming a part of the residential or noncommercial property. The
18 term includes converting existing commercial structures into
19 residential or noncommercial property, and includes any of the
20 above activities performed under emergency conditions

21 "Housing advisor" means a professional, assigned by a
22 RREM/LMI contractor, whose principal duty is to help applicants
23 navigating the RREM or LMI program by assisting the applicants
24 with eligibility determinations, application processing, and
25 execution of grant awards.

26 "Homeowner-selected builder" means a builder participating in
27 Pathway B.

28 "Initial site inspection" means an in-person property review of a
29 Sandy-impacted property by a RREM/LMI contractor to confirm
30 existing site conditions and to collect information about the project
31 site to be utilized in making property eligibility determinations.

32 "LMI program" means the Low-to-Moderate Income
33 Homeowners Rebuilding Program.

34 "Notice to proceed" means a letter to the builder stating the date
35 the builder can begin work, subject to the conditions of the
36 construction contract.

37 "Pathway B" means the option for completing home
38 improvement, elevation, or construction projects utilizing RREM
39 funds in which the applicant seeks, identifies, and selects his own
40 general contractor.

41 "Pathway C" means the option for completing home
42 improvement, elevation, or construction projects utilizing RREM
43 funds in which the applicant uses an assigned builder selected by
44 the RREM program.

45 "Pre-construction meeting" means a meeting, coordinated by the
46 RREM/LMI contractor, between the RREM/LMI contractor,
47 housing advisor, and applicant to execute an Amendment to the

1 Homeowner Grant Agreement, a Private Escrow Agreement, and
2 sign Exhibit J of the Design/Build Agreement.

3 "Principal residence" means a home which an applicant occupied
4 as his or her primary residence on October 29, 2012. Principal
5 residence does not mean second homes, vacation homes, or rental
6 properties.

7 "Program participant" means an applicant who has reached grant
8 award completion in the RREM program or the LMI program.

9 "Project manager" means a professional, assigned by a
10 RREM/LMI contractor, whose responsibilities include coordinating
11 with applicants, providing RREM and LMI program details, and
12 offering technical assistance for the completion of an applicant's
13 scope of work to ensure it complies with LMI and RREM
14 construction standards. The project manager also inspects the
15 construction while it is in progress and approves payment requests
16 as construction is completed.

17 "Recovery and rebuilding program" means the use of funding
18 provided by the federal government intended to help to rebuild and
19 recover from Superstorm Sandy, through the RREM program or
20 LMI program.

21 "RREM/LMI contractor" means an entity selected by the
22 department to manage the implementation and operation of the
23 RREM and LMI programs.

24 "RREM program" means the Reconstruction, Rehabilitation,
25 Elevation, and Mitigation Program.

26 "RREM-selected builder" means a builder participating in
27 Pathway C.

28 "Substantiated complaint" means a complaint against a builder
29 that, in the commissioner's opinion, would lead a reasonable person
30 to doubt the builder's ability or willingness to complete RREM or
31 LMI work in a responsible manner.

32 "Superstorm Sandy-impacted property" means a structure or
33 property that existed on October 28, 2012 and was damaged or
34 destroyed by Superstorm Sandy or damaged or destroyed by water,
35 wind, or flood incidental to Superstorm Sandy, and the
36 reconstruction or renovation of which is funded through the RREM
37 program or LMI program.

38 "Superstorm Sandy recovery and rebuilding program contract"
39 means a written agreement for the performance of a home
40 improvement, elevation, or construction project, including all
41 agreements under which the builder is to perform labor, render
42 services, or furnish materials in connection therewith, for a program
43 participant through, or paid for with funds provided by, the RREM
44 program or LMI program.

45

46 3. a. If the department allows an applicant, whose principal
47 residence has been damaged as a result of Superstorm Sandy, to
48 reach grant award completion under the RREM program or LMI

1 program even though federal law, rules, regulations, or policy
2 guidelines do not permit the grant award, and the applicant signs the
3 agreement and acts in reliance, then the department shall pay the
4 applicant the equivalent of the full amount of funding necessary to
5 improve the applicant's principal residence in accordance with the
6 terms of the grant award agreement, up to the full amount of the
7 grant award agreement. These payments shall be provided through
8 the funding allocated under section 18 of P.L. , c. (C.)
9 (pending before the Legislature as this bill).

10 b. The applicant shall not be entitled to full payment if any
11 portion of the RREM or LMI grant would have amounted to a
12 duplicative benefit under the RREM or LMI programs, pursuant to
13 the Robert T. Stafford Disaster Relief and Emergency Assistance
14 Act, (42 U.S.C. s.5155). In such case, the applicant shall still be
15 entitled to any portion of the grant award that is not duplicative.

16 c. The applicant shall not be entitled to payment if the
17 applicant misrepresents information essential to the department in
18 determining RREM or LMI eligibility.

19 d. The department shall identify and notify applicants who may
20 be entitled to payment under this section and shall collect
21 information from the applicant necessary for the department to
22 determine that the applicant is entitled to relief under this section.
23

24 4. a. Notwithstanding the limit on applicability to new home
25 builders contained in subsection a. of section 5 of the "Contractors'
26 Registration Act," P.L.2004, c.16 (C.56:8-140), or any other
27 provision of law to the contrary, it is deemed an unlawful practice
28 under the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-
29 1 et seq.), for any builder, in connection with the performance of
30 any home improvement, elevation, or construction project that is the
31 subject of a Superstorm Sandy recovery and rebuilding program
32 contract, to:

33 (1) use or employ any unconscionable commercial practice,
34 deception, fraud, false pretense, false promise, misrepresentation, or
35 the knowing concealment, suppression, or omission of any material
36 fact with intent that others rely upon such concealment,
37 suppression, or omission with respect to the home improvement,
38 elevation, or construction project or the work performed or to be
39 performed;

40 (2) perform work that, after a reasonable opportunity to correct,
41 materially fails to comply with the standards and requirements set
42 forth in the Superstorm Sandy recovery and rebuilding program
43 contract;

44 (3) perform work that, after a reasonable opportunity to correct,
45 fails to comply with applicable provisions of the "State Uniform
46 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.); or

1 (4) willfully or unreasonably fail to timely perform material
2 work required under the terms of a Superstorm Sandy recovery and
3 rebuilding program contract.

4 b. Notwithstanding the bar after an election of remedies set
5 forth in section 9 of "The New Home Warranty and Builders'
6 Registration Act," P.L.1977, c.467 (C.46:3B-9), or any other
7 provision of law to the contrary, the initiation of a procedure to
8 enforce a remedy under "The New Home Warranty and Builders'
9 Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), or an action
10 to enforce any other remedy, shall not prohibit a program
11 participant from initiating an action under the New Jersey
12 Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et seq.), for any
13 unlawful practice of a builder set forth in subsection a. of this
14 section, provided that no award or settlement agreement has been
15 reached or judgment rendered prior to the effective date of
16 P.L. , c. (C.) (pending before the Legislature as this bill),
17 and provided that the program participant withdraws from
18 arbitration, and withdraws any other complaint, as applicable, prior
19 to initiating an action under P.L.1960, c.39 (C.56:8-1 et seq.).

20 c. For the purposes of P.L. , c. (C.) (pending before
21 the Legislature as this bill), a program participant may withdraw
22 from arbitration under "The New Home Warranty and Builders'
23 Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), at any time
24 prior to the rendering of a judgment, or prior to the parties reaching
25 an award agreement.

26
27 5. a. The Attorney General shall establish a confidential intake
28 procedure for program participants to submit complaints about
29 builders, which procedure shall ensure that complaints are referred
30 to:

31 (1) the department, so that the department may have an
32 opportunity to take the actions permitted under section 6 of
33 P.L. , c. (C.) (pending before the Legislature as this bill);
34 and

35 (2) the Division of Consumer Affairs in the Department of Law
36 and Public Safety, so that the division may have an opportunity to
37 take action to address the complaints.

38 b. The department shall establish a telephone hotline and an
39 Internet-based method to accept complaints concerning
40 homeowner-selected builders, RREM-selected builders, and LMI
41 builders from applicants. The department shall categorize the
42 complaints it receives pursuant to this section in a manner that the
43 department determines will increase the transparency and efficiency
44 of the RREM and LMI programs.

45 c. The department shall publish substantiated complaints,
46 received pursuant to subsections a. and b. of this section, on its
47 Internet website. The department shall publish on its Internet
48 website all penalties and fines assessed against homeowner-selected

1 builders and LMI builders, by the State, a county, municipality, or
2 any political subdivision thereof, concerning the builder's
3 performance on LMI or RREM program-funded projects.

4 d. The department shall publish on its Internet website
5 licensing information for all homeowner-selected builders, RREM-
6 selected builders, and LMI builders, which the State requires to
7 perform work under the LMI and RREM programs. At the request
8 of the department, the Division of Consumer Affairs in the
9 Department of Law and Public Safety shall provide the department
10 with licensing information for home improvement contractors and
11 homebuilders.

12 e. The department shall notify all applicants, through e-mail or
13 by mailed letter, that the department accepts complaints about
14 homeowner-selected builders, RREM-selected builders, and LMI
15 builders submitted to the department by program participants via a
16 telephone hotline and on its Internet website and that certain
17 substantiated complaints are accessible to the public.

18
19 6. a. The commissioner may notify applicants who have
20 applied for assistance through the RREM program under Pathway B
21 or through the LMI program, but have not yet selected builders for
22 such work, of any builder who has been the subject of substantiated
23 complaints pursuant to section 5 of P.L. , c. (C.) (pending
24 before the Legislature as this bill), or other complaints, including
25 but not limited to those received pursuant to section 6 of "The New
26 Home Warranty and Builders' Registration Act," P.L.1977, c.467
27 (C.46:3B-6).

28 b. Upon receipt of a complaint pursuant to section 5 of
29 P.L. , c. (C.) (pending before the Legislature as this bill),
30 or other complaints, including but not limited to those received
31 pursuant to section 6 of "The New Home Warranty and Builders'
32 Registration Act," P.L.1977, c.467 (C.46:3B-6), the commissioner
33 may conduct investigations into allegations against a builder. In
34 pursuit of such investigations, the commissioner shall be authorized
35 to hold hearings in accordance with the provisions of the
36 "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-
37 1 et seq.) applicable to contested cases, to subpoena witnesses and
38 compel their attendance, to require the production of papers, records
39 or documents, administer oaths or affirmations to witnesses, to
40 inspect such relevant books, papers, records, or documents of such
41 builder at his place of business during business hours, and to
42 conduct inspections of RREM and LMI construction sites on which
43 the builder has worked.

44 c. The commissioner, in consultation with the Division of
45 Consumer Affairs in the Department of Law and Public Safety, may
46 deny, suspend, or revoke any certificate of registration of a builder,
47 or may debar a builder, after affording the builder the opportunity
48 for a hearing in accordance with the provisions of the

1 "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-
2 1 et seq.) applicable to contested cases, if, in connection to RREM
3 program or LMI program work, the builder has:

4 (1) willfully committed fraud in connection to a Superstorm
5 Sandy recovery and rebuilding program contract;

6 (2) completed a home improvement, elevation, or construction
7 project in a grossly negligent manner; or

8 (3) willfully violated applicable provisions of the "State
9 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-
10 119 et seq.), despite a reasonable opportunity to correct.

11

12 7. a. To the greatest extent feasible, the builder shall refrain
13 from asking an applicant to leave their home until the need to
14 disconnect utilities, begin renovation work, or other project needs,
15 make the applicant's continued presence untenable.

16 b. If a RREM-selected builder cannot complete agreed-upon
17 construction within 90 days of the issuance of the Notice to
18 Proceed, then the RREM-selected builder shall provide rental
19 compensation for each unexcused day that the applicant is required
20 to vacate the house while construction occurs. The amount of
21 compensation the RREM-selected builder shall provide an applicant
22 shall be based on the United States Department of Housing and
23 Urban Development's fair market rental cost and utility cost formula
24 for the county of the damaged home and how many bedrooms are in
25 that home.

26 c. Notwithstanding the provisions of subsection b. of this
27 section, the department, in consultation with the project manager,
28 may excuse a RREM-selected builder from paying fair market rent
29 pursuant to subsection a. of this section if the RREM-selected
30 builder missed the 90-day deadline due to circumstances beyond the
31 RREM-selected builder's control.

32 d. On the first of each month following the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 the department shall publish on its Internet website the names of
35 RREM-selected builders that have still not completed construction
36 two weeks after the expiration of the 90-day deadline; provided,
37 however, that the department shall not publish the names of RREM-
38 selected builders that it has excused from paying fair market rent
39 pursuant to subsection c. of this section. The department shall
40 publish on its Internet website the RREM-selected builder's reason
41 for the delay and the date on which the 90-day period expired.

42 e. The department shall refer a RREM-selected builder to the
43 Division of Consumer Affairs in the Department of Law and Public
44 Safety for review if the department believes that a violation of
45 subsection a. of section 4 of P.L. , c. (C.) (pending
46 before the Legislature as this bill) contributed to the RREM-
47 selected builder's failure to meet the 90-day deadline.

- 1 8. Within 60 days of the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 the department shall publish on its Internet website:
- 4 a. Integrity oversight monitor reports provided to the State
5 Treasurer for distribution, pursuant to section 2 of P.L.2013, c.37
6 (C.52:15D-2).
- 7 b. Audits prepared by the State Comptroller, pursuant to
8 P.L.2007, c.52 (C.52:15C-1 et seq.), and any non-privileged,
9 investigative materials concerning the performance and
10 management of recovery and rebuilding programs utilized during
11 the course of the State Comptroller's investigation.
- 12 c. A comprehensive description of the process through which
13 applicants may challenge their estimated cost of repair or work in
14 place assessment, including:
- 15 (1) a statement notifying applicants that the estimated cost of
16 repair provided by a project manager is only an estimate, and is subject
17 to change as work on the residence proceeds; and
- 18 (2) a statement notifying applicants that they may seek two scope
19 of work adjustments for additional LMI and RREM funding if the cost
20 of work on Superstorm Sandy-impacted property exceeds the amount
21 indicated in the applicant's estimated cost of repair, so long as the
22 applicant does not exceed the maximum grant permitted under the
23 LMI or RREM programs.
- 24 d. Federally-required Quarterly Performance Reports completed
25 by New York and Connecticut, reflecting their progress in
26 disbursing federal aid money for Superstorm Sandy recovery.
- 27 e. A plain language description of Increased Cost of
28 Compliance coverage, understandable to a person with little or no
29 experience in construction, insurance, and the administration of
30 federal grant money for disaster relief and recovery.
- 31 f. An explanation of the categories of repairs for which LMI and
32 RREM program funding is available, including a definition of
33 "reasonable and necessary costs."
- 34 g. Notification to applicants that FEMA has reopened some
35 Sandy-related claims under the National Flood Insurance Program and
36 has mailed thousands of letters to applicants who were originally
37 denied coverage for their Sandy-related losses, and that applicants
38 must respond to FEMA's letters within 90 days.
- 39 h. Questions frequently received from applicants concerning
40 recovery and rebuilding programs and the answers thereto. The
41 answers provided by the department shall be understandable to a
42 person with little or no experience in construction and the
43 administration of federal grant money for disaster relief and
44 recovery.
- 45 i. An organizational chart providing the name, title, phone
46 number, and e-mail address of department personnel involved in the
47 disbursement of funds through the RREM and LMI programs.

1 j. A list of hyperlinks to other federal, State, or local
2 government websites, which, in the department's opinion, provide
3 important information about the RREM and LMI programs.
4

5 9. The department shall provide to all applicants in Pathway B
6 and the LMI program, at the pre-construction meeting, a best
7 practices tip sheet, which shall include, but not be limited to:

8 a. The department's recommendation that applicants in
9 Pathway B and the LMI program only hire builders that have posted
10 a \$25,000 performance bond;

11 b. A reminder to applicants to check the department's website
12 for background information and performance data on certain
13 builders and subcontractors;

14 c. A notice that applicants should retain all documents received
15 from housing advisors, project managers, builders, and federal,
16 State, and local agencies concerning their grant award; and

17 d. A reminder that applicants may submit complaints
18 concerning recovery and rebuilding programs to their project
19 manager, the department, or the Attorney General.
20

21 10. a. At a minimum, the project manager shall be present at
22 the initial site inspection, pre-construction meeting, and RREM
23 final inspection. The project manager shall give an applicant five
24 days' notice when scheduling an in-person visit. The applicant may
25 invite his homeowner-selected builder to any meeting between the
26 applicant and the project manager, and the homeowner-selected
27 builder shall make every reasonable effort to attend the meeting
28 upon the applicant's request.

29 b. A project manager in Pathway B shall present the grant
30 award summary to the applicant, in writing, and shall explain the
31 grant award summary to the applicant in a manner understandable
32 to a person with little or no experience in construction and the
33 administration of federal grant money for disaster relief and
34 recovery. At the request of an applicant, a project manager in
35 Pathway B shall provide the estimated cost of repair to the
36 applicant.

37 c. At the pre-construction meeting, a Pathway B project
38 manager shall explain to the applicant that the RREM program
39 allows for two scope of work adjustments, one adjustment available
40 during construction and one adjustment available to the applicant at
41 the completion of the grant award. A Pathway B project manager
42 shall explain the scope of work adjustment process in a manner
43 understandable to a person with little or no experience in
44 construction and the administration of federal grant money for
45 disaster relief and recovery.
46

47 11. a. An applicant, for whose benefit an agreement is made
48 between a RREM-selected builder and its subcontractor, by way of

1 a written or oral contract, shall have the same right to enforce the
2 agreement as the applicant would have had if the agreement had
3 been made directly with the applicant.

4 b. An agreement between a RREM-selected builder and its
5 subcontractor to perform work on an applicant's property for which
6 the subcontractor is compensated, in whole or in part, using RREM
7 program funding, shall be construed to have been made for the
8 benefit of the applicant.

9 c. The rights of an applicant pursuant to this section shall be
10 deemed to have become vested, subject always to such express or
11 implied conditions, limitations, or infirmities of the contract to
12 which the rights of the RREM-selected builder or the agreement are
13 subject, without any act or knowledge on the part of the applicant,
14 the moment the agreement becomes legally binding on the
15 subcontractor, unless there is some stipulation, agreement, or
16 understanding in the contract to the contrary.

17

18 12. a. At the regular meeting held between the department and
19 RREM/LMI contractors, the department shall continue to ensure
20 that RREM/LMI contractors have a complete understanding of the
21 requirements for grant funding through recovery and rebuilding
22 programs. Upon request from a RREM/LMI contractor at one of
23 the regular meetings, the department shall provide to the
24 RREM/LMI contractor, access to department personnel with
25 expertise in recovery and rebuilding programs to advise the
26 RREM/LMI contractor.

27 b. RREM and LMI project managers and housing advisors shall
28 respond within one business day to any question or request made by
29 an applicant with whom the project manager or housing advisor has
30 a duty to provide services pursuant to the RREM program or LMI
31 program. A project manager or housing advisor may seek advice or
32 assistance from a RREM/LMI contractor, who may consult with
33 department personnel with expertise in recovery and rebuilding
34 programs at the regular meetings between RREM/LMI contractors
35 and the department. A project manager or housing advisor that
36 contacts an applicant within one business day to notify the applicant
37 that the project manager or housing advisor has sought assistance
38 from a RREM/LMI contractor shall be deemed to have complied
39 with the one-day requirement set forth in this subsection.

40 c. If an applicant requests a meeting with his project manager
41 or housing advisor, then the project manager or housing advisor
42 shall meet with the applicant within five business days from the
43 applicant's request for a meeting.

44 d. (1) The department shall notify project managers and
45 housing advisors of any material changes to the LMI program or
46 RREM program within two business days of the change.

47 (2) The project manager shall notify all applicants with whom
48 he has contracted to provide services under the LMI program or

1 RREM program of the material changes within one business day of
2 receiving notice from the department.

3 e. A project manager or housing advisor that resigns or is
4 discharged from his position as a project manager or housing
5 advisor shall notify all applicants with whom the project manager or
6 housing advisor contracted to provide services under the LMI
7 program or RREM program of the departure within one business
8 day. The RREM/LMI contractor shall assign a replacement project
9 manager or housing advisor to all applicants with whom the
10 outgoing project manager or housing advisor contracted to provide
11 services under the LMI program or RREM program within five
12 business days.

13

14 13. a. A project manager shall monitor the progress of work
15 performed pursuant to a RREM or LMI grant and assist the
16 applicant with the project schedule agreed to by the applicant and
17 his builder.

18 b. A RREM/LMI contractor shall submit, at a minimum,
19 biweekly reports to the department on the progress of projects for
20 which the project manager is responsible. The reports required
21 pursuant to this subsection may be submitted to the department at
22 the regular meetings held between the department and RREM/LMI
23 contractors.

24 c. A project manager shall receive complaints about
25 homeowner-selected builders and LMI builders, and, if appropriate,
26 deliver the complaints to a representative with the Division of
27 Consumer Affairs in the Department of Law and Public Safety. The
28 division shall investigate complaints submitted by project managers
29 for violations of subsection a. of section 4 of P.L. _____,

30 c. (C. _____) (pending before the Legislature as this bill), and take
31 such other licensing and regulatory action as may be appropriate.

32 d. Throughout the investigation conducted by the Division of
33 Consumer Affairs in the Department of Law and Public Safety,
34 pursuant to subsection c. of this section, the project manager shall
35 make reasonable efforts to provide updates to the applicant who
36 submitted the complaint, concerning the status of the investigation.

37 e. Project managers, homeowner-selected builders, RREM-
38 selected builders, and LMI builders shall have a duty to report, to
39 the Division of Consumer Affairs in the Department of Law and
40 Public Safety, suspected violations of subsection a. of section 4 of
41 P.L. _____, c. (C. _____) (pending before the Legislature as this
42 bill).

43

44 14. Where feasible, an applicant shall obtain an elevation
45 certificate from a licensed land surveyor, registered professional
46 engineer, registered architect, or other community official
47 authorized by State or local law to certify elevation information
48 prior to the initial site inspection. If an applicant is unable to obtain

1 an elevation certificate prior to the initial site inspection, then the
2 applicant's builder may seek a scope of work adjustment in the
3 event the estimated cost of repair changes after the applicant obtains
4 an elevation certificate.

5
6 15. a. The construction code official, planning board, board of
7 adjustment, and other local officials and offices, shall, to the
8 greatest extent feasible, expedite all site plans, variances,
9 construction permits, road opening permits, and other applications
10 for program participants, and shall be as responsive as possible to
11 questions from program participants.

12 b. Upon request from a local construction code official, the
13 department shall provide to the local construction code official,
14 additional construction code enforcement personnel from the
15 Division of Codes and Standards in the department to assist with
16 inspection of Sandy-impacted property receiving RREM or LMI
17 funding and enforcement of the local building code. The department
18 shall provide personnel from the department within five business
19 days of the local construction code official's request.

20
21 16. For the purposes of site plan and variance approval of a
22 Superstorm Sandy-impacted property that adheres to the same
23 footprint as the destroyed home, the planning board and board of
24 adjustment shall continue any non-conforming use designation on
25 the property and grandfather pre-existing conditions, so long as the
26 board does not view this treatment as likely to result in a safety
27 hazard.

28
29 17. All homeowners and other persons impacted by Superstorm
30 Sandy shall be treated with dignity and respect throughout the
31 continuing process of recovery.

32
33 18. The Legislature shall annually appropriate such sums as are
34 necessary to make the payments required under section 3 of
35 P.L. , c. (C.) (pending before the Legislature as this bill)
36 following request by the commissioner. The State Treasurer, upon
37 warrant of the Director of the Office of Management and Budget in
38 the Department of the Treasury, shall pay such costs from moneys
39 appropriated for the purposes of section 3 of P.L. , c. (C.)
40 (pending before the Legislature as this bill).

41
42 19. This act shall take effect immediately.

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44

45 STATEMENT

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47 On October 29, 2012, Superstorm Sandy devastated New Jersey's
48 shoreline communities, as well as many other communities in the
49 State. The storm inflicted tens of billions of dollars in damage to

1 New Jersey, and severely damaged many thousands of homes. To
2 help homeowners impacted by Sandy, the State established the
3 Reconstruction, Rehabilitation, Elevation, and Mitigation
4 ("RREM") Program, and the Low-to-Moderate Income
5 Homeowners Rebuilding ("LMI") Program, to distribute federal
6 Community Development Block Grant – Disaster Recovery funds.
7 This bill consists of various measures intended to enhance the
8 accountability and transparency of decisions made for the dispersal
9 of Superstorm Sandy aid, focusing on the RREM and LMI
10 programs.

11 For many homeowners, the process for obtaining RREM funding
12 has been time-consuming and frustrating. To add to this frustration,
13 some homeowners have fully completed the application process and
14 closed on a RREM grant, only to later be informed that the State
15 had made a mistake, and due to federal rules, the homeowner is not
16 entitled to RREM funding. This bill aims to address the current
17 problems in the RREM program, while ensuring that the LMI
18 program does not run into similar frustrations.

19 This bill requires that if the DCA allows an applicant to complete
20 the RREM or LMI application process, and close on a RREM or
21 LMI grant even though federal law does not permit the award, then
22 the DCA shall pay the applicant the full amount of funding
23 necessary to improve the applicant's property, up to the amount of
24 the grant agreement. This requirement will only apply if the
25 applicant acts in reliance on the RREM or LMI grant by taking
26 anticipatory action, such as moving out of the home, moving the
27 contents of the home into temporary storage containers, making
28 financial commitments, or by taking other substantial action that
29 would not have been taken but for reliance on the RREM or LMI
30 grant. The DCA's repayment requirement will not apply if such
31 repayment would amount to a duplicative benefit under federal law,
32 meaning the funding is already covered by other sources. The
33 applicant also will not be entitled to DCA repayment if they have
34 misrepresented information essential to the RREM or LMI
35 application process. The repayments required under this bill shall
36 be provided through an annual appropriation to the DCA from the
37 general fund.

38 In order to most effectively respond to the imperative public
39 purpose of recovering from Superstorm Sandy, and to correct
40 injustices that storm victims have experienced during the recovery,
41 this bill narrowly extends the protections of the New Jersey
42 consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) ("CFA"), to
43 homeowners who have navigated the process of applying for and
44 receiving benefits under a recovery and rebuilding program. Under
45 the bill, a contractor, including a new homebuilder, is deemed to
46 have violated the CFA if the contractor has:

- 47 1. Used or employed any unconscionable commercial practice,
48 deception, fraud, false pretense, false promise,

- 1 misrepresentation, or the knowing concealment, suppression,
2 or omission of any material fact with intent that others rely
3 upon such concealment, suppression, or omission with
4 respect to the home improvement, elevation, or construction
5 project or the work performed or to be performed;
- 6 2. Performed work that, after a reasonable opportunity to
7 correct, materially fails to comply with the standards and
8 requirements set forth in the Superstorm Sandy recovery and
9 rebuilding program contract;
- 10 3. Performed work that, after a reasonable opportunity to
11 correct, fails to comply with applicable provisions of the
12 "State Uniform Construction Code Act"; or
- 13 4. Willfully or unreasonably failed to timely perform material
14 work required under the terms of a Superstorm Sandy
15 recovery and rebuilding program contract.

16 The bill further allows a program participant who has already
17 initiated a different action against a builder prior to this bill's
18 effective date, to instead sue under the CFA, so long as no
19 agreement or decision has been reached under the other action, and
20 the person first withdraws the other action.

21 The Commissioner of Community Affairs may deny, suspend, or
22 revoke any certificate of registration of a Superstorm Sandy
23 recovery and rebuilding program builder, or may permanently debar
24 the builder from construction work in New Jersey, including non-
25 Sandy related work, if the builder willfully commits fraud,
26 completes work in a grossly negligent manner, or willfully violates
27 provisions of the "State Uniform Construction Code Act,"
28 N.J.S.A.52:27D-119 et seq., despite a reasonable opportunity to
29 correct. A debarment would involve permanently banning the
30 builder from new home construction and home improvements,
31 including home elevation work.

32 The bill creates several mechanisms for recovery and rebuilding
33 program applicants to submit complaints about builders and other
34 actors in the grant process. The DCA will have an opportunity to
35 review the complaints and, if appropriate, publish information about
36 the complaints on its Internet website.

37 The bill requires builders, to the greatest extent feasible, to
38 refrain from asking a resident to leave a home until the need to
39 disconnect utilities, begin renovation work, or other project needs,
40 make the resident's continued presence untenable. A RREM-
41 selected builder that cannot complete agreed-upon construction on a
42 Sandy-damaged home within 90 days of the issuance of the Notice
43 to Proceed must provide rental compensation to the displaced
44 homeowner for each unexcused day that the homeowner is required
45 to remain out of the house while construction occurs. The amount
46 of compensation the RREM-selected builder must provide to an
47 applicant will be based on the United States Department of Housing
48 and Urban Development's fair market rental cost and utility cost

1 formula for the county of the damaged home and how many
2 bedrooms are in that home. The DCA may excuse a RREM-
3 selected builder from paying rental compensation if the delay
4 resulted from circumstances outside of the builder's control.
5 Moreover, the DCA may publish information about excessive
6 delays by RREM-selected builders on its website, including the
7 remedies available to homeowners experiencing unreasonable
8 delays.

9 In addition, this bill requires the DCA to post information about
10 recovery and rebuilding programs on its website, including an
11 organizational chart providing the name, title, email address, and
12 phone number of department personnel involved in the
13 disbursement of funds through recovery and rebuilding programs.
14 The DCA must publish information about the process for
15 challenging an estimated cost of repair or work in place assessment.
16 The bill requires the DCA to publish questions frequently asked by
17 applicants and the answers thereto on its Internet website.
18 Furthermore, the bill requires the DCA to post information
19 concerning the way in which New York and Connecticut have
20 disbursed federal aid money for Sandy recovery in order to give the
21 State's residents a glimpse of how New Jersey is performing
22 relative to other states.

23 In 2013, a system of integrity oversight monitors was established
24 to enhance transparency in Superstorm Sandy-related spending.
25 The integrity oversight monitors have now provided several reports,
26 but concerns have arisen over the level of public accessibility to the
27 reports. To address these issues, this bill requires the reports to be
28 available on the website of the DCA, in addition to the State
29 Treasurer's website, where they are currently available.
30 Additionally, the bill requires the DCA to publish on its Internet
31 website audits by the State Comptroller concerning recovery and
32 rebuilding programs and any non-privileged investigative materials
33 utilized by the State Comptroller to conduct the audits. The bill
34 also requires the DCA to publish a best practices tip sheet, which
35 the DCA must provide to all applicants in the RREM and LMI
36 programs at the pre-construction meeting.

37 The bill requires recovery and rebuilding program project
38 managers to attend at least three in-person meetings at the
39 applicant's property. Project managers and housing advisors must
40 assist applicants with navigating the application and building
41 process.

42 The bill requires the DCA to notify project managers and
43 housing advisors of any material changes to the RREM or LMI
44 program within two business days. The project manager must then
45 forward that information to applicants with whom the project
46 manager has contracted within one business day.

47 The bill allows applicants to file suit or seek other legal remedies
48 against subcontractors in Pathway C for the work performed by the

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1 subcontractor, on behalf of the general contractor, on the applicant's
2 property. The bill requires homeowners to make every effort to
3 obtain an elevation certificate prior to the issuance of the final grant
4 award. The bill requires local construction code officials to
5 cooperate with the DCA, project managers, contractors, and
6 applicants. The bill also requires the DCA to provide personnel
7 from the Division of Codes and Standards to assist local code
8 officials with the inspection of Sandy-damaged property and with
9 construction code enforcement.

10 The bill also requires planning and zoning boards to grandfather
11 approval of pre-existing conditions on site plans using the same
12 footprint as the destroyed home so long as the board does not view
13 this treatment as likely to result in a safety hazard. Lastly, the bill
14 requires the State, project managers, housing advisors, and
15 contractors to treat applicants with dignity and respect throughout
16 the application and rebuilding process.