

**ASSEMBLY, No. 4**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED DECEMBER 18, 2023

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblymen Sampson and Stanley**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/21/2023)**

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

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

7  
8 1. Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to  
9 read as follows:

10 2. The Legislature finds that:

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

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

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

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

40 e. The State can maximize the number of **【low and moderate**  
41 **income】** low- and moderate-income units provided in New Jersey by  
42 allowing its municipalities to adopt appropriate phasing schedules for  
43 meeting their fair share, so long as the municipalities permit a timely  
44 achievement of an appropriate fair share of the regional need for **【low**  
45 **and moderate income】** low- and moderate-income housing as

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 required by the Mt. Laurel I and II opinions and other relevant court  
2 decisions.

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

13 g. Since the urban areas are vitally important to the State,  
14 construction, conversion and rehabilitation of housing in our urban  
15 centers should be encouraged. However, the provision of housing in  
16 urban areas must be balanced with the need to provide housing  
17 throughout the State for the free mobility of citizens.

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

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

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

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

46 l. The council's inability to function ultimately led the Supreme  
47 Court in 2015 to direct lower courts to establish affordable housing

1 obligations for municipalities and certify municipal plans to meet  
2 those obligations, generally through approving settlement  
3 agreements between municipalities and advocates for the low- and  
4 moderate-income households of the State.

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

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

22 o. The Legislature determines that, considering the unique history  
23 of the "Fair Housing Act," the Council on Affordable Housing shall  
24 be abolished, and that, pursuant to the formulas and process  
25 established pursuant to sections 6 and 7 of P.L. , c. (C. and  
26 C. ) (pending before the Legislature as this bill), a municipality  
27 shall be authorized to determine its fair share affordable housing  
28 obligation, by binding resolution, with the guidance of a court-  
29 appointed obligation special master, but that advocates for the low-  
30 and moderate-income households of the State shall be provided with  
31 an opportunity to contest the municipal determination.

32 p. The Legislature finds that the population of persons aged 65  
33 years and older in the State has grown from approximately 13 percent  
34 in 1990, to 17 percent in 2021, and that such growth, in conjunction  
35 with expected future growth, makes it appropriate for the Legislature  
36 to allow up to 33 percent of the units towards a municipality's  
37 prospective affordable housing obligation to be satisfied through the  
38 creation of age-restricted housing.

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

40  
41 2. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to  
42 read as follows:

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

44 a. "Council" means the Council on Affordable Housing  
45 established in P.L.1985, c.222 (C.52:27D-301 et al.), [which shall  
46 have primary jurisdiction for the administration of housing  
47 obligations in accordance with sound regional planning

1 considerations in this State] abolished pursuant to section 3 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

11 c. ["Low income] "Low-income housing" means housing  
12 affordable according to federal Department of Housing and Urban  
13 Development or other recognized standards for home ownership and  
14 rental costs and occupied or reserved for occupancy by households  
15 with a gross household income equal to 50 percent or less of the  
16 median gross household income for households of the same size  
17 within the housing region in which the housing is located.

18 d. ["Moderate income] "Moderate-income housing" means  
19 housing affordable according to federal Department of Housing and  
20 Urban Development or other recognized standards for home  
21 ownership and rental costs and occupied or reserved for occupancy  
22 by households with a gross household income equal to more than 50  
23 [%] percent but less than 80 percent of the median gross household  
24 income for households of the same size within the housing region in  
25 which the housing is located.

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

31 f. "Inclusionary development" means a residential housing  
32 development in which a substantial percentage of the housing units  
33 are provided for a reasonable income range of [low and moderate  
34 income] low- and moderate-income households.

35 g. "Conversion" means the conversion of existing commercial,  
36 industrial, or residential structures for [low and moderate income]  
37 low- and moderate-income housing purposes where a substantial  
38 percentage of the housing units are provided for a reasonable income  
39 range of [low and moderate income] low- and moderate-income  
40 households.

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

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

46 j. "Prospective need" means a projection of housing needs based  
47 on development and growth which is reasonably likely to occur in a

1 region or a municipality, as the case may be, as a result of actual  
2 determination of public and private entities. **【In determining**  
3 prospective need, consideration shall be given to approvals of  
4 development applications, real property transfers, and economic  
5 projections prepared by the State Planning Commission established  
6 by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)**】**  
7 Prospective need shall be determined by the methodology set forth  
8 pursuant to sections 6 and 7 of P.L. , c. (C. and C. )  
9 (pending before the Legislature as this bill) for the fourth round and  
10 all future rounds of housing obligations.

11 k. "Person with a disability" means a person with a physical  
12 disability, infirmity, malformation, or disfigurement which is caused  
13 by bodily injury, birth defect, aging, or illness including epilepsy and  
14 other seizure disorders, and which shall include, but not be limited  
15 to, any degree of paralysis, amputation, lack of physical coordination,  
16 blindness or visual impairment, deafness or hearing impairment, the  
17 inability to speak or a speech impairment, or physical reliance on a  
18 service animal, wheelchair, or other remedial appliance or device.

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

25 m. "Very **【low income】** low-income housing" means housing  
26 affordable according to federal Department of Housing and Urban  
27 Development or other recognized standards for home ownership and  
28 rental costs and occupied or reserved for occupancy by households  
29 with a gross household income equal to 30 percent or less of the  
30 median gross household income for households of the same size  
31 within the housing region in which the housing is located.

32 n. "Accessory dwelling unit" means a residential dwelling unit  
33 that provides complete independent living facilities for one or more  
34 persons, consisting of provisions for living, sleeping, eating,  
35 sanitation, and cooking, including a stove and refrigerator, and is  
36 located within a proposed or existing primary dwelling, within an  
37 existing or proposed structure that is accessory to a dwelling on the  
38 same lot, constructed in whole or part as an extension to a proposed  
39 or existing primary dwelling, or constructed as a separate detached  
40 structure on the same lot as the existing or proposed primary  
41 dwelling.

42 o. "Builder's remedy" means court imposed site-specific relief  
43 for a litigant who is an individual or a profit-making entity for which  
44 the court requires a municipality to utilize zoning techniques such as  
45 mandatory set-asides or density bonuses, which provide for the  
46 economic viability of a residential development by including housing  
47 that is not for low- and moderate-income households.

- 1     p. "Commissioner" means the Commissioner of Community  
2 Affairs.
- 3     q. "Compliance certification" means the certification obtained  
4 by a municipality pursuant to section 3 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill), that protects the  
6 municipality from a builder's remedy during the current round of  
7 present and prospective need and through July 1 of the year the next  
8 round begins, which is also known as a "judgment of compliance" or  
9 "judgment of repose."
- 10    r. "County level housing judge" means a judge appointed  
11 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill), to resolve disputes over the compliance of  
13 municipal fair share affordable housing obligations and municipal  
14 fair share plans and housing elements, with the "Fair Housing Act,"  
15 P.L.1985, c.222 (C.52:27D-301 et al.).
- 16    r. "Deficient housing unit" means housing that: (1) is over fifty  
17 years old and overcrowded; (2) lacks complete plumbing; or (3) lacks  
18 complete kitchen facilities.
- 19    s. "Department" means the Department of Community Affairs.
- 20    t. "Fair share plan" means the plan or proposal that is in a form  
21 which may readily be adopted as an ordinance pursuant to subsection  
22 f. of section 3 of P.L. , c. (C. ) (pending before the Legislature  
23 as this bill), by which a municipality proposes to satisfy its obligation  
24 to create a realistic opportunity to meet its fair share of low- and  
25 moderate-income housing needs of its region and which details the  
26 affirmative measures the municipality proposes to undertake to  
27 achieve its fair share of low- and moderate-income housing, as  
28 provided in the municipal housing element, and addresses the  
29 development regulations, such as inclusionary requirements and  
30 development fees, necessary to implement the housing element.
- 31    u. "Housing element" means that portion of a municipality's  
32 master plan consisting of reports, statements, proposals, maps,  
33 diagrams, and text designed to meet the municipality's fair share of  
34 its region's present and prospective housing needs, particularly with  
35 regard to low- and moderate-income housing, and which shall  
36 contain the municipal present and prospective obligation for  
37 affordable housing, determined pursuant to subsection f. of section 3  
38 of P.L. , c. (C. ) (pending before the Legislature as this bill).
- 39    v. "Mobile home park" means a parcel of land, or two or more  
40 contiguous parcels of land, containing sites equipped for the  
41 installation of mobile or manufactured homes, where these sites are  
42 under common ownership and control for the purpose of leasing each  
43 site to the owner of a mobile or manufactured home for the  
44 installation thereof, and where the owner provides services that are  
45 provided by the municipality in which the park is located for property  
46 owners outside the park, which services may, inter alia, include:  
47 construction and maintenance of streets, lighting of streets and other

1 common areas, garbage removal, snow removal, and provision for  
 2 the drainage of surface water from home sites and common areas.

3 w. "Obligation special master" means a special master appointed  
 4 by the Chief Justice of the Supreme Court pursuant to subsection b.  
 5 or c. of section 3 of P.L. , c. (C. ) (pending before the  
 6 Legislature as this bill).

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

10 y. "Transitional housing" means temporary housing that:

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

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

16 (3) is licensed by the department; and

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

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

19

20 3. (New section) a. The Council on Affordable Housing,  
 21 established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-  
 22 301 et al.), is abolished. Each municipality shall determine its  
 23 municipal present and prospective obligations in accordance with the  
 24 formulas established in sections 6 and 7 of P.L. , c. (C. and  
 25 C. ) (pending before the Legislature as this bill) through the  
 26 guidance of the preliminary findings of an obligation special master  
 27 appointed pursuant to subsection b. or c. of this section.

28 b. Following the expiration of the third round of affordable  
 29 housing obligations on July 1, 2025, a municipality shall have  
 30 immunity from a builder's remedy if the municipality complies with  
 31 the deadlines established in P.L. , c. (C. ) (pending before the  
 32 Legislature as this bill) for both determining present and prospective  
 33 obligations, and for adopting a housing element and fair share plan  
 34 to meet those obligations. No later than one month following the  
 35 enactment of P.L. , c. (C. ) (pending before the Legislature  
 36 as this bill), the Chief Justice of the Supreme Court shall appoint an  
 37 obligation special master for each of the northern, central, and  
 38 southern areas of the State, for the purpose of calculating regional  
 39 need and municipal present and prospective obligations in  
 40 accordance with the formulas established in sections 6 and 7 of  
 41 P.L. , c. (C. and C. ) (pending before the Legislature as  
 42 this bill), for their respective area of the State. For the purposes of  
 43 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
 44 northern area of the State shall consist of regions 1 and 2, the central  
 45 area of the State shall consist of regions 3 and 4, and the southern  
 46 area of the State shall consist of regions 5 and 6, as the regions are  
 47 established pursuant to paragraph (1) of subsection b. of section 5 of  
 48 P.L. , c. (C. ) (pending before the Legislature as this bill). If



1 the Chief Justice is unable to identify separate qualified persons to  
2 each serve as the obligation special master for each of the northern,  
3 central, and southern areas of the State, then the Chief Justice shall  
4 be permitted to appoint a single person to serve as the obligation  
5 special master for more than one area of the State.

6 c. No later than 18 months prior to the beginning of the fifth round  
7 on July 1, 2035, and each subsequent new round of housing  
8 obligations every 10 years thereafter, the Chief Justice of the  
9 Supreme Court shall appoint an obligation special master for each of  
10 the northern, central, and southern areas of the State, for the purpose  
11 of calculating regional need and municipal present and prospective  
12 obligations in accordance with the formulas established in sections 6  
13 and 7 of P.L. , c. (C. and C. ) (pending before the  
14 Legislature as this bill).

15 d. The courts may permit each obligation special master to  
16 appoint professional staff, qualified by appropriate training and  
17 experience to assist in these functions, to serve at the pleasure of the  
18 obligation special master. For the fourth round of affordable housing  
19 obligations, each obligation special master shall publish calculations  
20 of regional need and municipal obligations for each region in their  
21 respective areas of the State on or before November 15, 2024 on the  
22 Internet website of the Affordable Housing Dispute Resolution  
23 Program, established pursuant to section 5 of P.L. , c. (C. )  
24 (pending before the Legislature as this bill). For the fifth round, and  
25 each subsequent new round of housing obligations, each obligation  
26 special master shall publish these calculations on or before  
27 November 15 of the year prior to the start of the new round. A  
28 municipality may take into consideration the calculations of the  
29 obligation special master in determining its present and prospective  
30 obligations.

31 e. The Administrative Director of the Courts may establish  
32 procedures for each obligation special master's calculations,  
33 including procedures for participants in actions filed pursuant to  
34 section 13 of P.L.1985, c.222 (C.52:27D-313) to provide expert  
35 reports to assist the obligation special master in making its  
36 calculations, provided that the ultimate determination of a  
37 municipality's present and prospective need shall be through the  
38 process as set forth below. The preliminary findings of each  
39 obligation special master shall merely constitute guidance, and shall  
40 not be subject to a challenge by an interested party.

41 f. (1) (a) With consideration of the preliminary findings of the  
42 obligation special master pursuant to this section, a municipality shall  
43 determine its present and prospective fair share obligation for  
44 affordable housing in accordance with the formulas established in  
45 sections 6 and 7 of P.L. , c. (C. and C. ) (pending before  
46 the Legislature as this bill) by resolution, which shall describe the  
47 basis for its determination and bind the municipality to adopt a  
48 housing element and fair share plan pursuant to paragraph (2) of this

1 subsection based on this determination as may be adjusted by the  
2 program as set forth in this subsection.

3 (b) For the fourth round of affordable housing obligations, this  
4 determination shall be made by binding resolution no later than  
5 January 31, 2025. After adoption of this binding resolution, the  
6 municipality shall publish the resolution with the program through  
7 the program's publicly accessible Internet website no later than 48  
8 hours following adoption. If the municipality does not meet this  
9 deadline, it immediately shall lose immunity from builder's remedy  
10 litigation. If the municipality meets this deadline, then the  
11 municipality's determination of its obligation shall be established by  
12 default, without any approval, beginning on March 1, 2025, as the  
13 municipality's obligation for the fourth round, unless challenged by  
14 an interested party on or before February 28, 2025. An interested  
15 party may file a challenge with the program, after adoption of the  
16 binding resolution and prior to March 1, 2025, alleging that the  
17 municipality's determination of its present and prospective  
18 obligation does not comply with the requirements of sections 6 and 7  
19 of P.L. , c. (C. ) (pending before the Legislature as this bill).  
20 For the fifth round, and each subsequent new round of housing  
21 obligations, the deadlines established in this subparagraph shall be  
22 on the last day of January, the last day of February, and the first day  
23 of March, respectively, of the year of the start of each new round.

24 (c) The Administrative Director of the Courts shall establish  
25 procedures for the program to consider the challenge and resolve a  
26 dispute initiated by an interested party pursuant to subparagraph (b)  
27 of this paragraph. To resolve a challenge, the program shall apply an  
28 objective assessment standard to determine whether or not the  
29 municipality's calculation of its obligation is compliant with the  
30 requirements of sections 6 and 7 of P.L. , c. (C. ) (pending  
31 before the Legislature as this bill). Any challenge must state with  
32 particularity how the municipal calculation fails to comply with  
33 sections 6 and 7 of P.L. , c. (C. and C. ) (pending before  
34 the Legislature as this bill) and include the challenger's own  
35 calculation of the fair share obligations in compliance with sections  
36 6 and 7 of P.L. , c. (C. and C. ) (pending before the  
37 Legislature as this bill). The program shall establish procedures to  
38 summarily dismiss any objection or challenge that does not meet  
39 these minimum standards. For the purpose of efficiency, the program  
40 shall, at its own discretion, or upon the request of the municipality,  
41 permit multiple challenges to the same municipal determination to be  
42 consolidated. The program's approach to resolving a dispute may  
43 include: (i) a finding that the municipality's determination of its  
44 present and prospective need obligation did not facially comply with  
45 the requirements of sections 6 and 7 of  
46 P.L. , c. (C. and C. ) (pending before the Legislature as  
47 this bill) and thus the municipality's immunity shall be revoked; (ii)  
48 an adjustment of the municipality's determination of its present and

1 prospective need obligation to comply with the requirements of  
2 sections 6 and 7 of P.L. , c. (C. and C. ) (pending before  
3 the Legislature as this bill) without revoking immunity; or (iii) a  
4 rejection of a challenge and affirm the municipality's determination.  
5 The decision shall be provided to the municipality and all parties that  
6 have filed challenges no later than March 31 of the year of the start  
7 of the new round and concurrently posted on the program's Internet  
8 website. The Administrative Director of the Courts shall establish  
9 procedures for any further appellate review of such determinations,  
10 and may establish an expedited process for consolidated review of  
11 any such challenges by the Supreme Court, provided that any party  
12 seeking appellate review shall not change the deadlines established  
13 for municipal filing of a housing element and fair share plan, and  
14 implementing ordinances.

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

1 planned for development as a part of a prior court approval,  
2 settlement agreement, or approval by the council, with alternative  
3 development plans, if it is determined that the previously planned  
4 sites no longer present a realistic opportunity, and the sites in the  
5 alternative development plan provide an equivalent number of  
6 affordable units and are otherwise in compliance with the "Fair  
7 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount  
8 Laurel doctrine. If a municipality proposes to replace a site for which  
9 a complete application seeking subdivision or site plan approval has  
10 not been filed prior to date by which the housing element and fair  
11 share plan is required to be submitted, there shall be a rebuttable  
12 presumption in any challenge filed to the municipality's plan that any  
13 site for which a zoning designation was adopted creating a realistic  
14 opportunity for the development of a site prior to June 1, 2020 may  
15 be replaced with an alternative site that provides a realistic  
16 opportunity for at least the same number of affordable units and is  
17 otherwise in compliance with the "Fair Housing Act," P.L.1985,  
18 c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine. If a  
19 municipality has credits in excess of its prior round obligations, and  
20 such excess credits represent housing that will continue to be deed-  
21 restricted and affordable through the current round, the municipality  
22 may include such housing towards addressing the municipality's new  
23 calculation of prospective need. The municipality may in its plan  
24 lower its prospective need obligation to the extent necessary to  
25 prevent establishing a prospective need obligation that requires the  
26 municipality to provide a realistic opportunity for more than 1,000  
27 housing units after application of any excess credits, or to prevent a  
28 prospective need obligation that exceeds 20 percent of the total  
29 number of households in a municipality according to the most recent  
30 federal decennial census. If a municipality is subject to both a 1,000  
31 unit cap or 20 percent cap it may apply whichever cap results in a  
32 lower prospective need obligation. For the fifth round, and for each  
33 subsequent new round of housing obligations, the deadlines in this  
34 paragraph shall be June 30 for the adoption of the housing element  
35 and fair share plan, and the proposal of drafts of the appropriate  
36 zoning and other ordinances and resolutions to implement its present  
37 and prospective obligation, of the year of the start of the new round.

38 (b) Following the submission of an adopted housing element and  
39 fair share plan pursuant to subparagraph (a) of this paragraph, an  
40 interested party may file a response on or before August 31, 2025  
41 alleging that the municipality's fair share plan and housing element  
42 are not in compliance with the "Fair Housing Act," P.L.1985, c.222  
43 (C.52:27D-301 et al.) or the Mount Laurel doctrine. Such allegation  
44 shall not include a claim that a site on real property proposed by the  
45 interested party is a better site than a site in the plan, but rather shall  
46 be based on whether the housing element and fair share plan as  
47 proposed is compliant with the "Fair Housing Act," P.L.1985, c.222  
48 (C.52:27D-301 et al.) or the Mount Laurel doctrine. To resolve a

1 challenge, the program shall apply an objective assessment standard  
2 to determine whether or not the municipality's housing element and  
3 fair share plan is compliant with the "Fair Housing Act," P.L.1985,  
4 c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. Any  
5 interested party that files a challenge shall specify with particularity  
6 which sites or elements of the municipal fair share plan do not  
7 comply with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301  
8 et al.) or the Mount Laurel doctrine, and the basis for alleging such  
9 non-compliance. The program shall establish procedures to  
10 summarily dismiss any objection or challenge that does not meet  
11 these minimum standards. For the purpose of efficiency, the program  
12 shall, at its own discretion, or upon the request of the municipality,  
13 permit multiple challenges to the same municipal housing element  
14 and fair share plan to be consolidated. If no response is filed to  
15 challenge a municipality's fair share plan and housing element on or  
16 before August 31, 2025, then the program shall promptly provide  
17 compliance certification to the municipality following an expedited  
18 review unless the fair share plan and housing element are deemed out  
19 of compliance with the "Fair Housing Act," P.L.1985, c.222  
20 (C.52:27D-301 et al.) or the Mount Laurel doctrine. The program  
21 shall facilitate communication for a challenge, and provide the  
22 municipality until November 30, 2025 to commit to revising its fair  
23 share plan and housing element in compliance with the changes  
24 requested in the challenge, or provide an explanation as to why it will  
25 not make all of the requested changes, or both. Upon resolution of a  
26 challenge, the program shall issue compliance certification,  
27 conditioned on the municipality's commitment, as necessary, to  
28 revise its fair share plan and housing element in accordance with the  
29 resolution of the challenge. The program may also terminate  
30 immunity if it finds that the municipality is not determined to come  
31 into constitutional compliance at any point in the process. If by  
32 November 30, 2025, the municipality and any interested party that  
33 filed a response have resolved the issues raised in the response  
34 through agreement or withdrawal of the filing, then the program shall  
35 promptly provide compliance certification to the municipality  
36 following an expedited review unless the fair share plan and housing  
37 element are deemed out of compliance with the "Fair Housing Act,"  
38 P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine.  
39 For the fifth round, and each subsequent new round of housing  
40 obligations, the deadline established in this subparagraph for an  
41 interested party to file a challenge shall be August 31, and for the  
42 municipality to revise its housing element and fair share plan in  
43 response, shall be November 30, of the year of the beginning of the  
44 new round.

45 (c) For the fourth round of affordable housing obligations, the  
46 implementing ordinances and resolutions, proposed pursuant to  
47 subparagraph (a) of this paragraph, and incorporating any changes  
48 from the program, shall be adopted on or before January 31, 2026.

1 For the fifth round, and each subsequent new round of housing  
2 obligations, the deadline established in this subparagraph for the  
3 implementing ordinances and resolutions shall be on January 31 of  
4 the year following the beginning of the new round. After adoption  
5 of the implementing ordinances and resolutions by the municipality,  
6 the municipality shall immediately file the ordinances and  
7 resolutions with the program through the program's Internet website.

8 (d) The program may permit a municipality that still has a  
9 remaining dispute by interested parties to retain immunity from  
10 builder's remedy litigation into the year following the year in which  
11 a new round begins if the program determines that the municipality  
12 has been unable to resolve the issues disputed despite being  
13 determined to come into constitutional compliance. The  
14 Administrative Director of the Courts shall develop procedures to  
15 enable a county level housing judge to resolve this dispute over the  
16 issuance of compliance certification through a summary proceeding  
17 in Superior Court following the year in which the new round begins.  
18 The pendency of such a dispute shall not stay the deadline for  
19 adoption of implementing ordinances and resolutions pursuant to  
20 subparagraph (a) of this paragraph.

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

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

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

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

12 (d) A determination by the program as to the present and  
13 prospective need obligation or as to issuance of compliance  
14 certification pursuant to this section shall be considered a final  
15 decision, subject to review by the Appellate Division of the Superior  
16 Court.

17

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

20 13. a. **[A]** If a municipality [which] has [filed a housing element  
21 may, at any time during a two-year period following the filing of the  
22 housing element, petition the council for a substantive certification  
23 of its element and ordinances or] adopted a housing element and fair  
24 share plan pursuant to section 3 of P.L. , c. (C. ) (pending  
25 before the Legislature as this bill), but has failed to satisfy the June  
26 30 deadline established pursuant to paragraph (2) of subsection f. of  
27 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
28 this bill), the municipality may be provided with a grace period  
29 pursuant to paragraph (3) of subsection f. of section 3 of P.L. , c.  
30 (C. ) (pending before the Legislature as this bill) if authorized by  
31 the program or county level housing judge, as determined by the rules  
32 of court. If the municipality that has not satisfied this June 30  
33 deadline is not provided with a grace period, the municipality may  
34 institute an action for declaratory judgment granting it repose in the  
35 Superior Court ], but in no event shall a grant of substantive  
36 certification extend beyond a 10-year period starting on the date the  
37 municipality files its housing element with the council] for the 10-  
38 year period constituting the current round of fair share obligations.  
39 The municipality shall publish notice of its [petition] filing of a  
40 declaratory judgment action in a newspaper of general circulation  
41 within the municipality and county and shall make available to the  
42 public information on the element and ordinances on the Internet  
43 website of the program in accordance with [such procedures as the  
44 council shall establish. The council shall also establish a procedure  
45 for providing public notice of each petition which it receives] section  
46 3 of P.L. , c. (C. ) (pending before the Legislature as this  
47 bill).

1        b. **【Notwithstanding the provisions of subsection a. of this**  
2 **section, a municipality which filed a housing element prior to the**  
3 **effective date of P.L.1990, c.121, shall be permitted to petition for**  
4 **substantive certification at any time within two years following that**  
5 **filing, or within one year following the effective date of P.L.1990,**  
6 **c.121, whichever shall result in permitting the municipality the**  
7 **longer period of time within which to petition.】** (Deleted by  
8 amendment, P.L. , c. ) (pending before the Legislature as this bill)

9        **【The Council shall establish procedures for】** c. (1) A  
10 municipality may file an action seeking a realistic opportunity review  
11 **【at the midpoint of the certification period and shall provide for**  
12 **notice to the public】** of any inclusionary development site in the  
13 housing element and fair share plan that has not received preliminary  
14 site plan approval prior to the midpoint of the 10-year round, if the  
15 municipality proposes an alternative site that provides a realistic  
16 opportunity for the same number of affordable units and is otherwise  
17 in compliance with the "Fair Housing Act," P.L.1985, c.222  
18 (C.52:27D-301 et al.) and the Mount Laurel doctrine, provided that  
19 if the facts demonstrate that the municipality or its subordinate  
20 boards have prevented the site from receiving site plan approval, then  
21 the program shall reject the municipality's challenge.

22        (2) Any party may file a request for information from the program  
23 regarding the progress of development at any inclusionary  
24 development site in the housing element and fair share plan of a  
25 municipality, or at any alternative site proposed by the municipality.  
26 (cf: P.L.2001, c.435, s.5)

27  
28        5. (New section) a. There is established an Affordable Housing  
29 Dispute Resolution Program that shall have the purpose of efficiently  
30 resolving disputes involving the "Fair Housing Act," P.L.1985, c.222  
31 (C.52:27D-301 et al.), to consist of an odd number of members, of at  
32 least three and no more than seven members. The Chief Justice of  
33 the Supreme Court shall update the assignment of designated Mount  
34 Laurel judges to indicate which current or retired and on recall judges  
35 of the Superior Court shall serve as program leaders, within 30 days  
36 following the effective date of P.L. , c. (C. ) (pending before  
37 the Legislature as this bill). The Chief Justice of the Supreme Court  
38 may appoint other qualified experts as members if sufficient current  
39 and retired judges are unavailable. The Chief Justice of the Supreme  
40 Court shall take into consideration in making such appointments  
41 experience in the employment of alternative dispute resolution  
42 methods and in relevant subject matter, and that there is a balance of  
43 representation among program members by political party. Not more  
44 than two members of the program shall be of the same political party  
45 if membership consists of three members, not more than three  
46 members shall be of the same political party if membership consists  
47 of five members, and not more than four members shall be of the  
48 same political party if membership consists of seven members.



1       b. The Chief Justice of the Supreme Court shall designate a  
2 program leader to serve as chair. The Chief Justice of the Supreme  
3 Court shall make new appointments as needs arise for new  
4 appointments.

5       c. The program, in its discretion and in accordance with Rules of  
6 Court, may consult or employ the services of the obligation special  
7 master appointed by the Chief Justice of the Supreme Court, or staff  
8 of the obligation special master, to assist it in rendering  
9 determinations.

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

16      e. The Administrative Director of the Courts may assign  
17 additional responsibilities to the program for resolving disputes  
18 arising out of or related to the "Fair Housing Act," P.L.1985, c.222  
19 (C.52:27D-301 et al.).

20      f. The Administrative Director of the Courts shall establish  
21 procedures for the purpose of efficiently resolving disputes involving  
22 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), for  
23 circumstances in which the program is unable to address the dispute  
24 within the time limitations established pursuant to section 3 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill).  
26 As a part of the procedures established pursuant to this section, in  
27 order to facilitate an appropriate level of localized control of  
28 affordable housing decisions, for each vicinage, the Chief Justice of  
29 the Supreme Court shall designate a Superior Court judge who sits  
30 within the vicinage, or a retired judge who, during the judge's tenure  
31 as a judge, served within the vicinage, to serve as county level  
32 housing judge to resolve disputes over the compliance, of fair share  
33 plans and housing elements of municipalities within their county,  
34 with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

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

41  
42      6. (New section) a. Municipal present need for each 10-year  
43 round of affordable housing obligations shall be determined by  
44 estimating the deficient housing units occupied by low- and  
45 moderate-income households in the region, following a methodology  
46 comparable to the methodology used to determine third round  
47 municipal present need, through the use of datasets made available

1 through the federal decennial census and the American Community  
2 Survey.

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

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

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

10 (b) Region 2 shall consist of the counties of Essex, Morris, Union,  
11 and Warren;

12 (c) Region 3 shall consist of the counties of Hunterdon,  
13 Middlesex, and Somerset;

14 (d) Region 4 shall consist of the counties of Mercer, Monmouth,  
15 and Ocean;

16 (e) Region 5 shall consist of the counties of Burlington, Camden,  
17 and Gloucester; and

18 (f) Region 6 shall consist of the counties of Atlantic, Cape May,  
19 Cumberland, and Salem.

20 (2) Regional prospective need for a 10-year round of low- and  
21 moderate-income housing obligations shall be determined through  
22 the calculation provided in this subsection. Projected household  
23 change for a 10-year round in a region shall be estimated by  
24 establishing the household change experienced in the region between  
25 the most recent federal decennial census, and the second-most recent  
26 federal decennial census. This household change, if positive, shall  
27 be divided by 2.5 to estimate the number of low- and moderate-  
28 income homes needed to address low- and moderate-income  
29 household change in the region, and to determine the regional  
30 prospective need for a 10-year round of low- and moderate-income  
31 housing obligations.

32

33 7. (New section) a. The obligation special master appointed  
34 pursuant to subsection b. or c. of section 3 of P.L. , c. (C. )  
35 (pending before the Legislature as this bill) shall determine the  
36 present and prospective fair share obligation for low- and moderate-  
37 income housing for each municipality in the State by applying the  
38 methods used in the March 8, 2018 unpublished decision of the  
39 Superior Court, Law Division, Mercer County, In re Application of  
40 Municipality of Princeton, as summarized in this section. A  
41 municipality calculating its obligation by resolution pursuant to  
42 subsection f. of section 3 of P.L. , c. (C. ) (pending before  
43 the Legislature as this bill) shall also determine its present and  
44 prospective fair share obligation using those same methods, as  
45 summarized in this section. These determinations of municipal  
46 present and prospective need shall be based on a determination of the  
47 present and prospective regional need for low- and moderate-income  
48 housing, established pursuant to section 6 of P.L. , c. (C. )

1 (pending before the Legislature as this bill). These calculations of  
2 municipal present and prospective need shall use necessary datasets  
3 that are updated to the greatest extent practicable.

4 b. The obligation special master shall determine a municipality's  
5 present need obligation by estimating the existing deficient housing  
6 units currently occupied by low- and moderate-income households  
7 within the municipality, following a methodology comparable to the  
8 methodology used to determine third round present need, through the  
9 use of datasets made available through the federal decennial census  
10 and the American Community Survey.

11 c. The obligation special master shall determine a municipality's  
12 prospective fair share obligation of the regional prospective need for  
13 the upcoming 10-year round in accordance with this subsection:

14 (1) The obligation special master shall determine whether or not  
15 a municipality is a qualified urban aid municipality. If a municipality  
16 is a qualified urban aid municipality, the municipality shall be  
17 exempt from responsibility for any fair share prospective need  
18 obligation for the upcoming 10-year round. For the purposes of this  
19 section, a municipality is a qualified urban aid municipality if the  
20 municipality, as of July 1 of the year prior to the beginning of a new  
21 round, is designated by the department, pursuant to P.L.1978, c.14  
22 (C.52:27D-178 et seq.), to receive State aid, and the municipality  
23 meets at least one of the following criteria:

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

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

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

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

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

38 (2) The obligation special master shall determine a municipality's  
39 equalized nonresidential valuation factor. To determine this factor,  
40 the obligation special master shall first calculate the changes in  
41 nonresidential property valuations in the municipality, since the  
42 beginning of the round preceding the round being calculated, using  
43 data published by the Division of Local Government Services in the  
44 department. The change in the municipality's nonresidential  
45 valuations shall be divided by the regional total change in  
46 nonresidential valuations to determine the municipality's share of the  
47 regional change as the equalized nonresidential valuation factor.

1 (3) The obligation special master shall determine a municipality's  
2 income capacity factor by calculating the average of the following  
3 measures:

4 (a) The municipal share of the regional sum of the differences  
5 between the median municipal household income, according to the  
6 most recent decennial census, and an income floor of \$100 below the  
7 lowest average household income in the region; and

8 (b) The municipal share of the regional sum of the differences  
9 between the median municipal household incomes and an income  
10 floor of \$100 below the lowest median household income in the  
11 region, weighted by the number of the households in the  
12 municipality.

13 (4) The obligation special master shall determine a municipality's  
14 land capacity factor by estimating the area of undeveloped land in its  
15 boundaries, and regional boundaries, that may accommodate  
16 development through the use of the "land use / land cover data" most  
17 recently published by the Department of Environmental Protection,  
18 and weighing the undeveloped land based on the planning area type  
19 in which the undeveloped land is located. After applying the  
20 weighting factors, the obligation special master shall determine the  
21 sum of the total undeveloped land area that may accommodate  
22 development in the municipality, and in the region. The  
23 municipality's share of its region's undeveloped land shall be its land  
24 capacity factor. Undeveloped land that may accommodate  
25 development shall be weighted based on the planning area type in  
26 which the undeveloped land is located, as designated pursuant to  
27 P.L.1985, c.398 (C.52:18A-196 et seq.), P.L.1979, c.111 (C.13:18A-  
28 1 et seq.), or P.L.2004, c.120 (C.13:20-1 et seq.), as follows:

29 (a) Planning Area 1 (Metropolitan) shall have a weighting factor  
30 of 1.0;

31 (b) Planning Area 2 (Suburban) shall have a weighting factor of  
32 1.0;

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

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

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

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

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

41 (h) Pinelands Regional Growth Area shall have a weighting factor  
42 of 0.5;

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

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

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

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

47 (m) Highlands Preservation Area shall have a weighting factor of  
48 0.0;

1 (n) Highlands Planning Area Existing Community Zone, opted in  
2 municipality by May 1, 2022 shall have a weighting factor of 1.0;

3 (o) Highlands Planning Area, State-designated sewer service area,  
4 municipality not opted in by May 1, 2022, shall have a weighting  
5 factor of 1.0; and

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

8 (5) The equalized nonresidential valuation factor, income  
9 capacity factor, and land capacity factor, determined in paragraphs  
10 (2), (3), and (4) of this subsection, shall be averaged to yield the  
11 municipality's average allocation factor for distributing gross  
12 regional prospective need to the municipality. The obligation special  
13 master shall then multiply the regional prospective need by the  
14 municipality's average allocation factor to determine the  
15 municipality's gross prospective need for the 10-year round.

16 (6) The obligation special master shall adjust for secondary  
17 sources of supply and demand by first calculating demolitions of low-  
18 and moderate-income housing, and housing creation through  
19 residential conversions. The obligation special master shall then  
20 subtract a municipality's share of conversions from the sum of each  
21 municipality's allocated share of gross prospective need and  
22 demolitions of low- and moderate-income housing.

23

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

26 4. a. Upon failure to perform any obligation of a residential  
27 mortgage by the residential mortgage debtor and before any  
28 residential mortgage lender may accelerate the maturity of any  
29 residential mortgage obligation and commence any foreclosure or  
30 other legal action to take possession of the residential property which  
31 is the subject of the mortgage, the residential mortgage lender shall  
32 give a notice of intention, which shall include a notice of the right to  
33 cure the default as provided in section 5 of P.L.1995, c.244 (C.2A:50-  
34 57), at least 30 days, but not more than 180 days, in advance of such  
35 action as provided in this section, to the residential mortgage debtor,  
36 and, if the mortgage is secured by a residence for which a restriction  
37 on affordability was recorded in the county in which the property is  
38 located, the clerk of the municipality in which the subject property is  
39 located, the municipal housing liaison, if one has been appointed by  
40 the municipality **【**pursuant to the regulations of the Council on  
41 Affordable Housing, and the Commissioner of Community Affairs**】**.  
42 For the purposes of this section, "restriction on affordability" means  
43 any conditions recorded with a mortgage or a deed which would limit  
44 the sale of such property to income qualified households pursuant to  
45 the rules adopted to effectuate the "Fair Housing Act," P.L.1985,  
46 c.222 (C.52:27D-301 et al.).

47 b. Notice of intention to take action as specified in subsection a.  
48 of this section shall be in writing, provided to the Department of

1 Community Affairs in accordance with subsection a. of section 2 of  
2 P.L.2019, c.134 (C.46:10B-49.2), sent to the debtor by registered or  
3 certified mail, return receipt requested, at the debtor's last known  
4 address, and, if different, to the address of the property which is the  
5 subject of the residential mortgage. The notice is deemed to have  
6 been effectuated on the date the notice is delivered in person or  
7 mailed to the party.

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

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

11 (2) the nature of the default claimed;

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

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

17 (5) the date by which the debtor shall cure the default to avoid  
18 initiation of foreclosure proceedings, which date shall not be less than  
19 30 days after the date the notice is effective, and the name and address  
20 and phone number of a person to whom the payment or tender shall  
21 be made;

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

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

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

37 (9) that the debtor is advised to seek counsel from an attorney of  
38 the debtor's own choosing concerning the debtor's residential  
39 mortgage default situation, and that, if the debtor is unable to obtain  
40 an attorney, the debtor may communicate with the New Jersey Bar  
41 Association or Lawyer Referral Service in the county in which the  
42 residential property securing the mortgage loan is located; and that,  
43 if the debtor is unable to afford an attorney, the debtor may  
44 communicate with the Legal Services Office in the county in which  
45 the property is located;

46 (10) the possible availability of financial assistance for curing a  
47 default from programs operated by the State or federal government  
48 or nonprofit organizations, if any, as identified by the Commissioner

1 of Banking and Insurance and, if the property is subject to restrictions  
2 on affordability, the address and phone number of the municipal  
3 affordable housing liaison and of the New Jersey Housing and  
4 Mortgage Finance Agency. This requirement shall be satisfied by  
5 attaching a list of such programs promulgated by the commissioner;

6 (11) the name and address of the lender and the telephone number  
7 of a representative of the lender whom the debtor may contact if the  
8 debtor disagrees with the lender's assertion that a default has occurred  
9 or the correctness of the mortgage lender's calculation of the amount  
10 required to cure the default;

11 (12) that if the lender takes the steps indicated pursuant to  
12 paragraph (6) of this subsection, the debtor has the option to  
13 participate in the Foreclosure Mediation Program following the filing  
14 of a mortgage foreclosure complaint by initiating mediation pursuant  
15 to paragraph (2) of subsection a. of section 4 of P.L.2019, c.64  
16 (C.2A:50-77). Notice of the option to participate in the Foreclosure  
17 Mediation Program shall adhere to the requirements of section 3 of  
18 P.L.2019, c.64 (C.2A:50-76) and any court rules, procedures, or  
19 guidelines adopted by the Supreme Court;

20 (13) that the debtor is entitled to housing counseling, at no cost to  
21 the debtor, through the Foreclosure Mediation Program established  
22 by the New Jersey Judiciary, including information on how to contact  
23 the program;

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

33 (15) that the lender is either licensed in accordance with the "New  
34 Jersey Residential Mortgage Lending Act," sections 1 through 39 of  
35 P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) or exempt from  
36 licensure under the act in accordance with applicable law.

37 d. The notice of intention to foreclose required to be provided  
38 pursuant to this section shall not be required if the debtor has  
39 voluntarily surrendered the property which is the subject of the  
40 residential mortgage.

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

46 f. Compliance with this section and subsection a. of section 2 of  
47 P.L.2019, c.134 (C.46:10B-49.2) shall be set forth in the pleadings  
48 of any legal action referred to in this section. If the plaintiff in any

1 complaint seeking foreclosure of a residential mortgage alleges that  
2 the property subject to the residential mortgage has been abandoned  
3 or voluntarily surrendered, the plaintiff shall plead the specific facts  
4 upon which this allegation is based.

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

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

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

22

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

25 2. The New Jersey Council on Physical Fitness and Sports,  
26 established under P.L.1999, c.265 (C.26:1A-37.5 et seq.) is  
27 authorized to provide grants to assist low-income families in  
28 purchasing the protective eyewear. As used in this section, a "low-  
29 income family" means a family which qualifies for low-income  
30 housing under the standards promulgated by the **【Council on**  
31 **Affordable Housing】** New Jersey Housing and Mortgage Finance  
32 Agency pursuant to the "Fair Housing Act," P.L.1985, c.222  
33 (C.52:27D-301 et al.).

34 (cf: P.L.2005, c.306, s.2)

35

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

38 25. a. **【The Council on Affordable Housing】** Each obligation  
39 special master appointed pursuant to subsection b. or c. of section 3  
40 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
41 shall take into consideration the regional master plan **【prior to**  
42 **making any】** as part of each obligation special master's duties  
43 specified in section 7 of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill) in the obligation special master's  
45 determination regarding the allocation of the prospective fair share  
46 of the housing need **【in any municipality in the Highlands Region】**  
47 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)



1 for **the** any fair share period subsequent to **1999** the effective  
2 date of P.L. , c. (C. ) (pending before the Legislature as this  
3 bill) if a municipality is in the Highlands Region.

4 b. Nothing in **this act** P.L.2004, c.120 (C.13:20-1 et al.) shall  
5 affect protections provided through a grant of substantive  
6 certification or a judgment of repose granted prior to **the date of**  
7 enactment of this act August 10, 2004.

8 (cf: P.L.2004, c.120, s.25)

9

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

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

13 a. Depository institutions; but subsidiaries and service  
14 corporations of these institutions shall not be exempt. A depository  
15 institution may register with the department for the purpose of  
16 sponsoring individuals, licensed as mortgage loan originators subject  
17 to subparagraph (b) of paragraph (1) of subsection c. of section 4 of  
18 P.L.2009, c.53 (C.17:11C-54), provided that such registered entity  
19 obtains and maintains bond coverage for mortgage loan originators  
20 consistent with section 13 of P.L.2009, c.53 (C.17:11C-63). A  
21 depository institution registered with the department in accordance  
22 with this subsection a. shall otherwise remain exempt from the  
23 licensing requirements of P.L.2009, c.53 (C.17:11C-51 et seq.).

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

27 c. A licensed attorney who negotiates the terms of a residential  
28 mortgage loan on behalf of a client as an ancillary matter to the  
29 attorney's representation of the client, unless the attorney is  
30 compensated by a residential mortgage lender, residential mortgage  
31 broker, or mortgage loan originator.

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

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

46 f. The State of New Jersey or a municipality, or any agency or  
47 instrumentality thereof, which, in accordance with a housing element  
48 that has previously received substantive certification from the

1 Council on Affordable Housing, or a judgment of repose or other  
2 court approval, pursuant to the "Fair Housing Act," P.L.1985, c.222  
3 (C.52:27D-301 et al.), or in fulfillment of a regional contribution  
4 agreement with a municipality that has received a certification,  
5 employs or proposes to employ municipally generated funds, funds  
6 obtained through any State or federal subsidy, or funds acquired by  
7 the municipality under a regional contribution agreement, to finance  
8 the provision of affordable housing by extending loans or advances,  
9 the repayment of which is secured by a lien, subordinate to any prior  
10 lien, upon the property that is to be rehabilitated.

11 g. Any individual who offers or negotiates terms of a residential  
12 mortgage loan:

13 (1) with or on behalf of an immediate family member; or

14 (2) secured by a dwelling that serves as the individual's residence.

15 h. Any person who, during a calendar year takes three or fewer  
16 residential mortgage loan applications or offers or negotiates the  
17 terms of three or fewer residential mortgage loans or makes three or  
18 fewer residential mortgage loans related to manufactured housing  
19 structures which are:

20 (1) titled by the New Jersey Motor Vehicle Commission;

21 (2) located in a mobile home park as defined in subsection e. of  
22 section 3 of P.L.1983, c.400 (C.54:4-1.4); and

23 (3) exempt from taxation as real property pursuant to subsection  
24 b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

25 i. A bona fide not for profit entity and any individuals directly  
26 employed by that entity, so long as the entity maintains its tax exempt  
27 status under Section 501(c)(3) of the Internal Revenue Code of 1986  
28 and otherwise meets the definition of "bona fide not for profit entity"  
29 in section 3 of P.L.2009, c.53 (C.17:11C-53), as periodically  
30 determined by the department in accordance with rules established  
31 by the commissioner.

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

33

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

36 2. a. A person who violates a requirement of this act shall be  
37 warned of the violation by the enforcing official. The parent or legal  
38 guardian of that person also may be fined a maximum of \$25 for the  
39 person's first offense and a maximum of \$100 for a subsequent  
40 offense if it can be shown that the parent or guardian failed to  
41 exercise reasonable supervision or control over the person's conduct.  
42 Penalties provided in this section for a failure to wear a helmet may  
43 be waived if an offender or his parent or legal guardian presents  
44 suitable proof that an approved helmet was owned at the time of the  
45 violation or has been purchased since the violation occurred.

46 b. All money collected as fines under subsection a. of this  
47 section and subsection a. of section 2 of P.L.1997, c.411 (C.39:4-  
48 10.6) shall be deposited in a nonlapsing revolving fund to be known

1 as the "Bicycle and Skating Safety Fund." Interest earned on money  
2 deposited in the fund shall accrue to the fund. Money in the fund  
3 shall be utilized by the director to provide educational programs  
4 devoted to bicycle, roller skating and skateboarding safety. If the  
5 director determines that sufficient money is available in the fund, he  
6 also may use, in a manner prescribed by rule and regulation, the  
7 money to assist low income families in purchasing approved bicycle  
8 helmets. For the purposes of this subsection, "low income family"  
9 means a family which qualifies for low income housing under the  
10 standards promulgated by the **【Council on Affordable Housing】** New  
11 Jersey Housing and Mortgage Finance Agency pursuant to the  
12 provisions of P.L.1985, c.222 (C.52:27D-301 et seq.).  
13 (cf: P.L.1997, c.411, s.11)  
14

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

17 33. The Legislature finds and declares:

18 a. The collection of development fees from builders of residential  
19 and non-residential properties has been authorized by the court  
20 through the powers **【delegated to the Council on Affordable**  
21 **Housing】** established pursuant to the "Fair Housing Act," P.L.1985,  
22 c.222 (C.52:27D-301 et al.). Due to of the Legislature's  
23 determination that the role of the Council on Affordable Housing has  
24 not developed in practice as intended, the Legislature further  
25 determines that authority relating to rulemaking on the collection of  
26 residential and non-residential development fees is appropriately  
27 delegated to the Department of Community Affairs, given the  
28 department's existing roles related to local government finance and  
29 the funding and financing of affordable housing throughout the State.

30 b. New Jersey's land resources are becoming more scarce, while  
31 its redevelopment needs are increasing. In order to balance the needs  
32 of developing and redeveloping communities, a reasonable method  
33 of providing for the housing needs of **【low and moderate income】**  
34 low-, moderate-, and 【middle income】 middle-income households,  
35 without mandating the inclusion of housing in every non-residential  
36 project, must be established.

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

44 d. Whereas, pursuant to P.L.1977, c.110 (C.5:12-1 et seq.),  
45 organizations are directed to invest in the Casino Reinvestment  
46 Development Authority to ensure that the development of housing  
47 for families of **【low and moderate income】** low- and moderate-

1 income shall be provided. The Casino Reinvestment Development  
2 Authority **【**, in consultation with the council,**】** shall work to  
3 effectuate the purpose and intent of P.L.1985, c.222 (C.52:27D-301  
4 et al.).

5 e. The "Statewide Non-Residential Development Fee Act,"  
6 sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through  
7 C.40:55D-8.7), prohibits municipalities from imposing their own  
8 fees to fund affordable housing on non-residential development, and  
9 P.L.2009, c.90 (C.52:27D-489a et al.) is not intended to alter this  
10 underlying policy.

11 f. The negative impact of a State policy that over-relies on a  
12 municipal fee structure and of State programs that require a  
13 municipality to impose fees and charges on developers must be  
14 balanced against any public good expected from such regulation. It  
15 is undisputable that the charging of fees at high levels dissuades  
16 commerce from locating within a State or municipality or locality  
17 and halts non-residential and residential development, and these ill  
18 effects directly increase the overall costs of housing, and could  
19 impede the constitutional obligation to provide for a realistic  
20 opportunity for housing for families at all income levels.

21 (cf: P.L.2009, c.90, s.36)

22

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

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

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

32 "Commissioner" means the Commissioner of Community Affairs.

33 **【**"Council" means the Council on Affordable Housing, established  
34 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).**】**

35 "Department" means the Department of Community Affairs.

36 "Developer" means the legal or beneficial owner or owners of a  
37 lot or of any land proposed to be included in a proposed development,  
38 including the holder of an option or contract to purchase, or other  
39 person having an enforceable proprietary interest in such land.

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

45 "Mixed use development" means any development which includes  
46 both a non-residential development component and a residential  
47 development component, and shall include developments for which  
48 (1) there is a common developer for both the residential development

1 component and the non-residential development component,  
2 provided that for purposes of this definition, multiple persons and  
3 entities may be considered a common developer if there is a  
4 contractual relationship among them obligating each entity to  
5 develop at least a portion of the residential or non-residential  
6 development, or both, or otherwise to contribute resources to the  
7 development; and (2) the residential and non-residential  
8 developments are located on the same lot or adjoining lots, including  
9 but not limited to lots separated by a street, a river, or another  
10 geographical feature.

11 "Non-residential development" means: (1) any building or  
12 structure, or portion thereof, including but not limited to any  
13 appurtenant improvements, which is designated to a use group other  
14 than a residential use group according to the State Uniform  
15 Construction Code promulgated to effectuate the "State Uniform  
16 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.),  
17 including any subsequent amendments or revisions thereto; (2)  
18 hotels, motels, vacation timeshares, and child-care facilities; and (3)  
19 the entirety of all continuing care facilities within a continuing care  
20 retirement community which is subject to the "Continuing Care  
21 Retirement Community Regulation and Financial Disclosure Act,"  
22 P.L.1986, c.103 (C.52:27D-330 et seq.).

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

26 "Relating to the provision of housing" shall be liberally construed  
27 to include the construction, maintenance, or operation of housing,  
28 including but not limited to the provision of services to such housing  
29 and the funding of any of the above.

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

35 "Treasurer" means the Treasurer of the State of New Jersey.  
36 (cf: P.L.2008, c.46, s.34)

37

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

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

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

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

1       b. All non-residential construction of buildings or structures on  
2 property used by churches, synagogues, mosques, and other houses  
3 of worship, and property used for educational purposes, which is tax-  
4 exempt pursuant to R.S.54:4-3.6, shall be exempt from the  
5 imposition of a non-residential development fee pursuant to this  
6 section, provided that the property continues to maintain its tax  
7 exempt status under that statute for a period of at least three years  
8 from the date of issuance of the certificate of occupancy. In addition,  
9 the following shall be exempt from the imposition of a non-  
10 residential development fee:

11       (1) parking lots and parking structures, regardless of whether the  
12 parking lot or parking structure is constructed in conjunction with a  
13 non-residential development, such as an office building, or whether  
14 the parking lot is developed as an independent non-residential  
15 development;

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

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

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

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

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

34       A developer of a non-residential development exempted from the  
35 non-residential development fee pursuant to this section shall be  
36 subject to it at such time the basis for the exemption set forth in this  
37 subsection no longer applies, and shall make the payment of the non-  
38 residential development fee, in that event, within three years after  
39 that event or after the issuance of the final certificate of occupancy  
40 of the non-residential development whichever is later.

41       For purposes of this subsection, "recreational facilities and  
42 community center" means any indoor or outdoor buildings, spaces,  
43 structures, or improvements intended for active or passive recreation,  
44 including but not limited to ball fields, meeting halls, and classrooms,  
45 accommodating either organized or informal activity; and "senior  
46 center" means any recreational facility or community center with  
47 activities and services oriented towards serving senior citizens.

1 If a property which was exempted from the collection of a non-  
2 residential development fee thereafter ceases to be exempt from  
3 property taxation, the owner of the property shall remit the fees  
4 required pursuant to this section within 45 days of the termination of  
5 the property tax exemption. Unpaid non-residential development  
6 fees under these circumstances may be enforceable by the  
7 municipality as a lien against the real property of the owner.

8 c. (1) Unless authorized to pay directly to the municipality in  
9 which the non-residential construction is occurring in accordance  
10 with paragraph (2) of this subsection, developers shall pay non-  
11 residential development fees imposed pursuant to P.L.2008, c.46  
12 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with  
13 subsection g. of this section in a manner and on such forms as  
14 required by the Treasurer, provided that a certified proof concerning  
15 the payment shall be furnished by the Treasurer, to the municipality.

16 (2) The **【council】** department shall maintain on its Internet  
17 website a list of each municipality that is authorized to use the  
18 development fees collected pursuant to this section and that has a  
19 confirmed status of compliance with the "Fair Housing Act,"  
20 P.L.1985, c.222 (C.52:27D-301 et al.) , or is in the process of seeking  
21 compliance certification, which compliance shall include a spending  
22 plan **【authorized by the council】** pursuant to section 8 of P.L.2008,  
23 c.46 (C.52:27D-329.2) for all development fees collected.

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

35 e. The construction official responsible for the issuance of a  
36 building permit shall notify the local tax assessor of the issuance of  
37 the first building permit for a development which may be subject to  
38 a non-residential development fee. Within 90 days of receipt of that  
39 notice, the municipal tax assessor, based on the plans filed, shall  
40 provide an estimate of the equalized assessed value of the non-  
41 residential development. The construction official responsible for  
42 the issuance of a final certificate of occupancy shall notify the local  
43 assessor of any and all requests for the scheduling of a final  
44 inspection on property which may be subject to a non-residential  
45 development fee. Within 10 business days of a request for the  
46 scheduling of a final inspection, the municipal assessor shall confirm  
47 or modify the previously estimated equalized assessed value of the  
48 improvements of the non-residential development in accordance with

1 the regulations adopted by the Treasurer pursuant to P.L.1971, c.424  
2 (C.54:1-35.35); calculate the non-residential development fee  
3 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1  
4 through C.40:55D-8.7); and thereafter notify the developer of the  
5 amount of the non-residential development fee. Should the  
6 municipality fail to determine or notify the developer of the amount  
7 of the non-residential development fee within 10 business days of the  
8 request for final inspection, the developer may estimate the amount  
9 due and pay that estimated amount consistent with the dispute  
10 process set forth in subsection b. of section 37 of P.L.2008, c.46  
11 (C.40:55D-8.6). Upon tender of the estimated non-residential  
12 development fee, provided the developer is in full compliance with  
13 all other applicable laws, the municipality shall issue a final  
14 certificate of occupancy for the subject property. Failure of the  
15 municipality to comply with the timeframes or procedures set forth  
16 in this subsection may subject it to penalties to be imposed by the  
17 commissioner; any penalties so imposed shall be deposited into the  
18 "New Jersey Affordable Housing Trust Fund" established pursuant  
19 to section 20 of P.L.1985, c.222 as amended by section 17 of  
20 P.L.2008, c.46 (C.52:27D-320).

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

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

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

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



1 The Treasurer shall adopt such regulations as necessary to  
2 effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1  
3 through C.40:55D-8.7), in accordance with the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).  
5 (cf: P.L.2008, c.46, s.35)

6  
7 16. Section 36 of P.L.2008, c.46 (C.40:55D-8.5) is amended to  
8 read as follows:

9 36. a. The commissioner **【**, in consultation with the council,**】**  
10 shall promulgate, in accordance with the provisions of the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
12 seq.), such regulations as are necessary for the prompt and effective  
13 implementation of the provisions and purposes of **【**P.L.2008, c.46  
14 (C.52:27D-329.1 et al.)**】** section 8 of P.L.2008, c.46 (C.52:27D-  
15 329.2), including, but not limited to, provisions for the payment of  
16 any necessary administrative costs related to the assessment of  
17 properties and collection of any development fees by a municipality.

18 b. **【**Notwithstanding the authority granted to the commissioner  
19 herein, the council**】** The commissioner shall adopt and promulgate,  
20 in accordance with the provisions of the "Administrative Procedure  
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such regulations as are  
22 necessary for the effectuation of P.L.2008, c.46 (C.52:27D-329.1 et  
23 al.), including but not limited to, regulations necessary for the  
24 establishment, implementation, review, monitoring, and enforcement  
25 of a municipal affordable housing trust fund and spending plan.  
26 (cf: P.L.2008, c.46, s.36)

27  
28 17. Section 38 of P.L.2008, c.46 (C.40:55D-8.7) is amended to  
29 read as follows:

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

44 b. No affordable housing obligation shall be imposed concerning  
45 a mixed use development that would result in an affordable housing  
46 obligation greater than that which would have been imposed if the  
47 residential portion of the mixed use development had been developed

1 independently of the non-residential portion of the mixed use  
2 development.

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

11 (cf: P.L.2008, c.46, s.38)

12

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

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

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

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

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

44 d. A developer of a non-residential project that paid a fee  
45 imposed pursuant to sections 32 through 38 of P.L.2008, c.46  
46 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to July 17, 2008  
47 but prior to the effective date of P.L.2009, c.90 (C.52:27D-489a et  
48 al.), shall be entitled to the return of those moneys paid, provided that

1 the provisions of section 37 of P.L.2008, c.46 (C.40:55D-8.6), as  
2 amended by P.L.2009, c.90 do not permit the imposition of a fee upon  
3 the developer of that non-residential property.

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

14 f. A developer of a non-residential project that paid a fee  
15 imposed pursuant to sections 32 through 38 of P.L.2008, c.46  
16 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to June 30, 2010  
17 but prior to the effective date of P.L.2011, c.122, shall be entitled to  
18 the return of those monies paid, provided that said monies have not  
19 already been expended by the municipality on affordable housing  
20 projects, and provided that the provisions of section 37 of P.L.2008,  
21 c.46 (C.40:55D-8.6), as amended by P.L.2011, c.122 do not permit  
22 the imposition of a fee upon the developer of that non-residential  
23 property. If moneys are eligible to be returned under this subsection,  
24 a claim shall be submitted, in writing, to the same entity to which the  
25 moneys were paid, within 120 days of the effective date of P.L.2011,  
26 c.122. The entity to whom the funds were paid shall promptly review  
27 all requests for returns, to ensure applicability of section 37 of  
28 P.L.2008, c.46 (C.40:55D-8.6) and the fees paid shall be returned to  
29 the claimant within 30 days of receipt of the claim for return.  
30 (cf: P.L.2011, c.122, s.2)

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

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

1 private sector planning for at least the previous five years, and one  
2 representative each from:

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

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

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

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

26  
27 20. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to read  
28 as follows:

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

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

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

46 "Development" means the division of a parcel of land into two or  
47 more parcels, the construction, reconstruction, conversion, structural

1 alteration, relocation, or enlargement of any building or other  
2 structure, or of any mining, excavation or landfill, and any use or  
3 change in the use of any building or other structure, or land or  
4 extension of use of land, for which permission may be required  
5 pursuant to the "Municipal Land Use Law," P.L.1975, c.291  
6 (C.40:55D-1 et seq.).

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

12 "Governing body" means the body exercising general legislative  
13 powers in a county or municipality according to the terms and  
14 procedural requirements set forth in the form of government adopted  
15 by the county or municipality.

16 "Housing authority" means a housing authority created or  
17 continued pursuant to this act.

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

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

35 "Persons of **【low and moderate income】** low- and moderate-  
36 income" means persons or families who are, in the case of State  
37 assisted projects or programs, so defined by the **【Council on**  
38 **Affordable Housing in the Department of Community Affairs】** New  
39 Jersey Housing and Mortgage Finance Agency, or in the case of  
40 federally assisted projects or programs, defined as of **【"low and very**  
41 **low income"】** "low- and very low-income" by the United States  
42 Department of Housing and Urban Development.

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

45 "Public electric vehicle charging station" means an electric vehicle  
46 charging station located at a publicly available parking space.

1 "Public housing" means any housing for persons of [low and  
2 moderate income] low- and moderate-income owned by a  
3 municipality, county, the State or the federal government, or any  
4 agency or instrumentality thereof.

5 "Public hydrogen fueling station" means publicly available  
6 equipment to store and dispense hydrogen fuel to vehicles according  
7 to industry codes and standards.

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

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

22 "Real property" means all lands, including improvements and  
23 fixtures thereon, and property of any nature appurtenant thereto or  
24 used in connection therewith, and every estate, interest and right,  
25 legal or equitable, therein, including terms for years and liens by way  
26 of judgment, mortgage or otherwise, and indebtedness secured by  
27 such liens.

28 "Redeveloper" means any person, firm, corporation or public body  
29 that shall enter into or propose to enter into a contract with a  
30 municipality or other redevelopment entity for the redevelopment or  
31 rehabilitation of an area in need of redevelopment, or an area in need  
32 of rehabilitation, or any part thereof, under the provisions of this act,  
33 or for any construction or other work forming part of a redevelopment  
34 or rehabilitation project.

35 "Redevelopment" means clearance, replanning, development and  
36 redevelopment; the conservation and rehabilitation of any structure  
37 or improvement, the construction and provision for construction of  
38 residential, commercial, industrial, public or other structures and the  
39 grant or dedication of spaces as may be appropriate or necessary in  
40 the interest of the general welfare for streets, parks, playgrounds, or  
41 other public purposes, including recreational and other facilities  
42 incidental or appurtenant thereto, in accordance with a  
43 redevelopment plan.

44 "Redevelopment agency" means a redevelopment agency created  
45 pursuant to subsection a. of section 11 of P.L.1992, c.79  
46 (C.40A:12A-11) or established heretofore pursuant to the  
47 "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et  
48 al.), repealed by this act, which has been permitted in accordance

1 with the provisions of **[this act]** P.L.1992, c.79 (C.40A:12A-1 et  
2 seq.) to continue to exercise its redevelopment functions and powers.

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

15 "Redevelopment entity" means a municipality or an entity  
16 authorized by the governing body of a municipality pursuant to  
17 subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to  
18 implement redevelopment plans and carry out redevelopment  
19 projects in an area in need of redevelopment, or in an area in need of  
20 rehabilitation, or in both.

21 "Redevelopment plan" means a plan adopted by the governing  
22 body of a municipality for the redevelopment or rehabilitation of all  
23 or any part of a redevelopment area, or an area in need of  
24 rehabilitation, which plan shall be sufficiently complete to indicate  
25 its relationship to definite municipal objectives as to appropriate land  
26 uses, public transportation and utilities, recreational and municipal  
27 facilities, and other public improvements; and to indicate proposed  
28 land uses and building requirements in the redevelopment area or  
29 area in need of rehabilitation, or both.

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

39 "Rehabilitation" means an undertaking, by means of extensive  
40 repair, reconstruction or renovation of existing structures, with or  
41 without the introduction of new construction or the enlargement of  
42 existing structures, in any area that has been determined to be in need  
43 of rehabilitation or redevelopment, to eliminate substandard  
44 structural or housing conditions and arrest the deterioration of that  
45 area.

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

1 "Zero-emission vehicle" means a vehicle certified as a zero  
2 emission vehicle pursuant to the California Air Resources Board zero  
3 emission vehicle standards for the applicable model year, including  
4 but not limited to, battery electric-powered vehicles and hydrogen  
5 fuel cell vehicles.

6 "Zero-emission vehicle fueling and charging infrastructure"  
7 means infrastructure to charge or fuel zero-emission vehicles,  
8 including but not limited to, public electric vehicle charging stations  
9 and public hydrogen fueling stations.  
10 (cf: P.L.2021, c.168, s.1)

11  
12 21. Section 16 of P.L.1992, c.79 (C.40A:12A-16) is amended to  
13 read as follows:

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

18 (1) Plan, construct, own, and operate housing projects; maintain,  
19 reconstruct, improve, alter, or repair any housing project or any part  
20 thereof; and for these purposes, receive and accept from the State or  
21 federal government, or any other source, funds or other financial  
22 assistance;

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

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

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

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

34 (6) Cooperate with any other municipality, private, county, State  
35 or federal entity to provide funds to the municipality or other  
36 governmental entity and to homeowners, tenant associations,  
37 nonprofit or private developers to acquire, construct, rehabilitate or  
38 operate publicly assisted housing, and to provide rent subsidies for  
39 persons of **low and moderate income** low- and moderate-income,  
40 including the elderly, pursuant to applicable State or federal  
41 programs;

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



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

4 (9) Provide technical assistance and support to nonprofit  
5 organizations and private developers interested in constructing **low**  
6 **and moderate income** low- and moderate-income housing;

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

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

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

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

22

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

25 10. A municipality's housing element shall be designed to achieve  
26 the goal of access to affordable housing to meet present and  
27 prospective housing needs, with particular attention to **low and**  
28 **moderate income** low- and moderate-income housing, and shall  
29 contain at least:

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

39 b. A projection of the municipality's housing stock, including the  
40 probable future construction of **low and moderate income** low- and  
41 moderate-income housing, for the next ten years, taking into account,  
42 but not necessarily limited to, construction permits issued, approvals  
43 of applications for development and probable residential  
44 development of lands;

45 c. An analysis of the municipality's demographic characteristics,  
46 including but not necessarily limited to, household size, income level  
47 and age;

- 1 d. An analysis of the existing and probable future employment  
2 characteristics of the municipality;
- 3 e. A determination of the municipality's present and prospective  
4 fair share for **low and moderate income** low- and moderate-income  
5 housing and its capacity to accommodate its present and prospective  
6 housing needs, including its fair share for **low and moderate**  
7 **income** low- and moderate-income housing, as established pursuant  
8 to section 3 of P.L. , c. (C. ) (pending before the Legislature  
9 as this bill);
- 10 f. A consideration of the lands that are most appropriate for  
11 construction of **low and moderate income** low- and moderate-  
12 income housing and of the existing structures most appropriate for  
13 conversion to, or rehabilitation for, **low and moderate income** low-  
14 and moderate-income housing, including a consideration of lands of  
15 developers who have expressed a commitment to provide **low and**  
16 **moderate income** low- and moderate-income housing; and
- 17 g. An analysis of the extent to which municipal ordinances and  
18 other local factors advance or detract from the goal of preserving  
19 multigenerational family continuity as expressed in the  
20 recommendations of the Multigenerational Family Housing  
21 Continuity Commission, adopted pursuant to paragraph (1) of  
22 subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20).  
23 (cf: P.L.2021, c.273, s.2)

24  
25 23. Section 1 of P.L.1995, c.231 (C.52:27D-310.1) is amended to  
26 read as follows:

27 1. When computing a municipal adjustment regarding available  
28 land resources as part of the determination of a municipality's fair  
29 share of affordable housing, the **Council on Affordable Housing**  
30 municipality in filing a housing element and fair share plan pursuant  
31 to subsection f. of section 3 of P.L. , c. (C. ) (pending before  
32 the Legislature as this bill) shall exclude from designating and the  
33 declaratory judgment process set forth pursuant to section 3 of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill)  
35 shall confirm was correctly excluded, as vacant land:

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

42 (b) any land listed on a master plan of a municipality as being  
43 dedicated, by easement or otherwise, for purposes of conservation,  
44 park lands or open space and which is owned, leased, licensed, or in  
45 any manner operated by a county, municipality or tax-exempt,  
46 nonprofit organization including a local board of education, or by  
47 more than one municipality by joint agreement pursuant to P.L.1964,

1 c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such  
2 ownership, lease, license, or operational control of such land;

3 (c) any vacant contiguous parcels of land in private ownership of  
4 a size which would accommodate fewer than five housing units **[if**  
5 **current standards of the council were applied]** based on appropriate  
6 standards pertaining to housing density;

7 (d) historic and architecturally important sites listed on the State  
8 Register of Historic Places or National Register of Historic Places  
9 prior to the **[submission of the petition of substantive certification]**  
10 date of filing a housing element and fair share plan pursuant to  
11 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
12 this bill);

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

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

17 (g) environmentally sensitive lands where development is  
18 prohibited by any State or federal agency.

19 No municipality shall be required to utilize for affordable housing  
20 purposes land that is excluded from being designated as vacant land.  
21 (cf: P.L.2008, c.46, s.39)

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

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

40 (1) Rezoning for densities necessary to assure the economic  
41 viability of any inclusionary developments, either through mandatory  
42 set-asides or density bonuses, as may be necessary to meet all or part  
43 of the municipality's fair share in accordance with **[the regulations**  
44 **of the council and]** the provisions of subsection h. 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;
- 6 (4) A plan for infrastructure expansion and rehabilitation if  
7 necessary to assure the achievement of the municipality's fair share  
8 of **【low and moderate income】** low- and moderate-income housing;
- 9 (5) Donation or use of municipally owned land or land  
10 condemned by the municipality for purposes of providing **【low and**  
11 **moderate income】** low- and moderate-income housing;
- 12 (6) Tax abatements for purposes of providing **【low and moderate**  
13 **income】** low- and moderate-income housing;
- 14 (7) Utilization of funds obtained from any State or federal  
15 subsidy toward the construction of **【low and moderate income】** low-  
16 and moderate-income housing;
- 17 (8) Utilization of municipally generated funds toward the  
18 construction of **【low and moderate income】** low- and moderate-  
19 income housing; and
- 20 (9) The purchase of privately owned real property used for  
21 residential purposes at the value of all liens secured by the property,  
22 excluding any tax liens, notwithstanding that the total amount of debt  
23 secured by liens exceeds the appraised value of the property, pursuant  
24 to regulations promulgated by the Commissioner of Community  
25 Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126  
26 (C.52:27D-311.2).
- 27 b. The municipality may provide for a phasing schedule for the  
28 achievement of its fair share of **【low and moderate income】** low- and  
29 moderate-income housing.
- 30 c. (Deleted by amendment, P.L.2008, c.46)
- 31 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall require  
32 a municipality to raise or expend municipal revenues in order to  
33 provide **【low and moderate income】** low- and moderate-income  
34 housing.
- 35 e. When a municipality's housing element includes the provision  
36 of rental housing units in a community residence for the  
37 developmentally disabled , for the mentally ill, or for persons with  
38 head injuries, as those terms are defined in section 2 of P.L.1977,  
39 c.448 (C.30:11B-2), or in transitional housing, which will be  
40 affordable to persons of **【low and moderate income】** low- and  
41 moderate-income, and for which adequate measures to retain such  
42 affordability pursuant to paragraph (3) of subsection a. of this section  
43 are included in the housing element, those housing units shall be fully  
44 credited **【as permitted under the rules of the council】** towards the  
45 fulfillment of the municipality's fair share of **【low and moderate**  
46 **income】** low- and moderate-income housing. A municipality shall

1 not credit transitional housing units towards more than 15 percent of  
2 the municipality's fair share obligation.

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

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

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

23 i. **The council, upon the application of a** A municipality and  
24 a developer **,** may **approve** request a modification of a  
25 compliance certification involving reduced affordable housing set-  
26 asides or increased densities to ensure the economic feasibility of an  
27 inclusionary development , if any such application demonstrates how  
28 any shortfall in meeting the municipal fair share obligation will then  
29 be addressed.

30 j. A municipality may enter into an agreement with a developer  
31 or residential development owner to provide a preference for  
32 affordable housing to **low and moderate income** low- and  
33 moderate-income veterans who served in time of war or other  
34 emergency, as defined in section 1 of P.L.1963, c.171 (C.54:4-8.10),  
35 of up to 50 percent of the affordable units in that particular project.  
36 This preference shall be established in the applicant selection process  
37 for available affordable units so that applicants who are veterans who  
38 served in time of war or other emergency, as referenced in this  
39 subsection, and who apply within 90 days of the initial marketing  
40 period shall receive preference for the rental of the agreed-upon  
41 percentage of affordable units. After the first 90 days of the initial  
42 120-day marketing period, if any of those units subject to the  
43 preference remain available, then applicants from the general public  
44 shall be considered for occupancy. Following the initial 120-day  
45 marketing period, previously qualified applicants and future  
46 qualified applicants who are veterans who served in time of war or  
47 other emergency, as referenced in this subsection, shall be placed on

1 a special waiting list as well as the general waiting list. The veterans  
2 on the special waiting list shall be given preference for affordable  
3 units, as the units become available, whenever the percentage of  
4 preference-occupied units falls below the agreed upon percentage.  
5 Any agreement to provide affordable housing preferences for  
6 veterans pursuant to this subsection shall not affect a municipality's  
7 ability to receive credit for the unit **[from the council, or its**  
8 **successor]**.

9 k. In the fourth round, and in subsequent rounds of affordable  
10 housing obligations, a municipality shall be able to receive one credit  
11 against its affordable housing obligation for each unit of low- or  
12 moderate-income housing, and shall not receive bonus credit for any  
13 particular type of low- or moderate-income housing, unless authority  
14 to obtain bonus credit is expressly provided pursuant to this section,  
15 or other sections of the "Fair Housing Act," P.L.1985, c.222  
16 (C.52:27D-301 et al.). This subsection shall not be construed to limit  
17 the ability of a municipality to receive a unit of credit for a low- or  
18 moderate-income housing unit that is subject to affordability controls  
19 that are scheduled to expire, but are extended in accordance with the  
20 Uniform Housing Affordability Controls promulgated by the New  
21 Jersey Housing and Mortgage Finance Agency, to the extent that this  
22 affordability control extension would otherwise generate this credit.  
23 As a part of a fair share plan and housing element adopted pursuant  
24 to subsection f. of section 3 of P.L. , c. (C. ) (pending before  
25 the Legislature as this bill), a municipality shall:

26 (1) receive one unit of credit and one-half bonus credit for each  
27 unit of low- or moderate-income housing in a community residence  
28 for persons with head injuries, developmental disabilities, or mental  
29 illness, as those terms are defined in section 2 of P.L.1977, c.448  
30 (C.30:11B-2), or in transitional housing;

31 (2) receive one unit of credit and one-half bonus credit for each  
32 unit of very low-income housing;

33 (3) receive one unit of credit and one-half bonus credit for each  
34 unit of low- or moderate-income housing located within a 1/2-mile  
35 radius, or one-mile radius for projects located in a Garden State  
36 Growth Zone, as defined in section 2 of P.L.2011, c.149 (C.34:1B-  
37 243), surrounding a New Jersey Transit Corporation, Port Authority  
38 Transit Corporation, or Port Authority Trans-Hudson Corporation  
39 rail, bus, or ferry station, including all light rail stations. For the  
40 purpose of this subparagraph, the distance from the bus, rail, or ferry  
41 station to a housing unit shall be measured from the closest point on  
42 the outer perimeter of the station, including any associated park-and-  
43 ride lot, to the closest point of the housing project property; and

44 (4) receive one unit of credit and one-half bonus credit for a unit  
45 of age-restricted housing, provided that a bonus credit for age-  
46 restricted housing shall not be applied to more than 10 percent of the  
47 units of age-restricted housing constructed in a municipality that

1 count towards the municipality's affordable housing obligation for  
2 any single 10-year round of affordable housing obligations.

3 1. A municipality may not satisfy more than 33 percent of the  
4 affordable housing units, exclusive of any bonus credits, to address  
5 its prospective need affordable housing obligation through the  
6 creation of age-restricted housing. A municipality shall satisfy a  
7 minimum of 50 percent of the actual affordable housing units,  
8 exclusive of any bonus credits, created to address its prospective need  
9 affordable housing obligation through the creation of housing  
10 available to families with children and otherwise in compliance with  
11 the requirements and controls established pursuant to section 21 of  
12 P.L.1985, c.222 (C.52:27D-321).

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

45 (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 Affairs  
4 a separate trust fund, to be used for the exclusive purposes as  
5 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 of  
24 the monies available in the fund for the payment of any necessary  
25 administrative costs related to the administration of the "Fair  
26 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any costs  
27 related to administration of P.L.2008, c.46 (C.52:27D-329.1 et al.).

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

41       Of those monies deposited into the "New Jersey Affordable  
42 Housing Trust Fund" that are derived from municipal development  
43 fee trust funds, or from available collections of Statewide non-  
44 residential development fees, a priority for funding shall be  
45 established for projects in municipalities that have **【petitioned the**  
46 **council for substantive】** 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 of  
3 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 not**  
13 **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 **【low**  
16 **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 the  
23 prior 10 years, as calculated pursuant to section 6 of P.L. , c. (C.  
24 ) (pending before the Legislature as this bill). Amounts in the fund  
25 shall be applied for the following purposes in designated  
26 neighborhoods:

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

30 (2) Creation of accessory **【apartments】** dwelling units to be  
31 occupied by **【low and moderate income】** low- and moderate-income  
32 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** low-  
10 and moderate-income housing, including, without limitation, (a)  
11 infrastructure projects directly facilitating the construction of **low**  
12 **and moderate income** low- and moderate-income housing not to  
13 exceed a reasonable percentage of the construction costs of the **low**  
14 **and moderate income** low- and moderate-income housing to be  
15 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 ensure that any unit of housing provided for  
23 **low and moderate income** low- and moderate-income households  
24 shall continue to be occupied by **low and moderate income** low-  
25 and moderate-income households for **at least 20 years** a period that  
26 conforms to the requirements of subsection f. of section 21 of  
27 P.L.1985, c.222 (C.52:27D-321) following the award of the loan or  
28 grant, except that the division may approve a guarantee for a period  
29 of less **than 20 years** duration where necessary to ensure project  
30 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 council in  
44 accordance with the latest federal decennial census. A list of eligible  
45 census tracts shall be maintained by the department and shall be  
46 adjusted upon publication of median income figures by census tract  
47 after each federal decennial census.

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

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

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

34 (cf: P.L.2017, c.131, s.200)

35

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

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

42 a. Of the bond authority allocated to it under section 24 of  
43 P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a  
44 reasonable period of time established by its board, no less than  
45 **25%** 25 percent to be used in conjunction with housing to be  
46 constructed or rehabilitated with assistance under **this act**  
47 P.L.1985, c.222 (C.52:27D-301 et al.).

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

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

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

24       (1) Assistance for home purchase and improvement including  
25 interest rate assistance, down payment and closing cost assistance,  
26 and direct grants for principal reduction;

27       (2) Rental programs including loans or grants for developments  
28 containing **【low and moderate income】** low- and moderate-income  
29 housing, moderate rehabilitation of existing rental housing,  
30 congregate care and retirement facilities;

31       (3) Financial assistance for the conversion of nonresidential  
32 space to residences;

33       (4) Other housing programs for **【low and moderate income】** low-  
34 and moderate-income housing, including infrastructure projects  
35 directly facilitating the construction of **【low and moderate income】**  
36 low- and moderate-income housing; and

37       (5) Grants or loans to municipalities, housing sponsors and  
38 community organizations to encourage development of innovative  
39 approaches to affordable housing, including:

40       (a) Such advisory, consultative, training and educational services  
41 as will assist in the planning, construction, rehabilitation and  
42 operation of housing; and

43       (b) Encouraging research in and demonstration projects to  
44 develop new and better techniques and methods for increasing the  
45 supply, types and financing of housing and housing projects in the  
46 State.

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

6 f. ~~【In consultation with the council, the】~~ The agency shall  
7 establish requirements and controls to ~~【insure】~~ ensure the  
8 maintenance of housing assisted under ~~【this act】~~ P.L.1985, c.222  
9 (C.52:27D-301 et al.) as affordable to ~~【low and moderate income】~~  
10 low- and moderate-income households for a period of not less than  
11 ~~【20】~~ 30 years; provided that the agency may establish a shorter  
12 period of at least 10 years for accessory dwelling units or units within  
13 mobile home parks, upon a determination that the economic  
14 feasibility of the program is jeopardized by the requirement and the  
15 public purpose served by the program outweighs the shorter period ,  
16 and that the requirements and controls shall, at a minimum, be  
17 consistent with the controls as in effect immediately prior to the  
18 effective date of P.L. , c. (C. ) (pending before the Legislature  
19 as this bill), including, but not limited to, any requirements  
20 concerning the bedroom distributions, affordability averages, and  
21 affirmative marketing. The controls may include, among others,  
22 requirements for recapture of assistance provided pursuant to ~~【this~~  
23 ~~act】~~ P.L.1985, c.222 (C.52:27D-301 et al.) or restrictions on return  
24 on equity in the event of failure to meet the requirements of the  
25 program. With respect to rental housing financed by the agency  
26 pursuant to ~~【this act】~~ P.L.1985, c.222 (C.52:27D-301 et al.) or  
27 otherwise which promotes the provision or maintenance of ~~【low and~~  
28 ~~moderate income】~~ low- and moderate-income housing, the agency  
29 may waive restrictions on return on equity required pursuant to  
30 P.L.1983, c.530 (C.55:14K-1 et seq.) which is gained through the sale  
31 of the property or of any interest in the property or sale of any interest  
32 in the housing sponsor. The agency shall promulgate updated  
33 regulations no later than nine months following the effective date of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill).  
35 All parties may continue to rely on regulations previously adopted by  
36 the agency until new rules and regulations are adopted by the agency.

37 g. The agency may establish affordable housing programs  
38 through the use or establishment of subsidiary corporations or  
39 development corporations as provided in P.L.1983, c.530 (C.55:14K-  
40 1 et seq.). The subsidiary corporations or development corporations  
41 shall be eligible to receive funds provided under ~~【this act】~~ P.L.1985,  
42 c.222 (C.52:27D-301 et al.) for any permitted purpose.

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

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

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

3       19. Notwithstanding any rules of the New Jersey Housing and  
4 Mortgage Finance Agency to the contrary, the allocation of **low**  
5 **income** low-income tax credits shall be made by the agency to the  
6 full extent such credits are permitted to be allocated under federal  
7 law, including allocations of **4** four percent or **9** nine percent  
8 federal **low income** low-income tax credits, and including  
9 allocations allowable for partial credits. The affordable portion of  
10 any mixed income or mixed use development that is part of a fair  
11 share housing plan **approved by the council** that has obtained  
12 compliance certification, or a court-approved judgment of repose or  
13 compliance, including, but not limited to, a development that has  
14 received a density bonus, shall be permitted to receive allocations of  
15 **low income** low-income tax credits, provided that the applicant can  
16 conclusively demonstrate that the market rate residential or  
17 commercial units are unable to internally subsidize the affordable  
18 units, and the affordable units are developed contemporaneously with  
19 the commercial or market rate residential units.

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

21

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

24       7. **The council shall coordinate and review the housing elements**  
25 **as filed pursuant to section 11 of P.L.1985, c.222 (C.52:27D-311),**  
26 **and the housing activities under section 20 of P.L.1985, c.222**  
27 **(C.52:27D-320), at least once every three years, to** Housing  
28 elements and fair share plans adopted pursuant to section 3 of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill) shall ensure  
30 that at least 13 percent of the housing units made available for  
31 occupancy by low-income and **moderate income** moderate-income  
32 households to address a municipality's prospective need obligation  
33 will be reserved for occupancy by very low income households, as  
34 that term is defined pursuant to section 4 of P.L.1985, c.222  
35 (C.52:27D-304). Nothing in this section shall require that a specific  
36 percentage of the units in any specific project be reserved as very  
37 **low income** low-income housing; provided, however, that a  
38 municipality shall not receive bonus credits for the provision of  
39 housing units reserved for occupancy by very **low income** low-  
40 income households unless the 13 percent target has been exceeded  
41 within that municipality **. The council shall coordinate all efforts to**  
42 **meet the goal of this section in a manner that will result in a balanced**  
43 **number of housing units being reserved for very low income**  
44 **households throughout all housing regions. For the purposes of this**  
45 **section, housing activities under section 20 of P.L.1985, c.222**  
46 **(C.52:27D-320) shall include any project-based assistance provided**  
47 **from the "New Jersey Affordable Housing Trust Fund" pursuant to**

1 P.L.2004, c.140 (C.52:27D-287.1 et al.), regardless of whether the  
 2 housing activity is counted toward the municipal obligation under the  
 3 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)**】**, and that  
 4 the agency shall update the regulations adopted pursuant to section  
 5 21 of P.L.1985, c.222 (C.52:27D-321) to replace any requirements  
 6 for very low-income housing inconsistent with the percentages and  
 7 definitions established pursuant to P.L. , c. (C. ) (pending  
 8 before the Legislature as this bill) with the percentage and definition  
 9 specified in this section.  
 10 (cf: P.L.2008, c.46, s.7)

11  
 12 30. Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to  
 13 read as follows:

14 8. a. **【**The council may authorize a**】** A municipality that is in the  
 15 process of seeking compliance certification, has 【petitioned for  
 16 substantive】 obtained compliance certification, or that has been so  
 17 authorized by a court of competent jurisdiction, and which has  
 18 adopted a municipal development fee ordinance shall be authorized  
 19 to impose and collect development fees from developers of  
 20 residential property, in accordance with rules promulgated by the  
 21 **【council】** department. Each amount collected shall be deposited and  
 22 shall be accounted for separately, by payer and date of deposit.

23 A municipality may not spend or commit to spend any affordable  
 24 housing development fees, including Statewide non-residential fees  
 25 collected and deposited into the municipal affordable housing trust  
 26 fund, without first obtaining the **【council's】** approval of the  
 27 expenditure as part of its compliance certification or by the  
 28 department. A municipality shall include in its housing element and  
 29 fair share plan adopted pursuant to section 3 of P.L. , c. (C. )  
 30 (pending before the Legislature as this bill) a spending plan for  
 31 current funds in the municipal affordable housing trust fund and  
 32 projected funds through the current round. Review of that spending  
 33 plan for consistency with applicable law and the municipality's  
 34 Housing Element and Fair Share Plan shall be part of the process  
 35 specified in section 3 of P.L. , c. (C. ) (pending before the  
 36 Legislature as this bill). The **【council】** department shall promulgate  
 37 updated regulations no later than nine months following the effective  
 38 date of P.L. , c. (C. ) (pending before the Legislature as this  
 39 bill) regarding the establishment, administration, and enforcement of  
 40 the expenditure of affordable housing development fees by  
 41 municipalities, which shall include establishing an expedited process  
 42 for approving spending plan expenditures for emergent opportunities  
 43 to create affordable housing after a municipality has obtained  
 44 compliance certification and procedures for monitoring the collection  
 45 and expenditure of trust funds. The department shall develop and  
 46 publish on the department's Internet website a detailed summary of  
 47 the municipal affordable housing trust fund expenditures for each

1 municipality, and shall update each summary on an annual basis.  
2 Municipalities may continue to rely on regulations on development  
3 fees and spending plans previously adopted by the council until new  
4 rules and regulations are adopted by the department. The **【council】**  
5 department shall have exclusive jurisdiction regarding the  
6 enforcement of these regulations, provided that any municipality  
7 which is not in compliance with the regulations adopted by the  
8 **【council】** department may be subject to forfeiture of any or all funds  
9 remaining within its municipal trust fund. Any funds so forfeited  
10 shall be deposited into the "New Jersey Affordable Housing Trust  
11 Fund" established pursuant to section 20 of P.L.1985, c.222  
12 (C.52:27D-320).

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

18 c. (1) A municipality may only spend development fees for an  
19 activity approved by the **【council】** department to address the  
20 municipal fair share obligation, or approved as part of compliance  
21 certification.

22 (2) Municipal development trust funds shall not be expended  
23 unless the municipality has immunity from builder's remedy  
24 litigation at the time of the expenditure, and shall not be expended:

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

27 (b) (i) on administrative costs, attorney fees or court costs to  
28 obtain a judgment of repose, or compliance certification; (ii) to  
29 contest a determination of the municipality's fair share obligation; or  
30 (iii) on costs of the municipality or any challenger in connection to a  
31 challenge to the municipality's obligation, housing element, or fair  
32 share plan.

33 (3) A municipality shall set aside a portion of its development fee  
34 trust fund for the purpose of providing affordability assistance to  
35 **【low and moderate income】** low- and moderate-income households  
36 in affordable units included in a municipal fair share plan, in  
37 accordance with rules of the **【council】** department.

38 (a) Affordability assistance programs may include down payment  
39 assistance, security deposit assistance, low interest loans, common  
40 maintenance expenses for units located in condominiums, rental  
41 assistance, and any other program authorized by the **【council】**  
42 department.

43 (b) Affordability assistance to households earning 30 percent or  
44 less of median income may include buying down the cost of **【low**  
45 **income】** low-income units in a municipal fair share plan to make  
46 them affordable to households earning 30 percent or less of median  
47 income. The use of development fees in this manner shall not entitle



1 a municipality to bonus credits except as may **【be provided by the**  
2 **rules of the council】** otherwise be allowed by applicable precedent.

3 (4) A municipality may contract with a private or public entity to  
4 administer any part of its housing element and fair share plan,  
5 including the requirement for affordability assistance, or any  
6 program or activity for which the municipality expends development  
7 fee proceeds, in accordance with rules of the **【council】** department.

8 (5) Not more than 20 percent of the revenues collected from  
9 development fees shall be expended on administration, in accordance  
10 with rules of the **【council】** department. Such administration may  
11 include expending a portion of its affordable housing trust fund on  
12 actions and efforts reasonably related to the determination of its fair  
13 share obligation and the development of its housing element and fair  
14 share plan pursuant to paragraphs (1) and (2) of subsection f. of  
15 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
16 this bill).

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

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

34 This section shall not apply to the collection of a Statewide  
35 development fee imposed upon non-residential development  
36 pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1  
37 **【et seq.】** through C.40:55D-8.7) by the State Treasurer, when such  
38 collection is not authorized to be retained by a municipality.  
39 (cf: P.L.2008, c.46, s.8)

40  
41 31. Section 10 of P.L.2008, c.46 (C.52:27D-329.4) is amended to  
42 read as follows:

43 10. The **【council】** department shall maintain on its Internet  
44 website, and also publish on 【a regular】 an annual basis, an up-to-  
45 date municipal status report 【concerning the petitions for substantive  
46 certification of each municipality that has submitted to the council's  
47 jurisdiction, and shall collect and publish】 based on its collection and

1 publication of information concerning the number affordable of  
2 housing units actually constructed, construction starts, certificates of  
3 occupancy granted, **】**rental units maintained, and the number of  
4 housing units transferred or sold within the previous 12-month  
5 period】 and residential and non-residential development fees  
6 collected and expended. With respect to units actually constructed,  
7 the information shall specify the characteristics of the housing,  
8 including housing type, tenure, affordability level, number of  
9 bedrooms, and whether occupancy is reserved for families, senior  
10 citizens, or other special populations. **【**No later than 60 months after  
11 the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.), the  
12 council shall require each municipality, as a condition of substantive  
13 certification, to provide, in a standardized electronic media format as  
14 determined by the council, the details of the fair share plan as adopted  
15 by the municipality and approved by the council. The council shall  
16 publish and maintain such approved plans on its website. **】**  
17 (cf: P.L.2008, c.46, s.10)

18

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

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

39 b. Subject to the provisions of subsection d. of this section, a  
40 developer of a project consisting of newly-constructed residential  
41 units being financed in whole or in part with State funds, including,  
42 but not limited to, transit villages designated by the Department of  
43 Transportation and units constructed on State-owned property,  
44 including but not limited to property owned by the State as of the  
45 effective date of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill) and subsequently sold, shall be required to reserve at least  
47 20 percent of the residential units constructed for occupancy by **【**low

1 or moderate income] low- or moderate-income households, as those  
2 terms are defined in section 4 of P.L.1985, c.222 (C.52:27D-304),  
3 with affordability controls as required under the rules of the [council,  
4 unless the municipality in which the property is located has received  
5 substantive certification from the council and such a reservation is  
6 not required under the approved affordable housing plan, or the  
7 municipality has been given a judgment of repose or a judgment of  
8 compliance by the court, and such a reservation is not required under  
9 the approved affordable housing plan] agency.

10 c. [(1) The Legislature recognizes that regional planning entities  
11 are appropriately positioned to take a broader role in the planning and  
12 provision of affordable housing based on regional planning  
13 considerations. In recognition of the value of sound regional  
14 planning, including the desire to foster economic growth, create a  
15 variety and choice of housing near public transportation, protect  
16 critical environmental resources, including farmland and open space  
17 preservation, and maximize the use of existing infrastructure, there  
18 is created a new program to foster regional planning entities.

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

33 (3) In addition to the entities identified in subsection a. of this  
34 section, the Casino Reinvestment Development Authority, in  
35 conjunction with the Atlantic County Planning Board, shall identify  
36 and coordinate regional affordable housing opportunities directly  
37 attributable to Atlantic City casino development, which may be  
38 provided anywhere within Atlantic County, subject to the restrictions  
39 of paragraph (4) of this subsection.

40 (4) The coordination of affordable housing opportunities by  
41 regional entities as identified in this section shall not include  
42 activities which would provide housing units to be located in those  
43 municipalities that are eligible to receive aid under the "Special  
44 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or are  
45 coextensive with a school district which qualified for designation as  
46 a "special needs district" pursuant to the "Quality Education Act of  
47 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at any time in the last  
48 10 years have been qualified to receive assistance under P.L.1978,

1 c.14 (C.52:27D-178 et seq.) and that fall within the jurisdiction of  
2 any of the regional entities specified in subsection a. of this section. **】**  
3 (Deleted by amendment, P.L. , c. ) (pending before the Legislature  
4 as this bill)

5 d. Notwithstanding the provisions of subsection b. of this  
6 section, or any other law or regulation to the contrary, for purposes  
7 of mixed use projects or qualified residential projects in which a  
8 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-  
9 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90  
10 (C.34:1B-209.3), or both, an "eligible municipality," as defined in  
11 section 2 of P.L.2007, c.346 (C.34:1B-208), shall have the option of  
12 deciding the percentage of newly-constructed residential units within  
13 the project, up to 20 percent of the total, required to be reserved for  
14 occupancy by **【low or moderate income】** low- or moderate-income  
15 households. For a mixed use project or a qualified residential project  
16 that has received preliminary or final site plan approval prior to the  
17 effective date of P.L.2011, c.89, the percentage shall be deemed to  
18 be the percentage, if any, of units required to be reserved for **【low or**  
19 **moderate income】** low- or moderate-income households in  
20 accordance with the terms and conditions of such approval.  
21 (cf: P.L.2011, c.89, s.5)

22

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

25 3. As used in this act:

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

29 "Agency" means the New Jersey Housing and Mortgage Finance  
30 Agency.

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

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

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

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

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

45 "Housing region" means a housing region as defined in subsection  
46 b. of section 4 of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-  
47 304) and determined **【**by the Council on Affordable Housing

1 pursuant to section 7 of that act, P.L.1985, c.222 (C.52:27D-307) **]**  
2 pursuant to subsection b. of section 6 of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill).

4 "Local enforcement authority" means any officer or agency of  
5 local government responsible for the implementation or enforcement  
6 of land-use and building regulations established by or pursuant to the  
7 "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-  
8 119 et seq.) or the "Municipal Land Use Law," P.L.1975, c.291  
9 (C.40:55D-1 et seq.).

10 "Low income" means a gross annual household income equal to  
11 50% or less of the median gross annual household income for  
12 households of the same size within the relevant housing region.

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

17 "Program" means the Affordable Home Ownership Opportunities  
18 Program created by this act.

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

32 "Substantial rehabilitation" means repair, reconstruction or  
33 renovation which (1) costs in excess of 60% of the fair market value  
34 of a rehabilitated dwelling after such repair, reconstruction or  
35 renovation, or (2) renders a previously vacant and uninhabitable  
36 dwelling safe, sanitary and decent for residential purposes, or (3)  
37 converts to safe, sanitary and decent residential use a structure  
38 previously in non-residential use.

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

40

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

43 7. A project of new construction or substantial rehabilitation by  
44 a nonprofit organization shall be eligible for a loan under this act if  
45 (1) the homes to be constructed or substantially rehabilitated under  
46 the project are located within an identifiable neighborhood in which  
47 median family income does not exceed the current standard of  
48 "moderate income" pursuant to the contemporaneous standards **[of**

1 the Council on Affordable Housing] established pursuant to the "Fair  
2 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.); (2) the homes  
3 to be constructed or substantially rehabilitated under the project are  
4 sufficient in number and located on the same or contiguous parcels  
5 of land or within such proximity to each other as to render the cost  
6 per unit of housing practicable for acquisition by lower-income  
7 purchasers; and (3) each home constructed or substantially  
8 rehabilitated within the project will conform to all requirements of  
9 the State Uniform Construction Code, except as to the waiver of any  
10 fee or other requirement pursuant to subsection b. of section 9 of this  
11 act.

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

13

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

16 3. As used in this act:

17 "Agency" means the New Jersey Housing and Mortgage Finance  
18 Agency.

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

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

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

31 "Eligible purchaser" means a purchaser of a dwelling unit in an  
32 eligible project who fulfills the definition of a senior or person with  
33 disability pursuant to this section, is of low or moderate income and  
34 to whom a loan may be made under the program pursuant to section  
35 4 of P.L.1998, c.128 (C.55:14K-75).

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

39 "Housing region" means a housing region as defined in subsection  
40 b. of section 4 of P.L.1985, c.222 (C.52:27D-304) and determined  
41 **[by the Council on Affordable Housing pursuant to section 7 of**  
42 **P.L.1985, c.222 (C.52:27D-307)] pursuant to subsection b. of section**  
43 **6 of P.L. , c. (C. ) (pending before the Legislature as this**  
44 **bill).**

45 "Low income" means a gross annual household income equal to  
46 50% or less of the median gross annual household income for  
47 households of the same size within the relevant housing region.

1 "Moderate income" means a gross annual household income equal  
2 to not more than 80%, but more than 50% of the median gross annual  
3 household income for households of the same size within the relevant  
4 housing region.

5 "Person with disability" means any person who is 18 years of age  
6 or older and who fulfills the definition of having a "disability"  
7 pursuant to section 3 of the "Americans with Disabilities Act of  
8 1990," 42 U.S.C. s.12102).

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

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

20 "Retrofitting" means renovating or remodeling an existing  
21 residential or non-residential structure to allow for cooperative  
22 living.

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

24 "Substantial rehabilitation" means repair, reconstruction or  
25 renovation which (1) costs in excess of 60% of the fair market value  
26 of a rehabilitated dwelling after such repair, reconstruction or  
27 renovation, or (2) renders a previously vacant and uninhabitable  
28 dwelling safe, sanitary and decent for residential purposes or (3)  
29 converts to safe, sanitary and decent residential use a structure  
30 previously in non-residential use.

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

32

33 36. (New section) a. The Commissioner of Community Affairs  
34 shall, in consultation with the Administrative Director of the Courts  
35 and the Executive Director of the New Jersey Housing and Mortgage  
36 Finance Agency, adopt, pursuant to the "Administrative Procedure  
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), no later than nine months  
38 after the effective date of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill), such transitional rules and regulations as  
40 necessary for the implementation of P.L. , c. (C. ) (pending  
41 before the Legislature as this bill), including for the identification of  
42 any vestigial duties of the Council on Affordable Housing and for the  
43 transfer of those duties within the Department of Community Affairs  
44 to the extent that those duties are not otherwise assumed, pursuant to  
45 P.L. , c. (C. ) (pending before the Legislature as this bill), by  
46 municipalities, the obligation special masters, or the Affordable  
47 Housing Dispute Resolution Program.

1       b. The Executive Director of the New Jersey Housing and  
2 Mortgage Finance Agency shall adopt, pursuant to the  
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
4 seq.), no later than nine months after the effective date of P.L. , c.  
5 (C. ) (pending before the Legislature as this bill), rules and  
6 regulations to update the Uniform Housing Affordability Controls as  
7 required pursuant to the "Fair Housing Act," P.L.1985, c.222  
8 (C.52:27D-301 et al.). As part of updating the Uniform Housing  
9 Affordability Controls, the agency shall set rules establishing a  
10 sliding scale for deed restrictions in housing developments based on  
11 the percentage of affordable units set aside in a given project. The  
12 sliding scale shall provide that projects with a lower percentage of  
13 affordable units have a longer required deed restriction and projects  
14 with a higher percentage of affordable units have a shorter required  
15 deed restriction, provided that all projects shall have a minimum deed  
16 restriction of 30 years. If the low- or moderate-income units consist  
17 of 20 percent or fewer of the units in a development project, then the  
18 deed restriction applied to those units shall be no less than 50 years.  
19 The sliding scale shall not apply to accessory dwelling units or  
20 mobile home parks, or 100 percent affordable developments or other  
21 developments assisted by State or federal funding, or both.

22

23       37. The following sections are repealed:

24       Section 5 of P.L.1985 c.222 (C.52:27D-305);  
25       Section 6 of P.L.1985, c.222 (C.52:27D-306);  
26       Section 7 of P.L.1985, c.222 (C.52:27D-307);  
27       Section 1 of P.L.1991, c.479 (C.52:27D-307.1);  
28       Section 2 of P.L.1991, c.479 (C.52:27D-307.2);  
29       Section 3 of P.L.1991, c.479 (C.52:27D-307.3);  
30       Section 4 of P.L.1991, c.479 (C.52:27D-307.4);  
31       Section 5 of P.L.1991, c.479 (C.52:27D-307.5);  
32       Section 6 of P.L.2001, c.435 (C.52:27D-307.6);  
33       Section 8 of P.L.1985, c.222 (C.52:27D-308);  
34       Section 9 of P.L.1985, c.222 (C.52:27D-309);  
35       Section 40 of P.L.2009, c.90 (C.52:27D-311.3);  
36       Section 12 of P.L.1985, c.222 (C.52:27D-312);  
37       Section 2 of P.L.1989, c.142 (C.52:27D-313.1);  
38       Section 14 of P.L.1985, c.222 (C.52:27D-314);  
39       Section 15 of P.L.1985, c.222 (C.52:27D-315);  
40       Section 16 of P.L.1985, c.222 (C.52:27D-316);  
41       Section 17 of P.L.1985, c.222 (C.52:27D-317);  
42       Section 18 of P.L.1985, c.222 (C.52:27D-318);  
43       Section 19 of P.L.1985 c.222 (C.52:27D-319);  
44       Section 22 of P.L.1985, c.222 (C.52:27D-322);  
45       Section 26 of P.L.1985, c.222 (C.52:27D-326);  
46       Section 28 of P.L.1985, c.222 (C.52:27D-328); and  
47       Section 9 of P.L.2008, c.46 (C.52:27D-329.3).





1 prior to February 1, 2025, the program would be required to facilitate  
2 a resolution of the dispute prior to April 1, 2025.

3 The bill requires a municipality to establish a "housing element"  
4 to encompass its obligation, and a fair share plan to meet its  
5 obligation, in advance of the fourth round, and propose necessary  
6 changes to associated ordinances, on or before June 30, 2025, in order  
7 to be assured of protection from a builder's remedy lawsuit.

8 A municipality would be required to submit its adopted fair share  
9 plan and housing element to the program through the program's  
10 publicly accessible Internet website. The bill permits an interested  
11 party to initiate a challenge to a municipal fair share plan and housing  
12 element, if submitted through the program on or before August 31,  
13 2025. The program would facilitate communication over the  
14 challenge, and provide the municipality until November 30, 2025 to  
15 commit to revising its fair share plan and housing element in response  
16 to the challenge, or provide an explanation as to why it will not make  
17 all or the requested changes, or both. The bill requires municipalities  
18 to adopt associated changes to municipal ordinances on or before the  
19 end of January 2026. If a municipality fails to meet these deadlines,  
20 then the immunity of the municipality from builder's remedy  
21 litigation would end unless the program determines that the  
22 municipality's immunity shall be extended. If a municipality fails to  
23 adhere to any of these deadlines due to circumstances beyond the  
24 municipality's control, the bill directs the program to permit a grace  
25 period for the municipality to come into compliance with the  
26 timeline, the length of which, and effect of which on later deadlines,  
27 would be determined on a case-by-case basis.

28 After providing immunity, the bill also authorizes the program to  
29 subsequently terminate immunity under certain circumstances if it  
30 becomes apparent that the municipality is not determined to come  
31 into constitutional compliance. The municipality would still be  
32 permitted to seek immunity from a builder's remedy by initiating an  
33 action in Superior Court. A court would not grant a builder's remedy  
34 to a plaintiff in exclusionary zoning litigation during certain  
35 timeframes. The deadlines for subsequent 10-year rounds of  
36 affordable housing obligations would conform to the dates  
37 established in the bill for the fourth round.

38 In any challenge to a municipality's determination of its  
39 affordable housing obligation, or to its fair share plan and housing  
40 element, the bill requires the program to apply an objective  
41 assessment standard to determine whether or not the municipality's  
42 obligation determination, or its fair share plan and housing element,  
43 fails to comply with the requirements of the bill. Further, the  
44 challenger would be required to provide the basis for its challenge  
45 based on applicable law, and the program would have the power to  
46 dismiss challenges that do not provide such a basis.

47 All parties would be required to bear their own fees and costs for  
48 proceedings within the program. A determination by the program as

1 to municipal obligations or compliance certification would be  
2 considered a final agency decision, subject to review by the Appellate  
3 Division.

4 The Chief Justice of the Supreme Court would appoint an odd  
5 number of at least three and no more than seven members to the  
6 program established by the bill, consisting of retired and on recall  
7 judges, or other qualified experts. The members and employees of  
8 the program would be considered State officers and employees for  
9 the purposes of the "New Jersey Conflicts of Interest Law," P.L.1971,  
10 c.182 (C.52:13D-12 et seq.). Administrative Director of the Courts  
11 would also establish procedures for the purpose of efficiently  
12 resolving circumstances in which the program is unable to address a  
13 dispute over compliance certification within the time limitations  
14 established in the bill. As a part of these procedures, in order to  
15 facilitate an appropriate level of localized control of affordable  
16 housing decisions, for each vicinage, the bill directs the Chief Justice  
17 of the Supreme Court to designate a Superior Court judge who sits  
18 within the vicinage, or a retired judge who, during his or her tenure  
19 as a judge, served within the vicinage, to serve as county level  
20 housing judge to resolve disputes over the compliance, of fair share  
21 plans and housing elements of municipalities within their county,  
22 with the "Fair Housing Act," when those disputes are not be resolved  
23 within the deadlines established in the bill. The Administrative  
24 Director of the Courts would adopt and apply a Code of Ethics for  
25 the program and county level housing judges modeled on the Code  
26 of Judicial Conduct of the American Bar Association, adopted by the  
27 State Supreme Court, and may establish additional more restrictive  
28 ethical standards in order to meet the specific needs of the program  
29 and of county level housing judges.

30 Each municipality's determination of its fair share obligation  
31 would be made through the guidance of the preliminary findings of  
32 three obligation special masters, also appointed by the Chief Justice  
33 of the Supreme Court, representing each of the northern, central, and  
34 southern areas of the State. For the purposes of the bill, the  
35 boundaries of the northern area would correspond with the  
36 boundaries of the affordable housing regions 1 and 2, the central area  
37 would correspond with the boundaries of affordable housing regions  
38 3 and 4, and the southern area would correspond with affordable  
39 housing regions 5 and 6. No later than November 15 of the year prior  
40 to the year when a new round of housing obligations begins, the bill  
41 requires each obligation special master to calculate regional need and  
42 municipal present and prospective obligations in accordance with  
43 formulas established in the bill. The calculations of each obligation  
44 special master would be made publicly available for municipalities  
45 to use in determining their present and prospective obligations.

46 Each obligation special master would determine each  
47 municipality's fair share obligation by applying the methods used by  
48 the Superior Court for the third round, as summarized in the bill. The

1 obligation special master would determine its present need obligation  
2 by estimating the existing deficient housing currently occupied by  
3 low-and moderate- income households within the municipality.

4 Each obligation special master would next determine the regional  
5 prospective need, upon which to base the municipal obligation, by  
6 estimating the regional growth of low- and moderate-income  
7 households during the housing round at issue. The bill would  
8 simplify the regional need estimation from the processes used in  
9 previous rounds in order to ease the administrative burden that has  
10 been associated with this process. First, projected household change  
11 for a 10-year round in a region would be estimated by establishing  
12 the household change experienced in the region between the most  
13 recent federal decennial census, and the second-most recent federal  
14 decennial census. Although this relies on historical data, recent  
15 household change in a region is relevant to estimating future  
16 household change and associated housing need. This household  
17 change would be divided by 2.5 to estimate the number of low- and  
18 moderate-income homes needed to address population change in the  
19 region, thereby determining the regional prospective need for the 10-  
20 year round.

21 After determining regional prospective need, the obligation  
22 special master would determine each municipality's fair share  
23 prospective obligation of that regional prospective need. To do this,  
24 an obligation special master would first determine whether a  
25 municipality is a qualified urban aid municipality, and if so, the  
26 municipality would not have a prospective need obligation.

27 If the municipality is not a qualified urban aid municipality, the  
28 obligation special master would be required to calculate three factors  
29 necessary for the prospective fair share determination. First, the  
30 obligation special master would calculate the equalized  
31 nonresidential valuation factor, representing the municipality's share  
32 of the regional change in the value of nonresidential property. In  
33 prior rounds, this calculation, concerning nonresidential (commercial  
34 and industrial) property values, has been adopted as a representation  
35 of a municipality's employment potential. Data available from the  
36 Division of Local Government Services in the Department of  
37 Community Affairs (DCA) would be used for this calculation. Next,  
38 an income capacity factor would be determined, using a formula  
39 comparable to one used in prior rounds to estimate the municipality's  
40 ability to absorb low- and moderate-income households. The  
41 municipality's land capacity factor would then be determined,  
42 representing the municipality's relative share of undeveloped land,  
43 available to accommodate development, using data made available  
44 by the Department of Environmental Protection. The average of  
45 these three factors would be determined and multiplied by the  
46 regional prospective need to determine the municipality's gross  
47 prospective need.

1 Finally, each obligation special master would adjust for secondary  
2 sources of housing supply and demand by first calculating  
3 demolitions of low- and moderate-income housing, and housing  
4 creation through residential conversions. Each obligation special  
5 master would subtract a municipality's share of conversions from the  
6 sum of each municipality's allocated share of gross prospective need  
7 and demolitions of low- and moderate-income housing. After  
8 applying these secondary sources, the municipality's prospective fair  
9 share obligation for the 10-year round would be established.

10 A municipality would ultimately be permitted to reduce its  
11 prospective need if necessary to prevent establishing a prospective  
12 need obligation that exceeds 1,000 units in total or 20 percent of the  
13 estimated occupied housing stock at the beginning of the 10-year  
14 round, whichever limitation results in a lower number.

15 In response to growth in population of senior citizens in the State,  
16 the bill changes the limit on the percentage of a municipality's  
17 prospective affordable housing obligation that may be satisfied  
18 through the creation of age-restricted housing to 33 percent of the  
19 units in a municipality's fair share plan, exclusive of any bonus  
20 credits. However, the bill requires that a municipality is required to  
21 satisfy a minimum of 50 percent of the actual affordable housing  
22 units, exclusive of any bonus credits, created to address its  
23 prospective need affordable housing obligation through the creation  
24 of housing available to families with children. The bill amends  
25 existing statutory language to ensure that affordable housing is  
26 constructed that is accessible to persons with disabilities.

27 The bill permits a municipality to be credited for as much as 15  
28 percent of its affordable housing obligation through transitional  
29 housing, and defines "transitional housing" as temporary housing,  
30 including but not limited to, single room occupancy housing or  
31 shared living and supportive living arrangements, that provides  
32 access to on-site or off-site supportive services for very low-income  
33 households who have recently been homeless or lack stable housing.

34 The bill would expressly prohibit the use of municipal affordable  
35 housing trust fund moneys for administrative costs, attorney fees, or  
36 court costs to obtain immunity from a builder's remedy, or to contest  
37 the municipality's fair share obligation, or use of the trust fund  
38 moneys while a municipality does not have immunity from builder's  
39 remedy litigation. The bill would further expressly allow a  
40 municipality to expend a portion of its affordable housing trust fund  
41 on actions and efforts reasonably related to the determination of its  
42 fair share obligation and the development of its housing element and  
43 fair share plan.

44 The bill would prohibit a municipality from receiving bonus credit  
45 for any particular type of low- or moderate-income housing, unless  
46 authority to obtain bonus credit is expressly provided by the "Fair  
47 Housing Act," as amended and supplemented by the bill. The bill  
48 expressly authorizes 1/2 unit of bonus credit for: (1) each unit of very

1 low-income housing; (2) each affordable unit in a community  
2 residence for persons with head injuries, developmental disabilities,  
3 mental illness, or in transitional housing; (3) each affordable housing  
4 unit located within a 1/2-mile radius, or one-mile radius for projects  
5 located in a Garden State Growth Zone, surrounding a New Jersey  
6 Transit Corporation, Port Authority Transit Corporation, or Port  
7 Authority Trans-Hudson Corporation rail, bus, or ferry station,  
8 including all light rail stations; and (4) each affordable unit of age-  
9 restricted housing, provided that a bonus credit for age-restricted  
10 housing would not be applied to more than 10 percent of the age-  
11 restricted units that count towards a municipality's affordable  
12 housing obligation for a 10 year round.

13 The bill would amend various parts of the statutory law to remove  
14 references to COAH, and to transfer rulemaking authority, to the  
15 extent necessary, from COAH to DCA and the New Jersey Housing  
16 and Mortgage Finance Agency (HMFA). The bill directs HMFA to  
17 update the Uniform Housing Affordability Controls within nine  
18 months following the effective date of the bill, and adjust certain  
19 affordability control periods to establish a sliding scale for deed  
20 restrictions based on the percentage of affordable units set aside in a  
21 given project in which projects with a higher percentage of affordable  
22 units have a shorter required deed restriction. The bill permits  
23 HMFA to establish a shorter deed restriction period of at least 10  
24 years for accessory dwelling units or units within mobile home parks.

25 The bill would appropriate \$12 million to the program, and \$4  
26 million to the Administrative Director of the Courts, from the  
27 General Fund, for the purposes of carrying out their respective  
28 responsibilities for the fourth round of affordable housing  
29 obligations.

30 The bill would take effect immediately, and would apply to each  
31 new round of affordable housing obligations beginning after  
32 enactment of the bill.