Sponsored by:
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District 35 (Bergen and Passaic)
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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.
A4 LOPEZ, COUGHLIN

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

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

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

2. The Legislature finds that:

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

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

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

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

e. The State can maximize the number of low- and moderate
   income units provided in New Jersey by
   allowing its municipalities to adopt appropriate phasing schedules for
   meeting their fair share, so long as the municipalities permit a timely
   achievement of an appropriate fair share of the regional need for 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.
required by the Mt. Laurel I and II opinions and other relevant court
decisions.

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

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

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

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

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

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

l. The council’s inability to function ultimately led the Supreme
Court in 2015 to direct lower courts to establish affordable housing
obligations for municipalities and certify municipal plans to meet those obligations, generally through approving settlement agreements between municipalities and advocates for the low- and moderate-income households of the State.

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

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

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

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

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

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

a. “Council” means the Council on Affordable Housing established in P.L.1985, c.222 (C.52:27D-301 et al.), which shall have primary jurisdiction for the administration of housing obligations in accordance with sound regional planning
considerations in this State abolished pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).
b. "Housing region" means a geographic area of not less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities, and which constitute to the greatest extent practicable the primary metropolitan statistical areas as last defined by the United States Census Bureau prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.) established pursuant to subsection b. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill).
c. ["Low income"] "Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.
d. ["Moderate income"] "Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.
e. ["Resolution of participation" means a resolution adopted by a municipality in which the municipality chooses to prepare a fair share plan and housing element in accordance with P.L.1985, c.222 (C.52:27D-301 et al.) (deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)
f. "Inclusionary development" means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of [low and moderate income] low- and moderate-income households.
g. "Conversion" means the conversion of existing commercial, industrial, or residential structures for [low and moderate income] low- and moderate-income housing purposes where a substantial percentage of the housing units are provided for a reasonable income range of [low and moderate income] low- and moderate-income households.
h. "Development" means any development for which permission may be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
j. "Prospective need" means a projection of housing needs based on development and growth which is reasonably likely to occur in a
region or a municipality, as the case may be, as a result of actual determination of public and private entities. [In determining prospective need, consideration shall be given to approvals of development applications, real property transfers, and economic projections prepared by the State Planning Commission established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)]

Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L. c. (C. and C. ) (pending before the Legislature as this bill) for the fourth round and all future rounds of housing obligations.

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


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

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

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

"Compliance certification" means the certification obtained by a municipality pursuant to section 3 of P.L.  , c. (C. ) (pending before the Legislature as this bill), that protects the municipality from a builder’s remedy during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.”

"County level housing judge" means a judge appointed pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements, with the "Fair Housing Act,"

P.L.1985, c.222 (C.52:27D-301 et al.).

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

"Department" means the Department of Community Affairs.

"Fair share plan" means the plan or proposal that is in a form which may readily be adopted as an ordinance pursuant to subsection f. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations, such as inclusionary requirements and development fees, necessary to implement the housing element.

"Housing element" means that portion of a municipality’s master plan consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, and which shall contain the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

"Mobile home park" means a parcel of land, or two or more contiguous parcels of land, containing sites equipped for the installation of mobile or manufactured homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a mobile or manufactured home for the installation thereof, and where the owner provides services that are provided by the municipality in which the park is located for property owners outside the park, which services may, inter alia, include: construction and maintenance of streets, lighting of streets and other
common areas, garbage removal, snow removal, and provision for
the drainage of surface water from home sites and common areas.

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

x. "Program" means the Affordable Housing Dispute Resolution
Program, established pursuant to section 5 of P.L. , c. (C. )
(pending before the Legislature as this bill).
y. "Transitional housing" means temporary housing that:
(1) includes, but is not limited to, single-room occupancy housing
or shared living and supportive living arrangements;
(2) provides access to on-site or off-site supportive services for
very low-income households who have recently been homeless or
lack stable housing;
(3) is licensed by the department; and
(4) allows households to remain for a minimum of six months.
(cf: P.L.2017, c.131, s.199)

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

b. Following the expiration of the third round of affordable
housing obligations on July 1, 2025, a municipality shall have
immunity from a builder’s remedy if the municipality complies with
the deadlines established in P.L. , c. (C. ) (pending before the
Legislature as this bill) for both determining present and prospective
obligations, and for adopting a housing element and fair share plan
to meet those obligations. No later than one month following the
enactment of P.L. , c. (C. ) (pending before the Legislature
as this bill), the Chief Justice of the Supreme Court shall appoint an
obligation special master for each of the northern, central, and
southern areas of the State, for the purpose of calculating regional
need and municipal present and prospective obligations in
accordance with the formulas established in sections 6 and 7 of
P.L. , c. (C. and C. ) (pending before the Legislature as
this bill), for their respective area of the State. For the purposes of
P.L. , c. (C. ) (pending before the Legislature as this bill), the
northern area of the State shall consist of regions 1 and 2, the central
area of the State shall consist of regions 3 and 4, and the southern
area of the State shall consist of regions 5 and 6, as the regions are
established pursuant to paragraph (1) of subsection b. of section 5 of
P.L. , c. (C. ) (pending before the Legislature as this bill). If
the Chief Justice is unable to identify separate qualified persons to each serve as the obligation special master for each of the northern, central, and southern areas of the State, then the Chief Justice shall be permitted to appoint a single person to serve as the obligation special master for more than one area of the State.

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

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

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

f. (1) (a) With consideration of the preliminary findings of the obligation special master pursuant to this section, a municipality shall determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) by resolution, which shall describe the basis for its determination and bind the municipality to adopt a housing element and fair share plan pursuant to paragraph (2) of this
subsection based on this determination as may be adjusted by the program as set forth in this subsection.

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

(c) The Administrative Director of the Courts shall establish procedures for the program to consider the challenge and resolve a dispute initiated by an interested party pursuant to subparagraph (b) of this paragraph. To resolve a challenge, the program shall apply an objective assessment standard to determine whether or not the municipality’s calculation of its obligation is compliant with the requirements of sections 6 and 7 of P.L. , c. (C. ) (pending before the Legislature as this bill). Any challenge must state with particularity how the municipal calculation fails to comply with sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) and include the challenger’s own calculation of the fair share obligations in compliance with sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill). The program shall establish procedures to summarily dismiss any objection or challenge that does not meet these minimum standards. For the purpose of efficiency, the program shall, at its own discretion, or upon the request of the municipality, permit multiple challenges to the same municipal determination to be consolidated. The program’s approach to resolving a dispute may include: (i) a finding that the municipality’s determination of its present and prospective need obligation did not facially comply with the requirements of sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) and thus the municipality’s immunity shall be revoked; (ii) an adjustment of the municipality’s determination of its present and
prospective need obligation to comply with the requirements of sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) without revoking immunity; or (iii) a rejection of a challenge and affirm the municipality’s determination.

The decision shall be provided to the municipality and all parties that have filed challenges no later than March 31 of the year of the start of the new round and concurrently posted on the program’s Internet website. The Administrative Director of the Courts shall establish procedures for any further appellate review of such determinations, and may establish an expedited process for consolidated review of any such challenges by the Supreme Court, provided that any party seeking appellate review shall not change the deadlines established for municipal filing of a housing element and fair share plan, and implementing ordinances.

(2) (a) A municipality shall adopt a housing element and fair share plan as provided for by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), and propose drafts of the appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation established in paragraph (1) of this subsection on or before June 30, 2025. After adoption of the housing element and fair share plan, and the proposal of drafts of the appropriate zoning and other ordinances and resolutions, the municipality shall within 48 hours of adoption or by June 30, 2025, whichever is sooner, submit the same to the program through the program’s Internet website. Any municipality that does not make this submission by June 30, 2025, shall not retain immunity from builder’s remedy litigation and shall be subject to review through the declaratory judgment process as established in paragraph (3) of this subsection.

As part of its housing element and fair share plan, the municipality shall include an assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing obligations as established by prior court approval, or approval by the council, and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its prior round obligations. If a prior round obligation remains unfulfilled, or a municipality never received an approval from court or the council for any prior round, the municipality shall address such unfulfilled prior round obligation in its housing element and fair share plan. In addressing prior round obligations, the municipality shall retain any sites that, in furtherance of the prior round obligation, are the subject of a contractual agreement with a developer, or for which the developer has filed a complete application seeking subdivision or site plan approval prior to the date by which the housing element and fair share plan are required to be submitted, and shall demonstrate how any sites that were not built in the prior rounds continue to present a realistic opportunity, which may include proposing changes to the zoning on the site to make its development more likely. The municipality shall only plan to replace any sites
planned for development as a part of a prior court approval, settlement agreement, or approval by the council, with alternative development plans, if it is determined that the previously planned sites no longer present a realistic opportunity, and the sites in the alternative development plan provide an equivalent number of affordable units and are otherwise in compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine. If a municipality proposes to replace a site for which a complete application seeking subdivision or site plan approval has not been filed prior to date by which the housing element and fair share plan is required to be submitted, there shall be a rebuttable presumption in any challenge filed to the municipality's plan that any site for which a zoning designation was adopted creating a realistic opportunity for the development of a site prior to June 1, 2020 may be replaced with an alternative site that provides a realistic opportunity for at least the same number of affordable units and is otherwise in compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine. If a municipality has credits in excess of its prior round obligations, and such excess credits represent housing that will continue to be deed-restricted and affordable through the current round, the municipality may include such housing towards addressing the municipality’s new calculation of prospective need. The municipality may in its plan lower its prospective need obligation to the extent necessary to prevent establishing a prospective need obligation that requires the municipality to provide a realistic opportunity for more than 1,000 housing units after application of any excess credits, or to prevent a prospective need obligation that exceeds 20 percent of the total number of households in a municipality according to the most recent federal decennial census. If a municipality is subject to both a 1,000 unit cap or 20 percent cap it may apply whichever cap results in a lower prospective need obligation. For the fifth round, and for each subsequent new round of housing obligations, the deadlines in this paragraph shall be June 30 for the adoption of the housing element and fair share plan, and the proposal of drafts of the appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation, of the year of the start of the new round.

(b) Following the submission of an adopted housing element and fair share plan pursuant to subparagraph (a) of this paragraph, an interested party may file a response on or before August 31, 2025 alleging that the municipality’s fair share plan and housing element are not in compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. Such allegation shall not include a claim that a site on real property proposed by the interested party is a better site than a site in the plan, but rather shall be based on whether the housing element and fair share plan as proposed is compliant with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine.
challenge, the program shall apply an objective assessment standard
to determine whether or not the municipality’s housing element and
fair share plan is compliant with the "Fair Housing Act," P.L.1985,
c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. Any
interested party that files a challenge shall specify with particularity
which sites or elements of the municipal fair share plan do not
comply with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301
et al.) or the Mount Laurel doctrine, and the basis for alleging such
non-compliance. The program shall establish procedures to
summarily dismiss any objection or challenge that does not meet
these minimum standards. For the purpose of efficiency, the program
shall, at its own discretion, or upon the request of the municipality,
permit multiple challenges to the same municipal housing element
and fair share plan to be consolidated. If no response is filed to
challenge a municipality’s fair share plan and housing element on or
before August 31, 2025, then the program shall promptly provide
compliance certification to the municipality following an expedited
review unless the fair share plan and housing element are deemed out
of compliance with the "Fair Housing Act," P.L.1985, c.222
(C.52:27D-301 et al.) or the Mount Laurel doctrine. The program
shall facilitate communication for a challenge, and provide the
municipality until November 30, 2025 to commit to revising its fair
share plan and housing element in compliance with the changes
requested in the challenge, or provide an explanation as to why it will
not make all of the requested changes, or both. Upon resolution of a
challenge, the program shall issue compliance certification,
conditioned on the municipality’s commitment, as necessary, to
revise its fair share plan and housing element in accordance with the
resolution of the challenge. The program may also terminate
immunity if it finds that the municipality is not determined to come
into constitutional compliance at any point in the process. If by
November 30, 2025, the municipality and any interested party that
filed a response have resolved the issues raised in the response
through agreement or withdrawal of the filing, then the program shall
promptly provide compliance certification to the municipality
following an expedited review unless the fair share plan and housing
element are deemed out of compliance with the "Fair Housing Act."
P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine.
For the fifth round, and each subsequent new round of housing
obligations, the deadline established in this subparagraph for an
interested party to file a challenge shall be August 31, and for the
municipality to revise its housing element and fair share plan in
response, shall be November 30, of the year of the beginning of the
new round.

(c) For the fourth round of affordable housing obligations, the
implementing ordinances and resolutions, proposed pursuant to
paragraph (a) of this paragraph, and incorporating any changes
from the program, shall be adopted on or before January 31, 2026.
For the fifth round, and each subsequent new round of housing obligations, the deadline established in this subparagraph for the implementing ordinances and resolutions shall be on January 31 of the year following the beginning of the new round. After adoption of the implementing ordinances and resolutions by the municipality, the municipality shall immediately file the ordinances and resolutions with the program through the program’s Internet website.

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

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

(b) A municipality that has not adopted and published a binding resolution pursuant to paragraph (1) of this subsection or that has not adopted and filed a housing element and fair share plan pursuant to paragraph (2) of this subsection may seek compliance certification by filing an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313), provided that any builder’s remedy litigation filed by a plaintiff against such a municipality prior to such time may proceed notwithstanding such filing. In a municipality that has adopted and published a binding resolution pursuant to paragraph (1) of this subsection and has adopted and filed a housing element and fair share plan pursuant to paragraph (2) of this subsection, a court shall not grant a builder’s remedy to a plaintiff in exclusionary zoning litigation during the timeframe after the timely submission of a binding resolution or fair share plan and housing element of a municipality, or both, and before a challenge is submitted, or during the timeframe of a challenge that is pending resolution with the program pursuant to this subsection. A court may grant a builder’s remedy to a plaintiff in exclusionary zoning litigation after such timeframe upon a finding that the municipality: (i) is determined to
be constitutionally noncompliant with its responsibilities pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al); (ii) has failed to meet the deadlines established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill); or (iii) has, after receiving compliance certification, failed to comply with the terms of that certification by not actually allowing for the development of the affordable housing as provided for in its fair share plan and housing element through actions, omissions, or both, of a municipality or its subordinate boards.

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

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

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

13. a. [A] If a municipality [which] has [filed a housing element may, at any time during a two-year period following the filing of the housing element, petition the council for a substantive certification of its element and ordinances or] adopted a housing element and fair share plan pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), but has failed to satisfy the June 30 deadline established pursuant to paragraph (2) of subsection f. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), the municipality may be provided with a grace period pursuant to paragraph (3) of subsection f. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) if authorized by the program or county level housing judge, as determined by the rules of court. If the municipality that has not satisfied this June 30 deadline is not provided with a grace period, the municipality may institute an action for declaratory judgment granting it repose in the Superior Court [, but in no event shall a grant of substantive certification extend beyond a 10-year period starting on the date the municipality files its housing element with the council] for the 10-year period constituting the current round of fair share obligations.

The municipality shall publish notice of its [petition] filing of a declaratory judgment action in a newspaper of general circulation within the municipality and county and shall make available to the public information on the element and ordinances on the Internet website of the program in accordance with [such procedures as the council shall establish. The council shall also establish a procedure for providing public notice of each petition which it receives] section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).
b. [Notwithstanding the provisions of subsection a. of this section, a municipality which filed a housing element prior to the effective date of P.L.1990, c.121, shall be permitted to petition for substantive certification at any time within two years following that filing, or within one year following the effective date of P.L.1990, c.121, whichever shall result in permitting the municipality the longer period of time within which to petition.] (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

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

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

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

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

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

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

f. The Administrative Director of the Courts shall establish procedures for the purpose of efficiently resolving disputes involving the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), for circumstances in which the program is unable to address the dispute within the time limitations established pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

As a part of the procedures established pursuant to this section, in order to facilitate an appropriate level of localized control of affordable housing decisions, for each vicinage, the Chief Justice of the Supreme Court shall designate a Superior Court judge who sits within the vicinage, or a retired judge who, during the judge’s tenure as a judge, served within the vicinage, to serve as county level housing judge to resolve disputes over the compliance, of fair share plans and housing elements of municipalities within their county, with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

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

6. (New section) a. Municipal present need for each 10-year round of affordable housing obligations shall be determined by estimating the deficient housing units occupied by low- and moderate-income households in the region, following a methodology comparable to the methodology used to determine third round municipal present need, through the use of datasets made available
through the federal decennial census and the American Community Survey.

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

(1) The regions of the State shall be comprised as follows:
(a) Region 1 shall consist of the counties of Bergen, Hudson, Passaic, and Sussex;
(b) Region 2 shall consist of the counties of Essex, Morris, Union, and Warren;
(c) Region 3 shall consist of the counties of Hunterdon, Middlesex, and Somerset;
(d) Region 4 shall consist of the counties of Mercer, Monmouth, and Ocean;
(e) Region 5 shall consist of the counties of Burlington, Camden, and Gloucester; and
(f) Region 6 shall consist of the counties of Atlantic, Cape May, Cumberland, and Salem.

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

7. (New section) a. The obligation special master appointed pursuant to subsection b. or c. of section 3 of P.L. , c. (pending before the Legislature as this bill) shall determine the present and prospective fair share obligation for low- and moderate-income housing for each municipality in the State by applying the methods used in the March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer County, In re Application of Municipality of Princeton, as summarized in this section. A municipality calculating its obligation by resolution pursuant to subsection f. of section 3 of P.L. , c. (pending before the Legislature as this bill) shall also determine its present and prospective fair share obligation using those same methods, as summarized in this section. These determinations of municipal present and prospective need shall be based on a determination of the present and prospective regional need for low- and moderate-income housing, established pursuant to section 6 of P.L. , c. (pending before
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(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.
(3) The obligation special master shall determine a municipality’s income capacity factor by calculating the average of the following measures:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Highlands Preservation Area shall have a weighting factor of 0.0;
(n) Highlands Planning Area Existing Community Zone, opted in
municipality by May 1, 2022 shall have a weighting factor of 1.0;
(o) Highlands Planning Area, State-designated sewer service area,
municipality not opted in by May 1, 2022, shall have a weighting
factor of 1.0; and
(p) All other Highlands Planning Areas shall have a weighting
factor of 0.0.
(5) The equalized nonresidential valuation factor, income
capacity factor, and land capacity factor, determined in paragraphs
(2), (3), and (4) of this subsection, shall be averaged to yield the
municipality’s average allocation factor for distributing gross
regional prospective need to the municipality. The obligation special
master shall then multiply the regional prospective need by the
municipality’s average allocation factor to determine the
municipality’s gross prospective need for the 10-year round.
(6) The obligation special master shall adjust for secondary
sources of supply and demand by first calculating demolitions of low-
and moderate-income housing, and housing creation through
residential conversions. The obligation special master shall then
subtract a municipality’s share of conversions from the sum of each
municipality’s allocated share of gross prospective need and
demolitions of low- and moderate-income housing.

8. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to read
as follows:
  a. Upon failure to perform any obligation of a residential
mortgage by the residential mortgage debtor and before any
residential mortgage lender may accelerate the maturity of any
residential mortgage obligation and commence any foreclosure or
other legal action to take possession of the residential property which
is the subject of the mortgage, the residential mortgage lender shall
give a notice of intention, which shall include a notice of the right to
cure the default as provided in section 5 of P.L.1995, c.244 (C.2A:50-
57), at least 30 days, but not more than 180 days, in advance of such
action as provided in this section, to the residential mortgage debtor,
and, if the mortgage is secured by a residence for which a restriction
on affordability was recorded in the county in which the property is
located, the clerk of the municipality in which the subject property is
located, the municipal housing liaison, if one has been appointed by
the municipality pursuant to the regulations of the Council on
Affordable Housing, and the Commissioner of Community Affairs.
For the purposes of this section, "restriction on affordability" means
any conditions recorded with a mortgage or a deed which would limit
the sale of such property to income qualified households pursuant to
the rules adopted to effectuate the "Fair Housing Act," P.L.1985,
c.222 (C.52:27D-301 et al.).
  b. Notice of intention to take action as specified in subsection a.
of this section shall be in writing, provided to the Department of
Community Affairs in accordance with subsection a. of section 2 of P.L.2019, c.134 (C.46:10B-49.2), sent to the debtor by registered or certified mail, return receipt requested, at the debtor's last known address, and, if different, to the address of the property which is the subject of the residential mortgage. The notice is deemed to have been effectuated on the date the notice is delivered in person or mailed to the party.

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

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

(2) the nature of the default claimed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

f. Compliance with this section and subsection a. of section 2 of P.L.2019, c.134 (C.46:10B-49.2) shall be set forth in the pleadings of any legal action referred to in this section. If the plaintiff in any
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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
12 h. If the property which is the subject of the notice of intention
13 to foreclose has more than one dwelling unit but less than five, one
14 of which is occupied by the debtor or a member of the debtor's
15 immediate family as the debtor's or member's residence at the time
16 the loan is originated, and is not properly maintained and meets the
17 necessary conditions for receivership eligibility, established pursuant
18 to section 4 of the "Multifamily Housing Preservation and
19 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential
20 mortgage lender shall file an order to show cause to appoint a
21 receiver.
22 (cf: P.L.2019, c.134, s.4)
23
24 9. Section 2 of P.L.2005, c.306 (C.5:18-2) is amended to read as
25 follows:
26
27 2. The New Jersey Council on Physical Fitness and Sports,
28 established under P.L.1999, c.265 (C.26:1A-37.5 et seq.) is
29 authorized to provide grants to assist low-income families in
30 purchasing the protective eyewear. As used in this section, a "low-
31 income family" means a family which qualifies for low-income
32 housing under the standards promulgated by the [Council on
33 Affordable Housing] New Jersey Housing and Mortgage Finance
34 Agency pursuant to the "Fair Housing Act," P.L.1985, c.222
35 (C.52:27D-301 et al.).
36 (cf: P.L.2005, c.306, s.2)
37
38 10. Section 25 of P.L.2004, c.120 (C.13:20-23) is amended to read
39 as follows:
40
41 25. a. [The Council on Affordable Housing] Each obligation
42 special master appointed pursuant to subsection b. or c. of section 3
43 of P.L. , c. (C. ) (pending before the Legislature as this bill)
44 shall take into consideration the regional master plan [prior to
45 making any] as part of each obligation special master's duties
46 specified in section 7 of P.L. , c. (C. ) (pending before the
47 Legislature as this bill) in the obligation special master’s
determination regarding the allocation of the prospective fair share
48 of the housing need [in any municipality in the Highlands Region]
49 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)
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for [the] any fair share period subsequent to [1999] the effective
date of P.L. , c. (C. ) (pending before the Legislature as this
bill) if a municipality is in the Highlands Region.

affect protections provided through a grant of substantive
certification or a judgment of repose granted prior to [the date of

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

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

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

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

b. A registered mortgage loan originator that is registered under
the federal "Secure and Fair Enforcement for Mortgage Licensing

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

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

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

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

g. Any individual who offers or negotiates terms of a residential mortgage loan:
   (1) with or on behalf of an immediate family member; or
   (2) secured by a dwelling that serves as the individual’s residence.

h. Any person who, during a calendar year takes three or fewer residential mortgage loan applications or offers or negotiates the terms of three or fewer residential mortgage loans or makes three or fewer residential mortgage loans related to manufactured housing structures which are:
   (1) titled by the New Jersey Motor Vehicle Commission;
   (2) located in a mobile home park as defined in subsection e. of section 3 of P.L.1983, c.400 (C.54:4-1.4); and
   (3) exempt from taxation as real property pursuant to subsection b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

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

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

12. Section 2 of P.L.1991, c.465 (C.39:4-10.2) is amended to read as follows:
   2. a. A person who violates a requirement of this act shall be warned of the violation by the enforcing official. The parent or legal guardian of that person also may be fined a maximum of $25 for the person's first offense and a maximum of $100 for a subsequent offense if it can be shown that the parent or guardian failed to exercise reasonable supervision or control over the person's conduct. Penalties provided in this section for a failure to wear a helmet may be waived if an offender or his parent or legal guardian presents suitable proof that an approved helmet was owned at the time of the violation or has been purchased since the violation occurred.
   b. All money collected as fines under subsection a. of this section and subsection a. of section 2 of P.L.1997, c.411 (C.39:4-10.6) shall be deposited in a nonlapsing revolving fund to be known
as the "Bicycle and Skating Safety Fund." Interest earned on money deposited in the fund shall accrue to the fund. Money in the fund shall be utilized by the director to provide educational programs devoted to bicycle, roller skating and skateboarding safety. If the director determines that sufficient money is available in the fund, he also may use, in a manner prescribed by rule and regulation, the money to assist low income families in purchasing approved bicycle helmets. For the purposes of this subsection, "low income family" means a family which qualifies for low income housing under the standards promulgated by the [Council on Affordable Housing] New Jersey Housing and Mortgage Finance Agency pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et seq.).

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

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

33. The Legislature finds and declares:

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

b. New Jersey’s land resources are becoming more scarce, while its redevelopment needs are increasing. In order to balance the needs of developing and redeveloping communities, a reasonable method of providing for the housing needs of [low and moderate income] low-, moderate-, and [middle income] middle-income households, without mandating the inclusion of housing in every non-residential project, must be established.

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

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


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

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

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

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

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

"Commissioner" means the Commissioner of Community Affairs.

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

"Department" means the Department of Community Affairs.

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

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

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

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

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

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

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

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

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

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

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

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

(2) A fee equal to two and one-half percent of the increase in equalized assessed value, of the additions to existing structures to be used for non-residential purposes.
b. All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee pursuant to this section, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:

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

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

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

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

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

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

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

For purposes of this subsection, "recreational facilities and community center" means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including but not limited to ball fields, meeting halls, and classrooms, accommodating either organized or informal activity; and "senior center" means any recreational facility or community center with activities and services oriented towards serving senior citizens.
If a property which was exempted from the collection of a non-
residential development fee thereafter ceases to be exempt from
property taxation, the owner of the property shall remit the fees
required pursuant to this section within 45 days of the termination of
the property tax exemption. Unpaid non-residential development
fees under these circumstances may be enforceable by the
municipality as a lien against the real property of the owner.

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

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

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

e. The construction official responsible for the issuance of a
building permit shall notify the local tax assessor of the issuance of
the first building permit for a development which may be subject to
a non-residential development fee. Within 90 days of receipt of that
notice, the municipal tax assessor, based on the plans filed, shall
provide an estimate of the equalized assessed value of the non-
residential development. The construction official responsible for
the issuance of a final certificate of occupancy shall notify the local
assessor of any and all requests for the scheduling of a final
inspection on property which may be subject to a non-residential
development fee. Within 10 business days of a request for the
scheduling of a final inspection, the municipal assessor shall confirm
or modify the previously estimated equalized assessed value of the
improvements of the non-residential development in accordance with
the regulations adopted by the Treasurer pursuant to P.L.1971, c.424
(C.54:1-35.35); calculate the non-residential development fee
pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
through C.40:55D-8.7); and thereafter notify the developer of the
amount of the non-residential development fee. Should the
municipality fail to determine or notify the developer of the amount
of the non-residential development fee within 10 business days of the
request for final inspection, the developer may estimate the amount
due and pay that estimated amount consistent with the dispute
process set forth in subsection b. of section 37 of P.L.2008, c.46
(C.40:55D-8.6). Upon tender of the estimated non-residential
development fee, provided the developer is in full compliance with
all other applicable laws, the municipality shall issue a final
certificate of occupancy for the subject property. Failure of the
municipality to comply with the timeframes or procedures set forth
in this subsection may subject it to penalties to be imposed by the
commissioner; any penalties so imposed shall be deposited into the
"New Jersey Affordable Housing Trust Fund" established pursuant
to section 20 of P.L.1985, c.222 as amended by section 17 of

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

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

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

g. The Treasurer shall credit to the "Urban Housing Assistance
Fund," established pursuant to section 13 of P.L.2008, c.46
(C.52:27D-329.7) annually from the receipts of the fees authorized
to be imposed pursuant to this section an amount equal to $20
million; all receipts in excess of this amount shall be deposited into
the "New Jersey Affordable Housing Trust Fund," established
pursuant to section 20 of P.L.1985, c.222 as amended by section 17
of P.L.2008, c.46 (C.52:27D-320), to be used for the purposes of that
fund.
The Treasurer shall adopt such regulations as necessary to
effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1
through C.40:55D-8.7), in accordance with the "Administrative
(cf: P.L.2008, c.46, s.35)

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

36. a. The commissioner [in consultation with the council,]
shall promulgate, in accordance with the provisions of the
seq.), such regulations as are necessary for the prompt and effective
implementation of the provisions and purposes of [P.L.2008, c.46
(C.52:27D-329.1 et al.)] section 8 of P.L.2008, c.46 (C.52:27D-
329.2), including, but not limited to, provisions for the payment of
any necessary administrative costs related to the assessment of
properties and collection of any development fees by a municipality.

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

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

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

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

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

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

39. The provisions of this section shall apply only to those
developments for which a fee was imposed pursuant to sections 32
known as the "Statewide Non-residential Development Fee Act."
a. A developer of a property that received preliminary site plan
approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46),
or final approval, pursuant to section 38 of P.L.1975, c.291
(C.40:55D-50) prior to July 17, 2008 and that was subject to the
payment of a nonresidential development fee prior to the enactment
of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a return
of any moneys paid that represent the difference between moneys
committed prior to July 17, 2008 and monies paid on or after that
date.

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

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

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

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

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

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

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

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

b. Among the members to be appointed by the commissioner who are first appointed, four shall be appointed for terms of two years each, four shall be appointed for terms of three years each, and two shall be appointed for terms of four years each. Thereafter, each appointee shall serve for a term of four years. Vacancies in the membership shall be filled in the same manner as original appointments are made, for the unexpired term. The [commission] board shall select a chair from among its members [a chairman]. Members may be removed by the commissioner for cause.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Public electric vehicle charging station" means an electric vehicle charging station located at a publicly available parking space.
"Public housing” means any housing for persons of low and moderate income owned by a municipality, county, the State or the federal government, or any agency or instrumentality thereof.

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

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

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

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

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

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

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

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

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

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

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

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

"Rehabilitation area" or "area in need of rehabilitation" means any area determined to be in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).
"Zero-emission vehicle" means a vehicle certified as a zero emission vehicle pursuant to the California Air Resources Board zero emission vehicle standards for the applicable model year, including but not limited to, battery electric-powered vehicles and hydrogen fuel cell vehicles.

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

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

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

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

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

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

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

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

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

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

   (7) Encourage the use of demand side subsidy programs such as certificates and vouchers for low-income families and promote the use of project based certificates which provide subsidies for units in newly constructed and substantially rehabilitated structures, and of tenant based certificates which subsidize rent in existing units;
(8) Cooperate with any State or federal entity to secure mortgage assistance for any person of [low or moderate income] low- or moderate-income;

(9) Provide technical assistance and support to nonprofit organizations and private developers interested in constructing [low and moderate income] low- and moderate-income housing;

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

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

b. All housing projects, programs and actions undertaken pursuant to this act shall accord with the housing element of the master plan of the municipality within which undertaken, and with any fair share housing plan [filed by] of the municipality [with the Council on Affordable Housing, based upon the council's criteria and guidelines], adopted pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)[, whether or not the municipality has petitioned for substantive certification of the plan]. (cf: P.L.2017, c.131, s.176)

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

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

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

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

c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill):

f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income low- and moderate-income housing; and

g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20).
(cf: P.L.2021, c.273, s.2)

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

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

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

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

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

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

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

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

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

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

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

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

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

2) Determination of the total residential zoning necessary to assure that the municipality's fair share is achieved;
(3) Determination of measures that the municipality will take to assure that low- and moderate-income units remain affordable to low- and moderate-income households for an appropriate period of not less than six years;

(4) A plan for infrastructure expansion and rehabilitation if necessary to assure the achievement of the municipality's fair share of low- and moderate-income housing;

(5) Donation or use of municipally owned land or land condemned by the municipality for purposes of providing low- and moderate-income housing;

(6) Tax abatements for purposes of providing low- and moderate-income housing;

(7) Utilization of funds obtained from any State or federal subsidy toward the construction of low- and moderate-income housing;

(8) Utilization of municipally generated funds toward the construction of low- and moderate-income housing; and

(9) The purchase of privately owned real property used for residential purposes at the value of all liens secured by the property, excluding any tax liens, notwithstanding that the total amount of debt secured by liens exceeds the appraised value of the property, pursuant to regulations promulgated by the Commissioner of Community Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126 (C.52:27D-311.2).

b. The municipality may provide for a phasing schedule for the achievement of its fair share of low- and moderate-income housing.

c. (Deleted by amendment, P.L.2008, c.46)

d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall require a municipality to raise or expend municipal revenues in order to provide low- and moderate-income housing.

e. When a municipality's housing element includes the provision of rental housing units in a community residence for the developmentally disabled, for the mentally ill, or for persons with head injuries, as those terms are defined in section 2 of P.L.1977, c.448 (C.30:11B-2), or in transitional housing, which will be affordable to persons of low- and moderate-income, and for which adequate measures to retain such affordability pursuant to paragraph (3) of subsection a. of this section are included in the housing element, those housing units shall be fully credited as permitted under the rules of the council towards the fulfillment of the municipality's fair share of low- and moderate-income housing. A municipality shall
not credit transitional housing units towards more than 15 percent of
the municipality’s fair share obligation.

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

g. A municipality [which] has received [substantive
certification from the council] approval of its housing element and
fair share plan for the current round, and [which] has actually
effected the construction of the affordable housing units it is
obligated to provide, may amend its affordable housing element or
zoning ordinances without [the approval of the council] losing
immunity from builder’s remedy litigation.

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

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

j. A municipality may enter into an agreement with a developer
or residential development owner to provide a preference for
affordable housing to [low and moderate income] low- and
moderate-income veterans who served in time of war or other
emergency, as defined in section 1 of P.L.1963, c.171 (C.54:4-8.10),
of up to 50 percent of the affordable units in that particular project.
This preference shall be established in the applicant selection process
for available affordable units so that applicants who are veterans who
served in time of war or other emergency, as referenced in this
subsection, and who apply within 90 days of the initial marketing
period shall receive preference for the rental of the agreed-upon
percentage of affordable units. After the first 90 days of the initial
120-day marketing period, if any of those units subject to the
preference remain available, then applicants from the general public
shall be considered for occupancy. Following the initial 120-day
marketing period, previously qualified applicants and future
qualified applicants who are veterans who served in time of war or
other emergency, as referenced in this subsection, shall be placed on
a special waiting list as well as the general waiting list. The veterans
on the special waiting list shall be given preference for affordable
units, as the units become available, whenever the percentage of
preference-occupied units falls below the agreed upon percentage.
Any agreement to provide affordable housing preferences for
veterans pursuant to this subsection shall not affect a municipality's
ability to receive credit for the unit [from the council, or its
successor].

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

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

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

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

(4) receive one unit of credit and one-half bonus credit for a unit
of age-restricted housing, provided that a bonus credit for age-
restricted housing shall not be applied to more than 10 percent of the
units of age-restricted housing constructed in a municipality that
count towards the municipality’s affordable housing obligation for any single 10-year round of affordable housing obligations.

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

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

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

6. [The council] A municipality may take such measures as are necessary to assure compliance with the adaptability requirements imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.), including the inspection of those units which are newly constructed and receive housing credit as provided under section 1 of P.L.2005, c.350 (C.52:27D-311a) for adaptability, as part of the monitoring which occurs pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). No housing unit subject to the provisions of section 5 of P.L.2005, c.350 (C.52:27D-123.15) and to the provisions of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) shall be eligible for inclusion in a municipal fair share plan unless the unit complies with the requirements set forth thereunder. If any units for which credit was granted in accordance with the provisions of P.L.2005, c.350 (C.52:27D-311a et al.) are found not to conform to the requirements of P.L.2005, c.350 (C.52:27D-311a et al.), [the council may] any party representing the interests of households with disabilities may seek a modification to the approval of the municipal fair share plan to require the municipality to amend its fair share plan within 90 days of [receiving notice from the council] such a finding, to address its fair share obligation pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). In the event that the municipality fails to amend its fair share plan within 90 days of [receiving such notice, the council may revoke substantive certification] such a finding, the municipality shall lose immunity to a builder’s remedy for the portion of its obligation that is found not to conform to the requirements of P.L.2005, c.350 (C.52:27D-311a et al.).

(cf: P.L.2005, c.350, s.6)
26. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to read as follows:

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

a. Except as permitted pursuant to subsection g. of this section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the commissioner shall award grants or loans from this fund for housing projects and programs in municipalities whose housing elements have [ ] obtained compliance certification pursuant to section 3 of P.L., c. ( ).

(�pending before the Legislature as this bill), or in municipalities receiving State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) in municipalities subject to a builder's remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328), or in receiving municipalities in cases where the council has approved a regional contribution agreement and a project plan developed by the receiving municipality.

Of those monies deposited into the "New Jersey Affordable Housing Trust Fund" that are derived from municipal development fee trust funds, or from available collections of Statewide non-residential development fees, a priority for funding shall be established for projects in municipalities that have [ ] petitioned the council for substantive compliance certification.
Programs and projects in any municipality shall be funded only after receipt by the commissioner of a written statement in support of the program or project from the municipal governing body.

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

c. For any period which the commissioner may approve, the commissioner may assist affordable housing programs located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement that have a pending request for compliance certification; provided that the affordable housing program will meet all or part of a municipal low and moderate income housing obligation.

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

(1) Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income low- and moderate-income households;

(2) Creation of accessory dwelling units to be occupied by low and moderate income low- and moderate-income households;

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

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

(5) Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans, and permits; engineering, architectural, and other technical services; costs of land acquisition and any buildings thereon; and costs of site preparation, demolition, and infrastructure development for projects undertaken pursuant to an approved regional contribution agreement;
(6) Assistance to a local housing authority, nonprofit or limited
dividend housing corporation, or association or a qualified entity
acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for
rehabilitation or restoration of housing units which it administers
which: (a) are unusable or in a serious state of disrepair; (b) can be
restored in an economically feasible and sound manner; and (c) can
be retained in a safe, decent, and sanitary manner, upon completion
of rehabilitation or restoration; and

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

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

f. Notwithstanding the provisions of any other law, rule, or
regulation to the contrary, in making grants or loans under this
section, the department shall not require that tenants be certified as
[low or moderate income] low- or moderate-income or that
contractual guarantees or deed restrictions be in place to ensure
continued [low and moderate income] low- and moderate-income
occupancy as a condition of providing housing assistance from any
program administered by the department, when that assistance is
provided for a project of moderate rehabilitation if the project: (1)
contains 30 or fewer rental units; and (2) is located in a census tract
in which the median household income is 60 percent or less of the
median income for the housing region in which the census tract is
located, as determined for a three person household by the council in
accordance with the latest federal decennial census. A list of eligible
census tracts shall be maintained by the department and shall be
adjusted upon publication of median income figures by census tract
after each federal decennial census.
g. In addition to other grants or loans awarded pursuant to this section, and without regard to any limitations on such grants or loans for any other purposes herein imposed, the commissioner shall annually allocate such amounts as may be necessary in the commissioner's discretion, and in accordance with section 3 of P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants under the program created pursuant to P.L.2004, c.140 (C.52:27D-287.1 et al.). Such rental assistance grants shall be deemed necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in order to meet the housing needs of certain low-income households who may not be eligible to occupy other housing produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

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

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

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

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

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

a. Of the bond authority allocated to it under section 24 of P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a reasonable period of time established by its board, no less than 25% to be used in conjunction with housing to be constructed or rehabilitated with assistance under this act P.L.1985, c.222 (C.52:27D-301 et al.).
b. The agency shall to the extent of available funds, award assistance to affordable housing programs located in municipalities whose housing elements have [received substantive] obtained compliance certification [from the council], or which have been subject to a builder's remedy [or which are in furtherance of a regional contribution agreement approved by the council]. During [the first 12 months from the effective date of this act and for] any [additional] period which the [council] agency may approve, the agency may assist affordable housing programs [which are not located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement] that have a pending request for compliance certification; provided the affordable housing program will meet all or in part a municipal [low and moderate income] low- and moderate-income housing obligation.

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

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

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

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

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

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

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

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

(b) Encouraging research in and demonstration projects to develop new and better techniques and methods for increasing the supply, types and financing of housing and housing projects in the State.
e. The agency shall establish procedures and guidelines governing the qualifications of applicants, the application procedures and the criteria for awarding grants and loans for affordable housing programs and the standards for establishing the amount, terms and conditions of each grant or loan.

f. [In consultation with the council, the] The agency shall establish requirements and controls to [insure] ensure the maintenance of housing assisted under [this act] P.L.1985, c.222 (C.52:27D-301 et al.) as affordable to [low and moderate income] low- and moderate-income households for a period of not less than 30 years; provided that the agency may establish a shorter period of at least 10 years for accessory dwelling units or units within mobile home parks, upon a determination that the economic feasibility of the program is jeopardized by the requirement and the public purpose served by the program outweighs the shorter period, and that the requirements and controls shall, at a minimum, be consistent with the controls as in effect immediately prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), including, but not limited to, any requirements concerning the bedroom distributions, affordability averages, and affirmative marketing. The controls may include, among others, requirements for recapture of assistance provided pursuant to [this act] P.L.1985, c.222 (C.52:27D-301 et al.) or restrictions on return on equity in the event of failure to meet the requirements of the program. With respect to rental housing financed by the agency pursuant to [this act] P.L.1985, c.222 (C.52:27D-301 et al.) or otherwise which promotes the provision or maintenance of low and moderate income housing, the agency may waive restrictions on return on equity required pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) which is gained through the sale of the property or of any interest in the property or sale of any interest in the housing sponsor. The agency shall promulgate updated regulations no later than nine months following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill).

All parties may continue to rely on regulations previously adopted by the agency until new rules and regulations are adopted by the agency.

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

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

(cf: P.L.2004, c.140, s.5)
28. Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is amended to read as follows:

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

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

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

7. The council shall coordinate and review the housing elements as filed pursuant to section 11 of P.L.1985, c.222 (C.52:27D-311), and the housing activities under section 20 of P.L.1985, c.222 (C.52:27D-320), at least once every three years, to Housing elements and fair share plans adopted pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall ensure that at least 13 percent of the housing units made available for occupancy by low-income and [moderate income] moderate-income households to address a municipality’s prospective need obligation will be reserved for occupancy by very low income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304). Nothing in this section shall require that a specific percentage of the units in any specific project be reserved as very [low income] low-income housing; provided, however, that a municipality shall not receive bonus credits for the provision of housing units reserved for occupancy by very [low income] low-income households unless the 13 percent target has been exceeded within that municipality [ ]. The council shall coordinate all efforts to meet the goal of this section in a manner that will result in a balanced number of housing units being reserved for very low income households throughout all housing regions. For the purposes of this section, housing activities under section 20 of P.L.1985, c.222 (C.52:27D-320) shall include any project-based assistance provided from the "New Jersey Affordable Housing Trust Fund" pursuant to
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P.L.2004, c.140 (C.52:27D-287.1 et al.), regardless of whether the housing activity is counted toward the municipal obligation under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), and that the agency shall update the regulations adopted pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321) to replace any requirements for very low-income housing inconsistent with the percentages and definitions established pursuant to P.L., c. (C.) (pending before the Legislature as this bill) with the percentage and definition specified in this section.

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

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

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

A municipality may not spend or commit to spend any affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, without first obtaining the [council’s] approval of the expenditure as part of its compliance certification or by the department. A municipality shall include in its housing element and fair share plan adopted pursuant to section 3 of P.L., c. (C.) (pending before the Legislature as this bill) a spending plan for current funds in the municipal affordable housing trust fund and projected funds through the current round. Review of that spending plan for consistency with applicable law and the municipality’s Housing Element and Fair Share Plan shall be part of the process specified in section 3 of P.L., c. (C.) (pending before the Legislature as this bill). The [council] department shall promulgate updated regulations no later than nine months following the effective date of P.L., c. (C.) (pending before the Legislature as this bill) regarding the establishment, administration, and enforcement of the expenditure of affordable housing development fees by municipalities, which shall include establishing an expedited process for approving spending plan expenditures for emergent opportunities to create affordable housing after a municipality has obtained compliance certification and procedures for monitoring the collection and expenditure of trust funds. The department shall develop and publish on the department’s Internet website a detailed summary of the municipal affordable housing trust fund expenditures for each
municipality, and shall update each summary on an annual basis. Municipalities may continue to rely on regulations on development fees and spending plans previously adopted by the council until new rules and regulations are adopted by the department. The [council] department shall have exclusive jurisdiction regarding the enforcement of these regulations, provided that any municipality which is not in compliance with the regulations adopted by the [council] department may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320).

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

c. (1) A municipality may only spend development fees for an activity approved by the [council] department to address the municipal fair share obligation, or approved as part of compliance certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

10. The council department shall maintain on its Internet website, and also publish on a regular an annual basis, an up-to-date municipal status report concerning the petitions for substantive certification of each municipality that has submitted to the council’s jurisdiction, and shall collect and publish based on its collection and
publication of information concerning the number affordable of
housing units actually constructed, construction starts, certificates of
occupancy granted, [rental units maintained, and the number of
housing units transferred or sold within the previous 12-month
period] and residential and non-residential development fees
collected and expended. With respect to units actually constructed,
the information shall specify the characteristics of the housing,
including housing type, tenure, affordability level, number of
bedrooms, and whether occupancy is reserved for families, senior
citizens, or other special populations. [No later than 60 months after
the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.), the
council shall require each municipality, as a condition of substantive
certification, to provide, in a standardized electronic media format as
determined by the council, the details of the fair share plan as adopted
by the municipality and approved by the council. The council shall
publish and maintain such approved plans on its website.] (cf: P.L.2008, c.46, s.10)

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

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

b. Subject to the provisions of subsection d. of this section, a
developer of a project consisting of newly-constructed residential
units being financed in whole or in part with State funds, including,
but not limited to, transit villages designated by the Department of
Transportation and units constructed on State-owned property,
including but not limited to property owned by the State as of the
effective date of P.L. , c. (C.) (pending before the Legislature
as this bill) and subsequently sold, shall be required to reserve at least
20 percent of the residential units constructed for occupancy by [low
or moderate income] low- or moderate-income households, as those terms are defined in section 4 of P.L.1985, c.222 (C.52:27D-304), with affordability controls as required under the rules of the [council, unless the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan, or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan] agency.

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

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

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

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

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

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

3. As used in this act:
"Affordable Home Ownership Opportunities Bonds" means any bonds of the New Jersey Housing and Mortgage Finance Agency that provide funds to facilitate the provisions of this act.
"Agency" means the New Jersey Housing and Mortgage Finance Agency.
"Annual income" means total income, from all sources, during the last full calendar year preceding the filing of an application for a loan pursuant to this act.
"Bonds" means bonds, notes or any other form of evidence of indebtedness of the agency, bearing either a fixed rate or a variable rate of interest, issued by the agency.
"Eligible project" means a project for the creation of low or moderate income housing which meets the standards of eligibility for loans under the program created by this act.
"Eligible purchaser" means a purchaser of a dwelling unit in an eligible project to whom a loan may be made under the program pursuant to section 5 of this act.
"Fund" means the Affordable Home Ownership Opportunities Fund established by section 5 of this act.
"Housing region" means a housing region as defined in subsection b. of section 4 of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-304) and determined by the Council on Affordable Housing
pursuant to section 7 of that act, P.L.1985, c.222 (C.52:27D-307)]
pursuant to subsection b. of section 6 of P.L. , c. (C. ) (pending
before the Legislature as this bill).

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

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

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

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

"Qualified nonprofit organization" means any corporation or
association of persons organized under Title 15A of the New Jersey
Statutes, having for its principal purpose, or as a purpose ancillary to
its principal purpose, the improvement of realistic opportunities for
low income and moderate income housing, as defined pursuant to the
within the description of section 501(c)(3) of the United States
Internal Revenue Code (26 U.S.C. 501(c)(3)), having been
determined by the agency to be a bona fide organization not under
the effective control of any for-profit organization or governmental
entity, and appearing capable, by virtue of past activities,
qualifications of staff or board, or other features, of furthering the
purposes of this act.

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

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

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

7. A project of new construction or substantial rehabilitation by
a nonprofit organization shall be eligible for a loan under this act if
(1) the homes to be constructed or substantially rehabilitated under
the project are located within an identifiable neighborhood in which
median family income does not exceed the current standard of
"moderate income" pursuant to the contemporaneous standards [of
35. Section 3 of P.L.1998, c.128 (C.55:14K-74) is amended to read as follows:

3. As used in this act:

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

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

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

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

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


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

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

"Person with disability" means any person who is 18 years of age
or older and who fulfills the definition of having a "disability"
pursuant to section 3 of the "Americans with Disabilities Act of

"Program" means the New Jersey Senior and Disabled
Cooperative Housing Finance Incentive Program created by

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

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

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

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

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

36. (New section) a. The Commissioner of Community Affairs
shall, in consultation with the Administrative Director of the Courts
and the Executive Director of the New Jersey Housing and Mortgage
Finance Agency, adopt, pursuant to the "Administrative Procedure
Act," P.L.1968, c.410 (C.52:14B-1 et seq.), no later than nine months
after the effective date of P.L. , c. (C. ) (pending before the
Legislature as this bill), such transitional rules and regulations as
necessary for the implementation of P.L. , c. (C. ) (pending
before the Legislature as this bill), including for the identification of
any vestigial duties of the Council on Affordable Housing and for the
transfer of those duties within the Department of Community Affairs
to the extent that those duties are not otherwise assumed, pursuant to
P.L. , c. (C. ) (pending before the Legislature as this bill), by
municipalities, the obligation special masters, or the Affordable
Housing Dispute Resolution Program.
b. The Executive Director of the New Jersey Housing and Mortgage Finance Agency shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), no later than nine months after the effective date of P.L.  , c. (C.  ) (pending before the Legislature as this bill), rules and regulations to update the Uniform Housing Affordability Controls as required pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). As part of updating the Uniform Housing Affordability Controls, the agency shall set rules establishing a sliding scale for deed restrictions in housing developments based on the percentage of affordable units set aside in a given project. The sliding scale shall provide that projects with a lower percentage of affordable units have a longer required deed restriction and projects with a higher percentage of affordable units have a shorter required deed restriction, provided that all projects shall have a minimum deed restriction of 30 years. If the low- or moderate-income units consist of 20 percent or fewer of the units in a development project, then the deed restriction applied to those units shall be no less than 50 years. The sliding scale shall not apply to accessory dwelling units or mobile home parks, or 100 percent affordable developments or other developments assisted by State or federal funding, or both.

37. The following sections are repealed:
   Section 5 of P.L.1985 c.222 (C.52:27D-305);
   Section 6 of P.L.1985, c.222 (C.52:27D-306);
   Section 7 of P.L.1985, c.222 (C.52:27D-307);
   Section 1 of P.L.1991, c.479 (C.52:27D-307.1);
   Section 2 of P.L.1991, c.479 (C.52:27D-307.2);
   Section 3 of P.L.1991, c.479 (C.52:27D-307.3);
   Section 4 of P.L.1991, c.479 (C.52:27D-307.4);
   Section 5 of P.L.1991, c.479 (C.52:27D-307.5);
   Section 6 of P.L.2001, c.435 (C.52:27D-307.6);
   Section 8 of P.L.1985, c.222 (C.52:27D-308);
   Section 9 of P.L.1985, c.222 (C.52:27D-309);
   Section 40 of P.L.2009, c.90 (C.52:27D-311.3);
   Section 12 of P.L.1985, c.222 (C.52:27D-312);
   Section 2 of P.L.1989, c.142 (C.52:27D-313.1);
   Section 14 of P.L.1985, c.222 (C.52:27D-314);
   Section 15 of P.L.1985, c.222 (C.52:27D-315);
   Section 16 of P.L.1985, c.222 (C.52:27D-316);
   Section 17 of P.L.1985, c.222 (C.52:27D-317);
   Section 18 of P.L.1985, c.222 (C.52:27D-318);
   Section 19 of P.L.1985 c.222 (C.52:27D-319);
   Section 22 of P.L.1985, c.222 (C.52:27D-322);
   Section 26 of P.L.1985, c.222 (C.52:27D-326);
   Section 28 of P.L.1985, c.222 (C.52:27D-328); and
38. a. There is appropriated to the Affordable Housing Dispute Resolution Program, established pursuant to subsection a. of section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), from the General Fund $12,000,000 for the purposes of carrying out its responsibilities for the fourth round of affordable housing obligations, as established pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. There is appropriated to the Administrative Director of the Courts for use by the obligation special masters, appointed pursuant to subsection b. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), from the General Fund, $4,000,000 for the purposes of carrying out responsibilities of the obligation special masters for the fourth round of affordable housing obligations, as established pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

STATEMENT

This bill would abolish the Council on Affordable Housing (COAH), initially established by the "Fair Housing Act," and would establish a process to enable a municipality to determine its own present and prospective fair share affordable housing obligation based on the formulas established in the bill, as calculated by three court-appointed obligation special masters, representing the northern, central, and southern areas of the State. In advance of the fourth, ten-year round of affordable housing obligations, beginning on July 1, 2025, the bill requires each obligation special master to complete these calculations, and provide for their publication, on or before November 15, 2024.

The bill permits a municipality to diverge from the obligation special master’s calculations in determining its obligation, in case local factors exist that make the special master’s calculations unreasonable. In advance of the fourth round, the bill requires a municipality to adopt its obligation by binding resolution, on or before January 31, 2025, in order to be assured of protection from a builder’s remedy lawsuit, as defined in the bill, through which a municipality may otherwise be compelled to permit development, when the fourth round begins. If the municipality meets this deadline, then the municipality’s determination of its obligation would be established by default, without any approval, beginning on February 28, 2025, as the municipality’s obligation for the fourth round. However, if a challenge is filed with the "Affordable Housing Dispute Resolution Program" ("program"), established in the bill,
prior to February 1, 2025, the program would be required to facilitate
a resolution of the dispute prior to April 1, 2025.

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

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

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

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

All parties would be required to bear their own fees and costs for
proceedings within the program. A determination by the program as
to municipal obligations or compliance certification would be considered a final agency decision, subject to review by the Appellate Division.

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

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

Each obligation special master would determine each municipality’s fair share obligation by applying the methods used by the Superior Court for the third round, as summarized in the bill. The
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obligation special master would determine its present need obligation
by estimating the existing deficient housing currently occupied by
low-and moderate-income households within the municipality.
Each obligation special master would next determine the regional
prospective need, upon which to base the municipal obligation, by
estimating the regional growth of low- and moderate-income
households during the housing round at issue. The bill would
simplify the regional need estimation from the processes used in
previous rounds in order to ease the administrative burden that has
been associated with this process. First, projected household change
for a 10-year round in a region would be estimated by establishing
the household change experienced in the region between the most
recent federal decennial census, and the second-most recent federal
decennial census. Although this relies on historical data, recent
household change in a region is relevant to estimating future
household change and associated housing need. This household
change would be divided by 2.5 to estimate the number of low- and
moderate-income homes needed to address population change in the
region, thereby determining the regional prospective need for the 10-
year round.

After determining regional prospective need, the obligation
special master would determine each municipality’s fair share
prospective obligation of that regional prospective need. To do this,
an obligation special master would first determine whether a
municipality is a qualified urban aid municipality, and if so, the
municipality would not have a prospective need obligation.
If the municipality is not a qualified urban aid municipality, the
obligation special master would be required to calculate three factors
necessary for the prospective fair share determination. First, the
obligation special master would calculate the equalized
nonresidential valuation factor, representing the municipality’s share
of the regional change in the value of nonresidential property. In
prior rounds, this calculation, concerning nonresidential (commercial
and industrial) property values, has been adopted as a representation
of a municipality’s employment potential. Data available from the
Division of Local Government Services in the Department of
Community Affairs (DCA) would be used for this calculation. Next,
an income capacity factor would be determined, using a formula
comparable to one used in prior rounds to estimate the municipality’s
ability to absorb low- and moderate-income households. The
municipality’s land capacity factor would then be determined,
representing the municipality’s relative share of undeveloped land,
available to accommodate development, using data made available
by the Department of Environmental Protection. The average of
these three factors would be determined and multiplied by the
regional prospective need to determine the municipality’s gross
prospective need.
Finally, each obligation special master would adjust for secondary sources of housing supply and demand by first calculating demolitions of low- and moderate-income housing, and housing creation through residential conversions. Each obligation special master would subtract a municipality’s share of conversions from the sum of each municipality’s allocated share of gross prospective need and demolitions of low- and moderate-income housing. After applying these secondary sources, the municipality’s prospective fair share obligation for the 10-year round would be established.

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

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

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

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

The bill would prohibit a municipality from receiving bonus credit for any particular type of low- or moderate-income housing, unless authority to obtain bonus credit is expressly provided by the "Fair Housing Act," as amended and supplemented by the bill. The bill expressly authorizes 1/2 unit of bonus credit for: (1) each unit of very
low-income housing; (2) each affordable unit in a community
residence for persons with head injuries, developmental disabilities,
mental illness, or in transitional housing; (3) each affordable housing
unit located within a 1/2-mile radius, or one-mile radius for projects
located in a Garden State Growth Zone, surrounding a New Jersey
Transit Corporation, Port Authority Transit Corporation, or Port
Authority Trans-Hudson Corporation rail, bus, or ferry station,
including all light rail stations; and (4) each affordable unit of age-
restricted housing, provided that a bonus credit for age-restricted
housing would not be applied to more than 10 percent of the age-
restricted units that count towards a municipality’s affordable
housing obligation for a 10 year round.

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

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

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