

[First Reprint]

SENATE, No. 3780

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 8, 2023

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

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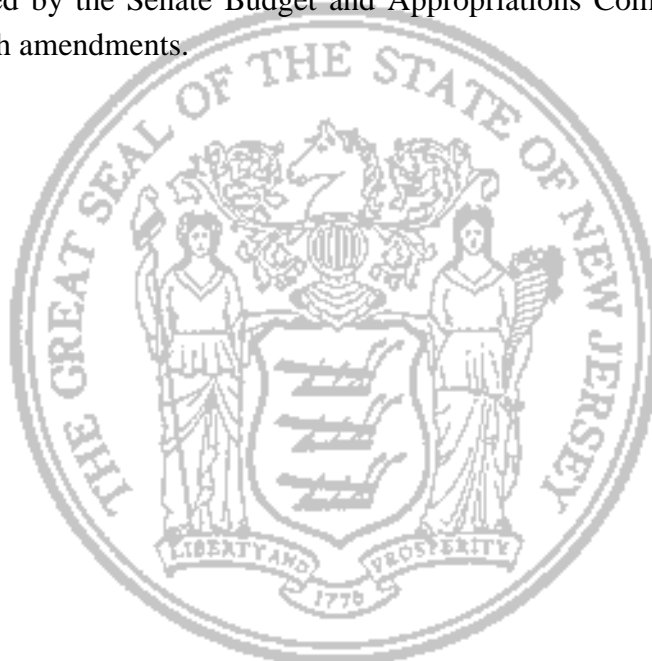
Senators Johnson, Cruz-Perez and Pou

SYNOPSIS

Provides down payment assistance for benefit of certain first-time homebuyers; establishes Resilient Home Construction Pilot Program.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 27, 2023, with amendments.



(Sponsorship Updated As Of: 6/30/2023)

1 AN ACT concerning housing assistance for certain homebuyers and
2 developers, supplementing Title 55 of the Revised Statutes ¹ [,
3 P.L.1974, c.80 (C.34:1B-1 et seq.), and P.L.1985, c.222
4 (C.52:27D-301 et seq.), and making an appropriation] and Title
5 52 of the Revised Statutes¹.

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

9
10 1. As used in ¹ [sections 1 through 2 of]¹ P.L. , c. (C.
11 through C.) (pending before the Legislature as this bill):

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

15 "Commissioner" means the Commissioner of Community Affairs.

16 "Department" means the Department of Community Affairs.¹

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

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

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

24 a. an individual:

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

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

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

36 "First-time homebuyer" means a homebuyer who, in accordance
37 with rules and regulations adopted by the agency, has not owned any
38 residential real property as their principal residence within the
39 preceding three years, and is utilizing a mortgage product offered by
40 the agency through an agency homebuyer program to purchase single-
41 family housing ¹, and has a gross household income that does not
42 exceed a limitation determined by the agency¹.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 27, 2023.

1 "Loan program" means the zero-interest, forgivable loan program
2 established pursuant to section 2 of P.L. , c. (C.) (pending
3 before the Legislature as this bill).

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

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

12
13 2. a. There is established in the agency a zero-interest, forgivable
14 loan program to provide down payment assistance for first-time
15 homebuyers to achieve homeownership. The loan program shall
16 provide down payment assistance to defray the costs associated with
17 acquiring single-family housing for principal residence, as provided
18 for in subsection b. of this section. A first-time homebuyer shall
19 commit to use the home as their principal residence for five years
20 following the purchase of the home. The agency shall forgive the
21 loan, provided that the five-year commitment is satisfied and the first-
22 time homebuyer meets the other requirements established pursuant to
23 ¹[P.L. , c. (C.) (pending before the Legislature as this bill)]
24 subsection c. of this section¹.

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

28 (2) In addition to a loan award that may be provided pursuant to
29 paragraph (1) of this subsection, a first-generation homebuyer shall be
30 eligible for a zero-interest, forgivable loan award of an additional
31 ¹award amount of not less than \$7,000 and not more than¹ \$10,000 to
32 be used for down payment assistance.

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

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

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

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

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

1 c. The executive director shall promulgate rules and regulations
2 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.) ¹], on or before the first day of the third month
4 next following the enactment of P.L. , c. (C.) (pending before
5 the Legislature as this bill),¹ to effectuate, administer, and
6 accomplish the purposes of the loan program. ¹Notwithstanding the
7 limitations established in section 1 of P.L.2011, c.215 (C.52:14B-3a)
8 on the use of regulatory guidance documents, the executive director
9 shall prepare and disseminate guidelines or regulatory guidance
10 documents, on or before the first day of the third month next following
11 the enactment of P.L. , c. (C.) (pending before the Legislature
12 as this bill), in advance of the adoption of rules and regulations to
13 effectuate, administer, and accomplish the purposes of the loan
14 program.¹ The ¹guidelines, guidance documents, and¹ rules and
15 regulations shall, at a minimum, set forth the requirements for
16 application submissions, the criteria for application selections, the
17 eligible uses of down payment assistance, eligibility as a first-time or
18 first-generation homebuyer, and the curriculum and provision of the
19 homebuyer counseling course.

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

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

30 f. The annual appropriations act ¹for State fiscal year 2024 shall
31 include an appropriation from the General Fund to the loan program,
32 and the annual appropriations acts following State fiscal year 2024¹
33 shall appropriate not less than \$25 million from the General Fund to
34 the agency, during each ¹State fiscal¹ year in which the loan program
35 remains in operation, to ¹effectuate the purposes of the loan program
36 and¹ defray the costs associated with administering the loan program,
37 except that the agency shall retain not more than five percent of the
38 annual appropriation for administrative costs. ¹Of the total amount of
39 down payment assistance funding awarded each State fiscal year
40 through the loan program, not less than 50 percent shall be awarded to
41 first-generation homebuyers, unless the agency determines that 50
42 percent of the down payment assistance funding cannot be awarded to
43 first-generation homebuyers, because too few first-generation
44 homebuyers have applied for the loan program, in which case, more
45 than 50 percent of the funding shall be awarded to first-time
46 homebuyers who are not first-generation homebuyers.¹

1 g. No later than the 730th day next following the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this bill), the
3 agency shall prepare and submit a report to the Governor and, pursuant
4 to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
5 report shall analyze the efficacy of the loan program. The report shall
6 provide an overview of the total amount of down payment assistance
7 provided by the agency, with information by census tract on the race
8 and ethnicity of the recipients of assistance. The report also shall
9 analyze:

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

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

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

18
19 ¹[3. As used in sections 3 through 4 of P.L. , c. (C.
20 through C.) (pending before the Legislature as this bill):

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

24 "Authority" means the New Jersey Economic Development
25 Authority established pursuant to section 4 of P.L.1974, c.80
26 (C.34:1B-4).

27 "Construction or reconstruction" means the development of real
28 property through means of new construction, or through
29 rehabilitation or renovation of an existing structure, provided that
30 the rehabilitation or renovation has received at least \$50,000 in
31 construction investment.

32 "Construction or reconstruction commitment" means a
33 commitment, including any assurances the authority determines
34 necessary, made by a taxpayer-developer, to the construction or
35 reconstruction of one or more qualified residential properties in a
36 distressed municipality for purchase by one or more first-time
37 homebuyers in compliance with section 4 of P.L. , c. (C.)
38 (pending before the Legislature as this bill).

39 "Distressed municipality" means a municipality with a distress
40 score of 50 or higher according to the 2020 Municipal
41 Revitalization Index distress score for the municipality, determined
42 by the Department of Community Affairs.

43 "First-time homebuyer" means a household with a gross
44 household income of less than 140 percent of the median gross
45 household income for households of the same size within the
46 housing region in which the qualified residential property is located,
47 and for whom no member of the household has owned a home
48 during the three-year period prior to the purchase of the home.

1 "Principal residence" means a qualified residential property that
2 is actually and continually occupied by a first-time homebuyer as
3 the homebuyer's permanent residence, as distinguished from a
4 vacation home, real property owned and rented or offered for rent
5 by the homebuyer, and other secondary real property holdings.

6 "Qualified home purchase" means the acquisition of a qualified
7 residential property that is occupied as a first-time homebuyer's
8 principal residence following construction or reconstruction by a
9 taxpayer-developer; provided, however, that the value of the
10 qualified residential property does not exceed 75 percent of the
11 median home sale price for homes in the county in which the
12 qualified home purchase occurs, in accordance with data approved
13 by the agency.

14 "Qualified residential property" means a dwelling house, a
15 condominium unit under the form of real property ownership
16 provided for under the "Condominium Act," P.L.1969, c.257
17 (C.46:8B-1 et seq.), a unit in a cooperative or mutual housing
18 corporation, a unit in a horizontal property regime under the form of
19 real property ownership provided under the "Horizontal Property
20 Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a continuing
21 care retirement community, or a manufactured home that is taxable
22 as real property or that is installed in a mobile home park.

23 "Tax credit program" means the New Jersey Homebuyer Tax
24 Credit Program, established pursuant to subsection a. of section 4 of
25 P.L. , c. (C.) (pending before the Legislature as this bill).

26 "Taxpayer-developer" means a developer that commits to the
27 construction or reconstruction of one or more qualified residential
28 properties that are to be sold through qualified home purchases to
29 first time homebuyers for use as principal residences.

30 "Value gap" means the amount of a loss, if any, incurred by a
31 taxpayer-developer, determined by subtracting the income of the
32 developer, as derived from the purchase price paid in a qualified
33 home purchase, from the cost of developing the qualified residential
34 property sold in the qualified home purchase.】¹

35

36 ¹4. a. There is established a New Jersey Homebuyer Tax
37 Credit Program to be administered by the authority in coordination
38 with the agency. A taxpayer-developer shall be allowed a credit
39 against the tax otherwise due pursuant to section 5 of P.L.1945,
40 c.162 (C.54:10A-5) or the "New Jersey Gross Income Tax Act,"
41 N.J.S.54A:1-1 et seq., as applicable, for each individual qualified
42 home purchase completed with a first-time homebuyer in an amount
43 not greater than the lesser of:

44 (1) 20 percent of the sale price of the qualified home purchase;
45 or

46 (2) the amount of the value gap incurred by the developer
47 following a qualified home purchase.

1 b. The authority shall award the tax credit established by this
2 section to a taxpayer-developer for securing a qualified home
3 purchase by a first-time homebuyer following construction or
4 reconstruction of a qualified residential property in a distressed
5 municipality; provided, however, that the first-time homebuyer
6 commits to use the home as their principal residence for 10 years
7 following the date of the qualified home purchase.

8 c. (1) The amount of all credits allowed pursuant to this section
9 shall not exceed \$100,000,000, to be conditionally approved for
10 allocation over four terms as follows:

11 (a) up to \$25,000,000 for construction or reconstruction
12 commitments made on or before the 365th day next following the
13 effective date of P.L. , c. (C.) (pending before the
14 Legislature as this bill); and

15 (b) up to \$25,000,000 for construction or reconstruction
16 commitments made after the 365th, but before the 730th, day next
17 following the effective date of P.L. , c. (C.) (pending
18 before the Legislature as this bill).

19 (2) Upon a joint resolution adopted by the Senate and General
20 Assembly and signed by the Governor that extends the tax credit
21 program, as described in paragraph (2) of subsection g. of this
22 section, the balance of credits allowed pursuant to an extension of
23 the tax credit program shall be conditionally approved for allocation
24 as follows:

25 (a) up to \$25,000,000 for construction or reconstruction
26 commitments made on or before the 365th day next following the
27 date the Governor signs the joint resolution; and

28 (b) up to \$25,000,000 for construction or reconstruction
29 commitments made after the 365th, but before the 730th, day next
30 following the date the Governor signs the joint resolution.

31 d. Tax credits shall be conditionally approved for allocation
32 pursuant to the timelines established in subsection c. of this section.
33 The authority shall conditionally approve a tax credit for a
34 taxpayer-developer if the taxpayer-developer enters into a
35 construction or reconstruction commitment. A tax credit shall be
36 allocated upon the execution of a contract for sale of a qualified
37 home purchase. The total amount of the credit allowed shall be
38 applied against the tax otherwise due from the taxpayer-developer
39 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New
40 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., as applicable.
41 A tax credit issued pursuant to this section shall be applied against
42 taxes otherwise due during the taxable year in which the credit is
43 allocated, or may be carried forward and applied against taxes
44 otherwise due in any of the four subsequent taxable years.

45 e. The agency shall ensure that convenient means are established
46 for first-time homebuyers to apply to purchase homes constructed
47 pursuant to this section. A first-time homebuyer who purchases a
48 qualified residential property pursuant to this section shall commit

1 to using the home as the homebuyer's principal residence for 10
2 consecutive years after the home purchase.

3 f. A first-time homebuyer shall be required to pay a penalty to
4 the authority in an amount equaling the lesser of \$5,000 or one
5 percent of the value of the home, upon a determination by the
6 authority the first-time homebuyer has violated the requirements of
7 this section, including but not limited to:

8 (1) the failure of a first-time homebuyer to use the home as the
9 homebuyer's principal residence for 10 consecutive years after the
10 home purchase; or

11 (2) the use of an agent to conceal the identity of the true
12 purchaser of the home for purposes of completing more than one
13 qualified home purchase pursuant to this section.

14 g. (1) No later than the 730th day next following the effective
15 date of P.L. , c. (C.) (pending before the Legislature as this
16 bill), the Office of Revenue and Economic Analysis in the
17 Department of the Treasury shall prepare and submit a report to the
18 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19 19.1), to the Legislature. The report shall analyze the costs and
20 benefits of the tax credit program provided by this section,
21 including but not limited to:

22 (a) the impact of the tax credit program on State revenues;

23 (b) the extent to which home purchases by first-time
24 homebuyers, including but not limited to purchases of new qualified
25 residential property, increased during the terms the tax credit was
26 available to taxpayer-developers, as compared with historical trends
27 and comparable housing markets outside of New Jersey;

28 (c) whether the data suggests that a two-year extension of the
29 tax credit program may have a material, positive impact on the
30 State's construction, real estate, and any other sectors of the State
31 economy;

32 (d) whether the fiscal condition and outlook of the State has
33 materially changed such as to materially affect the purpose
34 underlying the tax credit program to promote home ownership and
35 strengthen key sectors of the State's economy; and

36 (e) any other information determined by the Office of Revenue
37 and Economic Analysis to be relevant to the costs and benefits of
38 the tax credit program to the State.

39 (2) Upon receipt of the report pursuant to this subsection, the
40 Legislature may adopt and the Governor may sign a joint resolution
41 that extends the tax credit, as described in paragraph (2) of
42 subsection c. of this section, for an additional two years, except as
43 otherwise provided in this section.

44 h. On or before the first day of the third month next following
45 the enactment of P.L. , c. (C.) (pending before the
46 Legislature as this bill), the authority, in coordination with the
47 agency, shall promulgate rules and regulations pursuant to the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.) to effectuate the purposes of the tax credit program. The rules
2 and regulations of the authority shall include, but shall not be
3 limited to:

4 (1) The establishment of a limitation on tax credit conditional
5 approvals and allocations to projects that do not obtain nine-percent
6 tax credits provided for by the federal Low Income Housing Tax
7 Credit program pursuant to section 42 of the Internal Revenue Code
8 (26 U.S.C. s.42), and shall make other appropriate limitations on
9 eligibility; and

10 (2) Detailed guidance on the calculation of development costs,
11 and income derived from a qualified home purchase, for the
12 purposes of calculating the value gap.

13 i. If any amount of tax credits made available pursuant to this
14 section are not conditionally approved in accordance with the
15 timeline established pursuant to subsections a. through d. of this
16 section, then the Legislature shall in the next subsequent fiscal year
17 appropriate an amount equivalent to the value of the non-
18 conditionally approved tax credits to the New Jersey Housing and
19 Mortgage Finance Agency for the purposes of providing further
20 down payment assistance through the loan program established
21 pursuant to section 2 of P.L. , c. (C.) (pending before the
22 Legislature as this bill).¹

23

24 ¹5. a. A municipality shall be provided with an opportunity to
25 contribute funding towards the construction or reconstruction of a
26 home purchased by a low- or moderate-income homebuyer through
27 the tax credit program established pursuant to section 4 of P.L. , c.
28 (C.) (pending before the Legislature as this bill). If a low- or
29 moderate-income homebuyer completes a home purchase as
30 provided in this section, and the municipality contributes no less
31 than \$10,000 towards the construction or reconstruction of the unit,
32 then the agency shall notify the administrative agent or other
33 appropriate official of the municipality that the municipality shall
34 count the property towards the municipality's present or prospective
35 fair share obligation.

36 b. For the purposes of this section "low- or moderate-income
37 homebuyer" means a household that has a gross household income
38 that is less than 80 percent of the median gross household income
39 for households of the same size within the housing region in which
40 the housing is located.¹

41

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

46 b. As part of the pilot program, the department shall develop an
47 application process and promulgate criteria that enables a developer to

- 1 qualify for funding for the rehabilitation or construction of homes for
2 sale. Among such other criteria as the department deems necessary,
3 the department shall require that:
- 4 (1) the homes rehabilitated or constructed for sale are not located
5 in the 500-year floodplain or the inland or coastal climate adjusted
6 floodplain, as defined by Department of Environmental Protection;
- 7 (2) the homes rehabilitated or constructed are to be sold to
8 households with a gross household income not to exceed 120 percent
9 of the median gross household income for households of the same size
10 within the housing region in which the housing is located;
- 11 (3) the prospective homebuyer is a renter that has been impacted
12 by a storm or natural disaster that has prompted the governor to
13 declare a state of emergency; or a first-time homebuyer, including a
14 first-time homebuyer receiving financial assistance from the agency;
- 15 (4) the developer include a purchase discount on the home sale
16 price, as established in accordance with criteria developed by the
17 department; and
- 18 (5) the homes for sale contain a minimum period of affordability
19 as determined by the department.
- 20 c. Funding to successful pilot program applicants shall be
21 provided in a manner determined by the department and pursuant to an
22 agreement between the department and a successful pilot program
23 applicant, and shall be conditioned upon compliance with the
24 provisions of such an agreement as determined by the department.
- 25 d. As part of the pilot program, the department shall permit local
26 government entities to apply for funding to provide to developers to
27 rehabilitate existing homes and construct new, affordable homes for
28 sale, so long as: (1) the application process and criteria imposed by the
29 local government entity on developers is the same as the criteria
30 developed pursuant to subsection b. of this section; (2) the local
31 government entity and the developer enter into an agreement subject to
32 the same requirements as an agreement pursuant to subsection c. of
33 this section; and that funding to the local government entity is
34 conditioned upon compliance with the provisions of an agreement as
35 determined by the department.
- 36 e. In addition to the funding provided to developers pursuant to
37 the pilot program, the department may establish incentives to
38 encourage homebuyers to remain in the homes developed pursuant to
39 this pilot program, including through the provision of down payment
40 assistance as a zero-interest forgivable loan for homebuyers who are
41 not eligible or do not qualify for down payment assistance through
42 other State programs including the program established pursuant to
43 section 2 of P.L. , c. (C.) (pending before the Legislature as
44 this bill).
- 45 f. For the purpose of determining the amount of purchase
46 discount, provided pursuant to paragraph (4) of subsection b. of this
47 section, the department shall establish a sale price, pursuant to an

1 appraisal conducted by a professional appraiser hired by the
2 department.¹

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

10

11 ¹6. There is appropriated \$25 million from the General Fund to
12 the New Jersey Housing and Mortgage Finance Agency to effectuate
13 and defray the costs associated with administering the loan program
14 established pursuant to section 2 of P.L. , c. (C.) (pending
15 before the Legislature as this bill)] 5. a. The pilot program shall be
16 eligible for funding from the federal "American Rescue Plan Act of
17 2021," Pub.L.117-2 to the Division of Disaster Recovery and
18 Mitigation in the Department of Community Affairs for the Resilient
19 Home Construction Pilot Program, established pursuant to section 3 of
20 P.L. , c. (C.) (pending before the Legislature as this bill), and
21 other funding sources, and of such amounts provided, not more than
22 five percent shall be utilized by the department for organizational,
23 administrative, and other work and services, including salaries,
24 equipment, services, and materials necessary to administer the
25 activities authorized by this subsection.

26 b. Notwithstanding the provisions of subsection a. of this section
27 to the contrary, the division may transfer the uncommitted balance of
28 any funds made available pursuant to this section for any use
29 authorized pursuant to P.L. , c. (C.) (pending before the
30 Legislature as this bill). The division shall submit notice to the Joint
31 Budget Oversight Committee, or its successor, no less than five
32 calendar days before the date of a transfer made pursuant to this
33 subsection. The notice shall indicate the amount of the transferred
34 funds and the purpose for which the funds are transferred¹.

35

36 ¹7.] 6.¹ This act shall take effect immediately ¹6., except that
37 sections 3 through 5 of this act shall take effect on the first day of the
38 sixth month next following enactment to provide time for the authority
39 to prepare to administer the tax credit program¹.