

[First Reprint]

ASSEMBLY, No. 4

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 9, 2024

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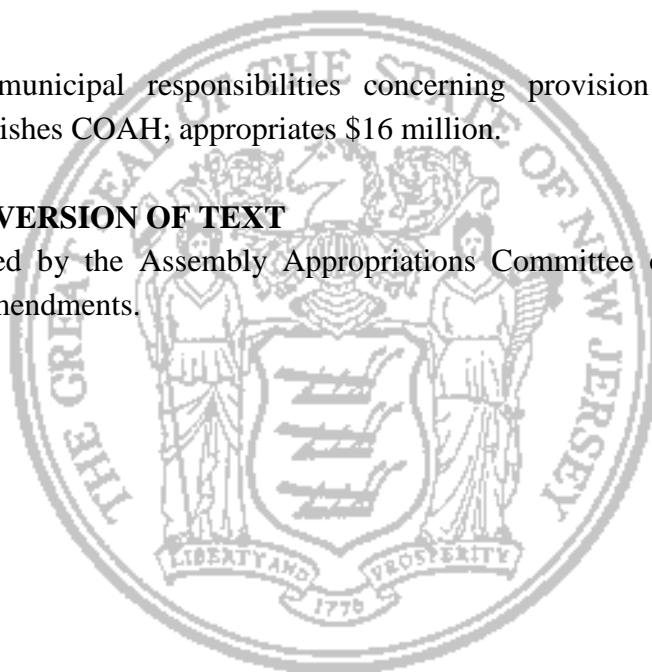
**Assemblymen Moen, Stanley, Assemblywomen Quijano, Speight,
Assemblyman Sampson, Assemblywomen McCann Stamato, Haider, Hall
and Assemblyman Verrelli**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on February 8, 2024, with amendments.



(Sponsorship Updated As Of: 2/12/2024)

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

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

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

11 2. The Legislature finds that:

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

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

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

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

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

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:

¹Assembly AAP committee amendments adopted February 8, 2024.

1 and moderate income] low- and moderate-income housing as required
2 by the Mt. Laurel I and II opinions and other relevant court decisions.

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

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

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

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

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

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

45 l. The council's inability to function ultimately led the Supreme
46 Court in 2015 to order the temporary dissolution of the requirement
47 that administrative remedies be exhausted prior to resolving affordable

1 housing disputes before the court, and allowed the courts to resume
2 their role as the forum of first resort for evaluating municipal
3 compliance with Mount Laurel obligations pursuant to guidelines laid
4 out by the Supreme Court's order.

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

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

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

33 p. ¹The Legislature declares that the "Fair Housing Act,"
34 P.L.1985, c.222 (C.52:27D-301 et al.), as amended and supplemented
35 by P.L. , c. (C.) (pending before the Legislature as this bill), is
36 intended to implement the Mount Laurel doctrine, and that
37 municipalities in compliance with the "Fair Housing Act," P.L.1985,
38 c.222 (C.52:27D-301 et al.) are also in compliance with the Mount
39 Laurel doctrine.

40 q.¹ The Legislature finds that the population of persons aged 65
41 years and older in the State has grown from approximately 13 percent
42 in 1990, to 17 percent in 2021, and that such growth, in conjunction
43 with expected future growth, makes it appropriate for the Legislature
44 to ¹【continue to】¹ allow up to ¹【25】 30¹ percent of the units towards a
45 municipality's prospective affordable housing obligation to be
46 satisfied through the creation of age-restricted housing.

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

- 1 2. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to
2 read as follows:
- 3 4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):
- 4 a. "Council" means the Council on Affordable Housing
5 established in P.L.1985, c.222 (C.52:27D-301 et al.), **【**which shall
6 have primary jurisdiction for the administration of housing obligations
7 in accordance with sound regional planning considerations in this
8 State**】** abolished pursuant to section 3 of P.L. , c. (C.)
9 (pending before the Legislature as this bill).
- 10 b. "Housing region" means a geographic area **【**of not less than
11 two nor more than four contiguous, whole counties which exhibit
12 significant social, economic and income similarities, and which
13 constitute to the greatest extent practicable the primary metropolitan
14 statistical areas as last defined by the United States Census Bureau
15 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.)**】**
16 established pursuant to subsection b. of section 6 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).
- 18 c. **【**"Low income" "Low-income housing" means housing
19 affordable according to federal Department of Housing and Urban
20 Development or other recognized standards for home ownership and
21 rental costs and occupied or reserved for occupancy by households
22 with a gross household income equal to 50 percent or less of the
23 median gross household income for households of the same size within
24 the housing region in which the housing is located.
- 25 d. **【**"Moderate income" "Moderate-income housing" means
26 housing affordable according to federal Department of Housing and
27 Urban Development or other recognized standards for home ownership
28 and rental costs and occupied or reserved for occupancy by households
29 with a gross household income equal to more than 50 **【**%**】** percent but
30 less than 80 percent of the median gross household income for
31 households of the same size within the housing region in which the
32 housing is located.
- 33 e. **【**"Resolution of participation" means a resolution adopted by a
34 municipality in which the municipality chooses to prepare a fair share
35 plan and housing element in accordance with P.L.1985, c.222
36 (C.52:27D-301 et al.)**】** (Deleted by amendment, P.L. , c.)
37 (pending before the Legislature as this bill)
- 38 f. "Inclusionary development" means a residential housing
39 development in which a substantial percentage of the housing units are
40 provided for a reasonable income range of **【**low and moderate
41 income**】** low- and moderate-income households.
- 42 g. "Conversion" means the conversion of existing commercial,
43 industrial, or residential structures for **【**low and moderate income**】**
44 low- and moderate-income housing purposes where a substantial
45 percentage of the housing units are provided for a reasonable income
46 range of **【**low and moderate income**】** low- and moderate-income
47 households.

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

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

6 j. "Prospective need" means a projection of housing needs based
7 on development and growth which is reasonably likely to occur in a
8 region or a municipality, as the case may be, as a result of actual
9 determination of public and private entities. **【In determining**
10 **prospective need, consideration shall be given to approvals of**
11 **development applications, real property transfers, and economic**
12 **projections prepared by the State Planning Commission established by**
13 **sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)】**
14 Prospective need shall be determined by the methodology set forth
15 pursuant to sections 6 and 7 of P.L. , c. (C. and C.)
16 (pending before the Legislature as this bill) for the fourth round and all
17 future rounds of housing obligations.

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

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

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

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

- 1 o. "Builder's remedy" means court imposed site-specific relief for
2 a litigant who seeks to build affordable housing for which the court
3 requires a municipality to utilize zoning techniques such as mandatory
4 set-asides or density bonuses, including techniques which provide for
5 the economic viability of a residential development by including
6 housing that is not for low- and moderate-income households.
- 7 p. "Commissioner" means the Commissioner of Community
8 Affairs.
- 9 q. "Compliance certification" means the certification obtained by a
10 municipality pursuant to section 3 of P.L. , c. (C.) (pending
11 before the Legislature as this bill), that protects the municipality from
12 '[a builder's remedy] exclusionary zoning litigation¹ during the
13 current round of present and prospective need and through July 1 of
14 the year the next round begins, which is also known as a "judgment of
15 compliance" or "judgment of repose." The term "compliance
16 certification" shall include a judgment of repose granted in an action
17 filed pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313).
- 18 r. "County level housing judge" means a judge appointed pursuant
19 to section 5 of P.L. , c. (C.) (pending before the Legislature
20 as this bill), to resolve disputes over the compliance of municipal fair
21 share affordable housing obligations and municipal fair share plans
22 and housing elements, with the "Fair Housing Act," P.L.1985, c.222
23 (C.52:27D-301 et al.
- 24 s. "Deficient housing unit" means housing that: (1) is over fifty
25 years old and overcrowded; (2) lacks complete plumbing; or (3) lacks
26 complete kitchen facilities.
- 27 t. "Department" means the Department of Community Affairs.
- 28 u. ¹"Exclusionary zoning litigation" means litigation to challenge
29 the fair share plan, housing element, or ordinances or resolutions
30 implementing the fair share plan or housing element of a municipality
31 based on alleged noncompliance with the "Fair Housing Act,"
32 P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine,
33 which litigation shall include, but shall not be limited to, litigation
34 seeking a builder's remedy.
- 35 v. ¹ "Fair share plan" means the plan or proposal that is in a form
36 which may readily be adopted, with accompanying ordinances and
37 resolutions, pursuant to subsection f. of section 3 of
38 P.L. , c. (C.) (pending before the Legislature as this bill), by
39 which a municipality proposes to satisfy its obligation to create a
40 realistic opportunity to meet its fair share of low- and moderate-
41 income housing needs of its region and which details the affirmative
42 measures the municipality proposes to undertake to achieve its fair
43 share of low- and moderate-income housing, as provided in the
44 municipal housing element, and addresses the development regulations
45 necessary to implement the housing element, including, but not limited
46 to, inclusionary requirements and development fees, and the
47 elimination of unnecessary housing cost-generating features from the
48 municipal land use ordinances and regulations.

1 ¹**[v.] w.** "Housing element" means that portion of a
 2 municipality's master plan consisting of reports, statements, proposals,
 3 maps, diagrams, and text designed to meet the municipality's fair share
 4 of its region's present and prospective housing needs, particularly with
 5 regard to low- and moderate-income housing, and which shall contain
 6 the municipal present and prospective obligation for affordable
 7 housing, determined pursuant to subsection f. of section 3 of P.L. , c.
 8 (C.) (pending before the Legislature as this bill).

9 ¹**[w.] x.** "Program" means the Affordable Housing Dispute
 10 Resolution Program, established pursuant to section 5 of P.L. , c.
 11 (C.) (pending before the Legislature as this bill).

12 ¹**[x.] y.** "Transitional housing" means temporary housing that:
 13 (1) includes, but is not limited to, single-room occupancy housing
 14 or shared living and supportive living arrangements;
 15 (2) provides access to on-site or off-site supportive services for
 16 very low-income households who have recently been homeless or lack
 17 stable housing;
 18 (3) is licensed by the department; and
 19 (4) allows households to remain for a minimum of six months.
 20 (cf: P.L.2017, c.131, s.199)

21
 22 3. (New section) a. The Council on Affordable Housing,
 23 established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301
 24 et al.), is abolished. Each municipality shall determine its municipal
 25 present and prospective obligations in accordance with the formulas
 26 established in sections 6 and 7 of P.L. , c. (C. and C.)
 27 (pending before the Legislature as this bill) and may take into
 28 consideration the calculations in the report published by the
 29 department in accordance with this section.

30 b. Following the expiration of the third round of affordable
 31 housing obligations on July 1, 2025, a municipality shall have
 32 immunity from ¹**[a builder's remedy]** exclusionary zoning litigation¹
 33 if the municipality complies with the deadlines established in P.L. ,
 34 c. (C.) (pending before the Legislature as this bill) for both
 35 determining present and prospective obligations, and for adopting a
 36 housing element and fair share plan to meet those obligations.

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

43 (2) Immunity from exclusionary zoning litigation shall not limit
 44 the ability of an interested party to challenge the program alleging that,
 45 despite the issuance of compliance certification, a municipality's fair
 46 share obligation, fair share plan, housing element, or ordinances
 47 implementing the fair share plan or housing element are in violation of

1 the Mount Laurel doctrine. However, the program and its actions shall
2 retain a presumption of validity if challenged for an alleged violation
3 described in this paragraph.¹

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

11 d. For the fourth round of affordable housing obligations, the
12 department shall prepare and submit a report to the Governor, and,
13 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
14 Legislature providing a report on the calculations of regional need and
15 municipal obligations for each region of the State ¹**【on or before**
16 **August】** within the earlier of seven months following the effective
17 date of P.L. , c. (C.) (pending before the Legislature as this
18 bill) or December¹ 1, 2024. The department shall provide the report to
19 each municipality in the State at the same time that it submits the
20 report to the Governor and Legislature and shall also publish such
21 report on the department's Internet website. For the fifth round, and
22 each subsequent new round of housing obligations, the department
23 shall prepare and submit a report to each municipality in the State, the
24 Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
25 19.1), to the Legislature on these calculations on or before August 1 of
26 the year prior to the start of the new round and shall also publish such
27 report on the department's Internet website. For each 10-year round of
28 housing obligations, a municipality may take into consideration the
29 calculations in the report prepared by the department pursuant to this
30 subsection in determining its present and prospective obligations.

31 e. Nothing in the provisions of subsections c., d., or f. of this
32 section shall be interpreted to render any calculation in a report by the
33 department published pursuant to this section binding on any
34 municipality or other entity, nor to render any failure by the
35 department to timely conduct the calculations or publish a report
36 required by this section to alter the deadlines or process set forth in
37 this section. The ultimate determination of a municipality's present
38 and prospective need shall be through the process as set forth below.

39 f. (1) (a) With consideration of the calculations contained in the
40 relevant report published by the department pursuant to this section,
41 for each 10-year round of affordable housing obligations beginning
42 with the fourth round, a municipality shall determine its present and
43 prospective fair share obligation for affordable housing in accordance
44 with the formulas established in sections 6 and 7 of P.L. , c. (C.
45 and C.) (pending before the Legislature as this bill) by resolution,
46 which shall describe the basis for the municipality's determination and
47 bind the municipality to adopt a housing element and fair share plan
48 pursuant to paragraph (2) of this subsection based on this

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

3 (b) For the fourth round of affordable housing obligations, this
4 determination of present and prospective fair share obligation shall be
5 made by binding resolution no later than January 31, 2025. After
6 adoption of this binding resolution, the municipality shall file an action
7 regarding the resolution with the program no later than 48 hours
8 following adoption. The resolution, along with the date of filing with
9 the program, shall be published on the program's publicly accessible
10 Internet website. The municipality shall also publish the resolution on
11 its publicly accessible Internet website, if the municipality maintains
12 one. If the municipality does not meet this deadline, it
13 **'[immediately]'** shall lose immunity from **'[builder's remedy]**
14 **exclusionary zoning**¹ litigation until such time as the municipality is
15 determined to have come into compliance with the "Fair Housing
16 Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel
17 doctrine. A determination of the municipality's present and
18 prospective obligation may be established before a county level
19 housing judge as part of any resulting declaratory judgment action
20 pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313), as amended
21 by P.L. , c. (C.) (pending before the Legislature as this bill),
22 or through **'[builder's remedy]** **exclusionary zoning**¹ litigation. If the
23 municipality meets this January 31 deadline, then the municipality's
24 determination of its obligation shall be established by default ¹, **and**
25 **shall bear a presumption of validity**¹ beginning on March 1, 2025, as
26 the municipality's obligation for the fourth round, unless challenged
27 by an interested party on or before February 28, 2025. ¹**The**
28 **municipality's determination of its fair share obligation shall have a**
29 **presumption of validity, if established in accordance with sections 6**
30 **and 7 of P.L. , c. (C. and C.) (pending before the**
31 **Legislature as this bill), in any challenge initiated through the**
32 **program.**¹ An interested party may file a challenge with the program,
33 after adoption of the binding resolution and prior to March 1, 2025,
34 alleging that the municipality's determination of its present and
35 prospective obligation does not comply with the requirements of
36 sections 6 and 7 of P.L. , c. (C. and C.) (pending before
37 the Legislature as this bill). For the fifth round, and each subsequent
38 new round of housing obligations, the deadlines established in this
39 subparagraph shall be on the last day of January, the last day of
40 February, and the first day of March, respectively, of the year of the
41 start of each new round.

42 (c) The Administrative Director of the Courts shall establish
43 procedures for the program to consider a challenge and resolve a
44 dispute initiated by an interested party pursuant to subparagraph (b) of
45 this paragraph. To resolve a challenge, the program shall apply an
46 objective assessment standard to determine whether or not the
47 municipality's calculation of its obligation is compliant with the

1 requirements of sections 6 and 7 of P.L. , c. (C. and C.)
2 (pending before the Legislature as this bill). Any challenge must state
3 with particularity how the municipal calculation fails to comply with
4 sections 6 and 7 of P.L. , c. (C. and C.) (pending before
5 the Legislature as this bill) and include the challenger's own
6 calculation of the fair share obligations in compliance with sections 6
7 and 7 of P.L. , c. (C. and C.) (pending before the
8 Legislature as this bill). The program shall establish procedures to
9 summarily dismiss any objection or challenge that does not meet these
10 minimum standards. For the purpose of efficiency, the program shall,
11 in its own discretion, permit multiple challenges to the same municipal
12 determination to be consolidated. The program's approach to
13 resolving a dispute may include: (i) a finding that the municipality's
14 determination of its present and prospective need obligation did not
15 facially comply with the requirements of sections 6 and 7 of P.L. , c.
16 (C. and C.) (pending before the Legislature as this bill) and
17 thus the municipality's immunity shall be revoked; (ii) an adjustment
18 of the municipality's determination of its present and prospective need
19 obligation to comply with the requirements of sections 6 and 7 of P.L.
20 , c. (C. and C.) (pending before the Legislature as this bill)
21 without revoking immunity; or (iii) a rejection of a challenge and
22 affirm the municipality's determination. The decision shall be
23 provided to the municipality and all parties that have filed challenges
24 no later than March 31 of the year when the current round is expiring
25 and the new round is beginning and concurrently posted on the
26 program's Internet website. The Administrative Director of the Courts
27 shall establish procedures for any further appellate review of such
28 determinations, and may establish an expedited process for
29 consolidated review of any such challenges by the Supreme Court,
30 provided that any party seeking appellate review shall not change the
31 deadlines established for municipal filing of a housing element and fair
32 share plan, and implementing ordinances.

33 (2) (a) A municipality shall adopt a housing element and fair
34 share plan as provided for by the "Fair Housing Act," P.L.1985, c.222
35 (C.52:27D-301 et al.), and propose drafts of the appropriate zoning
36 and other ordinances and resolutions to implement its present and
37 prospective obligation established in paragraph (1) of this subsection
38 on or before June 30, 2025. After adoption of the housing element and
39 fair share plan, and the proposal of drafts of the appropriate zoning and
40 other ordinances and resolutions, the municipality shall within 48
41 hours of adoption or by June 30, 2025, whichever is sooner, file the
42 same with the program as part of the action initiated pursuant to
43 subparagraph (b) of paragraph (1) of this subsection through the
44 program's Internet website. Any municipality that does not do so by
45 June 30, 2025, shall not retain immunity from ¹**builder's remedy**
46 exclusionary zoning¹ litigation until such time as the municipality is
47 determined to have come into compliance with the "Fair Housing
48 Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel

1 doctrine and shall be subject to review through the declaratory
2 judgment process as established in paragraph (3) of this subsection.
3 As part of its housing element and fair share plan, the municipality
4 shall include an assessment of the degree to which the municipality
5 has met its fair share obligation from the prior rounds of affordable
6 housing obligations as established by prior court approval, or approval
7 by the council, and determine to what extent this obligation is
8 unfulfilled or whether the municipality has credits in excess of its prior
9 round obligations. If a prior round obligation remains unfulfilled, or a
10 municipality never received an approval from court or the council for
11 any prior round, the municipality shall address such unfulfilled prior
12 round obligation in its housing element and fair share plan. Units
13 included as part of the municipality's unfulfilled prior round obligation
14 shall not count towards the cap on units in the municipality's
15 prospective need obligation. In addressing prior round obligations, the
16 municipality shall retain any sites that, in furtherance of the prior
17 round obligation, are the subject of a contractual agreement with a
18 developer, or for which the developer has filed a complete application
19 seeking subdivision or site plan approval prior to the date by which the
20 housing element and fair share plan are required to be submitted, and
21 shall demonstrate how any sites that were not built in the prior rounds
22 continue to present a realistic opportunity, which may include
23 proposing changes to the zoning on the site to make its development
24 more likely, and which may also include the dedication of municipal
25 affordable housing trust fund dollars or other monetary or in-kind
26 resources. The municipality shall only plan to replace any sites
27 planned for development as provided by a prior court approval,
28 settlement agreement, or approval by the council, with alternative
29 development plans, if it is determined that the previously planned sites
30 no longer present a realistic opportunity, and the sites in the alternative
31 development plan provide at least an equivalent number of affordable
32 units and are otherwise in compliance with the "Fair Housing Act,"
33 P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine.
34 If a municipality proposes to replace a site for which a complete
35 application seeking subdivision or site plan approval has not been filed
36 prior to date by which the housing element and fair share plan is
37 required to be submitted, there shall be a rebuttable presumption in any
38 challenge filed to the municipality's plan that any site for which a
39 zoning designation was adopted creating a realistic opportunity for the
40 development of a site prior to July 1, 2020, or July 1 of every 10th
41 year thereafter, as applicable, may be replaced with one or more
42 alternative sites that provide a realistic opportunity for at least the
43 same number of affordable units and is otherwise in compliance with
44 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the
45 Mount Laurel doctrine. To the extent a municipality has credits,
46 including bonus credits, from units created during a prior round that
47 are otherwise permitted to be allocated toward the municipality's
48 unfulfilled prior round obligation or present or prospective need

1 obligation in an upcoming round, the municipality shall be entitled to
2 rely on the rules, including rules for bonus credits, applicable for the
3 round during which those credits were accumulated. If a municipality
4 has credits in excess of its prior round obligations, and such excess
5 credits represent housing that will continue to be deed-restricted and
6 affordable through the current round, the municipality may include
7 such housing, and applicable bonus credits, towards addressing the
8 municipality's new calculation of prospective need. Consistent with
9 subsection k. of section 11 of P.L.1985, c.222 (C.52:27D-311), the
10 total number of bonus credits shall in no circumstance exceed 25
11 percent of the municipality's prospective obligation in any round. The
12 municipality may in its plan lower its prospective need obligation to
13 the extent necessary to prevent establishing a prospective need
14 obligation that requires the municipality to provide a realistic
15 opportunity for more than 1,000 housing units, after the application of
16 any excess credits, or to prevent a prospective need obligation that
17 exceeds 20 percent of the total number of households in a municipality
18 according to the most recent federal decennial census, not including
19 any prior round obligation. If a municipality is subject to both a 1,000
20 unit cap or 20 percent cap it may apply whichever cap results in a
21 lower prospective need obligation. For the fifth round, and for each
22 subsequent new round of housing obligations, the deadlines in this
23 paragraph shall be June 30 for the adoption of the housing element and
24 fair share plan, and the proposal of drafts of the appropriate zoning and
25 other ordinances and resolutions to implement its present and
26 prospective obligation, of the year of the start of the new round.

27 (b) Following the filing, in an action, of an adopted housing
28 element and fair share plan pursuant to subparagraph (a) of this
29 paragraph, an interested party may file a response on or before August
30 31, 2025 alleging that the municipality's fair share plan and housing
31 element are not in compliance with the "Fair Housing Act," P.L.1985,
32 c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. Such
33 allegation shall not include a claim that a site on real property
34 proposed by the interested party is a better site than a site in the plan,
35 but rather shall be based on whether the housing element and fair share
36 plan as proposed is compliant with the "Fair Housing Act," P.L.1985,
37 c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. To resolve
38 a challenge, the program shall apply an objective assessment standard
39 to determine whether or not the municipality's housing element and
40 fair share plan is compliant with the "Fair Housing Act," P.L.1985,
41 c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine. Any
42 interested party that files a challenge shall specify with particularity
43 which sites or elements of the municipal fair share plan do not comply
44 with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or
45 the Mount Laurel doctrine, and the basis for alleging such non-
46 compliance. The program shall establish procedures to summarily
47 dismiss any objection or challenge that does not meet these minimum
48 standards. For the purpose of efficiency, the program shall, in its own

1 discretion, permit multiple challenges to the same municipal housing
2 element and fair share plan to be consolidated. If a municipality's fair
3 share plan and housing element is not challenged on or before August
4 31, 2025, then the program shall 'apply an objective standard to
5 conduct a limited' review 'of' the fair share plan and housing element
6 for consistency and to determine whether it 'enables the municipality
7 to satisfy the fair share obligation, applies compliant mechanisms,
8 meets the threshold requirements for rental and family units, does not
9 exceed limits on other unit or category types, and' is compliant with
10 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the
11 Mount Laurel doctrine '[, and]' . The program shall' issue a
12 compliance certification unless these objective standards are not met.
13 The program shall facilitate communication between the municipality
14 and any interested parties for a challenge, and provide the municipality
15 until December 31, 2025 to commit to revising its fair share plan and
16 housing element in compliance with the changes requested in the
17 challenge, or provide an explanation as to why it will not make all of
18 the requested changes, or both. Upon resolution of a challenge, the
19 program shall issue compliance certification, conditioned on the
20 municipality's commitment, as necessary, to revise its fair share plan
21 and housing element in accordance with the resolution of the
22 challenge. The program may also terminate immunity if it finds that
23 the municipality is not determined to come into constitutional
24 compliance at any point in the process. If by December 31, 2025, the
25 municipality and any interested party that filed a response have
26 resolved the issues raised in the response through agreement or
27 withdrawal of the filing, then the program shall review the fair share
28 plan and housing element for consistency and to determine whether it
29 is compliant with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
30 301 et al.) and the Mount Laurel doctrine, and issue a compliance
31 certification unless these objective standards are not met. For the fifth
32 round, and each subsequent new round of housing obligations, the
33 deadline established in this subparagraph for an interested party to file
34 a challenge shall be August 31, and for the municipality to revise its
35 housing element and fair share plan in response, shall be December 31,
36 of the year of the beginning of the new round.

37 (c) For the fourth round of affordable housing obligations, the
38 implementing ordinances and resolutions, proposed pursuant to
39 subparagraph (a) of this paragraph, and incorporating any changes
40 from the program, shall be adopted on or before March 15, 2026. For
41 the fifth round, and each subsequent new round of housing obligations,
42 the deadline established in this subparagraph for the implementing
43 ordinances and resolutions shall be on March 15 of the year following
44 the beginning of the new round. After adoption of the implementing
45 ordinances and resolutions by the municipality, the municipality shall
46 immediately file the ordinances and resolutions with the program
47 through the program's Internet website. Failure to meet the March 15

1 deadline shall result in the municipality losing immunity from
2 ¹~~builder's remedy~~ exclusionary zoning¹ litigation.

3 (d) The program may permit a municipality that still has a
4 remaining dispute by interested parties to retain immunity from
5 ¹~~builder's remedy~~ exclusionary zoning¹ litigation into the year
6 following the year in which a new round begins if the program, or
7 county level housing judge, determines that the municipality has been
8 unable to resolve the issues disputed despite being determined to come
9 into constitutional compliance. The Administrative Director of the
10 Courts shall develop procedures to enable a county level housing judge
11 to resolve this dispute over the issuance of compliance certification
12 through a summary proceeding in Superior Court following the year in
13 which the new round begins. A judge shall be permitted to serve as a
14 county level housing judge for more than one county in the same
15 vicinage. The pendency of such a dispute shall not stay the deadline
16 for adoption of implementing ordinances and resolutions pursuant to
17 this paragraph. ¹The implementing ordinances and resolutions
18 adopted prior to the resolution of the dispute may be subject to
19 changes to reflect the results of the dispute. As an alternative to
20 adopting the implementing ordinances and resolutions by the March
21 15 deadline, a municipality involved in a continuing dispute over the
22 issuance of compliance certification may adopt a binding resolution by
23 this date to commit to adopting the implementing ordinances and
24 resolutions following resolution of the dispute, with necessary
25 adjustments to reflect the resolution of the dispute.¹

26 (e) Once a municipality has received a compliance certification or
27 otherwise has had its fair share obligation and housing element and
28 fair share plan finally determined via judgment of repose or other
29 judgment, the municipality shall make the municipality's fair share
30 plan and housing element, as well as any subsequently adopted
31 implementing ordinances and resolutions, or amendments thereto,
32 available to the department and the program for publication on the
33 department's and program's respective Internet websites.

34 (3) (a) If a municipality fails to ¹materially¹ adhere to any of the
35 deadlines established in paragraphs (1) or (2) of this subsection due to
36 circumstances beyond the control of the municipality, including but
37 not limited to an inability to meet a deadline due to an extreme
38 weather event, then the program, or the county level housing judge, in
39 accordance with court rules, may permit a municipality to have a grace
40 period to come into compliance with the timeline, the length of which,
41 and effect of which on later deadlines, shall be determined on a case-
42 by-case basis.

43 (b) A municipality that has not adopted and published a binding
44 resolution pursuant to paragraph (1) of this subsection or that has not
45 adopted and filed a housing element and fair share plan pursuant to
46 paragraph (2) of this subsection may seek compliance certification by
47 filing an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-

1 313), provided that any ¹**【builder’s remedy】** exclusionary zoning¹
2 litigation filed by a plaintiff against such a municipality prior to such
3 time may proceed notwithstanding such filing. In a municipality that
4 has adopted and published a binding resolution pursuant to paragraph
5 (1) of this subsection and has adopted and filed a housing element and
6 fair share plan pursuant to paragraph (2) of this subsection, a court
7 shall not ¹**【grant a builder’s remedy to a plaintiff in】** consider¹
8 exclusionary zoning litigation during the timeframe after the timely
9 submission of a binding resolution or fair share plan and housing
10 element of a municipality, or both, and before a challenge is submitted,
11 or during the timeframe of a challenge that is pending resolution with
12 the program pursuant to this subsection. A court may ¹**【grant a**
13 **builder’s remedy to a plaintiff in】** consider¹ exclusionary zoning
14 litigation after such timeframe upon a finding that the municipality: (i)
15 is determined to be constitutionally noncompliant with its
16 responsibilities pursuant to the "Fair Housing Act," P.L.1985, c.222
17 (C.52:27D-301 et al.) or is participating in the program in bad faith;
18 (ii) has failed to meet the deadlines established pursuant to P.L. , c.
19 (C.) (pending before the Legislature as this bill); or (iii) has, after
20 receiving compliance certification, failed to comply with the terms of
21 that certification by not actually allowing for the development of the
22 affordable housing as provided for in its fair share plan and housing
23 element through actions, omissions, or both, of a municipality or its
24 subordinate boards.

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

27 (d) A determination by the program as to the present and
28 prospective need obligation or as to issuance of compliance
29 certification pursuant to this section shall be considered a final
30 decision, subject to appellate review pursuant to the procedures set
31 forth in subparagraph (c) of paragraph (1) of subsection f. of this
32 section.

33 (e) A municipality shall not be deemed out of compliance with the
34 deadlines of P.L. , c. (C.) (pending before the Legislature as
35 this bill), or lose immunity from ¹**【builder’s remedy】** exclusionary
36 zoning¹ litigation, due to a failure by the program to promptly
37 maintain and update its Internet website, or other operational failure of
38 the program.

39 ¹g. The program shall be made a party to, and shall be responsible
40 for defending its issuance of compliance certification in, any litigation
41 alleging that, despite the issuance of compliance certification, a
42 municipality’s fair share obligation, fair share plan, housing element,
43 or ordinances implementing the fair share plan or housing element are
44 not in compliance with the Mount Laurel doctrine.¹

45

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

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

30 b. **[Notwithstanding the provisions of subsection a. of this section,**
31 **a municipality which filed a housing element prior to the effective date**
32 **of P.L.1990, c.121, shall be permitted to petition for substantive**
33 **certification at any time within two years following that filing, or**
34 **within one year following the effective date of P.L.1990, c.121,**
35 **whichever shall result in permitting the municipality the longer period**
36 **of time within which to petition.] (Deleted by amendment, P.L. , c.**
37 **(pending before the Legislature as this bill)**

38 **[The Council shall establish procedures for] c. (1) A**
39 **municipality or other interested party may file an action through the**
40 **program seeking a realistic opportunity review [at the midpoint of the**
41 **certification period and shall provide for notice to the public] at the**
42 **midpoint of the certification period and shall provide for notice to the**
43 **public, including a realistic opportunity review of any inclusionary**
44 **development site in the housing element and fair share plan that has**
45 **not received preliminary site plan approval prior to the midpoint of the**
46 **10-year round. If such an action is initiated by a municipality, the**
47 **municipality [shall] may¹ propose one or more alternative sites with**

1 an accompanying development plan or plans that provide a realistic
2 opportunity for the same number of affordable units and is otherwise
3 in compliance with the "Fair Housing Act," P.L.1985, c.222
4 (C.52:27D-301 et al.) and the Mount Laurel doctrine, provided that if
5 the facts demonstrate that the municipality or its subordinate boards
6 have prevented the site from receiving site plan approval, then the
7 program shall reject the municipality's challenge.

8 (2) Any party may file a request for information from the program
9 regarding the progress of development at any inclusionary
10 development site in the housing element and fair share plan of a
11 municipality, or at any alternative site proposed by the municipality.
12 The program may respond to a request independently or in
13 coordination with the department.

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

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

34 b. The ¹【Chief Justice of the Supreme Court】 Administrative
35 Director of the Courts¹ shall designate a member to serve as chair.
36 The ¹【Chief Justice of the Supreme Court】 Administrative Director of
37 the Courts¹ shall make new appointments as needs arise for new
38 appointments.

39 c. The program, in its discretion and in accordance with Rules of
40 Court, may consult or employ the services of one or more special
41 masters or staff to assist it in rendering determinations, resolving
42 disputes, and facilitating communication as required by subparagraph
43 (b) of paragraph (2) of subsection f. of section 3 of P.L. , c.
44 (C.) (pending before the Legislature as this bill). In addition, the
45 program may incorporate any existing or newly established court
46 mediation or alternative dispute resolution process to assist the

1 program in resolving disputes and facilitating communication among
2 municipalities and interested parties.

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

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

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

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

39
40 6. (New section) a. Municipal present need for each 10-year
41 round of affordable housing obligations shall be determined by
42 estimating the deficient housing units occupied by low- and
43 moderate-income households in the region, following a
44 methodology similar to the methodology used to determine third
45 round municipal present need, through the use of most recent
46 datasets made available through the federal decennial census and
47 the American Community Survey.

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

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

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

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

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

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

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

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

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

33
34 7. (New section) a. The present and prospective fair share
35 obligation for low- and moderate-income housing for each
36 municipality in the State shall be determined as described in this
37 section. In addition, the March 8, 2018 unpublished decision of the
38 Superior Court, Law Division, Mercer County, In re Application of
39 Municipality of Princeton shall be referenced as to datasets and
40 methodologies that are not explicitly addressed by this section. These
41 determinations of municipal present and prospective need shall be
42 based on a determination of the present and prospective regional need
43 for low- and moderate-income housing, established pursuant to section
44 6 of P.L. , c. (C.) (pending before the Legislature as this bill).
45 These calculations of municipal present and prospective need shall use
46 necessary datasets that are updated to the greatest extent practicable.

47 b. A municipality's present need obligation shall be determined by
48 estimating the existing deficient housing units currently occupied by

1 low- and moderate-income households within the municipality,
2 following a methodology comparable to the methodology used to
3 determine third round present need, through the use of datasets made
4 available through the federal decennial census and the American
5 Community Survey.

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

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

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

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

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

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

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

31 (2) A municipality's equalized nonresidential valuation factor
32 shall be determined. To determine this factor, the changes in
33 nonresidential property valuations in the municipality, since the
34 beginning of the round preceding the round being calculated, shall be
35 calculated using data published by the Division of Local Government
36 Services in the department. The change in the municipality's
37 nonresidential valuations shall be divided by the regional total change
38 in nonresidential valuations to determine the municipality's share of
39 the regional change as the equalized nonresidential valuation factor.

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

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

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

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

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

24 (b) Planning Area 2 (Suburban) shall have a weighting factor of
25 1.0;

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

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

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

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

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

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

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

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

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

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

40 (m) Highlands Preservation Area shall have a weighting factor of
41 0.0;

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

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

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

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

10 (6) Secondary sources of supply and demand shall be adjusted for
11 by first calculating demolitions of low- and moderate-income housing,
12 and housing creation through low- and moderate-income residential
13 conversions. A municipality's share of low- and moderate-income
14 conversions shall then be subtracted from the sum of each
15 municipality's allocated share of gross prospective need and
16 demolitions of low- and moderate-income housing.

17

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

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

41 b. Notice of intention to take action as specified in subsection
42 a. of this section shall be in writing, provided to the Department of
43 Community Affairs in accordance with subsection a. of section 2 of
44 P.L.2019, c.134 (C.46:10B-49.2), sent to the debtor by registered or
45 certified mail, return receipt requested, at the debtor's last known
46 address, and, if different, to the address of the property which is the
47 subject of the residential mortgage. The notice is deemed to have

1 been effectuated on the date the notice is delivered in person or
2 mailed to the party.

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

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

6 (2) the nature of the default claimed;

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

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

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

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

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

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

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

41 (10) the possible availability of financial assistance for curing a
42 default from programs operated by the State or federal government
43 or nonprofit organizations, if any, as identified by the
44 Commissioner of Banking and Insurance and, if the property is
45 subject to restrictions on affordability, the address and phone
46 number of the municipal affordable housing liaison and of the New
47 Jersey Housing and Mortgage Finance Agency. This requirement

1 shall be satisfied by attaching a list of such programs promulgated
2 by the commissioner;

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

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

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

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

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

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

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

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

1 mortgage alleges that the property subject to the residential
2 mortgage has been abandoned or voluntarily surrendered, the
3 plaintiff shall plead the specific facts upon which this allegation is
4 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
7 other legal action to take possession of the residential property
8 which is the subject of the mortgage has not yet been commenced,
9 the lender shall send a new written notice at least 30 days, but not
10 more than 180 days, in advance of that action.

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

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

22

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

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

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

35

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

38 25. a. The **【Council on Affordable Housing** shall take into
39 consideration the **】** regional master plan **【prior to making any】** shall
40 be taken into account as part of the determination of obligations
41 pursuant to the method in section 7 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) regarding the allocation
43 of the prospective fair share of the housing need **【in any**
44 **municipality in the Highlands Region】** under the "Fair Housing
45 Act," P.L.1985, c.222 (C.52:27D-301 et al.) for **【the】** any fair share
46 period subsequent to **【1999】** the effective date of

1 P.L. , c. (C.) (pending before the Legislature as this bill) if
2 a municipality is in the Highlands Region.

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

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

8

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

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

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

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

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

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

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

47 f. The State of New Jersey or a municipality, or any agency or
48 instrumentality thereof, which, in accordance with a housing

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

13 g. Any individual who offers or negotiates terms of a
14 residential mortgage loan:

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

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

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

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

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

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

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

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

36

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

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

1 owned at the time of the violation or has been purchased since the
2 violation occurred.

3 b. All money collected as fines under subsection a. of this
4 section and subsection a. of section 2 of P.L.1997, c.411 (C.39:4-
5 10.6) shall be deposited in a nonlapsing revolving fund to be known
6 as the "Bicycle and Skating Safety Fund." Interest earned on
7 money deposited in the fund shall accrue to the fund. Money in the
8 fund shall be utilized by the director to provide educational
9 programs devoted to bicycle, roller skating and skateboarding
10 safety. If the director determines that sufficient money is available
11 in the fund, he also may use, in a manner prescribed by rule and
12 regulation, the money to assist **[low income]** low-income families
13 in purchasing approved bicycle helmets. For the purposes of this
14 subsection, **["low income family"]** "low-income family" means a
15 family which qualifies for **[low income]** low-income housing under
16 the standards promulgated by the **[Council on Affordable Housing]**
17 New Jersey Housing and Mortgage Finance Agency pursuant to the
18 provisions of P.L.1985, c.222 (C.52:27D-301 et seq.).
19 (cf: P.L.1997, c.411, s.11)
20

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

23 33. The Legislature finds and declares:

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

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

44 c. A Statewide non-residential development fee program, which
45 permits municipalities **[under the council's jurisdiction]** that have
46 obtained or are in the process of seeking compliance certification to
47 retain these fees for use in the municipality will provide a fair and

1 balanced funding method to address the State's affordable housing
2 needs, while providing an incentive to all municipalities to **【seek**
3 **substantive】** obtain compliance certification **【from the council】**.

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

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

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

30
31 14. Section 34 of P.L.2008, c.46 (C.40:55D-8.3) is amended to
32 read as follows:

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

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

40 "Commissioner" means the Commissioner of Community
41 Affairs.

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

44 "Department" means the Department of Community Affairs.

45 "Developer" means the legal or beneficial owner or owners of a
46 lot or of any land proposed to be included in a proposed
47 development, including the holder of an option or contract to

1 purchase, or other person having an enforceable proprietary interest
2 in such land.

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

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

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

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

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

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

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

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

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

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

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

12 b. All non-residential construction of buildings or structures on
13 property used by churches, synagogues, mosques, and other houses
14 of worship, and property used for educational purposes, which is
15 tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the
16 imposition of a non-residential development fee pursuant to this
17 section, provided that the property continues to maintain its tax
18 exempt status under that statute for a period of at least three years
19 from the date of issuance of the certificate of occupancy. In
20 addition, the following shall be exempt from the imposition of a
21 non-residential development fee:

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

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

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

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

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

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

45 A developer of a non-residential development exempted from the
46 non-residential development fee pursuant to this section shall be
47 subject to it at such time the basis for the exemption set forth in this
48 subsection no longer applies, and shall make the payment of the

1 non-residential development fee, in that event, within three years
2 after that event or after the issuance of the final certificate of
3 occupancy of the non-residential development whichever is later.

4 For purposes of this subsection, "recreational facilities and
5 community center" means any indoor or outdoor buildings, spaces,
6 structures, or improvements intended for active or passive
7 recreation, including but not limited to ball fields, meeting halls,
8 and classrooms, accommodating either organized or informal
9 activity; and "senior center" means any recreational facility or
10 community center with activities and services oriented towards
11 serving senior citizens.

12 If a property which was exempted from the collection of a non-
13 residential development fee thereafter ceases to be exempt from
14 property taxation, the owner of the property shall remit the fees
15 required pursuant to this section within 45 days of the termination
16 of the property tax exemption. Unpaid non-residential development
17 fees under these circumstances may be enforceable by the
18 municipality as a lien against the real property of the owner.

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

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

36 (3) No later than 90 days following the enactment of P.L. , c.
37 (C.) (pending before the Legislature as this bill), any
38 municipality that is or has been authorized to retain and expend
39 non-residential development fees shall provide the department with
40 a detailed accounting of all such fees that have been collected and
41 expended since the inception of the municipal authorization to
42 collect and retain said fees.

43 (4) Beginning with the year after the enactment of P.L. , c.
44 (C.) (pending before the Legislature as this bill), by January
45 15, every municipality that is or has been authorized to retain and
46 expend non-residential development fees shall provide the
47 department with a detailed accounting of all such fees that have
48 been collected and expended previous year.

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

13 e. The construction official responsible for the issuance of a
14 building permit shall notify the local tax assessor of the issuance of
15 the first building permit for a development which may be subject to
16 a non-residential development fee. Within 90 days of receipt of that
17 notice, the municipal tax assessor, based on the plans filed, shall
18 provide an estimate of the equalized assessed value of the non-
19 residential development. The construction official responsible for
20 the issuance of a final certificate of occupancy shall notify the local
21 assessor of any and all requests for the scheduling of a final
22 inspection on property which may be subject to a non-residential
23 development fee. Within 10 business days of a request for the
24 scheduling of a final inspection, the municipal assessor shall
25 confirm or modify the previously estimated equalized assessed
26 value of the improvements of the non-residential development in
27 accordance with the regulations adopted by the Treasurer pursuant
28 to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential
29 development fee pursuant to sections 32 through 38 of P.L.2008,
30 c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the
31 developer of the amount of the non-residential development fee.
32 Should the municipality fail to determine or notify the developer of
33 the amount of the non-residential development fee within 10
34 business days of the request for final inspection, the developer may
35 estimate the amount due and pay that estimated amount consistent
36 with the dispute process set forth in subsection b. of section 37 of
37 P.L.2008, c.46 (C.40:55D-8.6). Upon tender of the estimated non-
38 residential development fee, provided the developer is in full
39 compliance with all other applicable laws, the municipality shall
40 issue a final certificate of occupancy for the subject property.
41 Failure of the municipality to comply with the timeframes or
42 procedures set forth in this subsection may subject it to penalties to
43 be imposed by the commissioner; any penalties so imposed shall be
44 deposited into the "New Jersey Affordable Housing Trust Fund"
45 established pursuant to section 20 of P.L.1985, c.222 as amended
46 by section 17 of P.L.2008, c.46 (C.52:27D-320).

47 A developer of a mixed use development shall be required to pay
48 the Statewide non-residential development fee relating to the non-

1 residential development component of a mixed use development
2 subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

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

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

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

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

32

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

35 36. a. The commissioner **【**, in consultation with the council,**】**
36 shall promulgate, in accordance with the provisions of the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), such regulations as are necessary for the prompt and effective
39 implementation of the provisions and purposes of **【**P.L.2008, c.46
40 (C.52:27D-329.1 et al.)**】** section 8 of P.L.2008, c.46 (C.52:27D-
41 329.2), including, but not limited to, provisions for the payment of
42 any necessary administrative costs related to the assessment of
43 properties and collection of any development fees by a
44 municipality.

45 b. **【**Notwithstanding the authority granted to the commissioner
46 herein, the council**】** The commissioner shall adopt and promulgate,
47 in accordance with the provisions of the "Administrative Procedure

1 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such regulations as are
2 necessary for the effectuation of P.L.2008, c.46 (C.52:27D-329.1 et
3 al.), including but not limited to, regulations necessary for the
4 establishment, implementation, review, monitoring, and
5 enforcement of a municipal affordable housing trust fund and
6 spending plan.
7 (cf: P.L.2008, c.46, s.36)
8

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

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

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

31 c. Whenever the developer of a non-residential development
32 regulated under P.L.1977, c.110 (C.5:12-1 et seq.) has made or
33 committed itself to make a financial or other contribution relating to
34 the provision of housing affordable to low and moderate income
35 households, the non-residential development fee authorized
36 pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) shall be satisfied
37 through the investment obligations made pursuant to P.L.1977,
38 c.110 (C.5:12-1 et seq.).
39 (cf: P.L.2008, c.46, s.38)
40

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

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

47 a. A developer of a property that received preliminary site plan
48 approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46),

1 or final approval, pursuant to section 38 of P.L.1975, c.291
2 (C.40:55D-50) prior to July 17, 2008 and that was subject to the
3 payment of a nonresidential development fee prior to the enactment
4 of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a
5 return of any moneys paid that represent the difference between
6 moneys committed prior to July 17, 2008 and monies paid on or
7 after that date.

8 b. A developer of a non-residential project that, prior to July
9 17, 2008, has been referred to a planning board by the State, a
10 governing body, or other public agency for review pursuant to
11 section 22 of P.L.1975, c.291 (C.40:55D-31) and that was subject to
12 the payment of a nonresidential development fee prior to the
13 enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be
14 entitled to a return of any moneys paid that represent the difference
15 between moneys committed prior to July 17, 2008 and moneys paid
16 on or after that date.

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

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

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

43 f. A developer of a non-residential project that paid a fee
44 imposed pursuant to sections 32 through 38 of P.L.2008, c.46
45 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to June 30, 2010
46 but prior to the effective date of P.L.2011, c.122, shall be entitled to
47 the return of those monies paid, provided that said monies have not
48 already been expended by the municipality on affordable housing

1 projects, and provided that the provisions of section 37 of P.L.2008,
2 c.46 (C.40:55D-8.6), as amended by P.L.2011, c.122 do not permit
3 the imposition of a fee upon the developer of that non-residential
4 property. If moneys are eligible to be returned under this
5 subsection, a claim shall be submitted, in writing, to the same entity
6 to which the moneys were paid, within 120 days of the effective
7 date of P.L.2011, c.122. The entity to whom the funds were paid
8 shall promptly review all requests for returns, to ensure
9 applicability of section 37 of P.L.2008, c.46 (C.40:55D-8.6) and the
10 fees paid shall be returned to the claimant within 30 days of receipt
11 of the claim for return.

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

13

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

16 3. a. There is established in, but not of, the department a Site
17 Improvement Advisory Board, to devise statewide site improvement
18 standards pursuant to section 4 of **【this act】** P.L.1993, c.32
19 (C.40:55D-40.4). The board shall consist of the commissioner or
20 **【his】** the commissioner's designee, who shall be a non-voting
21 member of the board, the Director of the Division of **【Housing】**
22 Codes and Standards in the Department of Community Affairs, who
23 shall be a voting member of the board, the Executive Director of the
24 New Jersey Housing and Mortgage Finance Agency, or the
25 executive director's designee, who shall be a voting member of the
26 board, and 【10】 nine other voting members, to be appointed by the
27 commissioner. The other members shall include two professional
28 planners, one of whom serves as a planner for a governmental entity
29 or whose professional experience is predominantly in the public
30 sector and who has worked in the public sector for at least the
31 previous five years and the other of whom serves as a planner in
32 private practice and has particular expertise in private residential
33 development and has been involved in private sector planning for at
34 least the previous five years, and one representative each from:

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

45 b. Among the members to be appointed by the commissioner
46 who are first appointed, four shall be appointed for terms of two
47 years each, four shall be appointed for terms of three years each,

1 and two shall be appointed for terms of four years each. Thereafter,
2 each appointee shall serve for a term of four years. Vacancies in
3 the membership shall be filled in the same manner as original
4 appointments are made, for the unexpired term. The **【commission】**
5 board shall select a chair from among its members **【a chairman】**.
6 Members may be removed by the commissioner for cause.

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

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

12

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

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

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

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

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

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

45 "Governing body" means the body exercising general legislative
46 powers in a county or municipality according to the terms and

1 procedural requirements set forth in the form of government
2 adopted by the county or municipality.

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

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

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

23 "Persons of **【low and moderate income】** low- and moderate-
24 income" means persons or families who are, in the case of State
25 assisted projects or programs, so defined by the **【Council on**
26 **Affordable Housing in the Department of Community Affairs】** New
27 Jersey Housing and Mortgage Finance Agency, or in the case of
28 federally assisted projects or programs, defined as of **【"low and**
29 **very low income"】** "low- and very low-income" by the United
30 States Department of Housing and Urban Development.

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

33 "Public electric vehicle charging station" means an electric
34 vehicle charging station located at a publicly available parking
35 space.

36 "Public housing" means any housing for persons of **【low and**
37 **moderate income】** low- and moderate-income owned by a
38 municipality, county, the State or the federal government, or any
39 agency or instrumentality thereof.

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

43 "Publicly assisted housing" means privately owned housing
44 which receives public assistance or subsidy, which may be grants or
45 loans for construction, reconstruction, conservation, or
46 rehabilitation of the housing, or receives operational or maintenance

1 subsidies either directly or through rental subsidies to tenants, from
2 a federal, State or local government agency or instrumentality.

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

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

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

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

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

42 "Redevelopment area" or "area in need of redevelopment" means
43 an area determined to be in need of redevelopment pursuant to
44 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6)
45 or determined heretofore to be a "blighted area" pursuant to
46 P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both
47 determinations as made pursuant to the authority of Article VIII,
48 Section III, paragraph 1 of the Constitution. A redevelopment area

1 may include lands, buildings, or improvements which of themselves
2 are not detrimental to the public health, safety or welfare, but the
3 inclusion of which is found necessary, with or without change in
4 their condition, for the effective redevelopment of the area of which
5 they are a part.

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

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

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

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

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

40 "Zero-emission vehicle" means a vehicle certified as a zero
41 emission vehicle pursuant to the California Air Resources Board
42 zero emission vehicle standards for the applicable model year,
43 including but not limited to, battery electric-powered vehicles and
44 hydrogen fuel cell vehicles.

45 "Zero-emission vehicle fueling and charging infrastructure"
46 means infrastructure to charge or fuel zero-emission vehicles,
47 including but not limited to, public electric vehicle charging

1 stations and public hydrogen fueling stations.
2 (cf: P.L.2021, c.168, s.1)

3

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

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

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

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

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

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

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

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

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

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

42 (9) Provide technical assistance and support to nonprofit
43 organizations and private developers interested in constructing **low**
44 **and moderate income** low- and moderate-income housing;

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

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

3 b. All housing projects, programs and actions undertaken
4 pursuant to this act shall accord with the housing element of the
5 master plan of the municipality within which undertaken, and with
6 any fair share housing plan **【filed by】** of the municipality **【with the**
7 **Council on Affordable Housing, based upon the council's criteria**
8 **and guidelines】**, adopted pursuant to the "Fair Housing Act,"
9 P.L.1985, c.222 (C.52:27D-301 et al.) **【**, whether or not the
10 municipality has petitioned for substantive certification of the
11 plan**】**.

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

13

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

16 10. A municipality's housing element shall be designed to
17 achieve the goal of access to affordable housing to meet present and
18 prospective housing needs, with particular attention to **【low and**
19 **moderate income】** low- and moderate-income housing, and shall
20 contain at least:

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

30 b. A projection of the municipality's housing stock, including
31 the probable future construction of **【low and moderate income】**
32 low- and moderate-income housing, for the next ten years, taking
33 into account, but not necessarily limited to, construction permits
34 issued, approvals of applications for development and probable
35 residential development of lands;

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

39 d. An analysis of the existing and probable future employment
40 characteristics of the municipality;

41 e. A determination of the municipality's present and prospective
42 fair share for **【low and moderate income】** low- and moderate-
43 income housing and its capacity to accommodate its present and
44 prospective housing needs, including its fair share for **【low and**
45 **moderate income】** low- and moderate-income housing, as
46 established pursuant to section 3 of P.L. , c. (C.) (pending
47 before the Legislature as this bill);

1 f. A consideration of the lands that are most appropriate for
2 construction of **[low and moderate income]** low- and moderate-
3 income housing and of the existing structures most appropriate for
4 conversion to, or rehabilitation for, **[low and moderate income]**
5 low- and moderate-income housing, including a consideration of
6 lands of developers who have expressed a commitment to provide
7 **[low and moderate income]** low- and moderate-income housing;
8 and

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

16

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

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

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

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

1 P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity
2 maintains such ownership, lease, license, or operational control of
3 such land;

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

8 (d) historic and architecturally important sites listed on the State
9 Register of Historic Places or National Register of Historic Places
10 prior to the **【submission of the petition of substantive certification】**
11 date of filing a housing element and fair share plan pursuant to
12 section 3, or initiation of an action pursuant to section 4 of P.L. __,
13 c. (C. _____ or C. _____) (pending before the Legislature as this
14 bill);

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

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

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

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

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

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

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

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

1 affordability pursuant to paragraph (3) of subsection a. of this section
2 are included in the housing element, those housing units shall be fully
3 credited **【as permitted under the rules of the council】** towards the
4 fulfillment of the municipality's fair share of **【low and moderate**
5 **income】** low- and moderate-income housing. A municipality shall not
6 credit transitional housing units towards more than 10 percent of the
7 municipality's fair share obligation.

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

16 g. A municipality **【which】** that has received **【substantive**
17 **certification from the council】** approval of its housing element and fair
18 share plan for the current round, and **【which】** that has actually effected
19 the construction of the affordable housing units it is obligated to
20 provide, may amend its affordable housing element or zoning
21 ordinances without **【the approval of the council】** losing immunity
22 from ¹【builder's remedy】 exclusionary zoning¹ litigation.

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

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

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

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

15 k. In the fourth round, and in subsequent rounds of affordable
16 housing obligations, a municipality shall be able to receive one credit
17 against its affordable housing obligation for each unit of low- or
18 moderate-income housing, and shall not receive bonus credit for any
19 particular type of low- or moderate-income housing, unless authority
20 to obtain bonus credit is expressly provided pursuant to this section, or
21 other sections of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
22 301 et al.). A municipality shall not receive more than one type of
23 bonus credit for any unit, and a municipality shall not be permitted to
24 satisfy more than 25 percent of its prospective need obligation in the
25 fourth round or any subsequent round through the use of bonus credits.
26 This subsection shall not be construed to limit the ability of a
27 municipality to receive a unit of credit for a low- or moderate-income
28 housing unit that is subject to affordability controls that are scheduled
29 to expire, but are extended **in accordance with the Uniform Housing**
30 **Affordability Controls promulgated by the New Jersey Housing and**
31 **Mortgage Finance Agency** **pursuant to section 21 of P.L.1985, c.222**
32 **(C.52:27D-321)**¹, to the extent that this affordability control extension
33 would otherwise generate this credit. As a part of a fair share plan and
34 housing element adopted pursuant to subsection f. of section 3 of
35 P.L. , c. (C.) (pending before the Legislature as this bill), a
36 municipality shall:

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

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

44 (3) receive one unit of credit and one-half bonus credit for each
45 unit of low- or moderate-income housing located within a one-half
46 mile radius, or one-mile radius for projects located in a Garden State
47 Growth Zone, as defined in section 2 of P.L.2011, c.149 (C.34:1B-
48 243), surrounding a New Jersey Transit Corporation, Port Authority

1 Transit Corporation, or Port Authority Trans-Hudson Corporation rail,
2 bus, or ferry station, including all light rail stations. For the purpose of
3 this subparagraph, the distance from the bus, rail, or ferry station to a
4 housing unit shall be measured from the closest point on the outer
5 perimeter of the station, including any associated park-and-ride lot, to
6 the closest point of the housing project property;

7 (4) receive one unit of credit and one-half bonus credit for a unit
8 of age-restricted housing, provided that a bonus credit for age-
9 restricted housing shall not be applied to more than ¹~~15~~ 10¹ percent
10 of the units of age-restricted housing constructed in compliance with
11 the Uniform Housing Affordability Controls promulgated by the New
12 Jersey Housing and Mortgage Finance Agency in a municipality that
13 count towards the municipality's affordable housing obligation for any
14 single 10-year round of affordable housing obligations;

15 (5) receive one unit of credit and one-half bonus credit for each
16 unit of low- or moderate-income family housing with at least three
17 bedrooms above the minimum number required by the bedroom
18 distribution ¹~~in a given development~~ . This bonus credit shall be
19 calculated by taking into account the full municipal fair share plan and
20 housing element, and the number of units with at least three bedrooms
21 required for projects satisfying the minimum 50 percent family
22 housing requirements. A municipality shall receive the bonus credit
23 pursuant to this paragraph for each unit with at least three bedrooms
24 that are above the minimum number required for the bedroom
25 distribution determined pursuant to the Uniform Housing Affordability
26 Controls promulgated by the New Jersey Housing and Mortgage
27 Finance Agency¹;

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

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

39 (8) receive one unit of credit and ¹~~one-half~~ one¹ bonus credit
40 for each unit of low- or moderate-income housing in a 100 percent
41 affordable housing project ¹~~toward~~ for¹ which the municipality
42 ¹~~either contributes property without which the project would not be~~
43 feasible, or makes contributions from the municipal affordable housing
44 trust fund that cover no less than 10 percent of the project cost]
45 contributes toward the costs of the project. This contribution may
46 consist of: (a) real property donations that enable siting and
47 construction of the project; or (b) contributions from the municipal

1 affordable housing trust fund in support of the project, if the
2 contribution consists of no less than three percent of the project cost¹;

3 '[and]'

4 (9) receive one unit of credit and one-half bonus credit for each
5 unit of very low-income housing for families above the 13 percent of
6 units required to be reserved for very low-income housing pursuant to
7 section 7 of P.L.2008, c.46 (C.52:27D-329.1). ¹In accordance with
8 section 7 of P.L.2008, c.46 (C.52:27D-329.1), a municipality shall not
9 be required to provide that a specific percentage of the units in any
10 specific project be reserved as very low-income housing in order to
11 obtain this bonus credit, and the 13 percent level, for the purpose of
12 bonus credits, shall be calculated against the full prospective need
13 obligation provided pursuant to the fair share plan; and

14 (10) receive one unit of credit and one bonus credit for each unit
15 of low- or moderate-income housing created by transforming an
16 existing rental or ownership unit from a market rate unit to an
17 affordable housing unit. A municipality may only rely on this bonus
18 credit as part of its fair share plan and housing element if the
19 municipality demonstrates that a commitment to follow through with
20 this market to affordable agreement has been made and: (a) this
21 agreement has been signed by the property owner; or (b) the
22 municipality has obtained ownership of the property.¹

23 l. A municipality may not satisfy more than ¹[25] 30¹ percent of
24 the affordable housing units, exclusive of any bonus credits, to address
25 its prospective need affordable housing obligation through the creation
26 of age-restricted housing. A municipality shall satisfy a minimum of
27 50 percent of the actual affordable housing units, exclusive of any
28 bonus credits, created to address its prospective need affordable
29 housing obligation through the creation of housing available to
30 families with children and otherwise in compliance with the
31 requirements and controls established pursuant to section 21 of
32 P.L.1985, c.222 (C.52:27D-321). A municipality shall satisfy a
33 minimum of 25 percent of the actual affordable housing units,
34 exclusive of any bonus credits, to address its prospective need
35 affordable housing obligation, through rental housing, including at
36 least half of that number available to families with children. All units
37 referred to in this section shall otherwise be in compliance with the
38 requirements and controls established pursuant to section 21 of
39 P.L.1985, c.222 (C.52:27D-321).

40 m. All parties shall be entitled to rely upon regulations on
41 municipal credits, adjustments, and compliance mechanisms adopted
42 by the Council on Affordable Housing unless those regulations are
43 contradicted by statute, including but not limited to P.L. c.
44 (C.) (pending before the Legislature as this bill), or binding court
45 decisions.

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

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

3 6. **【The council】** A municipality may take such measures as are
4 necessary to assure compliance with the adaptability requirements
5 imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.), including
6 the inspection of those units which are newly constructed and receive
7 housing credit as provided under section 1 of P.L.2005, c.350
8 (C.52:27D-311a) for adaptability, as part of the monitoring which
9 occurs pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). No housing
10 unit subject to the provisions of section 5 of P.L.2005, c.350
11 (C.52:27D-123.15) and to the provisions of the barrier free subcode
12 adopted by the Commissioner of Community Affairs pursuant to the
13 "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-
14 119 et seq.) shall be eligible for inclusion in a municipal fair share plan
15 unless the unit complies with the requirements set forth thereunder. If
16 any units for which credit was granted in accordance with the
17 provisions of P.L.2005, c.350 (C.52:27D-311a et al.) are found not to
18 conform to the requirements of P.L.2005, c.350 (C.52:27D-311a et
19 al.), **【the council may】** any party representing the interests of
20 households with disabilities may seek a modification to the approval of
21 the municipal fair share plan to require the municipality to amend its
22 fair share plan within 90 days of 【receiving notice from the council】
23 such a finding, to address its fair share obligation pursuant to
24 P.L.1985, c.222 (C.52:27D-301 et al.). In the event that the
25 municipality fails to amend its fair share plan within 90 days of
26 **【receiving such notice, the council may revoke substantive**
27 **certification】** such a finding, the municipality shall lose immunity to
28 '【a builder's remedy】 exclusionary zoning litigation'¹ for the portion
29 of its obligation that is found not to conform to the requirements of
30 P.L.2005, c.350 (C.52:27D-311a et al.).
31 (cf: P.L.2005, c.350, s.6)

32
33 26. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
34 read as follows:

35 20. There is established in the Department of Community
36 Affairs a separate trust fund, to be used for the exclusive purposes
37 as provided in this section, and which shall be known as the "New
38 Jersey Affordable Housing Trust Fund." The fund shall be a non-
39 lapsing, revolving trust fund, and all monies deposited or received
40 for purposes of the fund shall be accounted for separately, by source
41 and amount, and remain in the fund until appropriated for such
42 purposes. The fund shall be the repository of all State funds
43 appropriated for affordable housing purposes, including, but not
44 limited to, the proceeds from the receipts of the additional fee
45 collected pursuant to paragraph (2) of subsection a. of section 3 of
46 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the
47 Statewide non-residential development fees collected pursuant to

1 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or
2 reverting from municipal development trust funds, or other monies
3 as may be dedicated, earmarked, or appropriated by the Legislature
4 for the purposes of the fund. All references in any law, order, rule,
5 regulation, contract, loan, document, or otherwise, to the
6 "Neighborhood Preservation Nonlapsing Revolving Fund" shall
7 mean the "New Jersey Affordable Housing Trust Fund." The
8 department shall be permitted to utilize annually up to 7.5 percent
9 of the monies available in the fund for the payment of any
10 necessary administrative costs related to the administration of the
11 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any
12 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et
13 al.).

14 a. Except as permitted pursuant to subsection g. of this section,
15 and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the
16 commissioner shall award grants or loans from this fund for
17 housing projects and programs in municipalities whose housing
18 elements have **【received substantive certification from the council,】**
19 obtained compliance certification pursuant to section 3 of P.L. , c.
20 (C.) (pending before the Legislature as this bill), or in
21 municipalities receiving State aid pursuant to P.L.1978, c.14
22 (C.52:27D-178 et seq.) **【**, in municipalities subject to a builder's
23 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),
24 or in receiving municipalities in cases where the council has
25 approved a regional contribution agreement and a project plan
26 developed by the receiving municipality**】**.

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

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

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

41 c. For any period which the **【council】** commissioner may
42 approve, the commissioner may assist affordable housing programs
43 **【which】** that are **【not】** located in municipalities **【whose housing**
44 **elements have been granted substantive certification or which are**
45 **not in furtherance of a regional contribution agreement】** that have a
46 pending request for compliance certification; provided that the
47 affordable housing program will meet all or part of a municipal

1 **【low and moderate income】** low- and moderate-income housing
2 obligation.

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

12 (1) Rehabilitation of substandard housing units occupied or to
13 be occupied by **【low and moderate income】** low- and moderate-
14 income households;

15 (2) Creation of accessory **【apartments】** dwelling units to be
16 occupied by **【low and moderate income】** low- and moderate-
17 income households;

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

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

26 (5) Grants of assistance to eligible municipalities for costs of
27 necessary studies, surveys, plans, and permits; engineering,
28 architectural, and other technical services; costs of land acquisition
29 and any buildings thereon; and costs of site preparation, demolition,
30 and infrastructure development for projects undertaken pursuant to
31 an approved regional contribution agreement;

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

40 (7) Other housing programs for **【low and moderate income】**
41 low- and moderate-income housing, including, without limitation,
42 (a) infrastructure projects directly facilitating the construction of
43 **【low and moderate income】** low- and moderate-income housing not
44 to exceed a reasonable percentage of the construction costs of the
45 **【low and moderate income】** low- and moderate-income housing to
46 be provided and (b) alteration of dwelling units occupied or to be
47 occupied by households of **【low or moderate income】** low- or

1 moderate-income and the common areas of the premises in which
2 they are located in order to make them accessible to persons with
3 disabilities.

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

15 f. Notwithstanding the provisions of any other law, rule, or
16 regulation to the contrary, in making grants or loans under this
17 section, the department shall not require that tenants be certified as
18 **【low or moderate income】** low- or moderate-income or that
19 contractual guarantees or deed restrictions be in place to ensure
20 continued **【low and moderate income】** low- and moderate-income
21 occupancy as a condition of providing housing assistance from any
22 program administered by the department, when that assistance is
23 provided for a project of moderate rehabilitation if the project: (1)
24 contains 30 or fewer rental units; and (2) is located in a census tract
25 in which the median household income is 60 percent or less of the
26 median income for the housing region in which the census tract is
27 located, as determined for a three person household by the
28 **【council】** department in accordance with the latest federal
29 decennial census. A list of eligible census tracts shall be
30 maintained by the department and shall be adjusted upon
31 publication of median income figures by census tract after each
32 federal decennial census.

33 g. In addition to other grants or loans awarded pursuant to this
34 section, and without regard to any limitations on such grants or
35 loans for any other purposes herein imposed, the commissioner
36 shall annually allocate such amounts as may be necessary in the
37 commissioner's discretion, and in accordance with section 3 of
38 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
39 under the program created pursuant to P.L.2004, c.140 (C.52:27D-
40 287.1 et al.). Such rental assistance grants shall be deemed
41 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-
42 301 et al.), in order to meet the housing needs of certain **【low**
43 **income】** low-income households who may not be eligible to occupy
44 other housing produced pursuant to P.L.1985, c.222 (C.52:27D-301
45 et al.).

46 h. The department and the State Treasurer shall submit the
47 "New Jersey Affordable Housing Trust Fund" for an audit annually

1 by the State Auditor or State Comptroller, at the discretion of the
2 Treasurer. In addition, the department shall prepare an annual
3 report for each fiscal year, and submit it by November 30th of each
4 year to the Governor and the Legislature, and the Joint Committee
5 on Housing Affordability, or its successor, and post the information
6 to its **【web site】** Internet website, of all activity of the fund,
7 including details of the grants and loans by number of units, number
8 and income ranges of recipients of grants or loans, location of the
9 housing renovated or constructed using monies from the fund, the
10 number of units upon which affordability controls were placed, and
11 the length of those controls. The report also shall include details
12 pertaining to those monies allocated from the fund for use by the
13 State rental assistance program pursuant to section 3 of P.L.2004,
14 c.140 (C.52:27D-287.3) and subsection g. of this section.

15 i. The commissioner may award or grant the amount of any
16 appropriation deposited in the "New Jersey Affordable Housing
17 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-
18 320.1) to municipalities pursuant to the provisions of section 39 of
19 P.L.2009, c.90 (C.40:55D-8.8).
20 (cf: P.L.2017, c.131, s.200)

21

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

24 21. The agency shall establish affordable housing programs to
25 assist municipalities in meeting the obligation of developing
26 communities to provide **【low and moderate income】** low- and
27 moderate-income housing.

28 a. Of the bond authority allocated to it under section 24 of
29 P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a
30 reasonable period of time established by its board, no less than **【25%】**
31 25 percent to be used in conjunction with housing to be constructed or
32 rehabilitated with assistance under **【this act】** P.L.1985, c.222
33 (C.52:27D-301 et al.).

34 b. The agency shall to the extent of available funds, award
35 assistance to affordable housing programs located in municipalities
36 whose housing elements have **【received substantive】** obtained
37 compliance certification **【from the council】** , or which have been
38 subject to a builder's remedy **【or which are in furtherance of a regional**
39 **contribution agreement approved by the council】**. During **【the first 12**
40 **months from the effective date of this act and for】** any **【additional】**
41 period which the **【council】** agency may approve, the agency may
42 assist affordable housing programs **【which are not located in**
43 **municipalities whose housing elements have been granted substantive**
44 **certification or which are not in furtherance of a regional contribution**
45 **agreement】** that have a pending request for compliance certification;
46 provided the affordable housing program will meet all or in part a

1 municipal **[low and moderate income]** low- and moderate-income
2 housing obligation.

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

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

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

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

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

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

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

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

30 (b) Encouraging research in and demonstration projects to develop
31 new and better techniques and methods for increasing the supply,
32 types and financing of housing and housing projects in the State.

33 e. The agency shall establish procedures and guidelines
34 governing the qualifications of applicants, the application procedures
35 and the criteria for awarding grants and loans for affordable housing
36 programs and the standards for establishing the amount, terms and
37 conditions of each grant or loan.

38 f. **[In consultation with the council, the]** The agency , in
39 consultation with the department, shall establish requirements and
40 controls to **[insure]** ensure the maintenance of housing assisted under
41 **[this act]** P.L.1985, c.222 (C.52:27D-301 et al.) as affordable to **[low**
42 **and moderate income]** low- and moderate-income households for a
43 period of not less than ¹**[40]** ¹30 ¹years for ¹newly created ¹rental units
44 ¹**[and]** ¹20 years for for-sale units ¹, except for housing units for
45 which affordability controls are extended for a new term of
46 affordability¹; provided that the agency **[may establish a shorter**
47 **period upon a determination that the economic feasibility of the**

1 program is jeopardized by the requirement and the public purpose
2 served by the program outweighs the shorter period】 may update or
3 amend any controls previously adopted by the agency, in consultation
4 with the Council on Affordable Housing, prior to the effective date of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 provided that the requirements and controls shall, at a minimum, be
7 consistent with the controls as in effect immediately prior to the
8 effective date of P.L. , c. (C.) (pending before the Legislature
9 as this bill), including, but not limited to, any requirements concerning
10 bedroom distributions, affordability averages, and affirmative
11 marketing. ¹For the purpose of housing units for which affordability
12 controls are extended for a new term of affordability: (1) a 20-year
13 minimum deed restriction shall be required if the unit was initially
14 created before October 1, 2001; and (2) a 30-year minimum deed
15 restriction shall be required if the unit was initially created on or
16 following October 1, 2001.¹ The controls may include, among others,
17 requirements for recapture of assistance provided pursuant to 【this
18 act】 P.L.1985, c.222 (C.52:27D-301 et al.) or restrictions on return on
19 equity in the event of failure to meet the requirements of the program.
20 With respect to rental housing financed by the agency pursuant to 【this
21 act】 P.L.1985, c.222 (C.52:27D-301 et al.) or otherwise which
22 promotes the provision or maintenance of 【low and moderate income】
23 low- and moderate-income housing, the agency may waive restrictions
24 on return on equity required pursuant to P.L.1983, c.530 (C.55:14K-1
25 et seq.) which is gained through the sale of the property or of any
26 interest in the property or sale of any interest in the housing sponsor.
27 The agency shall promulgate updated regulations no later than nine
28 months following the effective date of P.L. , c. (C.) (pending
29 before the Legislature as this bill). All parties may continue to rely on
30 regulations previously adopted by the agency pursuant to the authority
31 provided by this section as in effect immediately prior to the effective
32 date of P.L. , c. (C.) (pending before the Legislature as this
33 bill) until new rules and regulations are adopted by the agency.
34 Notwithstanding the provisions of the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the agency, after
36 consultation with department, may adopt, immediately, upon filing
37 with the Office of Administrative Law, said regulations, which shall be
38 effective for a period not to exceed one year from the date of the filing.
39 The agency shall thereafter amend, adopt, or readopt the regulations in
40 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et
41 seq.).
42 g. The agency may establish affordable housing programs
43 through the use or establishment of subsidiary corporations or
44 development corporations as provided in P.L.1983, c.530 (C.55:14K-1
45 et seq.). The subsidiary corporations or development corporations
46 shall be eligible to receive funds provided under 【this act】 P.L.1985,
47 c.222 (C.52:27D-301 et al.) for any permitted purpose.

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

5 i. (1) The department shall promulgate processes and standards
6 for the certification of administrative agents and municipal housing
7 liaisons in the State, as well as standards for measuring performance of
8 and enforcing compliance by administrative agents and municipal
9 housing liaisons in implementing the affordable housing requirements
10 and controls established pursuant to subsection f. of this section.

11 (2) Administrative agents shall be responsible for implementing
12 the requirements and controls set by the regulations promulgated
13 pursuant to subsection (f) of this section. The department may bring
14 via summary proceeding any findings of violation of the
15 responsibilities set forth in this section before a county level housing
16 judge, to docket the violation and issue corrective orders and levy
17 fines.

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

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

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

33 (6) Notwithstanding the provisions of the "Administrative
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
35 the department may adopt, immediately, upon filing with the Office of
36 Administrative Law, regulations to implement the provisions of this
37 subsection, which shall be effective for a period not to exceed one year
38 from the date of the filing. The department shall thereafter amend,
39 adopt, or readopt the regulations in accordance with the requirements
40 of P.L.1968, c.410 (C.52:14B-1 et seq.).

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

42
43 28. Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is amended
44 to read as follows:

45 19. Notwithstanding any rules of the New Jersey Housing and
46 Mortgage Finance Agency to the contrary, the allocation of **low**
47 **income** low-income tax credits shall be made by the agency to the
48 full extent such credits are permitted to be allocated under federal

1 law, including allocations of **[4]** four percent or **[9]** nine percent
2 federal **[low income]** low-income tax credits, and including
3 allocations allowable for partial credits. The affordable portion of
4 any mixed income or mixed use development that is part of a fair
5 share housing plan **[approved by the council, or]** that has obtained
6 compliance certification, including a court-approved judgment of
7 repose or compliance, including, but not limited to, a development
8 that has received a density bonus, shall be permitted to receive
9 allocations of **[low income]** low-income tax credits, provided that
10 the applicant can conclusively demonstrate that the market rate
11 residential or commercial units are unable to internally subsidize
12 the affordable units, and the affordable units are developed
13 contemporaneously with the commercial or market rate residential
14 units.

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

16

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

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

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

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

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

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

26 (2) No later than ¹【90】 180¹ days following the enactment of
 27 P.L. , c. (C.) (pending before the Legislature as this bill), any
 28 municipality that is or has been authorized to impose and collect
 29 development fees from developers of residential property, or payments
 30 in lieu of constructing affordable housing, shall provide the
 31 Department of Community Affairs with a detailed accounting of all
 32 such fees that have been collected and expended since the inception of
 33 the municipal authorization to collect the fees.

34 (3) Beginning with the year after the enactment of P.L. ,
 35 c. (C.) (pending before the Legislature as this bill), by January
 36 15, every municipality that is or has been authorized to impose and
 37 collect development fees from developers of residential property, or
 38 payments in lieu of constructing affordable housing, shall provide the
 39 Department of Community Affairs with a detailed accounting of all
 40 such fees that have been collected and expended the previous year.

41 (4) A municipality may not spend or commit to spend any
 42 affordable housing development fees, including Statewide non-
 43 residential fees collected and deposited into the municipal affordable
 44 housing trust fund, without first obtaining the 【council's】 approval of
 45 the expenditure as part of its compliance certification or by the
 46 department. A municipality shall include in its housing element and
 47 fair share plan adopted pursuant to section 3 of P.L. , c. (C.)

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

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

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

44 (2) Municipal development trust funds shall not be expended
45 unless the municipality has immunity from ¹**【builder's remedy】**
46 exclusionary zoning¹ litigation at the time of the expenditure, and shall
47 not be expended:

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

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

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

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

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

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

30 (5) Not more than 20 percent of the revenues collected from
31 development fees shall be expended on administration, in accordance
32 with rules of the **[council]** department. Such administration may
33 include expending a portion of its affordable housing trust fund on
34 actions and efforts reasonably related to the determination of its fair
35 share obligation and the development of its housing element and fair
36 share plan pursuant to paragraphs (1) and (2) of subsection f. of
37 section 3 of P.L. , c. (C.) (pending before the Legislature as
38 this bill), and for expenses that are reasonably necessary for
39 compliance with the processes of the program, including but not
40 limited to, the costs to the municipality of resolving a challenge under
41 the program.

42 d. The **[council]** department shall establish a time by which all
43 development fees collected within a calendar year shall be expended;
44 provided, however, that all fees shall be committed for expenditure
45 within four years from the date of collection. A municipality that fails
46 to commit to expend the balance required in the development fee trust
47 fund by the time set forth in this section shall be required by the

1 council to transfer the remaining unspent balance at the end of the
2 four-year period to the "New Jersey Affordable Housing Trust Fund,"
3 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320),
4 as amended by P.L.2008, c.46 (C.52:27D-329.1 et al.), to be used in
5 the housing region of the transferring municipality for the authorized
6 purposes of that fund.

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

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

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

18

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

21 10. a. The **【council】** department shall maintain on its Internet
22 website, and also publish on **【a regular】** an annual basis, an up-to-date
23 municipal status report **【concerning the petitions for substantive**
24 **certification of each municipality that has submitted to the council's**
25 **jurisdiction, and shall collect and publish】** based on its collection and
26 publication of information concerning the number affordable
27 housing units actually constructed, construction starts, certificates of
28 occupancy granted, **【rental units maintained, and the number of**
29 **housing units transferred or sold within the previous 12-month period】**
30 the start and expiration dates of deed restrictions, and residential and
31 non-residential development fees collected and expended, including
32 purposes and amounts of such expenditures, along with the current
33 balance in the municipality's affordable housing trust funds. With
34 respect to units actually constructed, the information shall specify the
35 characteristics of the housing, including housing type, tenure,
36 affordability level, number of bedrooms, date and expiration of
37 affordability controls, and whether occupancy is reserved for families,
38 senior citizens, or other special populations. **【No later than 60 months**
39 **after the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.), the**
40 **council shall require each municipality, as a condition of substantive**
41 **certification, to provide, in a standardized electronic media format as**
42 **determined by the council, the details of the fair share plan as adopted**
43 **by the municipality and approved by the council. The council shall**
44 **publish and maintain such approved plans on its website.】**

45 b. (1) No later than ¹【90】 180¹ days following the enactment of
46 P.L. , c. (C.) (pending before the Legislature as this bill), each

1 municipality shall provide the department with the information
2 necessary to comply with this section.

3 (2) Beginning with the year after the enactment of P.L. , c.
4 (C.) (pending before the Legislature as this bill), by January 15,
5 each municipality shall provide the department with the information
6 necessary to comply with this section.

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

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

14

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

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

36 b. Subject to the provisions of subsection d. of this section, a
37 developer of a project consisting of newly-constructed residential
38 units being financed in whole or in part with State funds, including,
39 but not limited to, transit villages designated by the Department of
40 Transportation and units constructed on State-owned property, shall
41 be required to reserve at least 20 percent of the residential units
42 constructed for occupancy by **【low or moderate income】** low- or
43 moderate-income households, as those terms are defined in section
44 4 of P.L.1985, c.222 (C.52:27D-304), with affordability controls as
45 required under the rules of the **【council, unless the municipality in**
46 **which the property is located has received substantive certification**
47 **from the council and such a reservation is not required under the**

1 approved affordable housing plan, or the municipality has been
2 given a judgment of repose or a judgment of compliance by the
3 court, and such a reservation is not required under the approved
4 affordable housing plan] agency.

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

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

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

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

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

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

19

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

22 3. As used in this act:

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

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

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

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

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

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

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

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

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

7 "Low income" means a gross annual household income equal to
8 50% or less of the median gross annual household income for
9 households of the same size within the relevant housing region.

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

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

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

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

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

37

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

40 7. A project of new construction or substantial rehabilitation by
41 a nonprofit organization shall be eligible for a loan under this act if
42 (1) the homes to be constructed or substantially rehabilitated under
43 the project are located within an identifiable neighborhood in which
44 median family income does not exceed the current standard of
45 "moderate income" pursuant to the contemporaneous standards **[of**
46 **the Council on Affordable Housing]** established pursuant to the
47 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.); (2) the
48 homes to be constructed or substantially rehabilitated under the

1 project are sufficient in number and located on the same or
2 contiguous parcels of land or within such proximity to each other as
3 to render the cost per unit of housing practicable for acquisition by
4 lower-income purchasers; and (3) each home constructed or
5 substantially rehabilitated within the project will conform to all
6 requirements of the State Uniform Construction Code, except as to
7 the waiver of any fee or other requirement pursuant to subsection b.
8 of section 9 of this act.

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

10

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

13 3. As used in this act:

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

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

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

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

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

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

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

42 "Low income" means a gross annual household income equal to
43 50% or less of the median gross annual household income for
44 households of the same size within the relevant housing region.

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

1 "Person with disability" means any person who is 18 years of age
2 or older and who fulfills the definition of having a "disability"
3 pursuant to section 3 of the "Americans with Disabilities Act of
4 1990," 42 U.S.C. s.12102).

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

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

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

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

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

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

29

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

46 (2) The department, in consultation with the agency, shall
47 thereafter amend, adopt, or readopt the regulations in accordance with

1 the requirements of the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.).

3 b. The Executive Director of the New Jersey Housing and
4 Mortgage Finance Agency shall adopt, pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), no later than
6 nine months after the effective date of P.L. , c. (C.) (pending
7 before the Legislature as this bill), rules and regulations to update the
8 Uniform Housing Affordability Controls as required pursuant to the
9 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). As part of
10 updating the Uniform Housing Affordability Controls, the agency shall
11 set rules establishing that, for the purpose of ¹newly created¹ low- and
12 moderate-income rental units, a ¹~~[40-year]~~ 30-year¹ minimum deed
13 restriction shall be required. For the purpose of for-sale units, a 20-
14 year minimum deed restriction shall be required. ¹For the purpose of
15 housing units for which affordability controls are extended for a new
16 term of affordability: (1) a 20-year minimum deed restriction shall be
17 required if the unit was initially created before October 1, 2001; and
18 (2) a 30-year minimum deed restriction shall be required if the unit
19 was initially created on or following October 1, 2001.¹

20

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

45

46 38. a. There is appropriated to the Affordable Housing Dispute
47 Resolution Program, established pursuant to subsection a. of section
48 5 of P.L. , c. (C.) (pending before the Legislature as this

1 bill), from the General Fund \$12,000,000 for the purposes of
2 carrying out its responsibilities for the fourth round of affordable
3 housing obligations, as established pursuant to section 5 of
4 P.L. , c. (C.) (pending before the Legislature as this bill).

5 b. There is appropriated to the Department of Community
6 Affairs, from the General Fund, \$4,000,000 for the purposes of
7 carrying out responsibilities allocated to it pursuant to P.L. , c.
8 (C.) (pending before the Legislature as this bill).

9
10 39. This act shall take effect immediately, and shall apply to
11 each new round of affordable housing obligations that begins
12 following enactment.