

ASSEMBLY, No. 2296

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Permits municipality to authorize municipal clerk to submit certain written statements concerning affordable housing, limits certain HMFA powers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning affordable housing administration, including
2 municipal approval of certain affordable housing projects,
3 supplementing and amending P.L.1985, c.222, and amending
4 P.L.1983, c.530.

5

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

8

9 1. (New section) A municipal governing body may, by
10 ordinance, delegate to its municipal clerk the authority to provide,
11 on the governing body's behalf, a written statement in support of
12 one or more affordable housing programs or projects, or indicating
13 a need for the programs or projects in the municipality, in order to
14 satisfy any other provision of statute or regulation, including but not
15 limited to subsection a. of section 20 of P.L.1985, c.222 (C.52:27D-
16 320) and subsection c. of section 6 of P.L.1983, c.530 (C.55:14K-
17 6), provided that the proposed affordable housing program or
18 project conforms to the provisions of the municipality's fair share
19 plan and housing element.

20

21 2. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
22 read as follows:

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

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

Matter underlined thus is new matter.

1 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any
2 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et
3 al.).

4 a. (1) Except as permitted pursuant to subsection g. of this
5 section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the
6 commissioner shall award grants or loans from this fund for
7 housing projects and programs in municipalities whose housing
8 elements have received substantive certification from the council, in
9 municipalities receiving State aid pursuant to P.L.1978, c.14
10 (C.52:27D-178 et seq.), in municipalities subject to a builder's
11 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),
12 or in receiving municipalities in cases where the council has
13 approved a regional contribution agreement and a project plan
14 developed by the receiving municipality.

15 (2) Of those monies deposited into the "New Jersey Affordable
16 Housing Trust Fund" that are derived from municipal development
17 fee trust funds, or from available collections of Statewide non-
18 residential development fees, a priority for funding shall be
19 established for projects in municipalities that have petitioned the
20 council for substantive certification.

21 (3) Programs and projects in any municipality shall be funded
22 only after receipt by the commissioner of either:

23 (a) a written statement in support of the program or project from
24 the municipal governing body; or

25 (b) a written statement in support of the program or project from
26 the municipal clerk, if the municipality has enacted an ordinance
27 pursuant to section 1 of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

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

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

41 d. Amounts deposited in the "New Jersey Affordable Housing
42 Trust Fund" shall be targeted to regions based on the region's
43 percentage of the State's low and moderate income housing need as
44 determined by the council. Amounts in the fund shall be applied for
45 the following purposes in designated neighborhoods:

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

- 1 (2) Creation of accessory apartments to be occupied by low and
2 moderate income households;
- 3 (3) Conversion of non-residential space to residential purposes;
4 provided a substantial percentage of the resulting housing units are
5 to be occupied by low and moderate income households;
- 6 (4) Acquisition of real property, demolition and removal of
7 buildings, or construction of new housing that will be occupied by
8 low and moderate income households, or any combination thereof;
- 9 (5) Grants of assistance to eligible municipalities for costs of
10 necessary studies, surveys, plans, and permits; engineering,
11 architectural, and other technical services; costs of land acquisition
12 and any buildings thereon; and costs of site preparation, demolition,
13 and infrastructure development for projects undertaken pursuant to
14 an approved regional contribution agreement;
- 15 (6) Assistance to a local housing authority, nonprofit or limited
16 dividend housing corporation, or association or a qualified entity
17 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for
18 rehabilitation or restoration of housing units which it administers
19 which: (a) are unusable or in a serious state of disrepair; (b) can be
20 restored in an economically feasible and sound manner; and (c) can
21 be retained in a safe, decent, and sanitary manner, upon completion
22 of rehabilitation or restoration; and
- 23 (7) Other housing programs for low and moderate income
24 housing, including, without limitation, (a) infrastructure projects
25 directly facilitating the construction of low and moderate income
26 housing not to exceed a reasonable percentage of the construction
27 costs of the low and moderate income housing to be provided and
28 (b) alteration of dwelling units occupied or to be occupied by
29 households of low or moderate income and the common areas of the
30 premises in which they are located in order to make them accessible
31 to persons with disabilities.
- 32 e. Any grant or loan agreement entered into pursuant to this
33 section shall incorporate contractual guarantees and procedures by
34 which the division will ensure that any unit of housing provided for
35 low and moderate income households shall continue to be occupied
36 by low and moderate income households for at least 20 years
37 following the award of the loan or grant, except that the division
38 may approve a guarantee for a period of less than 20 years where
39 necessary to ensure project feasibility.
- 40 f. Notwithstanding the provisions of any other law, rule, or
41 regulation to the contrary, in making grants or loans under this
42 section, the department shall not require that tenants be certified as
43 low or moderate income or that contractual guarantees or deed
44 restrictions be in place to ensure continued low and moderate
45 income occupancy as a condition of providing housing assistance
46 from any program administered by the department, when that
47 assistance is provided for a project of moderate rehabilitation if the
48 project: (1) contains 30 or fewer rental units; and (2) is located in a

1 census tract in which the median household income is 60 percent or
2 less of the median income for the housing region in which the
3 census tract is located, as determined for a three person household
4 by the council in accordance with the latest federal decennial
5 census. A list of eligible census tracts shall be maintained by the
6 department and shall be adjusted upon publication of median
7 income figures by census tract after each federal decennial census.

8 g. In addition to other grants or loans awarded pursuant to this
9 section, and without regard to any limitations on such grants or
10 loans for any other purposes herein imposed, the commissioner
11 shall annually allocate such amounts as may be necessary in the
12 commissioner's discretion, and in accordance with section 3 of
13 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
14 under the program created pursuant to P.L.2004, c.140 (C.52:27D-
15 287.1 et al.). Such rental assistance grants shall be deemed
16 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-
17 301 et al.), in order to meet the housing needs of certain low income
18 households who may not be eligible to occupy other housing
19 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

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

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

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

42

43 3. Section 5 of P.L.1983, c.530 (C.55:14K-5) is amended to read
44 as follows:

45 5. In order to carry out the purposes and provisions of this act,
46 the agency, in addition to any powers granted to it elsewhere in this
47 act, shall have the following powers:

- 1 a. To adopt bylaws for the regulation of its affairs and the
2 conduct of its business; to adopt an official seal and alter the same
3 at pleasure; to maintain an office at such place or places within the
4 State as it may designate; to sue and be sued in its own name;
- 5 b. To conduct examinations and hearings and to hear testimony
6 and take proof, under oath or affirmation, at public or private
7 hearings, on any matter material for its information and necessary
8 to carry out the provisions of this act;
- 9 c. To issue **【subpenas】** subpoenas requiring the attendance of
10 witnesses and the production of books and papers pertinent to any
11 hearing before the agency, or before one or more of the members of
12 the agency appointed by it to conduct a hearing;
- 13 d. To apply to any court, having territorial jurisdiction of the
14 offense, to have punished for contempt any witness who refuses to
15 obey a **【subpena】** subpoena, or who refuses to be sworn or affirmed
16 to testify, or who is guilty of any contempt after summons to
17 appear;
- 18 e. To acquire by purchase, gift, foreclosure or condemnation any
19 real or personal property, or any interest therein, to enter into any
20 lease of property and to hold, sell, assign, lease, encumber,
21 mortgage or otherwise dispose of any real or personal property, or
22 any interest therein, or mortgage lien interest owned by it or under
23 its control, custody or in its possession and release or relinquish any
24 right, title, claim, lien, interest, easement or demand however
25 acquired, including any equity or right of redemption, in property
26 foreclosed by it and to do any of the foregoing by public or private
27 sale, with or without public bidding, notwithstanding the provisions
28 of any other law;
- 29 f. To acquire, hold, use and dispose of its income revenues,
30 funds and moneys;
- 31 g. To adopt rules and regulations expressly authorized by this
32 act and such additional rules and regulations as shall be necessary
33 or desirable to carry out the purposes of this act. The agency shall
34 adopt regulations which provide for consultation with housing
35 sponsors regarding the formulation of agency rules and regulations
36 governing the operation of housing projects and which require the
37 agency to consult with the affected housing sponsor prior to taking
38 any and all specific proposed agency actions relating to the
39 sponsor's housing project. The agency shall publish all rules and
40 regulations and file them with the Secretary of State;
- 41 h. To borrow money or secure credit on a temporary, short-term,
42 interim or long-term basis, and to issue negotiable bonds and to
43 secure the payment thereof and to provide for the rights of the
44 holders thereof;
- 45 i. To make and enter into and enforce all contracts and
46 agreements necessary, convenient or desirable to the performance
47 of its duties and the execution of its powers under this act, including

- 1 contracts or agreements with qualified financial institutions for the
2 servicing and processing of eligible loans owned by the agency;
- 3 j. To appoint and employ an executive director, who shall be the
4 chief executive officer of the agency, and additional officers, who
5 need not be members of the agency as the agency deems advisable,
6 and to employ architects, engineers, attorneys, accountants,
7 construction and financial experts and other employees and agents
8 as may be necessary in its judgment and to determine their
9 qualifications, terms of office, duties and compensation; and to
10 promote and discharge such officers, employees and agents, all
11 without regard to the provisions of Title 11 of the Revised Statutes,
12 Civil Service;
- 13 k. To contract for and to receive and accept any gifts, grants,
14 loans or contributions from any source, of money, property, labor or
15 other things of value, to be held, used and applied to carry out the
16 purposes of this act subject to the conditions upon which the grants
17 and contributions may be made, including, but not limited to, gifts
18 or grants from any department or agency of the United States or the
19 State for payment of rent supplements to eligible families or for the
20 payment in whole or in part of the interest expense for a housing
21 project or for any other purpose consistent with this act;
- 22 l. To enter into agreements to pay annual sums in lieu of taxes to
23 any political subdivision of the State with respect to any real
24 property owned or operated directly by the agency;
- 25 m. To procure insurance against any loss in connection with its
26 operations, property and other assets (including eligible loans) in
27 the amounts and from the insurers it deems desirable;
- 28 n. To the extent permitted under its contract with the holders of
29 bonds of the agency, to consent to any modification with respect to
30 rate of interest, time and payment of any installment of principal or
31 interest, security or any other terms of any loan to an institutional
32 lender, eligible loan, loan commitment, contract or agreement of
33 any kind to which the agency is a party;
- 34 o. To the extent permitted under its contract with the holders of
35 bonds of the agency, to enter into contracts with any housing
36 sponsor containing provisions enabling the housing sponsor to
37 reduce the rental or carrying charges to persons unable to pay the
38 regular schedule of charges where, by reason of other income or
39 payment from the agency, any department or agency of the United
40 States or the State, these reductions can be made without
41 jeopardizing the economic stability of the housing project;
- 42 p. To make and collect the fees and charges it determines are
43 reasonable;
- 44 q. To the extent permitted under its contract with the holders of
45 bonds of the agency, to invest and reinvest any moneys of the
46 agency not required for immediate use, including proceeds from the
47 sale of any obligations of the agency, in obligations, securities or
48 other investments as the agency deems prudent. All functions,

1 powers and duties relating to the investment or reinvestment of
2 these funds, including the purchase, sale or exchange of any
3 investments or securities may, upon the request of the agency, be
4 exercised and performed by the Director of the Division of
5 Investment in the Department of the Treasury, in accordance with
6 written directions of the agency signed by an authorized officer,
7 without regard to any other law relating to investments by the
8 Director of the Division of Investment;

9 r. To provide, contract or arrange for, where, by reason of the
10 financing arrangement, review of the application and proposed
11 construction of a project is required by or in behalf of any
12 department or agency of the United States, consolidated processing
13 of the application or supervision or, in the alternative, to delegate
14 the processing in whole or in part to any such department or
15 agency;

16 s. To make eligible loans, and to participate with any
17 department, agency or authority of the United States or of any state
18 thereof, this State, a municipality, or any banking institution,
19 foundation, labor union, insurance company, trustee or fiduciary in
20 an eligible loan, secured by a single participating mortgage, by
21 separate mortgages or by other security agreements, the interest of
22 each having equal priority as to lien in proportion to the amount of
23 the loan so secured, but which need not be equal as to interest rate,
24 time or rate of amortization or otherwise, and to undertake
25 commitments to make such loans;

26 t. To assess from time to time the housing needs of any
27 municipality which is experiencing housing shortages as a result of
28 the authorization of casino gaming and to address those needs when
29 planning its programs;

30 u. To sell any eligible loan made by the agency or any loan to an
31 institutional lender owned by the agency, at public or private sale,
32 with or without bidding, either singly or in groups, or in shares of
33 loans or shares of groups of loans, issue securities, certificates or
34 other evidence of ownership secured by such loans or groups of
35 loans, sell the same to investors, arrange for the marketing of the
36 same; and to deposit and invest the funds derived from such sales in
37 any manner authorized by this act;

38 v. To make commitments to purchase, and to purchase, service
39 and sell, eligible loans, pools of loans or securities based on loans,
40 insured or issued by any department or agency of the United States,
41 and to make loans directly upon the security of any such loan, pools
42 of loans or securities;

43 w. To provide such advisory consultation, training and
44 educational services as will assist in the planning, construction,
45 rehabilitation and operation of housing including but not limited to
46 assistance in community development and organization, home
47 management and advisory services for residents and to encourage

- 1 community organizations and local governments to assist in
2 developing housing;
- 3 x. To encourage research in and demonstration projects to
4 develop new and better techniques and methods for increasing the
5 supply, types and financing of housing and housing projects in the
6 State and to engage in these research and demonstration projects
7 and to receive and accept contributions, grants or aid, from any
8 source, public or private, including but not limited to the United
9 States and the State, for carrying out this purpose;
- 10 y. To provide to housing sponsors, through eligible loans or
11 otherwise, financing, refinancing or financial assistance for fully
12 completed, as well as partially completed, projects which may or
13 may not be occupied, if the projects meet all the requirements of
14 this act, except that, prior to the making of the mortgage loans by
15 the agency, said projects need not have complied with sections
16 7a.(9) and 42 of this act;
- 17 z. To encourage and stimulate cooperatives and other forms of
18 housing with tenant participation;
- 19 aa. To promote innovative programs for home ownership,
20 including but not limited to lease-purchase programs, employer-
21 sponsored housing programs, and tenant cooperatives;
- 22 bb. To set aside and designate, out of the funds that are or may
23 become available to it for the purpose of financing housing in this
24 State pursuant to the terms of this act, certain sums or proportions
25 thereof to be used for the financing of housing and home-ownership
26 opportunities, including specifically lease-purchase arrangements,
27 provided by employers to their employees through nonprofit or
28 limited-dividend corporations or associations created by employers
29 for that purpose; and to establish priority in funding, offer bonus
30 fund allocations, and institute other incentives to encourage such
31 employer-sponsored housing and home-ownership opportunities;
- 32 cc. Subject to any agreement with bondholders, to collect,
33 enforce the collection of, and foreclose on any property or collateral
34 securing its eligible loan or loans to institutional lenders and
35 acquire or take possession of such property or collateral and sell the
36 same at public or private sale, with or without bidding, and
37 otherwise deal with such collateral as may be necessary to protect
38 the interests of the agency therein;
- 39 dd. To administer and to enter into agreements to administer
40 programs of the federal government or any other entity which are in
41 furtherance of the purposes of this act;
- 42 ee. To do and perform any acts and things authorized by this act
43 under, through, or by means of its officers, agents or employees or
44 by contract with any person, firm or corporation; and
- 45 ff. To do any acts and things necessary or convenient to carry
46 out the powers expressly granted in this act , so long as no
47 duplication of authority or actions negatively impact the efficiency

1 of the programs to produce, manage, or maintain the financial
2 viability of projects.

3 (cf: P.L.1983, c.530, s.5)

4

5 4. Section 6 of P.L.1983, c.530 (C.55:14K-6) is amended to read
6 as follows:

7 6. a. The agency, in order to encourage the development,
8 operation, maintenance, construction, improvement and
9 rehabilitation of safe and adequate housing in the State, is hereby
10 authorized and empowered to finance, by the making of eligible
11 loans or otherwise, the construction, improvement or rehabilitation
12 of housing projects in the State.

13 b. The agency, in order to carry out the purposes of subsection a.
14 of this section, may:

15 (1) accept applications for loans;

16 (2) enter into agreements with housing sponsors for permanent
17 loans and temporary loans or advances in anticipation of permanent
18 loans for the development, operation, maintenance, construction,
19 improvement or rehabilitation of housing projects; and

20 (3) make permanent loans and temporary loans or advances in
21 anticipation of permanent loans to housing sponsors under the
22 provisions of this act.

23 c. No application for a loan for the construction, improvement or
24 rehabilitation of a housing project containing rental units to be
25 rented at below market rates to be located in any municipality shall
26 be processed unless there is already filed with the secretary of the
27 agency either:

28 (1) a certified copy of a resolution adopted by the municipality
29 reciting that there is a need for such housing project in the
30 municipality; or

31 (2) a written statement from the municipal clerk, if the
32 municipality has enacted an ordinance pursuant to section 1 of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 stating that there is a need for such housing project in the
35 municipality.

36 d. Every application for a loan to a housing sponsor shall be
37 made on forms furnished by the agency and shall contain such
38 information as the agency shall require.

39 e. In considering any application for a loan for a housing
40 project, the agency shall give first priority to applications for loans
41 for the construction, improvement or rehabilitation of housing
42 projects which will be a part of or constructed in connection with an
43 urban redevelopment program, and also shall give consideration to:

44 (1) the comparative need of the area to be served by the
45 proposed project for housing;

46 (2) the ability of the applicant to construct, operate, manage and
47 maintain the proposed housing project;

- 1 (3) the existence of zoning or other regulations to protect
2 adequately the proposed housing project against detrimental future
3 uses which could cause undue depreciation in the value of the
4 project;
- 5 (4) the availability of adequate parks, recreational areas,
6 utilities, schools, transportation and parking;
- 7 (5) the availability of adequate, accessible places of
8 employment; and
- 9 (6) where applicable, the eligibility of the applicant to make
10 payments to the municipality in which the housing project is located
11 in lieu of local property taxes.
12 (cf: P.L.1983, c.530, s.6)

13
14 5. This act shall take effect immediately.
15
16

17 STATEMENT
18

19 This bill permits the governing body of a municipality to
20 delegate to its municipal clerk, by ordinance, the authority to
21 provide, on the governing body's behalf, a written statement in
22 support of one or more affordable housing programs or projects, or
23 reciting the need for one or more affordable housing programs or
24 projects, in the municipality, in order to satisfy any other provision
25 of statute or regulation, including but not limited to subsection a. of
26 section 20 of P.L.1985, c.222 (C.52:27D-320) and section 6 of
27 P.L.1983, c.530 (C.55:14K-6), provided that the proposed
28 affordable housing program or project conforms to the provisions of
29 the municipality's fair share plan and housing element.

30 The bill also enables affordable housing programs and projects in
31 a municipality to:

- 32 (1) receive funding from the State Affordable Housing Trust
33 Fund by submitting a written statement in support of the program
34 from the municipal clerk, instead of having to submit a written
35 statement in support of the program or project from the municipal
36 governing body; and
- 37 (2) be processed by the New Jersey Housing and Mortgage
38 Finance Agency (HMFA) by submitting a written statement from
39 the municipal clerk stating that there is a need for such a housing
40 project in the municipality, instead of requiring a resolution stating
41 such a need by the governing body of the municipality.

42 The bill would further limit an existing grant of authority the
43 HMFA to do any acts and things necessary or convenient to carry
44 out its powers, so that the authority only extends to acts that do not
45 negatively impact the efficiency of the programs to produce,
46 manage, or maintain the financial viability of projects. Finally, the
47 bill would make technical changes and would take effect
48 immediately.