

# ASSEMBLY, No. 3388

## STATE OF NEW JERSEY

### 221st LEGISLATURE

INTRODUCED FEBRUARY 1, 2024

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman MITCHELLE DRULIS**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Co-Sponsored by:**

**Assemblywoman McCoy**

**SYNOPSIS**

Facilitates construction and rehabilitation of affordable housing built in part through sweat equity by eventual occupant.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/22/2024)**

1 AN ACT facilitating affordable housing production through sweat  
2 equity, amending and supplementing P.L.1985, c.222, and  
3 amending P.L.2005, c.350.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. The Commissioner of Community Affairs  
9 shall establish an application process, and shall approve appropriate  
10 applicants as sweat equity certified nonprofits. The commissioner  
11 shall approve an applicant's certification application if the  
12 applicant:

13 (1) possesses appropriate experience in facilitating the  
14 construction or rehabilitation, or both, of dwelling units, in part  
15 through the provision of sweat equity;

16 (2) maintains appropriate controls on the affordability of  
17 dwelling units produced, in part through sweat equity, for low- or  
18 moderate-income households, to ensure that the units remain  
19 affordable to low- and moderate-income households for a  
20 reasonable period of time;

21 (3) maintains a policy of promoting the opportunities that the  
22 organization offers in the production of housing through sweat  
23 equity to a diverse cross-section of the public; and

24 (4) is organized pursuant to the "New Jersey Nonprofit  
25 Corporation Act," N.J.S.15A:1-1 et seq., or is a corporation  
26 organized pursuant to Title 16 of the Revised Statutes.

27 b. If sweat equity is used in the construction or rehabilitation of  
28 a low- or moderate-income dwelling unit, and the construction or  
29 rehabilitation of the unit is facilitated by a nonprofit entity that is  
30 approved as a sweat equity certified nonprofit, then:

31 (1) the adaptability requirements of P.L.2005, c.350  
32 (C.52:27D-311a et al.) shall not apply;

33 (2) the provisions of law, rule or regulation, designed to  
34 implement P.L.1985, c.222 (C.52:27D-301 et al.) that require an  
35 affordable unit to be affirmatively marketed to the public in order to  
36 count toward the fair share affordable housing obligation of a  
37 municipality, shall not apply, including but not limited to P.L.2020,  
38 c.51 (C.52:27D-321.3 et seq.); and

39 (3) the controls on affordability maintained by the sweat equity  
40 certified nonprofit pursuant to paragraph (2) of subsection a. of this  
41 section may be substituted for the equivalent requirements of the  
42 Uniform Housing Affordability Controls promulgated by the New  
43 Jersey Housing and Mortgage Finance Agency.

44 c. The commissioner shall direct the Office of Local Planning  
45 Services, or other appropriate offices or divisions of the Department  
46 of Community Affairs, to provide expedited assistance to sweat  
47 equity certified nonprofits and municipalities in:

**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 (1) ensuring that units, for which sweat equity is used in the  
2 construction or rehabilitation pursuant to subsection b. of this  
3 section, are counted towards the fair share affordable housing  
4 obligation of the municipality;

5 (2) facilitating the transfer of abandoned property in the  
6 municipality, as appropriate for the purpose of low- and moderate-  
7 income housing production, to the sweat equity certified nonprofit  
8 through the necessary processes, as provided in statutes and  
9 regulations, including but not limited to the process for individual  
10 abandoned property takings pursuant to paragraph (2) of subsection  
11 c. of section 37 of the “New Jersey Urban Redevelopment Act,”  
12 P.L.1996, c.62 (C.55:19-56); and

13 (3) facilitating use of the municipal affordable housing trust  
14 fund, and the “New Jersey Affordable Housing Trust Fund,” for the  
15 production of units for which sweat equity is used in the  
16 construction or rehabilitation, pursuant to subsection b. of this  
17 section.

18

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

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

22 a. “Council” means the Council on Affordable Housing  
23 established in P.L.1985, c.222 (C.52:27D-301 et al.), which shall  
24 have primary jurisdiction for the administration of housing  
25 obligations in accordance with sound regional planning  
26 considerations in this State.

27 b. “Housing region” means a geographic area of not less than  
28 two nor more than four contiguous, whole counties which exhibit  
29 significant social, economic and income similarities, and which  
30 constitute to the greatest extent practicable the primary metropolitan  
31 statistical areas as last defined by the United States Census Bureau  
32 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).

33 c. **【“Low income housing”】** “Low-income housing” means  
34 housing affordable according to federal Department of Housing and  
35 Urban Development or other recognized standards for home  
36 ownership and rental costs and occupied or reserved for occupancy  
37 by households with a gross household income equal to 50 percent or  
38 less of the median gross household income for households of the  
39 same size within the housing region in which the housing is located.

40 d. **【“Moderate income housing”】** “Moderate-income housing”  
41 means housing affordable according to federal Department of  
42 Housing and Urban Development or other recognized standards for  
43 home ownership and rental costs and occupied or reserved for  
44 occupancy by households with a gross household income equal to  
45 more than 50% but less than 80 percent of the median gross  
46 household income for households of the same size within the  
47 housing region in which the housing is located.

- 1 e. “Resolution of participation” means a resolution adopted by  
2 a municipality in which the municipality chooses to prepare a fair  
3 share plan and housing element in accordance with P.L.1985, c.222  
4 (C.52:27D-301 et al.).
- 5 f. “Inclusionary development” means a residential housing  
6 development in which a substantial percentage of the housing units  
7 are provided for a reasonable income range of **[low and moderate**  
8 **income]** low- and moderate-income households.
- 9 g. “Conversion” means the conversion of existing commercial,  
10 industrial, or residential structures for **[low and moderate income]**  
11 low- and moderate-income housing purposes where a substantial  
12 percentage of the housing units are provided for a reasonable  
13 income range of **[low and moderate income]** low- and moderate-  
14 income households.
- 15 h. “Development” means any development for which  
16 permission may be required pursuant to the "Municipal Land Use  
17 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
- 18 i. “Agency” means the New Jersey Housing and Mortgage  
19 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et  
20 seq.).
- 21 j. “Prospective need” means a projection of housing needs  
22 based on development and growth which is reasonably likely to  
23 occur in a region or a municipality, as the case may be, as a result  
24 of actual determination of public and private entities. In  
25 determining prospective need, consideration shall be given to  
26 approvals of development applications, real property transfers, and  
27 economic projections prepared by the State Planning Commission  
28 established by sections 1 through 12 of P.L.1985, c.398  
29 (C.52:18A-196 et seq.).
- 30 k. “Person with a disability” means a person with a physical  
31 disability, infirmity, malformation, or disfigurement which is  
32 caused by bodily injury, birth defect, aging, or illness including  
33 epilepsy and other seizure disorders, and which shall include, but  
34 not be limited to, any degree of paralysis, amputation, lack of  
35 physical coordination, blindness or visual impairment, deafness or  
36 hearing impairment, the inability to speak or a speech impairment,  
37 or physical reliance on a service animal, wheelchair, or other  
38 remedial appliance or device.
- 39 l. “Adaptable” means constructed in compliance with the  
40 technical design standards of the barrier free subcode adopted by  
41 the Commissioner of Community Affairs pursuant to the “State  
42 Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119  
43 et seq.) and in accordance with the provisions of section 5 of  
44 P.L.2005, c.350 (C.52:27D-123.15).
- 45 m. **[“Very low income housing”]** “Very low-income housing”  
46 means housing affordable according to federal Department of  
47 Housing and Urban Development or other recognized standards for  
48 home ownership and rental costs and occupied or reserved for

1 occupancy by households with a gross household income equal to  
2 30 percent or less of the median gross household income for  
3 households of the same size within the housing region in which the  
4 housing is located.

5 n. "Sweat equity" means the provision of labor, the requisite  
6 hours of which shall be determined by a sweat equity certified  
7 nonprofit, spent in construction or rehabilitation of a low- or  
8 moderate-income dwelling unit by one or more members of the  
9 low- or moderate-income household who is intended to occupy the  
10 dwelling unit.

11 o. "Sweat equity certified nonprofit" means a corporation with  
12 experience in facilitating the construction or rehabilitation, or both,  
13 of dwelling units, in part through the provision of sweat equity, that  
14 is organized pursuant to the "New Jersey Nonprofit Corporation Act,"  
15 N.J.S.15A:1-1 et seq., or is a corporation organized pursuant to Title  
16 16 of the Revised Statutes, and that is certified by the Commissioner  
17 of Community Affairs pursuant to subsection a. of section 1 of  
18 P.L. , c. (C. ) (pending before the Legislature as this bill).  
19 (cf: P.L.2017, c.131, s.199)

20

21 3. 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  
46 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any  
47 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et  
48 al.).

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

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

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

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

26 c. For any period which the council may approve, the  
27 commissioner may assist affordable housing programs which are  
28 not located in municipalities whose housing elements have been  
29 granted substantive certification or which are not in furtherance of a  
30 regional contribution agreement; provided that the affordable  
31 housing program will meet all or part of a municipal **low and**  
32 **moderate income** low- and moderate-income housing obligation.

33 d. Amounts deposited in the "New Jersey Affordable Housing  
34 Trust Fund" shall be targeted to regions based on the region's  
35 percentage of the State's **low and moderate income** low- and  
36 moderate-income housing need as determined by the council.  
37 Amounts in the fund shall be applied for the following purposes in  
38 designated neighborhoods:

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

42 (2) Creation of accessory apartments to be occupied by **low**  
43 **and moderate income** low- and moderate-income households;

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

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

1 continued **【low or moderate income】** low- or moderate-income  
2 occupancy as a condition of providing housing assistance from any  
3 program administered by the department, when that assistance is  
4 provided for a project of moderate rehabilitation if the project: (1)  
5 contains 30 or fewer rental units; and (2) is located in a census tract  
6 in which the median household income is 60 percent or less of the  
7 median income for the housing region in which the census tract is  
8 located, as determined for a **【three person】** three-person household  
9 by the council in accordance with the latest federal decennial  
10 census. A list of eligible census tracts shall be maintained by the  
11 department and shall be adjusted upon publication of median  
12 income figures by census tract after each federal decennial census.

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

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

42 i. The commissioner may award or grant the amount of any  
43 appropriation deposited in the “New Jersey Affordable Housing  
44 Trust Fund” pursuant to section 41 of P.L.2009, c.90  
45 (C.52:27D-320.1) to municipalities pursuant to the provisions of  
46 section 39 of P.L.2009, c.90 (C.40:55D-8.8).  
47 (cf: P.L.2017, c.131, s.200)

1 4. Section 5 of P.L.2005, c.350 (C.52:27D-123.15) is amended  
2 to read as follows:

3 5. a. Any new construction for which an application for a  
4 construction permit has not been declared complete by the  
5 enforcing agency before the effective date of P.L.2005, c.350  
6 (C.52:27D-311a et al.) and for which credit is sought pursuant to  
7 P.L.1985, c. 222 (C.52:27D-301 et al.) on or after the effective date  
8 of P.L.2005, c.350 (C.52:27D-311a et al.) shall be adaptable;  
9 however, elevators shall not be required in any building or within  
10 any dwelling unit for the purposes of P.L.2005, c.350  
11 (C.52:27D-311a et al.). In buildings without elevator service, only  
12 ground floor dwelling units shall be required to be constructed to  
13 conform with the technical design standards of the barrier free  
14 subcode in order to be credited pursuant to P.L.1985, c.222  
15 (C.52:27D-301 et al.).

16 b. Notwithstanding the exemption for townhouse dwelling units  
17 in the barrier free subcode, the first floor of all townhouse dwelling  
18 units and of all other multifloor dwelling units for which credit is  
19 sought pursuant to P.L.1985, c. 222 (C.52:27D-301 et al.) on or  
20 after the effective date of P.L.2005, c.350 (C.52:27D-311a et al.)  
21 and for which an application for a construction permit has not been  
22 declared complete by the enforcing agency pursuant to P.L.2005,  
23 c.350 (C.52:27D-311a et al.), shall be subject to the technical  
24 design standards of the barrier free subcode and shall include the  
25 following features:

- 26 (1) an adaptable entrance to the dwelling unit;
- 27 (2) an adaptable full service bathroom on the first floor;
- 28 (3) an adaptable kitchen on the first floor;
- 29 (4) an accessible interior route of travel; and
- 30 (5) an adaptable room with a door or a casing where a door can  
31 be installed which may be used as a bedroom on the first floor.

32 c. (1) Full compliance with the requirements of this section  
33 shall not be required where an entity can demonstrate that it is site  
34 impracticable to meet the requirements. Full compliance shall be  
35 considered site impracticable only in those rare circumstances when  
36 the unique characteristics of terrain prevent the incorporation of  
37 accessibility features.

38 (2) If full compliance with this section would be site  
39 impracticable, compliance with this section for any portion of the  
40 dwelling shall be required to the extent that it is not site  
41 impracticable.

42 (3) Pursuant to section 1 of P.L. , c. (C. ) (pending  
43 before the Legislature as this bill), compliance with the  
44 requirements of this section shall not be required where sweat  
45 equity is used in the construction or rehabilitation of a low- or  
46 moderate-income dwelling unit, and the construction or  
47 rehabilitation of the unit is facilitated by a nonprofit entity that is  
48 approved as a sweat equity certified nonprofit pursuant to

1 subsection a. of section 1 of P.L. , c. (C. ) (pending before  
2 the Legislature as this bill).

3 d. In the case of a unit or units which are constructed with an  
4 adaptable entrance pursuant to subsection c. of this section, upon  
5 the request of a disabled person who is purchasing or will reside in  
6 the dwelling unit, an accessible entrance shall be installed.  
7 Additionally, the builder of the unit or units shall deposit sufficient  
8 funds to adapt 10 percent of the affordable units in the project  
9 which have not been constructed with accessible entrances with the  
10 municipality in which the units are located, for deposit into the  
11 municipal affordable housing trust fund. These funds shall be  
12 available for the use of the municipality for the purpose of making  
13 the adaptable entrance of any such affordable unit accessible when  
14 requested to do so by a person with a disability who occupies or  
15 intends to occupy the unit and requires an accessible entrance.

16 For the purposes of this section:

17 “Adaptable,” as used with regard to an entrance, means that the  
18 plans for the unit include a feasible building plan to adapt the  
19 entrance so as to make the unit accessible.

20 “Disabled person” means “disabled person” as defined in section  
21 4 of P.L.1985, c.222 (C.52:27D-304).

22 “Ground floor” means the first floor with a dwelling unit or  
23 portion of a dwelling unit, regardless of whether that floor is at  
24 grade. A building may have more than one ground floor.

25 “Site impracticable” means having the characteristic of “site  
26 impracticability” as set forth in section 100.205 (a) of title 24, Code  
27 of Federal Regulations.

28 “Sweat equity” means the provision of labor, the requisite hours  
29 of which shall be determined by a sweat equity certified nonprofit,  
30 spent in construction or rehabilitation of a low- or moderate-income  
31 dwelling unit by one or more members of the low- or moderate-  
32 income household who is intended to occupy the dwelling unit.

33 “Sweat equity certified nonprofit” means a corporation with  
34 experience in facilitating the construction or rehabilitation, or both,  
35 of dwelling units, in part through the provision of sweat equity, that  
36 is organized pursuant to the “New Jersey Nonprofit Corporation Act,”  
37 N.J.S.15A:1-1 et seq., or is a corporation organized pursuant to Title  
38 16 of the Revised Statutes, and that is certified by the Commissioner  
39 of Community Affairs pursuant to subsection a. of section 1 of  
40 P.L. , c. (C. ) (pending before the Legislature as this bill).

41 (cf: P.L.2005, c.350, s.5)

42

43 5. On or before the first day of the fourth month next following  
44 enactment of P.L. , c. (C. ) (pending before the Legislature  
45 as this bill), the Commissioner of Community Affairs shall adopt,  
46 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
47 (C.52:14B-1 et seq.), rules and regulations to necessary for the

1 implementation of P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

3

4 6. This act shall take effect on the first day of the fourth month  
5 next following enactment, except that the Commissioner of  
6 Community Affairs shall take such anticipatory action as is  
7 necessary in order to effectuate the provisions of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill).

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#### STATEMENT

12

13 This bill would facilitate the construction and rehabilitation of  
14 affordable housing that is built in part through sweat equity by the  
15 eventual occupant. “Sweat equity” refers to the provision of labor  
16 spent in construction or rehabilitation of a low- or moderate-income  
17 dwelling unit by one or more members of the low- or moderate-  
18 income household intended to occupy the unit.

19 The bill directs the Commissioner of Community Affairs  
20 (commissioner) to establish an application process, and approve  
21 appropriate applicants as sweat equity certified nonprofits.

22 The bill directs the commissioner to approve a certification  
23 application if the applicant:

- 24 • possesses appropriate experience in facilitating the  
25 construction or rehabilitation of dwelling units, in part  
26 through sweat equity;
- 27 • maintains appropriate controls on the affordability of  
28 dwelling units produced, in part through sweat equity, for  
29 low- or moderate-income households, to ensure that the  
30 units remain affordable for a reasonable period of time;
- 31 • maintains a policy of promoting the opportunities that the  
32 organization offers in the production of housing through  
33 sweat equity to a diverse cross-section of the public; and
- 34 • is organized under the “New Jersey Nonprofit  
35 Corporation Act,” N.J.S.15A:1-1 et seq., or as a religious  
36 organization under Title 16 of the Revised Statutes.

37 If sweat equity is used in producing an affordable dwelling unit,  
38 and the unit’s production is facilitated by a sweat equity certified  
39 nonprofit, then the bill directs that the adaptability requirements,  
40 which ordinarily apply to affordable housing construction, would  
41 not apply. The adaptability requirements concern compliance with  
42 the technical design standards of the barrier free subcode of the  
43 State Uniform Construction Code. Additionally, for sweat equity  
44 produced units facilitated by a sweat equity certified nonprofit, the  
45 bill would:

- 46 • provide the units with an exemption from the ordinary  
47 affirmative marketing requirements of the “Fair Housing  
48 Act,” P.L.1985, c.222 (C.52:27D-301 et al.); and

- 1           • allow the controls on affordability maintained by the sweat  
2           equity certified nonprofit to be substituted for the equivalent  
3           requirements of the Uniform Housing Affordability  
4           Controls.

5           The bill requires the commissioner to direct the appropriate  
6           offices or divisions of the Department of Community Affairs, to  
7           provide expedited assistance to sweat equity certified nonprofits  
8           and municipalities in:

- 9           • ensuring that units, for which sweat equity is used in  
10          construction or rehabilitation, are counted towards the fair  
11          share affordable housing obligation of the municipality;  
12          • facilitating the transfer of abandoned property in the  
13          municipality, as appropriate for the production of affordable  
14          housing, to the sweat equity certified nonprofit through  
15          necessary processes, including but not limited to the process  
16          for individual abandoned property takings pursuant to  
17          section 37 of the “New Jersey Urban Redevelopment Act,”  
18          P.L.1996, c.62 (C.55:19-56); and  
19          • facilitating use of the municipal affordable housing trust  
20          fund, and the “New Jersey Affordable Housing Trust Fund,”  
21          for the production of units for which sweat equity is used in  
22          the construction or rehabilitation.

23          The bill directs the commissioner, by the first day of the fourth  
24          month next following enactment, to adopt the rules and regulations  
25          necessary for the implementation of the bill. The bill would take  
26          effect on the first day of the fourth month next following enactment.