

CHAPTER 5

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

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

C.52:27D-304.1a Municipal clerk, authority, written statement, support of affordable housing programs, projects, indication of need.

1. A municipal governing body may, by ordinance, delegate to its municipal clerk the authority to provide, on the governing body's behalf, a written statement in support of one or more affordable housing programs or projects, or indicating a need for the programs or projects in the municipality, in order to satisfy any other provision of statute or regulation, including, but not limited to, subsection a. of section 20 of P.L.1985, c.222 (C.52:27D-320) and subsection c. of section 6 of P.L.1983, c.530 (C.55:14K-6), provided that the proposed affordable housing program or project conforms to the provisions of a municipal fair share plan and housing element that has been approved through a judgment of repose or compliance or through another form of judicial or State-level administrative certification.

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

C.52:27D-320 "New Jersey Affordable Housing Trust Fund."

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

a. (1) Except as permitted pursuant to subsection g. of this section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the commissioner shall award grants or loans from this fund for housing projects and programs in municipalities whose housing elements obtained compliance certification pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) or in municipalities receiving State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

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

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

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

(b) a written statement in support of the program or project from the municipal clerk if the municipality has enacted an ordinance pursuant to section 1 of P.L.2024, c.5 (C.52:27D-304.1a).

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

c. For any period which the commissioner may approve, the commissioner may assist affordable housing programs that are located in municipalities that have a pending request for compliance certification, provided that the affordable housing program will meet all or part of a municipal low- and moderate-income housing obligation.

d. Amounts deposited in the "New Jersey Affordable Housing Trust Fund" shall be targeted to regions based on the region's percentage of the State's low- and moderate-income housing need as determined pursuant to the low- and moderate-income household growth over the prior 10 years, as calculated pursuant to section 6 of P.L.2024, c.2 (C.52:27D-304.2). Amounts in the fund shall be applied for the following purposes in designated neighborhoods:

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

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

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

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

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

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

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

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

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

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

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

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

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

C.55:14K-6 Financing of construction, improvement or rehabilitation of housing projects; loans; application; priorities.

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

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

(1) accept applications for loans;

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

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

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

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

(2) a written statement from the municipal clerk if the municipality has enacted an ordinance pursuant to section 1 of P.L.2024, c.5 (C.52:27D-304.1a), stating that there is a need for such housing project in the municipality.

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

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

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

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

(3) the existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project;

(4) the availability of adequate parks, recreational areas, utilities, schools, transportation and parking;

(5) the availability of adequate, accessible places of employment; and

(6) where applicable, the eligibility of the applicant to make payments to the municipality in which the housing project is located in lieu of local property taxes.

4. This act shall take effect immediately.

Approved March 20, 2024.