

SENATE, No. 4859

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED OCTOBER 22, 2026

Sponsored by:
Senator GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS
Concerns definition of veteran for purpose of affordable housing preference.

CURRENT VERSION OF TEXT
As introduced.



1 AN ACT concerning the definition of veteran for the purpose of
2 affordable housing preference and amending P.L.1985, c.222.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) The Legislature finds and declares that:

8 a. P.L.2013, c.6 established an affordable housing preference for
9 low- and moderate-income veterans who served in time of war or
10 other emergency by authorizing a municipality to enter into an
11 agreement with a developer or residential development owner to
12 provide a veterans' preference for up to 50 percent of the affordable
13 units in a particular project.

14 b. At the time P.L.2013, c.6 was enacted, section 1 of P.L.1963,
15 c.171 (C.54:4-8.10) defined "active service in time of war." The
16 definition of "veteran" in subsection (h) of that section required
17 honorable discharge or release under honorable circumstances from
18 active service in time of war.

19 c. P.L.2019, c.413, which extended certain veterans' property
20 tax benefits to qualifying veterans who had not served in time of
21 war, deleted the definition of "active service in time of war" from
22 section 1 of P.L.1963, c.171 (C.54:4-8.10) and removed the
23 wartime-service requirement from the definition of "veteran" in
24 subsection (h) of that section. These statutory changes were
25 contingent upon voter approval of a constitutional amendment
26 authorizing the extension of those benefits to veterans who did not
27 serve in time of war or other emergency. Voters approved the
28 constitutional amendment in 2020.

29 d. Even though, subsection j. of section 11 of P.L.1985, c.222
30 (C.52:27D-311) cross references section 1 of P.L.1963, c.171
31 (C.54:4-8.10), the text of subsection j. of section 11 of P.L.1985,
32 c.222 (C.52:27D-311) was not amended to reflect these changes and
33 creates additional limitations on the affordable housing preference
34 for veterans.

35 e. It is therefore appropriate to amend subsection j. of section 11
36 of P.L.1985, c.222 (C.52:27D-311) to conform the veterans'
37 affordable housing preference to the definition of "veteran" in
38 subsection (h) of section 1 of P.L.1963, c.171 (C.54:4-8.10).

39

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

42 11. a. In adopting its housing element, the municipality may
43 provide for its fair share of low- and moderate-income housing by
44 means of any technique or combination of techniques which provide
45 a realistic opportunity for the provision of the fair share. 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 housing element shall contain an analysis demonstrating that it will
2 provide such a realistic opportunity, and the municipality shall
3 establish that its land use and other relevant ordinances have been
4 revised to incorporate the provisions for low- and moderate-income
5 housing. In preparing the housing element, the municipality shall
6 consider the following techniques for providing low- and moderate-
7 income housing within the municipality, as well as such other
8 appropriate techniques as have been established through applicable
9 precedent and may be employed by the municipality:

10 (1) Rezoning for densities necessary to assure the economic
11 viability of any inclusionary developments, either through
12 mandatory set-asides or density bonuses, as may be necessary to
13 meet all or part of the municipality's fair share in accordance with
14 the provisions of subsection h. of this section;

15 (2) Determination of the total residential zoning necessary to
16 assure that the municipality's fair share is achieved;

17 (3) Determination of measures that the municipality will take to
18 assure that low- and moderate-income units remain affordable to
19 low- and moderate-income households for an appropriate period of
20 not less than the period required by the regulations adopted by the
21 Department of Community Affairs pursuant to section 21 of
22 P.L.1985, c.222 (C.52:27D-321);

23 (4) A plan for infrastructure expansion and rehabilitation and
24 conversion or redevelopment of unused or underutilized real
25 property, including existing structures, if necessary to assure the
26 achievement of the municipality's fair share of low- and moderate-
27 income housing;

28 (5) Donation or use of municipally owned land or land
29 condemned by the municipality for purposes of providing low- and
30 moderate-income housing;

31 (6) Tax abatements for purposes of providing low- and
32 moderate-income housing;

33 (7) Utilization of funds obtained from any State or federal
34 subsidy toward the construction of low- and moderate-income
35 housing;

36 (8) Utilization of municipally generated funds toward the
37 construction of low- and moderate-income housing; and

38 (9) The purchase of privately owned real property used for
39 residential purposes at the value of all liens secured by the property,
40 excluding any tax liens, notwithstanding that the total amount of
41 debt secured by liens exceeds the appraised value of the property,
42 pursuant to regulations promulgated by the Commissioner of
43 Community Affairs pursuant to subsection b. of section 41 of
44 P.L.2000, c.126 (C.52:27D-311.2).

45 b. The municipality may provide for a phasing schedule for the
46 achievement of its fair share of low- and moderate-income housing.

47 c. (Deleted by amendment, P.L.2008, c.46)

- 1 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
2 require a municipality to raise or expend municipal revenues in
3 order to provide low- and moderate-income housing.
- 4 e. When a municipality's housing element includes the
5 provision of rental housing units in a community residence for the
6 developmentally disabled, for the mentally ill, or for persons with
7 head injuries, as those terms are defined in section 2 of P.L.1977,
8 c.448 (C.30:11B-2), or in transitional housing, which will be
9 affordable to persons of low- and moderate-income, and for which
10 adequate measures to retain such affordability pursuant to
11 paragraph (3) of subsection a. of this section are included in the
12 housing element, those housing units shall be fully credited towards
13 the fulfillment of the municipality's fair share of low- and
14 moderate-income housing. A municipality shall not credit
15 transitional housing units towards more than 10 percent of the
16 municipality's fair share obligation.
- 17 f. It having been determined by the Legislature that the
18 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
19 a public purpose, a municipality or municipalities may utilize public
20 monies to make donations, grants or loans of public funds for the
21 rehabilitation of deficient housing units and the provision of new or
22 substantially rehabilitated housing for low- and moderate-income
23 persons, providing that any private advantage is incidental.
- 24 g. A municipality that has received approval of its housing
25 element and fair share plan for the current round, and that has
26 actually effected the construction of the affordable housing units it
27 is obligated to provide, may amend its affordable housing element
28 or zoning ordinances without losing immunity from exclusionary
29 zoning litigation.
- 30 h. Whenever affordable housing units are proposed to be
31 provided through an inclusionary development, a municipality shall
32 provide, through its zoning powers, incentives to the developer,
33 which shall include increased densities and reduced costs.
- 34 i. A municipality and a developer may request a modification
35 of a compliance certification involving reduced affordable housing
36 set-asides or increased densities to ensure the economic feasibility
37 of an inclusionary development, if any such application
38 demonstrates how any shortfall in meeting the municipal fair share
39 obligation will then be addressed. Such a request may be granted
40 only if the municipality and developer have demonstrated that the
41 project has been impacted by market conditions beyond their
42 reasonable control.
- 43 j. A municipality may enter into an agreement with a
44 developer or residential development owner to provide a preference
45 for affordable housing to low- and moderate-income veterans [who
46 served in time of war or other emergency], as defined in subsection
47 (h) of section 1 of P.L.1963, c.171 (C.54:4-8.10), of up to 50
48 percent of the affordable units in that particular project. This

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

20 k. In the fourth round, and in subsequent rounds of affordable
21 housing obligations, a municipality shall be able to receive one
22 credit against its affordable housing obligation for each unit of low-
23 or moderate-income housing and shall not receive bonus credit for
24 any particular type of low- or moderate-income housing, unless
25 authority to obtain bonus credit is expressly provided pursuant to
26 this section or other sections of the "Fair Housing Act," P.L.1985,
27 c.222 (C.52:27D-301 et al.). A municipality shall not receive more
28 than one type of bonus credit for any unit and a municipality shall
29 not be permitted to satisfy more than 25 percent of its prospective
30 need obligation in the fourth round or any subsequent round
31 through the use of bonus credits. This subsection shall not be
32 construed to limit the ability of a municipality to receive a unit of
33 credit for a low- or moderate-income housing unit that is subject to
34 affordability controls that are scheduled to expire, but are extended
35 pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321), to the
36 extent that this affordability control extension would otherwise
37 generate this credit. As a part of a fair share plan and housing
38 element adopted pursuant to subsection f. of section 3 of P.L.2024,
39 c.2 (C.52:27D-304.1), a municipality shall:

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

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

47 (3) receive one unit of credit and one-half bonus credit for each
48 unit of low- or moderate-income housing located within a one-half

1 mile radius, or one-mile radius for projects located in a Garden
2 State Growth Zone, as defined in section 2 of P.L.2011, c.149
3 (C.34:1B-243), surrounding a New Jersey Transit Corporation, Port
4 Authority Transit Corporation, or Port Authority Trans-Hudson
5 Corporation rail, bus, or ferry station, including all light rail
6 stations. For the purpose of this subparagraph, the distance from
7 the bus, rail, or ferry station to a housing unit shall be measured
8 from the closest point on the outer perimeter of the station,
9 including any associated park-and-ride lot, to the closest point of
10 the housing project property;

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

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

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

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

44 (8) receive one unit of credit and one bonus credit for each unit
45 of low- or moderate-income housing in a 100 percent affordable
46 housing project for which the municipality contributes toward the
47 costs of the project. This contribution may consist of: (a) real
48 property donations that enable siting and construction of the project

1 or (b) contributions from the municipal affordable housing trust
2 fund in support of the project, if the contribution consists of no less
3 than three percent of the project cost;

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

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

24 1. A municipality may not satisfy more than 30 percent of the
25 affordable housing units, exclusive of any bonus credits, to address
26 its prospective need affordable housing obligation through the
27 creation of age-restricted housing. A municipality shall satisfy a
28 minimum of 50 percent of the actual affordable housing units,
29 exclusive of any bonus credits, created to address its prospective
30 need affordable housing obligation through the creation of housing
31 available to families with children and otherwise in compliance
32 with the requirements and controls established pursuant to section
33 21 of P.L.1985, c.222 (C.52:27D-321). A municipality shall satisfy
34 a minimum of 25 percent of the actual affordable housing units,
35 exclusive of any bonus credits, to address its prospective need
36 affordable housing obligation, through rental housing, including at
37 least half of that number available to families with children. All
38 units referred to in this section shall otherwise be in compliance
39 with the requirements and controls established pursuant to section
40 21 of P.L.1985, c.222 (C.52:27D-321).

41 m. All parties shall be entitled to rely upon regulations on
42 municipal credits, adjustments, and compliance mechanisms
43 adopted by the Council on Affordable Housing unless those
44 regulations are contradicted by statute, including but not limited to
45 P.L.2024, c.2 (C.52:27D-304.1 et al.), or binding court decisions.

46 n. P.L.2024, c.2 (C.52:27D-304.1 et al.) shall not be construed
47 to require a municipality to fund infrastructure improvements for
48 affordable housing projects beyond any commitments made in a fair

1 share plan and housing element that has been provided with
2 compliance certification. A municipality may fund infrastructure
3 improvements for affordable housing projects, through the adoption
4 of a development agreement with the applicant, beyond any
5 commitments made in a fair share plan and housing element that
6 has been provided with compliance certification.
7 (cf: P.L.2024, c.2, s.24)

8
9 3. This act shall take effect immediately.

10
11

12 STATEMENT
13

14 This bill modifies the definition of "veteran" for the purposes of
15 the veterans' affordable housing preference authorized under the
16 "Fair Housing Act." The bill removes references to a requirement
17 for a veteran to serve in the Armed Forces during a time of war or
18 other emergency in order for the definition of "veteran" to conform
19 to the definition used for the purposes of veterans' property tax
20 benefits.