





P.L. 2024, CHAPTER 5, *approved March 20, 2024*  
Assembly, No. 2296 (*First Reprint*)

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 **1**["the municipality's"] a  
19 municipal<sup>1</sup> fair share plan and housing element <sup>1</sup>that has been  
20 approved through a judgment of repose or compliance, or through  
21 another form of judicial or State-level administrative certification<sup>1</sup>.

22

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

25 20. There is established in the Department of Community  
26 Affairs a separate trust fund, to be used for the exclusive purposes  
27 as provided in this section, and which shall be known as the "New  
28 Jersey Affordable Housing Trust Fund." The fund shall be a non-  
29 lapsing, revolving trust fund, and all monies deposited or received  
30 for purposes of the fund shall be accounted for separately, by source  
31 and amount, and remain in the fund until appropriated for such  
32 purposes. The fund shall be the repository of all State funds  
33 appropriated for affordable housing purposes, including, but not  
34 limited to, the proceeds from the receipts of the additional fee  
35 collected pursuant to paragraph (2) of subsection a. of section 3 of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHO committee amendments adopted January 29, 2024.

1 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the  
2 Statewide non-residential development fees collected pursuant to  
3 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or  
4 reverting from municipal development trust funds, or other monies  
5 as may be dedicated, earmarked, or appropriated by the Legislature  
6 for the purposes of the fund. All references in any law, order, rule,  
7 regulation, contract, loan, document, or otherwise, to the  
8 "Neighborhood Preservation Nonlapsing Revolving Fund" shall  
9 mean the "New Jersey Affordable Housing Trust Fund." The  
10 department shall be permitted to utilize annually up to 7.5 percent  
11 of the monies available in the fund for the payment of any  
12 necessary administrative costs related to the administration of the  
13 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any  
14 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et  
15 al.).

16 a. (1) Except as permitted pursuant to subsection g. of this  
17 section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the  
18 commissioner shall award grants or loans from this fund for  
19 housing projects and programs in municipalities whose housing  
20 elements have received substantive certification from the council, in  
21 municipalities receiving State aid pursuant to P.L.1978, c.14  
22 (C.52:27D-178 et seq.), in municipalities subject to a builder's  
23 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),  
24 or in receiving municipalities in cases where the council has  
25 approved a regional contribution agreement and a project plan  
26 developed by the receiving municipality.

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

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

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

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

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

46 c. For any period which the council may approve, the  
47 commissioner may assist affordable housing programs which are  
48 not located in municipalities whose housing elements have been

1 granted substantive certification or which are not in furtherance of a  
2 regional contribution agreement; provided that the affordable  
3 housing program will meet all or part of a municipal low and  
4 moderate income housing obligation.

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

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

12 (2) Creation of accessory apartments to be occupied by low and  
13 moderate income households;

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

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

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

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

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

43 e. Any grant or loan agreement entered into pursuant to this  
44 section shall incorporate contractual guarantees and procedures by  
45 which the division will ensure that any unit of housing provided for  
46 low and moderate income households shall continue to be occupied  
47 by low and moderate income households for at least 20 years  
48 following the award of the loan or grant, except that the division

1 may approve a guarantee for a period of less than 20 years where  
2 necessary to ensure project feasibility.

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

19 g. In addition to other grants or loans awarded pursuant to this  
20 section, and without regard to any limitations on such grants or  
21 loans for any other purposes herein imposed, the commissioner  
22 shall annually allocate such amounts as may be necessary in the  
23 commissioner's discretion, and in accordance with section 3 of  
24 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants  
25 under the program created pursuant to P.L.2004, c.140 (C.52:27D-  
26 287.1 et al.). Such rental assistance grants shall be deemed  
27 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-  
28 301 et al.), in order to meet the housing needs of certain low income  
29 households who may not be eligible to occupy other housing  
30 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

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

47 i. The commissioner may award or grant the amount of any  
48 appropriation deposited in the "New Jersey Affordable Housing

1 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-  
2 320.1) to municipalities pursuant to the provisions of section 39 of  
3 P.L.2009, c.90 (C.40:55D-8.8).  
4 (cf: P.L.2017, c.131, s.200)

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6 <sup>1</sup>3. Section 5 of P.L.1983, c.530 (C.55:14K-5) is amended to  
7 read as follows:

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

11 a. To adopt bylaws for the regulation of its affairs and the  
12 conduct of its business; to adopt an official seal and alter the same  
13 at pleasure; to maintain an office at such place or places within the  
14 State as it may designate; to sue and be sued in its own name;

15 b. To conduct examinations and hearings and to hear testimony  
16 and take proof, under oath or affirmation, at public or private  
17 hearings, on any matter material for its information and necessary  
18 to carry out the provisions of this act;

19 c. To issue **subpenas** subpoenas requiring the attendance of  
20 witnesses and the production of books and papers pertinent to any  
21 hearing before the agency, or before one or more of the members of  
22 the agency appointed by it to conduct a hearing;

23 d. To apply to any court, having territorial jurisdiction of the  
24 offense, to have punished for contempt any witness who refuses to  
25 obey a **subpena** subpoena, or who refuses to be sworn or affirmed  
26 to testify, or who is guilty of any contempt after summons to  
27 appear;

28 e. To acquire by purchase, gift, foreclosure or condemnation any  
29 real or personal property, or any interest therein, to enter into any  
30 lease of property and to hold, sell, assign, lease, encumber,  
31 mortgage or otherwise dispose of any real or personal property, or  
32 any interest therein, or mortgage lien interest owned by it or under  
33 its control, custody or in its possession and release or relinquish any  
34 right, title, claim, lien, interest, easement or demand however  
35 acquired, including any equity or right of redemption, in property  
36 foreclosed by it and to do any of the foregoing by public or private  
37 sale, with or without public bidding, notwithstanding the provisions  
38 of any other law;

39 f. To acquire, hold, use and dispose of its income revenues,  
40 funds and moneys;

41 g. To adopt rules and regulations expressly authorized by this  
42 act and such additional rules and regulations as shall be necessary  
43 or desirable to carry out the purposes of this act. The agency shall  
44 adopt regulations which provide for consultation with housing  
45 sponsors regarding the formulation of agency rules and regulations  
46 governing the operation of housing projects and which require the  
47 agency to consult with the affected housing sponsor prior to taking  
48 any and all specific proposed agency actions relating to the

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

- 1 States or the State, these reductions can be made without  
2 jeopardizing the economic stability of the housing project;
- 3 p. To make and collect the fees and charges it determines are  
4 reasonable;
- 5 q. To the extent permitted under its contract with the holders of  
6 bonds of the agency, to invest and reinvest any moneys of the  
7 agency not required for immediate use, including proceeds from the  
8 sale of any obligations of the agency, in obligations, securities or  
9 other investments as the agency deems prudent. All functions,  
10 powers and duties relating to the investment or reinvestment of  
11 these funds, including the purchase, sale or exchange of any  
12 investments or securities may, upon the request of the agency, be  
13 exercised and performed by the Director of the Division of  
14 Investment in the Department of the Treasury, in accordance with  
15 written directions of the agency signed by an authorized officer,  
16 without regard to any other law relating to investments by the  
17 Director of the Division of Investment;
- 18 r. To provide, contract or arrange for, where, by reason of the  
19 financing arrangement, review of the application and proposed  
20 construction of a project is required by or in behalf of any  
21 department or agency of the United States, consolidated processing  
22 of the application or supervision or, in the alternative, to delegate  
23 the processing in whole or in part to any such department or  
24 agency;
- 25 s. To make eligible loans, and to participate with any  
26 department, agency or authority of the United States or of any state  
27 thereof, this State, a municipality, or any banking institution,  
28 foundation, labor union, insurance company, trustee or fiduciary in  
29 an eligible loan, secured by a single participating mortgage, by  
30 separate mortgages or by other security agreements, the interest of  
31 each having equal priority as to lien in proportion to the amount of  
32 the loan so secured, but which need not be equal as to interest rate,  
33 time or rate of amortization or otherwise, and to undertake  
34 commitments to make such loans;
- 35 t. To assess from time to time the housing needs of any  
36 municipality which is experiencing housing shortages as a result of  
37 the authorization of casino gaming and to address those needs when  
38 planning its programs;
- 39 u. To sell any eligible loan made by the agency or any loan to an  
40 institutional lender owned by the agency, at public or private sale,  
41 with or without bidding, either singly or in groups, or in shares of  
42 loans or shares of groups of loans, issue securities, certificates or  
43 other evidence of ownership secured by such loans or groups of  
44 loans, sell the same to investors, arrange for the marketing of the  
45 same; and to deposit and invest the funds derived from such sales in  
46 any manner authorized by this act;
- 47 v. To make commitments to purchase, and to purchase, service  
48 and sell, eligible loans, pools of loans or securities based on loans,

- 1 insured or issued by any department or agency of the United States,  
2 and to make loans directly upon the security of any such loan, pools  
3 of loans or securities;
- 4 w. To provide such advisory consultation, training and  
5 educational services as will assist in the planning, construction,  
6 rehabilitation and operation of housing including but not limited to  
7 assistance in community development and organization, home  
8 management and advisory services for residents and to encourage  
9 community organizations and local governments to assist in  
10 developing housing;
- 11 x. To encourage research in and demonstration projects to  
12 develop new and better techniques and methods for increasing the  
13 supply, types and financing of housing and housing projects in the  
14 State and to engage in these research and demonstration projects  
15 and to receive and accept contributions, grants or aid, from any  
16 source, public or private, including but not limited to the United  
17 States and the State, for carrying out this purpose;
- 18 y. To provide to housing sponsors, through eligible loans or  
19 otherwise, financing, refinancing or financial assistance for fully  
20 completed, as well as partially completed, projects which may or  
21 may not be occupied, if the projects meet all the requirements of  
22 this act, except that, prior to the making of the mortgage loans by  
23 the agency, said projects need not have complied with sections  
24 7a.(9) and 42 of this act;
- 25 z. To encourage and stimulate cooperatives and other forms of  
26 housing with tenant participation;
- 27 aa. To promote innovative programs for home ownership,  
28 including but not limited to lease-purchase programs, employer-  
29 sponsored housing programs, and tenant cooperatives;
- 30 bb. To set aside and designate, out of the funds that are or may  
31 become available to it for the purpose of financing housing in this  
32 State pursuant to the terms of this act, certain sums or proportions  
33 thereof to be used for the financing of housing and home-ownership  
34 opportunities, including specifically lease-purchase arrangements,  
35 provided by employers to their employees through nonprofit or  
36 limited-dividend corporations or associations created by employers  
37 for that purpose; and to establish priority in funding, offer bonus  
38 fund allocations, and institute other incentives to encourage such  
39 employer-sponsored housing and home-ownership opportunities;
- 40 cc. Subject to any agreement with bondholders, to collect,  
41 enforce the collection of, and foreclose on any property or collateral  
42 securing its eligible loan or loans to institutional lenders and  
43 acquire or take possession of such property or collateral and sell the  
44 same at public or private sale, with or without bidding, and  
45 otherwise deal with such collateral as may be necessary to protect  
46 the interests of the agency therein;

1 dd. To administer and to enter into agreements to administer  
2 programs of the federal government or any other entity which are in  
3 furtherance of the purposes of this act;

4 ee. To do and perform any acts and things authorized by this act  
5 under, through, or by means of its officers, agents or employees or  
6 by contract with any person, firm or corporation; and

7 ff. To do any acts and things necessary or convenient to carry  
8 out the powers expressly granted in this act , so long as no  
9 duplication of authority or actions negatively impact the efficiency  
10 of the programs to produce, manage, or maintain the financial  
11 viability of projects.

12 (cf: P.L.1983, c.530, s.5)]<sup>1</sup>

13

14 <sup>1</sup>[4.] 3.<sup>1</sup> Section 6 of P.L.1983, c.530 (C.55:14K-6) is amended  
15 to read as follows:

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

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

24 (1) accept applications for loans;

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

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

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

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

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

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

- 1 e. In considering any application for a loan for a housing  
2 project, the agency shall give first priority to applications for loans  
3 for the construction, improvement or rehabilitation of housing  
4 projects which will be a part of or constructed in connection with an  
5 urban redevelopment program, and also shall give consideration to:  
6 (1) the comparative need of the area to be served by the  
7 proposed project for housing;  
8 (2) the ability of the applicant to construct, operate, manage and  
9 maintain the proposed housing project;  
10 (3) the existence of zoning or other regulations to protect  
11 adequately the proposed housing project against detrimental future  
12 uses which could cause undue depreciation in the value of the  
13 project;  
14 (4) the availability of adequate parks, recreational areas,  
15 utilities, schools, transportation and parking;  
16 (5) the availability of adequate, accessible places of  
17 employment; and  
18 (6) where applicable, the eligibility of the applicant to make  
19 payments to the municipality in which the housing project is located  
20 in lieu of local property taxes.  
21 (cf: P.L.1983, c.530, s.6)

22  
23 <sup>1</sup>~~5.~~ 4.<sup>1</sup> This act shall take effect immediately.

24  
25  
26 \_\_\_\_\_  
27  
28 Permits municipality to authorize municipal clerk to submit  
29 certain written statements concerning affordable housing.

## 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.

# 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.

[First Reprint]

**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)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Co-Sponsored by:**

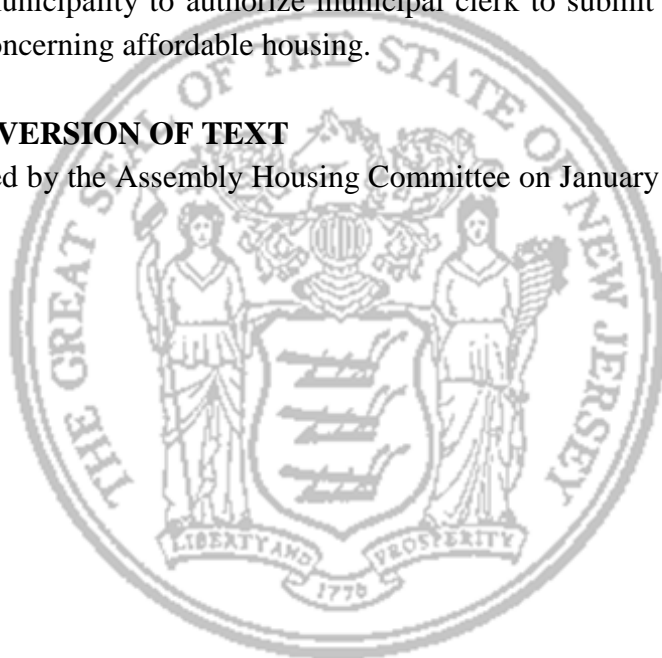
**Assemblywomen Donlon, Speight and Senator Pou**

**SYNOPSIS**

Permits municipality to authorize municipal clerk to submit certain written statements concerning affordable housing.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Housing Committee on January 29, 2024, with amendments.



**(Sponsorship Updated As Of: 3/18/2024)**

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"]** a  
19 municipal<sup>1</sup> fair share plan and housing element that has been  
20 approved through a judgment of repose or compliance, or through  
21 another form of judicial or State-level administrative certification<sup>1</sup>.

22

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

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

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHO committee amendments adopted January 29, 2024.

1 department shall be permitted to utilize annually up to 7.5 percent  
2 of the monies available in the fund for the payment of any  
3 necessary administrative costs related to the administration of the  
4 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any  
5 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et  
6 al.).

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

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

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

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

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

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

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

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

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

1 assistance is provided for a project of moderate rehabilitation if the  
2 project: (1) contains 30 or fewer rental units; and (2) is located in a  
3 census tract in which the median household income is 60 percent or  
4 less of the median income for the housing region in which the  
5 census tract is located, as determined for a three person household  
6 by the council in accordance with the latest federal decennial  
7 census. A list of eligible census tracts shall be maintained by the  
8 department and shall be adjusted upon publication of median  
9 income figures by census tract after each federal decennial census.

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

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

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

44  
45 <sup>1</sup>[3. Section 5 of P.L.1983, c.530 (C.55:14K-5) is amended to  
46 read as follows:

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

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

1 agency not required for immediate use, including proceeds from the  
2 sale of any obligations of the agency, in obligations, securities or  
3 other investments as the agency deems prudent. All functions,  
4 powers and duties relating to the investment or reinvestment of  
5 these funds, including the purchase, sale or exchange of any  
6 investments or securities may, upon the request of the agency, be  
7 exercised and performed by the Director of the Division of  
8 Investment in the Department of the Treasury, in accordance with  
9 written directions of the agency signed by an authorized officer,  
10 without regard to any other law relating to investments by the  
11 Director of the Division of Investment;

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

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

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

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

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

46 w. To provide such advisory consultation, training and  
47 educational services as will assist in the planning, construction,  
48 rehabilitation and operation of housing including but not limited to

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

1 duplication of authority or actions negatively impact the efficiency  
2 of the programs to produce, manage, or maintain the financial  
3 viability of projects.  
4 (cf: P.L.1983, c.530, s.5)]<sup>1</sup>

5  
6 <sup>1</sup>[4.] 3.<sup>1</sup> Section 6 of P.L.1983, c.530 (C.55:14K-6) is amended  
7 to read as follows:

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

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

16 (1) accept applications for loans;

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

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

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

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

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

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

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

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

47 (2) the ability of the applicant to construct, operate, manage and  
48 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 <sup>1</sup>~~5.~~4.<sup>1</sup> This act shall take effect immediately.

# ASSEMBLY HOUSING COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2296

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 29, 2024

The Assembly Housing Committee reports favorably and with committee amendments Assembly Bill No. 2296.

As amended, this bill permits the governing body of a municipality to delegate to its municipal clerk, by ordinance, 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 reciting the need for one or more affordable housing 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 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 an approved municipal fair share plan and housing element.

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

(1) receive funding from the State Affordable Housing Trust Fund by submitting a written statement in support of the program from the municipal clerk, instead of having to submit a written statement in support of the program or project from the municipal governing body; and

(2) be processed by the New Jersey Housing and Mortgage Finance Agency (HMFA) by submitting a written statement from the municipal clerk stating that there is a need for such a housing project in the municipality, instead of requiring a resolution stating such a need by the governing body of the municipality.

Finally, the bill would make technical changes and would take effect immediately.

This bill was pre-filed for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill would:

- limit the application of the bill to municipalities with approved municipal fair share plans and housing elements; and

- remove a section of the bill that would have expressly limited an existing grant of authority to the HMFA to engage in any acts necessary or convenient to carry out its powers, so that the authority would have only extended to acts that do not negatively impact the efficiency of the programs to produce, manage, or maintain the financial viability of projects.

# SENATE, No. 2309

## STATE OF NEW JERSEY

### 221st LEGISLATURE

INTRODUCED JANUARY 25, 2024

**Sponsored by:**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Senator Pou**

**SYNOPSIS**

Permits municipality to authorize municipal clerk to submit certain written statements concerning affordable housing.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/18/2024)**

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2

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  
16 (C.52:27D-320) and subsection c. of section 6 of P.L.1983, c.530  
17 (C.55:14K-6), provided that the proposed affordable housing  
18 program or project conforms to the provisions of a municipal fair  
19 share plan and housing element that has been approved through a  
20 judgment of repose or compliance, or through another form of  
21 judicial or State-level administrative certification.

22

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

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

**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 of the monies available in the fund for the payment of any  
2 necessary administrative costs related to the administration of the  
3 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any  
4 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et  
5 al.).

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

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

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

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

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

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

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

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

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

1 assistance is provided for a project of moderate rehabilitation if the  
2 project: (1) contains 30 or fewer rental units; and (2) is located in a  
3 census tract in which the median household income is 60 percent or  
4 less of the median income for the housing region in which the  
5 census tract is located, as determined for a three person household  
6 by the council in accordance with the latest federal decennial  
7 census. A list of eligible census tracts shall be maintained by the  
8 department and shall be adjusted upon publication of median  
9 income figures by census tract after each federal decennial census.

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

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

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

44

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

47 6. a. The agency, in order to encourage the development,  
48 operation, maintenance, construction, improvement and

1 rehabilitation of safe and adequate housing in the State, is hereby  
2 authorized and empowered to finance, by the making of eligible  
3 loans or otherwise, the construction, improvement or rehabilitation  
4 of housing projects in the State.

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

7 (1) accept applications for loans;

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) where applicable, the eligibility of the applicant to make  
2 payments to the municipality in which the housing project is located  
3 in lieu of local property taxes.  
4 (cf: P.L.1983, c.530, s.6)

5  
6 4. This act shall take effect immediately.

7  
8  
9 STATEMENT

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

22 The bill also enables affordable housing programs and projects in  
23 a municipality to:

24 (1) receive funding from the State Affordable Housing Trust  
25 Fund by submitting a written statement in support of the program  
26 from the municipal clerk, instead of having to submit a written  
27 statement in support of the program or project from the municipal  
28 governing body; and

29 (2) be processed by the New Jersey Housing and Mortgage  
30 Finance Agency (HMFA) by submitting a written statement from  
31 the municipal clerk stating that there is a need for such a housing  
32 project in the municipality, instead of requiring a resolution stating  
33 such a need by the governing body of the municipality.

34 Finally, the bill would make technical changes and would take  
35 effect immediately.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE, No. 2309

# STATE OF NEW JERSEY

DATED: JANUARY 25, 2024

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2309.

This bill permits the governing body of a municipality to delegate to its municipal clerk, by ordinance, 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 reciting the need for one or more affordable housing 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 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 an approved municipal fair share plan and housing element.

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

(1) receive funding from the State Affordable Housing Trust Fund by submitting a written statement in support of the program from the municipal clerk, instead of having to submit a written statement in support of the program or project from the municipal governing body; and

(2) be processed by the New Jersey Housing and Mortgage Finance Agency by submitting a written statement from the municipal clerk stating that there is a need for such a housing project in the municipality, instead of requiring a resolution stating such a need by the governing body of the municipality.

Finally, the bill would make technical changes and would take effect immediately.

# Governor Murphy Signs Landmark Affordable Housing Legislation

03/20/2024

*Bill Revamps Process for Municipalities to Meet Their Mount Laurel Obligations in Most Significant Housing Legislation in Four Decades*

**TRENTON** – Governor Phil Murphy today signed landmark affordable housing legislation to support towns in meeting their affordable housing obligations, building on his administration’s promise to create a stronger, fairer, and more affordable state for all New Jerseyans. The legislation develops a new system for municipalities to meet their Mount Laurel affordable housing obligations, replacing the current process that exists entirely in the courts.

“One of our Administration’s top priorities has been to establish New Jersey as a national leader in expanding affordable housing,” **said Governor Murphy**. “With today’s bill signing, we will be able to create more certainty and lower costs in New Jersey’s affordable housing landscape. By establishing new processes and practices for towns to meet their Mount Laurel affordable housing obligations, we are able to more quickly and efficiently allocate funding to municipalities and support those building affordable housing in our state. I am proud that my Administration and the Legislature have enacted a coherent and workable framework that no longer leaves this issue exclusively to the courts.”

The primary bill, **A-4/S-50 (Lopez, Coughlin, Wimberly, Reynolds-Jackson/Singleton, Scutari, Ruiz)**, establishes a new, streamlined framework for determining and enforcing municipalities’ affordable housing obligations under the New Jersey Supreme Court’s Mount Laurel doctrine and the State’s Fair Housing Act. Starting with the compliance period that begins in 2025, the Department of Community Affairs will publish non-binding calculations of municipalities’ current and prospective need for affordable housing using a formula based on prior court decisions. Disputes about municipalities’ affordable housing obligations and plans to meet those obligations will be resolved on an expedited basis by the Judiciary with assistance from a new dispute resolution program.

This process will replace the role previously played by the Council on Affordable Housing (COAH), which has been defunct for over a decade and is formally abolished under this bill. The new process will streamline compliance and reduce litigation-related delays to the construction of new affordable housing and will give municipalities and developers more certainty, which will enable smarter planning around where housing should be built.

As part of this process, the bill contains provisions outlining how municipalities may receive “bonus credits” that allows units of affordable housing to be credited as 1.5 or 2 units in certain circumstances. This bonus credit system incentivizes age-restricted housing, housing set aside for individuals with special needs, and other location or purpose-specific housing projects, such as housing near mass transit stations. The bill caps the use of bonus credit units at 25% of a municipality’s prospective need obligations and establishes related parameters for how much of a municipality’s obligations must be satisfied through housing available to families with children and through rental housing.

Additional bills signed today include:

1. **ACS for A-2267/SCS for S-1415 (Lopez, Quijano/Singleton, Stack)**, which requires the New Jersey Housing Mortgage and Finance Agency to establish a pilot program to support insurance premiums for eligible affordable housing projects constructed by for-profit affordable housing developers.
2. **S-1422/A-3365 (Singleton, Turner/Lopez, Speight, Calabrese)**, which allows taxpayers to accelerate depreciation of eligible property expenditures in connection with construction of new affordable housing developments in order to realize cost savings.
3. **A-2296/S-2309 (Lopez, Wimberly/McKnight, Stack)**, which allows a municipal governing body to delegate to the municipal clerk the authority to issue certain approvals to facilitate development of affordable housing projects.
4. **A-3337/S-2312 (Wimberly, Reynolds-Jackson, Quijano/Stack, Singleton)**, which permits "payment in lieu of taxation" (PILOT) agreements between municipalities and affordable housing projects that receive funding through the State Affordable Housing Trust Fund or municipal affordable housing trust funds.
5. **A-1495/S-1484 (Karabinchak, Lopez, Swain/Lagana, Diegnan)**, which exempts receipts from sales made to contractors or repairmen of materials, supplies, or services related to the construction of 100%-affordable housing projects in order to help reduce costs for the construction of such projects.

"Affordability has been the cornerstone of the efforts we have taken in the Legislature to address the challenges our residents face every day," **said Senate President Nicholas Scutari**. "This initiative will allow us to develop additional affordable housing in New Jersey and make the system more workable. These bills make real progress in making housing more accessible and affordable for residents in communities throughout the state."

"At this critical juncture in New Jersey, with soaring housing prices and limited housing stock, this legislation is essential," **said Senate Majority Leader M. Teresa Ruiz**. "It will expedite the construction of affordable housing near transit hubs, generating more jobs. Furthermore, by streamlining the process for municipalities with clear guidance and deadlines, we aim to make fulfilling affordable housing obligations less daunting while effectively addressing the state's affordable housing shortage."

"Housing is the most basic of human needs, and without first securing that need, other policies that we implement cannot be as effective. The Governor's signing of S-50 puts us on a pathway to more success in the next round of affordable housing obligations, with clearer guidance for municipalities and a reduction of legal disputes that can allow those obligations to be fulfilled faster," **said Senate Majority Whip and Chair of the Senate Community and Urban Affairs Committee Senator Troy Singleton**. "The continued enforcement of the Mount Laurel Doctrine and the associated construction of affordable housing benefits everybody. It creates jobs and stimulates economic growth, while manageable rents give working families financial flexibility. Housing stability removes barriers to accessing better education and work opportunities. Most importantly, the availability of affordable housing helps to ensure that the next generation grows up in stable homes and safe environments."

"Families should not have to contend with uncertainty as to where they will be able to find a home, or whether they will be able to afford a future rent increase," **said Senator Angela McKnight**. "Unfortunately, years of neglect have led to a massive shortage of affordable rental and homeownership opportunities. It will take time, but these reforms would put us on a path to reversing that shortage and reducing the barriers to affordable housing production."

"These efforts would enable the faster production of affordable housing and faster fulfillment of local affordable housing obligations," **said Senator Brian Stack**. "Giving municipalities a more streamlined process, aligning our tax system with our housing production goals, and taking a regional approach to our affordable housing challenges will put a system in place that is best equipped to reverse the growing trend of unaffordability."

"We have an obligation to expand opportunities and make housing more affordable in our state," **said Assembly Speaker Craig J. Coughlin**. "When more families are secure in homes of their own, they contribute to their

communities and our economy thrives. This legislation strikes the right balance in incentivizing opportunity and providing support for municipalities.”

“A house is much more than four walls and a roof, it is a place where cherished memories are made, an asset that creates generational wealth and a structure upon which a great quality of life can be built,” **said Assemblywoman Yvonne Lopez**. “The signing of A4 will allow more hard working families to have access to affordable housing and ahead of the 4th Round offers a pathway for municipality's to deliver on their constitutional obligations within a consistent and uniform process for decades to come. The signing of this bill will allow more New Jerseyans to move into, stay and thrive in the communities they love.”

“These bills being signed into law today will address the housing needs of numerous New Jersey residents, spanning from the youngest children to the eldest seniors,” **said Assemblyman Benjie E. Wimberly**. “A3337 streamlines the process for towns to build or preserve certain affordable housing units by exempting them from property taxation. Instead, a municipality and housing sponsor may negotiate a payment in lieu of taxation (PILOT), contributing funds toward crucial services like garbage collection, road upkeep, schools, and other essential town services.”

“Empowering New Jersey residents is at heart of our efforts to create more affordable housing in New Jersey,” **said Assemblyman Robert J. Karabinchak**. “By making materials associated with the construction of affordable housing tax exempt, A1495 is mitigating the cost for developers and subsequently lowering the costs for New Jerseyans renting or owning their places of residence.”

“This law marks a significant change for the better. It's about ensuring that finding a good, affordable home is no longer a struggle. We are united in this effort to transform our state, our county, our city into a place where everyone can live well and have equal opportunities to thrive. Thank you, Governor and legislative leaders, for helping our families move towards a future where prosperity is accessible to all. Thank you for turning this historic day into reality,” **said City of Perth Amboy Mayor Helmin Caba**.

“The signing of today’s bill package shows the commitment of Governor Murphy and state legislators to build more affordable housing in New Jersey. These new laws will promote the construction and preservation of affordable housing and enable working families to find affordable homes in good communities where they can live and raise a family,” **said New Jersey Department of Community Affairs Acting Commissioner Jacquelyn A. Suárez**. “It has long been DCA’s mission to create affordable housing for New Jersey residents and we look forward to the opportunities the new laws present to further this goal. The Department is proud to be a part of such a noble pursuit and we will conduct our work to the best of our ability to make New Jersey a place where people from all walks of life can thrive.”

“The housing bills being signed today are the culmination of months of comprehensive, statewide focus on affordable housing. These significant updates to New Jersey housing policy reflect a clear understanding by all involved of the importance of affordable housing to our shared future,” **said NJHMFA Executive Director Melanie Walter**. “As allocator of the federal Low-Income Housing Tax Credit and administrator of numerous landmark housing developments programs, NJHMFA stands ready to help every community produce the housing needed to ensure that all New Jersey residents have access to safe, affordable homes.”

“This new law will help tear down the walls that have denied too many access to opportunity and create new affordable homes near jobs, schools, and transportation,” **said Adam Gordon, Executive Director of Fair Share Housing Center**. “By making compliance with New Jersey’s landmark Mount Laurel Doctrine simpler and clearer, we will build affordable homes faster with less cost to everyone involved. It’s good news for families across the state who are struggling to keep up with the soaring cost of housing. We commend Governor Murphy and the legislative

sponsors - Chairs Singleton and Lopez, Speaker Coughlin, and Senate President Scutari - for making this best-in-the-nation legislation the law of our state."

"Domestic violence is one of the leading causes of homelessness for women and their children," **said Cierra Hart, Director of Housing and Economic Justice at the NJ Coalition to End Domestic Violence.** "Affordable housing serves as a catalyst for breaking the cycle of violence and abuse. It offers survivors the stability necessary to access crucial support services — therapeutic interventions, legal aid, counseling — that are indispensable in their journey to recovery."

"This new law will create much-needed access to housing in the middle of a historic housing crisis. It will help overcome the deep segregation that has plagued our state for decades," **said Richard Smith, President of the NAACP New Jersey State Conference.** "I particularly want to thank lawmakers for adding stronger deed restrictions to this legislation, which will protect the affordability of newly-built homes for decades to come."

"We want to thank Governor Murphy for signing the affordable housing packages bill into law today. This legislation will strengthen the implementation of the Mount Laurel Doctrine and help ensure that New Jersey municipalities create their fair share of affordable housing," **said Dena Mottola Jaborska, Executive Director for New Jersey Citizen Action.**

"This legislation positions New Jersey to create opportunities for every household in the state to thrive by creating a clear process to ensure all municipalities create their fair share of affordable housing," **said Taiisa Kelly, CEO of Monarch Housing Associates.** "We at Monarch believe Housing is a Human Right and this legislation sets the stage to ensure every New Jersey resident has access to the housing they so critically need, in every community across the state, regardless of race or socioeconomic status."

"This legislation will help provide a lot more clarity and transparency in the affordable housing development process," **said Javier Robles, President of the Latino Action Network.** "Skyrocketing housing costs are making it extremely difficult for many hard-working people and vulnerable communities — including seniors, people with disabilities, and caregivers — to keep a roof over their heads. This legislation will help ensure access to affordable, accessible, and livable homes, which not only improve the lives of residents but also benefit society."

"Over the course of New Jersey's history, fair housing policies have been integral in making our state more inclusive," **said Jesselly de la Cruz, Executive Director of the Latino Action Network Foundation.** "It is encouraging that residents, advocates and policymakers from across our state are joining forces to break down racial and economic exclusion by strengthening the Mount Laurel Doctrine."