

REPORTS:

No

HEARINGS:

Yes

974.90 New Jersey. Legislature. General Assembly. Task Force to Study the Fair Housing Act and State Planning
H842 Act. Public meeting to study the Fair Housing Act, held 6-19-2001, Trenton, NJ, 2001
2001b (See especially pp. 61)

NEWSPAPER ARTICLES:

No

ASSEMBLY, No. 2454

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 22, 2000

Sponsored by:

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

Assemblywoman CAROL J. MURPHY

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

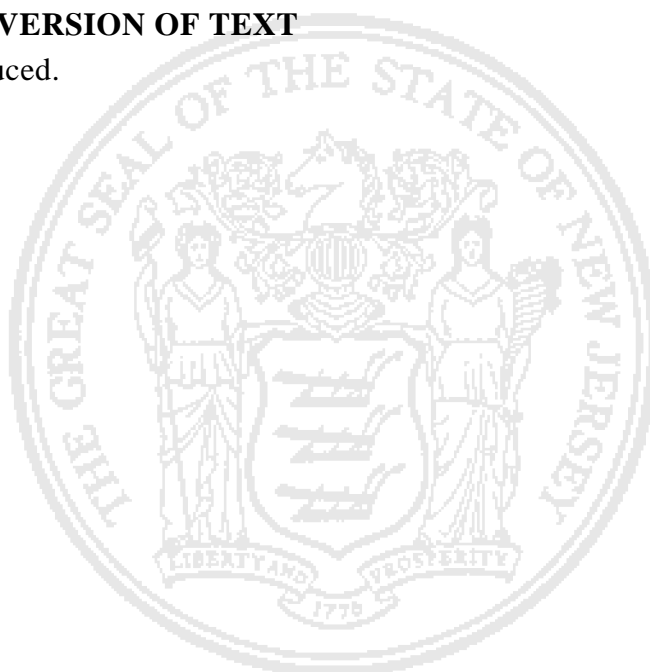
Assemblyman DeCroce

SYNOPSIS

Permits municipalities to amend zoning ordinances without COAH approval under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/16/2000)

1 AN ACT concerning zoning for affordable housing and amending
2 P.L.1985, c. 222.

3

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

6

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

9 11. a. In adopting its housing element, the municipality may
10 provide for its fair share of low and moderate income housing by
11 means of any technique or combination of techniques which provide
12 a realistic opportunity for the provision of the fair share. The housing
13 element shall contain an analysis demonstrating that it will provide
14 such a realistic opportunity, and the municipality shall establish that its
15 land use and other relevant ordinances have been revised to
16 incorporate the provisions for low and moderate income housing. In
17 preparing the housing element, the municipality shall consider the
18 following techniques for providing low and moderate income housing
19 within the municipality, as well as such other techniques as may be
20 published by the council or proposed by the municipality:

21 (1) Rezoning for densities necessary to assure the economic
22 viability of any inclusionary developments, either through mandatory
23 set-asides or density bonuses, as may be necessary to meet all or part
24 of the municipality's fair share;

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

27 (3) Determination of measures that the municipality will take to
28 assure that low and moderate income units remain affordable to low
29 and moderate income households for an appropriate period of not less
30 than six years;

31 (4) A plan for infrastructure expansion and rehabilitation if
32 necessary to assure the achievement of the municipality's fair share of
33 low and moderate income housing;

34 (5) Donation or use of municipally owned land or land condemned
35 by the municipality for purposes of providing low and moderate
36 income housing;

37 (6) Tax abatements for purposes of providing low and moderate
38 income housing;

39 (7) Utilization of funds obtained from any State or federal subsidy
40 toward the construction of low and moderate income housing; and

41 (8) Utilization of municipally generated funds toward the
42 construction of low and moderate income housing.

43 b. The municipality may provide for a phasing schedule for 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 achievement of its fair share of low and moderate income housing
2 which is not inconsistent with section 23 of this act.

3 c. The municipality may propose that a portion of its fair share be
4 met through a regional contribution agreement. The housing element
5 shall demonstrate, however, the manner in which that portion will be
6 provided within the municipality if the regional contribution agreement
7 is not entered into. The municipality shall provide a statement of its
8 reasons for the proposal.

9 d. Nothing in this act shall require a municipality to raise or
10 expend municipal revenues in order to provide low and moderate
11 income housing.

12 e. When a municipality's housing element includes the provision
13 of rental housing units in a community residence for the
14 developmentally disabled, as defined in section 2 of P.L.1977, c.448
15 (C.30:11B-2), which will be affordable to persons of low and
16 moderate income, and for which adequate measures to retain such
17 affordability pursuant to paragraph (3) of subsection a. of this section
18 are included in the housing element, those housing units shall be fully
19 credited as permitted under the rules of the council towards the
20 fulfillment of the municipality's fair share of low and moderate income
21 housing.

22 f. It having been determined by the Legislature that the provision
23 of housing under this act is a public purpose, a municipality or
24 municipalities may utilize public monies to make donations, grants or
25 loans of public funds for the rehabilitation of deficient housing units
26 and the provision of new or substantially rehabilitated housing for low
27 and moderate income persons, providing that any private advantage is
28 incidental.

29 g. Nothing in this act shall prevent a municipality from amending
30 its housing element or zoning ordinances without the approval of the
31 council, provided substantive certification has been granted by the
32 council to the municipality, and the proposed amendments will not
33 affect the provision of affordable housing units to which the
34 certification applies.

35 (cf: P.L. 1998, c.89, s.1)

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37 2. This act shall take effect immediately.

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STATEMENT

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42 This bill would permit a municipality, after meeting its affordable
43 housing fair share and receiving substantive certification from the
44 Council on Affordable Housing (COAH), to subsequently amend its
45 housing element and zoning ordinances concerning areas designated
46 for affordable housing without seeking the approval of COAH.

1 Currently, COAH regulations require a municipality to seek
2 approval from the council prior to amending its housing element or
3 zoning ordinances, even if a municipality has met its affordable
4 housing obligation and has received substantive certification. If a
5 municipality has met its affordable housing obligation, it should be able
6 to redesignate property for other use, particularly if it is no longer
7 needed to satisfy an affordable housing requirement that was met in
8 some other fashion.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2454

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 25, 2000

The Assembly Housing Committee reports favorably and with committee amendments Assembly Bill No. 2454.

This bill, as amended, would permit a municipality which has received substantive certification from the council, and which has actually effected the construction of the affordable housing units it is obligated to provide, to amend its affordable housing element or zoning ordinances without the approval of the Council on Affordable Housing.

Currently, COAH regulations require a municipality to seek approval from the council prior to amending its housing element or zoning ordinances, even if a municipality has met its affordable housing obligation and has received substantive certification. If a municipality has met its affordable housing obligation, it should be able to redesignate property for other use, particularly if it is no longer needed to satisfy an affordable housing requirement that was met in some other fashion.

The committee amended the bill to require that the construction of the affordable housing units be actually effected in order for a change in zoning ordinances or housing elements to be permitted without COAH approval.

The committee also amended the bill to bring the text of section 11 of P.L.1985, c.222 (C.52:27D-311), which is being amended by the bill, up to date. This section recently was amended by P.L.2000, c.126, s.30.

[First Reprint]

ASSEMBLY, No. 2454

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 22, 2000

Sponsored by:

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

Assemblywoman CAROL J. MURPHY

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

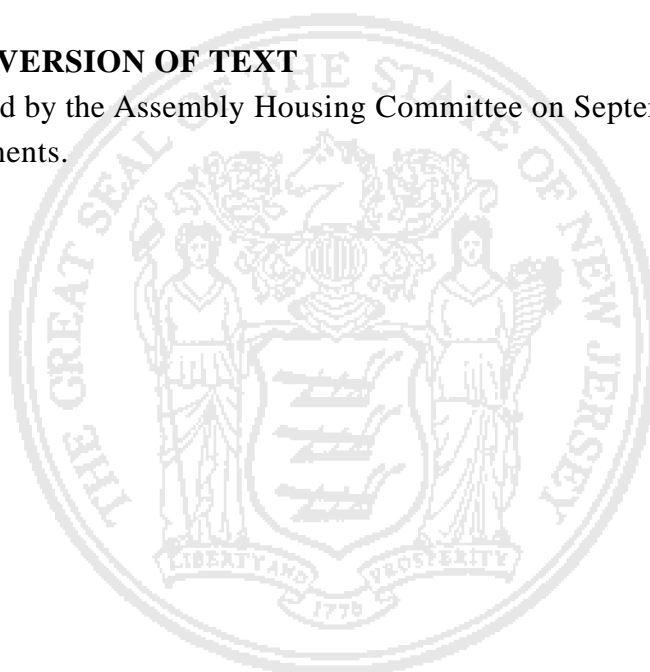
Assemblymen DeCroce, Merkt, Senators Bucco and Cardinale

SYNOPSIS

Permits municipalities to amend zoning ordinances without COAH approval under certain circumstances.

CURRENT VERSION OF TEXT

As reported by the Assembly Housing Committee on September 25, 2000, with amendments.



(Sponsorship Updated As Of: 1/8/2002)

1 AN ACT concerning zoning for affordable housing and amending
2 P.L.1985, c.222.

3

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

6

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

9 11. a. In adopting its housing element, the municipality may
10 provide for its fair share of low and moderate income housing by
11 means of any technique or combination of techniques which provide
12 a realistic opportunity for the provision of the fair share. The housing
13 element shall contain an analysis demonstrating that it will provide
14 such a realistic opportunity, and the municipality shall establish that its
15 land use and other relevant ordinances have been revised to
16 incorporate the provisions for low and moderate income housing. In
17 preparing the housing element, the municipality shall consider the
18 following techniques for providing low and moderate income housing
19 within the municipality, as well as such other techniques as may be
20 published by the council or proposed by the municipality:

21 (1) Rezoning for densities necessary to assure the economic
22 viability of any inclusionary developments, either through mandatory
23 set-asides or density bonuses, as may be necessary to meet all or part
24 of the municipality's fair share;

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

27 (3) Determination of measures that the municipality will take to
28 assure that low and moderate income units remain affordable to low
29 and moderate income households for an appropriate period of not less
30 than six years;

31 (4) A plan for infrastructure expansion and rehabilitation if
32 necessary to assure the achievement of the municipality's fair share of
33 low and moderate income housing;

34 (5) Donation or use of municipally owned land or land condemned
35 by the municipality for purposes of providing low and moderate
36 income housing;

37 (6) Tax abatements for purposes of providing low and moderate
38 income housing;

39 (7) Utilization of funds obtained from any State or federal subsidy
40 toward the construction of low and moderate income housing; ¹[and]¹

41 (8) Utilization of municipally generated funds toward the
42 construction of low and moderate income housing ¹;and¹

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:

¹ Assembly AHO committee amendments adopted September 25, 2000.

1 ¹(9) The purchase of privately owned real property used for
2 residential purposes at the value of all liens secured by the property;
3 excluding any tax liens, notwithstanding that the total amount of debt
4 secured by liens exceeds the appraised value of the property, pursuant
5 to regulations promulgated by the Commissioner of Community
6 Affairs pursuant to subsection b. of section 41 of P.L. , c. (C.)
7 (now pending before the Legislature as this bill)¹.

8 b. The municipality may provide for a phasing schedule for the
9 achievement of its fair share of low and moderate income housing
10 ¹[which is not inconsistent with section 23 of this act]¹.

11 c. The municipality may propose that a portion of its fair share be
12 met through a regional contribution agreement. The housing element
13 shall demonstrate, however, the manner in which that portion will be
14 provided within the municipality if the regional contribution agreement
15 is not entered into. The municipality shall provide a statement of its
16 reasons for the proposal.

17 d. Nothing in this act shall require a municipality to raise or expend
18 municipal revenues in order to provide low and moderate income
19 housing.

20 e. When a municipality's housing element includes the provision of
21 rental housing units in a community residence for the developmentally
22 disabled, as defined in section 2 of P.L.1977, c.448 (C.30:11B-2),
23 which will be affordable to persons of low and moderate income, and
24 for which adequate measures to retain such affordability pursuant to
25 paragraph (3) of subsection a. of this section are included in the
26 housing element, those housing units shall be fully credited as
27 permitted under the rules of the council towards the fulfillment of the
28 municipality's fair share of low and moderate income housing.

29 f. It having been determined by the Legislature that the provision
30 of housing under this act is a public purpose, a municipality or
31 municipalities may utilize public monies to make donations, grants or
32 loans of public funds for the rehabilitation of deficient housing units
33 and the provision of new or substantially rehabilitated housing for low
34 and moderate income persons, providing that any private advantage is
35 incidental.

36 g. ¹[Nothing in this act shall prevent a municipality from amending
37 its housing element or zoning ordinances without the approval of the
38 council, provided substantive certification has been granted by the
39 council to the municipality, and the proposed amendments will not
40 affect the provision of affordable housing units to which the
41 certification applies.] A municipality which has received substantive
42 certification from the council, and which has actually effected the
43 construction of the affordable housing units it is obligated to provide,
44 may amend its affordable housing element or zoning ordinances
45 without the approval of the council.¹

46 (cf: P.L.1998, c.89, s.1)

47
48 2. This act shall take effect immediately.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2454

STATE OF NEW JERSEY

DATED: JUNE 11, 2001

The Senate Community and Urban Affairs Committee reports without recommendation Assembly Bill No. 2454 (1R).

This bill would permit a municipality that has received substantive certification from the Council on Affordable Housing (COAH) to amend its affordable housing element or zoning ordinances without the approval of the council so long as the municipality has actually met its affordable housing obligation.

Currently, COAH regulations require a municipality to seek approval from the council prior to amending its housing element or zoning ordinances, even if a municipality has met its affordable housing obligation and has received substantive certification.

Assembly Bill No. 2454 (1R) is identical to Senate Bill No. 2061, which bill was also reported by the committee without recommendation on this date, June 11, 2001.

SENATE, No. 2061

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 22, 2001

Sponsored by:

Senator ANTHONY R. BUCCO

District 25 (Morris)

Senator GERALD CARDINALE

District 39 (Bergen)

SYNOPSIS

Permits municipalities to amend zoning ordinances without COAH approval under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning zoning for affordable housing and amending
2 P.L.1985, c.222.

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

6
7 1. Section 11 of P.L.1985, c.222 (C. 52:27D-311) is amended to
8 read as follows:

9 11. a. In adopting its housing element, the municipality may
10 provide for its fair share of low and moderate income housing by
11 means of any technique or combination of techniques which provide
12 a realistic opportunity for the provision of the fair share. The housing
13 element shall contain an analysis demonstrating that it will provide
14 such a realistic opportunity, and the municipality shall establish that its
15 land use and other relevant ordinances have been revised to
16 incorporate the provisions for low and moderate income housing. In
17 preparing the housing element, the municipality shall consider the
18 following techniques for providing low and moderate income housing
19 within the municipality, as well as such other techniques as may be
20 published by the council or proposed by the municipality:

21 (1) Rezoning for densities necessary to assure the economic
22 viability of any inclusionary developments, either through mandatory
23 set-asides or density bonuses, as may be necessary to meet all or part
24 of the municipality's fair share;

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

27 (3) Determination of measures that the municipality will take to
28 assure that low and moderate income units remain affordable to low
29 and moderate income households for an appropriate period of not less
30 than six years;

31 (4) A plan for infrastructure expansion and rehabilitation if
32 necessary to assure the achievement of the municipality's fair share of
33 low and moderate income housing;

34 (5) Donation or use of municipally owned land or land condemned
35 by the municipality for purposes of providing low and moderate
36 income housing;

37 (6) Tax abatements for purposes of providing low and moderate
38 income housing;

39 (7) Utilization of funds obtained from any State or federal subsidy
40 toward the construction of low and moderate income housing;

41 (8) Utilization of municipally generated funds toward the
42 construction of low and moderate income housing ;and

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

Matter underlined thus is new matter.

1 (9) The purchase of privately owned real property used for
2 residential purposes at the value of all liens secured by the property;
3 excluding any tax liens, notwithstanding that the total amount of debt
4 secured by liens exceeds the appraised value of the property, pursuant
5 to regulations promulgated by the Commissioner of Community
6 Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126
7 (C.52:27D-311.2) (now pending before the Legislature as this bill).

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

10 c. The municipality may propose that a portion of its fair share be
11 met through a regional contribution agreement. The housing element
12 shall demonstrate, however, the manner in which that portion will be
13 provided within the municipality if the regional contribution agreement
14 is not entered into. The municipality shall provide a statement of its
15 reasons for the proposal.

16 d. Nothing in this act shall require a municipality to raise or expend
17 municipal revenues in order to provide low and moderate income
18 housing.

19 e. When a municipality's housing element includes the provision of
20 rental housing units in a community residence for the developmentally
21 disabled, as defined in section 2 of P.L.1977, c.448 (C.30:11B-2),
22 which will be affordable to persons of low and moderate income, and
23 for which adequate measures to retain such affordability pursuant to
24 paragraph (3) of subsection a. of this section are included in the
25 housing element, those housing units shall be fully credited as
26 permitted under the rules of the council towards the fulfillment of the
27 municipality's fair share of low and moderate income housing.

28 f. It having been determined by the Legislature that the provision
29 of housing under this act is a public purpose, a municipality or
30 municipalities may utilize public monies to make donations, grants or
31 loans of public funds for the rehabilitation of deficient housing units
32 and the provision of new or substantially rehabilitated housing for low
33 and moderate income persons, providing that any private advantage is
34 incidental.

35 g. A municipality which has received substantive certification from
36 the council, and which has actually effected the construction of the
37 affordable housing units it is obligated to provide, may amend its
38 affordable housing element or zoning ordinances without the approval
39 of the council.

40 (cf: P.L.2000, c.126, s.30)

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42 2. This act shall take effect immediately.

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STATEMENT

This bill would permit a municipality which has received substantive certification from the Council on Affordable Housing, and which has actually effected the construction of the affordable housing units it is obligated to provide, to amend its affordable housing element or zoning ordinances without the approval of the Council on Affordable Housing.

Currently, COAH regulations require a municipality to seek approval from the council prior to amending its housing element or zoning ordinances, even if a municipality has met its affordable housing obligation and has received substantive certification. If a municipality has met its affordable housing obligation, it should be able to redesignate property for other use, particularly if that property is no longer needed to satisfy an affordable housing requirement that was met in some other fashion.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2061

STATE OF NEW JERSEY

DATED: JUNE 11, 2001

The Senate Community and Urban Affairs Committee reports without recommendation Senate Bill No. 2061.

This bill would permit a municipality that has received substantive certification from the Council on Affordable Housing (COAH) to amend its affordable housing element or zoning ordinances without the approval of the council so long as the municipality has actually met its affordable housing obligation.

Currently, COAH regulations require a municipality to seek approval from the council prior to amending its housing element or zoning ordinances, even if a municipality has met its affordable housing obligation and has received substantive certification.

Senate Bill No. 2061 is identical to Assembly Bill No. 2454 (1R), which bill was also reported by the committee without recommendation on this date, June 11, 2001.

P.L. 2001, CHAPTER 441, *approved January 11, 2002*
Assembly, No. 2454 (*First Reprint*)

1 AN ACT concerning zoning for affordable housing and amending
2 P.L.1985, c.222.

3

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

6

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

9 11. a. In adopting its housing element, the municipality may
10 provide for its fair share of low and moderate income housing by
11 means of any technique or combination of techniques which provide
12 a realistic opportunity for the provision of the fair share. The housing
13 element shall contain an analysis demonstrating that it will provide
14 such a realistic opportunity, and the municipality shall establish that its
15 land use and other relevant ordinances have been revised to
16 incorporate the provisions for low and moderate income housing. In
17 preparing the housing element, the municipality shall consider the
18 following techniques for providing low and moderate income housing
19 within the municipality, as well as such other techniques as may be
20 published by the council or proposed by the municipality:

21 (1) Rezoning for densities necessary to assure the economic
22 viability of any inclusionary developments, either through mandatory
23 set-asides or density bonuses, as may be necessary to meet all or part
24 of the municipality's fair share;

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

27 (3) Determination of measures that the municipality will take to
28 assure that low and moderate income units remain affordable to low
29 and moderate income households for an appropriate period of not less
30 than six years;

31 (4) A plan for infrastructure expansion and rehabilitation if
32 necessary to assure the achievement of the municipality's fair share of
33 low and moderate income housing;

34 (5) Donation or use of municipally owned land or land condemned
35 by the municipality for purposes of providing low and moderate
36 income housing;

37 (6) Tax abatements for purposes of providing low and moderate
38 income housing;

39 (7) Utilization of funds obtained from any State or federal subsidy
40 toward the construction of low and moderate income housing; ¹[and]¹

41 (8) Utilization of municipally generated funds toward 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:

¹ Assembly AHO committee amendments adopted September 25, 2000.

- 1 construction of low and moderate income housing ¹;and¹
- 2 ¹(9) The purchase of privately owned real property used for
- 3 residential purposes at the value of all liens secured by the property;
- 4 excluding any tax liens, notwithstanding that the total amount of debt
- 5 secured by liens exceeds the appraised value of the property, pursuant
- 6 to regulations promulgated by the Commissioner of Community
- 7 Affairs pursuant to subsection b. of section 41 of P.L. , c. (C.)
- 8 (now pending before the Legislature as this bill)¹.
- 9 b. The municipality may provide for a phasing schedule for the
- 10 achievement of its fair share of low and moderate income housing
- 11 ¹[which is not inconsistent with section 23 of this act]¹.
- 12 c. The municipality may propose that a portion of its fair share be
- 13 met through a regional contribution agreement. The housing element
- 14 shall demonstrate, however, the manner in which that portion will be
- 15 provided within the municipality if the regional contribution agreement
- 16 is not entered into. The municipality shall provide a statement of its
- 17 reasons for the proposal.
- 18 d. Nothing in this act shall require a municipality to raise or expend
- 19 municipal revenues in order to provide low and moderate income
- 20 housing.
- 21 e. When a municipality's housing element includes the provision of
- 22 rental housing units in a community residence for the developmentally
- 23 disabled, as defined in section 2 of P.L.1977, c.448 (C.30:11B-2),
- 24 which will be affordable to persons of low and moderate income, and
- 25 for which adequate measures to retain such affordability pursuant to
- 26 paragraph (3) of subsection a. of this section are included in the
- 27 housing element, those housing units shall be fully credited as
- 28 permitted under the rules of the council towards the fulfillment of the
- 29 municipality's fair share of low and moderate income housing.
- 30 f. It having been determined by the Legislature that the provision
- 31 of housing under this act is a public purpose, a municipality or
- 32 municipalities may utilize public monies to make donations, grants or
- 33 loans of public funds for the rehabilitation of deficient housing units
- 34 and the provision of new or substantially rehabilitated housing for low
- 35 and moderate income persons, providing that any private advantage is
- 36 incidental.
- 37 g. ¹[Nothing in this act shall prevent a municipality from amending
- 38 its housing element or zoning ordinances without the approval of the
- 39 council, provided substantive certification has been granted by the
- 40 council to the municipality, and the proposed amendments will not
- 41 affect the provision of affordable housing units to which the
- 42 certification applies.] A municipality which has received substantive
- 43 certification from the council, and which has actually effected the
- 44 construction of the affordable housing units it is obligated to provide,
- 45 may amend its affordable housing element or zoning ordinances
- 46 without the approval of the council.¹
- 47 (cf: P.L.1998, c.89, s.1)

1 2. This act shall take effect immediately.

2

3

4

5

6 _____
6 Permits municipalities to amend zoning ordinances without COAH

7 approval under certain circumstances.

CHAPTER 441

AN ACT concerning zoning for affordable housing and amending P.L.1985, c.222.

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

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

C.52:27D-311 Provision of fair share by municipality.

11. a. In adopting its housing element, the municipality may provide for its fair share of low and moderate income housing by means of any technique or combination of techniques which provide a realistic opportunity for the provision of the fair share. The housing element shall contain an analysis demonstrating that it will provide such a realistic opportunity, and the municipality shall establish that its land use and other relevant ordinances have been revised to incorporate the provisions for low and moderate income housing. In preparing the housing element, the municipality shall consider the following techniques for providing low and moderate income housing within the municipality, as well as such other techniques as may be published by the council or proposed by the municipality:

(1) Rezoning for densities necessary to assure the economic viability of any inclusionary developments, either through mandatory set-asides or density bonuses, as may be necessary to meet all or part of the municipality's fair share;

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

(3) Determination of measures that the municipality will take to assure that low and moderate income units remain affordable to low and moderate income households for an appropriate period of not less than six years;

(4) A plan for infrastructure expansion and rehabilitation if necessary to assure the achievement of the municipality's fair share of low and moderate income housing;

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

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

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

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

(9) The purchase of privately owned real property used for residential purposes at the value of all liens secured by the property; excluding any tax liens, notwithstanding that the total amount of debt secured by liens exceeds the appraised value of the property, pursuant to regulations promulgated by the Commissioner of Community Affairs pursuant to subsection b. of section 41 of P.L.2001, c.126 (C.52:27D-311.2).

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

c. The municipality may propose that a portion of its fair share be met through a regional contribution agreement. The housing element shall demonstrate, however, the manner in which that portion will be provided within the municipality if the regional contribution agreement is not entered into. The municipality shall provide a statement of its reasons for the proposal.

d. Nothing in P.L.1985, c.222 shall require a municipality to raise or expend municipal revenues in order to provide low and moderate income housing.

e. When a municipality's housing element includes the provision of rental housing units in a community residence for the developmentally disabled, as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), which will be affordable to persons of low and moderate income, and for which adequate measures to retain such affordability pursuant to paragraph (3) of subsection a. of this section are included in the housing element, those housing units shall be fully credited as permitted under the rules of the council towards the fulfillment of the municipality's fair share of low and moderate income housing.

f. It having been determined by the Legislature that the provision of housing under this act is a public purpose, a municipality or municipalities may utilize public monies to make donations, grants or loans of public funds for the rehabilitation of deficient housing units and the provision of new or substantially rehabilitated housing for low and moderate income persons, providing

that any private advantage is incidental.

g. A municipality which has received substantive certification from the council, and which has actually effected the construction of the affordable housing units it is obligated to provide, may amend its affordable housing element or zoning ordinances without the approval of the council.

2. This act shall take effect immediately.

Approved January 11, 2002.