

52:27D-311

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2013 **CHAPTER:** 6

NJSA: 52:27D-311 (Permits affordable housing occupancy preferences for veterans through municipal agreements with developer)

BILL NO: S829 (Substituted for A1744)

SPONSOR(S) Smith and others

DATE INTRODUCED: January 10, 2012

COMMITTEE: **ASSEMBLY:** Housing and Local Government

SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

LEGISLATIVE TIMELINE:

1/10/2012 Introduced in the Senate, Referred to Senate Community and Urban Affairs Committee
3/8/2012 Reported from Senate Committee, 2nd Reading
5/31/2012 Passed by the Senate (36-0)
6/7/2012 Received in the Assembly, Referred to Assembly Housing and Local Government Committee
9/24/2012 Reported out of Assembly Comm. with Amendments, 2nd Reading
10/18/2012 Substituted for A1744/2490 (ACS)
10/18/2012 Passed by the Assembly (79-0-0)
10/25/2012 Received in the Senate, 2nd Reading on Concurrence
10/25/2012 Concur by Senate Amendments (39-0) (Smith)
11/19/2012 Received in the Assembly, 2nd Reading on Concurrence
12/3/2012 Passed Assembly (Passed Both Houses) (76-0-0)
1/25/2013 Approved P.L.2013, c.6.

DATE OF APPROVAL: January 25, 2013

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second reprint enacted)

S829

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL NOTE: No

(continued)

A1744/2490

SPONSOR'S STATEMENT A1744: (Begins on page 4 of introduced bill) Yes

SPONSOR'S STATEMENT A2490: (Begins on page 2 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2013, CHAPTER 6, *approved January 25, 2013*
Senate, No. 829 (*Second Reprint*)

1 AN ACT concerning affordable housing ¹occupancy preferences¹ for
2 veterans and ¹**[supplementing P.L.1985, c.222 (C.52:27D-301**
3 **et al.)]** amending P.L.1985, c.222¹.

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

7
8 ¹**[1.a.** The Council on Affordable Housing, or its successor, in
9 consultation with the Department of Military and Veterans Affairs,
10 shall promulgate rules and regulations to provide a preference for
11 veterans who qualify for affordable housing assistance and to hold
12 harmless military personnel from any affordable housing
13 application deadlines which may have lapsed during their period of
14 deployment in active military service.

15 b. For purposes of this section, “veteran” means a “veteran” as
16 defined under subsection (h) of section 1 of P.L.1963, c.171
17 (C.54:4-8.10).]¹

18
19 ¹1. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to
20 read as follows:

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

34 (1) Rezoning for densities necessary to assure the economic
35 viability of any inclusionary developments, either through
36 mandatory set-asides or density bonuses, as may be necessary to
37 meet all or part of the municipality's fair share in accordance with
38 the regulations of the council and the provision of subsection h. of
39 this section;

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:

¹Assembly AHO committee amendments adopted September 24, 2012.

²Senate floor amendments adopted October 25, 2012.

- 1 (2) Determination of the total residential zoning necessary to
2 assure that the municipality's fair share is achieved;
- 3 (3) Determination of measures that the municipality will take to
4 assure that low and moderate income units remain affordable to low
5 and moderate income households for an appropriate period of not
6 less than six years;
- 7 (4) A plan for infrastructure expansion and rehabilitation if
8 necessary to assure the achievement of the municipality's fair share
9 of low and moderate income housing;
- 10 (5) Donation or use of municipally owned land or land
11 condemned by the municipality for purposes of providing low and
12 moderate income housing;
- 13 (6) Tax abatements for purposes of providing low and moderate
14 income housing;
- 15 (7) Utilization of funds obtained from any State or federal
16 subsidy toward the construction of low and moderate income
17 housing;
- 18 (8) Utilization of municipally generated funds toward the
19 construction of low and moderate income housing; and
- 20 (9) The purchase of privately owned real property used for
21 residential purposes at the value of all liens secured by the property;
22 excluding any tax liens, notwithstanding that the total amount of
23 debt secured by liens exceeds the appraised value of the property,
24 pursuant to regulations promulgated by the Commissioner of
25 Community Affairs pursuant to subsection b. of section 41 of
26 P.L.2000, c.126 (C.52:27D-311.2).
- 27 b. The municipality may provide for a phasing schedule for the
28 achievement of its fair share of low and moderate income housing.
- 29 c. (Deleted by amendment, P.L.2008, c.46)
- 30 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
31 require a municipality to raise or expend municipal revenues in
32 order to provide low and moderate income housing.
- 33 e. When a municipality's housing element includes the
34 provision of rental housing units in a community residence for the
35 developmentally disabled, as defined in section 2 of P.L.1977,
36 c.448 (C.30:11B-2), which will be affordable to persons of low and
37 moderate income, and for which adequate measures to retain such
38 affordability pursuant to paragraph (3) of subsection a. of this
39 section are included in the housing element, those housing units
40 shall be fully credited as permitted under the rules of the council
41 towards the fulfillment of the municipality's fair share of low and
42 moderate income housing.
- 43 f. It having been determined by the Legislature that the
44 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
45 a public purpose, a municipality or municipalities may utilize public
46 monies to make donations, grants or loans of public funds for the
47 rehabilitation of deficient housing units and the provision of new or

1 substantially rehabilitated housing for low and moderate persons,
2 providing that any private advantage is incidental.

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

8 h. Whenever affordable housing units are proposed to be
9 provided through an inclusionary development, a municipality shall
10 provide, through its zoning powers, incentives to the developer,
11 which shall include increased densities and reduced costs, in
12 accordance with the regulations of the council and this subsection.

13 i. The council, upon the application of a municipality and a
14 developer, may approve reduced affordable housing set-asides or
15 increased densities to ensure the economic feasibility of an
16 inclusionary development.

17 j. ²[The] A² municipality may enter into an agreement with a
18 developer ²or residential development owner² to provide a
19 preference for affordable housing to low to moderate income
20 veterans who served in time of war or other emergency, as defined
21 ²[by] in² section 1 of P.L.1963, c.171 (C.54:4-8.10), of up to 50
22 percent of the affordable units in that particular project. ²This
23 preference shall be established in the applicant selection process for
24 available affordable units so that applicants who are veterans who
25 served in times of war or other emergency, as referenced in this
26 section, and who apply within 90 days of the initial marketing
27 period shall receive preference for the rental of the agreed-upon
28 percentage of affordable units. After the first 90 days of the initial
29 120-day marketing period, if any of those units subject to the
30 preference remain available, then applicants from the general public
31 shall be considered for occupancy. Following the initial 120-day
32 marketing period, previously qualified applicants and future
33 qualified applicants who are veterans who served in times of war or
34 other emergency, as referenced in this section, shall be placed on a
35 special waiting list as well as the general waiting list. The veterans
36 on the special waiting list shall be given preference for affordable
37 units, as the units become available, whenever the percentage of
38 preference-occupied units falls below the agreed upon percentage.²
39 Any agreement to provide affordable housing preferences for
40 veterans pursuant to this subsection shall not affect a municipality's
41 ability to receive credit for the unit from the council ²,or its
42 successor² .¹

43 (cf: P.L.2008, c.46, s.15)

44

45 2. This act shall take effect immediately.

S829 [2R]

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Permits affordable housing occupancy preferences for veterans

4

through municipal agreements with developer.

SENATE, No. 829

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Requires COAH to promulgate rules and regulations providing for veterans' affordable housing assistance preference.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning affordable housing for veterans and
2 supplementing P.L.1985, c.222 (C.52:27D-301 et al.).

3

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

6

7 1. a. The Council on Affordable Housing, or its successor, in
8 consultation with the Department of Military and Veterans Affairs,
9 shall promulgate rules and regulations to provide a preference for
10 veterans who qualify for affordable housing assistance and to hold
11 harmless military personnel from any affordable housing
12 application deadlines which may have lapsed during their period of
13 deployment in active military service.

14 b. For purposes of this section, "veteran" means a "veteran" as
15 defined under subsection (h) of section 1 of P.L.1963, c.171
16 (C.54:4-8.10).

17

18 2. This act shall take effect immediately.

19

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STATEMENT

22

23 This bill requires the Council on Affordable Housing, or its
24 successor, in consultation with the Department of Military and
25 Veterans Affairs, to promulgate rules and regulations to provide a
26 preference for veterans who qualify for affordable housing
27 assistance and to hold harmless military personnel from any
28 affordable housing application deadlines which may have lapsed
29 during their period of deployment in active military service.

30 The intent of this bill is to ensure that military veterans are not
31 disadvantaged in their quest for affordable housing due to their
32 service to our country.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 829

STATE OF NEW JERSEY

DATED: MARCH 8, 2012

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 829.

This bill requires the Council on Affordable Housing, or its successor, in consultation with the Department of Military and Veterans Affairs, to promulgate rules and regulations to provide a preference for veterans who qualify for affordable housing assistance and to hold harmless military personnel from any affordable housing application deadlines which may have lapsed during their period of deployment in active military service.

The intent of this bill is to ensure that military veterans are not disadvantaged in their quest for affordable housing due to their service to our country.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 829

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2012

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Senate Bill No. 829.

As amended by the committee, this bill permits municipalities to enter into agreements with developers to provide affordable housing occupancy preferences for low to moderate income veterans who served in time of war or other emergency, as defined by section 1 of P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable units in that particular project. Under the provisions of the amended bill, any agreement to provide affordable housing preferences for veterans shall not affect a municipality's ability to receive credit for the unit from COAH.

Currently, New Jersey law does not permit a preference for affordable housing for low to moderate income veterans.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

- permit municipalities to enter into agreements with developers to provide affordable housing occupancy preferences for low to moderate income veterans of up to 50 percent of the affordable units in that particular project; and
- clarify that any agreement to provide affordable housing preferences for veterans shall not affect a municipality's ability to receive credit for the unit from COAH.

As amended, this bill is identical to the Assembly Committee Substitute for Assembly, Nos. 1744 and 2490 (Chivukula/Prieto/Brown), also released from committee this day.

STATEMENT TO

[First Reprint]

SENATE, No. 829

with Senate Floor Amendments
(Proposed by Senator SMITH)

ADOPTED: OCTOBER 25, 2012

These Senate amendments establish a process for the veterans' affordable housing preference created under this bill. Under the amendments, applicants who are veterans who served in times of war or other emergency and who apply within the first 90 days of the initial 120-day marketing period shall receive preference for available affordable units subject to the agreed-upon veteran's preference. Thereafter, applicants from the general public shall be considered for any affordable units subject to the preference that remain unrented.

Previously qualified applicants and future qualified applicants who are veterans who served in times of war or other emergency shall be placed on a second waiting list in order to maintain the agreed-upon preference percentage as the affordable units become available in the future. For example, if there were 10 affordable units and the agreement between the municipality and developer, or the municipality and residential development owner, provides a veteran's preference of 40%, then, during the first 90 days a veteran's preference would be provided for four of the 10 units. Following the initial 120-day marketing period, as future vacancies within the affordable units occur, whenever the percentage of preference-occupied units falls below the agreed-upon percentage, a veteran atop the special waiting list would be eligible to rent an available affordable unit. If veterans occupy the agreed-upon percentage of affordable units, a veteran who is atop the general waiting list would be eligible to rent a vacant affordable unit, even though a greater percentage of affordable units would be occupied by veterans, because the agreed upon percentage of affordable unit would be occupied by veterans due to the preference. During the period starting on the 91st day of the initial marketing period and ending on the 120th day, there would be no veteran's preference in the rental of the affordable units.

ASSEMBLY, No. 1744

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman CHRIS A. BROWN

District 2 (Atlantic)

Co-Sponsored by:

Assemblymen DeAngelo and Amodeo

SYNOPSIS

Grants certain veterans preference in affordable housing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/11/2012)

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

3

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

6

7 1. 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
13 housing element shall contain an analysis demonstrating that it will
14 provide such a realistic opportunity, and the municipality shall
15 establish that its land use and other relevant ordinances have been
16 revised to incorporate the provisions for low and moderate income
17 housing. In preparing the housing element, the municipality shall
18 consider the following techniques for providing low and moderate
19 income housing within the municipality, as well as such other
20 techniques as may be published by the council or proposed by the
21 municipality:

22 (1) Rezoning for densities necessary to assure the economic
23 viability of any inclusionary developments, either through
24 mandatory set-asides or density bonuses, as may be necessary to
25 meet all or part of the municipality's fair share in accordance with
26 the regulations of the council and the provision of subsection h. of
27 this section;

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

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

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

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

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

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

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 (8) Utilization of municipally generated funds toward the
2 construction of low and moderate income housing; and
- 3 (9) The purchase of privately owned real property used for
4 residential purposes at the value of all liens secured by the property;
5 excluding any tax liens, notwithstanding that the total amount of
6 debt secured by liens exceeds the appraised value of the property,
7 pursuant to regulations promulgated by the Commissioner of
8 Community Affairs pursuant to subsection b. of section 41 of
9 P.L.2000, c.126 (C.52:27D-311.2).
- 10 b. The municipality may provide for a phasing schedule for the
11 achievement of its fair share of low and moderate income housing.
- 12 c. (Deleted by amendment, P.L.2008, c.46)
- 13 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
14 require a municipality to raise or expend municipal revenues in
15 order to provide low and moderate income housing.
- 16 e. When a municipality's housing element includes the
17 provision of rental housing units in a community residence for the
18 developmentally disabled, as defined in section 2 of P.L.1977,
19 c.448 (C.30:11B-2), which will be affordable to persons of low and
20 moderate income, and for which adequate measures to retain such
21 affordability pursuant to paragraph (3) of subsection a. of this
22 section are included in the housing element, those housing units
23 shall be fully credited as permitted under the rules of the council
24 towards the fulfillment of the municipality's fair share of low and
25 moderate income housing.
- 26 f. It having been determined by the Legislature that the
27 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
28 a public purpose, a municipality or municipalities may utilize public
29 monies to make donations, grants or loans of public funds for the
30 rehabilitation of deficient housing units and the provision of new or
31 substantially rehabilitated housing for low and moderate persons,
32 providing that any private advantage is incidental.
- 33 g. A municipality which has received substantive certification
34 from the council, and which has actually effected the construction
35 of the affordable housing units it is obligated to provide, may
36 amend its affordable housing element or zoning ordinances without
37 the approval of the council.
- 38 h. Whenever affordable housing units are proposed to be
39 provided through an inclusionary development, a municipality shall
40 provide, through its zoning powers, incentives to the developer,
41 which shall include increased densities and reduced costs, in
42 accordance with the regulations of the council and this subsection.
- 43 i. The council, upon the application of a municipality and a
44 developer, may approve reduced affordable housing set-asides or
45 increased densities to ensure the economic feasibility of an
46 inclusionary development.

1 j. (1) The municipality may provide for a preference for
2 affordable housing to low to moderate income veterans who served
3 in time of war or other emergency, as defined by section 1 of
4 P.L.1963, c.171 (C.54:4-8.10).

5 (2) The Council on Affordable Housing shall adopt, pursuant to
6 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), rules and regulations necessary to effectuate this subsection.
8 (cf: P.L.2008, c.46, s.15)

9

10 2. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 This bill permits municipalities to meet their fair share housing
16 obligation under the Fair Housing Act by providing affordable
17 housing preference to veterans of military service in time of war or
18 other emergency as defined by P.L.1963, c.171 (C.54:4-8.10).
19 Current New Jersey law does not provide for a preference for
20 affordable housing to low to moderate income veterans. This bill
21 requires the Council on Affordable Housing to develop rules, which
22 could be similar to those of the United States Department of
23 Housing and Urban Development extending the housing benefit to
24 New Jersey veterans.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1744 and 2490

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2012

The Assembly Housing and Local Government Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 1744 and 2490.

This bill permits municipalities to enter into agreements with developers to provide affordable housing occupancy preferences for low to moderate income veterans who served in time of war or other emergency, as defined by section 1 of P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable units in that particular project. Under the provisions of the bill, any agreement to provide affordable housing preferences for veterans will not affect a municipality's ability to receive credit for the unit from COAH.

Currently, New Jersey law does not permit a preference for affordable housing for low to moderate income veterans.

As substituted, this bill is identical to Senate No. 829 (1R) (Smith/Beach), also released from committee this day.

ASSEMBLY, No. 2490

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 21, 2012

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA
District 17 (Middlesex and Somerset)

SYNOPSIS

Requires COAH to promulgate rules and regulations providing for veterans' affordable housing assistance preference.

CURRENT VERSION OF TEXT

As introduced.



A2490 CHIVUKULA

2

1 AN ACT concerning affordable housing for veterans and
2 supplementing P.L.1985, c.222 (C.52:27D-301 et al.).

3

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

6

7 1. a. The Council on Affordable Housing, or its successor, in
8 consultation with the Department of Military and Veterans Affairs,
9 shall promulgate rules and regulations to provide a preference for
10 veterans who qualify for affordable housing assistance and to hold
11 harmless military personnel from any affordable housing
12 application deadlines which may have lapsed during their period of
13 deployment in active military service.

14 b. For purposes of this section, "veteran" means a "veteran" as
15 defined under subsection (h) of section 1 of P.L.1963, c.171
16 (C.54:4-8.10).

17

18 2. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill requires the Council on Affordable Housing, or its
24 successor, in consultation with the Department of Military and
25 Veterans Affairs, to promulgate rules and regulations to provide a
26 preference for veterans who qualify for affordable housing
27 assistance and to hold harmless military personnel from any
28 affordable housing application deadlines which may have lapsed
29 during their period of deployment in active military service.

30 The intent of this bill is to ensure that military veterans are not
31 disadvantaged in their quest for affordable housing due to their
32 service to our country.