

17:1B-5; 17:1B-5.1; 17:1B-6

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:1B-5; 17:1B-5.1; 17:1B-6 (Mortgage finance agency--permit loans for energy-saving improvements)

LAWS 1980 CHAPTER 171

Bill No. A1549

Sponsor(s) Bennett and others

Date Introduced April 17, 1980

Committee: Assembly Energy and Natural Resources

Senate County and Municipal Government

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 26, 1980

Senate Oct. 6, 1980

Date of approval Dec. 18, 1980

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes ~~No~~

Following were printed:

Reports Yes No

Hearings Yes No

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12-18-80

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ASSEMBLY, No. 1549

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1980

By Assemblymen BENNETT, FLYNN, Assemblywoman MUHLER, Assemblymen VAN WAGNER, VILLANE, Assemblywoman GLUCK, Assemblymen DOWD, IMPERIALE, LITTELL, PAOLLELLA, SAXTON, SNEDEKER, FRANKS, KOSCO, ORECHIO, Assemblywoman BURGIO, Assemblymen ROCCO, REMINGTON, ALBANESE, EDWARDS, OLSZOWY, HURLEY, MAGUIRE, KERN, STEWART, Assemblywoman McCONNELL, Assemblymen LESNIAK, DEVERIN, STOCKMAN, HARDWICK, D. GALLO, Assemblywoman CURRAN, Assemblymen BARRY, COWAN, FORTUNATO, GORMLEY, SHUSTED, WEIDEL, CHINNICI, MARKERT and DOYLE

Referred to Committee on Energy and Natural Resources

AN ACT to amend the "New Jersey Mortgage Finance Agency Law," approved May 4, 1970 (P. L. 1970, c. 38) and amending P. L. 1975, c. 160.

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

1 1. Section 2 of P. L. 1970, c. 38 (C. 17:1B-5) is amended to read
2 as follows:

3 2. The Legislature hereby finds: that the drastic decline in new
4 housing starts, together with the existing large number of sub-
5 standard dwellings, has produced a critical shortage of adequate
6 housing in this State adversely affecting the economy of this State
7 and the well-being of its residents; that there exists a need for
8 adequate, safe **[and]**, sanitary *and energy-efficient* housing for
9 New Jersey's residents; that a large and significant number of
10 New Jersey residents have and will be subject to hardship in
11 finding adequate, safe **[and]**, sanitary *and energy-efficient* housing
12 unless new facilities are constructed and existing housing, where
13 appropriate, is rehabilitated; that unless the supply of housing
14-15 and the ability of our residents to obtain mortgage fi-
16 nancing is increased significantly and expeditiously, a large

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

17 number of residents of this State will be compelled to live in
 18 unsanitary, overcrowded [and], unsafe *and energy* *[wasteful]*
 19 **inefficient** conditions to the detriment of the health, welfare and
 20 well-being of these persons and of the whole community of which
 21 they are a part; that by increasing the housing supply of this State
 22 and the ability of our residents to obtain mortgage financing, the
 23 clearance, replanning, development and redevelopment of blighted
 24 areas will be aided, [and] the critical shortage of adequate
 25 housing will be ameliorated, *and the available supply of energy*
 26 *for housing in the State will be increased.*

27 It is hereby found that a major cause of this housing crisis is the
 28 lack of funds available to finance housing by the private mortgage
 29 lending institutions of the State; it is further found that this lack
 30 of funds has frustrated the sale and purchase of existing resi-
 31 dences in the State.

32 The Legislature has determined that to aid in remedying these
 33 conditions, to promote the expansion of the supply of funds avail-
 34 able for residential mortgages and thereby help alleviate the short-
 35 age of adequate housing, a corporate agency of the State shall be
 36 created with power to raise funds from private investors in order
 37 to make those funds available for residential mortgage loans in
 38 this State. The Legislature has further determined that by utilizing
 39 such powers the agency created shall help develop the financial
 40 resources available to meet the housing needs of its residents. This
 41 purpose is best accomplished through a program whereby mort-
 42 gage lending institutions make the needed residential mortgage
 43 loans through the use of proceeds of loans made available by the
 44 agency on terms designed to assure the expansion of available
 45 mortgage funds while protecting against the realization by these
 46 mortgage lending institutions of an excessive financial return or
 47 benefit.

48 The Legislature further finds that the authority and powers con-
 49 ferred under this act and the expenditure of public moneys pur-
 50 suant thereto constitutes a serving of a valid public purpose and
 51 that the enactment of the provisions hereinafter set forth is in the
 52 public interest and is hereby so declared to be such as a matter of
 53 express legislative determination.

1 2. Section 3 of P. L. 1970, c. 38 (C. 17:1B-6) is amended to read
 2 as follows:

3 3. The following words or terms as used in this act shall have
 4 the following meanings unless a different meaning clearly appears
 5 from the context:

6 (a) "Act" means this New Jersey Mortgage Finance Agency
7 Law.

8 (b) "Agency" means the New Jersey Mortgage Finance Agency
9 created by section 4 of the act.

10 (c) "Bonds" means bonds issued by the agency pursuant to the
11 act.

12 (d) "Mortgage lender" means any bank or trust company, sav-
13 ings bank, national banking association, savings and loan associa-
14 tion, or building and loan association maintaining an office in the
15 State, or any insurance company authorized to transact business
16 in the State.

17 (e) "New residential loan" means: (1) a loan made by a
18 mortgage lender or mortgage seller and secured by a mortgage
19 constituting a first lien upon real property (or a lease of the fee
20 of real property) located in the State and improved by a residential
21 building or unimproved if the proceeds of such loan shall be used
22 for the purpose of erecting a residential building thereon, or (2) a
23 loan made for the rehabilitation or improvement of a residence
24 whether or not secured by a mortgage; provided that such loan
25 shall be made from the proceeds of a loan made by the agency to
26 such mortgage lender or from the proceeds of a purchase of eligible
27 mortgages by the agency from such mortgage seller, as the case
28 may be, all pursuant to the act.

29 (f) "Notes" means notes issued by the agency pursuant to the
30 act.

31 (g) "State" means the State of New Jersey.

32 (h) "Eligible loan" means: (1) a loan made or owned by a
33 mortgage seller and secured by a mortgage on real property (or
34 lease of the fee of real property) located in the State and improved
35 by a residential building or unimproved if the proceeds of such
36 loan shall be used for the purpose of erecting a residential building
37 thereof, or (2) a loan made for the rehabilitation or improvement
38 of a residence which is not secured by a mortgage provided that
39 such a loan satisfies agency regulations promulgated pursuant to
40 this act. Any undivided interest in a loan secured by a mortgage
41 shall qualify as an eligible loan.

42 (i) "Mortgage seller" means any bank or trust company, sav-
43 ings bank, national banking association, savings and loan associa-
44 tion, or building and loan association maintaining an office in the
45 State, or any insurance company or any mortgage banking firm
46 or mortgage banking corporation authorized to transact business
47 in the State, or any agency or instrumentality of the United States
48 or the State or a political subdivision of the State, which is autho-

49 rized to make residential mortgage, rehabilitation, or home im-
50 provement loans.

51 (j) "Persons and families of low and moderate income" means
52 persons and families, irrespective of race, creed, national origin or
53 sex, determined by the agency to require assistance through any
54 mortgage interest subsidy program or other special program estab-
55 lished by the agency therefor on account of personal or family
56 income not sufficient to afford adequate housing. In making such
57 determination the agency shall take into account the following:
58 (1) the amount of the total income of such persons and families
59 available for housing needs, (2) the size of the family, (3) the cost
60 and condition of housing facilities available, (i) the eligibility of
61 such persons and families to compete successfully in the normal
62 housing market and to pay the amounts at which private enterprise
63 is providing sanitary, decent and safe housing. In the case of
64 Federally subsidized mortgages with respect to which income limits
65 have been established by any agency of the Federal Government
66 having jurisdiction thereover for the purpose of defining eligibility
67 of low and moderate income families, the agency may determine
68 that the limits so established shall govern. In all other cases income
69 limits for the purpose of defining low or moderate income persons
70 shall be established by the agency in its rules and regulations.
71 *Such rules and regulations shall provide that, in the case of energy*
72 *saving improvements and solar heating or cooling system improve-*
73 *ments, the above limitations shall not serve to disqualify persons*
74 *from applying for or receiving loans.*

75 k. "Energy saving improvement" means the construction, pur-
76 chase and installation in existing housing of ***[insulation or other**
77 *fixtures, or a solar heating or cooling system, designed to reduce*
78 *the amount of energy from nonrenewable sources needed for heat-*
79 *ing or cooling that housing.]** **any of the following, designed to*
79A *reduce the amount of energy from nonrenewable sources needed for*
79B *heating and cooling that housing: Insulation, storm windows and*
79C *doors, replacement burners, replacement high efficiency heating*
79D *and air conditioning units, including modular boilers and furnaces,*
79E *water heaters, central air conditioners with or without heat re-*
79F *covery to make domestic hot water. The foregoing list shall not be*
79G *construed to be exhaustive, and shall not serve to exclude other*
79H *improvements consistent with the Legislative intent of this*
79I *amendatory act.**

80 l. "Solar heating or cooling system improvement" means **the
81 construction or purchase and installation in housing under con-

82 *struction or in existing housing of** ***[**the construction or purchase*
 83 *and installation in newly constructed or existing housing of any*
 84 *system which uses energy which has recently originated in the sun,*
 85 *including direct and indirect solar radiation and intermediate solar*
 86 *energy from wind or sea thermal gradients, to provide all or a*
 87 *portion of the heating or cooling needs of housing through, but not*
 88 *limited to, such means as nocturnal heat radiation, evaporation*
 89 *cooling towers, flat plate or focusing solar collectors, photovoltaic*
 90 *solar cells or windmills.]* *any system which captures solar radia-*
 91 *tion to heat a fluid which passes over or through the collector*
 92 *element of that system and then transfers that fluid to a point*
 93 *within the system where the heat is withdrawn from the fluid for*
 94 *direct usage or storage. Such systems shall include, but not*
 95 *necessarily be limited to, systems incorporating flat plate,*
 96 *evacuated tube or focusing solar collectors.**

1 3. Section 1 of P. L. 1975, c. 160 (C. 17:1B-5.1) is amended to
 2 read as follows:

3 1. The Legislature hereby finds that national economic condi-
 4 tions have caused the persistence of a critical shortage of adequate
 5 housing in this State and a drastic decline in new housing starts;
 6 that as a result an increasingly large number of New Jersey resi-
 7 dents will be subjected to hardship in finding adequate, safe **[and]**,
 8 sanitary *and energy efficient* housing unless new housing is con-
 9 structed and existing housing, where appropriate, rehabilitated or
 10 improved; that unless the supply of housing and the availability to
 11 residents of this State of residential mortgage, rehabilitation, and
 12 improvement financing is increased over present levels, a large
 13 number of residents of this State will continue to be compelled to
 14 live in unsanitary, overcrowded **[and]**, unsafe *energy* ***[waste-**
 15 *ful]* *inefficient** conditions to the detriment of the health, welfare
 16 and well-being of these residents and of the whole community of
 17 which they are a part; and that an increase in the housing supply
 18 of this State will assist in the clearance, replanning, development
 19 and redevelopment of blighted areas **[and]**, will ameliorate the
 20 critical shortage of adequate housing, *and will increase the avail-*
 21 *able supply of energy for housing in the State.*

22 It is hereby found that existing programs of the New Jersey
 23 Mortgage Finance Agency will not be sufficient in the future to
 24 meet the demands for available funds to assist in the financing of
 25 the new residential mortgage loans and, where appropriate, the
 26 rehabilitation or improvement of existing housing which is needed
 27 to remedy the continuing housing crisis.

28 The Legislature hereby determines that in order to more effec-
29 tively promote the expansion of the supply of funds available for
30 residential mortgage, rehabilitation and improvement loans and
31 thus help alleviate the shortage of adequate housing in this State,
32 the New Jersey Mortgage Finance Agency shall be granted power
33 to raise funds from private investors and make those funds avail-
34 able through mortgage lending institutions and firms in this State
35 for new residential loans through the purchase by the agency
36 of existing residential mortgage loans and residential rehabili-
37 tation and improvement loans from mortgage lending institutions
38 and firms within the State during periods when there is an
39 inadequate supply of credit otherwise available in the State, any
40 particular area or areas of the State or available to persons or
41 families of the State of low or moderate income for residential
42 loans and that this program will be accomplished by the agency on
43 terms designed to assure the expansion of available funds in the
44 State or any such area or areas or for any such persons or families
45 while protecting against the realization by mortgage lending in-
46 stitutions and firms of any excessive financial return or benefit.

47 The Legislature further finds and determines that a secondary
48 mortgage market which will be provided by the residential loan
49 purchase program of the agency will be an appropriate and effective
50 means of encouraging investment in New Jersey residential loans,
51 of reducing the volatility of mortgage flows over the business cycle,
52 and of providing greater stability for the economy of the State of
53 New Jersey.

54 The Legislature further finds and determines that the shortage
55 of adequate housing in the State will be reduced if the present
56 authority of the New Jersey Mortgage Finance Agency to raise
57 funds from private investors and loan such funds to mortgage
58 lending institutions to make residential mortgage loans is extended
59 to permit the agency to loan such funds to mortgage lending insti-
60 tutions to make residential rehabilitation and improvement loans.

61 *The Legislature also finds and determines that a major dis-*
62 *incentive for the rehabilitation and improvement of older housing*
63 *and the full use of the existing housing supply in the State is the*
64 *relative energy inefficiency of older housing and the high cost and*
65 *limited supplies of energy from nonrenewable sources such as oil*
66 *and gas, and that one of the purposes of the New Jersey Mortgage*
67 *Finance Agency shall be to promote the fuller utilization of the*
68 *existing housing supply of the State and to increase the available*
69 *supply of energy for heating and cooling housing in the State. To*

70 *this end, the construction, purchase and installation of energy*
71 *saving improvements and particularly of solar heating or cooling*
72 *system improvements shall be an eligible construction, rehabili-*
73 *tation or improvement to housing for the purpose of any loans*
74 *permitted under the "New Jersey Mortgage Finance Agency Law,"*
75 *and loans permitted for such purposes shall not be subject to limita-*
76 *tion with respect to income, area, or available supply of credit.*

1 4. This act shall take effect immediately.

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 52 and of providing greater stability for the economy of the State of
 53 New Jersey.

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 55 of adequate housing in the State will be reduced if the present
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 75 *and loans permitted for such purposes shall not be subject to limita-*
 76 *tion with respect to income, area, or available supply of credit.*

1 4. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to make energy saving improvements, and particularly solar heating or cooling system improvements, eligible for loan financing from the New Jersey Mortgage Finance Agency. The bill would recognize statutorally that a major disincentive for the rehabilitation and improvement of older housing and the full use of the existing housing supply in the State is the relative energy inefficiency of older housing and the high cost and limited supplies of oil and gas. The bill establishes as a purpose of the New Jersey Mortgage Finance Agency, compatible with its existing purpose to promote the construction and rehabilitation of adequate, safe and sanitary housing, the promotion of energy saving improvements to permit the fuller utilization of the existing housing supply of the State and to increase the available supply of energy for housing in the State.

A1549 (1980)

ASSEMBLY ENERGY AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1549

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1980

As originally drafted, this bill would make energy saving improvements, and particularly solar heating or cooling system improvements, eligible for loan financing from the New Jersey Mortgage Finance Agency.

Amendments adopted by the Assembly Energy and Natural Resources Committee (1) redefine "energy saving improvement" to mean the construction, purchase and installation in existing housing of any of the following improvements, which are designed to reduce the amount of energy from nonrenewable sources needed for heating or cooling that housing: Insulation, storm windows and doors, replacement burners, replacement high-efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make domestic hot water. The committee notes that this listing is not intended to be exhaustive and should not be interpreted to exclude other improvements consistent with the intent of this amendatory act; (2) redefine "solar heating or cooling system improvement" to include any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. Such systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors; and (3) replace the term "energy wasteful" conditions, which the committee considered ambiguous, with "energy inefficient", a term used throughout this amendatory act. As amended, the bill would recognize statutorily that a major discentive for the rehabilitation and improvement of older housing and the full use of the existing housing supply in the State is the relative energy inefficiency of older housing and the high cost and limited supplies of oil and gas. The committee notes that the bill establishes as a purpose of the New Jersey Mortgage

Finance Agency, compatible with its existing purpose to promote the construction and rehabilitation of adequate, safe and sanitary housing, the promotion of energy saving improvements to permit the fuller utilization of the existing housing supply of the State and to increase the available supply of energy for housing in the State.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1549
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STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 1980

Assembly Bill No. 1549 would make energy saving improvements, and particularly solar heating and cooling system improvements, eligible for loan financing from the New Jersey Mortgage Finance Agency.

The agency has already established a pilot program in this regard, and believes legislation is necessary in order to authorize a full program. The agency supports this bill.

Currently, the agency is directed in the findings and declarations sections of the "New Jersey Mortgage Finance Agency Law" to direct its programs to areas of the State where an inadequate supply of credit exists, and to persons and families of low and moderate income. The energy saving improvements program authorized by the legislation is exempted from such direction. Rather, the original findings and purposes sections of the New Jersey Mortgage Finance Agency Law are modified in order to make the extension of loans for energy saving improvements and solar heating and cooling system improvements more fully compatible with the language of those sections. The current legislative direction to the agency contained in these sections is to increase the State's housing supply through the construction and rehabilitation of adequate, safe and sanitary housing, and to, thereby, provide available housing to those currently living in unsanitary, overcrowded and unsafe conditions. The bill cites the relative energy inefficiency of older housing and the high cost and limited supplies of oil and gas as a major discentive to the rehabilitation and improvement of older housing and to the full utilization of the existing housing supply in the State. The bill establishes a purpose of the agency the promotion of energy saving improvements to permit the fuller utilization of the existing housing supply and to increase the available supply of energy for housing in the State.

The Assembly Energy and Natural Resources Committee Statement explains its amendments as follows:

“Amendments adopted by the Assembly Energy and Natural Resources Committee (1) redefine “energy saving improvement” to mean the construction, purchase and installation in existing housing of any of the following improvements, which are designed to reduce the amount of energy from nonrenewable sources needed for heating or cooling that housing: Insulation, storm windows and doors, replacement burners, replacement high-efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make domestic hot water. The committee notes that this listing is not intended to be exhaustive and should not be interpreted to exclude other improvements consistent with the intent of this amendatory act; (2) redefine “solar heating or cooling system improvement” to include any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. Such systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors; and (3) replace the term “energy wasteful” conditions, which the committee considered ambiguous, with “energy inefficient”, a term used throughout this amendatory act. As amended, the bill would recognize statutorily that a major discentive for the rehabilitation and improvement of older housing and the full use of the existing housing supply in the State is the relative energy inefficiency of older housing and the high cost and limited supplies of oil and gas. The committee notes that the bill establishes as a purpose of the New Jersey Mortgage Finance Agency, compatible with its existing purpose to promote the construction and rehabilitation of adequate, safe and sanitary housing, the promotion of energy saving improvements to permit the fuller utilization of the existing housing supply of the State and to increase the available supply of energy for housing in the State.”

The Senate committee amendments are technical in nature and are designed to restore to the bill certain language which was inadvertently omitted by the Assembly committee amendments.

The bill is supported by the New Jersey Mortgage Finance Agency, by the State Department of Energy, and by the New Jersey Solar Energy Association.

12-18-80

From the office of the Governor

-2-

Where a municipality has caused fuel oil to be delivered or the burner rekindled, the landlord can be held liable for a penalty up to \$300 for the affected dwelling unit. The cost of the fuel oil or the refiring of the burner can be billed to the landlord by the fuel oil dealer or the municipality can pay the charge.

In any action to enforce the penalty the municipality is to be reimbursed for its actual costs in having the fuel delivered and the burner refired plus reasonable attorney's fees and costs. The courts are empowered to order payment of the costs due the municipality from the goods and chattels of the landlord or from present and future rents.

The liability of a municipality acting pursuant to this act was limited to gross negligence and malfeasance.

A-1549, sponsored by Assemblyman John O. Bennett (R-Monmouth), which will make energy saving improvements, particularly solar heating and cooling system improvements, eligible for loan financing from the New Jersey Mortgage Finance (MFA). The MFA has already established an energy conservation pilot program.

Prior to the signing of this bill, the MFA had to direct its programs to persons and families of low and moderate income. The energy saving improvements program authorized by this legislation is exempted from such direction, making funds for these purposes available to any person desiring to install such improvements.

#