



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:89

NJSA: 52:27D-311

"Low and moderate income housing -- municipal funding"

BILL NO: A317

SPONSOR(S): Gill and Kelly

DATE INTRODUCED: Pre-filed

COMMITTEE:

ASSEMBLY: Local Government and Housing

SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE:No

DATE OF PASSAGE:

ASSEMBLY: May 18, 1998

SENATE: June 25, 1998

DATE OF APPROVAL: September 1, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Original

A317

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *No*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

ASSEMBLY, No. 317

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblywoman NIA H. GILL

District 27 (Essex)

Assemblyman JOHN V. KELLY

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Permits municipalities to provide certain funds for low and moderate income housing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the powers of municipalities to provide for low
2 and moderate income housing 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 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 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 expend
10 municipal revenues in order to provide low and moderate income
11 housing.

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

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

28 (cf: P.L.1995, c.344, s.2)

29

30 2. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 The "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.),
36 created an obligation on the part of municipalities to make provisions
37 for low and moderate income housing. Many municipalities meet this
38 obligation by utilizing public funds, either through regional
39 contribution agreements or directly, to make low interest loans to
40 interested parties to improve existing housing stock. The bill grants
41 municipalities the authority directly under the Fair Housing Act to
42 finance housing projects in this manner, rather than relegating them
43 to finance these projects under the requirements of the Local
44 Redevelopment and Housing Law.

45 Historically, courts have upheld the authority of municipalities to
46 make loans or donations to further a public purpose when that power

A317 GILL, KELLY

4

1 has been expressly granted by the Legislature. This bill specifically
2 authorizes municipalities to use public monies to make donations,
3 grants or loans of public funds for the rehabilitation of deficient
4 housing units and the provision of new or substantially rehabilitated
5 housing for low and moderate income persons, providing that any
6 private advantage is incidental.

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ASSEMBLY LOCAL GOVERNMENT AND HOUSING
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 317

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 1998

The Assembly Local Government and Housing Committee reports favorably Assembly Bill No. 317.

This bill grants municipalities the authority directly under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) to finance housing projects by utilizing public funds, either through regional contribution agreements or directly to interested parties to improve existing housing stock. Current interpretations of the statute have required municipalities to finance these projects under the requirements of the Local Redevelopment and Housing Law.

Historically, courts have upheld the authority of municipalities to make loans or donations to further a public purpose when that power has been expressly granted by the Legislature. This bill specifically authorizes municipalities to use 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.

This bill was pre-filed for introduction in the 1998-1999 legislative session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 317

STATE OF NEW JERSEY

DATED: JUNE 4, 1998

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 317.

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