

55:14K-1

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("Rental Housing Incentive Guarantee Act")

NJSA: 55:14K-1

LAWS OF: 1995 CHAPTER: 359

BILL NO: A1483

SPONSOR(S): Gaffney

DATE INTRODUCED: March 7, 1994

COMMITTEE: ASSEMBLY: Housing

SENATE: Community Affairs; Budget

AMENDED DURING PASSAGE: No Assembly Committee Substitute Enacted

DATE OF PASSAGE: ASSEMBLY: November 14, 1995

SENATE: December 11, 1995

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

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COMMITTEE STATEMENT: ASSEMBLY: Yes

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REPORTS: No

HEARINGS: Yes

974.90 New Jersey. Legislature. General Assembly. Housing Committee.
H842 Committee meeting...testimony regarding the efforts made to date
1997a to implement legislative enactments. February 10, 1997. Trenton,
1997.

KBP:pp

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1483

STATE OF NEW JERSEY

ADOPTED OCTOBER 20, 1994

Sponsored by Assemblymen GAFFNEY, GREEN, Kramer, Kelly,
Assemblywoman Smith and Assemblyman Hayden

1 AN ACT establishing the Rental Housing Incentive Guarantee
2 Program, providing for loan guarantees for developers of
3 affordable rental housing under certain circumstances,
4 supplementing and amending P.L.1983, c.530, and amending
5 P.L.1974, c.80 and P.L.1992, c.16.

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

9 1. (New section) This act shall be known and may be cited as
10 the "Rental Housing Incentive Guarantee Program."

11 2. (New section) The Legislature hereby finds and declares:

12 a. The present depressed condition of the housing industry in
13 this State is both an obstacle to economic recovery and a source
14 of distress to those among our population for whom housing at
15 affordable cost has become inadequate, insufficient or
16 unavailable.

17 b. By enactment of P.L.1992, c.114 (C.55:14K-45 et seq.) this
18 Legislature recognized the severity of this problem and
19 endeavored to provide a stimulus to the housing industry through
20 a program of loans and loan guarantees for housing development,
21 to be administered by the New Jersey Housing and Mortgage
22 Finance Agency (HMFA).

23 c. The aforesaid enactment, however, is limited to the
24 encouragement of housing that is to be developed for sale to
25 individual home owners; whereas for the foreseeable future the
26 most pressing need for housing will be among those lower-income
27 groups for whom home ownership remains out of reach, and to
28 whom it is essential that affordable rental housing of a decent
29 standard of habitability be made available.

30 d. The Assembly Task Force on HMFA Operations, which
31 issued its general recommendations on January 27, 1993,
32 recommended that additional resources be allocated towards
33 significantly increasing rental housing production.

34 e. The Assembly Housing Committee, in both the 1992-1993
35 and 1994-1995 legislative sessions, has provided forums on
36 numerous occasions to the banking industry, HMFA, and builders
37 of rental housing, which enabled these parties to formulate a plan
38 to remove the barriers to the construction of affordable rental
39 housing.

40 f. It is, therefore, the intention of this act to make available,
41 under administration of the HMFA, loan guarantees to developers
42 of rental housing upon terms that include assurances of long-term

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 affordability to low and moderate income renters of a significant
2 proportion of the dwelling units thus developed.

3 g. It is the further intention of this act to suggest that a
4 portion of the funding provided to the New Jersey Economic
5 Development Authority (NJEDA) under the "Economic Recovery
6 Act" (P.L.1992, c.16, C.34:1B-7.10 et seq.), be directed to the
7 development of affordable rental housing.

8 3. (New section) As used in this act:

9 "Agency" means the New Jersey Housing and Mortgage
10 Finance Agency.

11 "Construction costs" means all expenditures made or incurred
12 by a qualified housing developer, inclusive of reasonable
13 pre-construction costs, prior to the obtaining of permanent
14 financing on a completed housing development.

15 "Construction loan" means a loan made to a qualified
16 developer for the financing of construction costs.

17 "Development" means development within the meaning of the
18 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

19 "Fund" means the Rental Housing Incentive Guarantee Fund
20 established pursuant to section 4 of this act.

21 "Housing developer" means any person, firm, corporation or
22 association of persons that has undertaken or proposes to
23 undertake a housing development.

24 "Housing development" means development undertaken for the
25 purpose of creating one or more residential units, whether
26 detached or attached or in the form of multiple dwellings, for
27 occupancy under rental tenure by persons who shall occupy such
28 units as their usual and permanent residence, together with any
29 structures or facilities appurtenant or ancillary thereto.

30 "Institutional lender" means any bank or trust company,
31 savings bank, national banking association, savings and loan
32 association, or building and loan association maintaining an office
33 in this State, or any insurance company or any mortgage banking
34 firm or mortgage banking corporation authorized to transact
35 business in this State.

36 "Loan guarantee" means an agreement by the agency to
37 guarantee up to 30 percent of the remaining principal balance of
38 a loan made to a qualified developer by an institutional lender,
39 either through agreements to purchase loans or to otherwise
40 indemnify the lender, up to an amount not to exceed \$300,000.

41 "Permanent financing" means long-term financing secured by a
42 qualified housing developer through an institutional lender, and
43 may include construction costs and costs associated with
44 developing, constructing, and managing a housing development.

45 "Pre-construction costs" means the amount approved by the
46 agency as an appropriate expenditure that may be incurred prior
47 to the obtaining of permanent financing on a completed housing
48 development, exclusive of the actual costs of construction and
49 preparatory and ancillary to actual construction, and may
50 include, without limitation: (1) payments for options, deposits or
51 contracts to purchase properties on the proposed housing
52 development site; (2) legal and organizational expenses, including
53 attorneys' fees, and salaries, office rent and other incidental
54 expenses for a project manager and office staff; (3)

1 fees for preliminary feasibility studies, planning advances,
2 borings, surveys, engineering and architectural work, and fees for
3 the services of architects, engineers, planners and attorneys in
4 connection therewith; (4) expenses for tenant surveys and market
5 analyses; and (5) such other expenses as the agency may deem
6 necessary and appropriate to effectuate the purposes of this act.

7 "Qualified housing developer" means a housing developer who
8 has qualified for a loan guarantee pursuant to section 5 of this
9 act.

10 "Qualified housing development" means a housing development
11 for which a loan guarantee may be made pursuant to section 5 of
12 this act.

13 4. (New section) a. There is hereby established in the agency
14 the Rental Housing Incentive Guarantee Fund, which shall be
15 non-revolving, for the purpose of funding loan guarantees
16 authorized pursuant to this act.

17 b. There shall be paid into the fund: (1) moneys allocated to
18 the agency under agreements made with the New Jersey
19 Economic Development Authority pursuant to section 9 of this
20 act and (2) any other funds that may be made available to the
21 fund by the agency, such as funds available from bond
22 redemptions or refundings, federal funds, available reserves,
23 monies available from the Revolving Housing Development and
24 Demonstration Grant Program fund established pursuant to
25 section 5 of P.L.1967, c.82 (C.52:27D-63), or any monies
26 available from any other program the purpose of which is to
27 promote affordable housing, up to an amount not to exceed
28 \$10,000,000, which shall be based on lender participation and
29 program demands.

30 c. Moneys in the fund shall be used exclusively for (1) making
31 payments in fulfillment of the terms of loan guarantees entered
32 into pursuant to section 5 of this act; and (2) defraying the
33 administrative costs of the agency in carrying out the purposes
34 and provisions of this act.

35 5. (New section) a. The agency is hereby authorized to
36 contract with institutional lenders to guarantee on behalf of a
37 qualified housing developer the repayment of up to 30 percent of
38 the full principal balance of a loan outstanding at the time of any
39 default, up to a maximum of \$300,000, provided subsection c. of
40 this section is complied with.

41 b. The agency shall establish within the fund sufficient
42 reserves and liquid reserves to provide a sufficient and
43 actuarially sound basis for its pledges contained in any guarantee
44 contract entered into pursuant to subsection a. of this section.

45 c. The agency shall adopt rules and regulations governing the
46 issuance of loan guarantees pursuant to this section, including
47 matters related to the duties and the exercise of the powers of
48 the agency under this section, and the provision of technical
49 assistance to developers, including:

50 (1) procedures for the submission of requests for such
51 guarantees;

52 (2) standards and requirements governing the allocation of
53 guarantees to applicant institutional lenders, and determining the
54 fees to be charged therefor and the manner of payment of those

1 fees; and

2 (3) after consultation with participating institutional lenders,
3 reasonable restrictions as to the maturities and interest rates of
4 any loan, or the return realized therefrom by the institutional
5 lender, and requirements as to commitments by institutional
6 lenders with respect to loans upon which guarantees may be
7 issued.

8 d. A loan guarantee may be made only with respect to a
9 housing development of 25 units or fewer, or to a segment not
10 exceeding 25 units of a larger housing development projected or
11 in progress.

12 e. A loan guarantee shall include assurances of long-term
13 affordability to low and moderate income tenants for a portion of
14 the units in the development.

15 f. A loan guarantee with respect to any housing development
16 may be made when it has been demonstrated to the satisfaction
17 of the agency that the qualified housing developer has met the
18 criteria for a loan guarantee as specified in this section. The
19 agency shall make such a determination within 30 days of
20 submission of an application by a qualified housing developer.

21 g. Every loan subject to a loan guarantee made pursuant to
22 this section shall be secured by a first lien upon the real property
23 concerned in the development, or segment thereof, with respect
24 to which the loan is made and such other collateral as the agency
25 may consider necessary to secure the interests of the fund in
26 accordance with the provisions and purposes of this act. The
27 agency may, if it deems necessary, require the loan to be secured
28 by a personal loan guarantee by the developer or by a lien upon
29 other real property contained in a development not included in
30 the segment with respect to which the loan is made, or upon any
31 other real property, or interest therein, belonging to the qualified
32 housing developer to whom the loan is made; provided, however,
33 that no personal loan guarantee shall be required of any agent or
34 officer of a nonprofit housing developer.

35 h. The provisions of P.L. , c. (C.)(now pending before
36 the Legislature as this substitute), to the extent that they can be
37 read to be in conflict with the provisions of P.L.1983, c.530
38 (C.55:14K-1 et seq.), shall be read to enlarge the powers granted
39 by that act, or when directly contrary, supersede any such
40 provision.

41 6. (New section) For the purpose of carrying out the housing
42 component of mixed use projects of the New Jersey Economic
43 Development Authority consisting of both housing and
44 commercial development, the agency may enter into agreements
45 with that authority and receive funds from the authority for any
46 of the purposes authorized by this act and specified in the
47 agreement between the agency and the Economic Development
48 Authority.

49 7. (New section) The New Jersey Economic Development
50 Authority shall provide funding for any agreements entered into
51 pursuant to section 6 of P.L. , c. (C.)(now pending before
52 the Legislature as this substitute) on the basis of demand,
53 utilizing (1) such amounts from the Economic Recovery Fund
54 established pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.) as the

1 authority determines to be necessary, within the limits of funding
2 available from that fund, based upon executed agreements
3 between the authority and the Housing and Mortgage Finance
4 Agency concerning mixed-use housing and commercial
5 developments pursuant to section 3 of P.L.1974, c.80 (C.34:1B-3)
6 and (2) other moneys of the authority, including but not limited to
7 moneys available from other business loan programs administered
8 by the authority, that the authority determines to be necessary.

9 8. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read
10 as follows:

11 3. As used in this act, unless a different meaning clearly
12 appears from the context:

13 a. "Authority" means the New Jersey Economic Development
14 Authority, created by section 4 of this act.

15 b. "Bonds" means bonds or other obligations issued by the
16 authority pursuant to this act or "Economic Recovery Bonds or
17 Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.).

18 c. "Cost" means the cost of the acquisition, construction,
19 reconstruction, repair, alteration, improvement and extension of
20 any building, structure, facility including water transmission
21 facilities, or other improvement; the cost of machinery and
22 equipment; the cost of acquisition, construction, reconstruction,
23 repair, alteration, improvement and extension of energy saving
24 improvements or pollution control devices, equipment or
25 facilities; the cost of lands, rights-in-lands, easements,
26 privileges, agreements, franchises, utility extensions, disposal
27 facilities, access roads and site development deemed by the
28 authority to be necessary or useful and convenient for any project
29 or in connection therewith; discount on bonds; cost of issuance of
30 bonds; engineering and inspection costs; costs of financial, legal,
31 professional and other estimates and advice; organization,
32 administrative, insurance, operating and other expenses of the
33 authority or any person prior to and during any acquisition or
34 construction, and all such expenses as may be necessary or
35 incident to the financing, acquisition, construction or completion
36 of any project or part thereof, and also such provision for
37 reserves for payment or security of principal of or interest on
38 bonds during or after such acquisition or construction as the
39 authority may determine.

40 d. "County" means any county of any class.

41 e. "Development property" means any real or personal
42 property, interest therein, improvements thereon, appurtenances
43 thereto and air or other rights in connection therewith, including
44 land, buildings, plants, structures, systems, works, machinery and
45 equipment acquired or to be acquired by purchase, gift or
46 otherwise by the authority within an urban growth zone.

47 f. "Person" means any person, including individuals, firms,
48 partnerships, associations, societies, trusts, public or private
49 corporations, or other legal entities, including public or
50 governmental bodies, as well as natural persons. "Person" shall
51 include the plural as well as the singular.

52 g. "Pollution control project" means any device, equipment,
53 improvement, structure or facility, or any land and any building,
54 structure, facility or other improvement thereon, or any

1 combination thereof, whether or not in existence or under
2 construction, or the refinancing thereof in order to facilitate
3 improvements or additions thereto or upgrading thereof, and all
4 real and personal property deemed necessary thereto, having to
5 do with or the end purpose of which is the control, abatement or
6 prevention of land, sewer, water, air, noise or general
7 environmental pollution, including, but not limited to, any air
8 pollution control facility, noise abatement facility, water
9 management facility, thermal pollution control facility, radiation
10 contamination control facility, wastewater collection system,
11 wastewater treatment works, sewage treatment works system,
12 sewage treatment system or solid waste disposal facility or site;
13 provided that the authority shall have received from the
14 Commissioner of the State Department of Environmental
15 Protection or his duly authorized representative a certificate
16 stating the opinion that, based upon information, facts and
17 circumstances available to the State Department of
18 Environmental Protection and any other pertinent data, (1) said
19 pollution control facilities do not conflict with, overlap or
20 duplicate any other planned or existing pollution control facilities
21 undertaken or planned by another public agency or authority
22 within any political subdivision, and (2) that such facilities, as
23 designed, will be a pollution control project as defined in this act
24 and are in furtherance of the purpose of abating or controlling
25 pollution.

26 h. "Project" means: (1) (a) acquisition, construction,
27 reconstruction, repair, alteration, improvement and extension of
28 any building, structure, facility, including water transmission
29 facilities or other improvement, whether or not in existence or
30 under construction, (b) purchase and installation of equipment and
31 machinery, (c) acquisition and improvement of real estate and the
32 extension or provision of utilities, access roads and other
33 appurtenant facilities; and (2) (a) the acquisition, financing, or
34 refinancing of inventory, raw materials, supplies, work in process,
35 or stock in trade, or (b) the financing, refinancing or
36 consolidation of secured or unsecured debt, borrowings, or
37 obligations, or (c) the provision of financing for any other expense
38 incurred in the ordinary course of business; all of which are to be
39 used or occupied by any person in any enterprise promoting
40 employment, either for the manufacturing, processing or
41 assembly of materials or products, or for research or office
42 purposes, including, but not limited to, medical and other
43 professional facilities, or for industrial, recreational, hotel or
44 motel facilities, public utility and warehousing, or for
45 commercial and service purposes, including, but not limited to,
46 retail outlets, retail shopping centers, restaurant and retail food
47 outlets, and any and all other employment promoting enterprises,
48 including, but not limited to, motion picture and television
49 studios and facilities and commercial fishing facilities,
50 commercial facilities for recreational fishermen, fishing vessels,
51 aquaculture facilities and marketing facilities for fish and fish
52 products and (d) acquisition of an equity interest in, including
53 capital stock of, any corporation; or any combination of the
54 above, which the authority determines will: (i) tend to maintain

1 or provide gainful employment opportunities within and for the
2 people of the State, or (ii) aid, assist and encourage the economic
3 development or redevelopment of any political subdivision of the
4 State, or (iii) maintain or increase the tax base of the State or of
5 any political subdivision of the State, or (iv) maintain or diversify
6 and expand employment promoting enterprises within the State;
7 and (3) the cost of acquisition, construction, reconstruction,
8 repair, alteration, improvement and extension of an energy saving
9 improvement or pollution control project which the authority
10 determines will tend to reduce the consumption in a building
11 devoted to industrial or commercial purposes, or in an office
12 building, of nonrenewable sources of energy or to reduce, abate
13 or prevent environmental pollution within the State; and (4) the
14 acquisition, construction, reconstruction, repair, alteration,
15 improvement, extension, development, financing or refinancing of
16 infrastructure and transportation facilities or improvements
17 related to economic development and of cultural, recreational
18 and tourism facilities or improvements related to economic
19 development and of capital facilities for primary and secondary
20 schools and of mixed use projects consisting of housing and
21 commercial development. Project may also include: (i)
22 reimbursement to any person for costs in connection with any
23 project, or the refinancing of any project or portion thereof, if
24 determined by the authority as necessary and in the public
25 interest to maintain employment and the tax base of any political
26 subdivision and will facilitate improvements thereto or the
27 completion thereof, and (ii) development property and any
28 construction, reconstruction, improvement, alteration, equipment
29 or maintenance or repair, or planning and designing in connection
30 therewith. For the purpose of carrying out mixed use projects
31 consisting of both housing and commercial development, the
32 authority may enter into agreements with the New Jersey
33 Housing and Mortgage Finance Agency for loan guarantees for
34 any such project in accordance with the provisions of P.L. ,
35 c. (C.) (now pending before the Legislature as this
36 substitute), and for that purpose shall allocate to the New Jersey
37 Housing and Mortgage Finance Agency, under such agreements,
38 funding available pursuant to subsection a. of section 4 of
39 P.L.1992, c.16 (C.34:1B-7.13).

40 i. "Revenues" means receipts, fees, rentals or other payments
41 to be received on account of lease, mortgage, conditional sale, or
42 sale, and payments and any other income derived from the lease,
43 sale or other disposition of a project, moneys in such reserve and
44 insurance funds or accounts or other funds and accounts, and
45 income from the investment thereof, established in connection
46 with the issuance of bonds or notes for a project or projects, and
47 fees, charges or other moneys to be received by the authority in
48 respect of projects and contracts with persons.

49 j. "Resolution" means any resolution adopted or trust
50 agreement executed by the authority, pursuant to which bonds of
51 the authority are authorized to be issued.

52 k. "Energy saving improvement" means the construction,
53 purchase and installation in a building devoted to industrial or
54 commercial purposes of any of the following, designed to reduce

1 the amount of energy from nonrenewable sources needed for
2 heating and cooling that building: insulation, replacement
3 burners, replacement high efficiency heating and air conditioning
4 units, including modular boilers and furnaces, water heaters,
5 central air conditioners with or without heat recovery to make
6 hot water for industrial or commercial purposes or in office
7 buildings, and any solar heating or cooling system improvement,
8 including any system which captures solar radiation to heat a
9 fluid which passes over or through the collector element of that
10 system and then transfers that fluid to a point within the system
11 where the heat is withdrawn from the fluid for direct usage or
12 storage. These systems shall include, but not necessarily be
13 limited to, systems incorporating flat plate, evacuated tube or
14 focusing solar collectors.

15 The foregoing list shall not be construed to be exhaustive, and
16 shall not serve to exclude other improvements consistent with
17 the legislative intent of this amendatory act.

18 l. "Urban growth zone" means any area within a municipality
19 receiving State aid pursuant to the provisions of P.L.1978, c.14
20 (C.52:27D-178 et seq.) or a municipality certified by the
21 Commissioner of Community Affairs to qualify under such law in
22 every respect except population, which area has been so
23 designated pursuant to an ordinance of the governing body of such
24 municipality.

25 (cf: P.L.1992, c.16, s.11)

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

28 3. As used in this act:

29 a. "Agency" means the New Jersey Housing and Mortgage
30 Finance Agency as consolidated by section 4 of [this act] P.L.
31 1983, c. 530 (C. 55:14K-4), or, if that agency shall be abolished
32 by law, the person, board, body or commission succeeding to the
33 powers and duties thereof or to whom its powers and duties shall
34 be given by law.

35 b. "Boarding house" means any building, together with any
36 related structure, accessory building, any land appurtenant
37 thereto, and any part thereof, which contains two or more units
38 of dwelling space arranged or intended for single room
39 occupancy, exclusive of any such unit occupied by an owner or
40 operator, including:

41 (1) any residential hotel or congregate living arrangement, but
42 excluding any hotel, motel or established guesthouse wherein a
43 minimum of 85% of the units of dwelling space are offered for
44 limited tenure only; (2) a residential health care facility as
45 defined in section 1 of P.L.1953, c. 212 (C. 30:11A-1) or licensed
46 pursuant to P.L.1971, c. 136 (C. 26:2H-1 et seq.); (3) any foster
47 home as defined in section 1 of P.L.1962, c. 137 (C. 30:4C-26.1);
48 (4) any community residence for the developmentally disabled as
49 defined in section 2 of P.L.1977, c. 448 (C. 30:11B-2); (5) any
50 dormitory owned or operated on behalf of any nonprofit
51 institution of primary, secondary or higher education for the use
52 of its students; (6) any building arranged for single room
53 occupancy wherein the units of dwelling space are occupied
54 exclusively by students enrolled in a full-time course of study at

1 an institution of higher education approved by the Department of
2 Higher Education; and (7) any facility or living arrangement
3 operated by, or under contract with, any State department or
4 agency.

5 c. "Bonds" mean any bonds, notes, bond anticipation notes,
6 debentures or other evidences of financial indebtedness issued by
7 the agency pursuant to this act.

8 d. "Continuing-care retirement community" means any work
9 or undertaking, whether new construction, improvement or
10 rehabilitation, which may be financed in part or in whole by the
11 agency and which is designed to complement fully independent
12 residential units with social and health care services (usually
13 including nursing and medical services) for retirement families
14 and which is intended to provide continuing care for the term of a
15 contract in return for an entrance fee or periodic payments, or
16 both, and which may include such appurtenances and facilities as
17 the agency deems to be necessary, convenient or desirable.

18 e. "Eligible loan" means a loan, secured or unsecured, made
19 for the purpose of financing the operation, maintenance,
20 construction, acquisition, rehabilitation or improvement of
21 property, or the acquisition of a direct or indirect interest in
22 property, located in the State, which is or shall be: (1) primarily
23 residential in character or (2) used or to be used to provide
24 services to the residents of an area or project which is primarily
25 residential in character. The agency shall adopt regulations
26 defining the term "primarily residential in character", which may
27 include single-family, multi-family and congregate or other
28 single room occupancy housing, continuing-care retirement
29 communities, mobile homes and nonhousing properties and
30 facilities which enhance the livability of the residential property
31 or area; and specifying the types of residential services and
32 facilities for which eligible loans may be made, which may
33 include, but shall not be limited to, parking facilities, streets,
34 sewers, utilities, and administrative, community, educational,
35 welfare and recreational facilities, food, laundry, health and
36 other services and commercial establishments and professional
37 offices providing supplies and services enhancing the area. The
38 term "loan" includes an obligation the return on which may vary
39 with any appreciation in value of the property or interest in
40 property financed with the proceeds of the loan, or a co-ventured
41 instrument by which an institutional lender or the agency assumes
42 an equity position in the property. Any undivided interest in an
43 eligible loan shall qualify as an eligible loan.

44 f. "Family" means two or more persons who live or expect to
45 live together as a single household in the same dwelling unit; but
46 any individual who (1) has attained retirement age as defined in
47 section 216a of the federal Social Security Act, or (2) is under a
48 disability as defined in section 223 of that act, or (3) such other
49 individuals as the agency by rule or regulation shall include, shall
50 be considered as a family for the purpose of this act; and the
51 surviving member of a family whose other members died during
52 occupancy of a housing project shall be considered as a family for
53 the purposes of permitting continued occupancy of the dwelling
54 unit occupied by such family.

1 g. "Gross aggregate family income" means the total annual
2 income of all members of a family, from whatever source
3 derived, including but not limited to, pension, annuity, retirement
4 and social security benefits; except that there may be excluded
5 from income (1) such reasonable allowances for dependents, (2)
6 such reasonable allowances for medical expenses, (3) all or any
7 proportionate part of the earnings of gainfully employed minors,
8 or (4) such income as is not received regularly, as the agency by
9 rule or regulation may determine.

10 h. "Housing project" or "project" means any work or
11 undertaking, other than a continuing-care [retirement]
12 community, whether new construction [or] , improvement,
13 rehabilitation, or acquisition of existing buildings or units which
14 is designed for the primary purpose of providing multi-family
15 rental housing [of more than 25 dwelling units] or acquisition of
16 sites for future multi-family rental housing.

17 i. "Housing sponsor" means any person, partnership,
18 corporation or association , whether organized as for profit or not
19 for profit, to which the agency has made or proposes to make a
20 loan, either directly or through an institutional lender, for a
21 housing project.

22 j. "Institutional lender" means any bank or trust company,
23 savings bank, national banking association, savings and loan
24 association, or building and loan association maintaining an office
25 in the State, or any insurance company or any mortgage banking
26 firm or mortgage banking corporation authorized to transact
27 business in the State.

28 k. "Life safety improvement" means any addition,
29 modification or repair to a boarding house which is necessary to
30 improve the life safety of the residents of the boarding house, as
31 certified by the Department of Community Affairs.

32 l. "Life safety improvement loan" means an eligible loan the
33 proceeds of which are to be used to finance, in whole or in part,
34 the construction, acquisition or rendering of life safety
35 improvements at or to boarding houses.

36 m. "Loan originator" means any bank or trust company,
37 savings bank, national banking association, savings and loan
38 association, or building and loan association maintaining an office
39 in the State, or any insurance company or any mortgage banking
40 firm or mortgage banking corporation authorized to transact
41 business in the State, or any agency or instrumentality of the
42 United States or the State or a political subdivision of the State,
43 which is authorized to make eligible loans.

44 n. "Municipality" means any city of any class or any town,
45 township, village or borough.

46 o. "Mutual housing" means a housing project operated or to be
47 operated upon completion of construction, improvement or
48 rehabilitation exclusively for the benefit of the families who are
49 entitled to occupancy by reason of ownership of stock in the
50 housing sponsor, or by reason of co-ownership of premises in a
51 horizontal property regime pursuant to P.L.1963, c. 168; but the
52 agency may adopt rules and regulations permitting a reasonable
53 percentage of space in such project to be rented for residential or
54 for commercial use.

1 p. "Persons and families of low and moderate income" mean
2 persons and families, irrespective of race, creed, national origin
3 or sex, determined by the agency to require assistance on account
4 of personal or family income being not sufficient to afford
5 adequate housing. In making such determination the agency shall
6 take into account the following:

7 (1) the amount of the total income of such persons and families
8 available for housing needs, (2) the size of the family, (3) the cost
9 and condition of housing facilities available and (4) the eligibility
10 of such persons and families to compete successfully in the
11 normal housing market and to pay the amounts at which private
12 enterprise is providing sanitary, decent and safe housing. In the
13 case of projects with respect to which income limits have been
14 established by any agency of the federal government having
15 jurisdiction thereover for the purpose of defining eligibility of
16 low and moderate income families, the agency may determine
17 that the limits so established shall govern. In all other cases
18 income limits for the purpose of defining low or moderate income
19 persons shall be established by the agency in its rules and
20 regulations.

21 q. "Project cost" means the sum total of all costs incurred in
22 the acquisition, development, construction, improvement or
23 rehabilitation of a housing project, which are approved by the
24 agency as reasonable or necessary, which costs shall include, but
25 are not necessarily limited to, (1) cost of land acquisition and any
26 buildings thereon, (2) cost of site preparation, demolition and
27 development, (3) architect, engineer, legal, agency and other fees
28 paid or payable in connection with the planning, execution and
29 financing of the project, (4) cost of necessary studies, surveys,
30 plans and permits, (5) insurance, interest, financing, tax and
31 assessment costs and other operating and carrying costs during
32 construction, (6) cost of construction, reconstruction, fixtures,
33 and equipment related to the real property, (7) cost of land
34 improvements, (8) necessary expenses in connection with initial
35 occupancy of the project, (9) a reasonable profit or fee to the
36 builder and developer, (10) an allowance established by the
37 agency for working capital and contingency reserves, and
38 reserves for any operating deficits, (11) costs of guarantees,
39 insurance or other additional financial security for the project
40 and (12) the cost of such other items, including tenant relocation,
41 as the agency shall determine to be reasonable and necessary for
42 the development of the project, less any and all net rents and
43 other net revenues received from the operation of the real and
44 personal property on the project site during
45 construction, improvement or rehabilitation.

46 All costs shall be subject to approval and audit by the agency.
47 The agency may adopt rules and regulations specifying in detail
48 the types and categories of cost which shall be allowable if
49 actually incurred in the development, acquisition, construction,
50 improvement or rehabilitation of a housing project.

51 r. "Retirement family" means one or more persons related by
52 blood, marriage or adoption who live or expect to live together as
53 a single household in the same dwelling unit, provided that at
54 least one of the persons is an individual who (1) has attained

1 retirement age as defined in section 216a of the Federal Social
2 Security Act, or (2) is under a disability as defined in section 223
3 of that act, or (3) such individuals as the agency by rule or
4 regulation shall include; and provided further, that the surviving
5 member of a retirement family whose other members died during
6 occupancy of a continuing-care retirement community shall be
7 considered as a retirement family for purposes of permitting
8 continued occupancy of the dwelling unit occupied by such
9 retirement family.

10 (cf: P.L.1983, c.530, s.3)

11 10. (New section) The agency is hereby authorized to
12 promulgate, in accordance with the provisions of the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), all rules and regulations necessary to effectuate the
15 purposes of this act.

16 11. This act shall take effect on the 90th day following
17 enactment, except that section 10 shall take effect immediately.

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22 Establishes the Rental Housing Incentive Guarantee Fund and
23 program in HMFA.

1 legislative intent of this amendatory act.

2 1. "Urban growth zone" means any area within a municipality
3 receiving State aid pursuant to the provisions of P.L.1978, c.14
4 (C.52:27D-178 et seq.) or a municipality certified by the
5 Commissioner of Community Affairs to qualify under such law in
6 every respect except population, which area has been so
7 designated pursuant to an ordinance of the governing body of such
8 municipality.

9 (cf: P.L.1992, c.16 s.11)

10 9. (New section) The agency is hereby authorized to
11 promulgate, in accordance with the provisions of the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.), all rules and regulations necessary to effectuate the
14 purposes of this act.

15 10. This act shall take effect on the 90th day next following
16 its enactment, except that section 9 shall take effect
17 immediately.

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STATEMENT

21

22 The present depressed condition of the housing industry in this
23 State is both an obstacle to economic recovery for the whole
24 community, and a source of distress to those among our
25 population for whom housing within their means has become
26 inadequate, insufficient or unavailable.

27 By the recent enactment of the "Housing Incentive Finance
28 Act," P.L.1992, c.114 (C.55:14K-45 et seq.) the Legislature
29 recognized the severity of this problem and endeavored to
30 provide a stimulus to the housing industry through a program of
31 short-term construction loans for housing development, to be
32 administered by the New Jersey Housing and Mortgage Finance
33 Agency (HMFA). That enactment, however, is limited to the
34 encouragement of housing that is to be developed for sale to
35 individual home owners. However, for the foreseeable future the
36 most pressing need for housing will be among those lower-income
37 groups for whom home ownership remains out of reach, and to
38 whom it is essential that affordable rental housing of a decent
39 standard of habitability be made available.

40 This bill will provide this group a method of assistance by
41 which the HMFA participates in lending by purchasing up to 50
42 percent interest in a construction loan -- in effect, guaranteeing
43 the loan to that extent by assuming that proportion of the
44 financing risk. The bill would also provide for cooperation
45 between HMFA and the New Jersey Economic Development
46 Authority in the financing of rental housing involved in
47 "mixed-use" projects comprising both commercial and housing
48 development. Provision is made for a mechanism by which a
49 certain proportion of funding newly available to the EDA under
50 the recently enacted "Economic Recovery Act," P.L.1992, c.16
51 (C.34:1B-7.10 et al.) may be devoted to the development of
52 affordable rental housing.

53 To provide funding for the program, the bill creates the Rental
54 Housing Incentive Finance Fund, into which may be placed funds

1 derived from various sources, including (1) funds which may be
2 made available to the fund from companion legislation, Assembly
3 Bill No. 690 of 1994, (2) fees and loan repayments received
4 pursuant to sections 5 of the bill; (3) any income earned upon
5 investment of moneys in the fund by the agency; (4) moneys
6 allocated to the agency under agreements made with the New
7 Jersey Economic Development Authority pursuant to the bill; and
8 (5) any other funds that may be made available to the fund by the
9 agency. On this last item the bill specifically directs HMFA to
10 commit for deposit into the account an amount equal to two
11 times the amount credited to the fund pursuant to the provisions
12 of section 4 of P.L., c. .. (C.)(now pending before the
13 Legislature as Assembly Bill No. 690 of 1994), deriving such
14 amounts from funds available from bond redemptions or
15 refundings, federal funds available, available reserves, monies
16 available from the Revolving Housing Development and
17 Demonstration Grant Program fund established pursuant to
18 section 5 of P.L.1967, c.82 (C.52:27D-63), or any monies
19 available from any other program the purpose of which is to
20 promote affordable housing.

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25 "Rental Housing Incentive Finance Act."

ASSEMBLY HOUSING COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1483
STATE OF NEW JERSEY

DATED: OCTOBER 19, 1994

The Assembly Housing Committee favorably reports Assembly Bill No. 1483, by committee substitute.

This substitute provides a financial incentive through a loan guarantee program for the building or rehabilitation of sorely needed rental housing for low and moderate income renters.

Under the administration of the New Jersey Home Mortgage and Finance Agency (HMFA), loan guarantees will be made upon loans given by participating lenders to developers of affordable rental housing. Loan guarantees may be made for up to 30 percent of the remaining principal balance of a loan made to a qualified developer by an institutional lender, either through agreements to purchase loans or to otherwise indemnify the lender, up to an amount not to exceed \$300,000. A loan guarantee may be made only with respect to a housing development of 25 units or fewer, or to a segment not exceeding 25 units of a larger housing development projected or in progress. In addition, a loan guarantee is to include assurances of long-term affordability to low and moderate income tenants for a portion of the units in the development.

For the purpose of funding the program, the substitute establishes the Rental Housing Incentive Guarantee Fund, into which may be placed, depending on demand for the program, (1) moneys allocated to the agency under agreements made with the New Jersey Economic Development Authority (EDA) and other funds that may be made available to the fund by the agency such as funds available from bond redemptions or refundings, federal funds, available reserves, or other monies available from affordable housing programs, up to an amount not to exceed \$10,000,000.

The substitute also authorizes the HMFA to enter into agreements with the New Jersey Economic Development Authority for the purpose of carrying out the housing component of mixed use projects of the EDA consisting of both housing and commercial development.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1483

STATE OF NEW JERSEY

DATED: MAY 15, 1995

The Senate Community Affairs Committee reports favorably Assembly Bill No. 1483 (ACS).

This bill would provide a financial incentive through a loan guarantee program for the building or rehabilitating of rental housing for low and moderate income renters.

The bill would authorize the New Jersey Housing and Mortgage Finance Agency (HMFA), to guarantee loans given by participating lenders to developers of affordable rental housing. Loan guarantees may be made for up to 30 percent of the remaining principal balance of a loan made to a qualified developer by an institutional lender, either through agreements to purchase loans or to indemnify otherwise the lender, up to an amount not to exceed \$300,000. A loan guarantee may be made only with respect to a housing development of 25 or fewer units, or to a segment not exceeding 25 units of a larger housing development projected or in progress. In addition, a loan guarantee must include assurances of long-term affordability to low and moderate income tenants for a portion of the units in the development.

For the purpose of funding the program, the bill would establish the Rental Housing Incentive Guarantee Fund, into which may be placed, depending on demand for the program, moneys allocated to the agency under agreements made with the New Jersey Economic Development Authority (EDA) and other funds that may be made available to the fund by the agency, such as funds available from bond redemptions or refundings, federal funds, available reserves, or other monies available from affordable housing programs, up to an amount not to exceed \$10,000,000.

The bill would also authorize the HMFA to enter into agreements with the New Jersey Economic Development Authority for the purpose of carrying out the housing component of mixed use projects of the EDA consisting of both housing and commercial development.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1483

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1483 (ACS).

Assembly Bill No. 1483 (ACS) provides financial incentives through a loan guarantee program for the building or rehabilitating of rental housing for low and moderate income renters.

The bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to guarantee loans given by participating lenders to developers of affordable rental housing. Loan guarantees may be for up to 30 percent of a principal balance of a loan made to a qualified developer by an institutional lender, either through agreements to purchase loans or to otherwise indemnify the lender, up to an amount not to exceed \$300,000. A loan guarantee may be only for a housing development of 25 or fewer units, or to a segment not exceeding 25 units of a larger housing development projected or in progress. In addition, a loan guarantee must include assurances of long-term affordability to low and moderate income tenants for a portion of the units in the development.

For the purpose of funding the program, the bill establishes the Rental Housing Incentive Guarantee Fund, into which may be placed, depending on demand for the program, moneys allocated to the agency under agreements made with the New Jersey Economic Development Authority (EDA), and other funds that may be made available to the fund by the agency, such as funds available from bond redemptions or refundings, federal funds, available reserves, or other monies available from affordable housing programs, up to an amount not to exceed \$10,000,000.

The bill also authorizes the HMFA to enter into agreements with the New Jersey Economic Development Authority for the purpose of carrying out the housing component of mixed use projects of the EDA consisting of both housing and commercial development.

As reported, this bill is identical to Senate, No. 239 [1R] of 1995 (Kenny/Codey) which was amended and reported by this committee on November 27, 1995.

FISCAL IMPACT

This bill has not been certified as requiring a fiscal note since it will not have an impact on State revenues and expenditures.

ASSEMBLY, No. 1483
STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1994

By Assemblymen GAFFNEY and GREEN

1 AN ACT establishing the Rental Housing Incentive Finance Fund,
2 providing for loan guarantees for developers of affordable
3 rental housing under certain circumstances, supplementing
4 P.L.1983, c.530 (C.55:14K-1 et seq.) and amending P.L.1974,
5 c.80 and P.L.1992, c.16.
6

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

9 1. (New section) This act shall be known and may be cited as
10 the "Rental Housing Incentive Finance Act."

11 2. (New section) The Legislature hereby finds and declares:

12 a. The present depressed condition of the housing industry in
13 this State is both an obstacle to economic recovery and a source
14 of distress to those among our population for whom housing at
15 affordable cost has become inadequate, insufficient or
16 unavailable.

17 b. By recent enactment of P.L.1992, c.114 (C.55:14K-45 et
18 seq.) this Legislature recognized the severity of this problem and
19 endeavored to provide a stimulus to the housing industry through
20 a program of loan and loan guarantees for housing development,
21 to be administered by the New Jersey Housing and Mortgage
22 Finance Agency (HMFA).

23 c. The aforesaid enactment, however, is limited to the
24 encouragement of housing that is to be developed for sale to
25 individual home owners; whereas for the foreseeable future the
26 most pressing need for housing will be among those lower-income
27 groups for whom home ownership remains out of reach, and to
28 whom it is essential that affordable rental housing of a decent
29 standard of habitability be made available.

30 d. The Assembly Task Force on HMFA Operations, which
31 issued its general recommendations on January 27, 1993,
32 recommended that additional resources be allocated towards
33 significantly increasing rental housing production.

34 e. It is, therefore, the intention of this act to make available,
35 under administration of the HMFA, loan guarantees to developers
36 of rental housing upon terms that include assurances of long-term
37 affordability to low and moderate income renters of a significant
38 proportion of the dwelling units thus developed.

39 f. It is the further intention of this act, to direct a portion of
40 the funding provided to the New Jersey Economic Development
41 Authority (NJEDA) under the "Economic Recovery Act"
42 (P.L.1992, c.16, C.34:1B-7.10 et seq.) and a portion of the funds
43 made available to the Neighborhood Preservation Nonlapsing
44 Revolving Fund under the provisions of P.L., c. , (C.)

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 (now pending before the Legislature as Assembly Bill No. 690 of
2 1994) to the development of affordable rental housing.

3 3. (New section) As used in this act:

4 "Agency" means the New Jersey Housing and Mortgage
5 Finance Agency.

6 "Construction costs" means all expenditures made or incurred
7 by a qualified housing developer, inclusive of reasonable
8 pre-construction costs, prior to the obtaining of permanent
9 financing on a completed housing development.

10 "Construction loan" means a loan made to a qualified
11 developer for the financing of construction costs.

12 "Development" means development within the meaning of the
13 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

14 "Fund" means the Rental Housing Incentive Finance Fund
15 established pursuant to section 4 of this act.

16 "Housing developer" means any person, firm, corporation or
17 association of persons that has undertaken or proposes to
18 undertake a housing development.

19 "Housing development" means development undertaken for the
20 purpose of creating one or more residential units, whether
21 detached or attached or in the form of multiple dwellings, for
22 occupancy under rental tenure by persons who shall occupy such
23 units as their usual and permanent residence, and together with
24 any structures or facilities appurtenant or ancillary thereto.

25 "Institutional lender" means any bank or trust company,
26 savings bank, national banking association, savings and loan
27 association, or building and loan association maintaining an office
28 in this State, or any insurance company or any mortgage banking
29 firm or mortgage banking corporation authorized to transact
30 business in this State.

31 "Loan guarantee" means an agreement by the agency to
32 guarantee up to 50% of the remaining principal balance of a loan
33 made to a qualified developer by an institutional lender, either
34 through agreements to purchase loans or to otherwise indemnify
35 the lender.

36 "Permanent financing" means long-term financing secured by a
37 qualified housing developer through an institutional lender, and
38 may include construction costs and costs associated with
39 developing, constructing, and managing a housing development.

40 "Pre-construction costs" means the amount approved by the
41 agency as an appropriate expenditure that may be incurred prior
42 to the obtaining of permanent financing on a completed housing
43 development, exclusive of the actual costs of construction and
44 preparatory and ancillary to actual construction, and may
45 include, without limitation: (1) payments for options, deposits or
46 contracts to purchase properties on the proposed housing
47 development site; (2) legal and organizational expenses, including
48 attorneys' fees, and salaries, office rent and other incidental
49 expenses for a project manager and office staff; (3) fees for
50 preliminary feasibility studies, planning advances, borings,
51 surveys, engineering and architectural work, and fees for the
52 services of architects, engineers, planners and attorneys in
53 connection therewith; (4) expenses for tenant surveys and market
54 analyses; and (5) such other expenses as the agency may deem

1 necessary and appropriate to effectuate the purposes of this act.

2 "Qualified housing developer" means a housing developer who
3 has qualified for a loan guarantee pursuant to section 5 of this
4 act.

5 "Qualified housing development" means a housing development
6 for which a loan guarantee may be made pursuant to section 5 of
7 this act.

8 4. (New section) a. There is hereby established in the agency
9 the Rental Housing Incentive Finance Fund, which shall be
10 continuing and nonlapsing, for the purpose of funding loan
11 guarantees authorized pursuant to this act. Moneys in the fund
12 not immediately required for payment or liquid reserves may be
13 invested and reinvested by the agency in the same manner in
14 which other agency funds may be invested.

15 b. There shall be paid into the fund: (1) proceeds transferred to
16 the fund pursuant to section 4 of P.L., c. .. (C.)(now pending
17 before the Legislature as Assembly, No. 690 of 1994); (2) fees and
18 loan repayments received pursuant to sections 5 of this act; (3)
19 any income earned upon investment of moneys in the fund by the
20 agency pursuant to subsection a. of this section; (4) moneys
21 allocated to the agency under agreements made with the New
22 Jersey Economic Development Authority pursuant to section 9 of
23 this act; and (5) any other funds that may be made available to
24 the fund by the agency; specifically, the agency shall commit for
25 deposit into the account an amount equal to two times the
26 amount credited to the fund pursuant to the provisions of section
27 4 of P.L., c. .. (C.)(now pending before the Legislature as
28 Assembly Bill No. 690 of 1994), deriving such amounts from funds
29 available from bond redemptions or refundings, federal funds
30 available, available reserves, monies available from the
31 Revolving Housing Development and Demonstration Grant
32 Program fund established pursuant to section 5 of P.L.1967, c.82
33 (C.52:27D-63), or any monies available from any other program
34 the purpose of which is to promote affordable housing.

35 c. Moneys in the fund shall be used exclusively for (1) making
36 payments in fulfillment of the terms of loan guarantees entered
37 into pursuant to section 5 of this act; and (2) defraying the
38 administrative costs of the agency in carrying out the purposes
39 and provisions of this act.

40 5. (New section) a. The agency is hereby authorized to
41 contract with institutional lenders to guarantee on behalf of a
42 housing developer the repayment of up to 50 percent of the full
43 principal balance of a loan outstanding at the time of any default,
44 if (1) the loan was made for construction costs or to provide
45 permanent financing as defined in section 3 of this act; (2) the
46 housing developer and the housing development with respect to
47 which the loan was made were, at the time when the loan was
48 made, qualified to receive a construction loan pursuant to this
49 section, and (3) the amount of the loan and the terms on which it
50 was made conform substantially to the amount and terms then
51 available to the borrower on such a construction loan; and (4) the
52 regulations of the agency pursuant to subsection c. of this section
53 are complied with.

54 b. The agency shall establish within the fund sufficient

- 1 reserves and liquid reserves to provide a sufficient and
2 actuarially sound basis for its pledges contained in any guarantee
3 contract entered into pursuant to subsection a. of this section.
- 4 c. The agency shall adopt rules and regulations governing the
5 issuance of loan guarantees pursuant to this section, including:
- 6 (1) procedures for the submission of requests for such
7 guarantees;
- 8 (2) standards and requirements governing the allocation of
9 guarantees to applicant institutional lenders, and determining the
10 fees to be charged therefor and the manner of payment of those
11 fees;
- 12 (3) restrictions as to the maturities and interest rates of any
13 loan, or the return realized therefrom by the institutional lender,
14 upon which a guarantee is to be issued;
- 15 (4) requirements as to commitments by institutional lenders
16 with respect to loans upon which guarantees may be issued; and
17 (5) any other matters related to the duties and the exercise of
18 the powers of the agency under this section.
- 19 d. A loan guarantee may be made only with respect to a
20 housing development for which (1) contractual guarantees exist
21 that it will be an inclusionary development within the meaning of
22 subsection f. of section 4 of P.L.1985, c.222 (C.52:27D-304) and
23 (2) controls to assure continued affordability of a specified
24 proportion, which shall not be less than 30 percent, of the
25 dwelling units in the development which have been established
26 pursuant to subsection f. of section 21 of P.L.1985, c.222
27 (C.52:27D-321).
- 28 e. A loan guarantee may be made only to a housing developer
29 who has qualified therefor by demonstrating to the satisfaction of
30 the agency that the housing developer has the ability to develop,
31 construct, complete and manage the housing development in
32 which he is engaged or proposes to engage.
- 33 f. A loan guarantee may be made only with respect to a
34 housing development of 100 units or fewer, or to a segment not
35 exceeding 100 units of a larger housing development projected or
36 in progress.
- 37 g. A loan guarantee with respect to any housing development
38 may be made only when it has been demonstrated to the
39 satisfaction of the agency that, with respect to the size, location,
40 potential rental market for units in that development, the
41 proposed marketing policy and projected rental revenue to the
42 housing developer, and other pertinent economic factors indicate
43 an economic viability sufficient to qualify that development for
44 such a loan guarantee within the terms and purposes of this act.
45 Aside from this, no constraints may be placed upon the marketing
46 or pricing policy of a qualified housing developer as a condition of
47 a loan guarantee, except as provided in subsection b. of this
48 section.
- 49 h. Every loan subject to a loan guarantee made pursuant to
50 this section shall be secured by a first lien upon the real property
51 concerned in the development, or segment thereof, with respect
52 to which the loan is made and such other collateral as the agency
53 may consider necessary to secure the interests of the fund in
54 accordance with the provisions and purposes of this act.

1 The agency may, if it deems necessary, require the loan to be
2 secured by a personal loan guarantee by the developer or by a lien
3 upon other real property contained in a development not included
4 in the segment with respect to which the loan is made, or upon
5 any other real property, or interest therein, belonging to the
6 qualified housing developer to whom the loan is made; provided,
7 however, that no personal loan guarantee shall be required of any
8 agent or officer of a nonprofit housing developer.

9 i. A loan guarantee made pursuant to this section shall exceed
10 80 percent of the capitalized value of the total annual projected
11 rental income of the development, or segment therein, as
12 estimated to the satisfaction of the agency at the time when the
13 loan is issued.

14 j. None of the restrictions or conditions attached to the
15 issuance of an "eligible loan," and the qualifications of a "housing
16 sponsor" to whom, or the characteristics of a "housing project,"
17 for which, such a loan may be made, as those terms are defined
18 and used in P.L.1983, c.530 (C.55:14K-1 et seq.), shall apply to
19 any qualified housing development, qualified housing developer or
20 loan guaranteed pursuant to the terms of this act.

21 6. (New section) For the purpose of carrying out the housing
22 component of mixed use projects of the New Jersey Economic
23 Development Authority consisting of both housing and
24 commercial development, the agency may enter into agreements
25 with that authority and receive funds out of the EDA Partnership
26 Community Development Program Fund established by section 7
27 of P.L. , c. (C.) (now pending before the Legislature as
28 this bill) to be used for any of the purposes authorized by this act
29 and specified in the agreement between the agency and the
30 Economic Development Authority.

31 7. (New section) The New Jersey Economic Development
32 Authority shall establish a special non-lapsing revolving fund to
33 be known as the EDA Partnership Community Development
34 Program Fund, which shall be credited with (1) such amount from
35 the Economic Recovery Fund established pursuant to P.L.1992,
36 c.16 (C.34:1B-7.10 et al.) as the authority determines to be
37 necessary, within the limits of funding available from that fund,
38 based upon executed agreements between the authority and the
39 Housing and Mortgage Finance Agency concerning mixed-use
40 housing and commercial developments pursuant to section 3 of
41 P.L.1974, c.80 (C.34:1B-3); (2) any moneys that shall be received
42 in repayment of loans pursuant to the terms of P.L. , c.
43 (C.) (now pending in the Legislature as this bill); and (3)
44 other moneys of the authority, including but not limited to
45 moneys available from other business loan programs administered
46 by the authority, that the authority determines to deposit therein.

47 8. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read
48 as follows:

49 3. As used in this act, unless a different meaning clearly
50 appears from the context:

51 a. "Authority" means the New Jersey Economic Development
52 Authority, created by section 4 of this act.

53 b. "Bonds" means bonds or other obligations issued by the
54 authority pursuant to this act or "Economic Recovery Bonds or

1 Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.).

2 c. "Cost" means the cost of the acquisition, construction,
3 reconstruction, repair, alteration, improvement and extension of
4 any building, structure, facility including water transmission
5 facilities, or other improvement; the cost of machinery and
6 equipment; the cost of acquisition, construction, reconstruction,
7 repair, alteration, improvement and extension of energy saving
8 improvements or pollution control devices, equipment or
9 facilities; the cost of lands, rights-in-lands, easements,
10 privileges, agreements, franchises, utility extensions, disposal
11 facilities, access roads and site development deemed by the
12 authority to be necessary or useful and convenient for any project
13 or in connection therewith; discount on bonds; cost of issuance of
14 bonds; engineering and inspection costs; costs of financial, legal,
15 professional and other estimates and advice; organization,
16 administrative, insurance, operating and other expenses of the
17 authority or any person prior to and during any acquisition or
18 construction, and all such expenses as may be necessary or
19 incident to the financing, acquisition, construction or completion
20 of any project or part thereof, and also such provision for
21 reserves for payment or security of principal of or interest on
22 bonds during or after such acquisition or construction as the
23 authority may determine.

24 d. "County" means any county of any class.

25 e. "Development property" means any real or personal
26 property, interest therein, improvements thereon, appurtenances
27 thereto and air or other rights in connection therewith, including
28 land, buildings, plants, structures, systems, works, machinery and
29 equipment acquired or to be acquired by purchase, gift or
30 otherwise by the authority within an urban growth zone.

31 f. "Person" means any person, including individuals, firms,
32 partnerships, associations, societies, trusts, public or private
33 corporations, or other legal entities, including public or
34 governmental bodies, as well as natural persons. "Person" shall
35 include the plural as well as the singular.

36 g. "Pollution control project" means any device, equipment,
37 improvement, structure or facility, or any land and any building,
38 structure, facility or other improvement thereon, or any
39 combination thereof, whether or not in existence or under
40 construction, or the refinancing thereof in order to facilitate
41 improvements or additions thereto or upgrading thereof, and all
42 real and personal property deemed necessary thereto, having to
43 do with or the end purpose of which is the control, abatement or
44 prevention of land, sewer, water, air, noise or general
45 environmental pollution, including, but not limited to, any air
46 pollution control facility, noise abatement facility, water
47 management facility, thermal pollution control facility, radiation
48 contamination control facility, wastewater collection system,
49 wastewater treatment works, sewage treatment works system,
50 sewage treatment system or solid waste disposal facility or site;
51 provided that the authority shall have received from the
52 Commissioner of the State Department of Environmental
53 Protection or his duly authorized representative a certificate
54 stating the opinion that, based upon information, facts and

1 circumstances available to the State Depart
2 Environmental Protection and any other pertinent data,
3 pollution control facilities do not conflict with, overl
4 duplicate any other planned or existing pollution control facili
5 undertaken or planned by another public agency or authorit
6 within any political subdivision, and (2) that such facilities, as
7 designed, will be a pollution control project as defined in this act
8 and are in furtherance of the purpose of abating or controlling
9 pollution.

10 h. "Project" means: (1) (a) acquisition, construction,
11 reconstruction, repair, alteration, improvement and extension of
12 any building, structure, facility, including water transmission
13 facilities or other improvement, whether or not in existence or
14 under construction, (b) purchase and installation of equipment and
15 machinery, (c) acquisition and improvement of real estate and the
16 extension or provision of utilities, access roads and other
17 appurtenant facilities; and (2) (a) the acquisition, financing, or
18 refinancing of inventory, raw materials, supplies, work in process,
19 or stock in trade, or (b) the financing, refinancing or
20 consolidation of secured or unsecured debt, borrowings, or
21 obligations, or (c) the provision of financing for any other expense
22 incurred in the ordinary course of business; all of which are to be
23 used or occupied by any person in any enterprise promoting
24 employment, either for the manufacturing, processing or
25 assembly of materials or products, or for research or office
26 purposes, including, but not limited to, medical and other
27 professional facilities, or for industrial, recreational, hotel or
28 motel facilities, public utility and warehousing, or for
29 commercial and service purposes, including, but not limited to,
30 retail outlets, retail shopping centers, restaurant and retail food
31 outlets, and any and all other employment promoting enterprises,
32 including, but not limited to, motion picture and television
33 studios and facilities and commercial fishing facilities,
34 commercial facilities for recreational fishermen, fishing vessels,
35 aquaculture facilities and marketing facilities for fish and fish
36 products and (d) acquisition of an equity interest in, including
37 capital stock of, any corporation; or any combination of the
38 above, which the authority determines will: (i) tend to maintain
39 or provide gainful employment opportunities within and for the
40 people of the State, or (ii) aid, assist and encourage the economic
41 development or redevelopment of any political subdivision of the
42 State, or (iii) maintain or increase the tax base of the State or of
43 any political subdivision of the State, or (iv) maintain or diversify
44 and expand employment promoting enterprises within the State;
45 and (3) the cost of acquisition, construction, reconstruction,
46 repair, alteration, improvement and extension of an energy saving
47 improvement or pollution control project which the authority
48 determines will tend to reduce the consumption in a building
49 devoted to industrial or commercial purposes, or in an office
50 building, of nonrenewable sources of energy or to reduce, abate
51 or prevent environmental pollution within the State; and (4) the
52 acquisition, construction, reconstruction, repair, alteration,
53 improvement, extension, development, financing or refinancing of
54 infrastructure and transportation facilities or improvements

1 related to economic development and of cultural, recreational
2 and tourism facilities or improvements related to economic
3 development and of capital facilities for primary and secondary
4 schools and of mixed use projects consisting of housing and
5 commercial development. Project may also include: (i)
6 reimbursement to any person for costs in connection with any
7 project, or the refinancing of any project or portion thereof, if
8 determined by the authority as necessary and in the public
9 interest to maintain employment and the tax base of any political
10 subdivision and will facilitate improvements thereto or the
11 completion thereof, and (ii) development property and any
12 construction, reconstruction, improvement, alteration, equipment
13 or maintenance or repair, or planning and designing in connection
14 therewith. For the purpose of carrying out mixed use projects
15 consisting of both housing and commercial development, the
16 authority may enter into agreements with the New Jersey
17 Housing and Mortgage Finance Agency for the financing of any
18 such project in accordance with the provisions of P.L. , c.
19 (C.) (now pending before the Legislature as this bill), and for
20 that purpose shall allocate to the New Jersey Housing and
21 Finance Agency, under such agreements, funding available
22 pursuant to subsection g. of section 4 of P.L.1992, c.16
23 (C.34:1B-7.13).

24 i. "Revenues" means receipts, fees, rentals or other payments
25 to be received on account of lease, mortgage, conditional sale, or
26 sale, and payments and any other income derived from the lease,
27 sale or other disposition of a project, moneys in such reserve and
28 insurance funds or accounts or other funds and accounts, and
29 income from the investment thereof, established in connection
30 with the issuance of bonds or notes for a project or projects, and
31 fees, charges or other moneys to be received by the authority in
32 respect of projects and contracts with persons.

33 j. "Resolution" means any resolution adopted or trust
34 agreement executed by the authority, pursuant to which bonds of
35 the authority are authorized to be issued.

36 k. "Energy saving improvement" means the construction,
37 purchase and installation in a building devoted to industrial or
38 commercial purposes of any of the following, designed to reduce
39 the amount of energy from nonrenewable sources needed for
40 heating and cooling that building: insulation, replacement
41 burners, replacement high efficiency heating and air conditioning
42 units, including modular boilers and furnaces, water heaters,
43 central air conditioners with or without heat recovery to make
44 hot water for industrial or commercial purposes or in office
45 buildings, and any solar heating or cooling system improvement,
46 including any system which captures solar radiation to heat a
47 fluid which passes over or through the collector element of that
48 system and then transfers that fluid to a point within the system
49 where the heat is withdrawn from the fluid for direct usage or
50 storage. These systems shall include, but not necessarily be
51 limited to, systems incorporating flat plate, evacuated tube or
52 focusing solar collectors.

53 The foregoing list shall not be construed to be exhaustive, and
54 shall not serve to exclude other improvements consistent with the