

52:27D-307

**LEGISLATIVE HISTORY CHECKLIST**  
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(Housing--controls)

**NJSA:** 52:27D-307

**LAWS OF:** 1995 **CHAPTER:** 81

**BILL NO:** S1455

**SPONSOR(S):** Ciesla

**DATE INTRODUCED:** September 26, 1994

**COMMITTEE:** **ASSEMBLY:** ---

**SENATE:** Community Affairs

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
First reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** February 27, 1995

**SENATE:** February 9, 1995

**DATE OF APPROVAL:** April 11, 1995

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:**

**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

Hearing on similar bill in previous Legislative session:  
974.90 New Jersey Legislature. Assembly. Housing Committee.  
H842 Committee meeting on A1489 & S858 (municipal fair share  
1992g obligations...), held 11-23-92, Trenton, 1992.

KBG:pp

[FIRST REPRINT]

SENATE, No. 1455

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1994

By Senator CIESLA

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

3

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

6 1. Section 7 of P.L.1985, c.222 (C.52:27D-307) is amended to  
7 read as follows:

8 7. It shall be the duty of the council, seven months after the  
9 confirmation of the last member initially appointed to the  
10 council, or January 1, 1986, whichever is earlier, and from time  
11 to time thereafter, to:

12 a. Determine housing regions of the State;

13 b. Estimate the present and prospective need for low and  
14 moderate income housing at the State and regional levels;

15 c. Adopt criteria and guidelines for:

16 (1) Municipal determination of its present and prospective fair  
17 share of the housing need in a given region. Municipal fair share  
18 shall be determined after crediting on a one-to-one basis each  
19 current unit of low and moderate income housing of adequate  
20 standard, including any such housing constructed or acquired as  
21 part of a housing program specifically intended to provide housing  
22 for low and moderate income households. Notwithstanding any  
23 other law to the contrary, a municipality shall be entitled to a  
24 credit for a unit if it demonstrates that (a) the municipality  
25 issued a certificate of occupancy for the unit, which was either  
26 newly constructed or rehabilitated between April 1, 1983 and  
27 December 15, 1986; (b) a construction code official certifies,  
28 based upon a visual exterior survey, that the unit is in compliance  
29 with pertinent construction code standards with respect to  
30 structural elements, roofing, siding, doors and windows; ~~and~~ (c)  
31 the household occupying the unit certifies in writing, under  
32 penalty of perjury, that it receives no greater income than that  
33 established pursuant to section 4 of P.L.1985, c.222  
34 (C.52:27D-304) to qualify for moderate income housing; and (d)  
35 the unit for which credit is sought is affordable to low and  
36 moderate income households under the standards established by  
37 the council at the time of filing of the petition for substantive  
38 certification. It shall be sufficient if ~~[this]~~ the certification  
39 required in subparagraph (c) is signed by one member of the  
40 household. A certification submitted pursuant to this paragraph  
41 shall be reviewable only by the council or its staff and shall not  
42 be a public record;

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
1 Senate SCO committee amendments adopted November 21, 1994.

1 1[A municipality shall be entitled to a determination of its  
 2 rights to credits for units upon which no affordability controls  
 3 were placed based upon the standards established by the  
 4 Legislature prior to the effective date of P.L. , c. (now  
 5 pending before the Legislature as this bill) if the municipality:

6 (i) secured the right to credits under the prior standards;

7 (ii) made application for the right to credits under the prior  
 8 standards; or

9 (iii) is entitled to rely on a credit standard established  
 10 pursuant to court order and which is consistent with the prior  
 11 standard]

12 Nothing in P.L. , c. (C. )(pending before the Legislature as  
 13 this bill) shall affect the validity of substantive certification  
 14 granted by the council prior to November 21, 1994, or to a  
 15 judgment of compliance entered by any court of competent  
 16 jurisdiction prior to that date. Additionally, any municipality  
 17 that received substantive certification or a judgment of  
 18 compliance prior to November 21, 1994 and filed a motion prior  
 19 to November 21, 1994 to amend substantive certification or a  
 20 judgment of compliance for the purpose of obtaining credits, shall  
 21 be entitled to a determination of its right to credits pursuant to  
 22 the standards established by the Legislature prior to P.L. , c.  
 23 (C. )(pending before the Legislature as this bill.) Any  
 24 municipality that filed a motion prior to November 21, 1994 for  
 25 the purpose of obtaining credits, which motion was supported by  
 26 the results of a completed survey performed pursuant to council  
 27 rules, shall be entitled to a determination of its right to credits  
 28 pursuant to the standards established by the Legislature prior to  
 29 P.L. , c. (C. )(pending before the Legislature as this bill.)<sup>1</sup>;

30 (2) Municipal adjustment of the present and prospective fair  
 31 share based upon available vacant and developable land,  
 32 infrastructure considerations or environmental or historic  
 33 preservation factors and adjustments shall be made whenever:

34 (a) The preservation of historically or important architecture  
 35 and sites and their environs or environmentally sensitive lands  
 36 may be jeopardized,

37 (b) The established pattern of development in the community  
 38 would be drastically altered,

39 (c) Adequate land for recreational, conservation or  
 40 agricultural and farmland preservation purposes would not be  
 41 provided,

42 (d) Adequate open space would not be provided,

43 (e) The pattern of development is contrary to the planning  
 44 designations in the State Development and Redevelopment Plan  
 45 prepared pursuant to sections 1 through 12 of P.L.1985, c.398  
 46 (C.52:18A-196 et seq.),

47 (f) Vacant and developable land is not available in the  
 48 municipality, and

49 (g) Adequate public facilities and infrastructure capacities are  
 50 not available, or would result in costs prohibitive to the public if  
 51 provided; and

52 (3) (Deleted by amendment, P.L.1993, c.31);

53 d. Provide population and household projections for the State  
 54 and housing regions;

1 e. In its discretion, place a limit, based on a percentage of  
2 existing housing stock in a municipality and any other criteria  
3 including employment opportunities which the council deems  
4 appropriate, upon the aggregate number of units which may be  
5 allocated to a municipality as its fair share of the region's  
6 present and prospective need for low and moderate income  
7 housing. No municipality shall be required to address a fair share  
8 beyond 1,000 units within six years from the grant of substantive  
9 certification, unless it is demonstrated, following objection by an  
10 interested party and an evidentiary hearing, based upon the facts  
11 and circumstances of the affected municipality that it is likely  
12 that the municipality through its zoning powers could create a  
13 realistic opportunity for more than 1,000 low and moderate  
14 income units within that six-year period. For the purposes of this  
15 section, the facts and circumstances which shall determine  
16 whether a municipality's fair share shall exceed 1,000 units, as  
17 provided above, shall be a finding that the municipality has issued  
18 more than 5,000 certificates of occupancy for residential units in  
19 the six-year period preceding the petition for substantive  
20 certification in connection with which the objection was filed.

21 In carrying out the above duties, including, but not limited to,  
22 present and prospective need estimations the council shall give  
23 appropriate weight to pertinent research studies, government  
24 reports, decisions of other branches of government,  
25 implementation of the State Development and Redevelopment  
26 Plan prepared pursuant to sections 1 through 12 of P.L.1985,  
27 c.398 and public comment. To assist the council, the State  
28 Planning Commission established under that act shall provide the  
29 council annually with economic growth, development and decline  
30 projections for each housing region for the next six years. The  
31 council shall develop procedures for periodically adjusting  
32 regional need based upon the low and moderate income housing  
33 that is provided in the region through any federal, State,  
34 municipal or private housing program.

35 (cf: P.L.1993, c.104, s.1)

36 2. This act shall take effect immediately <sup>1</sup>and shall be  
37 retroactive to November 21, 1994<sup>1</sup>.

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42 Requires affordability controls on housing units receiving fair  
43 share credits under COAH rules.

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2 certification in connection with which the objection was filed.

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16 municipal or private housing program.

17 (cf: P.L.1993, c.104, s.1)

18 2. This act shall take effect immediately.

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21 STATEMENT

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23 This bill would require that units being credited towards a  
24 municipality's fair share of its Mount Laurel responsibilities be  
25 affordable to low and moderate income households, in addition to  
26 meeting other criteria. The Council on Affordable Housing  
27 (COAH) had previously adopted regulations permitting  
28 municipalities to obtain credits for housing units regardless of  
29 whether the units sold for prices which were affordable to low  
30 and moderate income households. These regulations were  
31 challenged on various bases. One basis was the claim that so  
32 many credits would be awarded under the prior standards as to  
33 jeopardize the goal of the Fair Housing Act to make available  
34 decent, affordable housing to a sufficient number of families  
35 having low and moderate incomes. It is the intent of this bill to  
36 restrict such credits, to ensure that the goals and the  
37 constitutional concerns addressed by the Fair Housing Act are not  
38 impeded.

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44 Requires affordability controls on housing units receiving fair  
share credits under COAH rules.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 1455**

with committee amendments

**STATE OF NEW JERSEY**

DATED: NOVEMBER 21, 1994

The Senate Community Affairs Committee reports favorably Senate, No. 1455 with committee amendments.

As amended by the committee, this bill would prohibit a municipality from receiving credit for a unit towards the municipality's fair share of its Mount Laurel responsibilities unless the unit for which credit is sought is affordable to low and moderate income households according to standards established by the Council on Affordable Housing (COAH). COAH had previously adopted regulations permitting municipalities to obtain credits for housing units regardless of whether the units sold for prices which were affordable to low and moderate income households. These regulations were challenged on various bases. One basis was the claim that so many credits would be awarded under the prior standards as to jeopardize the goal of the "Fair Housing Act," P.L.1983, c.222 (C.52:27D-301 et al.), to make available decent, affordable housing to a sufficient number of families having low and moderate incomes.

The committee amended the bill to establish an effective date retroactive to November 21, 1994 in order to prevent municipalities from circumventing the intent of the bill by obtaining credit for units under current standards between this date and the date that the bill would be signed into law. The amendments would also clarify and limit the circumstances under which a municipality would be entitled to a determination under current standards.

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# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**  
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TRENTON, N.J. 08625

Release IMMEDIATE  
APRIL 12, 1995

Gov. Christie Whitman yesterday signed legislation to increase the income eligibility limits to qualify for benefits under the state's program of providing help to persons suffering from cystic fibrosis.

The legislation raises the income limit from \$25,000 to \$30,000 for a persons with the disease to qualify for assistance for the purchase of supplemental foods, prescription drugs and medical supplies and equipment.

The bill also ties the eligibility limit to the consumer price index so that limits will rise to keep pace with the cost of living.

The legislation, S-978, was sponsored by Sen. Andrew Ciesla, R-Ocean.

Other bills signed yesterday include:

A-253, sponsored by Assemblywoman Marian Crecco, R-Essex, to provide a limited license for skin care specialists under the state's Cosmetology and Hairstyling Practices Act.

S-1455, sponsored by Sen. Andrew Ciesla, R-Ocean, to prohibit a municipality from receiving credit for a unit towards the municipality's fair share of its Mount Laurel responsibilities unless the unit for which credit is sought is affordable to low and moderate income households.

A-1482, sponsored by Assemblymen John Kelly, R-Essex, and Paul DiGaetano, R-Passaic, to add the Commissioner of the Department of Community Affairs as an ex-officio member of the Council on Affordable Housing. It also provides that a member of the Council represent the interests of non-profit builders of low income housing, and a member represent that interests of for-profit builders of market rate housing.