

ASSEMBLY, No. 3857

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JANUARY 4, 2007

Sponsored by:
Assemblyman JOSEPH J. ROBERTS, JR.
District 5 (Camden and Gloucester)

SYNOPSIS

Eliminates regional contribution agreements; creates housing rehabilitation and assistance program for grants to municipalities

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning affordable housing, supplementing chapter 27D
2 of Title 52 of the Revised Statutes and amending P.L.1968, c.49
3 and P.L.1985, c.222.

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

7
8 1. (New section) Sections 1 through 5 of this bill shall be
9 known and may be cited as the "Housing Rehabilitation and
10 Assistance Program Act."

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

13 a. The transfer of a limited portion of the fair share obligations
14 among municipalities has proven not to be a viable method of
15 ensuring that an adequate supply and a variety of housing choices
16 are provided in municipalities experiencing growth. Therefore, the
17 use of a regional contribution agreement should no longer be
18 permitted under P.L.1985, c.222 (C.52:27D-301 et al.);

19 b. Although the termination of regional contribution agreements
20 will impact on some previously-approved agreements, it is for a
21 public purpose and for the public good that such contracts be
22 declared void for the current and future housing obligation rounds;

23 c. There is a need to assist municipalities in the rehabilitation of
24 housing for occupancy by low and moderate income households.
25 To this end, a specific program for housing rehabilitation by
26 municipalities, in concert with non-profit agencies and in
27 accordance with neighborhood revitalization plans, administered by
28 the Department of Community Affairs would best serve this need.
29 It is the intent of the Legislature that this program, as well as funds
30 earmarked for the purposes of the program, will be utilized
31 especially in urban areas, which were the main recipients of
32 regional contribution agreements, to continue to upgrade housing
33 stock in order to provide a wide variety and choice of housing for
34 persons living in those areas;

35 d. There is also a need to provide funding to municipalities to
36 create additional incentives and assistance for the production of
37 safe, decent and affordable rental and other housing; and

38 e. Because of the elimination of the regional contribution
39 agreement, there is a need to prioritize the allocation of available
40 funds in the "Neighborhood Preservation Nonlapsing Revolving
41 Fund," to ensure that such funds are utilized in a fair and efficient
42 manner to promote the availability of affordable housing throughout
43 the State.

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 3. (New section) a. There is established within the Department
2 of Community Affairs a Housing Rehabilitation Program for the
3 purposes of assisting municipalities in the provision of affordable
4 housing through the rehabilitation of existing buildings.

5 b. Within the program there shall be established a trust fund to
6 be known as the "Housing Rehabilitation Assistance Fund" into
7 which may be deposited:

8 (1) Such monies as shall be made available from the
9 Neighborhood Preservation Nonlapsing Revolving Fund;

10 (2) Monies which may be available to the fund from any other
11 programs established for the purposes of housing rehabilitation.

12 (3) Monies appropriated by the Legislature to the fund; and

13 (4) Any other funds made available through State or Federal
14 housing programs for the purposes of producing affordable housing.

15 c. The commissioner shall develop a strategic five year plan for
16 the program aimed at:

17 (1) identifying and estimating the number of substandard
18 housing units within the State; and

19 (2) developing strategies to assist municipalities in creating
20 rehabilitation programs.

21 d. The commissioner may award housing rehabilitation grants to
22 municipalities that meet the following requirements:

23 (1) the municipality has filed a petition for substantive
24 certification with the Council on Affordable Housing for the current
25 housing round, or the municipality qualifies for aid pursuant to
26 P.L.1978, c.14 (C.52:27D-178 et seq.); and

27 (2) The municipality has submitted a copy of its housing plan to
28 the department, including a survey of the number of housing units
29 in need of rehabilitation within the municipality;

30 e. In allocating funding under the Housing Rehabilitation and
31 Assistance Program, the commissioner shall:

32 (1) allocate two thirds of the amount required to be transferred
33 pursuant to section 4 of P.L. , c. (C.) (pending before the
34 Legislature as this bill) for the purposes of awarding housing
35 rehabilitation grants, provided that 75 percent of the grants shall be
36 allocated to municipalities that qualify for aid pursuant to section 1
37 of P.L.1978, c.14 (C.52:27D-178) and 25 percent of the grants shall
38 be allocated to municipalities not qualified for such aid; and

39 (2) allocate at least one third of the of the amount required to be
40 transferred pursuant to section 4 of P.L. , c. (C.) (pending
41 before the Legislature as this bill) to municipalities as grants for the
42 following purposes:

43 (a) new construction of affordable housing units;

44 (b) programs of assistance to first time homebuyers;

45 (c) incentives for conversion of properties to affordable housing,
46 either rental or for-sale units;

47 (d) incentive programs for accessory apartments or additions
48 creating affordable housing;

1 (e) programs creating job training or placing housing recipients
2 into existing job training programs;

3 (f) construction, improvements or renovation of existing
4 infrastructure in order to support affordable housing production;
5 and

6 (g) incentive programs for the rehabilitation of existing owner-
7 occupied properties in neighborhoods consisting of more than 40
8 percent rental properties, provided the household income of the
9 owner-occupant of a property to be rehabilitated does not exceed
10 the median household income for the housing region.

11 f. The commissioner shall promulgate rules and regulations,
12 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.), to effectuate the purposes of P.L. , c.
14 (C.) (pending before the Legislature as this bill); provided that
15 the rules shall:

16 (1) make provisions for the rehabilitation of units for which
17 credits are sought pursuant to P.L.1985, c.222 (C.52:27D-301 et al.)
18 and for the rehabilitation of units for which credit may not be
19 sought, provided that the number of rehabilitated housing units
20 produced pursuant to paragraph (1) of subsection e. of this section
21 which are not reserved for occupancy by very low, low or moderate
22 income households shall not exceed 15 percent of the overall
23 number of units rehabilitated under the program in the municipality
24 annually; and

25 (2) permit a municipality broad discretion in shaping its housing
26 rehabilitation program, except that the department may require a
27 return of a grant upon its determination that a municipality is not
28 rehabilitating housing in accordance with its plan as filed with the
29 department or in accordance with regulations.

30
31 4. (New section) a. There shall be transferred by the Treasurer
32 from the amounts in the "Neighborhood Preservation Nonlapsing
33 Revolving Fund" annually an amount not less than \$15,000,000 for
34 deposit into the "Housing Rehabilitation Assistance Fund"
35 established pursuant to section 3 of P.L. , c. (C.)
36 (pending before the Legislature as this bill) to be used for the
37 purposes authorized under that section. The minimum to be
38 transferred shall be increased annually by an amount equal to the
39 increase in the Consumer Price Index. For the purposes of this
40 section, "Consumer Price Index" means the annual average over a
41 12-month period, beginning September 1 and ending August 31, of
42 the Consumer Price Index for Urban Wage Earners and Clerical
43 Workers, All Items Series A (2006=100), as published by the
44 Bureau of Labor Statistics in the United States Department of
45 Labor. If the reference base of the index is changed, the index used
46 to determine the Consumer Price Index as defined herein will be the
47 index converted to the new base by standard statistical methods.

1 b. Notwithstanding the provisions of subsection a. of this
2 section, if the amounts collected and actually credited to the
3 "Neighborhood Preservation Nonlapsing Revolving Fund" in the
4 previous fiscal year, excluding any unexpended balances in the fund
5 which may have been carried forward, are less than \$70,000,000,
6 but more than \$55,000,000, then the amount required to be
7 transferred pursuant to subsection a. of this section shall be the
8 difference between the amounts credited and \$55,000,000.

9 Notwithstanding the provisions of subsection a. of this section, if
10 the amounts collected and actually credited to the "Neighborhood
11 Preservation Nonlapsing Revolving Fund" in the previous fiscal
12 year, excluding any unexpended balances in the fund which may
13 have been carried forward, are less than \$55,000,000, then the
14 amounts required to be transferred from the "Neighborhood
15 Preservation Nonlapsing Revolving Fund" to the "Housing
16 Rehabilitation Assistance Fund" in the subsequent fiscal year shall
17 be zero.

18 c. In the event the full amount required to be transferred
19 pursuant to subsection a. of this section is not transferred in any
20 fiscal year, the Legislature shall subsequently appropriate in the
21 same fiscal year from the General Fund an amount equal to the
22 difference between the amount actually transferred and the amount
23 required to be transferred pursuant to subsection a. of this section,
24 so that the total funds made available to the "Housing
25 Rehabilitation Assistance Fund" annually shall be equal to the
26 amount established pursuant to subsection a. of this section.

27
28 5. (New section) Prior to its marketing, any housing unit for
29 which credit is sought against the fair share housing obligation
30 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) and produced as a
31 result of major rehabilitation or reconstruction of the unit, shall be
32 certified by the local code enforcing agency as meeting the
33 requirements of section 5 of P.L.2005, c.350 (C.52:27D-123.15).

34
35 6. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as
36 follows:

37 4. a. The proceeds of the fees collected by the county recording
38 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
39 accounted for and remitted to the county treasurer.

40 b. (1) The county portion of the basic fee collected pursuant to
41 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49
42 (C.46:15-7) shall be retained by the county treasurer for the use of
43 the county.

44 (2) The State portion of the basic fee, the additional fee, and the
45 general purpose fee shall be paid to the State Treasurer for the use
46 of the State, provided that the portion of the fees collected pursuant
47 to paragraph (2) of subsection a. of section 3 of P.L.1968, c.49
48 (46:15-7) shall be accounted for separately and remitted by separate

1 transmittal to the State Treasurer. Payments shall be made to the
2 State Treasurer on the tenth day of each month following the month
3 of collection.

4 c. (1) Amounts, not in excess of \$25,000,000, paid during the
5 State fiscal year to the State Treasurer from the payment of the
6 State portion of the basic fee shall be credited to the "Shore
7 Protection Fund" created pursuant to section 1 of P.L.1992, c.148
8 (C.13:19-16.1), in the manner established under that section.

9 (2) In addition to the amounts credited to the "Shore Protection
10 Fund" pursuant to paragraph (1) of this subsection, amounts equal
11 to \$12,000,000 in each of the first 10 years after the date of
12 enactment of the "Highlands Water Protection and Planning Act,"
13 P.L.2004, c.120 (C.13:20-1 et al.) and to \$5,000,000 in each year
14 thereafter, paid during the State fiscal year to the State Treasurer
15 from the payment of fees collected by the county recording officer
16 other than the additional fee of \$0.75 for each \$500.00 of
17 consideration or fractional part thereof recited in the deed in excess
18 of \$150,000.00 shall be credited to the "Highlands Protection Fund"
19 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in
20 the manner established under that section. No monies shall be
21 credited to the "Highlands Protection Fund" pursuant to this
22 paragraph until and unless the full amount of \$25,000,000 has first
23 been credited to the "Shore Protection Fund" pursuant to paragraph
24 (1) of this subsection.

25 d. All amounts paid to the State Treasurer by separate
26 transmittal from the payment of the additional fee shall be credited
27 to the Neighborhood Preservation Nonlapsing Revolving Fund
28 established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in
29 the manner established under section 20 thereof (C.52:27D-320).
30 (cf: P.L.2004, c.120, s.61)

31

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

34 11. a. In adopting its housing element, the municipality may
35 provide for its fair share of low and moderate income housing by
36 means of any technique or combination of techniques which provide
37 a realistic opportunity for the provision of the fair share. The
38 housing element shall contain an analysis demonstrating that it will
39 provide such a realistic opportunity, and the municipality shall
40 establish that its land use and other relevant ordinances have been
41 revised to incorporate the provisions for low and moderate income
42 housing. In preparing the housing element, the municipality shall
43 consider the following techniques for providing low and moderate
44 income housing within the municipality, as well as such other
45 techniques as may be published by the council or proposed by the
46 municipality:

47 (1) Rezoning for densities necessary to assure the economic
48 viability of any inclusionary developments, either through

1 mandatory set-asides or density bonuses, as may be necessary to
2 meet all or part of the municipality's fair share;

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

5 (3) Determination of measures that the municipality will take to
6 assure that low and moderate income units remain affordable to low
7 and moderate income households for an appropriate period of not
8 less than six years;

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

12 (5) Donation or use of municipally owned land or land
13 condemned by the municipality for purposes of providing low and
14 moderate income housing;

15 (6) Tax abatements for purposes of providing low and moderate
16 income housing;

17 (7) Utilization of funds obtained from any State or federal
18 subsidy toward the construction of low and moderate income
19 housing;

20 (8) Utilization of municipally generated funds toward the
21 construction of low and moderate income housing; and

22 (9) The purchase of privately owned real property used for
23 residential purposes at the value of all liens secured by the property;
24 excluding any tax liens, notwithstanding that the total amount of
25 debt secured by liens exceeds the appraised value of the property,
26 pursuant to regulations promulgated by the Commissioner of
27 Community Affairs pursuant to subsection b. of section 41 of
28 P.L.2001, c.126 (C.52:27D-311.2).

29 b. The municipality may provide for a phasing schedule for the
30 achievement of its fair share of low and moderate income housing.

31 c. **【**The municipality may propose that a portion of its fair
32 share be met through a regional contribution agreement. The
33 housing element shall demonstrate, however, the manner in which
34 that portion will be provided within the municipality if the regional
35 contribution agreement is not entered into. The municipality shall
36 provide a statement of its reasons for the proposal. **】** (Deleted by
37 amendment, P.L. _____, c. _____) (pending before the Legislature as
38 this bill)

39 d. Nothing in P.L.1985, c.222 shall require a municipality to
40 raise or expend municipal revenues in order to provide low and
41 moderate income housing.

42 e. When a municipality's housing element includes the
43 provision of rental housing units in a community residence for the
44 developmentally disabled, as defined in section 2 of P.L.1977,
45 c.448 (C.30:11B-2), which will be affordable to persons of low and
46 moderate income, and for which adequate measures to retain such
47 affordability pursuant to paragraph (3) of subsection a. of this
48 section are included in the housing element, those housing units

1 shall be fully credited as permitted under the rules of the council
2 towards the fulfillment of the municipality's fair share of low and
3 moderate income housing.

4 f. It having been determined by the Legislature that the
5 provision of housing under this act is a public purpose, a
6 municipality or municipalities may utilize public monies to make
7 donations, grants or loans of public funds for the rehabilitation of
8 deficient housing units and the provision of new or substantially
9 rehabilitated housing for low and moderate income persons,
10 providing that any private advantage is incidental.

11 g. A municipality which has received substantive certification
12 from the council, and which has actually effected the construction
13 of the affordable housing units it is obligated to provide, may
14 amend its affordable housing element or zoning ordinances without
15 the approval of the council.

16 (cf: P.L.2001, c.441, s.1)

17

18 8. Section 12 of P.L.1985, c.222 (52:27D-312) is amended to
19 read as follows:

20 12. a. **[A]** Except as prohibited under P.L. _____, c. (C. _____)
21 (pending before the Legislature as this bill), a municipality may
22 propose the transfer of up to 50% of its fair share to another
23 municipality within its housing region by means of a contractual
24 agreement into which two municipalities voluntarily enter. A
25 municipality may also propose a transfer by contracting with the
26 agency or another governmental entity designated by the council if
27 the council determines that the municipality has exhausted all
28 possibilities within its housing region. A municipality proposing to
29 transfer to another municipality, whether directly or by means of a
30 contract with the agency or another governmental entity designated
31 by the council, shall provide the council with the housing element
32 and statement required under subsection c. of section 11 of
33 P.L.1985, c.222 (C.52:27D-311), and shall request the council to
34 determine a match with a municipality filing a statement of intent
35 pursuant to subsection e. of this section. Except as provided in
36 subsection b. of this section, the agreement may be entered into
37 upon obtaining substantive certification under section 14 of
38 P.L.1985, c.222 (C.52:27D-314), or anytime thereafter. The
39 regional contribution agreement entered into shall specify how the
40 housing shall be provided by the second municipality, hereinafter
41 the receiving municipality, and the amount of contributions to be
42 made by the first municipality, hereinafter the sending municipality.

43 b. A municipality which is a defendant in an exclusionary
44 zoning suit and which has not obtained substantive certification
45 pursuant to P.L.1985, c.222 may request the court to be permitted to
46 fulfill a portion of its fair share by entering into a regional
47 contribution agreement. If the court believes the request to be
48 reasonable, the court shall request the council to review the

1 proposed agreement and to determine a match with a receiving
2 municipality or municipalities pursuant to this section. The court
3 may establish time limitations for the council's review, and shall
4 retain jurisdiction over the matter during the period of council
5 review. If the court determines that the agreement provides a
6 realistic opportunity for the provision of low and moderate income
7 housing within the housing region, it shall provide the sending
8 municipality a credit against its fair share for housing to be
9 provided through the agreement in the manner provided in this
10 section. The agreement shall be entered into prior to the entry of a
11 final judgment in the litigation. In cases in which a final judgment
12 was entered prior to the date P.L.1985, c.222 takes effect and in
13 which an appeal is pending, a municipality may request
14 consideration of a regional contribution agreement; provided that it
15 is entered into within 120 days after P.L.1985, c.222 takes effect.
16 In a case in which a final judgment has been entered, the court shall
17 consider whether or not the agreement constitutes an expeditious
18 means of providing part of the fair share. Notwithstanding this
19 subsection, no consideration shall be given to any regional
20 contribution agreement of which the council did not complete its
21 review and formally approve a recommendation to the court prior to
22 June 1, 2006.

23 c. **【Regional】** Except as prohibited under P.L. . c. (C.)
24 (pending before the Legislature as this bill), regional contribution
25 agreements shall be approved by the council, after review by the
26 county planning board or agency of the county in which the
27 receiving municipality is located. The council shall determine
28 whether or not the agreement provides a realistic opportunity for the
29 provision of low and moderate income housing within convenient
30 access to employment opportunities. The council shall refer the
31 agreement to the county planning board or agency which shall
32 review whether or not the transfer agreement is in accordance with
33 sound, comprehensive regional planning. In its review, the county
34 planning board or agency shall consider the master plan and zoning
35 ordinance of the sending and receiving municipalities, its own
36 county master plan, and the State development and redevelopment
37 plan. In the event that there is no county planning board or agency
38 in the county in which the receiving municipality is located, the
39 council shall also determine whether or not the agreement is in
40 accordance with sound, comprehensive regional planning. After it
41 has been determined that the agreement provides a realistic
42 opportunity for low and moderate income housing within
43 convenient access to employment opportunities, and that the
44 agreement is consistent with sound, comprehensive regional
45 planning, the council shall approve the regional contribution
46 agreement by resolution. All determinations of a county planning
47 board or agency shall be in writing and shall be made within such
48 time limits as the council may prescribe, beyond which the council

1 shall make those determinations and no fee shall be paid to the
2 county planning board or agency pursuant to this subsection.

3 d. In approving a regional contribution agreement, the council
4 shall set forth in its resolution a schedule of the contributions to be
5 appropriated annually by the sending municipality. A copy of the
6 adopted resolution shall be filed promptly with the Director of the
7 Division of Local Government Services in the Department of
8 Community Affairs, and the director shall thereafter not approve an
9 annual budget of a sending municipality if it does not include
10 appropriations necessary to meet the terms of the resolution.
11 Amounts appropriated by a sending municipality for a regional
12 contribution agreement pursuant to this section are exempt from the
13 limitations or increases in final appropriations imposed under
14 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

15 e. The council shall maintain current lists of municipalities
16 which have stated an intent to enter into regional contribution
17 agreements as receiving municipalities, and shall establish
18 procedures for filing statements of intent with the council. No
19 receiving municipality shall be required to accept a greater number
20 of low and moderate income units through an agreement than it has
21 expressed a willingness to accept in its statement, but the number
22 stated shall not be less than a reasonable minimum number of units,
23 not to exceed 100, as established by the council. The council shall
24 require a project plan from a receiving municipality prior to the
25 entering into of the agreement, and shall submit the project plan to
26 the agency for its review as to the feasibility of the plan prior to the
27 council's approval of the agreement. The agency may recommend
28 and the council may approve as part of the project plan a provision
29 that the time limitations for contractual guarantees or resale controls
30 for low and moderate income units included in the project shall be
31 less than 30 years, if it is determined that modification is necessary
32 to assure the economic viability of the project.

33 f. The council shall establish guidelines for the duration and
34 amount of contributions in regional contribution agreements. In
35 doing so, the council shall give substantial consideration to the
36 average of: (1) the median amount required to rehabilitate a low and
37 moderate income unit up to code enforcement standards; (2) the
38 average internal subsidization required for a developer to provide a
39 low income housing unit in an inclusionary development; (3) the
40 average internal subsidization required for a developer to provide a
41 moderate income housing unit in an inclusionary development.
42 Contributions may be prorated in municipal appropriations
43 occurring over a period not to exceed ten years and may include an
44 amount agreed upon to compensate or partially compensate the
45 receiving municipality for infrastructure or other costs generated to
46 the receiving municipality by the development. Appropriations
47 shall be made and paid directly to the receiving municipality or

1 municipalities or to the agency or other governmental entity
2 designated by the council, as the case may be.

3 g. The council shall require receiving municipalities to file
4 annual reports with the agency setting forth the progress in
5 implementing a project funded under a regional contribution
6 agreement, and the agency shall provide the council with its
7 evaluation of each report. The council shall take such actions as
8 may be necessary to enforce a regional contribution agreement with
9 respect to the timely implementation of the project by the receiving
10 municipality.

11 No regional contribution agreement entered into by a
12 municipality, or approved by the council or the court, subsequent to
13 June 1, 2006 shall generate credit against a municipality's fair share
14 obligation. On or after the effective date of P.L. . . . c. (C. . . .)
15 (pending before the Legislature as this bill), no regional
16 contribution agreement shall be entered into by a municipality, or
17 approved by the council or the court.

18 (cf. P.L.2001, c.435, s.4)

19

20 9. Section 20 of P.L.1985, c.222(C.52:27D-320) is amended to
21 read as follows:

22 20. The **【**Neighborhood Preservation Program within the
23 Department of Community Affairs' Division of Housing and
24 Development, established pursuant to the**】** Commissioner of
25 Community **【**Affairs' authority under section 8 of P.L.1975, c.248
26 (C.52:27D-149),**】** Affairs shall establish a separate Neighborhood
27 Preservation Nonlapsing Revolving Fund (NPNRF) for monies
28 appropriated by section 33 of P.L.1985, c.222, for monies collected
29 by a county recording officer, as authorized by P.L.1968, c.49
30 (C.46:15-5 et seq.) and remitted to the State Treasurer for the
31 purposes of this section, or for other monies as may be appropriated
32 by the Legislature for the purposes of the fund.

33 a. Except as permitted pursuant to subsection g. of this section,
34 the commissioner shall award grants or loans from this fund for
35 housing projects and programs in municipalities whose housing
36 elements have received substantive certification from the council, in
37 municipalities receiving State aid pursuant to P.L.1978, c.14
38 (C.52:27D-178 et seq.), in municipalities subject to builder's
39 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328)
40 or in receiving municipalities in cases where the council has
41 approved a regional contribution agreement and a project plan
42 developed by the receiving municipality. Programs and projects in
43 any municipality shall be funded only after receipt by the
44 commissioner of a written statement in support of the program or
45 project from the municipal governing body.

46 b. The commissioner shall establish rules and regulations
47 governing the qualifications of applicants, the application
48 procedures, and the criteria for awarding grants and loans and the

1 standards for establishing the amount, terms and conditions of each
2 grant or loan.

3 c. During the first 12 months from the effective date of
4 P.L.1985, c.222 (C.52:27D-301 et al.) and for any additional period
5 which the council may approve, the commissioner may assist
6 affordable housing programs which are not located in municipalities
7 whose housing elements have been granted substantive certification
8 or which are not in furtherance of a regional contribution
9 agreement; provided that the affordable housing program will meet
10 all or part of a municipal low and moderate income housing
11 obligation.

12 d. Amounts deposited in the Neighborhood Preservation
13 Nonlapsing Revolving Fund shall be targeted to regions based on
14 the region's percentage of the State's low and moderate income
15 housing need as determined by the council. Amounts in the fund
16 shall be applied for the following purposes in designated
17 neighborhoods;

18 (1) Rehabilitation of substandard housing units occupied or to
19 be occupied by low and moderate income households;

20 (2) Creation of accessory apartments to be occupied by low and
21 moderate income households;

22 (3) Conversion of nonresidential space to residential purposes;
23 provided a substantial percentage of the resulting housing units are
24 to be occupied by low and moderate income households;

25 (4) Acquisition of real property, demolition and removal of
26 buildings, or construction of new housing that will be occupied by
27 low and moderate income households, or any combination thereof;

28 (5) Grants of assistance to eligible municipalities for costs of
29 necessary studies, surveys, plans and permits; engineering,
30 architectural and other technical services; costs of land acquisition
31 and any buildings thereon; and costs of site preparation, demolition
32 and infrastructure development for projects undertaken pursuant to
33 an approved regional contribution agreement;

34 (6) Assistance to a local housing authority, nonprofit or limited
35 dividend housing corporation or association or a qualified entity
36 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for
37 rehabilitation or restoration of housing units which it administers
38 which: (a) are unusable or in a serious state of disrepair; (b) can be
39 restored in an economically feasible and sound manner; and (c) can
40 be retained in a safe, decent and sanitary manner, upon completion
41 of rehabilitation or restoration; and

42 (7) Other housing programs for low and moderate income
43 housing, including, without limitation, (a) infrastructure projects
44 directly facilitating the construction of low and moderate income
45 housing not to exceed a reasonable percentage of the construction
46 costs of the low and moderate income housing to be provided and
47 (b) alteration of dwelling units occupied or to be occupied by
48 households of low or moderate income and the common areas of the

1 premises in which they are located in order to make them accessible
2 to handicapped persons.

3 e. Any grant or loan agreement entered into pursuant to this
4 section shall incorporate contractual guarantees and procedures by
5 which the division will ensure that any unit of housing provided for
6 low and moderate income households shall continue to be occupied
7 by low and moderate income households for at least 20 years
8 following the award of the loan or grant, except that the division
9 may approve a guarantee for a period of less than 20 years where
10 necessary to ensure project feasibility.

11 f. Notwithstanding the provisions of any other law, rule or
12 regulation to the contrary, in making grants or loans under this
13 section, the department shall not require that tenants be certified as
14 low or moderate income or that contractual guarantees or deed
15 restrictions be in place to ensure continued low and moderate
16 income occupancy as a condition of providing housing assistance
17 from any program administered by the department, when that
18 assistance is provided for a project of moderate rehabilitation if the
19 project (1) contains 30 or fewer rental units and (2) is located in a
20 census tract in which the median household income is 60 percent or
21 less of the median income for the housing region in which the
22 census tract is located, as determined for a three person household
23 by the council in accordance with the latest federal decennial
24 census. A list of eligible census tracts shall be maintained by the
25 department and shall be adjusted upon publication of median
26 income figures by census tract after each federal decennial census.

27 g. In addition to other grants or loans awarded pursuant to this
28 section, and without regard to any limitations on such grants or
29 loans for any other purposes herein imposed, the commissioner
30 shall annually allocate such amounts as may be necessary in the
31 commissioner's discretion, and in accordance with section 3 of
32 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
33 under the program created pursuant to P.L.2004, c.140 (C.52:27D-
34 287.1 et al.). Such rental assistance grants shall be deemed
35 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-
36 301 et al.), in order to meet the housing needs of certain low income
37 households who may not be eligible to occupy other housing
38 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).
39 (cf: P.2004, c.140, s.4)

40

41 10. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill creates a State housing rehabilitation program within
47 the Department of Community Affairs for the purposes of assisting
48 municipalities in the provision of affordable housing through the

1 rehabilitation of existing buildings, as well as creating programs
2 which will assist buyers of affordable housing. The bill also
3 establishes a trust fund to be known as the "Housing Rehabilitation
4 Assistance Fund." The main source of funding for the program is to
5 consist of funds transferred from the additional fees collected as
6 part of the realty transfer fees.

7 The bill also requires the State portion of the realty transfer fees,
8 consisting of amounts collected as additional fees and earmarked
9 for affordable housing to be separately accounted for by the county
10 recording officer. Currently these amounts are not accounted for
11 separately to the State Treasurer; the bill's provisions will help
12 ensure that the additional fee amounts collected by the county are
13 fully accounted for and appropriately designated for the purposes of
14 the "Fair Housing Act" as required by statute.

15 The bill also requires that annually an amount not less than
16 \$15,000,000 be transferred from the NPNRF to the "Housing
17 Rehabilitation Assistance Fund" for use by the Department of
18 Community Affairs in providing grants to municipalities for
19 housing rehabilitation and other programs established by the bill.
20 The Commissioner of Community Affairs is charged under the bill
21 with developing a strategic five year plan which will identify and
22 estimate the number of substandard housing units within the State
23 and will assist municipalities in creating rehabilitation programs for
24 its housing stock. The bill permits a suspension or reduction of the
25 transfer to the "Housing Rehabilitation Assistance Fund" in the
26 event the realty transfer fee revenues allocated to the Neighborhood
27 Preservation Nonlapsing Revolving Fund in the previous fiscal year
28 did not total at least \$70,000,000. The bill directs the Legislature to
29 appropriate a sum to make up the difference whenever the transfer
30 is not made, so that the funding of the "Housing Rehabilitation
31 Assistance Fund" remains constant at \$15,000,000, as adjusted for
32 inflation.

33 The bill requires the commissioner to allocate two thirds of the
34 amount required to be transferred to the NPNRF annually for the
35 purposes of awarding housing rehabilitation grants, provided that 75
36 percent of the grants are allocated to municipalities that qualify for
37 aid pursuant to section 1 of P.L.1978, c.14 (C.52:27D-178) and 25
38 percent of the grants are to be allocated to municipalities not
39 qualified for such aid. The other third of the funds are to be
40 allocated for grants to municipalities for the following purposes:

- 41 • new construction of affordable housing units;
- 42 • programs of assistance to first time homebuyers;
- 43 • incentives for conversion of properties to affordable housing,
44 either rental or for-sale units;
- 45 • incentive programs for accessory apartments or additions
46 creating affordable housing;
- 47 • programs creating job training or placing housing recipients
48 into existing job training programs;

- 1 • construction, improvements or renovation of existing
2 infrastructure in order to support affordable housing
3 production; and
 - 4 • incentive programs for the rehabilitation of existing owner-
5 occupied properties in neighborhoods consisting of more than
6 40 percent rental properties, provided the household income
7 of the owner-occupant of a property to be rehabilitated does
8 not exceed the median household income for the housing
9 region.
- 10 The bill also eliminates the regional contribution agreement as a
11 method of satisfying the affordable housing obligation under the
12 "Fair Housing Act." The bill's provisions eliminating regional
13 contribution agreements would mean that, after June 1, 2006, all of
14 a municipality's fair share housing obligation must be met within
15 the municipal borders. Regional contribution agreements approved
16 prior to this date are not affected by the bill's provisions.