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.

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

1. (New section) Sections 1 through 5 of this bill shall be known and may be cited as the “Housing Rehabilitation and Assistance Program Act.”

2. (New section) The Legislature finds and declares that:
   a. The transfer of a limited portion of the fair share obligations among municipalities has proven not to be a viable method of ensuring that an adequate supply and a variety of housing choices are provided in municipalities experiencing growth. Therefore, the use of a regional contribution agreement should no longer be permitted under P.L.1985, c.222 (C.52:27D-301 et al.);
   b. Although the termination of regional contribution agreements will impact on some previously-approved agreements, it is for a public purpose and for the public good that such contracts be declared void for the current and future housing obligation rounds;
   c. There is a need to assist municipalities in the rehabilitation of housing for occupancy by low and moderate income households. To this end, a specific program for housing rehabilitation by municipalities, in concert with non-profit agencies and in accordance with neighborhood revitalization plans, administered by the Department of Community Affairs would best serve this need.
   d. It is the intent of the Legislature that this program, as well as funds earmarked for the purposes of the program, will be utilized especially in urban areas, which were the main recipients of regional contribution agreements, to continue to upgrade housing stock in order to provide a wide variety and choice of housing for persons living in those areas;
   e. Because of the elimination of the regional contribution agreement, there is a need to prioritize the allocation of available funds in the “Neighborhood Preservation Nonlapsing Revolving Fund,” to ensure that such funds are utilized in a fair and efficient manner to promote the availability of affordable housing throughout 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.
3. (New section) a. There is established within the Department of Community Affairs a Housing Rehabilitation Program for the purposes of assisting municipalities in the provision of affordable housing through the rehabilitation of existing buildings.
   b. Within the program there shall be established a trust fund to be known as the “Housing Rehabilitation Assistance Fund” into which may be deposited:
      (1) Such monies as shall be made available from the Neighborhood Preservation Nonlapsing Revolving Fund;
      (2) Monies which may be available to the fund from any other programs established for the purposes of housing rehabilitation.
      (3) Monies appropriated by the Legislature to the fund; and
      (4) Any other funds made available through State or Federal housing programs for the purposes of producing affordable housing.
   c. The commissioner shall develop a strategic five year plan for the program aimed at:
      (1) identifying and estimating the number of substandard housing units within the State; and
      (2) developing strategies to assist municipalities in creating rehabilitation programs.
   d. The commissioner may award housing rehabilitation grants to municipalities that meet the following requirements:
      (1) the municipality has filed a petition for substantive certification with the Council on Affordable Housing for the current housing round, or the municipality qualifies for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.); and
      (2) The municipality has submitted a copy of its housing plan to the department, including a survey of the number of housing units in need of rehabilitation within the municipality;
   e. In allocating funding under the Housing Rehabilitation and Assistance Program, the commissioner shall:
      (1) allocate two thirds of the amount required to be transferred pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill) for the purposes of awarding housing rehabilitation grants, provided that 75 percent of the grants shall be allocated to municipalities that qualify for aid pursuant to section 1 of P.L.1978, c.14 (C.52:27D-178) and 25 percent of the grants shall be allocated to municipalities not qualified for such aid; and
      (2) allocate at least one third of the of the amount required to be transferred pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill) to municipalities as grants for the following purposes:
         (a) new construction of affordable housing units;
         (b) programs of assistance to first time homebuyers;
         (c) incentives for conversion of properties to affordable housing, either rental or for-sale units;
         (d) incentive programs for accessory apartments or additions creating affordable housing;
(e) programs creating job training or placing housing recipients into existing job training programs;

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

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

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

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

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

4. (New section) a. There shall be transferred by the Treasurer from the amounts in the "Neighborhood Preservation Nonlapping Revolving Fund" annually an amount not less than $15,000,000 for deposit into the "Housing Rehabilitation Assistance Fund" established pursuant to section 3 of P.L. ___ , c. ___ (pending before the Legislature as this bill) to be used for the purposes authorized under that section. The minimum to be transferred shall be increased annually by an amount equal to the increase in the Consumer Price Index. For the purposes of this section, "Consumer Price Index" means the annual average over a 12-month period, beginning September 1 and ending August 31, of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A (2006=100), as published by the Bureau of Labor Statistics in the United States Department of Labor. If the reference base of the index is changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods.
b. Notwithstanding the provisions of subsection a. of this section, if the amounts collected and actually credited to the "Neighborhood Preservation Nonlapsing Revolving Fund" in the previous fiscal year, excluding any unexpended balances in the fund which may have been carried forward, are less than $70,000,000, but more than $55,000,000, then the amount required to be transferred pursuant to subsection a. of this section shall be the difference between the amounts credited and $55,000,000.

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

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

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

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

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

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

(2) The State portion of the basic fee, the additional fee, and the general purpose fee shall be paid to the State Treasurer for the use of the State, provided that the portion of the fees collected pursuant to paragraph (2) of subsection a. of section 3 of P.L.1968, c.49 (46:15-7) shall be accounted for separately and remitted by separate
transmittal to the State Treasurer. Payments shall be made to the
State Treasurer on the tenth day of each month following the month
of collection.

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

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

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

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

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

(1) Rezoning for densities necessary to assure the economic
viability of any inclusionary developments, either through
mandatory set-asides or density bonuses, as may be necessary to
meet all or part of the municipality's fair share;
(2) Determination of the total residential zoning necessary to
assure that the municipality's fair share is achieved;
(3) Determination of measures that the municipality will take to
assure that low and moderate income units remain affordable to low
and moderate income households for an appropriate period of not
less than six years;
(4) A plan for infrastructure expansion and rehabilitation if
necessary to assure the achievement of the municipality's fair share
of low and moderate income housing;
(5) Donation or use of municipally owned land or land
condemned by the municipality for purposes of providing low and
moderate income housing;
(6) Tax abatements for purposes of providing low and moderate
income housing;
(7) Utilization of funds obtained from any State or federal
subsidy toward the construction of low and moderate income
housing;
(8) Utilization of municipally generated funds toward the
construction of low and moderate income housing; and
(9) The purchase of privately owned real property used for
residential purposes at the value of all liens secured by the property;
excluding any tax liens, notwithstanding that the total amount of
debt secured by liens exceeds the appraised value of the property,
pursuant to regulations promulgated by the Commissioner of
Community Affairs pursuant to subsection b. of section 41 of

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

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

d. Nothing in P.L.1985, c.222 shall require a municipality to
raise or expend municipal revenues in order to provide low and
moderate income housing.
e. When a municipality's housing element includes the
provision of rental housing units in a community residence for the
developmentally disabled, as defined in section 2 of P.L.1977,
c.448 (C.30:11B-2), which will be affordable to persons of low and
moderate income, and for which adequate measures to retain such
affordability pursuant to paragraph (3) of subsection a. of this
section are included in the housing element, those housing units
shall be fully credited as permitted under the rules of the council
towards the fulfillment of the municipality's fair share of low and
moderate income housing.

f. It having been determined by the Legislature that the
provision of housing under this act is a public purpose, a
municipality or municipalities may utilize public monies to make
donations, grants or loans of public funds for the rehabilitation of
deficient housing units and the provision of new or substantially
rehabilitated housing for low and moderate income persons,
providing that any private advantage is incidental.
g. A municipality which has received substantive certification
from the council, and which has actually effected the construction
of the affordable housing units it is obligated to provide, may
amend its affordable housing element or zoning ordinances without
the approval of the council.
(cf. P.L. 2001, c.441, s.1)

8. Section 12 of P.L.1985, c.222 (S2:27D-312) is amended to
read as follows:

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

b. A municipality which is a defendant in an exclusionary
zoning suit and which has not obtained substantive certification
pursuant to P.L.1985, c.222 may request the court to be permitted to
fulfill a portion of its fair share by entering into a regional
contribution agreement. If the court believes the request to be
reasonable, the court shall request the council to review the
proposed agreement and to determine a match with a receiving
municipality or municipalities pursuant to this section. The court
may establish time limitations for the council's review, and shall
retain jurisdiction over the matter during the period of council
review. If the court determines that the agreement provides a
realistic opportunity for the provision of low and moderate income
housing within the housing region, it shall provide the sending
municipality a credit against its fair share for housing to be
provided through the agreement in the manner provided in this
section. The agreement shall be entered into prior to the entry of a
final judgment in the litigation. In cases in which a final judgment
was entered prior to the date P.L.1985, c.222 takes effect and in
which an appeal is pending, a municipality may request
consideration of a regional contribution agreement; provided that it
is entered into within 120 days after P.L.1985, c.222 takes effect.
In a case in which a final judgment has been entered, the court shall
consider whether or not the agreement constitutes an expeditious
means of providing part of the fair share. Notwithstanding this
subsection, no consideration shall be given to any regional
correction agreement of which the council did not complete its
review and formally approve a recommendation to the court prior to
June 1, 2006.

c. [Regional] Except as prohibited under P.L. , c. , (C. )
(pending before the Legislature as this bill), regional contribution
agreements shall be approved by the council, after review by the
county planning board or agency of the county in which the
receiving municipality is located. The council shall determine
whether or not the agreement provides a realistic opportunity for the
provision of low and moderate income housing within convenient
access to employment opportunities. The council shall refer the
agreement to the county planning board or agency which shall
review whether or not the transfer agreement is in accordance with
sound, comprehensive regional planning. In its review, the county
planning board or agency shall consider the master plan and zoning
ordinance of the sending and receiving municipalities, its own
county master plan, and the State development and redevelopment
plan. In the event that there is no county planning board or agency
in the county in which the receiving municipality is located, the
council shall also determine whether or not the agreement is in
accordance with sound, comprehensive regional planning. After it
has been determined that the agreement provides a realistic
opportunity for low and moderate income housing within
convenient access to employment opportunities, and that the
agreement is consistent with sound, comprehensive regional
planning, the council shall approve the regional contribution
agreement by resolution. All determinations of a county planning
board or agency shall be in writing and shall be made within such
time limits as the council may prescribe, beyond which the council
shall make those determinations and no fee shall be paid to the
county planning board or agency pursuant to this subsection.

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

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

f. The council shall establish guidelines for the duration and
amount of contributions in regional contribution agreements. In
doing so, the council shall give substantial consideration to the
average of: (1) the median amount required to rehabilitate a low and
moderate income unit up to code enforcement standards; (2) the
average internal subsidization required for a developer to provide a
low income housing unit in an inclusionary development; (3) the
average internal subsidization required for a developer to provide a
moderate income housing unit in an inclusionary development.
Contributions may be prorated in municipal appropriations
occurring over a period not to exceed ten years and may include an
amount agreed upon to compensate or partially compensate the
receiving municipality for infrastructure or other costs generated to
the receiving municipality by the development. Appropriations
shall be made and paid directly to the receiving municipality or
municipalities or to the agency or other governmental entity
designated by the council, as the case may be.
g. The council shall require receiving municipalities to file
annual reports with the agency setting forth the progress in
implementing a project funded under a regional contribution
agreement, and the agency shall provide the council with its
evaluation of each report. The council shall take such actions as
may be necessary to enforce a regional contribution agreement with
respect to the timely implementation of the project by the receiving
municipality.

No regional contribution agreement entered into by a
municipality, or approved by the council or the court, subsequent to
June 1, 2006 shall generate credit against a municipality’s fair share
obligation. On or after the effective date of P.L. , c. (C. )
(pending before the Legislature as this bill), no regional
contribution agreement shall be entered into by a municipality, or
approved by the council or the court.
(cf: P.L.2001, c.435, s.4)

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

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

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

b. The commissioner shall establish rules and regulations
governing the qualifications of applicants, the application
procedures, and the criteria for awarding grants and loans and the
standards for establishing the amount, terms and conditions of each
grant or loan.

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

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

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

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

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

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

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

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

(7) Other housing programs for low and moderate income
housing, including, without limitation, (a) infrastructure projects
directly facilitating the construction of low and moderate income
housing not to exceed a reasonable percentage of the construction
costs of the low and moderate income housing to be provided and
(b) alteration of dwelling units occupied or to be occupied by
households of low or moderate income and the common areas of the
e. Any grant or loan agreement entered into pursuant to this section shall incorporate contractual guarantees and procedures by which the division will ensure that any unit of housing provided for low and moderate income households shall continue to be occupied by low and moderate income households for at least 20 years following the award of the loan or grant, except that the division may approve a guarantee for a period of less than 20 years where necessary to ensure project feasibility.

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

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

10. This act shall take effect immediately.

STATEMENT

This bill creates a State housing rehabilitation program within the Department of Community Affairs for the purposes of assisting municipalities in the provision of affordable housing through the
rehabilitation of existing buildings, as well as creating programs
which will assist buyers of affordable housing. The bill also
establishes a trust fund to be known as the "Housing Rehabilitation
Assistance Fund." The main source of funding for the program is to
consist of funds transferred from the additional fees collected as
part of the realty transfer fees.

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

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

The bill requires the commissioner to allocate two thirds of the
amount required to be transferred to the NPNRF annually for the
purposes of awarding housing rehabilitation grants, provided that 75
percent of the grants are allocated to municipalities that qualify for
aid pursuant to section 1 of P.L. 1978, c.14 (C.S2:27D-178) and 25
percent of the grants are to be allocated to municipalities not
qualified for such aid. The other third of the funds are to be
allocated for grants to municipalities for the following purposes:

- new construction of affordable housing units;
- programs of assistance to first time homebuyers;
- incentives for conversion of properties to affordable housing,
  either rental or for-sale units;
- incentive programs for accessory apartments or additions
  creating affordable housing;
- programs creating job training or placing housing recipients
  into existing job training programs;
• construction, improvements or renovation of existing 
infrastructure in order to support affordable housing 
production; and
• incentive programs for the rehabilitation of existing owner-
occupied properties in neighborhoods consisting of more than 
40 percent rental properties, provided the household income 
of the owner-occupant of a property to be rehabilitated does 
not exceed the median household income for the housing 
region.

The bill also eliminates the regional contribution agreement as a 
method of satisfying the affordable housing obligation under the 
“Fair Housing Act.” The bill’s provisions eliminating regional 
contribution agreements would mean that, after June 1, 2006, all of 
a municipality’s fair share housing obligation must be met within 
the municipal borders. Regional contribution agreements approved 
prior to this date are not affected by the bill’s provisions.