

# 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)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 12/11/2007)

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.