

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 500

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 2008

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 500 with committee amendments.

This bill, as amended by the committee, reforms many of the laws applicable to affordable housing. In general, the bill requires much more accountability of funds being collected for affordable housing purposes and provides guidelines in the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), hereinafter the "FHA," for the Council on Affordable Housing (COAH) to follow in adopting its rules. For example, the power to authorize municipalities to collect development fees and payments-in-lieu-of-building from developers of residential housing is included for the first time in the enabling act. The bill also amends the FHA to provide guidelines for COAH in setting minimum developer incentives required in connection with charging those fees, in accordance with New Jersey court decisions. The bill further provides guidance on the manner in which municipal trust funds are to be maintained, and the purposes for which such funds are to be spent. The bill codifies current COAH rules on this issue, with some exceptions. The bill requires that payments-in-lieu be maintained separately from other development fees collected. The bill requires development fees to be charged Statewide on non-residential construction or improvements, by all municipalities, at a rate of two and one-half percent. No payments-in-lieu may be charged by a municipality in connection with non-residential construction, and no housing units may be required to be built as a result of any non-residential construction or redevelopment. Those municipalities that have COAH's authorization to collect residential development fees will be permitted to retain the non-residential development fees. Developers of non-residential properties in a municipality that does not have either COAH's or the court's authorization to charge development fees will be required to send the non-residential development fees to the State Treasurer, to be used for affordable housing purposes under the "Fair Housing Act" and a program created under the bill to assist urban aid municipalities in creating units of

affordable housing, in light of the bill's elimination of the regional contribution agreement from the Fair Housing Act.

The bill, as amended, eliminates the regional contribution agreement as a method to address affordable housing needs under the FHA, but permits those agreements already entered into prior to the effective date of the act to be carried out. The bill also establishes minimum numbers of housing units required to be set-aside Statewide for very low income persons under the FHA. The bill, as amended, requires redevelopers of redevelopment projects to replace low and moderate income housing units which are subject to affordability controls which are eliminated as a result of such activities with comparable housing, on a one-for-one basis.

The bill renames the "Neighborhood Preservation Nonlapsing Revolving Fund" as the "New Jersey Affordable Housing Trust Fund" and requires very specific accounting and reporting by the Department of Community Affairs on the fund's activities.

The bill, as amended, creates the "Urban Housing Assistance Fund," which will be funded by an annual \$20 million appropriation from the State portion of the receipts of the Statewide non-residential development fees which are received directly by the State Treasurer. The program will assist urban aid municipalities in the rehabilitation and production of housing.

The bill requires State agencies, when promulgating rules, to include a housing affordability impact statement and a smart growth development impact statement with the rule publication. These statements will describe how the proposed rule will affect the availability and price of housing, and impact on new construction in planning areas 1 and 2 and designated centers.

The bill establishes a State Housing Commission that is directed to develop a strategic housing plan for New Jersey, as well as prepare an annual housing performance report to the Governor and the Joint Committee on Housing Affordability. The commission will be comprised of 15 public members, of which 13 will be appointed by the Governor and two by the Legislature. In addition, the commission will include several State department heads as non-voting members. The bill creates an interdepartmental working group of select department heads to guide the commission in its duties. The commission is to review sources of funding and programs in the State to produce affordable housing, including rental housing, and develop a strategic plan which will coordinate State efforts and consolidate and leverage all available resources for these activities. The bill creates a new position in the Department of Community Affairs, known as the Senior Deputy Commissioner for Housing, who will chair the commission and the interdepartmental working group.

Committee amendments

The committee amended the bill to allow the program created under the bill to assist certain urban municipalities in rehabilitating housing to include new housing production. The amendments also increase the number of members appointed to the State Housing Commission to include a real estate professional and an executive director of a Public Housing Authority. The amendments also specify that a nonprofit and for-profit builder shall be appointed.

The amendments remove references to middle income housing as a new category of affordable housing under the Fair Housing Act.

The amendments eliminate the requirement that in lieu of building payments collected by a municipality be spent solely on new construction or substantial rehabilitation of affordable housing.

The amendments clarify the process of the collection of the non-residential development fee established under the bill, and provide directions for the collection of such fees whenever mixed-use projects are developed.

The amendments delete a provision that would have required an annual appropriation from the receipts of the realty transfer fees, and instead require an appropriation of \$20 million annually from the State portion of the non-residential development fees, authorized under the bill.

The amendments rename the “Housing Rehabilitation Assistance Fund” created under the bill to the “Urban Housing Assistance Fund” and expand the use of the fund to include construction of affordable housing units. The definition of affordable housing for the purpose of this fund is broadened under the amendments bill to include households earning 120% of average median income levels in the housing region. The committee deleted a provision of the bill which would have allowed urban aid municipalities collecting the Statewide non-residential development fees to use those fees to address impacts such as schools or infrastructure. Instead, all municipalities authorized to collect such fees by COAH will be required to spend those fees in accordance with a spending plan authorized by COAH.

The committee amended the bill to remove the retroactive application of the ban on regional contribution agreements.

The amendments change the requirement of a municipality to spend its development fee trust fund money within four years to a requirement that a municipality commit to spending the amounts in its trust fund within four years from the date of collection.

The amendments clarify that the New Jersey Housing and Mortgage Finance Agency is to allocate federal low income tax credits in a manner allowing 4 percent or 9 percent low income tax credits to builders to the full extent such credits are permitted to be allocated under federal law, even for mixed income or mixed use developments.