Sponsored by:
Senator DANA L. REDD
District 5 (Camden and Gloucester)
Senator JEFF VAN DREW
District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:
Senators Sweeney, Rice, Madden and Ciesla

SYNOPSIS
Establishes “Smart Housing Incentives Act.”

CURRENT VERSION OF TEXT
As introduced.
AN ACT establishing the “Smart Housing Incentives Act” and
supplementing chapter 27D of Title 52 of the Revised Statutes.

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

1. This act shall be known and may be cited as the “Smart
Housing Incentives Act.”

2. The Legislature finds and declares that:
   a. The cost of housing in New Jersey has risen to where housing
      is no longer affordable for a significant number of the State’s
      residents, resulting in substantial hardship to large numbers of
      families and individuals at many income levels, including those
      with low, moderate and middle incomes, and contributing to the
      growing outmigration of working households from New Jersey.
   b. The shortage of opportunities for both homeownership and
      rental housing affordable to workers, families and young
      professionals threatens the State’s economy by discouraging
      businesses from remaining in or moving to New Jersey.
   c. Among the factors contributing to the high cost of housing in
      New Jersey is the scarcity of land zoned for housing types that are
      currently under-represented in housing production, including
      modest single family houses on small lots, semi-detached and town
      houses, and multifamily housing.
   d. In order to mitigate the high cost of housing, there is a need to
      encourage greater production of those cost and energy-efficient
      housing types which reflect the consumer preferences of many
      households, including young people and empty-nesters, and which
      are under-represented in recent housing production in New Jersey.
   e. Despite numerous legislative enactments and the efforts of the
      Council on Affordable Housing and the State Planning
      Commission, a continuing need remains to provide a greater variety
      and choice of housing to people of all income levels, but in
      particular for low and moderate income households, and to direct
      such housing to appropriate locations based on comprehensive land
      use planning, as set forth in the landmark decision by the New
      Jersey Supreme Court in Southern Burlington County NAACP v.
      Mount Laurel.
   f. Unless properly located and designed consistent with sound
      planning principles, housing construction will continue to sprawl,
      undermining the vitality of New Jersey’s natural environment,
      including its open space and farmland, wildlife habitat, clean water,
      and clean air.
   g. By undertaking sound planning and establishing sound
      standards for location, density, energy efficiency, water
      conservation, and pedestrian circulation in new housing
      development and mixed-use development, it is possible to ensure
that new developments and redevelopment will be environmentally sustainable, affordable to maintain, and support healthy lifestyles.

h. High-quality design and site planning, which can be fostered through inclusion of carefully-drafted design standards into municipal land use ordinances, are essential to ensure that a housing and mixed-use development best serves both the needs of its residents and the community as a whole, by ensuring that it is visually attractive, adds value to surrounding neighborhoods, and increases residents’ quality of life by fostering social interaction, safety, and reducing commuting times.

i. Compact housing and mixed-use development results in a more energy-efficient development pattern and fosters less energy use by the residents of such developments, both for heating and cooling and for transportation, thus furthering attainment of the State’s targets for greenhouse gas emissions reduction.

j. An increase in the number of opportunities to develop at higher densities in appropriate locations can reduce the pressure for development in other, less suitable, locations and thereby further the State’s objectives of reducing sprawl and fostering smart growth, especially where complemented by efforts to preserve and protect natural resources.

k. Compact housing and mixed-use development and redevelopment will foster use of public transportation and further the efficient expansion of public transit systems, as well as encourage pedestrianism and bicycle use.

l. The cost of housing is often increased by unpredictable and lengthy permit review processes at the State level. For compact housing and mixed-use development projects that address multiple state objectives, an agreement between the State agencies that regulate residential development projects, including the Departments of Community Affairs, Transportation, and Environmental Protection, can help ensure coordinated and more timely permit review.

m. In light of these benefits of concentrated and compact development, the Legislature finds that a program of incentives to encourage municipal rezoning for higher density, mixed-income residential development and redevelopment offers significant potential to provide meaningful benefits to the economic, environmental and social sustainability and quality of life for the people of the State of New Jersey.

3. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

“Basic zoning” means a body of zoning provisions and requirements that represent the sole use and standards for a particular area permitted under the land use ordinance of a municipality.
“Brownfield” means “brownfield” as defined under subsection d. of section 5 of P.L.1997, c.278 (C.58:10B-23).


“Commissioner” means the Commissioner of Community Affairs.

“Commuter parking space” means a parking space located in close proximity to a public transit facility designed primarily for use by individuals using that transit facility for commuting purposes.

“Council” means the Council on Affordable Housing established pursuant to section 5 of P.L.1985, c.222 (C.52:27D-305).

“Department” means the Department of Community Affairs.

“Developer fee” means the fee required under subsection a. of section 18 of P.L. , c. (C. ) (pending before the Legislature as this bill).

“Energy Star” means the joint program of the United States Environmental Protection Agency and the United States Department of Energy known by that name and providing for the certification of energy-efficient products and practices.

“Greyfields” means sites containing industrial or commercial facilities exhibiting signs of abandonment or underutilization in areas of existing infrastructure, but without exhibiting evidence of actual or potential environmental contamination. For purposes of this act, underutilization means that at least 50 percent of the square footage of the structures on any such site have not been occupied for a period of at least one year prior to the designation of the site as all or part of a smart housing zone.

“Green investment” means any municipal expenditure for the purpose of protecting or enhancing the natural environment of the municipality, including but not limited to protection of open space through acquisition, remediation, restoration, or improvement; improvements to parks and other public open spaces; and actions to reduce greenhouse gas emissions through energy efficiency, renewable energy, or other programs that result in a measurable reduction in the emission of greenhouse gases or a measurable reduction in energy demand.

"Low income housing" means "low income housing" as defined under subsection c. of section 4 of P.L.1985, c.222 (C.52:27D-304) and regulations adopted thereunder.

“Middle income housing” means housing affordable to households earning between 80 percent and 120 percent of the area median income, according to the Council on Affordable Housing’s annual determination of median income for each housing region, adjusted by household size.

“Moderate income housing” means “moderate income housing” as defined under subsection c. of section 4 of P.L.1985, c.222 (C.52:27D-304) and regulations adopted thereunder.
“Net new zoned units” means the difference between the total number of residential units permitted within a smart housing zone and the number of residential units permitted within the same area under prior zoning.

“Overlay zone” means a body of zoning provisions or requirements which are permitted as of right for a particular area in addition to other uses and standards that may also be permitted for the same area under the land use ordinance of the municipality.

“Prior zoning” means the zoning of an area immediately prior to the establishment of a smart housing zone or the zoning in effect for that area on the effective date of P.L. c. (C. ) (pending before the Legislature as this bill), whichever allows for the development of a greater number of dwelling units.

“Public transit facility” means an active station, terminal, transfer location, or multi-modal transit hub of rail, bus, ferry transit, or combination thereof, containing fixed platforms, off-street loading areas, or on-street transfer areas, as well as other improvements, including, but not limited to, permanent passenger facilities such as waiting and sitting areas, ticket machines, and transit information displays for the use of riders on the public transit system. On-street single bus stops are not included in this definition.

“Residential density” means “residential density” as defined under section 3.3 of P.L.1975, c.291 (C.40:55D-6).

“Sewer service area” means an area in which sewer service may be provided in accordance with the water quality management planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), and any other applicable laws.

“Smart housing zone” means an area established by municipal ordinance and approved by the department as a smart housing zone pursuant to section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill).

“Transit-oriented development area” means an area of high-density concentrated mixed-use development, including residential development, within a one-half mile radius of a public transit facility, planned and designed to take advantage of the proximity of the public transit facility, or any area planned for such development by the municipality, and shall include any transit village designated by the Transit Village Task Force.

“Urban center” means a municipality containing an area that has been designated as an urban center in the State Development and Redevelopment Plan adopted by the State Planning Commission pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.).
4. The governing body of a municipality may apply to the Department of Community Affairs for the establishment of a smart housing zone in accordance with procedures set forth in section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill) and regulations adopted pursuant thereto. The governing body of a municipality interested in investigating whether to establish a smart housing zone may apply to the department for a smart housing zone planning and visioning grant pursuant to section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill) and regulations adopted pursuant thereto. A preliminary application for the establishment of a smart housing zone shall include:

   a. Proofs sufficient to document that the proposed smart housing zone satisfies the requirements for locating a zone under section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), including maps showing existing land uses in the proposed zone and the surrounding area.

   b. A copy of the draft proposed ordinance establishing the smart housing zone, complying with section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill).

   c. Documentation and maps showing all relevant development conditions and constraints, including dedicated open space, floodplains, steep slopes, stream corridors, wetlands, and threatened and endangered species habitat, affecting the proposed smart housing zone, including a site analysis demonstrating that the number of net new zoned units for which incentives are sought can realistically be accommodated in the proposed zone.

   d. Documentation showing the availability of infrastructure necessary for the development planned for the proposed smart housing zone, including adequate roads, sewerage facilities, water supply and drainage infrastructure, and water and wastewater treatment capacity, or a commitment to provide infrastructure necessary to allow development of the area to proceed in a timely fashion.

   e. Evidence that the number and type of dwelling units proposed for the smart housing zone can be produced in a timely fashion and is realistic in light of market demand in the housing region and market conditions within the municipality.

   f. A description of the anticipated build-out of the zone.

5. a. A smart housing zone shall be located in a geographic area in which an appropriate scale of growth, in the form of construction of significant additional housing and mixed-use development, is considered important and desirable, as determined pursuant to:


   (2) the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
(3) the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.); or
(4) the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), or regulations adopted pursuant to the acts referenced in this subsection, either in effect on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) or on the date the application is received.

b. A smart housing zone shall be located in either an approved sewer service area, or in a location with existing on-site connections to a wastewater treatment system.

c. A smart housing zone shall satisfy at least one of the following additional criteria:

   (1) A majority of a smart housing zone shall be located within a one-half mile radius of an existing public transit facility, or a planned public transit facility for which construction funds have been formally committed by the New Jersey Department of Transportation or New Jersey Transit in the first four years of either agency's adopted capital program; provided, however, that the commissioner may approve an application for a smart housing zone that is located within a three-quarter mile radius of a public transit facility if the commissioner determines that the pedestrian connections and other connections between the smart housing zone and the public transit facility are particularly strong and likely to be highly utilized; or
   (2) A majority of a smart housing zone shall be located within an area of concentrated development, including village, town, and urban centers as shown on the State Plan Policy Map prepared by the State Planning Commission pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.), and other existing largely-developed areas characterized by mixed use and medium-to-high density of development; or
   (3) A smart housing zone shall be located within an area identified by the municipal master plan or master plan re-examination report, as appropriate, for increased density, either through residential or mixed-use development; or
   (4) A smart housing zone shall contain one or more brownfield or greyfields sites.

6. a. A municipality may establish a smart housing zone by adopting a land-use ordinance, subject to the approval of the Department of Community Affairs pursuant to section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill), containing the following:
   (1) Provisions satisfying the minimum standards for residential density set forth in section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).
(2) Provisions requiring that the combined total number of low-income housing units, moderate income housing units and middle-income housing units to be constructed in the smart housing zone shall comprise at least 30% of the total number of housing units to be constructed in the zone. The initial occupants of middle income units shall be restricted to income-eligible tenants and owners.

(3) Provisions requiring that all low income housing units and moderate income housing units required pursuant to the regulations of the Council on Affordable Housing as a result of development in the smart housing zone shall be constructed within the zone.

(4) Provisions requiring the development of ground floor retail, service or similar commercial facilities along the frontage of any street of strong commercial character in a downtown area or transit-oriented development area, unless infeasible due to site or other considerations,

(5) Provisions requiring all streets and pedestrian pathways through a smart housing zone to be fully accessible to the general public, and all developments in a smart housing zone to be connected to the surrounding street network in order to promote pedestrian circulation within the zone and to and from locations outside the zone.

(6) Provisions requiring all residential units in a smart housing zone to satisfy energy efficiency standards under the New Jersey Home Performance with Energy Star program or the code promulgated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.), whichever promotes greater energy efficiency.

(7) Provisions requiring all residential units in a smart housing zone to satisfy the standards and practices for efficient water use and conservation in accordance with regulations promulgated pursuant to section 16 of P.L. 20XX, c. (C. ) (pending before the Legislature as this bill).

(8) Provisions ensuring that no more than 25% of the number of dwelling units to be constructed in a smart housing zone are restricted for occupancy on the basis of the age of an occupant.

b. The land use ordinance establishing a smart housing zone may take the form of basic zoning or an overlay zone, but must permit the zone as an as-of-right use and may not impose any regulatory or other requirement on development within the zone that is not imposed on other permitted uses in that area.

7. a. A land use ordinance establishing a smart housing zone shall provide minimum residential density requirements within the zone that are equal to or greater than:

   (1) 25% above the minimum residential density requirements set forth in the prior zoning of the area,
(2) 25% above the minimum presumptive density applicable to the area according to rules and regulations adopted by the Council on Affordable Housing, and

(3) the following minimum density requirements:

(a) smart housing zones in central business districts or transit-oriented development areas of urban centers shall have a minimum residential density of 50 dwelling units per acre.

(b) smart housing zones outside of central business districts or transit-oriented development areas, but within urban centers, shall have a minimum residential density of no less than the average residential density in the surrounding area, or the standards set forth in subparagraph (d) of this paragraph, whichever is greater.

(c) smart housing zones in central business districts or transit-oriented development areas that are not within urban centers shall have a minimum residential density of 25 dwelling units per acre.

(d) smart housing zones outside of central business districts or transit-oriented development areas and not within urban centers shall have a minimum residential density of no less than:

(i) 8 dwelling units per acre for single-family detached units,

(ii) 10 dwelling units per acre for duplex, twin or townhouse units,

(iii) 20 dwelling units per acre for multifamily units.

b. For the purposes of this section, “central business district” means the traditional retail and office core of a municipality characterized by a predominance of non-residential land uses and development densities typically higher than in the rest of the municipality.

c. A land use ordinance establishing a smart housing zone may set forth a lower minimum density requirement than required pursuant to subsection a. of this section if that minimum density is set forth in the department approval of the application to establish the zone pursuant to section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill).

8. A land use ordinance establishing a smart housing zone may contain the following:

a. Provisions allowing for mixed-use development as long as minimum residential density requirements are satisfied.

b. Provisions setting forth site plan and design standards, including, but not limited to, provisions governing building scale and proportion; site coverage; street and sidewalk alignment, width, and grade; building locations; doorways and garage entrances; treatment of natural, historical or environmental features; designation, location and design of open spaces; signage; design of buffers with adjacent properties. Design standards may not be so restrictive that they unduly restrict development, reduce the number of units that can realistically be accommodated in the area relative to the facial provisions of the land use regulations, or potentially
impair the ability of the developer to provide the required low income housing, moderate income housing and middle income housing in an economically feasible manner.  

c. Provisions allowing for reductions to the number of parking spaces otherwise required and provisions allowing for shared parking; however, any provision allowing for the reduction of preexisting surface commuter parking spaces in a transit-oriented development area shall require the creation of a similar number of new commuter parking spaces in a parking structure, and shall not result in a net loss in the number of commuter parking spaces without the prior written approval of New Jersey Transit.

9. All projects undertaken in a smart housing zone shall be subject to the requirements of section 4 of P.L.1970, c.268 (C.13:1B-15.131), concerning historic places, as if the project is being undertaken by the State, a county, municipality, or an agency or instrumentality of any thereof.

10. a. There is established in the Department of Community Affairs the “Smart Housing Incentives Program” under which the department shall review and may approve applications submitted by municipalities for the establishment of smart housing zones. Approval of a smart housing zone shall entitle a municipality that establishes a zone to the right to receive incentive payment grants in accordance with the provisions of section 11 of P.L.    , c.    (C.    ) (pending before the Legislature as this bill) and regulations adopted by the department. Approval of a smart housing zone shall establish the requirement for a developer to pay a developer's fee for each net new zoned unit of middle income and market-rate housing that the developer constructs in the smart housing zone in accordance with the provisions of section 18 of P.L.    , c.    (C.    ) (pending before the Legislature as this bill) and regulations adopted by the department.

b. The department shall promulgate procedures governing the review and approval of applications submitted by municipalities for establishment of smart housing zones, including criteria for determining whether an application is complete. The procedures shall provide for the submission of a preliminary application, in accordance with the requirements of section 4 of P.L.    , c.    (C.    ) (pending before the Legislature as this bill) and other criteria determined appropriate by the department.

c. Within 90 days of receipt of a complete preliminary application, the department shall either approve the preliminary application, conditionally approve the preliminary application, or reject the preliminary application. If the department rejects the preliminary application or conditionally approves the preliminary application, it shall provide the municipality with a complete written explanation of the reasons for rejection or the conditions for
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approval. A municipality may resubmit a rejected preliminary application by addressing any deficiencies in a prior application.

d. The procedures shall allow a municipality that has received preliminary approval to submit a final application to the department, together with proof of adoption of the proposed ordinance and any other required action or amendment to the proposed ordinance that the department may have required as a condition of final approval. The department shall issue an approval or rejection of a final application within 60 days of submission of a complete final application. If the department rejects the final application, it shall provide the municipality with a complete written explanation of the reasons for rejection.
e. The department may approve an application setting forth a lower minimum residential density requirement than required under subsection a. of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), if the department finds that the municipality demonstrated that the required density is not realistically achievable due to environmental considerations or other constraints rendering a significant part of the proposed smart housing zone inappropriate for development.
f. The department may establish criteria and adopt procedures to rank pending applications according to priority criteria in the event the costs associated with all pending applications exceeds, or is likely to exceed, the amount of available funds.
g. The department shall impose as a condition of approval of every final application that the municipality submit to the department an annual report. An annual report shall include information on any applications for development, approvals, or construction of developments within the smart housing zone, and documentation of the manner in which the municipality has expended any incentive payments received for green investments.
h. The department shall promulgate rules, regulations and procedures pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90 days of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), as may be necessary for the efficient and effective implementation of this act.

11. a. The department shall develop procedures and timeframes ensuring the proper disbursement of incentive payment grants to each municipality that establishes a smart housing zone in accordance with the following amounts:

(1) An initial incentive payment of $1,000 per net new zoned unit.

(2) A subsequent incentive payment of $4,000 per net new zoned unit for which a certificate of occupancy is issued.

b. A municipality shall not be eligible to receive incentive payment grants for more than 500 net new zoned units within the
first five years following the effective date of P.L. , c. (C. )
(pending before the Legislature as this bill).

c. (1) A municipality that has received an initial incentive
payment pursuant to subsection a. of this section shall not repeal or
modify the ordinance establishing the smart housing zone without
the prior written approval of the department.

(2) A municipality that repeals or modifies an ordinance
establishing a smart housing zone without receiving prior written
approval of the department shall be required to return an amount
equivalent to all incentive payments received, unless the department
determines that the modifications do not reduce the number of net
new zoned units or impose any additional burdens on development
in the zone.

d. A municipality may appropriate and expend incentive
payment grant revenues for services and capital expenditures
reasonably related to additional residents, including but not limited
to parks, public libraries, or other facilities; or operating
expenditures, such as incremental police, fire, or public works
services; provided, however, that at least half of the incentive
payments received by a municipality shall be used for green
investments.

12. a. The Department of Community Affairs may award smart
housing zone planning and visioning grants to municipalities, but
shall not expend more than a total amount of $1 million annually
for that purpose. Funds for planning and visioning grants shall be
transferred to a “planning and visioning grant fund,” to be
established by the department, by the following departments and
agencies in the following amounts, unless the departments and
agencies agree to a different apportionment.

(1) the Department of Community Affairs Smart Futures grant
program in the amount of $350,000;

(2) the Department of Transportation and New Jersey Transit
programs with funds for planning in transit-oriented development
areas including the Transit Village program in the amount of
$325,000; and

(3) the Department of Environmental Protection’s share of the
Global Warming Solutions Fund that is allocated to promote local
government efforts to reduce greenhouse gas emissions in the
amount of $325,000.

b. The Department of Community Affairs shall establish
application and eligibility requirements for smart housing zone
planning and visioning grants, however, no grant shall be awarded
to a municipality unless it can demonstrate that the area of a
prospective smart housing zone for which a planning and visioning
grant is sought meets the criteria governing the location of smart
housing zones set forth in section 5 of P.L. , c. (C. )
(pending before the Legislature as this bill).
c. Planning and visioning activities conducted with funds provided by the department under this section shall incorporate opportunities for meaningful participation by residents of the municipality and of the immediate neighborhood or area in which the proposed smart housing zone is to be located, including but not limited to public meetings, design workshops and other participatory planning activities.

d. As a condition of receiving a planning and visioning grant, a municipality shall submit to the department, within such time frame as the department establishes, a report setting forth the findings and conclusions of the municipality’s planning and visioning activity, including the elements necessary for submitting a preliminary application for a smart housing zone, or the reasons that the municipality has determined to not establish a smart housing zone.

13. a. A municipality that establishes a smart housing zone and an applicant of a development within a smart housing zone, as appropriate, shall be entitled to priority assistance under the following programs:

(1) Housing and planning assistance programs of the Department of Community Affairs, including, but not limited to, the New Jersey Affordable Housing Trust Fund,

(2) All programs of local assistance of the Department of Transportation, including municipal aid, discretionary aid, Transportation Enhancement program, Centers of Place program, and the Transit Village program,

(3) Financing programs of the New Jersey Environmental Infrastructure Trust, created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4),

(4) Federal Low Income Housing Tax Credit allocations by the New Jersey Housing and Mortgage Finance Agency,

(5) The Green Acres program of the Department of Environmental Protection,

(6) The Farmland Preservation program of the Department of Agriculture, and


b. The departments and agencies responsible for administering the programs identified in subsection a. of this section shall afford applicants and municipalities priorities consistent with subsection a. of this section and with other statutes and regulations. They shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to accomplish this purpose.

c. The Department of Community Affairs shall establish on its official website a central repository of information designed to provide information on the priorities offered pursuant to the
requirements of this section, including links to all rules and regulations adopted pursuant to subsection b. of this section, and shall distribute to each municipality, at the time it receives approval of a final application to establish a smart housing zone, information concerning the priorities offered pursuant to the requirements of this section.

d. The Board of Public Utilities shall amend the rules governing the Smart Growth Infrastructure Investment Program, N.J.A.C.14:3-8.12, to provide that a smart housing zone shall be deemed eligible for benefits under that program.

14. The commissioner shall develop an administrative process affording a due process to render determinations as to whether actions of a municipality are inconsistent with the intent and purpose of P.L. , c. (pending before the Legislature as this bill) or inconsistent with the municipal ordinance establishing a smart housing zone. If the commissioner finds and determines that the actions of a municipality are inconsistent with the intent and purpose of P.L. , c. (pending before the Legislature as this bill), the commissioner shall notify the municipality of the commissioner’s findings, specify actions the municipality may take to address those findings, and afford the municipality an appropriate period of time to take action. If a municipality does not take such action, or institute an appeal to a court of law, within the time afforded, the municipality shall forfeit the right to receive incentive payments under section 11 of P.L. , c. (pending before the Legislature as this bill), be required to return all incentive payments received prior thereto and lose any priority for any pending application for any grant or other approval sought pursuant to section 13 of P.L. , c. (pending before the Legislature as this bill).

15. a. The State Housing Commission shall include in the Annual Strategic Housing Plan required by section 27 of P.L.2008, c.46 (C.52:27D-329.16), an inventory of planned and projected activities within smart housing zones and its findings and recommendations after reviewing the report submitted by the department pursuant to subsection c. of this section.

b. The Department of Community Affairs shall review the “Smart Housing Incentives Program” on an annual basis with interested parties, including developers, municipal officials, planners, environmentalists, and housing advocates.

c. The department shall prepare and submit to the commission and the Legislature an annual report on the “Smart Housing Incentives Program,” which shall include but not be limited to information about applications received, incentives awarded, payments and transfers to "The Smart Housing Fund," and the number, type and other features of residential dwelling units
provided for, approved, and constructed under the program. The
report shall include information and recommendations for changes
to the program proposed at the annual review required under
subsection b. of this section. The report shall be available on the
department’s web site.

d. The commission, in consultation with the department, shall
prepared and submit to the Legislature a detailed report evaluating
the “Smart Housing Incentives Program,” within three years of the
effective date of P.L. , c. (C. ) (pending before the Legislature
as this bill). The report shall include the commission’s
recommendations for changes to the program that it deems
appropriate to improve the effectiveness of the program.

16. The Department of Community Affairs, in consultation with
the Department of Environmental Protection and the Board of
Public Utilities, shall promulgate regulations establishing standards
and practices for efficient residential water use and conservation.

17. a. Within 90 days of enactment of P.L. , c. (C. )
(pending before the Legislature as this bill), the Site Improvement
Advisory Board shall prepare and submit to the commissioner
recommendations for amendments to the Statewide site
improvement standards for residential development specific to
smart housing zones in order to further the purposes of this act, and
shall provide for the flexibility needed for the compact, pedestrian-
friendly nature of smart housing zones without compromising
environmental outcomes.

b. The commissioner shall review the recommendations
submitted by the board and, within 120 days of enactment of
P.L. , c. (C. ) (pending before the Legislature as this bill),
shall establish, by regulation adopted pursuant to the
seq.), amendments to the Statewide site improvement standards
specific to smart housing zones that are substantially consistent
with the board’s recommendations unless, in the commissioner's
judgment, a standard would result in a danger to the public health or
safety.

c. Until such time as the Statewide site improvement standards
are amended, as described in subsection b. of this section, the
commissioner, the Site Improvement Advisory Board and the
technical subcommittee thereof, and municipal agencies shall give
favorable consideration to appropriate exceptions for development
in smart housing zones as may be required to meet the purposes of
this act.

18. There is established in the Department of Community
Affairs a separate dedicated fund, to be used to make incentive
payment grants to municipalities that have established smart
housing zones, as provided for in section 11 of P.L. , c. (C. ) (pending before the Legislature as this bill), and which shall be known as the "Smart Housing Fund." The fund shall be a non-lapsing, revolving fund, and all monies deposited or received for purposes of the fund shall be accounted for separately, by source and amount, and remain in the fund until appropriated for such purposes.

a. Developers of middle income and market-rate housing units in a smart housing zone shall pay a developer fee to the "Smart Housing Fund" in the amount of $4,000 for every net new zoned middle income or market rate unit as a condition precedent to the issuance of a certificate of occupancy for any such unit.

b. In addition to other grants and loans awarded pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), and without regard to any limitations on grants or loans under that section, the Commissioner of Community Affairs shall transfer amounts from the "New Jersey Affordable Housing Trust Fund" to the "Smart Housing Fund" that the commissioner determines to be necessary to allow for the timely disbursement of incentive payment grants to municipalities that have established smart housing zones. This determination shall ensure that amounts are transferred sufficient to cover the difference between the amounts deposited into the "Smart Housing Fund" by developers pursuant to subsection a. of this section and the amount to be required to be paid to a municipality as an incentive payment grant. Such amounts transferred shall be deemed to represent assistance to municipalities necessary to accommodate costs associated with the production of new low income housing units and moderate income housing units.

Consistent with provisions for the "New Jersey Affordable Housing Trust Fund" in subsection c. of section 20 of P.L.1985, c.222 as amended by section 17 of P.L.2008, c.46 (C.52:27D-320), the council shall authorize the commissioner to provide this assistance to municipalities with approved smart housing zones for the duration of the "Smart Housing Incentives Program."

c. Within 12 months after enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), and every year thereafter, the commissioner shall transfer $3 million from the "New Jersey Affordable Housing Trust Fund" to the "Smart Housing Fund" to cover the obligation to make grants for low income housing units and moderate income housing units in smart housing zones. The commissioner may transfer additional monies into the "Smart Housing Fund" if needed to meet these purposes.

d. In the event that a temporary shortfall is anticipated for the "Smart Housing Fund" due to the timing of incentive payments relative to anticipated incoming funds, the commissioner may transfer money into the fund on a temporary basis from any source at his discretion.
e. Starting three years after the effective date of P.L., c. (C. ) (pending before the Legislature as this bill), if the balance in the “Smart Housing Fund” exceeds the amount needed to cover the State’s obligation to make zoning and construction incentive payments to municipalities that have established smart housing zones by more than $3 million, the commissioner may defer the annual $3 million transfer until the following year.

f. Any interest earned on monies in the “Smart Housing Fund” shall accrue to the fund.

g. The department and the State Treasurer shall submit the "Smart Housing Fund" for an audit annually by the State Auditor or State Comptroller, at the discretion of the State Treasurer. In addition, the department shall prepare an annual report for each fiscal year, and submit it by November 30th of each year to the Governor and the Legislature, and post the information to its web site, of all activity of the fund.

19. This bill shall take effect immediately.

STATEMENT

This bill, the “Smart Housing Incentives Act,” would establish a new voluntary program designed to encourage municipalities to make zoning changes that will increase the supply of homeownership and rental housing in areas that are considered appropriate for growth under other State laws. The bill would encourage the development of housing for working people by rewarding municipalities that target higher-density, mixed-income housing near jobs and public transportation hubs. The bill would facilitate economic growth by providing workforce housing.

Criteria set forth in the bill encourage development within “smart housing zones” to be pedestrian-friendly; be sensitive to environmental considerations, including water-efficiency and energy-efficiency; include opportunities for mixed-use developments; and include a mix of opportunities for low, moderate, middle and upper-income households. Inspired by a successful program operating in Massachusetts, the program would offer municipalities planning and visioning grants, financial payments for new housing units zoned and constructed, and priority for other funding programs that help local officials address the impacts of growth.

Any municipality interested in establishing a smart housing zone would submit an application to the Department of Community Affairs, together with a draft proposed ordinance. The department would be required to establish an approval process consistent with requirements contained in the bill.
Municipalities interested in studying the possibility of establishing a smart housing zone could apply for planning and visioning grants. Municipalities that establish a smart housing zone would be entitled to receive incentive payments, $1,000 for each new residential unit zoned and an additional $4,000 for each new residential unit constructed. Incentive payments would be limited to 500 units for each municipality for a five-year period. The bill provides that up to half of the amount of incentive payments received could be spent for purposes related to the accommodation of additional residents and requires that at least half of the amount of incentive payments received must be used for “green investments,” expenditures to protect or enhance the environment.

The bill would require developers of middle income and market-rate housing units in smart housing zones to pay a developer fee in the amount of $4,000 for every net new zoned middle income or market rate unit before a certificate of occupancy could be issued for any such unit. The bill would provide developers of projects within smart housing zones with priority assistance under several State programs.

The bill would establish a new fund, the "Smart Housing Fund,” out of which incentive payments to municipalities would be disbursed. Monies would be deposited into the fund from two sources: the payment of smart housing zone developer fees, and transfers from the "New Jersey Affordable Housing Trust Fund."