

ASSEMBLY, No. 2112

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

SYNOPSIS

Reforms procedures concerning provision of affordable housing; abolishes Council on Affordable Housing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning affordable housing and revising and
2 supplementing various parts of the statutory law.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. In 1975, the New Jersey Supreme Court determined that
9 municipalities may not validly employ their zoning powers to
10 prevent the creation of a variety and choice of housing
11 opportunities. In response, the Legislature established the "Fair
12 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), which has
13 resulted in a complex system of administration that micromanages
14 all types of development, including market rate- and low- and
15 moderate-income residential development, as well as commercial,
16 retail, and industrial growth through a determination of each region
17 and municipality's housing needs based on difficult to predict and
18 fallible population and job growth projections.

19 b. The Legislature further finds that this approach has not
20 resulted in the creation of housing opportunities for all categories of
21 the State's citizens. During the first 25 years of the "Fair Housing
22 Act's" existence, this complex system of regulation has resulted in
23 scores of lawsuits and court decisions, and the unnecessary
24 expenditure of millions of dollars by municipalities, developers, and
25 the State. In 2010, the system remains tied up with multiple legal
26 challenges, preventing the creation of housing opportunities within
27 the State.

28 c. It is incumbent on the State's elected officials to develop a
29 new approach that will result in the creation, through zoning
30 requirements, of a realistic opportunity for a variety and choice of
31 housing for low- and moderate-income families in each
32 municipality of the State, in consideration of regional and Statewide
33 needs for affordable housing. The welfare of the public requires a
34 new approach that does not waste the limited resources needed to
35 fulfill government's many functions, including public safety, health
36 care, education and environmental protection, ensuring the
37 affordability of mass transit, protection of civil rights, promotion of
38 economic growth, and job creation.

39 d. A simple, rather than complex, system that maximizes the
40 ability of the free market to produce a variety and choice of housing
41 will most effectively provide housing opportunities for the low- and
42 moderate-income residents of New Jersey. To ensure that New
43 Jersey is an affordable, appealing home for all the State's residents,
44 municipalities must have clear and realistic standards to guide
45 municipal action.

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 e. Municipalities that already have a healthy mix of housing
2 should not be encumbered with State zoning mandates that are
3 needed to create an opportunity for an appropriate variety and
4 choice of housing in municipalities where a reasonable mix of
5 housing does not already exist.

6 f. By requiring those municipalities not already having a
7 reasonable mix of housing to comply with the zoning mandates
8 established hereunder, the State will maximize the opportunity for
9 variety and choice of housing in those municipalities without
10 wasting limited resources necessary to provide for the other
11 governmental functions stated herein, which only represent some,
12 but not all, of government's responsibility to provide for the general
13 welfare of its residents.

14 g. It is the public policy of this State to encourage the well-
15 organized production of low- and moderate-income housing to
16 serve the general welfare of all the State's residents by
17 implementing a clear, intelligible regulatory system.

18 h. The State response to the constitutional obligation should
19 include both production by for-profit developers seeking market
20 opportunities and not-for-profit developers of homes for lower-
21 income people and people with special needs, which require
22 adequate funding opportunities from a range of sources as set forth
23 in P.L. , c. (C.) (pending before the Legislature as this bill).
24

25 2. (New section) The Council on Affordable Housing
26 established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
27 301 et al.) is abolished, and all of its powers, functions, and duties
28 that are not repealed herein are continued in the Department of
29 Community Affairs, established pursuant to section 1 of P.L.1966,
30 c.293 (C.52:27D-1), except as herein otherwise provided.
31 Whenever, in any law, rule, regulation, order, contract, document,
32 judicial or administrative proceeding, or otherwise, reference is
33 made to the Council on Affordable Housing, the same shall mean
34 and refer to the Department of Community Affairs. All
35 appropriations and other moneys available, and to become
36 available, to the Council on Affordable Housing are hereby
37 continued in the Department of Community Affairs, and shall be
38 available for the objects and purposes for which such moneys are
39 appropriated, subject to any terms, restriction, limitations, or other
40 requirements imposed by State or federal law.

41 To effectuate this transfer there shall also be transferred all
42 necessary records and papers of the Council on Affordable Housing.

43 This transfer shall be subject to the provisions of the "State
44 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).
45

46 3. Section 25 of P.L.2004, c.120 (C.13:20-23) is amended to
47 read as follows:

1 25. a. **【The Council on Affordable Housing shall take into**
2 consideration the regional master plan prior to making any
3 determination regarding the allocation of the prospective fair share
4 of the housing need in any municipality in the Highlands Region
5 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et
6 al.) for the fair share period subsequent to 1999**】** (Deleted by
7 amendment, P.L. , c.).

8 b. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall
9 affect protections provided through a grant of substantive
10 certification or a judgment of repose granted prior to **【the date of**
11 **enactment of this act】** August 10, 2004.
12 (cf: P.L.2004, c.120, s.25)
13

14 4. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to
15 read as follows:

16 3. a. There is established in, but not of, the department a Site
17 Improvement Advisory Board, to devise statewide site improvement
18 standards pursuant to section 4 of this act. The board shall consist
19 of the commissioner or his designee, who shall be a non-voting
20 member of the board, the Director of the Division of **【Housing】**
21 Codes and Standards in the Department of Community Affairs, who
22 shall be a voting member of the board, and **【10】** nine other voting
23 members, to be appointed by the commissioner. The other
24 members shall include two professional planners, one of whom
25 serves as a planner for a governmental entity or whose professional
26 experience is predominantly in the public sector and who has
27 worked in the public sector for at least the previous five years and
28 the other of whom serves as a planner in private practice and has
29 particular expertise in private residential development and has been
30 involved in private sector planning for at least the previous five
31 years, and one representative each from:

- 32 (1) The New Jersey Society of Professional Engineers;
33 (2) The New Jersey Society of Municipal Engineers;
34 (3) The New Jersey Association of County Engineers;
35 (4) The New Jersey Federation of Planning Officials;
36 (5) **【The Council on Affordable Housing】** (Deleted by
37 amendment, P.L. , c. (C.));
38 (6) The New Jersey Builders' Association;
39 (7) The New Jersey Institute of Technology;
40 (8) The New Jersey State League of Municipalities.

41 b. Among the members to be appointed by the commissioner
42 who are first appointed, four shall be appointed for terms of two
43 years each, four shall be appointed for terms of three years each,
44 and two shall be appointed for terms of four years each. Thereafter,
45 each appointee shall serve for a term of four years. Vacancies in
46 the membership shall be filled in the same manner as original
47 appointments are made, for the unexpired term. The commission

1 shall select from among its members a chairman. Members may be
2 removed by the commissioner for cause.

3 c. Board members shall serve without compensation, but may
4 be entitled to reimbursement, from moneys appropriated or
5 otherwise made available for the purposes of this act, for expenses
6 incurred in the performance of their duties.

7 (cf: P.L.1993, c.32, s.3)

8

9 5. Section 4 of P.L.1987, c.129 (C.40:55D-45.2) is amended to
10 read as follows:

11 4. A general development plan may include, but not be limited
12 to, the following:

13 a. A general land use plan at a scale specified by ordinance
14 indicating the tract area and general locations of the land uses to be
15 included in the planned development. The total number of dwelling
16 units and amount of nonresidential floor area to be provided and
17 proposed land area to be devoted to residential and nonresidential
18 use shall be set forth. In addition, the proposed types of
19 nonresidential uses to be included in the planned development shall
20 be set forth, and the land area to be occupied by each proposed use
21 shall be estimated. The density and intensity of use of the entire
22 planned development shall be set forth, and a residential density
23 and a nonresidential floor area ratio shall be provided;

24 b. A circulation plan showing the general location and types of
25 transportation facilities, including facilities for pedestrian access,
26 within the planned development and any proposed improvements to
27 the existing transportation system outside the planned development;

28 c. An open space plan showing the proposed land area and
29 general location of parks and any other land area to be set aside for
30 conservation and recreational purposes and a general description of
31 improvements proposed to be made thereon, including a plan for the
32 operation and maintenance of parks and recreational lands;

33 d. A utility plan indicating the need for and showing the
34 proposed location of sewage and water lines, any drainage facilities
35 necessitated by the physical characteristics of the site, proposed
36 methods for handling solid waste disposal, and a plan for the
37 operation and maintenance of proposed utilities;

38 e. A storm water management plan setting forth the proposed
39 method of controlling and managing storm water on the site;

40 f. An environmental inventory including a general description
41 of the vegetation, soils, topography, geology, surface hydrology,
42 climate and cultural resources of the site, existing man-made
43 structures or features and the probable impact of the development
44 on the environmental attributes of the site;

45 g. A community facility plan indicating the scope and type of
46 supporting community facilities which may include, but not be
47 limited to, educational or cultural facilities, historic sites, libraries,
48 hospitals, firehouses, and police stations;

- 1 h. A housing plan outlining the number of housing units to be
2 provided and the extent to which any affordable housing
3 **【obligation assigned to the municipality pursuant to P.L.1985,**
4 **c.222 (C.52:27D-301 et al.) will be fulfilled】** will be addressed by
5 the development;
- 6 i. A local service plan indicating those public services which
7 the applicant proposes to provide and which may include, but not be
8 limited to, water, sewer, cable and solid waste disposal;
- 9 j. A fiscal report describing the anticipated demand on
10 municipal services to be generated by the planned development and
11 any other financial impacts to be faced by municipalities or school
12 districts as a result of the completion of the planned development.
13 The fiscal report shall also include a detailed projection of property
14 tax revenues which will accrue to the county, municipality and
15 school district according to the timing schedule provided under
16 subsection k. of this section, and following the completion of the
17 planned development in its entirety;
- 18 k. A proposed timing schedule in the case of a planned
19 development whose construction is contemplated over a period of
20 years, including any terms or conditions which are intended to
21 protect the interests of the public and of the residents who occupy
22 any section of the planned development prior to the completion of
23 the development in its entirety; and
- 24 l. A municipal development agreement, which shall mean a
25 written agreement between a municipality and a developer relating
26 to the planned development.
27 (cf: P.L.1987, c.129, s.4)
28
- 29 6. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to
30 read as follows:
31 3. As used in **【this act】** P.L.1992, c.79 (C.40A:12A-1 et seq.):
32 "Bonds" means any bonds, notes, interim certificates, debentures
33 or other obligations issued by a municipality, county,
34 redevelopment entity, or housing authority pursuant to P.L.1992,
35 c.79 (C.40A:12A-1 et al.).
36 "Comparable, affordable replacement housing" means newly-
37 constructed or substantially rehabilitated housing to be offered to a
38 household being displaced as a result of a redevelopment project,
39 that is affordable to that household based on its income under the
40 guidelines established by **【the Council on Affordable Housing in】**
41 the Department of Community Affairs for maximum affordable
42 sales prices or maximum fair market rents, and that is comparable
43 to the household's dwelling in the redevelopment area with respect
44 to the size and amenities of the dwelling unit, the quality of the
45 neighborhood, and the level of public services and facilities offered
46 by the municipality in which the redevelopment area is located.
47 "Development" means the division of a parcel of land into two or
48 more parcels, the construction, reconstruction, conversion,

1 structural alteration, relocation, or enlargement of any building or
2 other structure, or of any mining, excavation or landfill, and any use
3 or change in the use of any building or other structure, or land or
4 extension of use of land, for which permission may be required
5 pursuant to the "Municipal Land Use Law," P.L.1975, c.291
6 (C.40:55D-1 et seq.).

7 "Governing body" means the body exercising general legislative
8 powers in a county or municipality according to the terms and
9 procedural requirements set forth in the form of government
10 adopted by the county or municipality.

11 "Housing authority" means a housing authority created or
12 continued pursuant to this act.

13 "Housing project" means a project, or distinct portion of a
14 project, which is designed and intended to provide decent, safe and
15 sanitary dwellings, apartments or other living accommodations for
16 persons of low and moderate income; such work or undertaking
17 may include buildings, land, equipment, facilities and other real or
18 personal property for necessary, convenient or desirable
19 appurtenances, streets, sewers, water service, parks, site
20 preparation, gardening, administrative, community, health,
21 recreational, educational, welfare or other purposes. The term
22 "housing project" also may be applied to the planning of the
23 buildings and improvements, the acquisition of property, the
24 demolition of existing structures, the construction, reconstruction,
25 alteration and repair of the improvements and all other work in
26 connection therewith.

27 "Persons of low and moderate income" means persons or
28 families who are, in the case of State assisted projects or programs,
29 so defined by the Council on Affordable Housing in the Department
30 of Community Affairs, or in the case of federally assisted projects
31 or programs, defined as of "low and very low income" by the
32 United States Department of Housing and Urban Development.

33 "Public body" means the State or any county, municipality,
34 school district, authority or other political subdivision of the State.

35 "Public housing" means any housing for persons of low and
36 moderate income owned by a municipality, county, the State or the
37 federal government, or any agency or instrumentality thereof.

38 "Publicly assisted housing" means privately owned housing
39 which receives public assistance or subsidy, which may be grants or
40 loans for construction, reconstruction, conservation, or
41 rehabilitation of the housing, or receives operational or maintenance
42 subsidies either directly or through rental subsidies to tenants, from
43 a federal, State or local government agency or instrumentality.

44 "Real property" means all lands, including improvements and
45 fixtures thereon, and property of any nature appurtenant thereto or
46 used in connection therewith, and every estate, interest and right,
47 legal or equitable, therein, including terms for years and liens by

1 way of judgment, mortgage or otherwise, and indebtedness secured
2 by such liens.

3 "Redeveloper" means any person, firm, corporation or public
4 body that shall enter into or propose to enter into a contract with a
5 municipality or other redevelopment entity for the redevelopment or
6 rehabilitation of an area in need of redevelopment, or an area in
7 need of rehabilitation, or any part thereof, under the provisions of
8 this act, or for any construction or other work forming part of a
9 redevelopment or rehabilitation project.

10 "Redevelopment" means clearance, replanning, development and
11 redevelopment; the conservation and rehabilitation of any structure
12 or improvement, the construction and provision for construction of
13 residential, commercial, industrial, public or other structures and
14 the grant or dedication of spaces as may be appropriate or necessary
15 in the interest of the general welfare for streets, parks, playgrounds,
16 or other public purposes, including recreational and other facilities
17 incidental or appurtenant thereto, in accordance with a
18 redevelopment plan.

19 "Redevelopment agency" means a redevelopment agency created
20 pursuant to subsection a. of section 11 of P.L.1992, c.79
21 (C.40A:12A-11) or established heretofore pursuant to the
22 "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et
23 al.), repealed by this act, which has been permitted in accordance
24 with the provisions of this act to continue to exercise its
25 redevelopment functions and powers.

26 "Redevelopment area" or "area in need of redevelopment" means
27 an area determined to be in need of redevelopment pursuant to
28 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6)
29 or determined heretofore to be a "blighted area" pursuant to
30 P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both
31 determinations as made pursuant to the authority of Article VIII,
32 Section III, paragraph 1 of the Constitution. A redevelopment area
33 may include lands, buildings, or improvements which of themselves
34 are not detrimental to the public health, safety or welfare, but the
35 inclusion of which is found necessary, with or without change in
36 their condition, for the effective redevelopment of the area of which
37 they are a part.

38 "Redevelopment entity" means a municipality or an entity
39 authorized by the governing body of a municipality pursuant to
40 subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to
41 implement redevelopment plans and carry out redevelopment
42 projects in an area in need of redevelopment, or in an area in need
43 of rehabilitation, or in both.

44 "Redevelopment plan" means a plan adopted by the governing
45 body of a municipality for the redevelopment or rehabilitation of all
46 or any part of a redevelopment area, or an area in need of
47 rehabilitation, which plan shall be sufficiently complete to indicate
48 its relationship to definite municipal objectives as to appropriate

1 land uses, public transportation and utilities, recreational and
2 municipal facilities, and other public improvements; and to indicate
3 proposed land uses and building requirements in the redevelopment
4 area or area in need of rehabilitation, or both.

5 "Redevelopment project" means any work or undertaking
6 pursuant to a redevelopment plan; such undertaking may include
7 any buildings, land, including demolition, clearance or removal of
8 buildings from land, equipment, facilities, or other real or personal
9 properties which are necessary, convenient, or desirable
10 appurtenances, such as but not limited to streets, sewers, utilities,
11 parks, site preparation, landscaping, and administrative, community,
12 health, recreational, educational, and welfare facilities.

13 "Rehabilitation" means an undertaking, by means of extensive
14 repair, reconstruction or renovation of existing structures, with or
15 without the introduction of new construction or the enlargement of
16 existing structures, in any area that has been determined to be in
17 need of rehabilitation or redevelopment, to eliminate substandard
18 structural or housing conditions and arrest the deterioration of that
19 area.

20 "Rehabilitation area" or "area in need of rehabilitation" means
21 any area determined to be in need of rehabilitation pursuant to
22 section 14 of P.L.1992, c.79 (C.40A:12A-14).
23 (cf: P.L.2008, c.46, s.1)
24

25 7. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to
26 read as follows:

27 7. a. No redevelopment project shall be undertaken or carried
28 out except in accordance with a redevelopment plan adopted by
29 ordinance of the municipal governing body, upon its finding that the
30 specifically delineated project area is located in an area in need of
31 redevelopment or in an area in need of rehabilitation, or in both,
32 according to criteria set forth in section 5 or section 14 of P.L.1992,
33 c.79 (C.40A:12A-5 or 40A:12A-14), as appropriate.

34 The redevelopment plan shall include an outline for the planning,
35 development, redevelopment, or rehabilitation of the project area
36 sufficient to indicate:

37 (1) Its relationship to definite local objectives as to appropriate
38 land uses, density of population, and improved traffic and public
39 transportation, public utilities, recreational and community facilities
40 and other public improvements.

41 (2) Proposed land uses and building requirements in the project
42 area.

43 (3) Adequate provision for the temporary and permanent
44 relocation, as necessary, of residents in the project area, including
45 an estimate of the extent to which decent, safe and sanitary dwelling
46 units affordable to displaced residents will be available to them in
47 the existing local housing market.

1 (4) An identification of any property within the redevelopment
2 area which is proposed to be acquired in accordance with the
3 redevelopment plan.

4 (5) Any significant relationship of the redevelopment plan to (a)
5 the master plans of contiguous municipalities, (b) the master plan of
6 the county in which the municipality is located, and (c) the State
7 Development and Redevelopment Plan adopted pursuant to the
8 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

9 (6) As of the date of the adoption of the resolution finding the
10 area to be in need of redevelopment, an inventory of all housing
11 units affordable to low and moderate income households, as defined
12 pursuant to section **4** of P.L.1985, c.222 (C.52:27D-304) **21** of
13 P.L. , c. (C.) (pending before the Legislature as this bill), that
14 are to be removed as a result of implementation of the
15 redevelopment plan, whether as a result of subsidies or market
16 conditions, listed by affordability level, number of bedrooms, and
17 tenure.

18 (7) A plan for the provision, through new construction or
19 substantial rehabilitation of one comparable, affordable replacement
20 housing unit for each affordable housing unit that has been
21 occupied at any time within the last 18 months, that is subject to
22 affordability controls and that is identified as to be removed as a
23 result of implementation of the redevelopment plan. Displaced
24 residents of housing units provided under any State or federal
25 housing subsidy program, or pursuant to the "Fair Housing Act,"
26 P.L.1985, c.222 (C.52:27D-301 et al.), provided they are deemed to
27 be eligible, shall have first priority for those replacement units
28 provided under the plan; provided that any such replacement unit
29 shall not be **credited** against a prospective municipal obligation
30 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et
31 al.) **counted as qualified units**, if the housing unit which is
32 removed had previously been **credited** toward satisfying the
33 municipal fair share obligation **counted**. To the extent reasonably
34 feasible, replacement housing shall be provided within or in close
35 proximity to the redevelopment area. A municipality shall report
36 annually to the Department of Community Affairs on its progress in
37 implementing the plan for provision of comparable, affordable
38 replacement housing required pursuant to this section.

39 b. A redevelopment plan may include the provision of
40 affordable housing in accordance with the "Fair Housing Act,"
41 P.L.1985, c.222 (C.52:27D-301 et al.) and the housing element of
42 the municipal master plan.

43 c. The redevelopment plan shall describe its relationship to
44 pertinent municipal development regulations as defined in the
45 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
46 The redevelopment plan shall supersede applicable provisions of the
47 development regulations of the municipality or constitute an

1 overlay zoning district within the redevelopment area. When the
2 redevelopment plan supersedes any provision of the development
3 regulations, the ordinance adopting the redevelopment plan shall
4 contain an explicit amendment to the zoning district map included
5 in the zoning ordinance. The zoning district map as amended shall
6 indicate the redevelopment area to which the redevelopment plan
7 applies. Notwithstanding the provisions of the "Municipal Land
8 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no
9 notice beyond that required for adoption of ordinances by the
10 municipality shall be required for the hearing on or adoption of the
11 redevelopment plan or subsequent amendments thereof.

12 d. All provisions of the redevelopment plan shall be either
13 substantially consistent with the municipal master plan or designed
14 to effectuate the master plan; but the municipal governing body may
15 adopt a redevelopment plan which is inconsistent with or not
16 designed to effectuate the master plan by affirmative vote of a
17 majority of its full authorized membership with the reasons for so
18 acting set forth in the redevelopment plan.

19 e. Prior to the adoption of a redevelopment plan, or revision or
20 amendment thereto, the planning board shall transmit to the
21 governing body, within 45 days after referral, a report containing its
22 recommendation concerning the redevelopment plan. This report
23 shall include an identification of any provisions in the proposed
24 redevelopment plan which are inconsistent with the master plan and
25 recommendations concerning these inconsistencies and any other
26 matters as the board deems appropriate. The governing body, when
27 considering the adoption of a redevelopment plan or revision or
28 amendment thereof, shall review the report of the planning board
29 and may approve or disapprove or change any recommendation by a
30 vote of a majority of its full authorized membership and shall
31 record in its minutes the reasons for not following the
32 recommendations. Failure of the planning board to transmit its
33 report within the required 45 days shall relieve the governing body
34 from the requirements of this subsection with regard to the pertinent
35 proposed redevelopment plan or revision or amendment thereof.
36 Nothing in this subsection shall diminish the applicability of the
37 provisions of subsection d. of this section with respect to any
38 redevelopment plan or revision or amendment thereof.

39 f. The governing body of a municipality may direct the
40 planning board to prepare a redevelopment plan or an amendment
41 or revision to a redevelopment plan for a designated redevelopment
42 area. After completing the redevelopment plan, the planning board
43 shall transmit the proposed plan to the governing body for its
44 adoption. The governing body, when considering the proposed
45 plan, may amend or revise any portion of the proposed
46 redevelopment plan by an affirmative vote of the majority of its full
47 authorized membership and shall record in its minutes the reasons
48 for each amendment or revision. When a redevelopment plan or

1 amendment to a redevelopment plan is referred to the governing
2 body by the planning board under this subsection, the governing
3 body shall be relieved of the referral requirements of subsection e.
4 of this section.

5 (cf: P.L.2008, c.46, s.2)

6 8. Section 16 of P.L.1992, c.79 (C.40A:12A-16) is amended to
7 read as follows:

8 16. a. In order to carry out the housing purposes of this act, a
9 municipality, county, or housing authority may exercise the
10 following powers, in addition to those set forth in section 22 of
11 P.L.1992, c.79 (C.40A:12A-22):

12 (1) Plan, construct, own, and operate housing projects; maintain,
13 reconstruct, improve, alter, or repair any housing project or any part
14 thereof; and for these purposes, receive and accept from the State or
15 federal government, or any other source, funds or other financial
16 assistance;

17 (2) Lease or rent any dwelling house, accommodations, lands,
18 buildings, structures or facilities embraced in any housing project;
19 and pursuant to the provisions of this act, establish and revise the
20 rents and charges therefor;

21 (3) Acquire property pursuant to subsection i. of section 22 of
22 P.L.1992, c.79 (C.40A:12A-22);

23 (4) Acquire, by condemnation, any land or building which is
24 necessary for the housing project, pursuant to the provisions of the
25 "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.);

26 (5) Issue bonds in accordance with the provisions of section 29
27 of P.L.1992, c.79 (C.40A:12A-29);

28 (6) Cooperate with any other municipality, private, county, State
29 or federal entity to provide funds to the municipality or other
30 governmental entity and to homeowners, tenant associations,
31 nonprofit or private developers to acquire, construct, rehabilitate or
32 operate publicly assisted housing, and to provide rent subsidies for
33 persons of low and moderate income, including the elderly,
34 pursuant to applicable State or federal programs;

35 (7) Encourage the use of demand side subsidy programs such as
36 certificates and vouchers for low-income families and promote the
37 use of project based certificates which provide subsidies for units in
38 newly constructed and substantially rehabilitated structures, and of
39 tenant based certificates which subsidize rent in existing units;

40 (8) Cooperate with any State or federal entity to secure
41 mortgage assistance for any person of low or moderate income;

42 (9) Provide technical assistance and support to nonprofit
43 organizations and private developers interested in constructing low
44 and moderate income housing;

45 (10) If it owns and operates public housing units, provide to the
46 tenants public safety services, including protection against drug
47 abuse, and social services, including counseling and financial
48 management, in cooperation with other agencies;

1 (11) Provide emergency shelters, transitional housing and
2 supporting services to homeless families and individuals.

3 b. All housing projects, programs and actions undertaken
4 pursuant to this act shall accord with the housing element of the
5 master plan of the municipality within which undertaken, and with
6 **【any fair share housing plan filed by the municipality with the**
7 **Council on Affordable Housing, based upon the council's criteria**
8 **and guidelines, pursuant to】** the "Fair Housing Act," P.L.1985,
9 c.222 (C.52:27D-301 et al.)**【, whether or not the municipality has**
10 **petitioned for substantive certification of the plan】.**
11 (cf: P.L.1992, c.79, s.16)

12

13 9. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to
14 read as follows:

15 2. a. The annual appropriations act for each State fiscal year
16 shall, without other conditions, limitations or restrictions on the
17 following:

18 (1) credit amounts paid to the State Treasurer, if any, in
19 payment of fees collected pursuant to paragraph (1) or paragraph
20 (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the
21 "Shore Protection Fund" created pursuant to section 1 of P.L.1992,
22 c.148 (C.13:19-16.1), the **【Neighborhood Preservation Nonlapsing**
23 **Revolving Fund】** "New Jersey Affordable Housing Trust Fund,"
24 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-
25 320), and the "Highlands Protection Fund" created pursuant to
26 section 21 of P.L.2004, c.120 (C.13:20-19), pursuant to the
27 requirements of section 4 of P.L.1968, c.49 (C.46:15-8);

28 (2) appropriate the balance of the "Shore Protection Fund"
29 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for
30 the purposes of that fund;

31 (3) appropriate the balance of the **【Neighborhood Preservation**
32 **Nonlapsing Revolving Fund】** "New Jersey Affordable Housing
33 Trust Fund," established pursuant to section 20 of P.L.1985, c.222
34 (C.52:27D-320), for the purposes of that fund, including any
35 permitted transfer of monies to the "Urban Housing Assistance
36 Fund," established pursuant to section 13 of P.L.2008, c.46
37 (C.52:27D-329.7); and

38 (4) appropriate the balance of the "Highlands Protection Fund"
39 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for
40 the purposes of that fund.

41 b. If the requirements of subsection a. of this section are not
42 met on the effective date of an annual appropriations act for the
43 State fiscal year, or if an amendment or supplement to an annual
44 appropriations act for the State fiscal year should violate any of the
45 requirements of subsection a. of this section, the Director of the
46 Division of Budget and Accounting in the Department of the
47 Treasury shall, not later than five days after the enactment of the

1 annual appropriations act, or an amendment or supplement thereto,
2 that violates any of the requirements of subsection a. of this section,
3 certify to the Director of the Division of Taxation that the
4 requirements of subsection a. of this section have not been met.

5 (cf: P.L.2004, c.120, s.62)

6
7 10. Section 9 of P.L.1966, c.293 (C.52:27D-9) is amended to
8 read as follows:

9 9. The department shall, in addition to other powers and duties
10 invested in it by this act, or by any other law:

11 (a) Assist in the coordination of State and Federal activities
12 relating to local government;

13 (b) Advise and inform the Governor on the affairs and problems
14 of local government and make recommendations to the Governor
15 for proposed legislation pertaining thereto;

16 (c) Encourage cooperative action by local governments,
17 including joint service agreements, regional compacts and other
18 forms of regional cooperation;

19 (d) Assist local government in the solution of its problems, to
20 strengthen local self-government;

21 (e) Study the entire field of local government in New Jersey;

22 (f) Collect, collate, publish and disseminate information
23 necessary for the effective operation of the department and useful
24 to local government;

25 (g) Maintain an inventory of data and information and act as a
26 clearing house and referral agency for information on State and
27 Federal services and programs;

28 (h) Stimulate local programs through publicity, education,
29 guidance and technical assistance concerning Federal and State
30 programs;

31 (i) Convene meetings of municipal, county or other local
32 officials to discuss ways of cooperating to provide service more
33 efficiently and economically; **[and]**

34 (j) Maintain and make available on request a list of persons
35 qualified to mediate or arbitrate disputes between local units of
36 government arising from joint service projects or other cooperative
37 activities, and further to prescribe rates of compensation for all such
38 mediation, factfinding or arbitration services; and

39 (k) Assume the duties of the Council on Affordable Housing
40 that are not repealed by P.L. , c. (pending before the Legislature
41 as this bill) and are transferred to the department pursuant to section
42 2 of P.L. , c. (C.) (pending before the Legislature as this
43 bill).

44 (cf: P.L.1973, c.208, s.10)

45
46 11. Section 11 of P.L.1979, c.111 (C.13:18A-12) is amended to
47 read as follows:

1 11. a. The provisions of any other law, ordinance, rule or
2 regulation to the contrary notwithstanding, within one year of the
3 date of the adoption of the comprehensive management plan, or any
4 revision thereof, each county located in whole or in part in the
5 pinelands area shall submit to the commission such revisions of the
6 county master plan as may be necessary in order to implement the
7 objectives of the comprehensive management plan and conform
8 with the minimum standards contained therein. After receiving and
9 reviewing such revisions, as applicable to the development and use
10 of land in the pinelands area, the commission shall approve, reject,
11 or approve with conditions said revised plans, as it deems
12 appropriate, after public hearing, within 60 days of the submission
13 thereof.

14 Upon rejecting or conditionally approving any such revised plan,
15 the commission shall identify such changes therein that it deems
16 necessary for commission approval thereof, and the relevant county
17 shall adopt and enforce such plan, as so changed.

18 b. Within one year of the date of the adoption of the
19 comprehensive management plan, or any revision thereof, each
20 municipality located in whole or in part in the pinelands area shall
21 submit to the commission such revisions of the municipal master
22 plan and local land use ordinances as may be necessary in order to
23 implement the objectives of the comprehensive management plan
24 and conform with the minimum standards contained therein. After
25 receiving and reviewing such revisions, as applicable to the
26 development and use of land in the pinelands area, the commission
27 shall approve, reject, or approve with conditions said revised plans
28 and ordinances, as it deems appropriate, after public hearing, within
29 120 days of the date of the submission thereof. **【The number of low
30 or moderate income housing units provided for in the revised plan
31 shall not be used by the commission as a criterion for the approval,
32 rejection, or conditional approval of the revised plan.】**

33 The commission and each municipality located in whole or in
34 part in the pinelands area are hereby authorized and directed to
35 comply with the provisions of P.L. , c. (C.) (pending before
36 the Legislature as this bill) and section 18 of P.L.2008, c.46
37 (C.52:27D-329.9), as amended by P.L. , c. (C.) (pending
38 before the Legislature as this bill).

39 Upon rejecting or conditionally approving any such revised plan
40 or ordinance, the commission shall identify such changes therein
41 that it deems necessary for commission approval thereof, and the
42 relevant municipality shall adopt and enforce such plan or
43 ordinance, as so changed.

44 The commission may, as herein provided, delegate the review of
45 any municipal master plan or land use ordinance to the planning
46 board of the county wherein such municipality is located. Any such
47 delegation shall be made only: (1) upon a finding by the
48 commission that such delegation is consistent with the purposes and

1 provisions of this act and the Federal Act; (2) if the commission has
2 approved the master plan for such county; and (3) at the request of
3 the governing body of such county. The results of any such county
4 planning board review shall be transmitted to the commission prior
5 to the commission's review and approval of any such municipal
6 master plan or ordinance.

7 c. In the event that any county or municipality fails to adopt or
8 enforce an approved revised master plan or implementing land use
9 ordinances, as the case may be, including any condition thereto
10 imposed by the commission, the commission shall adopt and
11 enforce such rules and regulations as may be necessary to
12 implement the minimum standards contained in the comprehensive
13 management plan as applicable to any such county or municipality.

14 d. Any approval of any application for development granted by
15 any municipality, county, or agency thereof in violation of the
16 provisions of this section shall be null and void and of no force and
17 effect at law or equity.

18 (cf: P.L.1987, c. 267, s. 1)

19
20 12. Section 14 of P.L.1979, c.111 (C.13:18A-15) is amended to
21 read as follows:

22 14. Subsequent to the adoption of the comprehensive
23 management plan, the commission is hereby authorized to
24 commence a review, within 15 days after any final municipal or
25 county approval thereof, of any application for development in the
26 pinelands area. Upon determining to exercise such authority, the
27 commission shall transmit, by certified mail, written notice thereof
28 to the person who submitted such application. The commission
29 shall, after public hearing thereon, approve, reject, or approve with
30 conditions any such application within 45 days of transmitting such
31 notice; provided, however, that such application shall not be
32 rejected or conditionally approved unless the commission
33 determines that such development does not conform with the
34 comprehensive management plan or the minimum standards
35 contained therein, as applicable to the county or municipality
36 wherein such development is located, or that such development
37 could result in substantial impairment of the resources of the
38 pinelands area. Such approval, rejection or conditional approval
39 shall be binding upon the person who submitted such application,
40 shall supersede any municipal or county approval of any such
41 development, and shall be subject only to judicial review as
42 provided in section 19 of this act.

43 **【The number of low or moderate income housing units provided**
44 **for in the application for development shall not be used as a**
45 **criterion for the approval or rejection of the application.】** The
46 commission is hereby authorized and directed to comply with
47 section 18 of P.L.2008, c.46 (C.52:27D-329.9), as amended by

1 P.L. , c. (C.) (pending before the Legislature as this bill).
2 (cf: P.L.1987, c.267, s.2)

3
4 13. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to
5 read as follows:

6 10. A municipality's housing element shall be designed to
7 achieve the goal of access to affordable housing to **【meet present**
8 **and prospective】** achieve the mix of housing stock described in
9 paragraph (1) of subsection a. of section 22 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), with particular
11 attention to low and moderate income housing, and shall contain at
12 least:

13 a. An inventory of the municipality's housing stock by age,
14 condition, purchase or rental value, occupancy characteristics, and
15 type, including the number of units affordable to low and moderate
16 income households and substandard housing capable of being
17 rehabilitated, and in conducting this inventory the municipality
18 shall have access, on a confidential basis for the sole purpose of
19 conducting the inventory, to all necessary property tax assessment
20 records and information in the assessor's office, including but not
21 limited to the property record cards;

22 b. A projection of the municipality's housing stock, including
23 the probable future construction of low and moderate income
24 housing, for the next ten years, taking into account, but not
25 necessarily limited to, construction permits issued, approvals of
26 applications for development and probable residential development
27 of lands;

28 c. An analysis of the municipality's demographic
29 characteristics, including but not necessarily limited to, household
30 size, income level and age;

31 d. An analysis of the existing and probable future employment
32 characteristics of the municipality;

33 e. A determination of the municipality's **【present and**
34 **prospective fair share】** resources and need for low and moderate
35 income housing and its capacity to accommodate its **【present and**
36 **prospective】** housing needs, including **【its fair share for】** low and
37 moderate income housing; and

38 f. A consideration of the lands that are most appropriate for
39 construction of low and moderate income housing and of the
40 existing structures most appropriate for conversion to, or
41 rehabilitation for, low and moderate income housing, including a
42 consideration of lands of developers who have expressed a
43 commitment to provide low and moderate income housing.

44 g. An analysis calculating the number of existing substandard
45 housing units in the municipality occupied by low and moderate
46 income families and a plan for rehabilitating at least that number of

1 units within the next 10 years.

2 (cf: P.L.2001, c.435, s.2)

3
4 14. Section 1 of P.L.2005, c.350 (C.52:27D-311a) is amended to
5 read as follows:

6 1. Beginning upon the effective date of P.L.2005, c.350
7 (C.52:27D-311a et al.), in order to be a qualified unit for purposes
8 of P.L. , c. (C.), any new construction for which credit is
9 sought **【against a fair share obligation】** shall be adaptable in
10 accordance with the provisions of section 5 of P.L.2005, c.350
11 (C.52:27D-123.15). For the purposes of P.L.2005, c.350 (C.52:27D-
12 311a et al.), "new construction" shall mean an entirely new
13 improvement not previously occupied or used for any purpose.

14 (cf: P.L.2005, c.350, s.1)

15
16 15. Section 6 of P.L.2005, c.350 (C.52:27D-311b) is amended to
17 read as follows:

18 6. The **【council】** department may take such measures as are
19 necessary to assure compliance with the adaptability requirements
20 imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.),
21 including the inspection of those units which are newly constructed
22 and receive housing credit as provided under section 1 of P.L.2005,
23 c.350 (C.52:27D-311a) for adaptability, as part of the monitoring
24 which occurs pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).
25 **【If any units for which credit was granted in accordance with the**
26 **provisions of P.L.2005, c.350 (C.52:27D-311a et al.) are found not**
27 **to conform to the requirements of P.L.2005, c.350 (C.52:27D-311a**
28 **et al.), the council may require the municipality to amend its fair**
29 **share plan within 90 days of receiving notice from the council, to**
30 **address its fair share obligation pursuant to P.L.1985, c.222**
31 **(C.52:27D-301 et al.). In the event that the municipality fails to**
32 **amend its fair share plan within 90 days of receiving such notice,**
33 **the council may revoke substantive certification.】**

34 (cf: P.L.2005, c.350, s.6)

35
36 16. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
37 read as follows:

38 20. There is established in the Department of Community
39 Affairs a separate trust fund, to be used for the exclusive purposes
40 as provided in this section, and which shall be known as the "New
41 Jersey Affordable Housing Trust Fund." The fund shall be a non-
42 lapsing, revolving trust fund, and all monies deposited or received
43 for purposes of the fund shall be accounted for separately, by source
44 and amount, and remain in the fund until appropriated for such
45 purposes. The fund shall be the repository of all State funds
46 appropriated for affordable housing purposes, including, but not
47 limited to, the proceeds from the receipts of the additional fee
48 collected pursuant to paragraph (2) of subsection a. of section 3 of

1 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the
2 Statewide non-residential development fees collected pursuant to
3 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or
4 reverting from municipal development trust funds, or other monies
5 as may be dedicated, earmarked, or appropriated by the Legislature
6 for the purposes of the fund. All references in any law, order, rule,
7 regulation, contract, loan, document, or otherwise, to the
8 "Neighborhood Preservation Nonlapsing Revolving Fund" shall
9 mean the "New Jersey Affordable Housing Trust Fund." No less
10 than 13 percent of the total expenditures in any State fiscal year
11 from the New Jersey Affordable Housing Trust Fund shall be used
12 for housing projects reserved for very low income households and
13 special needs housing units. The department shall be permitted to
14 utilize annually up to 7.5 percent of the monies available in the fund
15 for the payment of any necessary administrative costs related to the
16 administration of the "Fair Housing Act," P.L.1985, c.222
17 (C.52:27D-301 et al.), the State Housing Commission, or any costs
18 related to administration of P.L.2008, c.46 (C.52:27D-329.1 et al.).

19 a. **【**Except as permitted pursuant to subsection g. of this
20 section, and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the**】**
21 The commissioner shall award grants or loans from this fund for
22 housing projects and programs **【**in municipalities whose housing
23 elements have received substantive certification from the council, in
24 municipalities receiving State aid pursuant to P.L.1978, c.14
25 (C.52:27D-178 et seq.), in municipalities subject to a builder's
26 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328)
27 or in receiving municipalities in cases where the council has
28 approved a regional contribution agreement and a project plan
29 developed by the receiving municipality.

30 Of those monies deposited into the "New Jersey Affordable
31 Housing Trust Fund" that are derived from municipal development
32 fee trust funds, or from available collections of Statewide non-
33 residential development fees, a priority for funding shall be
34 established for projects in municipalities that have petitioned the
35 council for substantive certification**】**. The commissioner shall
36 prioritize funding for non-profits and projects that include special
37 needs units when making grants and awards from the "New Jersey
38 Affordable Housing Trust Fund." The commissioner shall assess
39 the housing need in each region of the State and consider the
40 assessment in prioritizing awards from the fund.

41 Programs and projects in any municipality shall be funded only
42 after receipt by the commissioner of a written statement in support
43 of the program or project from the municipal governing body.

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

1 c. **【**For any period which the council may approve, the
2 commissioner may assist affordable housing programs which are
3 not located in municipalities whose housing elements have been
4 granted substantive certification or which are not in furtherance of a
5 regional contribution agreement; provided that the affordable
6 housing program will meet all or part of a municipal low and
7 moderate income housing obligation.**】 Deleted by amendment,**
8 P.L. , c.) (pending before the Legislature as this bill).

9 d. Amounts deposited in the "New Jersey Affordable Housing
10 Trust Fund" shall be targeted to **【**regions based on the region's
11 percentage of the State's low and moderate income housing need as
12 determined by the council**】** assist projects in municipalities that are
13 deemed compliant pursuant to section 23 of P.L. , c. (C.)
14 pending before the Legislature as this bill), and to assist projects in
15 municipalities that are neither compliant nor deemed compliant
16 pursuant to P.L. , c. (C.) (pending before the Legislature as
17 this bill). Amounts **【**in the fund**】** deposited in the "New Jersey
18 Affordable Housing Trust Fund" shall be applied for the following
19 purposes in designated neighborhoods:

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

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

24 (3) Conversion of non-residential space to residential purposes;
25 provided at least 10 percent of the resulting housing units are to be
26 occupied by low and moderate income households;

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

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

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

44 (7) Other housing programs for low and moderate income
45 housing, including, without limitation, (a) infrastructure projects
46 directly facilitating the construction of low and moderate income
47 housing not to exceed a reasonable percentage of the construction

1 costs of the low and moderate income housing to be provided and
2 (b) alteration of dwelling units occupied or to be occupied by
3 households of low or moderate income and the common areas of the
4 premises in which they are located in order to make them accessible
5 to handicapped persons; and

6 (8) Transfers authorized pursuant to this section to the "Urban
7 Housing Assistance Fund" established by section 13 of P.L.2008,
8 c.46 (C.52:27D-329.7) to provide assistance for rehabilitation and
9 new construction through the Urban Housing Assistance Program
10 pursuant to section 13 of P.L.2008, c.46 (C.52:27D-329.7).

11 e. Any grant or loan agreement entered into pursuant to this
12 section shall incorporate contractual guarantees and procedures by
13 which the division will ensure that any unit of housing provided for
14 low and moderate income households shall continue to be occupied
15 by low and moderate income households for at least 20 years
16 following the award of the loan or grant, except that the division
17 may approve a guarantee for a period of less than 20 years where
18 necessary to ensure project feasibility.

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

35 g. In addition to other grants or loans awarded pursuant to this
36 section, and without regard to any limitations on such grants or
37 loans for any other purposes herein imposed, the commissioner
38 shall annually allocate such amounts as may be necessary in the
39 commissioner's discretion, and in accordance with section 3 of
40 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
41 under the program created pursuant to P.L.2004, c.140 (C.52:27D-
42 287.1 et al.). Such rental assistance grants shall be deemed
43 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-
44 301 et al.), in order to meet the housing needs of certain low income
45 households who may not be eligible to occupy other housing
46 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

47 h. The department and the State Treasurer shall submit the
48 "New Jersey Affordable Housing Trust Fund" for an audit annually

1 by the State Auditor or State Comptroller, at the discretion of the
2 Treasurer. In addition, the department shall prepare an annual
3 report for each fiscal year, and submit it by November 30th of each
4 year to the Governor and the Legislature, and the Joint Committee
5 on Housing Affordability, or its successor, and post the information
6 to its web site, of all activity of the fund, including details of the
7 grants and loans by number of units, number and income ranges of
8 recipients of grants or loans, location of the housing renovated or
9 constructed using monies from the fund, the number of units upon
10 which affordability controls were placed, and the length of those
11 controls. The report also shall include details pertaining to those
12 monies allocated from the fund for use by the State rental assistance
13 program pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3)
14 and subsection g. of this section.

15 i. The commissioner may award or grant the amount of any
16 appropriation deposited in the "New Jersey Affordable Housing
17 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-
18 320.1) to municipalities pursuant to the provisions of section 39 of
19 P.L.2009, c.90 (C.40:55D-8.8).

20 j. Not less than 10 percent and not more than 25 percent of the
21 amount deposited in the "New Jersey Affordable Housing Trust
22 Fund", available for the purposes set forth in subsection d. of this
23 section during any fiscal year, shall be transferred to the "Urban
24 Housing Assistance Fund" in any State fiscal year.

25 (cf: P.L.2009, c.90, s.38)

26
27 17. Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is amended
28 to read as follows:

29 19. a. Notwithstanding any rules of the New Jersey Housing
30 and Mortgage Finance Agency to the contrary, the allocation of low
31 income tax credits shall be made by the agency to the full extent
32 such credits are permitted to be allocated under federal law,
33 including allocations of 4 percent or 9 percent federal low income
34 tax credits, and including allocations allowable for partial credits.
35 The affordable portion of any mixed income or mixed use
36 development that is part of a **【fair share】** housing plan **【approved**
37 **by the council, or】** including a development that has received a
38 court-approved judgment of repose or compliance, including, but
39 not limited to, a development that has received a density bonus,
40 shall be permitted to receive allocations of low income tax credits,
41 provided that the applicant can conclusively demonstrate that the
42 market rate residential or commercial units are unable to internally
43 subsidize the affordable units, and the affordable units are
44 developed contemporaneously with the commercial or market rate
45 residential units. In adopting the Qualified Allocation Plan pursuant
46 to 26 U.S.C. s.42, and any rules promulgated thereunder, the agency
47 shall, assess the housing needs and resources in each region and
48 consider the assessment in issuing credits. The agency shall, in

1 issuing the credits, prioritize applications from projects in
2 municipalities that are deemed compliant pursuant to section 23 of
3 P.L. , c. (C.) (pending before the Legislature as this bill), and
4 to assist projects in municipalities that are neither compliant nor
5 deemed compliant pursuant to P.L. , c. (C.) (pending before
6 the Legislature as this bill).

7 b. A housing unit financed in whole or in part through the
8 allocation of federal Low-Income Housing Tax Credits shall be
9 eligible to be counted as a qualified unit for purposes of
10 determining whether a municipality is a compliant municipality
11 pursuant to section 20 of P.L. , c. (C.) (pending before the
12 Legislature as this bill) if the requirements of federal law pursuant
13 to 26 U.S.C. s.42 have been met for that unit.

14 (cf: P.L.2008, c.46, s.19)

15
16 18. Section 13 of P.L.2008, c.46 (C.52:27D-329.7) is amended
17 to read as follows:

18 13. a. There is established within the Department of
19 Community Affairs an Urban Housing Assistance Program for the
20 purposes of assisting certain municipalities in the provision of
21 housing through the rehabilitation of existing buildings or the
22 construction of affordable housing.

23 b. Within the program there shall be established a trust fund to
24 be known as the "Urban Housing Assistance Fund," into which may
25 be deposited:

26 (1) monies which may be available to the fund from any other
27 programs established for the purposes of housing rehabilitation【,
28 other than monies from the "New Jersey Affordable Housing Trust
29 Fund," established pursuant to section 20 of P.L.1985, c.222
30 (C.52:27D-320)】;

31 (2) monies appropriated by the Legislature to the fund; and

32 (3) any other funds made available through State or federal
33 housing programs for the purposes of producing affordable housing
34 【, other than monies from the "New Jersey Affordable Housing
35 Trust Fund," established pursuant to section 20 of P.L.1985, c.222
36 (C.52:27D-320)】.

37 c. The Commissioner of Community Affairs shall develop a
38 strategic five-year plan for the program aimed at developing
39 strategies to assist municipalities in creating rehabilitation programs
40 and other programs to produce safe, decent housing within the
41 municipality.

42 d. The commissioner may award a housing rehabilitation grant
43 to a municipality that qualifies for aid pursuant to P.L.1978, c.14
44 (C.52:27D-178 et seq.), or a non-profit or for-profit corporation in a
45 municipality that qualifies for such aid, and that has submitted a
46 valid application to the Department of Community Affairs which
47 details the manner in which the municipality will utilize funding in

1 order to meet the municipality's need to rehabilitate or create safe,
2 decent, and affordable housing.

3 e. The commissioner shall promulgate rules and regulations,
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.), to effectuate the purposes of P.L.2008, c.46
6 (C.52:27D-329.1 et al.); provided that the regulations shall permit a
7 municipality broad discretion in shaping its housing rehabilitation
8 and construction program, but shall not permit a municipality to
9 provide assistance to any household having an income greater than
10 120 percent of median household income for the housing region.
11 The department may require a return of a grant upon its
12 determination that a municipality is not performing in accordance
13 with its grant or with the regulations.
14 (cf: P.L.2008, c.46, s.13)

15
16 19. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended
17 to read as follows:

18 18. a. **【Notwithstanding any rules of the council to the contrary,**
19 **for developments consisting of newly-constructed residential units**
20 **located, or to be located, within the jurisdiction of any regional**
21 **planning entity required to adopt a master plan or comprehensive**
22 **management plan pursuant to statutory law, including the New**
23 **Jersey Meadowlands Commission pursuant to subsection (i) of**
24 **section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission**
25 **pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,**
26 **c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization**
27 **Planning Authority pursuant to section 5 of P.L.2006, c.16**
28 **(C.52:27I-5), or its successor, and the Highlands Water Protection**
29 **and Planning Council pursuant to section 11 of P.L.2004, c.120**
30 **(C.13:20-11), but excluding joint planning boards formed pursuant**
31 **to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be**
32 **required to be reserved for occupancy by low or moderate income**
33 **households at least 20 percent of the residential units constructed, to**
34 **the extent this is economically feasible.】**

35 In developments consisting of newly-constructed residential
36 units located, or to be located, within the jurisdiction of the New
37 Jersey Meadowlands Commission pursuant to section 6 of
38 P.L.1968, c.404 (C.13:17-6), the Pinelands Commission pursuant to
39 section 7 of the "Pinelands Protection Act," P.L.1979, c.111
40 (C.13:18A-8), the Fort Monmouth Economic Revitalization
41 Authority pursuant to section 9 of P.L.2010, c.51 (C.52:27I-26), or
42 its successor, and the Highlands Water Protection and Planning
43 Council pursuant to section 11 of P.L.2004, c.120 (C.13:20-11),
44 there shall be required to be reserved for occupancy as qualified
45 very-low, low, or moderate income housing units as those terms are
46 defined pursuant to section 21 of P.L. , c. (C.) (pending
47 before the Legislature as this bill), between 15 and 20 percent of the
48 residential units constructed, in developments that meet or exceed

1 the minimum applicable densities as set forth in subsection d. of
2 section 23 of P.L. , c. (C.) (pending before the Legislature
3 as this bill).

4 b. A developer of a project consisting of newly-constructed
5 residential units being financed in whole or in part with State funds,
6 including, but not limited to, transit villages designated by the
7 Department of Transportation, units constructed on State-owned
8 property, and urban transit hubs as defined pursuant to section 2 of
9 P.L.2007, c.346 (C.34:1B-208), shall be required to reserve [at
10 least 20 percent of the residential units constructed for occupancy
11 by low or moderate income households, as those terms are defined
12 in section 4 of P.L.1985, c.222 (C.52:27D-304), with affordability
13 controls as required under the rules of the council, unless the
14 municipality in which the property is located has received
15 substantive certification from the council and such a reservation is
16 not required under the approved affordable housing plan, or the
17 municipality has been given a judgment of repose or a judgment of
18 compliance by the court, and such a reservation is not required
19 under the approved affordable housing plan] between 15 and 20
20 percent of the residential units constructed in developments that
21 meet or exceed the minimum applicable densities as set forth in
22 section 23 of P.L. , c. (C.) (pending before the Legislature
23 as this bill), as qualified very-low, low, and moderate income
24 housing units as those terms are defined in section 21 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), with
26 affordability controls as required by the department, unless the
27 municipality in which the development is located is compliant
28 pursuant to section 24 of P.L. , c. (C.) (pending before the
29 Legislature as this bill).

30 [c. (1) The Legislature recognizes that regional planning
31 entities are appropriately positioned to take a broader role in the
32 planning and provision of affordable housing based on regional
33 planning considerations. In recognition of the value of sound
34 regional planning, including the desire to foster economic growth,
35 create a variety and choice of housing near public transportation,
36 protect critical environmental resources, including farmland and
37 open space preservation, and maximize the use of existing
38 infrastructure, there is created a new program to foster regional
39 planning entities.

40 (2) The regional planning entities identified in subsection a. of
41 this section shall identify and coordinate regional affordable
42 housing opportunities in cooperation with municipalities in areas
43 with convenient access to infrastructure, employment opportunities,
44 and public transportation. Coordination of affordable housing
45 opportunities may include methods to regionally provide housing in
46 line with regional concerns, such as transit needs or opportunities,
47 environmental concerns, or such other factors as the council may
48 permit; provided, however, that such provision by such a regional

1 entity may not result in more than a 50 percent change in the fair
2 share obligation of any municipality; provided that this limitation
3 shall not apply to affordable housing units directly attributable to
4 development by the New Jersey Sports and Exposition Authority
5 within the New Jersey Meadowlands District.

6 (3) In addition to the entities identified in subsection a. of this
7 section, the Casino Reinvestment Development Authority, in
8 conjunction with the Atlantic County Planning Board, shall identify
9 and coordinate regional affordable housing opportunities directly
10 attributable to Atlantic City casino development, which may be
11 provided anywhere within Atlantic County, subject to the
12 restrictions of paragraph (4) of this subsection.

13 (4) The coordination of affordable housing opportunities by
14 regional entities as identified in this section shall not include
15 activities which would provide housing units to be located in those
16 municipalities that are eligible to receive aid under the "Special
17 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
18 are coextensive with a school district which qualified for
19 designation as a "special needs district" pursuant to the "Quality
20 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at
21 any time in the last 10 years has been qualified to receive assistance
22 under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall within the
23 jurisdiction of any of the regional entities specified in subsection a.
24 of this section.】

25 c. (1) The Legislature recognizes that regional planning entities
26 are appropriately positioned to take a broader role in the planning
27 and provision of affordable housing based on regional planning
28 considerations. In recognition of the value of sound regional
29 planning, including the desire to foster economic growth, create a
30 variety and choice of housing near public transportation, protect
31 critical environmental resources, including farmland and open space
32 preservation, and maximize the use of existing infrastructure, there
33 is created a new program to foster regional planning entities.

34 (2) With the exception of the New Jersey Meadowlands
35 Commission, the regional planning entities identified in subsection
36 a. of this section shall identify and coordinate regional affordable
37 housing opportunities in cooperation with municipalities in areas
38 with convenient access to infrastructure, employment opportunities,
39 and public transportation. Coordination of affordable housing
40 opportunities may include methods to regionally provide housing in
41 line with regional concerns, such as transit needs or opportunities,
42 environmental concerns, or such other factors as the council may
43 permit; provided, however, that such provision by such a regional
44 entity may not result in more than a 50 percent change in the
45 number of qualified housing units for which a realistic opportunity
46 is required to be provided for in any municipality pursuant to
47 section 23 of P.L. , c. (C.) (pending before the Legislature
48 as this bill) and that the sum of such changes may not reduce the

1 aggregate number of qualified housing units required in the region
2 as determined pursuant to section 23 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) in the current housing
4 period.

5 (3) With the exception of the New Jersey Meadowlands
6 Commission, the regional planning entities identified in subsection
7 a. of this section shall adopt and promulgate, in accordance with the
8 provisions of the "Administrative Procedure Act," P.L.1968, c. 410
9 (C.52:14B-1 et seq.), all rules and regulations necessary or
10 expedient for the prompt and effective carrying out of the
11 provisions and purposes of this section. Within six months of the
12 effective date of P.L. , c. (pending before the Legislature as this
13 bill), each regional planning entity shall adopt regional housing
14 plans identifying, among other things, to which municipalities
15 obligations have been transferred and the purpose for doing so. The
16 transfer of obligations to a municipality shall be at the sole
17 discretion of the regional planning entities subject to the restrictions
18 of this section. Except for municipalities located within the
19 jurisdiction of the New Jersey Meadowlands Commission,
20 municipalities located within the other regional planning entities
21 shall have another six-month period after the adoption of the
22 regional housing plans to file duly adopted and certified housing
23 elements and implementing ordinances with the department in
24 accordance with the standards governing such housing elements and
25 implementing ordinances set forth in section 23 of
26 P.L. , c. (C.) (pending before the Legislature as this bill).

27 (4) The coordination of affordable housing opportunities by
28 regional entities as identified in this section shall not include
29 activities which would provide housing units to be located in those
30 municipalities that are eligible to receive aid under the "Special
31 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
32 are coextensive with a "special needs district" pursuant to the
33 "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et
34 al.), or at any time in the last 10 years has been qualified to receive
35 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall
36 within the jurisdiction of any of the regional entities specified in
37 subsection a. of this section.

38 (cf: P.L.2008, c.46, s.18)

39

40 20. (New section) Any party, including the property owner,
41 municipality, or contract purchaser, may apply, in such form and
42 manner as shall be established by the Commissioner of
43 Environmental Protection, to the Department of Environmental
44 Protection for a review and determination of site specific or project
45 specific amendments or revisions to wastewater management plans
46 and water quality management plans, when those plans are
47 submitted to achieve compliance with P.L. , c. (C.) (pending
48 before the Legislature as this bill), and where at least 15% of the

1 units are qualified units. The Department of Environmental
2 Protection shall review and act upon the amendments or revisions
3 within 90 days of receipt of a completed application for a
4 determination and review.

5 21. (New section) As used in P.L. , c. (C.) (pending before
6 the Legislature as this bill):

7 "Adaptable" means constructed in compliance with the technical
8 design standards of the barrier free subcode adopted by the
9 Commissioner of Community Affairs pursuant to the "State
10 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
11 et seq.) and in accordance with the provisions of section 5 of
12 P.L.2005, c.350 (C.52:27D-123.15).

13 "Affordability control" means any deed restriction, covenant, or
14 other legally binding provision requiring that a low or moderate
15 income housing unit remains affordable to and restricted to
16 occupancy by low or moderate income households, as the case may
17 be, for a period of 30 years from the date of initial occupancy of the
18 unit.

19 "Agency" means the New Jersey Housing and Mortgage Finance
20 Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.).

21 "Attached housing" means any form of residential development
22 other than detached single family housing, including, but not
23 limited to, two-family housing, three-family housing, attached
24 single family houses, multifamily apartments, and manufactured
25 housing communities.

26 "Compliance threshold" means the percentage of a
27 municipality's housing stock that is required to be qualified housing
28 units in order for the municipality to be deemed a compliant
29 municipality.

30 "Conversion" means the conversion of existing commercial,
31 industrial, or residential structures for low and moderate income
32 housing purposes where at least 10 percent of the housing units are
33 provided for a reasonable income range of low and moderate
34 income households.

35 "Council" means the former Council on Affordable Housing
36 established by section 5 of P.L.1985, c.222, and, following the
37 effective date of P.L. , c. (C.) (pending before the
38 Legislature as this bill), the Department of Community Affairs,
39 pursuant to section 2 of P.L. , c. (C.) (pending before the
40 Legislature as this bill).

41 "Department" means the Department of Community Affairs
42 established pursuant to section 1 of P.L.1966, c.293 (C.52:27D-1).

43 "Development" means any development for which permission
44 may be required pursuant to the "Municipal Land Use Law,"
45 P.L.1975, c.291 (C.40:55D-1 et seq.).

46 "Developable land" means any lot or parcel, whether or not the
47 parcel is vacant, or any part of a lot or parcel, having access to
48 sewer service, or that has been determined by the Department of

1 Environmental Protection, pursuant to section 20 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), to be
3 legally able to connect to service, having a slope of less than 15
4 percent, and that is not:

5 (1) land that is owned by a local government entity that as of the
6 effective date of P.L. , c. (C.) (pending before the
7 Legislature as this bill), has adopted, prior to the institution of a
8 lawsuit seeking a builder's remedy, a resolution authorizing an
9 execution of agreement that the land be utilized for a public purpose
10 other than housing;

11 (2) land listed on a master plan of a municipality as being
12 dedicated, by easement or otherwise, for purposes of conservation,
13 park lands, active recreation, or open space and which is owned,
14 leased, licensed, or in any manner operated by a county,
15 municipality or tax-exempt, nonprofit organization including a local
16 board of education, or by more than one municipality by joint
17 agreement pursuant to the "Uniform Shared Services and
18 Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et seq.), for so
19 long as the entity maintains such ownership, lease, license, or
20 operational control of such land;

21 (3) contiguous with other parcels of land in private ownership
22 which when combined are of a size which would accommodate
23 fewer than five housing units pursuant to the standards of paragraph
24 (1) of subsection c. of section 23 of P.L. , c. (C.) (pending
25 before the Legislature as this bill);

26 (4) an historic or architecturally important site listed on the
27 State Register of Historic Places or National Register of Historic
28 Places unless proposed for historically appropriate conversion or
29 adaptive reuse;

30 (5) agricultural land for which development rights have been
31 purchased or restricted by covenant;

32 (6) environmentally sensitive lands where development is
33 prohibited by any State or federal agency, including prohibitions
34 pursuant to the "Freshwater Wetlands Protection Act," P.L.1987,
35 c.156 (C.13:9B-1 et seq.), the "Pinelands Protection Act," P.L.1979,
36 c.111 (C.13:18A-1 et seq.), the "Coastal Area Facility Review Act,"
37 P.L.1973, c.185 (C.13:19-1 et seq.), the "Highlands Water
38 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.),
39 the federal Clean Water Act, 33 U.S.C. ss.1251 et seq., or the
40 "Hackensack Meadowlands Reclamation and Development Act,"
41 P.L.1968, c.404 (C.13:17-1 et seq.).

42 Developable land shall include existing structures that are
43 appropriate for conversion to or rehabilitation or replacement for
44 housing, including, but not limited to, structures abandoned or
45 underutilized.

46 "Family housing" means self-contained, residential dwelling
47 units, each having a lockable door on a private entrance. a kitchen,
48 sanitary facilities, and separate sleeping quarters, and which are

1 available to the general public and not restricted to any specific
2 segment of the population by age or disability.

3 "Housing region" means a geographic area of not less than two
4 nor more than four contiguous, whole counties which exhibit
5 significant social, economic and income similarities, and which
6 constitute to the greatest extent practicable the primary metropolitan
7 statistical areas as last defined by the United States Census Bureau
8 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).

9 "Inclusionary zoning ordinance" means any zoning ordinance
10 that provides for: qualified housing units as a portion of a
11 residential development, or a redevelopment plan that provides
12 qualified housing units as a portion of a residential development.

13 "Initial compliance period" means the period of 10 years
14 beginning on the effective date of P.L. , c. (C.) (pending
15 before the Legislature as this bill).

16 "Licensed housing compliance professional" means an individual
17 who is licensed by the State Board of Professional Planners to
18 determine the sufficiency of, and certify, those housing elements
19 and related ordinances submitted to the professional by a
20 municipality pursuant to P.L. , c. (C.) (pending before the
21 Legislature as this bill).

22 "Low income housing" means housing affordable according to
23 federal Department of Housing and Urban Development or other
24 recognized standards for home ownership and rental costs and
25 occupied or reserved for occupancy by households with a gross
26 household income equal to 50 percent or less of the median gross
27 household income for households of the same size within the
28 housing region in which the housing is located.

29 "Moderate income housing" means housing affordable according
30 to federal Department of Housing and Urban Development or other
31 recognized standards for home ownership and rental costs and
32 occupied or reserved for occupancy by households with a gross
33 household income equal to more than 50 percent but less than 80
34 percent of the median gross household income for households of the
35 same size within the housing region in which the housing is located.

36 "Person with a disability" means a person with a physical
37 disability, infirmity, malformation or disfigurement which is caused
38 by bodily injury, birth defect, aging or illness including epilepsy
39 and other seizure disorders, and which shall include, but not be
40 limited to, any degree of paralysis, amputation, lack of physical
41 coordination, blindness or visual impediment, deafness or hearing
42 impediment, muteness or speech impediment or physical reliance on
43 a service or guide dog, wheelchair, or other remedial appliance or
44 device.

45 "Qualified housing units" means units subject to affordability
46 controls, public housing, and supportive and special needs units.
47 Housing units shall be deemed qualified housing units only if
48 affordability controls or applicable affordability restrictions expire

1 no sooner than the end of the current compliance period, provided,
2 that any qualified units shall be adaptable, as required by section 1
3 of P.L.2005, c.350 (C.52:27D-311a).

4 "Qualified low income housing units" means qualified housing
5 units that are affordable to and occupied by households earning no
6 more than 50 percent of the median income for the region in which
7 the municipality is located, as adjusted for family size, and which
8 are subject to affordability controls.

9 "Qualified moderate income housing units" means qualified
10 housing that is affordable to and occupied by households earning no
11 more than 80 percent of the median income for the region in which
12 the municipality is located, as adjusted for family size, and which is
13 subject to affordability controls.

14 "Qualified very low income housing units" means qualified
15 housing units that are affordable to and occupied by households
16 earning no more than 30 percent of the median income for the
17 region in which the municipality is located, as adjusted for family
18 size, and which are subject to affordability controls.

19 "Rehabilitation project" under P.L. , c. (C.) (pending
20 before the Legislature as this bill) means a "gut rehabilitation"
21 project where the extent and nature of the work is such that the
22 work area cannot be occupied while the work is in progress and
23 where a new certificate of occupancy is required before the work
24 area can be reoccupied, pursuant to the Rehabilitation Subcode,
25 N.J.A.C.5:23-6. Reconstruction shall not include projects comprised
26 only of floor finish replacement, painting or wallpapering, or the
27 replacement of equipment or furnishings. Asbestos hazard
28 abatement and lead hazard abatement projects shall not be classified
29 as reconstruction solely because occupancy of the work area is not
30 permitted.

31 "Residential development project" means a new construction or
32 any residential development project requiring a new certificate of
33 occupancy, including, but not limited to any redevelopment,
34 rehabilitation, infill development, or adaptive reuse of property. A
35 "new residential development project" shall not mean any
36 construction or reconstruction of a single-family dwelling that is
37 occupied by, or intended to be occupied by, the owner.

38 "Subsequent compliance period" means any period of 10 years
39 following the initial compliance period and beginning on the day
40 following the last day of the prior compliance period.

41 "Supportive and special needs housing" means homes for persons
42 with developmental disabilities and mental illness that are designed
43 as permanent housing, and licensed or regulated by the New Jersey
44 Department of Human Services; permanent supportive housing; and
45 permanent supportive shared living housing. This term does not
46 include housing restricted to occupancy by persons under 18 years
47 of age. Homes shall be affordable to and occupied by households
48 earning no more than 80 percent of the median income for the

1 region in which the municipality is located, as adjusted for family
2 size, and that are subject to affordability controls or established
3 with capital funding through a 20-year operating contract with the
4 Department of Human Services, Division of Developmental
5 Disabilities.

6 "Total current housing stock" means all occupied and vacant
7 dwelling units within a municipality which are potentially available
8 for rental or sale to the general public for permanent occupancy,
9 including dwelling units that are age-restricted, or restricted to
10 persons of low or moderate income, and licensed rooming or
11 boarding houses, as defined pursuant to section 3 of P.L.1979, c.496
12 (C.55:13B-3). The term shall not include hotels or motels, as
13 defined pursuant to section 3 of P.L.1967, c.76 (C.55:13A-3), or
14 other transient facilities, dwelling units that are available to only
15 employees of a particular employer, or occupied by students,
16 members of a particular religious group, or residents of a particular
17 institution, military housing, or units within a health care facility
18 regulated by the New Jersey Department of Health.

19 "Very low income housing" means housing affordable according
20 to federal Department of Housing and Urban Development or other
21 recognized standards for home ownership and rental costs and
22 occupied or reserved for occupancy by households with a gross
23 household income equal to 30 percent or less of the median gross
24 household income for households of the same size within the
25 housing region in which the housing is located.

26
27 22. (New section) a. A municipality shall meet its compliance
28 threshold if it duly adopts and files a housing element, that has been
29 prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310),
30 within 60 days of the effective date of P.L. , c. (C.), and
31 which element has been certified by a licensed housing compliance
32 professional that such housing element demonstrates that:

33 (1) 10 percent of the municipality's total current housing stock
34 is qualified housing units; or

35 (2) for municipalities in which at least 20, but less than 50,
36 percent of the children enrolled in schools in the municipality in
37 October of the preceding year were eligible for free or reduced price
38 meals under the federal School Lunch Program, eight percent of the
39 municipality's total current housing stock is qualified housing units.

40 b. For purposes of counting towards a compliance threshold
41 determined pursuant to subsection a. of this section:

42 (1) at least 50 percent of the total number of qualified housing
43 units in any municipality shall be qualified low income units, at
44 least 13 percent of the total of qualified housing units in any
45 municipality constructed after the effective date of P.L. , c. (C.)
46 (pending before the Legislature as this bill), shall be qualified very
47 low income units;

1 (2) no more than 25 percent of the total number of qualified low
2 income housing units and qualified moderate income housing units
3 in any municipality shall be age-restricted units as defined pursuant
4 to section 2 of P.L.2009, c.82 (C.45:22A-46.4);

5 (3) at least 50 percent of the units reserved for each of very-low-
6 income housing, low income, and moderate income housing and
7 counted toward the compliance threshold pursuant to this section,
8 shall be family housing; and

9 (4) no more than 25 percent of the total number of qualified
10 housing units in any municipality shall be reserved for people living
11 or working within that municipality.

12 c. Each permanent supportive housing unit that receives a
13 certificate of occupancy following the effective date of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), shall be
15 counted as two units of qualified housing in the municipality in
16 which the unit is located. Each new unit of housing for persons with
17 developmental disabilities or mental illness, designed as permanent
18 housing, and regulated by the New Jersey Department of Human
19 Services, shall be counted as one and one-quarter unit of qualified
20 housing in the municipality in which the unit is located. Each new
21 bedroom in permanent supportive shared living housing created
22 following the effective date of P.L. , c. (C.) (pending before
23 the Legislature as this bill), shall be counted as one and one-quarter
24 unit of qualified housing in the municipality in which the unit is
25 located. The total added additional units counted pursuant to this
26 subsection shall not exceed 25 percent of the number of housing
27 units affordable to low- and moderate-income people counted to
28 determine that a municipality is a compliant municipality.

29 d. Each municipality adopting a housing element pursuant to
30 this section shall file the housing element and other relevant
31 information with the department in an electronic format pursuant to
32 section 28 of P.L. , c. (C.) (pending before the Legislature
33 as this bill). Once the housing element has been reviewed and
34 certified by a licensed housing compliance professional, the
35 certified housing element and other relevant information shall also
36 be filed with the department in an electronic format pursuant to
37 section 28 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), at which point the municipality shall be compliant.

39 e. The housing element filed pursuant to subsection a. of this
40 section shall be valid for 10 years from the effective date of P.L. ,
41 c. (C.) (pending before the Legislature as this bill). Anytime
42 within the year prior to the expiration of the initial compliance
43 period, or any subsequent compliance period, a municipality
44 seeking to demonstrate compliance for a subsequent compliance
45 period may adopt and file a housing element for certification
46 pursuant to this section.

47 f. Any municipality demonstrating that it has met the
48 compliance threshold pursuant to this section shall submit an

1 analysis as part of its housing element calculating the number of
2 existing substandard housing units in the municipality occupied by
3 low and moderate income families, and a plan for rehabilitating at
4 least that number of units within the next 10 years.

5 g. The department shall make any ordinances or housing
6 element filed by a municipality available on the website established
7 pursuant to section 28 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 For purposes of this section, a municipality shall rely upon a
10 determination of the number of children enrolled in schools in the
11 municipality in October of the year preceding the start of the
12 relevant 10-year period as established in subsection e. of this
13 section that are eligible for free or reduced price meals under the
14 federal School Lunch Program for the subsequent 10-year period.

15
16 23. (New section) a. A municipality may be deemed to be a
17 compliant municipality for the initial compliance period if, within
18 eight months of the effective date of P.L. , c. (C.) (pending
19 before the Legislature as this bill) it duly adopts and files with the
20 department a certified housing element and implementing
21 ordinances that have been prepared pursuant to section 10 of
22 P.L.1985, c.222 (C.52:27D-310) and meet the criteria of this
23 section.

24 b. The housing element shall include an analysis of the number
25 of qualified housing units already existing in the municipality and
26 the number of qualified housing units required to satisfy the criteria
27 set forth in subsection a. of section 22 of P.L. , c. (C.)
28 (pending before the Legislature as this bill). In the initial
29 compliance period, the housing element and implementing
30 ordinances shall provide, in addition to the number of existing
31 qualified housing units, a realistic opportunity for the least of the
32 following:

33 (1) Sufficient qualified housing units to meet at least 50 percent
34 of the difference between the number of qualified housing units
35 already existing in the municipality and the number of qualified
36 housing units required to satisfy the criteria set forth in subsection
37 a. of section 22 of P.L. , c. (C.) (pending before the
38 Legislature as this bill);

39 (2) 1000 qualified housing units; or

40 (3) A number of qualified housing units equal to the number for
41 the municipality set forth in the table appearing at 40 N.J.R. 2942-
42 2955 (June 2, 2008).

43 c. Within 12 months prior to the expiration of the initial
44 compliance period or any subsequent compliance period, the
45 municipality may be deemed compliant for the subsequent
46 compliance period if it duly adopts and files with the department a
47 certified housing element and implementing ordinances that have
48 been prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-

310) and meet the criteria of this section. Any such housing element and implementing ordinances shall not become effective until the commencement of the subsequent compliance period. The housing element shall include an analysis of the number of qualified housing units already existing in the municipality and the number of qualified housing units required to satisfy the criteria set forth in subsection a. of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill). The housing element and implementing ordinances shall provide a realistic opportunity to meet the entire difference between the number of qualified units already existing in the municipality and the number of qualified units required to satisfy the criteria set forth in subsection a. of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding the foregoing, the housing element and implementing ordinances may alternatively provide, in addition to the number of existing qualified housing units plus any additional qualified housing units not yet created that were or would have been required pursuant to this section for any and all previous compliance periods, a realistic opportunity for the lessor of the following:

1000 qualified housing units; or

A number of qualified housing units equal to the number for the municipality set forth in the table appearing at 40 N.J.R. 2942-2955 (June 2, 2008).

d. The municipality shall adopt inclusionary zoning ordinances on sites that are developable land as defined in section 21 of P.L. , c. (C.) (pending before the Legislature as this bill) sufficient to meet at least 50 percent of the units required pursuant to subsection b. of this section, or such lower percentage of the units required as is practicable on the developable land in the municipality. Such zoning shall permit minimum densities and qualified housing set-asides as follows:

(1) In municipalities with a gross population density of over 5,000 people per square mile or more than twice the number of jobs as the number of homes, inclusionary zoning shall permit residential development at gross densities of between 10 and 50 units per acre and a set-aside of qualified housing units of between 15 and 20 percent of the total number of units in the development.

(2) In all other municipalities, inclusionary zoning shall permit residential development at gross densities of between 6 and 20 units per acre and a set-aside of qualified housing units of between 15 and 20 percent of the total number of units in the development.

(3) In determining the gross density from the ranges above, the municipality shall take into consideration the current character of the municipality, surrounding residential and non-residential densities, the maximum densities permitted for residential and non-residential uses elsewhere in the municipality, access to employment, access to public transit, and the number of qualified

1 housing units required pursuant to subsections b. and c. of this
2 section.

3 (4) When the existing zoning on a site allows a density equal to
4 or greater than the minimum densities provided in this section and
5 does not require the a set-aside of affordable housing, a set-aside of
6 affordable housing that does not exceed 15 percent may be imposed
7 without a density increase.

8 (5) For any property located in an inclusionary zone, the
9 developer may voluntarily elect at the time of application for
10 development approvals to commit to developing the low and
11 moderate units as rental units and maintaining them as rental units
12 for a period of 30 years. This commitment shall be legally binding
13 both on the developer and on all subsequent owners, and shall be
14 expressly memorialized both in the resolution granting the
15 development approval and in a recorded deed covenant. The set
16 aside for qualified low and moderate income housing units shall be
17 15 percent. The minimum gross density shall be increased by 20
18 percent over the minimum gross density otherwise specified in the
19 ordinance for inclusionary developments on that site.

20 (6) Half of the units reserved for low-income or moderate-
21 income housing pursuant to this subsection shall be reserved for
22 low- income housing and half the units shall be reserved for
23 moderate- income housing. If an odd number of affordable units is
24 being constructed, rehabilitated or developed pursuant to this
25 subsection, the higher number of units shall be low-income housing.
26 In rental developments, 13 percent of the units shall be reserved as
27 qualified very-low-income units, which shall be included as part of
28 the low-income housing total and shall not reduce the aggregate
29 rents of the required qualified housing units in the development
30 below the aggregate rents that would have resulted if the
31 development did not include qualified very-low-income units. No
32 municipality shall require qualified very-low-income units in an
33 inclusionary development in which the qualified housing units are
34 offered for sale.

35 (7) Upon the mutual agreement of the applicant for development
36 and the municipality, the qualified very-low, low-, and moderate-
37 income housing units may be provided in an off-site development in
38 the municipality providing the same number and comparable type
39 and tenure of qualified units, in a location that does not contribute
40 to the concentration of poverty. Where no such mutual agreement
41 exists, the qualified very-low, low- and moderate-income housing
42 units shall be provided on site, and integrated throughout the
43 development to the extent feasible.

44 (8) The municipality may not issue certificates of occupancy for
45 the proposed project until a proportional share of the qualified
46 housing units have been constructed and received certificates of
47 occupancy, in accordance with the following schedule:

1	Percentage of	Minimum Percentage of
2	Market-rate Units	Qualified Housing Units
3	Completed	Completed
4	25	0
5	25 plus 1 unit	10
6	50	50
7	75	75
8	90	100
9	The municipality may modify the foregoing schedule for up to	
10	25 percent of the market rate units for good cause shown for	
11	inclusionary developments in which the qualified housing units are	
12	offered for rent.	
13	(9) For purposes of determining appropriate densities for	
14	inclusionary developments resulting from variances submitted	
15	pursuant to section 25 of P.L. , c. (C.) (pending before the	
16	Legislature as this bill), the densities set forth in this section shall	
17	apply.	
18	e. A municipality may also meet part of its compliance standards	
19	through municipally sponsored 100 percent affordable development,	
20	accessory apartment units affordable to low- and moderate-income	
21	households, the purchase or subsidization of units that are	
22	subsequently sold or rented to low- and moderate-income	
23	households at affordable sale prices or rents ("buy down, write	
24	down"); rehabilitation projects, and permitting the construction of	
25	an assisted living residence in which all or a designated number of	
26	units are restricted to low- or moderate-income households. In	
27	order to meet compliance standards through these means, the	
28	municipality shall:	
29	(1) As a prerequisite for being deemed a compliant municipality,	
30	show for each proposed development pursuant to this subsection	
31	that the municipality or the developer controls a site that is	
32	developable land, as defined pursuant to section 21 of P.L. ,	
33	c. (C.) (pending before the Legislature as this bill), or that is on	
34	land that is not developable land but where development of 100%	
35	affordable housing is permitted by all relevant environmental	
36	statutes and regulations;	
37	(2) Ensure construction of at least one-third of the total number	
38	of units pursuant to this subsection begins three years after the	
39	municipality is deemed to be a compliant municipality, at least one-	
40	third begins six years after, and the final third begins nine years	
41	after. At least two years prior to the date of completion required by	
42	this subsection, the municipality shall execute an agreement with	
43	the entity that will develop the site including a description of how	
44	the development will be funded and any necessary actions by the	
45	municipality to ensure the development will happen;	
46	(3) If any construction required by this section does not occur,	
47	the municipality will no longer be deemed to be a compliant	
48	municipality.	

- 1 f. The qualified very-low, low and moderate income units
2 required to be provided pursuant to this section shall be subject to
3 affordability controls of not less than 30 years' duration.
- 4 g. As a prerequisite to being deemed compliant pursuant to this
5 section, a municipality shall include in its housing element an
6 analysis calculating the number of existing substandard housing
7 units in the municipality occupied by low and moderate income
8 families and a plan for rehabilitating at least that number of units
9 within the next 10 years.
- 10 h. Any housing element filed pursuant to this section shall
11 identify, with specificity, the site of any qualified units that shall be
12 built and are relied upon to meet the compliance threshold.
- 13 i. The governing body of a municipality seeking to be deemed
14 a compliant municipality pursuant to this section shall require a
15 licensed housing compliance professional designated by the State
16 Board of Professional Planners pursuant to section 30 of
17 P.L. , c. (C.) (pending before the Legislature as this bill) to
18 conduct a comprehensive and independent review of the adopted
19 housing element and implementing ordinances. Upon transmission
20 of the adopted housing element and implementing ordinances to the
21 licensed housing compliance professional review, the municipality
22 shall submit the adopted housing element, implementing
23 ordinances, and the name and the contact information of the
24 licensed housing compliance professional to the department
25 pursuant to section 28 of P.L. , c. (C.) (pending before the
26 Legislature as this bill).
- 27 j. Upon certification by the licensed housing compliance
28 professional in accordance with section 30 of P.L. , c. (C.)
29 (pending before the Legislature as this bill), any municipality
30 adopting ordinances and a housing element pursuant to this section
31 shall file its ordinances, housing element, and the certification of
32 the licensed housing compliance professional with the department
33 in an electronic format, in accordance with section 28 of P.L. ,
34 c. (C.) (pending before the Legislature as this bill). If a
35 municipality does not file with the department a duly adopted and
36 certified housing element and implementing ordinances prior to the
37 dates set forth in this section, it may be deemed to be a compliant
38 municipality for the remainder of the compliance period if it
39 subsequently duly adopts and files with the department a certified
40 housing element and implementing ordinances that have been
41 prepared pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310)
42 and meet the criteria of this section. The municipality shall be
43 deemed to be compliant from the date it files the certified housing
44 element and implementing ordinances with the department.
- 45 k. In any exclusionary zoning litigation, such certified housing
46 element and implementing ordinances filed with the department in
47 compliance with this section for the current compliance period and
48 prior to the filing of the litigation shall bear a presumption of

1 validity which shall only be overcome by clear and convincing
2 evidence that the plan does not meet the standards established in
3 P.L. , c. (C.) (pending before the Legislature as this bill). The
4 filing described in this section shall be the sole means, other than
5 entry of a judgment of compliance in exclusionary zoning litigation
6 brought against a municipality, by which a municipality that is not
7 compliant pursuant to section 22 of P.L. , c. (C.) (pending
8 before the Legislature as this bill) may be deemed to be compliant
9 and secure the presumption of validity pursuant to this subsection
10 and exemption from the variance requirements set forth in section
11 25 of P.L. , c. (C.) (pending before the Legislature as this
12 bill).

13 1. To continue being deemed compliant pursuant to this
14 section, the municipality shall submit in an electronic format to the
15 department annual status updates demonstrating that the
16 municipality is affirmatively complying with the requirements of
17 this section. The Department of Community Affairs shall make all
18 filings available through the Internet website established pursuant to
19 section 28 of P.L. , c. (C.) (pending before the Legislature as
20 this bill).

21

22 24. (New section) a. Any municipality in which 50 percent or
23 more of the children enrolled in schools in the municipality in
24 October of the year preceding the start of the relevant 10-year
25 period as calculated in subsection e. of section 22 of P.L. ,
26 c. (C.) were eligible for free or reduced price meals under the
27 federal School Lunch Program shall be compliant pursuant to
28 P.L. , c. (C.) upon filing an analysis with the department
29 pursuant to section 30 of P.L. , c. (C.) (pending before the
30 Legislature as this bill) calculating the number of existing
31 substandard housing units in the municipality occupied by low and
32 moderate income families, and a plan for rehabilitating at least
33 those units within the next 10 years.

34 b. Nothing in this section shall be construed to prohibit a
35 municipality from adopting an ordinance requiring that units
36 proposed as part of a residential development project be set aside
37 for low- or moderate-income households, or establishing an
38 affordable housing trust fund and adopting corresponding fee
39 ordinances, pursuant to section 26 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) and section 8 of P.L.2008, c.46
41 (C.52:27D-329.2). For purposes of this section, a municipality
42 shall rely upon a determination of the number of children enrolled
43 in schools in the municipality in October of the year preceding the
44 start of the relevant ten year period as established in subsection e. of
45 section 22 of P.L. , c. (C.) (pending before the Legislature
46 as this bill) that are that are eligible for free or reduced price meals
47 under the federal School Lunch Program need for the subsequent
48 10-year period.

1 25. (New section) a. In a municipality that is not a compliant
2 municipality pursuant to section 22 of P.L. , c. (C.) (pending
3 before the Legislature as this bill), or deemed compliant pursuant to
4 section 23 of P.L. , c. (C.) pending before the Legislature as
5 this bill), a developer requesting a variance or other relief pursuant
6 to subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) for
7 a proposed development, in which at least 20 percent of any
8 dwelling units are set aside for housing affordable to low income
9 and moderate income households, shall be required to make only a
10 showing that the variance or other relief can be granted without
11 substantial detriment to the public good. A development proposed
12 pursuant to this subsection shall be deemed to be inherently
13 beneficial.

14 b. The provisions of this section shall only apply to
15 applications under the "Municipal Land Use Law," P.L.1975, c.210
16 (C.40:55D-1 et seq.) concerning lots or parcels within a
17 municipality's developable property.
18

19 26. (New section) a. Every municipality of the State, except
20 municipalities compliant pursuant to section 24 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), shall
22 require that a developer of any new residential development project
23 pay a development fee of 1.5 percent of the equalized assessed
24 value of the development into the municipal affordable housing
25 trust fund as a precondition to issuance of a certificate of
26 occupancy.

27 b. Any residential development which has received preliminary
28 or final approval pursuant to section 38 of P.L.1975, c.291
29 (C.40:55D-50) on or before the effective date of P.L. ,
30 c. (C.) (pending before the Legislature as this bill) and
31 proceeds based on those approvals without seeking a revised
32 approval shall be exempt from any set-aside requirement created by
33 P.L. , c. (C.) (pending before the Legislature as this bill) and
34 the terms of the approval previously issued by the municipality
35 shall govern the development.

36 c. A municipality shall not impose any additional financial
37 obligation related to affordable housing on a developer that has
38 complied with the provisions of this section.

39 d. A municipality shall not impose any fee pursuant to this
40 section for any inclusionary development that is a part of a housing
41 element pursuant to section 23 of P.L. , c. (C.), and
42 constructs the required qualified units.

43 e. Municipalities that, as of the date of the enactment of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 collect a development fee on residential development pursuant to
46 ordinance, shall continue to collect a development fee at that
47 present rate until 12 months after the date of the enactment of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 Municipalities that, as of the date of the enactment of
2 P.L. , c. (C.) (pending before the Legislature as this bill), do
3 not collect a development fee on residential development pursuant
4 to ordinance, may not collect any development fee until 12 months
5 after the date of the enactment of P.L. , c. (C.) (pending
6 before the Legislature as this bill). Beginning 12 months after the
7 date of the enactment of P.L. , c. (C.) (pending before the
8 Legislature as this bill), all municipalities shall collect a residential
9 development fee pursuant to subsection a. of this section.

10
11 27. (New section) The Department of Community Affairs,
12 Department of Environmental Protection, and the Department
13 Transportation shall promulgate regulations to provide that a
14 municipality that has filed with the Department of Community
15 Affairs as a compliant municipality or a municipality deemed
16 compliant pursuant to section 23 of P.L. , c. (C.) (pending
17 before the Legislature as this bill) shall receive preference with
18 respect to discretionary grant programs administered by those
19 departments for which municipal governments are eligible, and
20 shall prioritize and expedite applications from developments
21 included in a housing element prepared and filed pursuant to
22 P.L. , c. (C.) (pending before the Legislature as this bill).

23
24 28. (New section) a. The department shall design, establish,
25 and maintain a searchable Internet website accessible to the general
26 public for no charge. This website shall contain data and
27 information concerning affordable housing in each municipality of
28 the State including applications for such housing and other
29 information for people seeking such housing. The department may
30 consult with the Division of Information Technology in the
31 Department of the Treasury in order to develop the Internet website.

32 b. At least the following information about each municipality
33 shall be made available on the website:

34 (1) the total number of additional housing units created and the
35 number lost through demolition or other causes since the effective
36 date of P.L. , c. (C.) (pending before the Legislature as this
37 bill) in the municipality;

38 (2) the number of additional housing units created in the
39 municipality that are qualified very low income, low income or
40 moderate income housing and an itemized listing of these units,
41 whether they are restricted to seniors or people with special needs,
42 and the income levels served;

43 (3) the number of previously existing qualified very low
44 income, low income or qualified moderate income housing units
45 which have been demolished or are no longer subject to
46 affordability controls;

1 (4) the amount of development fees collected and uses for these
2 fees as required pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.)
3 and P.L. , c. (pending before the legislature as this bill); and

4 (5) Housing elements, notices, updates, certifications and
5 reports and determinations related to certifications, ordinances, and
6 amendments to municipal housing elements required to be posted
7 pursuant to P.L. , c. (pending before the Legislature as this bill).

8 c. Each municipality shall report any information required in
9 other sections of P.L. , c. (C.) (pending before the
10 Legislature as this bill) at the time required by those sections and
11 annually report the information described in subsection b. of this
12 section to the department. The department shall ensure that the
13 information is available to the public on the website within seven
14 business days of receipt. To facilitate this process, the department
15 may choose to create a system in which municipalities may directly
16 enter this information in the internet website established pursuant to
17 this section.

18
19 29. (New section) a. Nothing in P.L. , c. (C.) (pending
20 before the Legislature as this bill) shall require a municipality to
21 raise or expend municipal revenues in order to provide a realistic
22 opportunity for low and moderate income housing.

23 b. Any property included or the subject of substantive
24 certification, or a judgment of repose, court order, mediation
25 agreement or settlement in exclusionary zoning litigation entered
26 prior to the effective date of P.L. , c. (C.) (pending before
27 the Legislature as this bill) which requires or provides for zoning or
28 rezoning of specified property for affordable housing purposes shall
29 continue to be subject to the terms of that judgment, order,
30 substantive certification, agreement, or settlement. A municipality
31 shall not, unless so required by substantive certification, or a
32 judgment of repose, court order, mediation agreement or settlement
33 in exclusionary zoning litigation, alter the zoning of such property.

34 c. A municipality shall not alter the zoning classification of
35 any inclusionary development site that during a judgment of repose
36 period was designated or reserved for purposes of satisfying a
37 municipality's fair share of the region's housing opportunities.

38 d. Except as provided in subsection b., for any litigation
39 involving exclusionary zoning instituted prior to the effective date
40 of P.L. , c. (C.) (pending before the Legislature as this bill),
41 jurisdiction may remain with the court, unless all parties stipulate
42 that it should be dismissed on mutually agreed terms. Such
43 litigation shall proceed expeditiously towards a judgment of
44 compliance at most eight months after the effective date of P.L. ,
45 c. (C.) (pending before the Legislature as this bill). The
46 number of qualified housing units required shall be based upon the
47 standards of section 22 of P.L. , c. (C.) (pending before the
48 Legislature as this bill).

1 e. No exclusionary zoning action naming a municipality as a
2 defendant shall be filed prior to (1) eight months following the
3 effective date of this act: or, (2) the filing by the municipality with
4 the department of a housing element and implementing ordinances
5 that have been duly adopted and certified by licensed housing
6 compliance professional in accordance with the provisions of
7 P.L. , c. (C.) (pending before the Legislature as this bill).

8
9 30. (New section) a. A municipal housing element and
10 implementing ordinance may be certified as compliant with the
11 requirements of section 23 only by a housing compliance
12 professional licensed by the State Board of Professional Planners.

13 b. The State Board of Professional Planners shall have the
14 following powers and duties, in addition to any other powers or
15 duties established by law:

16 (1) To promulgate and administer standards and requirements
17 for licensing housing compliance professionals, which may include
18 preparation and administration of licensing examinations;

19 (2) To review and approve or deny applications for licensing
20 housing compliance professionals;

21 (3) To issue licenses and license renewals to all qualifying
22 housing compliance professionals;

23 (4) To establish procedures for random assignment of licensed
24 housing compliance professionals to municipalities for the purpose
25 of conducting comprehensive and independent reviews of housing
26 elements and implementing ordinances;

27 (5) To promulgate a standard schedule of fees for the
28 performance of comprehensive and independent reviews of housing
29 elements and implementing ordinances and other related services;

30 (6) To promulgate and administer standards and requirements
31 for continuing education of licensed housing compliance
32 professionals;

33 (7) To establish and collect fees for examinations, licenses,
34 renewals, or any other services required for the licensing of housing
35 compliance professionals;

36 (8) To promulgate and administer standards for professional
37 conduct for licensed housing compliance professionals;

38 (9) To promulgate procedures for the receipt of complaints,
39 imposition of discipline, suspension or revocation of licenses of
40 housing compliance professionals;

41 (10) To investigate complaints, impose discipline, and suspend
42 and revoke licenses of housing compliance professionals;

43 (11) To publish and maintain a list of the names and contact
44 information of all licensed housing compliance professionals;

45 (12) To publish and maintain a list of all housing compliance
46 professionals whose license has been suspended or revoked by the
47 board and make the list available on the board's internet website.

- 1 c. An applicant shall be eligible to be licensed as a housing
2 compliance professional if the applicant:
- 3 (1) is a professional planner licensed by the State Board of
4 Professional Planners for and has actively engaged in the practice of
5 a licensed professional planner for at least eight years.
- 6 (2) has substantial experience in the preparation or independent
7 review of affordable housing elements for municipalities under New
8 Jersey law. Such experience shall include the personal preparation,
9 or the independent review culminating in a written report, of at least
10 20 affordable housing elements for municipalities under New Jersey
11 law ;
- 12 (3) demonstrates through examination or other means
13 established by the State Board of Professional Planners knowledge
14 of the legal and constitutional standards governing the affordable
15 housing elements and of the planning, engineering, environmental,
16 economic and social considerations that affect whether mechanisms
17 for the provision of affordable housing create realistic housing
18 opportunities;
- 19 (4) has not been convicted of, or plead guilty to, any crime
20 concerning public office or employment, or any crime involving
21 fraud, theft by deception, forgery or any similar or related offense
22 under federal or state law; and
- 23 (5) has not had a professional license revoked by any state
24 licensing board or any other professional licensing agency within
25 the previous 10 years.
- 26 d. For a period of one year following the effective date of
27 P.L. , c. (C.) (pending before the Legislature as this bill), the
28 State Board of Professional Planners may issue temporary licenses
29 for housing compliance professionals to persons who satisfy all
30 standards set forth in subsection c., except those set forth in
31 paragraph (3) of that subsection. The State Board of Professional
32 Planners shall commence issuing temporary licenses for housing
33 compliance professionals no later than four months after the
34 enactment of P.L. , c. (C.) (pending before the Legislature
35 as this bill).
- 36 e. Each license shall be issued to an individual, shall be valid
37 only for the individual to whom it is issued, and shall not be
38 transferable. Each license, other than a temporary license, issued
39 shall be valid for a period not to exceed three years, unless a shorter
40 period is specified therein, or unless suspended or revoked. Each
41 temporary license shall be valid for one year.
- 42 f. Any certification by a licensed housing compliance
43 professional shall be based upon an independent review under
44 standards promulgated by the State Board of Professional Planners.
45 The standards shall provide that a licensed housing compliance
46 professional may not certify a housing element:

1 (1) which he or she prepared or which was prepared by any
2 person employed by the same entity as the licensed housing
3 compliance professional;

4 (2) for a municipality by which he or she, or any person
5 employed by the same entity, was employed, in any capacity,
6 including by any municipal commission or board, during the
7 previous two years;

8 (3) for a municipality to which he or she, or any person
9 employed by the same entity, provided professional services,
10 including but not limited to planning, engineering, or land
11 surveying services, in any capacity, including to any municipal
12 commission or board, during the previous three years. Independent
13 review of a municipality's housing element in the capacity of an
14 employee of the New Jersey Council on Affordable Housing, the
15 New Jersey Housing and Mortgage Finance Agency, the
16 Department of Community Affairs or as a court-appointed master
17 shall not be deemed to be the provision of professional services
18 under this paragraph; and

19 (4) for a municipality in which the licensed housing compliance
20 professional, or a member of licensed housing compliance
21 professional's family or households, owns real property or holds
22 local public office.

23 g. Upon request by a municipality, the State Board of
24 Professional Planners shall designate a licensed housing compliance
25 professional to conduct a comprehensive and independent review of
26 the municipality's housing element and implementing ordinances.
27 The State Board of Professional Planners shall randomly select the
28 licensed housing compliance professional from the list of licensed
29 housing compliance professionals maintained by the State Board of
30 Professional Planners in accordance with the procedures established
31 by the State Board of Professional Planners.

32 h. A municipality that has requested the State Board of
33 Professional Planners to designate a licensed housing compliance
34 professional to conduct a comprehensive and independent review of
35 its housing element and implementing ordinances shall pay the fees
36 and reasonable expenses of the licensed housing compliance
37 professional in accordance with the standards established by the
38 State Board of Professional Planners. Such fees and reasonable
39 expenses may be paid for out of the administrative portion of the
40 municipal housing trust fund pursuant to the standards of section 8
41 of P.L.2008, c.46 (C.52:27D-329.2), as amended by section 31 of
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43 i. A licensed housing compliance professional shall certify a
44 municipal housing element if, after conducting a comprehensive
45 and independent review, the licensed housing compliance
46 professional makes a determination that the housing element and
47 implementing ordinances (1) accurately and completely represent
48 the qualified housing units already existing in the municipality and

1 the number of qualified housing units required to satisfy the criteria
2 set forth in subsections a. through c. of section 22 of
3 P.L. , c. (C.) (pending before the Legislature as this bill); (2)
4 create sufficient realistic opportunities for the development of
5 qualified very-low, low and moderate income housing units to bring
6 the municipality into compliance with the standards set forth in
7 section 23 of P.L. , c. (C.) (pending before the Legislature
8 as this bill); and (3) comply with all relevant standards under
9 P.L. , c. (C.) (pending before the Legislature as this bill)
10 and any regulations implementing P.L. , c. (C.) (pending
11 before the Legislature as this bill). The determination shall be set
12 forth in a written report which shall state with specificity the factual
13 basis for the licensed housing compliance professional's
14 conclusions. If, after conducting a comprehensive and independent
15 review, the licensed housing compliance professional determines
16 that the municipal housing element and implementing ordinances
17 does not satisfy the criteria set forth in subsection c. (1)(g) of
18 section 23 of P.L. , c. (C.) (pending before the Legislature
19 as this bill), the licensed housing compliance professional shall
20 make a written determination to that effect. The determination shall
21 be set forth in a written report which shall state with specificity the
22 factual basis for this conclusion, shall identify the deficiencies in
23 the municipal housing element and implementing ordinances, and
24 shall make non-binding recommendations as to how the deficiencies
25 in housing element and implementing ordinances might be rectified.

26 j. The licensed housing compliance professional shall
27 complete the determinations provided for in subsection i. no later
28 than 90 days after the submission of the housing element to the
29 department pursuant to section 23 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 k. A licensed housing compliance professional designated
32 pursuant to subsection g. may conduct a comprehensive and
33 independent review pursuant to subsection i. of a municipal housing
34 element and implementing ordinances that was the subject of a prior
35 unfavorable determination, and resubmitted to the department
36 pursuant to section 23 of P.L. , c. (C.) (pending before the
37 Legislature as this bill), but shall not certify the housing element
38 and implementing ordinances unless the housing element and
39 implementing ordinances satisfy the criteria in subsection i. and

40 (1) the prior determination was withdrawn by the Board of
41 Professional Planners under subsection m., or
42 (2) the licensed housing compliance professional determines,
43 based on the new comprehensive and independent review, that
44 material changes have been made to the housing element and
45 implementing ordinances that rectify the deficiencies specified in
46 the prior determination.

47 l. A licensed housing compliance professional's highest
48 priority in the performance of professional services in that capacity

1 shall be the protection of the interests of low and moderate income
2 individuals and families in need of safe, decent affordable housing.

3 (1) A licensed housing compliance professional shall exercise
4 reasonable care and diligence, and shall apply the knowledge and
5 skill ordinarily exercised by licensed housing compliance
6 professionals in good standing practicing in the state at the time the
7 services are performed.

8 (2) A licensed housing compliance professional shall exercise
9 independent professional judgment, make a reasonable effort to
10 identify and obtain the relevant and material facts, data, reports and
11 other information concerning the extent to which the municipal
12 housing element creates realistic housing opportunities and to
13 which the municipal housing element complies with applicable
14 standards under P.L. , c. (C.) (pending before the
15 Legislature as this bill) and any regulations implementing
16 P.L. , c. (C.) (pending before the Legislature as this bill),
17 including both facts, data, reports and other information in
18 possession of the municipality and facts, data, reports and other
19 information that are otherwise available, including information
20 provided to the licensed housing compliance professional by
21 members of the public. The licensed housing compliance
22 professional shall personally inspect, and communicate with the
23 owners of, all sites proposed in the housing element for qualified
24 housing units, whether through inclusionary zoning or other means.
25 The licensed housing compliance professional shall disclose and
26 explain in his or her report any facts, data, information,
27 qualifications, or limitations known by the licensed housing
28 compliance professional that are not supportive of the conclusions
29 reached in the report.

30 (3) A licensed housing compliance professional may
31 communicate with representatives of the municipality during the
32 course of his or her comprehensive and independent review, request
33 additional information, make suggestions as to modification of the
34 housing element and implementing ordinances to bring them into
35 compliance with the criteria set forth in subsection c. (1)(g) of
36 section 23 of P.L. , c. (C.) (pending before the Legislature
37 as this bill), and provide interim reports. Such communications are
38 not confidential but shall be included in the written report of the
39 licensed housing compliance professional.

40 (4) A licensed housing compliance professional who learns of
41 material facts, data or other information subsequent to making a
42 determination which would result in a determination with material
43 differences from that determination, shall promptly amend or
44 supplement that determination, and, if appropriate, withdraw the
45 certification of the municipal housing element.

46 (5) If a licensed housing compliance professional learns of an
47 action or decision by a municipality, or any municipal board,
48 authority, or commission, that results in a deviation from a housing

1 element and implementing ordinances that the housing compliance
2 professional previously certified, the licensed housing compliance
3 professional shall promptly make a written report of that deviation
4 and its effect on the previous determination, and, if appropriate,
5 withdraw the certification of the municipal housing element.

6 (6) A licensed housing compliance professional shall promptly
7 provide all determinations, reports, and certifications to the
8 municipality and shall file them with the department, which shall
9 make them available to the public and post them on them on a
10 public website maintained by the department pursuant to section 28
11 of P.L. , c. (C.) (pending before the Legislature as this bill).

12 (7) A licensed housing compliance professional may only be
13 discharged by the municipality by good cause with approval of the
14 board. If the board approves discharge of a licensed housing
15 compliance professional, the licensed housing compliance
16 professional shall provide any reports made prior to that discharge
17 to the municipality and the department.

18 (8) A licensed housing compliance professional shall maintain
19 and preserve for a period of not less than 10 years all data,
20 documents, and information concerning each municipal housing
21 element and implementing ordinances the licensed affordable
22 housing professional has reviewed.

23 (9) A licensed housing compliance professional shall cooperate
24 in an investigation by the State Board of Professional Planners or
25 the department by promptly furnishing, in response to formal
26 requests, orders or subpoenas, any information the board or the
27 department, or persons duly authorized by the board or the
28 department, deems necessary to perform its duties. In an
29 investigation by the board of a license application or a license
30 suspension or revocation, a licensed housing compliance
31 professional shall not:

32 (a) knowingly make a false statement of material fact;

33 (b) fail to disclose a fact necessary to correct a material
34 misunderstanding known by the licensed housing compliance
35 professional to have arisen in the matter;

36 (c) knowingly and materially falsify, tamper with, alter, conceal,
37 or destroy any document, or data record that is relevant to the
38 investigation, without obtaining the prior approval of the board or
39 department; or

40 (d) knowingly allow or tolerate any employee, agent, or
41 contractor of the licensed housing compliance professional to
42 engage in any of the foregoing activities.

43 m. The State Board of Professional Planners may impose
44 sanctions under the following circumstances:

45 (1) In accordance with procedures established in its regulations,
46 the State Board of Professional Planners shall direct the licensed
47 housing compliance professional to withdraw any determination,

- 1 report, or certification filed with the department if it finds that the
2 determination, report, or certification
- 3 (a) Was not the product of a review that was independent under
4 standards promulgated by the State Board of Professional Planners;
5 (b) Was the product of fraud or coercion; or
6 (c) Contains misrepresentations of fact that would materially
7 alter the conclusions reached in the determination, report, or
8 certification.
- 9 (d) Egregiously violates P.L. , c. (C.) (pending before
10 the Legislature as this bill) or standards promulgated by the State
11 Board of Professional Planners.
- 12 (2) In accordance with procedures established in its regulations,
13 the State Board of Professional Planners may, if it finds that a
14 licensed housing compliance professional is in violation of P.L. ,
15 c. (C.) (pending before the Legislature as this bill), or any
16 rule, regulation, or order adopted or issued pursuant thereto, or who
17 knowingly has made any false statement, representation, or
18 certification in any documents or information required to be
19 submitted to the State Board of Professional Planners or the
20 Department of Community Affairs,
- 21 (a) revoke or suspend the license to practice as a housing
22 compliance professional;
- 23 (b) revoke or suspend the license to practice as professional
24 planner; or
- 25 (c) assess a civil administrative penalty of not more than
26 \$10,000 for a first violation and not more than \$20,000 for every
27 subsequent violation of the provisions of P.L. , c. (C.)
28 (pending before the Legislature as this bill), or any rule, regulation,
29 code of conduct, or order adopted or issued pursuant thereto.
- 30 (3) Nothing in this section shall be deemed to create an
31 administrative remedy that must be exhausted prior to the filing of
32 any litigation against a municipality. The actions of a licensed
33 housing compliance professional shall not be deemed to be the
34 action of a State agency.
- 35 n. No person shall take retaliatory action if a licensed housing
36 compliance professional:
- 37 (1) discloses, or undertakes to disclose, to the State Board of
38 Professional Planners or to the department an activity, policy or
39 practice that the licensed housing compliance professional
40 reasonably believes: (a) is a violation of law, or a rule or regulation
41 adopted pursuant to law; or (b) is fraudulent or criminal, including
42 any activity, policy or practice of deception or misrepresentation
43 that the housing compliance professional reasonably believes may
44 defraud a municipality, property owner, low or moderate income
45 person or any other governmental entity;
- 46 (2) provides information to, or testifies before, any public body
47 conducting an investigation, hearing, or inquiry into any violation
48 of law, or a rule or regulation adopted pursuant to law, by a

1 municipality, including any violation involving deception of, or
2 misrepresentation to, any client, customer, the department or any
3 other governmental entity; or

4 (3) objects to, or refuses to participate in, any activity, policy or
5 practice which the licensed housing compliance professional
6 reasonably believes:

7 (a) is in violation of law, or a rule or regulation adopted
8 pursuant to law;

9 (b) is fraudulent or criminal, including any activity, policy or
10 practice of deception or misrepresentation which the licensed
11 housing compliance professional reasonably believes including any
12 activity, policy or practice of deception or misrepresentation that
13 the housing compliance professional reasonably believes may
14 defraud a municipality, property owner, low or moderate income
15 person or any other governmental entity; or

16 (c) is incompatible with a clear mandate of public policy
17 concerning the provision of safe, decent affordable housing to low
18 and moderate income households.

19
20 31. Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to
21 read as follows:

22 8. a. **【The council may authorize a municipality that has**
23 **petitioned for substantive certification, or that has been so**
24 **authorized by a court of competent jurisdiction, and which that has**
25 **adopted a municipal development fee】** Every municipality, other
26 than a municipality complaint pursuant to section 24 of P.L. _____,
27 c. (C. _____) (pending before the Legislature as this bill), shall adopt
28 an ordinance to impose and collect 【development】 fees from
29 developers of residential property, in accordance with P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill), this
31 section, and rules promulgated by the 【council】 department. Each
32 amount collected shall be deposited and shall be accounted for
33 separately, by payer and date of deposit.

34 **【A municipality may not spend or commit to spend any**
35 **affordable housing development fees, including Statewide non-**
36 **residential fees collected and deposited into the municipal**
37 **affordable housing trust fund, without first obtaining the council's**
38 **approval of the expenditure. The council shall promulgate**
39 **regulations regarding the establishment, administration and**
40 **enforcement of the expenditure of affordable housing development**
41 **fees by municipalities. The council shall have exclusive**
42 **jurisdiction regarding the enforcement of these regulations,**
43 **provided that any municipality which is not in compliance with the**
44 **regulations adopted by the council may be subject to forfeiture of**
45 **any or all funds remaining within its municipal trust fund. Any**
46 **funds so forfeited shall be deposited into the "New Jersey**

1 Affordable Housing Trust Fund" established pursuant to section 20
2 of P.L.1985, c.222 (C.52:27D-320).】

3 b. A municipality shall deposit all fees collected, whether or
4 not such collections were derived from fees imposed upon non-
5 residential or residential construction into a trust fund dedicated to
6 those purposes as required under this section, and such additional
7 purposes as may be approved by the 【council】 department.

8 c. (1) A municipality may only spend development fees for an
9 activity set forth in this section or approved by the 【council】
10 department to address the municipal 【fair share】 affordable housing
11 obligation.

12 (2) Municipal development trust funds shall not be expended to
13 reimburse municipalities for activities which occurred prior to the
14 【authorization of】 adoption of a municipal ordinance authorizing a
15 municipality to collect development fees.

16 (3) A municipality 【shall】 may set aside 【a portion of】 not
17 more than 30 percent of its development fee trust fund for the
18 purpose of providing affordability assistance to low and moderate
19 income households in affordable units 【included in a municipal fair
20 share plan, in accordance with rules of the council】.

21 (a) Affordability assistance programs may include down
22 payment assistance, security deposit assistance, low interest loans,
23 common maintenance expenses for units located in condominiums,
24 rental assistance, and any other program authorized by the
25 【council】 department.

26 (b) Affordability assistance to households earning 30 percent or
27 less of median income may include buying down the cost of low
28 income units 【in a municipal fair share plan】 to make them
29 affordable to households earning 30 percent or less of median
30 income. 【The use of development fees in this manner shall not
31 entitle a municipality to bonus credits except as may be provided by
32 the rules of the council.】

33 (4) A municipality may contract with a private or public entity
34 to administer any part of its housing element and 【fair share】
35 affordable housing plan, including 【the requirement for】 any
36 affordability assistance, or 【any】 other program or activity for
37 which the municipality expends development fee proceeds, in
38 accordance with rules of the 【council】 department.

39 (5) Not more than 20 percent of the revenues collected from
40 development fees and expended for housing programs or activities
41 shall be expended on administration, in accordance with rules of the
42 【council】 department.

43 d. 【The council shall establish a time by which all】 (1) All
44 development fees collected 【within a calendar year shall be
45 expended; provided, however, that all fees】 by a municipality shall
46 be committed for expenditure within 【four】 two years from the date

1 of collection and disbursed within three years of collection,
2 provided however, that where a project or activity requires the
3 disbursement of funds through a series of payments through a
4 schedule, this requirement shall be satisfied if the initial payment is
5 made within three years. **【A municipality that fails to expend the**
6 **balance required in the development fee trust fund by the time set**
7 **forth in this section shall be required by the council to transfer the**
8 **remaining unspent balance at the end of the four-year period to the**
9 **"New Jersey Affordable Housing Trust Fund," established pursuant**
10 **to section 20 of P.L.1985, c.222 (C.52:27D-320), as amended by**
11 **P.L.2008, c.46 (C.52:27D-329.1 et al.), to be used in the housing**
12 **region of the transferring municipality for the authorized purposes**
13 **of that fund.】**

14 (2) For purposes of this section, “committed” shall mean that
15 the funds have been allocated to a specific activity authorized by
16 subsection c. of this section subject to a legally binding agreement
17 ensuring that the funds will be used for that purpose by a date
18 certain specified in the agreement, and “disbursed” shall mean that
19 the funds have been transferred from the municipality to the entity
20 responsible for the production, preservation or improvement of the
21 housing specified in the agreement. Within one year of the
22 effective date of P.L. , c. (C.) (pending before the
23 Legislature as this bill), any municipality with funds remaining in a
24 municipal development trust fund collected prior to the effective
25 date of P.L. , c. (C.) (pending before the Legislature as this
26 bill) shall commit to expend those funds and within two years of the
27 effective date of P.L. , c. (C.) (pending before the
28 Legislature as this bill), shall disburse those funds.

29 (3) Any funds that are not committed or disbursed as required
30 by this section automatically shall be deemed excess funds. The
31 department shall provide notice of availability of any excess funds
32 within five (5) business days of the funds being deemed excess
33 funds, on the department's Internet website pursuant to section 28 of
34 P.L. , c. (C.) (pending before the Legislature as this bill).

35 e. Notwithstanding any provision of this section, or regulations
36 of the **【council】 department**, a municipality shall not collect a
37 development fee from a developer whenever that developer is
38 providing for the construction of the required number of qualified
39 affordable units, either on-site or elsewhere within the municipality.

40 **【This section shall not apply to the collection of a Statewide**
41 **development fee imposed upon non-residential development**
42 **pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1**
43 **et seq.) by the State Treasurer, when such collection is not**
44 **authorized to be retained by a municipality.】**

45 f. Any county that has established or establishes at any time a
46 homelessness trust fund pursuant to P.L.2009, c.123 or serves as an
47 urban county for purposes of administering federal Community

1 Development Block Grant funds or Home Investment Partnerships
2 funds may, through resolution of the governing body of the county,
3 elect to receive the excess funds as described in paragraph (3) of
4 subsection d. of this section from all municipalities in the county.
5 The funds shall be kept in a segregated account. In all counties
6 other than counties that make the election described in this
7 subsection, the excess funds shall be placed in a segregated account
8 by the municipality.

9 g. Any not-for-profit or for-profit organization may make an
10 application to a county that has elected to receive excess funds
11 pursuant to subsection f. of this section to develop qualified housing
12 units using those excess funds for a portion or all development
13 costs. The organization shall include in its request a detailed plan
14 describing how the funds will be spent, how they will benefit low or
15 moderate income households, and how the entity is qualified to use
16 the funds.

17 h. A county administering excess funds shall review and
18 approve projects based on the procedures and guidelines described
19 in subsection f. of this section. Any county electing to receive
20 excess funds shall adopt and disseminate written guidelines,
21 priorities and application procedures to govern the use and
22 distribution of those funds in municipalities that are deemed
23 compliant or neither compliant nor deemed compliant. These
24 guidelines, priorities, and procedures shall be posted on the
25 department's Internet website pursuant to section 28 of
26 P.L. , c. (C.) (pending before the Legislature as this bill).

27 (1) Any not-for-profit or for-profit organization may make an
28 application to a county that has elected to receive excess funds
29 pursuant to subsection f. of this section to develop qualified housing
30 units using those excess funds for a portion or all development
31 costs. The organization shall include in its request a detailed plan
32 describing how the funds will be spent, how they will benefit low or
33 moderate income households, and how the entity is qualified to use
34 the funds.

35 (2) (a) Any county electing to receive excess funds shall adopt
36 and disseminate written guidelines, priorities and application
37 procedures to govern the use and distribution of those funds in
38 municipalities that are deemed compliant or neither compliant nor
39 deemed compliant. These guidelines, priorities, and procedures
40 shall be posted on the department's Internet website pursuant to
41 section 28 of P.L. , c. (C.) (pending before the Legislature
42 as this bill).

43 (b) These guidelines shall preference funds for not-for-profit
44 organizations seeking to create qualified housing units within the
45 municipality, taking into consideration the provision of social
46 services, a demonstrated history of working in the community, the
47 inclusion of qualified very low income units in the project, and an

1 ongoing commitment and involvement in maintaining the standards
 2 of the housing.

3 (3) In a municipality that is located in any county that has not
 4 elected to administer excess funds pursuant to subsection f. of this
 5 section, any not-for-profit or for-profit organization may submit a
 6 request for funds to the department within 30 days of the funds
 7 being deemed excess funds to the municipal governing body. The
 8 department shall decide among all received applications within 60
 9 days of the end of the time period for submission of applications.
 10 In making its determination, the department shall preference funds
 11 for non-for-profit organizations identified in the municipality's
 12 housing element for municipalities that are deemed compliant. For
 13 all other municipalities, the department shall preference not-for-
 14 profits seeking to create qualified housing units within the
 15 municipality, taking into consideration the provision of social
 16 services, a demonstrated history of working in the community, the
 17 inclusion of qualified very low income units in the project, and an
 18 ongoing commitment and involvement in maintaining the standards
 19 of the housing.

20 The department may award the funds to help develop qualified
 21 housing units contained in a housing element adopted elsewhere in
 22 the county, provided that no such funds may be used in
 23 municipalities described in section 24 of P.L. , c. (C.)
 24 (pending before the Legislature as this bill). An entity making an
 25 application under this section may also make an application
 26 pursuant to the process described in section 25 of P.L. , c. (C.)
 27 (pending before the Legislature as this bill) in any municipality for
 28 which that process is otherwise permitted pursuant to
 29 P.L. , c. (C.) (pending before the Legislature as this bill).
 30 (cf: P.L.2008, c.46, s.8)

31
 32 32. (New section) It shall be the duty of the Department of
 33 Community Affairs to administer the "Fair Housing Act," P.L.1985,
 34 c.222 (C:52:27D-301 et al.) and to assist municipalities in
 35 implementing the provisions of the act. When appropriate, the
 36 Commissioner Pursuant to the "Administrative Procedure Act,"
 37 P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of
 38 Community Affairs may promulgate any rules and regulations
 39 necessary to effectuate the purposes of P.L. , c. (C.) (pending
 40 before the Legislature as this bill), including:

- 41 a. Guidelines or model language for covenants or other devices
 42 to maintain the affordability of affordable units developed pursuant
 43 to P.L. , c. (C.) (pending before the Legislature as this bill);
- 44 b. Affirmative marketing requirements for affordable units,
 45 whether or not developed pursuant to P.L. , c. (C.) (pending
 46 before the Legislature as this bill);
- 47 c. Guidelines concerning the application of covenants or other
 48 affordability controls for affordable units.

1 33. Section 39 of P.L.2008, c.46 (C.40:55D-8.8) is amended to
2 read as follows:

3 39. The provisions of this section shall apply only to those
4 developments for which a fee was imposed pursuant to sections 32
5 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7),
6 known as the "Statewide Non-residential Development Fee Act."

7 a. A developer of a property that received preliminary site plan
8 approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46),
9 or final approval, pursuant to section 38 of P.L.1975, c.291
10 (C.40:55D-50) prior to July 17, 2008 and that was subject to the
11 payment of a nonresidential development fee prior to the enactment
12 of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a
13 return of any moneys paid that represent the difference between
14 moneys committed prior to July 17, 2008 and monies paid on or
15 after that date.

16 b. A developer of a non-residential project that, prior to July
17 17, 2008, has been referred to a planning board by the State, a
18 governing body, or other public agency for review pursuant to
19 section 22 of P.L.1975, c.291 (C. 40:55D-31) and that was subject
20 to the payment of a nonresidential development fee prior to the
21 enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be
22 entitled to a return of any moneys paid that represent the difference
23 between monies committed prior to July 17, 2008 and moneys paid
24 on or after that date.

25 c. If moneys are required to be returned under subsection a., b.
26 or d. of this section, a claim shall be submitted, in writing, to the
27 same entity to which the moneys were paid, within 120 days of the
28 effective date of P.L.2009, c.90 (C.52:27D-489a et al.). The entity
29 to whom the funds were paid shall promptly review all requests for
30 returns, and the fees paid shall be returned to the claimant within 30
31 days of receipt of the claim for return.

32 d. (1) A developer of a non-residential project that paid a fee
33 imposed pursuant to sections 32 through 38 of P.L.2008, c.46
34 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to July 17, 2008
35 but prior to the effective date of P.L.2009, c.90 (C.52:27D-489a et
36 al.), shall be entitled to the return of those monies paid, provided
37 that the provisions of section 37 of P.L.2008, c.46 (C.40:55D-8.6),
38 as amended by P.L.2009, c.90 do not permit the imposition of a fee
39 upon the developer of that non-residential property.

40 (2) A developer of a non-residential project that was subject to
41 the payment of a nonresidential development fee subsequent to July
42 1, 2010, shall be entitled to a return of any moneys paid in the same
43 manner as set forth in subsection c. of this section.

44 e. Notwithstanding the provisions of subsections a., b., c., and
45 d. of this section, if, on the effective date of P.L.2009, c.90
46 (C.52:27D-489a et al.), a municipality that has returned all or a
47 portion of non-residential fees in accordance with subsection a. or
48 b. of this section shall be reimbursed from the funds available

1 through the appropriation made into the "New Jersey Affordable
2 Housing Trust Fund" pursuant to section 41 of P.L.2009, c.90
3 (C.52:27D-320.1) within 30 days of the municipality providing
4 written notice to the Council on Affordable Housing.
5 (cf: P.L.2009, c.90, s.39)

6
7 34. (New section) The provisions of P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall be severable, and
9 if any of its provisions shall be held to be unconstitutional, the
10 decision of the court shall not affect the validity of the remaining
11 provisions of P.L. , c. (C.) (pending before the Legislature as
12 this bill).

13
14 35. (New section) Within two years of the effective date of
15 P.L. , c. (C.) (pending before the Legislature as this bill), the
16 Department of Community Affairs shall report to the Legislature
17 assessing and evaluating the progress and results of affordable
18 housing efforts in New Jersey following the enactment of P.L. ,
19 c. (C.) (pending before the Legislature as this bill). The report
20 shall be forwarded to the Assembly Housing and Local Government
21 Committee or its successor.

22
23 36. The following sections are repealed:

24 Section 32 of P.L.2008, c.46 (C.40:55D-8.1);
25 Section 33 of P.L.2008, c.46 (C.40:55D-8.2);
26 Section 34 of P.L.2008, c.46 (C.40:55D-8.3);
27 Section 35 of P.L.2008, c.46 (C.40:55D-8.4);
28 Section 36 of P.L.2008, c.46 (C.40:55D-8.5);
29 Section 37 of P.L.2008, c.46 (C.40:55D-8.6);
30 Section 38 of P.L.2008, c.46 (C.40:55D-8.7);
31 Section 14 of P.L.2009, c.82 (C.45:22A-46.16);
32 Section 5 of P.L.1985 c.222 (C.52:27D-304);
33 Section 5 of P.L.1985 c.222 (C.52:27D-305);
34 Section 6 of P.L.1985, c.222 (C.52:27D-306);
35 Section 7 of P.L.1985, c.222 (C.52:27D-307);
36 Section 1 of P.L.1991, c.479 (C.52:27D-307.1);
37 Section 2 of P.L.1991, c.479 (C.52:27D-307.2);
38 Section 3 of P.L.1991, c.479 (C.52:27D-307.3);
39 Section 4 of P.L.1991, c.479 (C.52:27D-307.4);
40 Section 5 of P.L.1991, c.479 (C.52:27D-307.5);
41 Section 6 of P.L.2001, c.435 (C.52:27D-307.6);
42 Section 8 of P.L.1985, c.222 (C.52:27D-308);
43 Section 9 of P.L.1985, c.222 (C.52:27D-309);
44 Section 1 of P.L.1995, c.231 (C.52:27D-310.1);
45 Section 2 of P.L.1995, c.231 (C.52:27D-310.2);
46 Section 11 of P.L.1985, c.222 (C.52:27D-311);
47 Section 40 of P.L.2009, c.90 (C. 52:27D-311.3);
48 Section 13 of P.L.1985 c.222 (C.52:27D-313);

1 Section 2 of P.L.1989, c.142 (C.52:27D-313.1);
2 Section 14 of P.L.1985 c.222 (C.52:27D-314);
3 Section 15 of P.L.1985 c.222 (C.52:27D-315);
4 Section 16 of P.L.1985, c.222 (C.52:27D-316);
5 Section 17 of P.L.1985, c.222 (C.52:27D-317);
6 Section 18 of P.L.1985, c.222 (C.52:27D-318);
7 Section 19 of P.L.1985 c.222 (C.52:27D-319);
8 Section 22 of P.L.1985, c.222 (C.52:27D-322);
9 Section 28 of P.L.1985, c.222 (C.52:27D-328);
10 Section 7 of P.L.2008, c.46 (C.52:27D-329.1);
11 Section 9 of P.L.2008, c.46 (C.52:27D-329.3);
12 Section 12 of P.L.2008, c.46 (C.52:27D-329.6);
13 Section 14 of P.L.2008, c.46 (C.52:27D-329.8);
14 Section 21 of P.L.2008, c.46 (C.52:27D-329.10);
15 Section 22 of P.L.2008, c.46 (C.52:27D-329.11);
16 Section 23 of P.L.2008, c.46 (C.52:27D-329.12);
17 Section 24 of P.L.2008, c.46 (C.52:27D-329.13);
18 Section 25 of P.L.2008, c.46 (C.52:27D-329.14);
19 Section 26 of P.L.2008, c.46 (C.52:27D-329.15);
20 Section 27 of P.L.2008, c.46 (C.52:27D-329.16)
21 Section 28 of P.L.2008, c.46 (C.52:27D-329.17)
22 Section 29 of P.L.2008, c.46 (C.52:27D-329.18); and
23 Section 30 of P.L.2008, c.46 (C.52:27D-329.19).

24
25 37. Section 30 of this act shall take effect immediately and the
26 remainder of this act shall take effect on the first day of the fourth
27 month next following enactment.

28
29

30 STATEMENT

31

32 This bill would modify the “Fair Housing Act,” P.L.1985, c.222,
33 and other laws related to affordable housing development in New
34 Jersey. If enacted, this legislation would abolish the Council on
35 Affordable Housing and would permit municipalities to control
36 planning for affordable housing within their boundaries while
37 ensuring that municipalities “make realistically possible an
38 appropriate variety and choice of housing” Mt. Laurel I, 67 N.J.
39 168, 174 (1973).

40 The bill abolishes the Council on Affordable Housing established
41 by the 1985 "Fair Housing Act." The bill transfers the Council's
42 remaining duties to the Department of Community Affairs. The bill
43 also requires the Council to transfer necessary records to the
44 department.

45 Under the bill, in order to meet its compliance threshold, a
46 municipality must duly adopt and file a housing element prepared in
47 accordance with N.J.S.A.52:27D-310 within 60 days of the
48 effective date of the bill. The housing element must have been

1 certified by a licensed housing compliance professional, a position
2 created by the bill. Pursuant to the bill, the housing element for the
3 initial compliance period must demonstrate that 10 percent of the
4 municipality's total housing stock is qualified housing units,
5 defined in the bill as units subject to affordability controls, public
6 housing, and supportive and special needs units. Housing units
7 shall be deemed qualified housing units only if affordability
8 controls or applicable affordability restrictions expire no sooner
9 than the end of the current compliance period and provided that any
10 qualified units are adaptable, as required by section 1 of P.L.2005,
11 c.350 (C.52:27D-311a). The initial compliance period would be for
12 ten years after the effective date of the bill.

13 If a municipality does not demonstrate that 10 percent of its
14 housing stock is affordable, the municipality may meet a lower
15 compliance threshold of 8 percent if it can demonstrate that at least
16 20 percent, but less than 50 percent of the children enrolled in
17 schools in the municipality in October of the preceding year were
18 eligible for free or reduced price meals under the federal School
19 Lunch Program. For purposes of meeting the compliance threshold:
20

- 21 • at least 50 percent of the total number of qualified housing
22 units in any municipality shall be qualified low income
23 units, and at least 13 percent of the total of qualified housing
24 units in any municipality constructed after the effective date
25 of the bill are qualified very-low-income units;
- 26 • no more than 25 percent of the total number of qualified low
27 income housing units and qualified moderate income
28 housing units in any municipality shall be age-restricted
29 units as defined pursuant to section 2 of P.L.2009, c.82
30 (C.45:22A-46.4);
- 31 • at least 50 percent of the units reserved for each of very-low-
32 income housing, low income, and moderate income housing
33 and counted toward the compliance threshold pursuant to
34 this section, shall be family housing; and
- 35 • no more than 25 percent of the total number of qualified
36 housing units in any municipality shall be reserved for
37 people living or working within that municipality.

38
39 A municipality may also be deemed compliant if, within eight
40 months of the effective date of the bill, it adopts and files with the
41 department a certified housing element and implementing
42 ordinances that have been prepared pursuant to N.J.S.A.52:27D-310
43 and which meet the following criteria:
44

- 45 • The housing element must include an analysis of the number
46 of qualified housing units already existing in the
47 municipality and the number of qualified housing units
48 required to satisfy the criteria under the bill. In the initial

1 compliance period, the housing element and implementing
2 ordinances shall provide, in addition to the number of
3 existing qualified housing units, a realistic opportunity for
4 the least of the following:

- 5 • Sufficient qualified housing units to meet at least 50 percent
6 of the difference between the number of qualified housing
7 units already existing in the municipality and the number of
8 qualified housing units required to satisfy the criteria set
9 forth in the bill;
- 10 • 1,000 qualified housing units; or
- 11 • A number of qualified housing units equal to the number for
12 the municipality set forth in the table appearing at 40 N.J.R.
13 2942-2955 (June 2, 2008).

14
15 The bill sets forth specific densities and numbers of housing
16 units required to maintain compliance, including a requirement to
17 adopt inclusionary zoning ordinances on developable land sufficient
18 to meet at least 50 percent of the units required to meet the
19 threshold compliance number of units set forth in the bill. In
20 addition, compliance for future periods may be obtained by meeting
21 certain criteria set forth in the bill. Under this bill, all
22 municipalities are required to plan for the rehabilitation of
23 substandard units within their boundaries.

24 The bill provides for an expedited variance procedure in
25 municipalities that refuse to comply with the law. In a non-
26 complying municipality, projects including 20 percent affordable
27 units will be deemed to be an inherently beneficial use. These
28 projects will need to prove only the "negative" criteria of the
29 standard for a variance under the "Municipal Land Use Law,"
30 N.J.S.A.40:55D-1 et seq. The variance procedure would be
31 available for any project in which 10 percent or more of the
32 proposed units will be affordable housing, including mixed-use
33 projects, conventional residential developments, and 100 percent
34 affordable developments. The bill clarifies that that proposed
35 developments under that section are deemed inherently beneficial.

36 The inclusionary zoning ordinance requirement would not apply
37 in municipalities in which 50 percent or more of the students are
38 eligible for free or reduced-price meals, although the bill creates
39 incentives and makes financing available for affordable units in
40 these municipalities.

41 The bill would also maintain the provisions in the existing "Fair
42 Housing Act" that require affordable units to be adaptable. In
43 addition, the legislation provides regulatory incentives to encourage
44 development of special needs housing and permanent supportive
45 housing.

46 The legislation also repeals the "Statewide Non-Residential
47 Development Fee Act," N.J.S.A.40:55D-8.1 et seq. and provides for
48 the reimbursement of any fees collected since July 1, 2010.

1 Because the elimination of the non-residential development fee
2 would reduce collections deposited in the "Urban Housing
3 Assistance Fund," this bill authorizes transfers from the "New
4 Jersey Affordable Housing Trust Fund" to the "Urban Housing
5 Assistance Fund." The bill directs that not less than 10 percent and
6 not more than 25 percent of the amount deposited in the "New
7 Jersey Affordable Housing Trust Fund" and available under specific
8 provisions of the "Fair Housing Act" during any fiscal year shall be
9 transferred to the "Urban Housing Assistance Fund" in any State
10 fiscal year. Also, this legislation retains the statutory authorization
11 for municipalities to collect residential development fees and
12 provides that these fees shall be deposited in a municipal affordable
13 housing trust fund. Pursuant to this bill, fees collected could only
14 be committed for expenditure within two years and disbursed within
15 three years with an exception for projects requiring scheduled
16 payments. The bill provides that funds that are not committed or
17 disbursed by the dates required are to be deemed excess funds. The
18 department will post a notice of the availability of any excess funds
19 on its Internet website for non-profit organizations in a county that
20 elects to receive excess funds to develop qualified housing units.
21 Counties electing to receive excess funds shall adopt and
22 disseminate written guidelines, priorities, and application
23 procedures to govern the use and distribution of those funds. The
24 department will establish guidelines for the administration of excess
25 funds for municipalities located in counties that have not elected to
26 administer excess funds.

27 The bill establishes a new licensed position entitled "housing
28 compliance professional." A housing compliance professional will
29 be subject to standards for licensure promulgated by the State Board
30 of Professional Planners. The professional shall have been actively
31 engaged in the practice of a licensed professional planner for at
32 least eight years, and have substantial experience in the preparation
33 or independent review of affordable housing elements.

34 Upon request by a municipality, the State Board of Professional
35 Planners shall designate a licensed housing compliance professional
36 to conduct a comprehensive and independent review of the
37 municipality's housing element and implementing ordinances. The
38 State Board of Professional Planners shall randomly select the
39 licensed housing compliance professional from the list of licensed
40 housing compliance professionals maintained by the State Board of
41 Professional Planners in accordance with the procedures established
42 by the State Board of Professional Planners.

43 A municipality that has requested the State Board of Professional
44 Planners to designate a licensed housing compliance professional to
45 conduct a comprehensive and independent review of its housing
46 element and implementing ordinances shall pay the fees and
47 reasonable expenses of the licensed housing compliance
48 professional in accordance with the standards established by the

1 State Board of Professional Planners. Such fees and reasonable
2 expenses may be paid for out of the administrative portion of the
3 municipal housing trust fund.

4 A licensed housing compliance professional shall certify a
5 municipal housing element if, after conducting a comprehensive
6 and independent review, the licensed housing compliance
7 professional makes a determination that the housing element and
8 implementing ordinances (1) accurately and completely represent
9 the qualified housing units already existing in the municipality and
10 the number of qualified housing units required to satisfy the criteria
11 set forth in the bill; (2) create sufficient realistic opportunities for
12 the development of qualified very-low, low and moderate income
13 housing units to bring the municipality into compliance with the
14 standards set forth in the bill; and (3) comply with all relevant
15 standards under the bill.

16 Under the bill, the Department of Community Affairs will be
17 required to establish an online, searchable website containing
18 housing information. The department will be required to post all
19 municipal housing planning information that it receives on the
20 website.