

ASSEMBLY, No. 1050

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

Assemblywomen McKnight, Vainieri Huttie and Assemblyman Holley

SYNOPSIS

Expands financing opportunities for low and moderate income housing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 10/8/2020)

1 **AN ACT** concerning financing for affordable housing and amending
2 and supplementing chapter 14K of Title 55 of the Revised
3 Statutes.

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

7
8 1. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to
9 read as follows:

10 3. As used in this act:

11 a. "Agency" means the New Jersey Housing and Mortgage
12 Finance Agency as consolidated by section 4 of P.L.1983, c.530
13 (C.55:14K-4), or, if that agency shall be abolished by law, the
14 person, board, body or commission succeeding to the powers and
15 duties thereof or to whom its powers and duties shall be given by
16 law.

17 b. "Boarding house" means any building, together with any
18 related structure, accessory building, any land appurtenant thereto,
19 and any part thereof, which contains two or more units of dwelling
20 space arranged or intended for single room occupancy, exclusive of
21 any such unit occupied by an owner or operator, including:

22 (1) any residential hotel or congregate living arrangement, but
23 excluding any hotel, motel or established guesthouse wherein a
24 minimum of 85% of the units of dwelling space are offered for
25 limited tenure only; (2) a residential health care facility as defined
26 in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to
27 P.L.1971, c.136 (C.26:2H-1 et seq.); (3) any resource family home
28 as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any
29 community residence for the developmentally disabled as defined in
30 section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory
31 owned or operated on behalf of any nonprofit institution of primary,
32 secondary or higher education for the use of its students; (6) any
33 building arranged for single room occupancy wherein the units of
34 dwelling space are occupied exclusively by students enrolled in a
35 full-time course of study at an institution of higher education
36 approved by the Department of Higher Education; and (7) any
37 facility or living arrangement operated by, or under contract with,
38 any State department or agency.

39 c. "Bonds" mean any bonds, notes, bond anticipation notes,
40 debentures or other evidences of financial indebtedness issued by
41 the agency pursuant to this act.

42 d. "Continuing-care retirement community" means any work or
43 undertaking, whether new construction, improvement or
44 rehabilitation, which may be financed in part or in whole by the
45 agency and which is designed to complement fully independent

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 residential units with social and health care services (usually
2 including nursing and medical services) for retirement families and
3 which is intended to provide continuing care for the term of a
4 contract in return for an entrance fee or periodic payments, or both,
5 and which may include such appurtenances and facilities as the
6 agency deems to be necessary, convenient or desirable.

7 e. "Eligible loan" means a loan, secured or unsecured, made for
8 the purpose of financing the operation, maintenance, construction,
9 acquisition, rehabilitation or improvement of property, or the
10 acquisition of a direct or indirect interest in property, located in the
11 State, which is or shall be: (1) primarily residential in character or
12 (2) used or to be used to provide services to the residents of an area
13 or project which is primarily residential in character. The agency
14 shall adopt regulations defining the term "primarily residential in
15 character," which may include single-family, multi-family and
16 congregate or other single room occupancy housing, continuing-
17 care retirement communities, assisted living communities, mobile
18 homes and nonhousing properties and facilities which enhance the
19 livability of the residential property or area; and specifying the
20 types of residential services and facilities for which eligible loans
21 may be made, which may include, but shall not be limited to,
22 parking facilities, streets, sewers, utilities, and administrative,
23 community, educational, welfare and recreational facilities, food,
24 laundry, health and other services and commercial establishments
25 and professional offices providing supplies and services enhancing
26 the area. The term "loan" includes an obligation the return on
27 which may vary with any appreciation in value of the property or
28 interest in property financed with the proceeds of the loan, or a co-
29 ventured instrument by which an institutional lender or the agency
30 assumes an equity position in the property. Any undivided interest
31 in an eligible loan shall qualify as an eligible loan.

32 f. "Family" means two or more persons who live or expect to
33 live together as a single household in the same dwelling unit; but
34 any individual who (1) has attained retirement age as defined in
35 section 216a of the federal Social Security Act, or (2) is under a
36 disability as defined in section 223 of that act, or (3) such other
37 individuals as the agency by rule or regulation shall include, shall
38 be considered as a family for the purpose of this act; and the
39 surviving member of a family whose other members died during
40 occupancy of a housing project shall be considered as a family for
41 the purposes of permitting continued occupancy of the dwelling unit
42 occupied by such family.

43 g. "Gross aggregate family income" means the total annual
44 income of all members of a family, from whatever source derived,
45 including but not limited to, pension, annuity, retirement and social
46 security benefits; except that there may be excluded from income
47 (1) such reasonable allowances for dependents, (2) such reasonable
48 allowances for medical expenses, (3) all or any proportionate part

- 1 of the earnings of gainfully employed minors, or (4) such income as
2 is not received regularly, as the agency by rule or regulation may
3 determine.
- 4 h. "Housing project" or "project" means any work or
5 undertaking, [other than a continuing-care community,] whether
6 new construction, improvement, rehabilitation, or acquisition of
7 existing buildings or units which is designed for the primary
8 purpose of providing multi-family rental housing or acquisition of
9 sites for future multi-family rental housing.
- 10 i. "Housing sponsor" means any person, partnership,
11 corporation or association, whether organized as for profit or not for
12 profit, to which the agency has made or proposes to make a loan,
13 either directly or through an institutional lender, for a housing
14 project.
- 15 j. "Institutional lender" means any bank or trust company,
16 savings bank, national banking association, savings and loan
17 association, or building and loan association maintaining an office
18 in the State, or any insurance company or any mortgage banking
19 firm or mortgage banking corporation authorized to transact
20 business in the State.
- 21 k. "Life safety improvement" means any addition, modification
22 or repair to a boarding house which is necessary to improve the life
23 safety of the residents of the boarding house, as certified by the
24 Department of Community Affairs, including, but not limited to, the
25 correction of a violation of the "State Uniform Construction Code
26 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), the "Rooming and
27 Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et
28 seq.), or the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-
29 192 et seq.) and the administrative regulations promulgated in
30 accordance with these acts.
- 31 l. "Life safety improvement loan" means an eligible loan the
32 proceeds of which are to be used to finance, in whole or in part, the
33 construction, acquisition or rendering of life safety improvements at
34 or to boarding houses.
- 35 m. "Loan originator" means any bank or trust company, savings
36 bank, national banking association, savings and loan association, or
37 building and loan association maintaining an office in the State, or
38 any insurance company or any mortgage banking firm or mortgage
39 banking corporation authorized to transact business in the State, or
40 any agency or instrumentality of the United States or the State or a
41 political subdivision of the State, which is authorized to make
42 eligible loans.
- 43 n. "Municipality" means any city of any class or any town,
44 township, village or borough.
- 45 o. "Mutual housing" means a housing project operated or to be
46 operated upon completion of construction, improvement or
47 rehabilitation exclusively for the benefit of the families who are
48 entitled to occupancy by reason of ownership of stock in the

1 housing sponsor, or by reason of co-ownership of premises in a
2 horizontal property regime pursuant to P.L.1963, c.168; but the
3 agency may adopt rules and regulations permitting a reasonable
4 percentage of space in such project to be rented for residential or
5 for commercial use.

6 p. "Persons and families of low and moderate income" mean
7 persons and families, irrespective of race, creed, national origin or
8 sex, determined by the agency to require assistance on account of
9 personal or family income being not sufficient to afford adequate
10 housing. In making such determination the agency shall take into
11 account the following:

12 (1) the amount of the total income of such persons and families
13 available for housing needs, (2) the size of the family, (3) the cost
14 and condition of housing facilities available and (4) the eligibility
15 of such persons and families to compete successfully in the normal
16 housing market and to pay the amounts at which private enterprise
17 is providing sanitary, decent and safe housing. In the case of
18 projects with respect to which income limits have been established
19 by any agency of the federal government having jurisdiction
20 thereover for the purpose of defining eligibility of low and
21 moderate income families, the agency may determine that the limits
22 so established shall govern. In all other cases income limits for the
23 purpose of defining low or moderate income persons shall be
24 established by the agency in its rules and regulations.

25 q. "Project cost" means the sum total of all costs incurred in the
26 acquisition, development, construction, improvement or
27 rehabilitation of a housing project, which are approved by the
28 agency as reasonable or necessary, which costs shall include, but
29 are not necessarily limited to, (1) cost of land acquisition and any
30 buildings thereon, (2) cost of site preparation, demolition and
31 development, (3) architect, engineer, legal, agency and other fees
32 paid or payable in connection with the planning, execution and
33 financing of the project, (4) cost of necessary studies, surveys, plans
34 and permits, (5) insurance, interest, financing, tax and assessment
35 costs and other operating and carrying costs during construction, (6)
36 cost of construction, reconstruction, fixtures, and equipment related
37 to the real property, (7) cost of land improvements, (8) necessary
38 expenses in connection with initial occupancy of the project, (9) a
39 reasonable profit or fee to the builder and developer, in accordance
40 with the industry standard applicable to similar federal programs,
41 (10) an allowance established by the agency for working capital and
42 contingency reserves, and reserves for any operating deficits, (11)
43 costs of guarantees, insurance or other additional financial security
44 for the project and (12) the cost of such other items, including
45 tenant relocation, as the agency shall determine to be reasonable
46 and necessary for the development of the project, less any and all
47 net rents and other net revenues received from the operation of the

1 real and personal property on the project site during construction,
2 improvement or rehabilitation.

3 All costs shall be subject to approval and audit by the agency.
4 The agency may adopt rules and regulations specifying in detail the
5 types and categories of cost which shall be allowable if actually
6 incurred in the development, acquisition, construction,
7 improvement or rehabilitation of a housing project.

8 r. "Retirement family" means one or more persons related by
9 blood, marriage or adoption who live or expect to live together as a
10 single household in the same dwelling unit, provided that at least
11 one of the persons is an individual who (1) has attained retirement
12 age as defined in section 216a of the Federal Social Security Act, or
13 (2) is under a disability as defined in section 223 of that act, or (3)
14 such individuals as the agency by rule or regulation shall include;
15 and provided further, that the surviving member of a retirement
16 family whose other members died during occupancy of a
17 continuing-care retirement community shall be considered as a
18 retirement family for purposes of permitting continued occupancy
19 of the dwelling unit occupied by such retirement family.
20 (cf: P.L.2004, c.130, s.124)

21

22 2. Section 5 of P.L.1983, c.530 (C.55:14K-5) is amended to
23 read as follows:

24 5. In order to carry out the purposes and provisions of this act,
25 the agency, in addition to any powers granted to it elsewhere in this
26 act, shall have the following powers:

27 a. To adopt bylaws for the regulation of its affairs and the
28 conduct of its business; to adopt an official seal and alter the same
29 at pleasure; to maintain an office at such place or places within the
30 State as it may designate; to sue and be sued in its own name;

31 b. To conduct examinations and hearings and to hear testimony
32 and take proof, under oath or affirmation, at public or private
33 hearings, on any matter material for its information and necessary
34 to carry out the provisions of this act;

35 c. To issue subpoenas requiring the attendance of witnesses
36 and the production of books and papers pertinent to any hearing
37 before the agency, or before one or more of the members of the
38 agency appointed by it to conduct a hearing;

39 d. To apply to any court, having territorial jurisdiction of the
40 offense, to have punished for contempt any witness who refuses to
41 obey a subpoena, or who refuses to be sworn or affirmed to testify,
42 or who is guilty of any contempt after summons to appear;

43 e. To acquire by purchase, gift, foreclosure or condemnation
44 any real or personal property, or any interest therein, to enter into
45 any lease of property and to hold, sell, assign, lease, encumber,
46 mortgage or otherwise dispose of any real or personal property, or
47 any interest therein, or mortgage lien interest owned by it or under
48 its control, custody or in its possession and release or relinquish

- 1 any right, title, claim, lien, interest, easement or demand however
2 acquired, including any equity or right of redemption, in property
3 foreclosed by it and to do any of the foregoing by public or private
4 sale, with or without public bidding, notwithstanding the provisions
5 of any other law;
- 6 f. To acquire, hold, use and dispose of its income revenues,
7 funds and moneys;
- 8 g. To adopt rules and regulations expressly authorized by this
9 act and such additional rules and regulations as shall be necessary
10 or desirable to carry out the purposes of this act. The agency shall
11 adopt regulations which provide for consultation with housing
12 sponsors regarding the formulation of agency rules and regulations
13 governing the operation of housing projects and which require the
14 agency to consult with the affected housing sponsor prior to taking
15 any and all specific proposed agency actions relating to the
16 sponsor's housing project. The proposed rules and regulations, and
17 any subsequent proposed amendments, shall be posted on the
18 agency's website at least 45 days prior to the agency adopting the
19 rules and regulations. The agency shall publish all rules and
20 regulations which have been adopted and file them with the
21 Secretary of State;
- 22 h. To borrow money or secure credit on a temporary, short-
23 term, interim or long-term basis, and to issue negotiable bonds and
24 to secure the payment thereof and to provide for the rights of the
25 holders thereof;
- 26 i. To make and enter into and enforce all contracts and
27 agreements necessary, convenient or desirable to the performance
28 of its duties and the execution of its powers under this act, including
29 contracts or agreements with qualified financial institutions for the
30 servicing and processing of eligible loans owned by the agency;
- 31 j. To appoint and employ an executive director, who shall be
32 the chief executive officer of the agency, and additional officers,
33 who need not be members of the agency as the agency deems
34 advisable, and to employ architects, engineers, attorneys,
35 accountants, construction and financial experts and other
36 employees and agents as may be necessary in its judgment and to
37 determine their qualifications, terms of office, duties and
38 compensation; and to promote and discharge such officers,
39 employees and agents, all without regard to the provisions of Title
40 11 of the Revised Statutes, Civil Service;
- 41 k. To contract for and to receive and accept any gifts, grants,
42 loans or contributions from any source, of money, property, labor or
43 other things of value, to be held, used and applied to carry out the
44 purposes of this act subject to the conditions upon which the grants
45 and contributions may be made, including, but not limited to, gifts
46 or grants from any department or agency of the United States or the
47 State for payment of rent supplements to eligible families or for the

- 1 payment in whole or in part of the interest expense for a housing
2 project or for any other purpose consistent with this act;
- 3 l. To enter into agreements to pay annual sums in lieu of taxes
4 to any political subdivision of the State with respect to any real
5 property owned **[or]**, operated directly by the agency, or financed
6 by the agency;
- 7 m. To procure insurance against any loss in connection with its
8 operations, property and other assets (including eligible loans) in
9 the amounts and from the insurers it deems desirable;
- 10 n. To the extent permitted under its contract with the holders of
11 bonds of the agency, to consent to any modification with respect to
12 rate of interest, time and payment of any installment of principal or
13 interest, security or any other terms of any loan to an institutional
14 lender, eligible loan, loan commitment, contract or agreement of
15 any kind to which the agency is a party;
- 16 o. To the extent permitted under its contract with the holders of
17 bonds of the agency, to enter into contracts with any housing
18 sponsor containing provisions enabling the housing sponsor to
19 reduce the rental or carrying charges to persons unable to pay the
20 regular schedule of charges where, by reason of other income or
21 payment from the agency, any department or agency of the United
22 States or the State, these reductions can be made without
23 jeopardizing the economic stability of the housing project;
- 24 p. To make and collect the fees and charges it determines are
25 reasonable;
- 26 q. To the extent permitted under its contract with the holders of
27 bonds of the agency, to invest and reinvest any moneys of the
28 agency not required for immediate use, including proceeds from the
29 sale of any obligations of the agency, in obligations, securities or
30 other investments as the agency deems prudent. All functions,
31 powers and duties relating to the investment or reinvestment of
32 these funds, including the purchase, sale or exchange of any
33 investments or securities may, upon the request of the agency, be
34 exercised and performed by the Director of the Division of
35 Investment in the Department of the Treasury, in accordance with
36 written directions of the agency signed by an authorized officer,
37 without regard to any other law relating to investments by the
38 Director of the Division of Investment;
- 39 r. To provide, contract or arrange for, where, by reason of the
40 financing arrangement, review of the application and proposed
41 construction of a project is required by or in behalf of any
42 department or agency of the United States, consolidated processing
43 of the application or supervision or, in the alternative, to delegate
44 the processing in whole or in part to any such department or agency;
- 45 s. To make eligible loans, and to participate with any
46 department, agency or authority of the United States or of any state
47 thereof, this State, a municipality, or any banking institution,
48 foundation, labor union, insurance company, trustee or fiduciary in

1 an eligible loan, secured by a single participating mortgage, by
2 separate mortgages or by other security agreements, the interest of
3 each having equal priority as to lien in proportion to the amount of
4 the loan so secured, but which need not be equal as to interest rate,
5 time or rate of amortization or otherwise, and to undertake
6 commitments to make such loans;

7 t. To assess from time to time the housing needs of any
8 municipality which is experiencing housing shortages as a result of
9 the authorization of casino gaming and to address those needs when
10 planning its programs, as well as considering municipal obligations
11 set by a court or other instrumentality of the State engaged in
12 efforts to increase access to affordable housing within that
13 municipality;

14 u. To sell any eligible loan made by the agency or any loan to
15 an institutional lender owned by the agency, at public or private
16 sale, with or without bidding, either singly or in groups, or in shares
17 of loans or shares of groups of loans, issue securities, certificates or
18 other evidence of ownership secured by such loans or groups of
19 loans, sell the same to investors, arrange for the marketing of the
20 same; and to deposit and invest the funds derived from such sales
21 in any manner authorized by this act;

22 v. To make commitments to purchase, and to purchase, service
23 and sell, eligible loans, pools of loans or securities based on loans,
24 insured or issued by any department or agency of the United States,
25 and to make loans directly upon the security of any such loan, pools
26 of loans or securities;

27 w. To provide such advisory consultation, training and
28 educational services as will assist in the planning, construction,
29 rehabilitation and operation of housing including but not limited to
30 assistance in community development and organization, home
31 management and advisory services for residents and to encourage
32 community organizations and local governments to assist in
33 developing housing;

34 x. To encourage research in and demonstration projects to
35 develop new and better techniques and methods for increasing the
36 supply, types and financing of housing and housing projects in the
37 State and to engage in these research and demonstration projects
38 and to receive and accept contributions, grants or aid, from any
39 source, public or private, including but not limited to the United
40 States and the State, for carrying out this purpose;

41 y. To provide to housing sponsors, through eligible loans or
42 otherwise, financing, refinancing or financial assistance for fully
43 completed, as well as partially completed, projects which may or
44 may not be occupied, if the projects meet all the requirements of
45 this act, except that, prior to the making of the mortgage loans by
46 the agency, said projects need not have complied with sections
47 7a.(9) and 42 of this act;

1 z. To encourage and stimulate **【cooperatives and other forms**
2 of housing with tenant**】** participation through financial incentives
3 for the development of affordable housing projects with New Jersey
4 qualified minority and women-owned companies and certified New
5 Jersey not-for-profit organizations;

6 aa. To promote innovative programs for home ownership,
7 including but not limited to lease-purchase programs, employer-
8 sponsored housing programs, and tenant cooperatives;

9 bb. To set aside and designate, out of the funds that are or may
10 become available to it for the purpose of financing housing in this
11 State pursuant to the terms of this act, certain sums or proportions
12 thereof to be used for the financing of housing and home-ownership
13 opportunities, including specifically lease-purchase arrangements,
14 provided by employers to their employees through nonprofit or for
15 profit, limited-dividend corporations or associations created by
16 employers for that purpose; and to establish priority in funding,
17 offer bonus fund allocations, and institute other incentives to
18 encourage such employer-sponsored housing and home-ownership
19 opportunities;

20 cc. Subject to any agreement with bondholders, to collect,
21 enforce the collection of, and foreclose on any property or collateral
22 securing its eligible loan or loans to institutional lenders and
23 acquire or take possession of such property or collateral and sell the
24 same at public or private sale, with or without bidding, and
25 otherwise deal with such collateral as may be necessary to protect
26 the interests of the agency therein;

27 dd. To administer and to enter into agreements to administer
28 programs of the federal government or any other entity which are in
29 furtherance of the purposes of this act;

30 ee. To do and perform any acts and things authorized by this act
31 under, through, or by means of its officers, agents or employees or
32 by contract with any person, firm or corporation; and

33 ff. To do any acts and things necessary or convenient to carry
34 out the powers expressly granted in this act so long as no
35 duplication of authority or actions impact the efficiency of the
36 programs to produce, manage, or maintain the financial viability of
37 projects.

38 (cf: P.L.1983, c.530, s.5)
39

40 3. (New Section) The agency shall accept third party
41 verification of compliance, eliminate duplicative reviews, and
42 streamline the approval of individuals seeking affordable housing.
43 The agency shall not establish any program, rule, or regulation
44 which unnecessarily obstructs or discourages participation by a
45 “minority business” or a “women’s business,” as defined pursuant
46 to Section 2 of P.L.1986, c.195 (C.52:27H-21.18). To the extent
47 permitted by law, the agency shall encourage participation by a

1 “minority business” or a “women’s business,” as defined pursuant
2 to Section 2 of P.L.1986, c.195 (C.52:27H-21.18) in all programs.

3
4 4. Section 4 of P.L.1990, c.90 (C.55:14K-5.1) is amended to
5 read as follows:

6 4. a. The executive director of the New Jersey Housing and
7 Mortgage Finance Agency shall provide written notice to a county
8 or municipality, as appropriate, when any funding is provided to a
9 local or regional housing authority, or to a redevelopment
10 corporation, agency or authority, or private developer for the
11 purpose of financing a housing development project within the
12 county or municipality. Such notification shall be made within five
13 calendar days of the decision to provide the funding.

14 b. In the case of a county organized under the "Optional
15 County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), written
16 notice shall be provided to the county executive or other appropriate
17 executive officer, and to the board of chosen freeholders. In all
18 other counties, written notice shall be provided to the members of
19 the board of chosen freeholders.

20 In the case of a municipality other than a municipality organized
21 under the council-manager plan pursuant to the "Optional
22 Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.),
23 written notice shall be provided to the mayor and to the members of
24 the council. In the case of a municipality organized under the
25 council-manager plan pursuant to the "Optional Municipal Charter
26 Law," P.L.1950, c.210 (C.40:69A-1 et seq.), written notice shall be
27 provided to the manager and to the members of the council.

28 (cf: P.L.1990, c.90, s.4)
29

30 5. Section 1 of P.L.1992, c.186 (C.55:14K-5.2) is amended to
31 read as follows:

32 1. In addition to the powers otherwise granted in P.L.1983,
33 c.530 (C.55:14K-1 et seq.), the New Jersey Housing and Mortgage
34 Finance Agency shall set aside and designate, out of the funds that
35 are or may become available to it for the purpose of assisting the
36 production of affordable housing in the State, certain amounts to be
37 used for assisting in the development of homeownership
38 opportunities for residents of public housing who seek to acquire
39 ownership of their residential units as part of a resident
40 management corporation, a cooperative corporation or a
41 condominium association formed by the residents of that public
42 housing project through the program established pursuant to
43 Subtitle B of Title IV of Pub.L.101-625 (42 U.S.C. s.12871 et seq.)
44 or any other program administered by the federal government for
45 extending homeownership opportunities to residents of public
46 housing or programs intended to privatize public housing, including
47 the federal Department of Housing and Urban Development’s
48 Rental Assistance Demonstration program. Nothing in this act

1 shall, in any way, relieve a housing authority of the need to submit
2 a plan for replacement housing, as required under 24 CFR 970.11.
3 (cf: P.L.1992, c.186, s.1)
4

5 6. Section 6 of P.L.1983, c.530 (C.55:14K-6) is amended to
6 read as follows:

7 6. a. The agency, in order to encourage the development,
8 operation, maintenance, construction, improvement and
9 rehabilitation and preservation of safe and adequate housing in the
10 State, is hereby authorized and empowered to finance, by the
11 making of eligible loans or otherwise, the construction,
12 improvement or rehabilitation of housing projects in the State.

13 b. The agency, in order to carry out the purposes of subsection
14 a. of this section, may:

15 (1) accept applications for loans;

16 (2) enter into agreements with housing sponsors for permanent
17 loans and temporary loans or advances in anticipation of permanent
18 loans for the development, operation, maintenance, construction,
19 improvement or rehabilitation of housing projects; and

20 (3) make permanent loans and temporary loans or advances in
21 anticipation of permanent loans to housing sponsors under the
22 provisions of this act.

23 c. **【No application for a loan for the construction, improvement**
24 **or rehabilitation of a housing project containing rental units to be**
25 **rented at below market rates to be located in any municipality shall**
26 **be processed unless there is already filed with the secretary of the**
27 **agency a certified copy of a resolution adopted by the municipality**
28 **reciting that there is a need for such housing project in the**
29 **municipality.】** (Deleted by amendment, P.L. , c.) (pending
30 before the Legislature as this bill).

31 d. Every application for a loan to a housing sponsor shall be
32 made on forms furnished by the agency and shall contain such
33 information as the agency shall require.

34 e. In considering any application for a loan for a housing
35 project or allocation of any State of federal subsidy, including the
36 Federal Low Income Housing Tax Credit Program and State
37 Economic Redevelopment and Growth Grant Program, the agency
38 shall give first priority to applications for loans for the preservation,
39 construction, improvement or rehabilitation of housing projects
40 which will be a part of or constructed in connection with an urban
41 redevelopment program, and also shall give consideration to:

42 (1) the comparative need of the area to be served by the
43 proposed project for housing;

44 (2) the ability of the applicant to construct, operate, manage and
45 maintain the proposed housing project;

46 (3) the existence of zoning or other regulations to protect
47 adequately the proposed housing project against detrimental future

1 uses which could cause undue depreciation in the value of the
2 project;

3 (4) the availability of adequate parks, recreational areas,
4 utilities, schools, transportation and parking;

5 (5) the availability of adequate, accessible places of
6 employment; **and**

7 (6) where applicable, the eligibility of the applicant to make
8 payments to the municipality **in which the housing project is**
9 **located in lieu of local property taxes** under a payment in lieu of
10 taxation agreement; and

11 (7) Whether the applicant is a qualified New Jersey based
12 nonprofit or New Jersey based minority and women owned
13 development firm having a valid certification as a “minority
14 business” or a “women’s owned business” pursuant to P.L.1986,
15 c.195 (C.52:27H-21.17 et seq.).

16 (cf: P.L.1983, c.530, s.6)

17

18 7. Section 7 of P.L.1983, c.530 (C.55:14K-7) is amended to
19 read as follows:

20 7. a. Loans made by the agency to finance housing projects
21 shall be subject to the following terms and conditions:

22 (1) The loan shall be for a period of time not in excess of 50
23 years as determined by the agency;

24 (2) The amount of the loan shall not exceed 90% of the total
25 project cost as determined by the agency, except that as to projects
26 to be owned, constructed, improved, rehabilitated, operated,
27 managed and maintained as mutual housing or by any corporation
28 or association organized not for profit which has as one of its
29 purposes the construction, improvement or rehabilitation of housing
30 projects, the amount of the loan shall not exceed 100% of the total
31 project cost as determined by the agency; but the agency may make
32 additional loans to a housing sponsor to which a loan by the agency
33 for the cost of a project is outstanding if and to the extent that the
34 agency finds that such additional loan is required to more
35 adequately secure and protect the project or to avoid a default by
36 the sponsor on the original loan for the cost of the project and is in
37 the best interest of the agency and the holders of its bonds issued to
38 finance the original loan for the cost of the project;

39 (3) The interest rate on the loan shall be established by the
40 agency at the lowest level consistent with the agency's capital cost
41 **of operation** and its responsibilities to the holders of its bonds;

42 (4) The loan shall be evidenced by a mortgage note or bond and
43 by a mortgage which shall be a first recorded lien on the project and
44 which shall contain such terms and provisions and be in a form
45 approved by the agency. The agency shall require the qualified
46 housing sponsor receiving a loan or its contractor to post security,
47 either by performance bond or other acceptable means, including
48 letters of credit, in amounts related to the project cost as established

1 by regulation and to execute such other assurances and guarantees
2 as the agency may deem necessary and may require its principals or
3 stockholders to also execute such other assurances and guarantees
4 as the agency may deem necessary;

5 (5) The loan shall be subject to an agreement between the
6 agency and the housing sponsor which will subject the housing
7 sponsor and its principals or stockholders to limitations established
8 by the agency as to rentals and other charges, builders' and
9 developers' profits and fees, and the disposition of its property and
10 franchises to the extent more restrictive limitations are not provided
11 by the law under which the borrower is incorporated or organized;

12 (6) The loan shall be subject to an agreement between the
13 agency and the housing sponsor limiting the housing sponsor and its
14 principals or stockholders to such rate of return on its investment in
15 the housing project to be assisted with a loan from the agency as
16 shall be fixed from time to time by the agency in its regulations
17 which shall take into account the prevailing rates of return available
18 for similar investments and the risks associated with the
19 development of the project, together with factors designed to
20 promote the objectives of providing affordable housing,
21 encouraging investment in urban development areas, maintaining
22 and improving the existing housing stock, and other objectives of
23 this act; but agreements entered into by the predecessors of the
24 agency prior to the effective date of this act shall continue to be
25 subject to any restrictions on rate of return imposed by prior law
26 unless those restrictions are expressly modified pursuant to
27 regulations of the agency. No housing sponsor which is permitted
28 by the provisions of the law under which it is organized or
29 incorporated to earn a return on its investment, nor any of the
30 principals or stockholders of that housing sponsor, shall earn,
31 accept or receive a return on investment greater than the rate of
32 return fixed by the agency in any housing project assisted with a
33 loan from the agency, whether upon the completion of the
34 construction, improvement or rehabilitation of the project, or upon
35 the operation thereof, or upon the sale, assignment or lease of the
36 project to any other person, association or corporation. Any person,
37 association or corporation who violates the provisions of this
38 subsection is guilty of a crime of the fourth degree;

39 (7) No loan shall be executed except a loan made to a
40 corporation or association organized not for profit which has as one
41 of its purposes the development, construction, improvement or
42 rehabilitation of housing projects or for mutual housing unless the
43 housing sponsor agrees (a) to certify upon completion of project
44 construction, improvement or rehabilitation, subject to audit by the
45 agency, either that the actual project cost as defined herein
46 exceeded the amount of the loan proceeds by 10% or more, or the
47 amount by which the loan proceeds exceed 90% of the total project
48 cost, and (b) to pay forthwith to the agency, for application to

1 reduction of the principal of the loan, the amount, if any, of such
2 excess loan proceeds, subject to audit and determination by the
3 agency. No loan shall be made to a corporation or association
4 organized not for profit or for mutual housing unless the
5 corporation or association organized not for profit or for mutual
6 housing agrees to certify the actual project cost upon completion of
7 the project, subject to audit and determination by the agency, and
8 further agrees to pay forthwith to the agency, for application to
9 reduction of the principal of the loan, the amount, if any, by which
10 the proceeds of the loan exceed the certified project cost subject to
11 audit and determination by the agency. Notwithstanding the
12 provisions of this paragraph, the agency may accept, in lieu of any
13 certification of project cost as provided herein, such other
14 assurances of the project cost in any form or manner whatsoever, as
15 will enable the agency to determine with reasonable accuracy the
16 amount of the project cost;

17 (8) No loan shall be made for the construction, improvement or
18 rehabilitation of a housing project for which tax exemption is
19 granted by a municipality unless the tax exemption remains in
20 effect during the entire term of the loan, unless a lesser period of
21 tax exemption is approved by the agency; and

22 (9) The loan shall be subject to an agreement between the
23 agency and the qualified housing sponsor which contains a
24 provision stating the prevailing wage rate, as determined by either
25 the Commissioner of Labor and Industry or the Secretary of the
26 United States Department of Labor in accordance with the
27 provisions of section 42 of this act, which can be paid to the
28 workmen employed in the performance of any contract for the
29 construction or rehabilitation of any housing project, and which
30 stipulates that the qualified housing sponsor, or any builder,
31 contractor or subcontractor thereof, shall pay to such workmen not
32 less than the applicable prevailing wage rate pursuant to that
33 section.

34 b. As a condition of any loan to finance a housing project, the
35 agency shall have the power at all times during the construction,
36 improvement or rehabilitation of a housing project and the
37 operation thereof:

38 (1) To enter upon and inspect without prior notice any project,
39 including all parts thereof, for the purpose of investigating the
40 physical and financial condition thereof, and its construction,
41 improvement, rehabilitation, operation, management and
42 maintenance, and to examine all books and records with respect to
43 capitalization, income and other matters relating thereto and to
44 make such charges as may be required to cover the cost of such
45 inspections and examinations;

46 (2) To order such alterations, changes or repairs as may be
47 necessary to protect the security of its investment in a housing
48 project or the health, safety, and welfare of the occupants thereof;

1 (3) To order any managing agent, project manager or owner of a
2 housing project to do such acts as may be necessary to comply with
3 the provisions of all applicable laws or ordinances or any rule or
4 regulation of the agency or the terms of any agreement concerning
5 the project or to refrain from doing any acts in violation thereof and
6 in this regard the agency shall be a proper party to file a complaint
7 and to prosecute thereon for any violations of law or ordinances as
8 set forth herein;

9 (4) To require the adoption and continuous use of uniform
10 systems of accounts and records for a project and to require all
11 owners or managers of a project to file annual reports containing
12 that information and verified in such manner as the agency shall
13 require, and to file at the times and on the forms as it may prescribe,
14 reports and answers to specific inquiries required by the agency to
15 determine the extent of compliance with any agreement, the terms
16 of the loan, the provisions of this act and any other applicable law;

17 (5) To enforce, by court action if necessary, the terms and
18 provisions of any agreement between the agency and the housing
19 sponsor and the terms of any agreement between the housing
20 sponsor and any municipality granting tax exemption, as to
21 schedules of rental or carrying charges, income limits as applied to
22 tenants or occupants, or any other limitation imposed upon the
23 housing sponsor as to financial structure, construction or operation
24 of the project;

25 (6) Subject to the provisions of paragraph (7) of subsection b. of
26 this section, in the event of a violation by the housing sponsor of
27 the terms of any agreement between the agency and the housing
28 sponsor, or between the municipality granting tax exemption and
29 the housing sponsor, or in the event of a violation by the housing
30 sponsor of this act or of the terms of the loan agreement or of any
31 rules and regulations of the agency duly promulgated pursuant to
32 this act, or in the event that the agency shall determine that any loan
33 or advance from the Housing Development Fund pursuant to section
34 30 of this act is in jeopardy of not being repaid, the agency may,
35 without resort to any judicial process, assume all of the powers and
36 duties of the housing sponsor in the management and operation of
37 the project, including but not limited to the power to receive all
38 revenues and pay all expenses of the project and the power to
39 control all property, including bank accounts and cash, owned by
40 the housing sponsor. The agency may appoint such person or
41 persons whom the agency in its sole discretion deems advisable,
42 including officers or employees of the agency, to perform the
43 functions of the officers or other controlling persons of the housing
44 sponsor. Persons so appointed need not be stockholders or meet
45 other qualifications which may be prescribed by the certificate of
46 incorporation, bylaws or partnership agreement of the housing
47 sponsor. In the absence of fraud or bad faith, persons so appointed
48 shall not be personally liable for debts, obligations or liabilities of

1 the housing sponsor. Persons so appointed shall serve only for a
2 period coexistent with the duration of the violation or until the
3 agency is assured in a manner satisfactory to it that the violation, or
4 violations of a similar nature, will not recur. Persons so appointed
5 shall serve in such capacity without compensation, but shall be
6 entitled to be reimbursed, if and as the certificate of incorporation,
7 bylaws or partnership agreement of the housing sponsor may
8 provide, for all necessary expenses incurred in the discharge of their
9 duties as determined by the agency; and

10 (7) The provisions of this subsection and this act pertaining to
11 the regulation of housing sponsors shall be for purposes of
12 protecting the collateral for any loan or loans; implementing or
13 enforcing any condition, requirement or criterion for loans as
14 provided in this act or other applicable law; and securing the rights
15 and remedies of lenders and bond holders to the extent of the
16 undertakings of the agency. Subject to the foregoing, the agency
17 shall permit, provide for and encourage the right of local housing
18 sponsors to exercise their own initiative and competence in the
19 administration of their assets and the conduct and operation of
20 housing projects and exercise their rights and responsibilities to the
21 fullest extent permitted by law. Therefore, the agency shall
22 exercise its remedies and powers under paragraph (6) of this
23 subsection only with regard to material violations and only after
24 reasonable notice and reasonable opportunity to correct the
25 violation is provided to the housing sponsor in accordance with
26 regulations adopted by the agency.

27 (cf: P.L.1983, c.530, s.7)

28
29 8. Section 8 of P.L.1983, c.350 (C.55:14K-8) is amended to
30 read as follows:

31 8. a. **【**Admission to housing projects constructed, improved or
32 rehabilitated under this act shall be limited to families whose gross
33 aggregate family income at the time of admission does not exceed
34 six times the annual rental or carrying charges, including the value
35 or cost to them of heat, light, water, sewerage, parking facilities and
36 cooking fuel, of the dwellings that may be furnished to such
37 families, or seven times those charges if there are three or more
38 dependents. There may be included in the carrying charges to any
39 family for residence in any mutual housing project constructed,
40 improved or rehabilitated with a loan from the agency an amount
41 equal to 6% of the original cash investment of the family in the
42 mutual housing project and, to the extent authorized by the agency
43 where not included in the carrying charges, the value or cost of
44 repainting the apartment and replacing any fixtures or appliances.
45 Notwithstanding the provisions of this section, no family or
46 individual shall be eligible for admission to any housing project
47 constructed, improved or rehabilitated with a loan from the agency,
48 whose gross aggregate family income exceeds such amount as shall

1 be established from time to time by the agency, by rules or
2 regulations promulgated hereunder; except that with respect to any
3 project financed by an agency loan insured or guaranteed by the
4 United States of America or any agency or instrumentality thereof,
5 the agency may adopt the admission standards for such projects
6 then currently utilized or required by the guarantor or insurer.

7 The provisions of this subsection shall not apply to any housing
8 project that the agency determines is necessary to promote the long
9 term development and viability of a neighborhood and spur its
10 revitalization or is situated in a qualified municipality that is
11 constructed, improved or rehabilitated on or after the date upon
12 which the commissioner determines that the municipality fulfills the
13 definition of a qualified municipality pursuant to section 4 of
14 P.L.2002, c.43 (C.52:27BBB-4).] (Deleted by amendment,
15 P.L. , c.) (pending before the Legislature as this bill).

16 b. The agency shall by rules and regulations provide for the
17 periodic examination of the income of any person or family residing
18 in any housing project constructed, improved or rehabilitated with a
19 loan from the agency. If the gross aggregate family income of a
20 family residing in a housing project increases and the ratio to the
21 current rental or carrying charges of the dwelling unit becomes
22 greater than the ratio prescribed for admission [in subsection a. of
23 this section] but is not more than 25% above the family income so
24 prescribed for admission to the project, the owner or managing
25 agent of the housing project shall permit the family to continue to
26 occupy the unit. The agency or (with the approval of the agency)
27 the housing sponsor of any housing project constructed, improved
28 or rehabilitated with a loan from the agency, may terminate the
29 tenancy or interest of any family residing in the housing project
30 whose gross aggregate family income exceeds by 25% or more the
31 amount prescribed herein and which continues to do so for a period
32 of six months or more; but no tenancy or interest of any such family
33 in any such housing project shall be terminated except upon
34 reasonable notice and opportunity to obtain suitable alternate
35 housing, in accordance with rules and regulations of the agency;
36 and any such family, with the approval of the agency, may be
37 permitted to continue to occupy the unit, subject to payment of a
38 rent or carrying charge surcharge to the housing sponsor in
39 accordance with a schedule of surcharges fixed by the agency. The
40 housing sponsor shall pay the surcharge to the municipality granting
41 tax exemption, but only up to an amount that together with
42 payments made to the municipality in lieu of taxes and for any land
43 taxes equals 25% of the total rents or carrying charges of the
44 housing project for the current and any prior years that the project
45 has been in operation.

46 The provisions of this subsection shall not apply to any housing
47 project situated in a qualified municipality that is constructed,
48 improved or rehabilitated on or after the date upon which the

1 commissioner determines that the municipality fulfills the definition
2 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
3 (C.52:27BBB-4).

4 c. For projects on which the agency has made a loan and
5 financed the loan with the proceeds of bonds issued prior to January
6 1, 1973, any remainder of the surcharge, or the total surcharge if tax
7 exemption has not been granted, shall be paid into the housing
8 finance fund securing the bonds issued to finance the project for the
9 use of the agency; for projects financed on or after January 1, 1973,
10 any remainder of the surcharge, or the total surcharge if tax
11 exemption has not been granted, shall be paid to the agency.

12 d. Any family residing in a mutual housing project required to
13 remove from the project because of excessive income as herein
14 provided shall be discharged from liability on any note, bond or
15 other evidence of indebtedness relating thereto and shall be
16 reimbursed, in accordance with the rules of the agency, for all sums
17 paid by the family to the housing sponsor on account of the
18 purchase of stock or debentures as a condition of occupancy or on
19 account of the acquisition of title for such purpose.

20 The provisions of this subsection shall not apply to any housing
21 project situated in a qualified municipality that is constructed,
22 improved or rehabilitated on or after the date upon which the
23 commissioner determines that the municipality fulfills the definition
24 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
25 (C.52:27BBB-4).

26 e. The agency shall establish admission rules and regulations
27 for any housing project financed in whole or in part by loans
28 authorized hereunder which shall provide priority categories for
29 persons displaced by urban renewal projects, highway programs or
30 other public works, persons living in substandard housing, persons
31 and families who, by reason of family income, family size or
32 disabilities, have special needs, elderly persons and families living
33 under conditions violative of minimum health and safety standards.

34 The provisions of this subsection shall not apply to any housing
35 project situated in a qualified municipality that is constructed,
36 improved or rehabilitated on or after the date upon which the
37 commissioner determines that the municipality fulfills the definition
38 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
39 (C.52:27BBB-4).

40 (cf: P.L.2008, c.127, s.19)

41
42 9. Section 31 of P.L.1983, c.530 (C.55:14K-31) is amended to
43 read as follows:

44 31. a. The agency shall establish and maintain a fund called the
45 "General Fund" which shall consist of all moneys of the agency not
46 required to be deposited in any other fund of the agency, which the
47 agency may deposit therein. To the extent available, after paying
48 all the operating costs of the agency, the moneys remaining in the

1 General Fund may be used for the payment of the principal of and
2 interest on the bonds issued by the agency or for such other
3 corporate purposes of the agency as this act authorizes.

4 b. The agency may establish such additional and further funds
5 as may be necessary and desirable to accomplish any agency
6 purpose or to comply with the provisions of any agreement made by
7 the agency or any resolution approved by the agency. The
8 resolution establishing such a fund shall specify the source of
9 moneys from which it shall be funded and the purposes for which
10 moneys held in the fund shall be disbursed.

11 c. In the event the agency refinances or discharges any bonds
12 which were used to finance an existing project, and the refinancing
13 or discharge reduces the effective rate on the bond payments, the
14 agency shall provide to projects participating in that financing a
15 proportionate share of savings, including the calculation of
16 administrative costs incurred by the agency in carrying out this
17 section. Commencing on the first day of the eleventh calendar year
18 next following the issuance of a mortgage financed by the agency,
19 project sponsors shall be permitted to repay any mortgage at any
20 time without penalty.

21 (cf: P.L.1983, c.530, s.31)

22
23 10. Section 37 of P.L.1983, c.530 (C.55:14K-37) is amended to
24 read as follows:

25 37. a. It is the intent of the Legislature that in the event of any
26 conflict or inconsistency in the provisions of this act and any other
27 acts concerning housing sponsors or any rules and regulations
28 adopted thereunder, to the extent of such conflict or inconsistency,
29 the provisions of this act shall be enforced and the provisions of
30 such other acts and rules and regulations adopted thereunder shall
31 be of no effect.

32 b. The governing body of any municipality in which a housing
33 project financed or to be financed by the agency is or is to be
34 located may by ordinance or resolution, as appropriate, provide that
35 such project shall be exempt from real property taxation, if the
36 housing sponsor enters into an agreement with the municipality for
37 payments to the municipality in lieu of taxes for municipal services.
38 Any such agreement may require the housing sponsor to pay to the
39 municipality an amount up to **【20%】** 10% of the annual **【gross】** net
40 revenue from each housing project situated on such real property
41 for each year of operation thereof following the substantial
42 completion thereof. For the purpose of this section, "annual **【gross】**
43 net revenue" means the total annual gross rental or carrying charge
44 and other income of a housing sponsor **【from】** minus utility
45 expenses of and federal subsidy for a housing project. If any such
46 agreement is entered into from the date of recording the mortgage
47 on the project to the date of substantial completion of the project,
48 the annual amount payable to the municipality as taxes or as

1 payments in lieu of taxes in respect of the project site shall not be in
2 excess of the amount of taxes on the project site for the year
3 preceding the recording of the mortgage. Any agreement between
4 any housing sponsor and a municipality pursuant to this subsection
5 shall be submitted to the agency for review in order to avoid
6 duplicating, overlapping or inconsistent regulations or provisions.
7 Any exemption from taxation pursuant to the provisions of this
8 section shall not extend beyond the date on which the eligible loan
9 made by the agency on the project is paid in full.
10 (cf: P.L.1983, c.530, s.37)

11

12 11. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill revises certain aspects of the Home Mortgage Finance
18 Agency laws to encourage participation by qualified minority and
19 women owned development firms. The bill directs the agency to
20 establish incentives and priorities to promote participation by
21 minority and women owned businesses, so that a realistic
22 opportunity exists for these firms to successfully participate in
23 providing low and moderate-income housing options to residents of
24 the State. The bill specifically encourages the development of
25 multi-family rental housing and home ownership opportunities for
26 low and moderate income families participating developing firms to
27 satisfy existing bonding requirements through a valid letter of credit
28 and/or traditional performance bonding.

29 The current financing programs that foster the production of
30 affordable housing require changes to provide for the effective
31 implementation of these programs by the New Jersey Housing and
32 Mortgage Finance Agency. Current law does not provide the
33 necessary authority and flexibility to meet the State's housing
34 priorities and address the demands for financing to allow for the
35 effective development of affordable housing, especially by minority
36 and women owned businesses.