

# ASSEMBLY, No. 1959

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman SERENA DIMASO**

**District 13 (Monmouth)**

**Assemblyman EDWARD H. THOMSON**

**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

Establishes program providing grants for Superstorm Sandy recovery in exchange for reduction of affordable housing obligation.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning Superstorm Sandy reconstruction and  
2 affordable housing obligations and supplementing Title 52 of the  
3 Revised Statutes.

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

7  
8 1. a. For the purposes of P.L. , c. (C. ) (pending before the  
9 Legislature as this bill):

10 “Eligible property owner” means a property owner who was  
11 deemed eligible by the Department Community Affairs to receive  
12 federal funds dedicated through the Low-to-Moderate Income  
13 Homeowners Rebuilding Program as a result of Superstorm Sandy.

14 b. There is established a special, dedicated, and non-lapsing  
15 account in the General Fund called the Superstorm Sandy  
16 Neighborhood Rebuilding Account. Funds deposited in the account  
17 shall be used exclusively for the purposes established in  
18 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
19 shall be used for no other purpose.

20 c. An eligible property owner may apply to the Department of  
21 Community Affairs for a grant of an amount necessary to complete  
22 the rehabilitation of a property damaged by Superstorm Sandy, up  
23 to \$50,000, to be paid from the Superstorm Sandy Neighborhood  
24 Rebuilding Account.

25 d. In exchange for the receipt of grant funds from the  
26 Superstorm Sandy Neighborhood Rebuilding Account established in  
27 P.L. , c. (C. ) (pending before the Legislature as this bill), an  
28 eligible property owner shall record the following deed restriction  
29 with the county recording officer:

30 DEED RESTRICTION

31 In consideration of the grant received from the Sandy  
32 Neighborhood Rebuilding Account, the Owner hereby agrees to  
33 abide by the covenants, terms, and conditions set forth in this Deed  
34 restriction, with respect to the land and improvements located at  
35 block \_\_\_\_, lot \_\_\_\_ in the municipality of \_\_\_\_\_, County of  
36 \_\_\_\_\_, State of New Jersey, and known by street address  
37 \_\_\_\_\_.

38 The covenants contained herein shall run with the land as  
39 follows:

40 (1) For a period of 15 years from the date upon which funds are  
41 awarded to the Owner from the Superstorm Sandy Neighborhood  
42 Rebuilding Account pursuant to P.L. , c. (C. ) (pending before  
43 the Legislature as this bill), the following restrictions on the  
44 property shall be in effect:

45 Article 1. Sales price restriction

46 A. The sale of the property subject to this deed restriction is  
47 subject to regulations governing controls on affordability, which are  
48 found in New Jersey Administrative Code at Title 5, chapter 93,

1 subchapter 9 (N.J.A.C. 5:93-9.1 et seq.), and chapter 80,  
2 subchapter 26 (N.J.A.C. 5:80-26.1 et seq.).

3 B. The property subject to this deed restriction may be conveyed  
4 only to one or more members of a household who have been  
5 approved in advance and in writing by the Commissioner of  
6 Community affairs, or his designee.

7 C. No sale of the property subject to this deed restriction shall  
8 be lawful, unless approved in advance and in writing by the  
9 Commissioner of Community affairs, or his designee, and no sale  
10 shall be for a consideration greater than the maximum permitted  
11 price ("Maximum Resale Price," or "MRP") as determined by the  
12 Commissioner of Community Affairs, or his designee.

13 D. No refinancing, equity loan, secured letter of credit, or any  
14 other mortgage obligation or other debt (collectively, "Debt")  
15 secured by the property subject to this deed restriction, may be  
16 incurred except as approved in advance and in writing by the  
17 Commissioner of Community Affairs. At no time shall the  
18 Commissioner of Community Affairs approve any such Debt, if  
19 incurring the Debt would make the total of all such Debt exceed  
20 Ninety-Five Percent (95%) of the applicable MRP.

21 E The Owner of the property subject to this deed restriction  
22 shall at all times maintain the property subject to this deed  
23 restriction as his or her principal place of residence.

24 F. Except as set forth in Article 2, below, at no time shall the  
25 Owner of the property subject to this deed restriction lease or rent  
26 the property subject to this deed restriction to any person or  
27 persons, except on a short-term hardship basis as approved in  
28 advance and in writing by the Commissioner of Community Affairs.

29 G. No improvements may be made to the property subject to this  
30 deed restriction that would affect its bedroom configuration, and in  
31 any event, no improvement made to the property subject to this  
32 deed restriction will be taken into consideration to increase the  
33 MRP, except for improvements approved in advance and in writing  
34 by the Commissioner of Community Affairs.

35 H. The affordable housing covenants, declarations and  
36 restrictions implemented by this deed restriction and by  
37 incorporation, N.J.A.C. 5:80-26.1 et seq., shall remain in effect  
38 despite the entry and enforcement of any judgment of foreclosure  
39 with respect to the property subject to this deed restriction so long  
40 as the property remains subject to the affordability controls being  
41 implemented by this deed restriction.

42 I. The property subject to this deed restriction is subject to a  
43 fifteen (15) year affordability control period that commenced on the  
44 date upon which funds were awarded to the Owner from the  
45 Superstorm Sandy Neighborhood Rebuilding Account pursuant to  
46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 which is \_\_\_\_\_.

1 Article 2. Rental Price Restriction

2 A. Rental of the property subject to this deed restriction subject  
3 to regulations known as the Uniform Housing Affordability  
4 Controls, which are found in New Jersey Administrative Code at  
5 Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq, the  
6 “Uniform Controls”).

7 B. If the property subject to this deed restriction is to be rented  
8 to an eligible tenant, the property shall be used solely for the  
9 purpose of providing rental dwelling units for low- or moderate-  
10 income households, and no commitment for any such dwelling unit  
11 shall be given or implied, without exception, to any person who has  
12 not been certified for that unit in writing by the Commissioner of  
13 Community Affairs or his designee.

14 C. No improvements may be made to the property subject to this  
15 deed restriction that would affect the bedroom configuration of any  
16 of its dwelling units, and any improvements to the property subject  
17 to this deed restriction must be approved in advance and in writing  
18 by the Commissioner of Community Affairs or his designee.

19 D. The Owner shall notify the Commissioner of Community  
20 Affairs of any foreclosure actions filed with respect to the property  
21 within five (5) business days of service upon Owner.

22 E. The Owner shall notify the Commissioner of Community  
23 Affairs within three (3) business days of the filing of any petition  
24 for protection from creditors or reorganization filed by or on behalf  
25 of the Owner.

26 Article 3. Foreclosure

27 A. This deed restriction shall not be terminated in the event of a  
28 Judgment of Foreclosure on the property subject to this deed  
29 restriction.

30 B. The terms and restrictions of this property subject to this  
31 deed restriction shall be subordinated only to the First Purchase  
32 Money Mortgage lien on the Affordable Housing Property and in no  
33 way shall impair the First Purchase Money Mortgagee’s ability to  
34 exercise the contract remedies available to it in the event of any  
35 default of such mortgage as such remedies are set forth in the First  
36 Purchase Money Mortgage documents for the property subject to  
37 this deed restriction.

38 C. An Execution of Foreclosure sale by any other class of  
39 creditor or mortgagee shall not result in a release of the property  
40 subject to this deed restriction from the provisions and restrictions  
41 of this deed restriction.

42 Article 4. Remedies for Breach of Affordable Housing Covenants

43 A. A breach of the covenants described herein will cause  
44 irreparable harm to the public, in light of the public policies set  
45 forth in the New Jersey Fair Housing Act, the Uniform Housing  
46 Affordability Control rules found at N.J.A.C. 5:80-26, and the  
47 obligation for the provision of low and moderate-income housing.

1 B. In the event of a threatened breach of any of the covenants  
2 contained herein by the Owner, or any successor in interest of the  
3 property subject to this deed restriction, the Commissioner of  
4 Community Affairs shall have all remedies provided at law or  
5 equity, including the right to seek injunctive relief or specific  
6 performance.

7 (2) If the Owner retains ownership of the property subject to this  
8 deed restriction for longer than 15 years from the date upon which  
9 funds were awarded to the Owner from the Superstorm Sandy  
10 Neighborhood Rebuilding Account, the Owner shall, upon the first  
11 subsequent transfer of the ownership of the property, pay an amount  
12 equal to the amount received from Superstorm Sandy Neighborhood  
13 Rebuilding Account to the Department of Community Affairs for  
14 deposit into the New Jersey Affordable Housing Trust Fund  
15 established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-  
16 320).

17 e. The grant of funds to an eligible property owner from the  
18 Superstorm Sandy Neighborhood Rebuilding Account in exchange  
19 for the recording of a deed restriction shall constitute a binding  
20 contract between the eligible property owner and the Department of  
21 Community Affairs.

22  
23 2. a. Notwithstanding any law, rule, or regulation to the  
24 contrary, a municipality located within a county which was  
25 impacted by Superstorm Sandy may propose the transfer of up to  
26 20% of its fair share affordable housing obligation by depositing  
27 funds into the Superstorm Sandy Neighborhood Rebuilding  
28 Account.

29 b. A municipality which is a defendant in an exclusionary  
30 zoning suit and which has not obtained substantive certification  
31 pursuant to P.L.1985, c.222 (C.52:27D:3011 et al.) may request the  
32 court to be permitted to fulfill a portion of its fair share affordable  
33 housing obligation by donating funds to the Superstorm Sandy  
34 Neighborhood Rebuilding Account, established pursuant to section  
35 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).  
36 If the court believes the request to be reasonable, and determines  
37 that a deposit into the Superstorm Sandy Neighborhood Rebuilding  
38 Account would result in an increase in deed-restricted affordable  
39 units for a period of at least 15 years, the court shall request the  
40 Commissioner of Community Affairs to review the proposed  
41 agreement and to determine a match with an eligible property  
42 owner, as defined in subsection a. of section 1 of P.L. , c. (C. )  
43 (pending before the Legislature as this bill). The court may  
44 establish time limitations for the commissioner's review, and shall  
45 retain jurisdiction over the matter during the period of review. If  
46 the court determines that the agreement provides a realistic  
47 opportunity for the provision of low and moderate income housing,  
48 it shall provide the sending municipality a credit against its fair

1 share affordable housing obligation in the manner provided in this  
2 section.

3 c. The schedule for fulfilling a portion of a municipality's fair  
4 share affordable housing obligation, up to 20%, in exchange for a  
5 deposit into the Superstorm Sandy Neighborhood Rebuilding  
6 Account, shall be at the rate of two units for every \$50,000  
7 deposited; provided, however, that the minimum donation  
8 increment shall be \$50,000.

9  
10 3. The Commissioner of Community Affairs, pursuant to the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
12 seq.), shall adopt rules and regulations necessary to effectuate the  
13 provisions of this act, which may include revisions to the deed  
14 restriction language established in section 1 of P.L. , c. (C. )  
15 (pending before the Legislature as this bill).

16  
17 4. This act shall take effect immediately.

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#### STATEMENT

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22 This bill establishes the Superstorm Sandy Neighborhood  
23 Rebuilding Account. Under the bill, a municipality in one of the  
24 counties impacted by Superstorm Sandy may deposit funds into the  
25 account in exchange for a reduction in its affordable housing  
26 obligation at the rate of two units for every \$50,000 deposited. A  
27 property owner who was deemed eligible by the Department  
28 Community Affairs (DCA) to receive federal funds dedicated for  
29 Low and Moderate Income homeowners through the federal  
30 Rehabilitation, Reconstruction, Elevation and Mitigation Program  
31 would be permitted to apply to DCA for a grant of up to \$50,000.

32 In exchange for the receipt of grant funds from the Superstorm  
33 Sandy Neighborhood Rebuilding Account, an eligible property  
34 owner would be required to record a 15-year deed restriction to  
35 establish affordability controls on the property. During the 15-year  
36 period, the rental price and sales price of the property would be  
37 restricted in accordance with existing affordability control  
38 regulations. If the owner does not sell property until after the  
39 conclusion of the 15-year period, the owner would be required to  
40 pay the amount originally granted from the "Superstorm Sandy  
41 Neighborhood Rebuilding Account" into the New Jersey Affordable  
42 Housing Trust Fund to be used for the construction and  
43 rehabilitation of affordable units throughout the State.