

P.L. 2020, CHAPTER 51, *approved July 1, 2020*
Senate, No. 2527 (*First Reprint*)

1 **AN ACT** concerning online marketing of affordable housing units
2 and supplementing P.L.1985, c.222 (C.52:27D-301 et al.).
3

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

7 1. The Legislature finds and declares that:

8 a. In recent years, housing costs in New Jersey have increased
9 dramatically at rates that have outpaced rises in income, making the
10 State the sixth most expensive in the United States and growing the
11 number of renters and homeowners that are housing cost-burdened,
12 spending a disproportionate percentage of their income on high rent
13 or mortgage payments;

14 b. To address the Statewide shortage in affordable housing,
15 tens of thousands of affordable housing units have been and will be
16 made available to very low-, low-, and moderate-income families,
17 the elderly, and persons with disabilities in New Jersey through a
18 wide variety of federal and State programs, including those
19 implemented under the "Fair Housing Act," P.L.1985, c.222
20 (C.52:27D-301 et al.);

21 c. Current rules designed to implement the "Fair Housing Act"
22 require that the developer or administrative agent of the affordable
23 units affirmatively market their units through newspaper and radio
24 or television, but digital marketing is not explicitly required;

25 d. Due to the fragmentation of information consumption and
26 the advent of housing search websites, an increasing number of
27 residents are conducting their housing searches online;

28 e. The manner in which residents are searching for affordable
29 housing and the existing rules for affirmatively marketing
30 affordable units are no longer compatible due to changes in
31 technology and, therefore, necessitate an update to facilitate more
32 effective, streamlined, and fair searches of affordable housing for
33 very low-, low-, and moderate-income residents of New Jersey in
34 the furtherance of the "Fair Housing Act";

35 f. An infrastructure for hosting the increased postings already
36 exists as the New Jersey Housing Resource Center, an affordable
37 housing listing portal overseen by the New Jersey Housing and
38 Mortgage Finance Agency; and

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 15, 2020.

1 g. It is, therefore, in the interest of the residents of the State,
2 and necessary for ensuring that the State's municipalities are
3 compliant with their constitutional responsibility to affirmatively
4 afford a reasonable opportunity for low- and moderate-income
5 families to reside in their boundaries, that the agency, developers,
6 and municipalities comply with P.L. , c. (C.) (pending
7 before the Legislature as this bill).

8
9 2. As used in P.L. , c. (C.) (pending before the
10 Legislature as this bill):

11 "Affirmative marketing plan" means a regional marketing
12 strategy designed to attract buyers, renters, or both to housing units
13 which are being marketed by a developer or sponsor of affordable
14 housing. An affirmative marketing plan shall target eligible persons
15 who are least likely to apply for affordable units in the region.

16 "Agency" means the Housing and Mortgage Finance Agency
17 established pursuant to section 4 of the "New Jersey Housing and
18 Mortgage Finance Agency Law of 1983," P.L.1983, c.530
19 (C.55:14K-4).

20 "Development" means any residential development in which
21 housing for very low-, low-, or moderate-income households is
22 required, including developments receiving credit in a municipal
23 housing element and fair share plan or otherwise approved by the
24 council or court, or in which such housing is required via land use
25 approvals from any municipal land use board.

26
27 3. The agency shall administer the Housing Resource Center,
28 or a designated successor, as an online portal for income-restricted
29 housing listings and searches.

30
31 4. a. (1) The owner, developer, property manager, or other
32 administrative entity required to implement the affirmative
33 marketing plan of a newly constructed development where
34 affordable housing units will be leased or sold for the first time
35 shall be required to post a listing on the Housing Resource Center
36 of the available affordable housing units, on or before the earlier of:
37 (1) at least 60 days prior to conducting a lottery of the applicants; or
38 (2) within one day following when the owner, developer, property
39 manager, or other administrative entity provides any information
40 regarding how to apply for units to prospective applicants or solicits
41 any applications from potential applicants through any other means.
42 The posting shall include, at a minimum, the date that the
43 affordable housing units are expected to be completed, the date of
44 the lottery, the number of affordable housing units, an accounting of
45 how many of the affordable housing units will be available to very
46 low-, low-, and moderate-income households, and each bedroom
47 size that will be available.

1 (2) A lottery shall not take place less than 60 days following
2 posting on the Housing Resource Center. Any posting on the
3 Housing Resource Center shall provide a link to an online fillable
4 form or Portable Document Format (PDF) form of the application
5 for the affordable housing units on the website of the owner,
6 developer, property manager, or other administrative entity and
7 information on how to request a paper copy of the application from
8 the owner, developer, property manager, or other administrative
9 entity.

10 b. The owner, developer, property manager, or other
11 administrative entity required to implement the affirmative
12 marketing plan of an existing development where one or more
13 affordable housing units becomes available shall post vacancies and
14 waitlist openings for any such unit on the Housing Resource Center
15 and the requirements set forth in the affirmative marketing plan of
16 the municipality where the development is located. The posting
17 shall be made within one day of accepting applications and shall
18 include, at a minimum, the expected date that the affordable
19 housing units will become available, the number of affordable
20 housing units, an accounting of how many of the affordable housing
21 units will be available to very low-, low-, and moderate-income
22 households, and each bedroom size that will be available.

23 c. (1) From time to time the owner, developer, property
24 manager, or administrative entity required to implement the
25 affirmative marketing plan of an existing development may elect to
26 conduct a new lottery to generate or expand the pool of applicants,
27 provided that applicants already on a waitlist for a particular unit
28 type are not displaced from their place in the queue in the lottery. In
29 such cases, the owner, developer, property manager, or other
30 administrative entity shall be required to post a listing on the
31 Housing Resource Center website at least 60 days prior to
32 conducting the lottery of the applicants, or within one day of when
33 the owner, developer, property manager, or other administrative
34 entity provides any information regarding how to apply for the
35 lottery to prospective applicants or solicits any applications from
36 potential applicants through any other means, whichever is earlier.

37 (2) A lottery shall not take place less than 60 days following
38 posting on the Housing Resource Center. Any posting on the
39 Housing Resource Center shall provide a link to an online fillable
40 form or Portable Document Format (PDF) form of the application
41 for the affordable housing units on the website of the owner,
42 developer, property manager, or other administrative entity and
43 information on how to request a paper copy of the application from
44 the owner, developer, property manager, or other administrative
45 entity.

1 d. The owner, developer, property manager, or other
2 administrative entity shall submit evidence of the listing of their
3 available units and waitlist openings, as required by this section, to
4 the administrative agent for the municipality.

5 e. (1) The administrative agent for the municipality and the
6 municipal housing liaison shall ensure compliance with the
7 provisions of this section.

8 (2) The administrative agent for the municipality and the
9 municipal housing liaison shall have the authority to levy fines
10 against the owner of the development for instances of
11 noncompliance, following written notice to the owner. The fine for
12 the first offense of noncompliance shall be \$5,000, the fine for the
13 second offense of noncompliance shall be \$10,000, and the fine for
14 each subsequent offense of noncompliance shall be \$15,000.

15 (3) The Executive Director of the agency may adjust the fine
16 schedule, but shall not adjust the fine schedule until at least 60
17 months after the effective date of P.L. , c. (C.) (pending before
18 the Legislature as this bill).

19 (4) All revenue generated from the fines levied pursuant to this
20 section shall be deposited into the municipality's affordable housing
21 trust fund.

22 (5) A fine shall not be issued pursuant to this subsection unless
23 the administrative agent for the municipality or the municipal
24 housing liaison first provides the owner with written notice no less
25 than two months prior to the date the fine is levied. A fine shall
26 only be issued if the offense has not been cured within that two-
27 month timeframe. Issuance of a written notice or a fine shall not
28 provide exemption to the requirement of conducting a lottery no
29 less than 60 days following posting on the Housing Resource
30 Center.

31 (6) The administrative agent and the municipal housing liaison
32 shall have the authority to require the owner, developer, property
33 manager, or administrative entity to conduct a new lottery if the
34 provisions of this section are not implemented properly.

35 f. If a municipality fails to comply with the provisions of this
36 section, then the municipality shall be considered non-compliant
37 with the affirmative marketing plan requirements, except in cases in
38 which the municipality takes appropriate corrective action pursuant
39 to this section that such corrective action shall be construed as
40 remaining in compliance.

41 ¹g. With respect to the affirmative advertising required through
42 newspaper and radio or television, or other affirmative marketing
43 provisions currently required, such advertising shall not be
44 eliminated under the provisions of P.L. , c. (C.) (pending
45 before the Legislature as this bill), and shall continue as required,

1 including the provisions of the Uniform Housing Affordability
2 Controls promulgated by the New Jersey Housing and Mortgage
3 Finance Agency.¹
4

5 5. This act shall take effect on the first day of the fourth month
6 next following the date of enactment.
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10
11 Concerns online marketing of affordable housing units.