

ASSEMBLY, No. 1087

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen CORODEMUS and WOLFE

1 AN ACT concerning certain structure elevation loans and amending  
2 and supplementing P.L.1983, c.530.

3

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

6

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

9

3. As used in this act:

10 a. "Agency" means the New Jersey Housing and Mortgage Finance  
11 Agency as consolidated by section 4 of this act, or, if that agency shall  
12 be abolished by law, the person, board, body or commission  
13 succeeding to the powers and duties thereof or to whom its powers  
14 and duties shall be given by law.

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

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

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 institution of higher education approved by the Department of Higher  
2 Education; and (7) any facility or living arrangement operated by, or  
3 under contract with, any State department or agency.

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

7 d. "Continuing-care retirement community" means any work or  
8 undertaking, whether new construction, improvement or rehabilitation,  
9 which may be financed in part or in whole by the agency and which is  
10 designed to complement fully independent residential units with social  
11 and health care services (usually including nursing and medical  
12 services) for retirement families and which is intended to provide  
13 continuing care for the term of a contract in return for an entrance fee  
14 or periodic payments, or both, and which may include such  
15 appurtenances and facilities as the agency deems to be necessary,  
16 convenient or desirable.

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

41 f. "Family" means two or more persons who live or expect to live  
42 together as a single household in the same dwelling unit; but any  
43 individual who (1) has attained retirement age as defined in section  
44 216a of the federal Social Security Act, or (2) is under a disability as  
45 defined in section 223 of that act, or (3) such other individuals as the  
46 agency by rule or regulation shall include, shall be considered as a

1 family for the purpose of this act; and the surviving member of a family  
2 whose other members died during occupancy of a housing project shall  
3 be considered as a family for the purposes of permitting continued  
4 occupancy of the dwelling unit occupied by such family.

5 g. "Gross aggregate family income" means the total annual income  
6 of all members of a family, from whatever source derived, including  
7 but not limited to, pension, annuity, retirement and social security  
8 benefits; except that there may be excluded from income (1) such  
9 reasonable allowances for dependents, (2) such reasonable allowances  
10 for medical expenses, (3) all or any proportionate part of the earnings  
11 of gainfully employed minors, or (4) such income as is not received  
12 regularly, as the agency by rule or regulation may determine.

13 h. "Housing project" or "project" means any work or undertaking,  
14 other than a continuing-care retirement community, whether new  
15 construction or rehabilitation, which is designed for the primary  
16 purpose of providing rental housing of more than 25 dwelling units.

17 i. "Housing sponsor" means any person, partnership, corporation  
18 or association to which the agency has made or proposes to make a  
19 loan, either directly or through an institutional lender, for a housing  
20 project.

21 j. "Institutional lender" means any bank or trust company, savings  
22 bank, national banking association, savings and loan association, or  
23 building and loan association maintaining an office in the State, or any  
24 insurance company or any mortgage banking firm or mortgage banking  
25 corporation authorized to transact business in the State.

26 k. "Life safety improvement" means any addition, modification or  
27 repair to a boarding house which is necessary to improve the life safety  
28 of the residents of the boarding house, as certified by the Department  
29 of Community Affairs.

30 l. "Life safety improvement loan" means an eligible loan the  
31 proceeds of which are to be used to finance, in whole or in part, the  
32 construction, acquisition or rendering of life safety improvements at  
33 or to boarding houses.

34 m. "Loan originator" means any bank or trust company, savings  
35 bank, national banking association, savings and loan association, or  
36 building and loan association maintaining an office in the State, or any  
37 insurance company or any mortgage banking firm or mortgage banking  
38 corporation authorized to transact business in the State, or any agency  
39 or instrumentality of the United States or the State or a political  
40 subdivision of the State, which is authorized to make eligible loans.

41 n. "Municipality" means any city of any class or any town,  
42 township, village or borough.

43 o. "Mutual housing" means a housing project operated or to be  
44 operated upon completion of construction, improvement or  
45 rehabilitation exclusively for the benefit of the families who are  
46 entitled to occupancy by reason of ownership of stock in the housing

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

6 p. "Persons and families of low and moderate income" mean  
7 persons and families, irrespective of race, creed, national origin or sex,  
8 determined by the agency to require assistance on account of personal  
9 or family income being not sufficient to afford adequate housing. In  
10 making such determination the agency shall take into account the  
11 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 and  
14 condition of housing facilities available and (4) the eligibility of such  
15 persons and families to compete successfully in the normal housing  
16 market and to pay the amounts at which private enterprise is providing  
17 sanitary, decent and safe housing. In the case of projects with respect  
18 to which income limits have been established by any agency of the  
19 federal government having jurisdiction thereover for the purpose of  
20 defining eligibility of low and moderate income families, the agency  
21 may determine that the limits so established shall govern. In all other  
22 cases income limits for the purpose of defining low or moderate  
23 income persons shall be established by the agency in its rules and  
24 regulations.

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

1 or rehabilitation.

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

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

19 s. "Structure elevation improvement" means any addition,  
20 modification or repair to a single-family residence which is designed  
21 to raise the floor elevation a minimum of base or 100 year flood  
22 elevation for the purpose of protecting the structure from flood waters  
23 in areas of special flood hazard as determined by the Federal  
24 Emergency Management Agency.

25 t. "Structure elevation improvement loan" means a loan used to  
26 finance, in whole or in part, the construction, acquisition or rendering  
27 of structure elevation improvements.

28 (cf: P.L.1983, c.530, s.3)

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30 2. (New section) a. In order to curtail the ravages of flood  
31 damage to residential properties, the agency is hereby authorized to  
32 make structure elevation improvement loans.

33 b. The agency may accept applications for structure elevation  
34 improvement loans from owners of single family residences and enter  
35 into loan agreements with qualified owners. In considering loan  
36 applications, the agency shall consider:

37 (1) the degree of need for the structure elevation improvement  
38 with respect to which the application is made. Related factors, such  
39 as past flooding experience, shall give applicants priority for loans;

40 (2) the extent to which the likely benefit to be gained from the loan  
41 exceeds its cost to the applicant; and

42 (3) the applicant's ability to repay the loan or to obtain alternate  
43 financing.

44 c. Structure elevation improvement loans made by the agency shall  
45 be subject to the following terms and conditions:

46 (1) The amount of the loan shall not exceed 100 percent of the cost

1 of the structure elevation improvement to be constructed, acquired or  
2 rendered, as determined by the agency.

3 (2) The interest rate on the loan shall be established by the agency  
4 at the lowest level consistent with the agency's cost of operation and  
5 any debt service necessary to obtain the money used to make the loan.

6 (3) The loan shall be evidenced by a promissory note which shall  
7 contain terms and provisions and be in a form approved by the agency,  
8 and the terms and provisions shall include, but not be limited to,  
9 agency requirements that: (a) the owner remit to the agency the entire  
10 unpaid balance of any structure elevation improvement loan made by  
11 the agency to the owner as of the time when the structure ceases to be  
12 a single family residence; and (b) in the event of any sale which occurs  
13 during the period when the structure elevation improvement loan is  
14 being repaid, the owner shall either remit the unpaid balance of any  
15 such improvement loan made by the agency to the owner or require  
16 the purchaser to assume the loan.

17 (4) As a condition of the loan, the agency shall be authorized  
18 during the construction, acquisition or rendering of a structure  
19 elevation improvement and for a reasonable period thereafter to enter  
20 the residence being improved to inspect the construction and materials  
21 financed by the loan. The agency shall give reasonable prior  
22 notification of any inspection.

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24 3. (New section) The agency is authorized to promulgate rules and  
25 regulations necessary to effectuate the provisions of this act in  
26 accordance with the "Administrative Procedure Act," P.L.1968, c.410  
27 (C.52:14B-1 et seq.) including the establishment of conditions,  
28 requirements or criteria for loans as provided in this act.

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30 4. This act shall take effect on the first day of the seventh month  
31 after enactment.

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#### STATEMENT

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36 This bill would establish a low-interest loan program within the  
37 New Jersey Housing and Mortgage Finance Agency to make loans  
38 available for raising the elevations of single-family homes. The  
39 program is designed to help homeowners avoid future flood damage.

40 The loans would be available to pay for the cost of raising single  
41 family residences up to "base" or 100-year flood elevation in areas of  
42 special flood hazard as determined by the Federal Emergency  
43 Management Agency. This means that elevations must be geared to  
44 a flood having a one percent chance of being equalled or exceeded in  
45 any given year.

46 Elevation retrofitting is a proven method of flood damage

1 prevention and is normally accomplished by raising the house on an  
2 elevated support structure to place it above future flood waters. The  
3 exact method can include a number of possibilities that depend on  
4 local conditions such as expected flood and wind forces, building type  
5 and size, and soil bearing capacity. Elevation may be considered for  
6 all types of homes, including structures built slab-on-grade or over  
7 crawlways and basements.

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12 \_\_\_\_\_  
13 Creates low interest loan program for elevating single family homes in  
special flood hazard areas.