

P.L. 1997, CHAPTER 31, *approved March 7, 1997*

Assembly, No. 1603

1 **AN ACT** concerning life safety improvements in boarding houses and
2 amending P.L.1983, c.530.

3

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

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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 P.L.1983, c.530 (C.55:14K-4),
12 or, if that agency shall be abolished by law, the person, board, body or
13 commission succeeding to the powers and duties thereof or to whom
14 its powers 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
33 institution of higher education approved by the Department of Higher
34 Education; and (7) any facility or living arrangement operated by, or

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 under contract with, any State department or agency.

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

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

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

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

1 be considered as a family for the purposes of permitting continued
2 occupancy of the dwelling unit occupied by such family.

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

11 h. "Housing project" or "project" means any work or undertaking,
12 other than a continuing-care community, whether new construction,
13 improvement, rehabilitation, or acquisition of existing buildings or
14 units which is designed for the primary purpose of providing
15 multi-family rental housing or acquisition of sites for future
16 multi-family rental housing.

17 i. "Housing sponsor" means any person, partnership, corporation
18 or association, whether organized as for profit or not for profit, to
19 which the agency has made or proposes to make a loan, either directly
20 or through an institutional lender, for a housing 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, including, but not limited to, the correction of
30 a violation of the " State Uniform Construction Code Act," P.L.1975,
31 c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act
32 of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire
33 Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the
34 administrative regulations promulgated in accordance with these acts.

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

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

46 n. "Municipality" means any city of any class or any town,

1 township, village or borough.

2 o. "Mutual housing" means a housing project operated or to be
3 operated upon completion of construction, improvement or
4 rehabilitation exclusively for the benefit of the families who are
5 entitled to occupancy by reason of ownership of stock in the housing
6 sponsor, or by reason of co-ownership of premises in a horizontal
7 property regime pursuant to P.L.1963, c.168; but the agency may
8 adopt rules and regulations permitting a reasonable percentage of
9 space in such project to be rented for residential or for commercial
10 use.

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

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

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

1 the project and (12) the cost of such other items, including tenant
2 relocation, as the agency shall determine to be reasonable and
3 necessary for the development of the project, less any and all net rents
4 and other net revenues received from the operation of the real and
5 personal property on the project site during construction, improvement
6 or rehabilitation.

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

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

24 (cf: P.L.1995, c.359, s.9)

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26 2. This act shall take effect immediately.

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STATEMENT

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31 The purpose of this bill is to clarify that the New Jersey Housing
32 and Mortgage Finance Agency may make life safety improvement
33 loans to boarding houses to remedy construction and fire safety code
34 violations, or to remedy a violation of regulations issued pursuant to
35 the "Rooming and Boarding House Act of 1979," P.L.1979, c. 496.
36 Currently, this loan making authority is being interpreted as being
37 limited to making loans to remedy only fire safety code violations.

38 The current interpretation ignores the equally urgent need of
39 boarding house operators to have low cost financing to remedy
40 construction code violations and and violations of rooming and
41 boarding house regulations, as well as fire safety code violations, to
42 ensure that their structures are safe for their residents. The current
43 interpretation also ignores the reality that quite often remedying a fire
44 safety code violation is conditioned upon concurrently remedying a
45 construction code violation. The operators find that often, without
46 financial assistance to remedy the construction code violation or the

1 rooming and boarding house regulation violation, the fire safety code
2 violation cannot be remedied. Substantial fines are thus incurred,
3 forcing the operator to close the facility, a result not desired for the
4 operator or the vulnerable residents that the facility serves. The
5 innovative approach adopted by this bill will help to alleviate this
6 problem.

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11 Clarifies scope of life safety improvement loans made to boarding
12 houses by HMFA.