

## CHAPTER 6

AN ACT concerning affordable housing occupancy preferences for veterans and amending P.L.1985, c.222.

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

1. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to read as follows:

C.52:27D-311 Provision of fair share by municipality.

11. a. In adopting its housing element, the municipality may provide for its fair share of low and moderate income housing by means of any technique or combination of techniques which provide a realistic opportunity for the provision of the fair share. The housing element shall contain an analysis demonstrating that it will provide such a realistic opportunity, and the municipality shall establish that its land use and other relevant ordinances have been revised to incorporate the provisions for low and moderate income housing. In preparing the housing element, the municipality shall consider the following techniques for providing low and moderate income housing within the municipality, as well as such other techniques as may be published by the council or proposed by the municipality:

(1) Rezoning for densities necessary to assure the economic viability of any inclusionary developments, either through mandatory set-asides or density bonuses, as may be necessary to meet all or part of the municipality's fair share in accordance with the regulations of the council and the provisions of subsection h. of this section;

(2) Determination of the total residential zoning necessary to assure that the municipality's fair share is achieved;

(3) Determination of measures that the municipality will take to assure that low and moderate income units remain affordable to low and moderate income households for an appropriate period of not less than six years;

(4) A plan for infrastructure expansion and rehabilitation if necessary to assure the achievement of the municipality's fair share of low and moderate income housing;

(5) Donation or use of municipally owned land or land condemned by the municipality for purposes of providing low and moderate income housing;

(6) Tax abatements for purposes of providing low and moderate income housing;

(7) Utilization of funds obtained from any State or federal subsidy toward the construction of low and moderate income housing;

(8) Utilization of municipally generated funds toward the construction of low and moderate income housing; and

(9) The purchase of privately owned real property used for residential purposes at the value of all liens secured by the property, excluding any tax liens, notwithstanding that the total amount of debt secured by liens exceeds the appraised value of the property, pursuant to regulations promulgated by the Commissioner of Community Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126 (C.52:27D-311.2).

b. The municipality may provide for a phasing schedule for the achievement of its fair share of low and moderate income housing.

c. (Deleted by amendment, P.L.2008, c.46)

d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall require a municipality to raise or expend municipal revenues in order to provide low and moderate income housing.

e. When a municipality's housing element includes the provision of rental housing units in a community residence for the developmentally disabled, as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), which will be affordable to persons of low and moderate

income, and for which adequate measures to retain such affordability pursuant to paragraph (3) of subsection a. of this section are included in the housing element, those housing units shall be fully credited as permitted under the rules of the council towards the fulfillment of the municipality's fair share of low and moderate income housing.

f. It having been determined by the Legislature that the provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is a public purpose, a municipality or municipalities may utilize public monies to make donations, grants or loans of public funds for the rehabilitation of deficient housing units and the provision of new or substantially rehabilitated housing for low and moderate income persons, providing that any private advantage is incidental.

g. A municipality which has received substantive certification from the council, and which has actually effected the construction of the affordable housing units it is obligated to provide, may amend its affordable housing element or zoning ordinances without the approval of the council.

h. Whenever affordable housing units are proposed to be provided through an inclusionary development, a municipality shall provide, through its zoning powers, incentives to the developer, which shall include increased densities and reduced costs, in accordance with the regulations of the council and this subsection.

i. The council, upon the application of a municipality and a developer, may approve reduced affordable housing set-asides or increased densities to ensure the economic feasibility of an inclusionary development.

j. A municipality may enter into an agreement with a developer or residential development owner to provide a preference for affordable housing to low to moderate income veterans who served in time of war or other emergency, as defined in section 1 of P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable units in that particular project. This preference shall be established in the applicant selection process for available affordable units so that applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, and who apply within 90 days of the initial marketing period shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first 90 days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. Following the initial 120-day marketing period, previously qualified applicants and future qualified applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, shall be placed on a special waiting list as well as the general waiting list. The veterans on the special waiting list shall be given preference for affordable units, as the units become available, whenever the percentage of preference-occupied units falls below the agreed upon percentage. Any agreement to provide affordable housing preferences for veterans pursuant to this subsection shall not affect a municipality's ability to receive credit for the unit from the council, or its successor.

2. This act shall take effect immediately.

Approved January 25, 2013.