

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 500**

STATE OF NEW JERSEY

DATED: JUNE 12, 2008

The Assembly State Government Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 500 .

This committee substitute requires accountability of funds being collected for affordable housing purposes and provides guidelines in the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) (the "FHA") for the Council on Affordable Housing ("COAH") to follow in adopting its rules.

The substitute amends the FHA to provide guidelines for COAH in setting minimum developer incentives required in connection with charging those fees, in accordance with New Jersey court decisions. The substitute provides guidance on the manner in which municipal trust funds are to be maintained, and the purposes for which such funds are to be spent. The substitute requires that payments-in-lieu of constructing affordable housing be maintained separately from other municipal development fees authorized to be collected.

The substitute establishes a new Statewide non-residential development fee to be charged by all municipalities upon non-residential construction or improvements, at a rate of two and one-half percent of the equalized assessed value or land and improvements for all new non-residential construction on unimproved lots and at a rate of two and one-half percent of the increase in equalized assessed value for additions to existing structures to be used for non-residential purposes.

The substitute forbids a municipality from charging, in connection with non-residential construction, any other fee, notwithstanding the rules of COAH. Those municipalities that have COAH's authorization to collect *residential* development fees will be permitted to retain the non-residential development fees. Developers of non-residential properties in a municipality that does not have either COAH's or the court's authorization to charge development fees will be required to remit the non-residential development fees to the State Treasurer, to be used for affordable housing purposes under the "Fair Housing Act" and a program created under the substitute to assist urban aid municipalities in creating units of affordable housing, in light of the

bill's elimination of the regional contribution agreement from the Fair Housing Act.

The substitute eliminates the regional contribution agreement as a method to address affordable housing needs under the FHA, but permits those agreements entered into prior to the effective date of the act to be carried out. The substitute also establishes minimum numbers of housing units required to be set aside Statewide for very low income persons under the FHA. The substitute requires redevelopers of redevelopment projects to replace low and moderate income housing units which are subject to affordability controls which are eliminated as a result of such activities with comparable housing, on a one-for-one basis.

The substitute amends the "Fair Housing Act" to expand the types of properties that may be excluded from being designated as vacant land, including covenant-restricted agricultural lands, lands which are restricted from development pursuant to environmental laws, reserved recreational sites and historic sites.

The substitute renames the "Neighborhood Preservation Nonlapsing Revolving Fund" as the "New Jersey Affordable Housing Trust Fund" and requires very specific accounting and reporting by the Department of Community Affairs on the fund's activities.

The substitute creates the "Urban Housing Assistance Fund," which will be funded by an annual \$20 million appropriation from the State portion of the receipts of the Statewide non-residential development fees which are received directly by the State Treasurer. The program will assist urban aid municipalities in the rehabilitation and production of housing.

The substitute requires State agencies, when promulgating rules, to include a housing affordability impact statement and a smart growth development impact statement with the rule publication. These statements will describe how the proposed rule will affect the availability and price of housing, and impact on new construction in planning areas 1 and 2 and designated centers.

The substitute establishes a State Housing Commission that is directed to develop a strategic housing plan for New Jersey, as well as prepare an annual housing performance report to the Governor and the Joint Committee on Housing Affordability. The commission will be comprised of 15 public members, of which 13 will be appointed by the Governor and two by the Legislature. In addition, the commission will include several State department heads as non-voting members. The substitute creates an interdepartmental working group of select department heads to guide the commission in its duties. The commission is to review sources of funding and programs in the State to produce affordable housing, including rental housing, and develop a strategic plan which will coordinate State efforts and consolidate and leverage all available resources for these activities. The substitute creates a new position in the Department of Community Affairs,

known as the Senior Deputy Commissioner for Housing, who will chair the commission and the interdepartmental working group.

The substitute fosters the ability of certain regional planning entities to assist in the implementation of affordable housing plans for the municipalities within their respective jurisdictions. These entities include the New Jersey Meadowlands Commission, the Pinelands Commission, the Fort Monmouth Economic Revitalization Planning Authority, and the Highlands Water Protection and Planning Council.

It is the understanding of the committee that to implement this provision: (1) COAH will promulgate regulations requiring participating municipalities to approve resolutions of participation; (2) regional planning entities will provide recommendations to COAH as to whether the criteria outlined in the substitute bill were met; and (3) COAH will approve the resolutions of participation by municipalities.

It is also the understanding of the committee that, because of the removal of the retroactive limitations on the approvals of regional contribution agreements, the Council on Affordable Housing is now free to review and approve those pending regional contribution agreements before it before the effective date of the bill.

As reported, this committee substitute is identical to the Senate Committee Substitute for Senate Bill No. 1783 (1R) of 2008.