

# New Jersey's New Affordable Housing Legislation

**An Overview Presented by:**  
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**Presented to:**  
Borough of Fanwood



# New Affordable Housing Legislation

- Originally introduced on January 9, 2024
- Passed both houses on March 18, 2024
- Signed by Governor Murphy on March 20, 2024
- Key Purposes:
  - Reforms municipal responsibilities concerning provision of affordable housing;
  - Abolishes Council on Affordable Housing;
  - Establishes and funds Affordable Housing Dispute Resolution Program

[Second Reprint]  
**ASSEMBLY, No. 4**  
**STATE OF NEW JERSEY**  
**221st LEGISLATURE**  
INTRODUCED JANUARY 9, 2024

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and Pou

SYNOPSIS  
Reforms municipal responsibilities concerning provision of affordable housing; abolishes COAH; appropriates \$16 million.

CURRENT VERSION OF TEXT  
As reported by the Senate Budget and Appropriations Committee on March 11, 2024, with amendments.

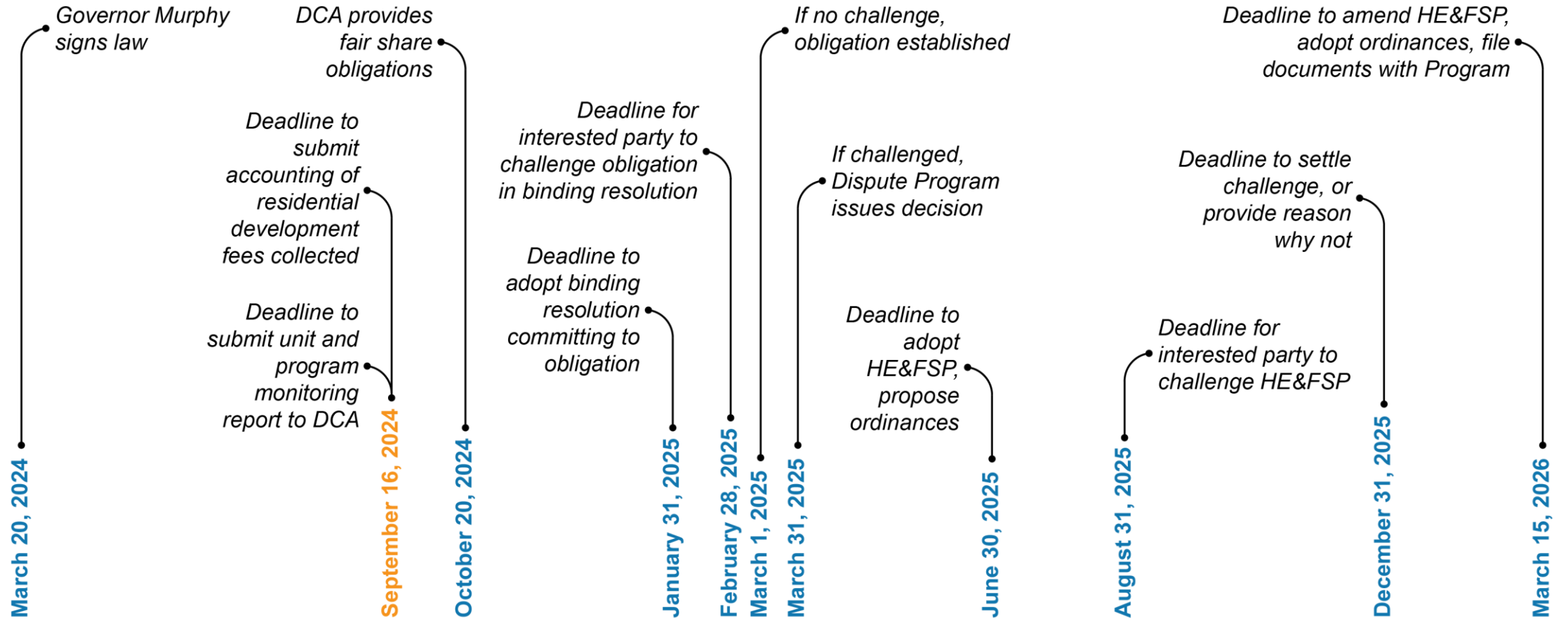
(Sponsorship Updated As Of: 3/18/2024)



# Old vs. New Legislation – Key Differences

Subject	Old Legislation	New Legislation
Senior Cap	25 Percent	30 Percent
Rental Bonus Credits	Available	Not Available
Deadlines	Individualized	Statewide Deadlines
Calculation of Prospective Need (1)	Not Established by Law	Established by Law
Calculation of Prospective Need (2)	No Regard to State + Regional Plans	Considers State + Regional Plans
Dispute Resolution	Relied on Courts	Establishes Specific Program
Fulfillment of Unmet Need	Must Enact General Mechanisms	Plan to Accommodate 25 Percent
Vacant Land Adjustment	Presumptive Density $\geq$ 6 Units/Acre	Based on “Appropriate Standards”

# Key Dates in New Legislation



# Fair Share Obligation

## Present (Rehabilitation) Need

- Total Obligation  
– 24 Units

## Round 1 + 2

- Total Obligation  
– 45 Units
- RDP  
– 8 Units
- Unmet Need  
– 37 Units

## Round 3

- Total Obligation  
– 218 Units
- RDP  
– 36 Units
- Unmet Need  
– 182 Units

## Round 4

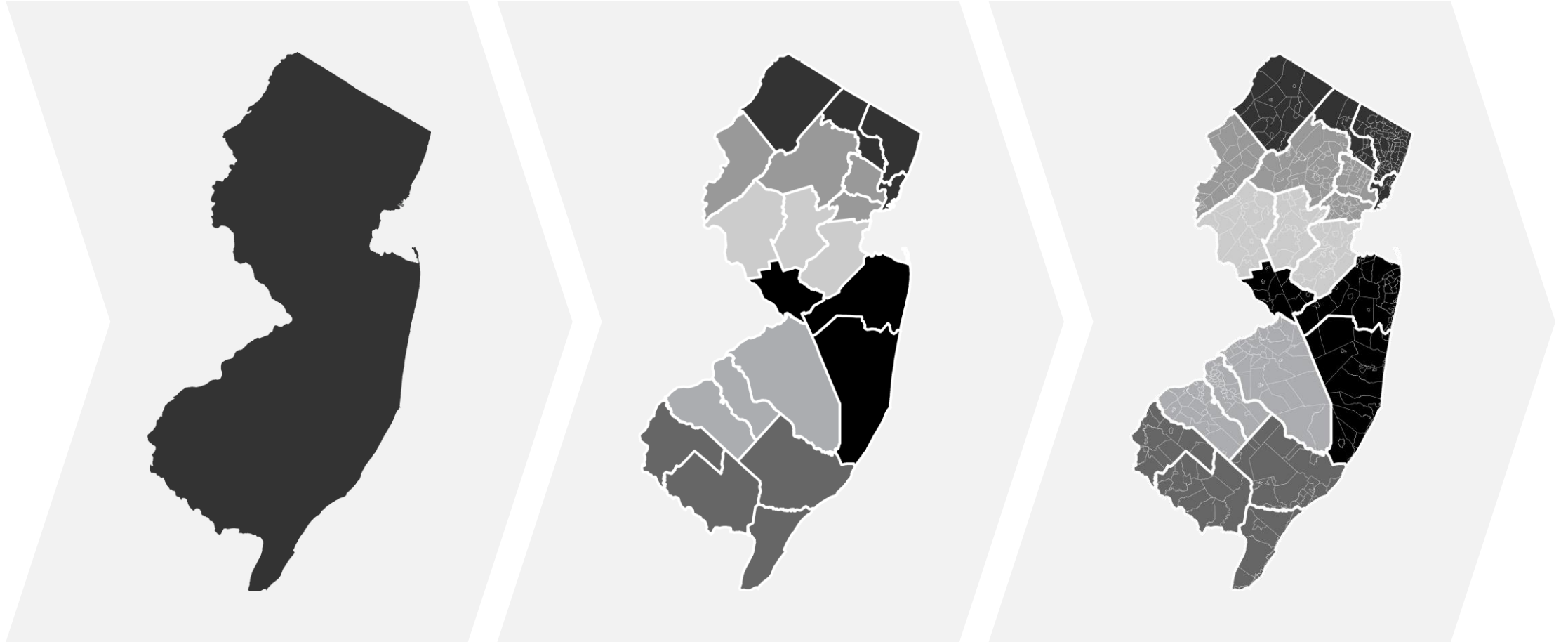
- Total Obligation  
– TBD

# Calculation of Prospective Obligation

## Overview of Process

- State is divided into regions by county
  - Region 1: Bergen, Hudson, Passaic, and Sussex
  - **Region 2: Essex, Morris, Union and Warren**
  - Region 3: Hunterdon, Middlesex and Somerset
  - Region 4: Mercer, Monmouth and Ocean
  - Region 5: Burlington, Camden, and Gloucester
  - Region 6: Atlantic, Cape May, Cumberland, and Salem
- Prospective obligation is first calculated at the region
- Calculated regional prospective need is allocated to the municipality

# Calculation of Prospective Obligation



# Calculation of Prospective Obligation

## Calculation of Regional Need

- Step 1: Change in households reported for region between last two federal censuses
- Step 2: Divide by 2.5





# Calculation of Prospective Obligation

## Regional Need → Municipal Share: 3 Factors

- Factor 1: Equalized Nonresidential Valuation Factor
- Factor 2: Income Capacity Factor
- Factor 3: Land Capacity Factor



# Calculation of Prospective Obligation

## Equalized Nonresidential Valuation Factor

- Step 1: Calculate change in nonresidential property valuation in municipality since beginning of prior round
- Step 2: Calculate change in nonresidential property valuation in region since beginning of prior round
- Step 3: Divide municipal change by regional change



# Calculation of Prospective Obligation

## Income Capacity Factor

- Part 1: Calculate Share of Income Differences
  - Step 1: Calculate difference between median household income and \$100 less than the lowest median household income for all municipalities in the region
  - Step 2: Divide your municipality's difference in Step 1, by the overall result of Step 1
- Part 2: Calculate Share of Income Differences, Weighted by Households
  - Step 1: Calculate difference between median household income and \$100 less than the lowest median household income for all municipalities in the region, weighted by number of households in the municipality
  - Step 2: Divide your municipality's difference in Step 1, by the overall result of Step 1
- Part 3: Average result of Part 1 and Part 2



# Calculation of Prospective Obligation

## Land Capacity Factor

- Part 1: Estimate developable land in municipality
- Part 2: Estimate developable land in region
- Part 3: Apply weighting factors to developable land
  - State Planning Areas: Range from 1.0 to 0.0, based on specific area
- Part 4: Divide weighted municipal estimate by weighted regional estimate

# Calculation of Prospective Obligation

## Land Capacity Factor



# Calculation of Prospective Obligation

## Determination of Municipal Share

- Step 1: Average **Equalized Nonresidential Valuation Factor**, **Income Capacity Factor**, and **Land Capacity Factor**
- Step 2: Multiply by regional need





# Adjustment of Obligation

## Vacant Land Adjustment

- Reduction of obligation based on lack of vacant land
- Permissible exclusions of land from consideration as vacant land:
  - Lands owned by a local government that adopted a resolution authorizing use of land for a purpose other than housing by January 1, 1997
  - Lands dedicated by easement or otherwise for conservation, park lands, or open space when controlled by a county, municipality, or non-profit entity and identified for such purpose in the municipal master plan
  - Contiguous lands that would accommodate fewer than five housing units based on appropriate standards



# Adjustment of Obligation

## Vacant Land Adjustment

- Permissible exclusions of land from consideration as vacant land:
  - Sites on State or National registers of historic places as of filing of the housing element
  - Preserved agricultural lands
  - Sites designated for active recreation when designated in the municipal master plan
  - Environmentally sensitive lands where development is prohibited by State or federal agency





# Adjustment of Obligation

## Vacant Land Adjustment

- In calculating realistic development potential of vacant developable land, assumed density to be based on “appropriate standards”
- Must identify parcels likely to redevelop during current round
  - Sufficient to accommodate 25 percent of adjusted obligation (unmet need)
  - Adopt zoning or redevelopment plans to facilitate redevelopment
- New legislation permits use of adjustments adopted by the Council on Affordable Housing, unless contradicted by statute or binding court decisions



# Compliance Mechanisms

## Project Types

- Inclusionary
- 100-percent affordable
- Age-restricted
  - Maximum of 30 percent
- Special needs
- For sale
- Rental
  - Minimum of 25 percent
- Family for sale/rental
  - Minimum of 50 percent
- Supportive housing
- Veteran's preference
  - Maximum of 50 percent of units in project
- Transitional housing
  - Maximum of 10 percent
- Etc.



# Compliance Mechanisms

## Bonus Credits

- Bonus credit caps
  - 25 percent of prospective need
  - 10 percent of age-restricted units
- Other restrictions
  - Maximum of one type of bonus credit per unit
  - No rental bonus credit



# Compliance Mechanisms

## Bonus Credits

- One bonus credit
  - Supportive housing units
  - Special needs housing units
  - Market-to-affordable units
  - Units in municipally-sponsored 100-percent affordable housing developments



# Compliance Mechanisms

## Bonus Credits

- One-half bonus credit
  - Units resulting from partnership with non-profit housing developer
  - Units within one-half mile of a bus, rail, light rail, or ferry station
  - Age-restricted units
  - Three-bedroom units above minimum requirement
  - Redevelopment of retail, office or commercial space
  - Municipally-sponsored extension of affordability controls on rental units
  - Very low-income units above minimum requirement



# Affordable Housing Dispute Resolution Program

- Resolve disputes related to the Fair Housing Act
- Render determinations
- Facilitate communication between municipalities and interested parties



# Next Steps

- Form an Affordable Housing Subcommittee
  - Start to plan response to total Fair Share Obligation
- Examine vacant land and local density characteristics
  - Basis for Vacant Land Adjustment
  - Check obligation calculated by Department of Community Affairs (DCA)
  - Basis for potential dispute of DCA obligation

