

N.J. Stat. § 52:27D-302

Section 52:27D-302 - Findings

The Legislature finds that:

- a.** The New Jersey Supreme Court, through its rulings in *South Burlington County NAACP v. Mount Laurel*, 67 N.J. 151 (1975) and *South Burlington County NAACP v. Mount Laurel*, 92 N.J. 158 (1983), has determined that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.
- b.** In the second *Mount Laurel* ruling, the Supreme Court stated that the determination of the methods for satisfying this constitutional obligation "is better left to the Legislature," that the court has "always preferred legislative to judicial action in their field," and that the judicial role in upholding the *Mount Laurel* doctrine "could decrease as a result of legislative and executive action."
- c.** The interest of all citizens, including low and moderate income families in need of affordable housing, and the needs of the workforce, would be best served by a comprehensive planning and implementation response to this constitutional obligation.
- d.** There are a number of essential ingredients to a comprehensive planning and implementation response, including the establishment of reasonable fair share housing guidelines and standards, the initial determination of fair share by officials at the municipal level and the preparation of a municipal housing element, State review of the local fair share study and housing element, and continuous State funding for low and moderate income housing to replace the federal housing subsidy programs which have been almost completely eliminated.
- e.** The State can maximize the number of low and moderate income units provided in New Jersey by allowing its municipalities to adopt appropriate phasing schedules for meeting their fair share, so long as the municipalities permit a timely achievement of an appropriate fair share of the regional need for low and moderate income housing as required by the *Mt. Laurel I* and *II* opinions and other relevant court decisions.
- f.** The State can also maximize the number of low and moderate income units by creating new affordable housing and by rehabilitating existing, but substandard, housing in the State. Because the Legislature has determined, pursuant to P.L. 2008, c. 46(C.52:27D-329.1 et al.), that it is no longer appropriate or in harmony with the *Mount Laurel* doctrine to permit the transfer of the fair share obligations among municipalities within a housing region, it is necessary and appropriate to create a new program to create new affordable housing and to foster the rehabilitation of existing, but substandard, housing.
- g.** Since the urban areas are vitally important to the State, construction, conversion and rehabilitation of housing in our urban centers should be encouraged. However, the provision of housing in urban areas must be balanced with the need to provide housing throughout the State for the free mobility of citizens.
- h.** The Supreme Court of New Jersey in its *Mount Laurel* decisions demands that municipal land use regulations affirmatively afford a reasonable opportunity for a variety and choice

of housing including low and moderate cost housing, to meet the needs of people desiring to live there. While provision for the actual construction of that housing by municipalities is not required, they are encouraged but not mandated to expend their own resources to help provide low and moderate income housing.

i. Certain amendments to the enabling act of the Council on Affordable Housing are necessary to provide guidance to the council to ensure consistency with the legislative intent, while at the same time clarifying the limitations of the council in its rulemaking. Although the court has remarked in several decisions that the Legislature has granted the council considerable deference in its rulemaking, the Legislature retains its power and obligation to clarify and amend the enabling act from which the council derives its rulemaking power, from time to time, in order to better guide the council.

j. The Legislature finds that the use of regional contribution agreements, which permits municipalities to transfer a certain portion of their fair share housing obligation outside of the municipal borders, should no longer be utilized as a mechanism for the creation of affordable housing by the council.

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Amended by L. 2008, c. 46,s. 4, eff. 7/17/2008.

L.1985, c.222, s.2, eff. July 2, 1985, operative July 2, 1985.
