

STATE OF NEW JERSEY

EXECUTIVE DEPARTMENT

**A PLAN FOR THE ABOLITION OF THE COUNCIL ON AFFORDABLE HOUSING
AND PROVIDING FOR THE TRANSFER OF THE FUNCTIONS, POWERS, AND
DUTIES OF THE COUNCIL ON AFFORDABLE HOUSING TO THE DEPARTMENT OF
COMMUNITY AFFAIRS**

PLEASE TAKE NOTICE that on June 29, 2011, Governor Chris Christie hereby issues this Reorganization Plan, No. 001-2011 (the "Plan"), to abolish the Council on Affordable Housing (hereinafter referred to as the "Council" or "COAH"), thereby reducing expenditures and promoting economy and efficiency in the operations of the executive branch by eliminating a costly and burdensome regulatory agency. This Plan furthers the efforts of the Executive Branch to implement the recommendations of the Red Tape Review Group created by Executive Order No. 3 (2010). In its April 19, 2010 report, the Red Tape Review Group specifically noted the urgent need to reform the State's affordable housing policy to relieve the burdens imposed on municipalities and taxpayers by the existing system of development. This Plan also advances the goals outlined in Executive Order No. 12, which created the Housing Opportunity Task Force, to more efficiently and effectively satisfy the State's affordable housing obligation, and sets the stage for further implementation of the recommendations contained in the Housing Opportunity Task Force's March 19, 2010 final report.

GENERAL STATEMENT OF PURPOSE

The purpose of this Plan is to reduce the unnecessary complexity of affordable housing administration in New Jersey, lower the administrative costs associated with the present regulatory process, and streamline the development of new housing projects. Under current law, the Department of Community Affairs (the "Department") is responsible for providing assistance to municipalities, and is charged with oversight of the affairs of local governments. The Department also operates numerous affordable housing programs funded by the

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Department of Housing and Urban Development and the State of New Jersey. The performance of these obligations can be significantly improved and streamlined by consolidating the statutory functions, powers, and duties of the Council with those of the Department. Accordingly, this Plan transfers all functions, powers, duties, and personnel of the Council, in but not of the Department of Community Affairs, to the Commissioner of the Department. The terms of offices of all existing members of the Council will be abolished.

Placing the administration of affordable housing under the direction of the Department will produce significant cost savings to State and local government taxpayers. First, municipal development will be achieved through a single, predictable rule-making process conducted under the familiar and well-established provisions of the Administrative Procedures Act. Second, local governments will be freed from the sometimes inconsistent directions provided by COAH and the Department, thereby reducing the legal and administrative costs resulting from regulatory uncertainty. Third, the Department can effectively manage the State's affordable housing obligations without the necessity of the multi-member Council and a separate full-time staff. Taxpayers will also benefit from the elimination of the compensation paid to COAH board members for their time, travel costs, and attendance at meetings.

Finally, this Plan will address the needs of both the providers and beneficiaries of affordable housing in New Jersey by organizing all programs within a single regulatory body. Consolidating the authority for housing in the Department will reduce bureaucracy and foster predictability and consistency for developers and housing advocates alike, curb procedural

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inefficiencies and maneuvering, resulting litigation, and unreasonable delays and costs to municipalities and the private sector, while appropriately increasing the availability of affordable housing throughout the state.

NOW, THEREFORE, in accordance with the provisions of the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C.52:14C-1 et seq.), I find, with respect to the transfer, consolidation, and reorganization provided for in this Plan, that they are necessary in order to accomplish the purposes set forth in Section 2 of that Act and will do the following:

1. Promote the better execution of the laws, the more effective management of the Executive branch and of its agencies and functions, and the expeditious administration of the public business;

2. Reduce expenditures and promote economy consistent with the efficient operation of the Executive;

3. Increase the efficiency of the operations of the Executive;

4. Group, co-ordinate, and consolidate functions of the Executive according to major purposes; and

5. Eliminate overlapping and duplication of effort.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. The Council on Affordable Housing created pursuant to P.L. 1985, c. 222 (C.52:27D-301 et seq.) is abolished.

2. The terms of offices of all existing members of the Council are hereby abolished. All of the powers, functions, and duties exercised by the Council, including, but not limited to, those powers, functions, and duties granted pursuant to P.L. 1985, c. 222, as amended and supplemented (C.52:27D-301 et

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seq.), P.L. 2004, c. 120, § 25 (C.13:20-23), and P.L. 2008, c. 46 (C.40:55D-8.1 et seq.), are continued, transferred to, and vested in the Commissioner of the Department, to be organized within the Department as determined by the Commissioner, and shall henceforth be exercised by the Commissioner of the Department.

3. All files, books, papers, records, equipment, other property held by the Council, including, without limitation, monies authorized to be collected and applied to the costs of the program hereby transferred and any such property or monies received after the effective date of this plan, and personnel are transferred to the Department, pursuant to the "State Agency Transfer Act," P.L. 1971, c. 375 (C.52:14D-1 et seq.), and any monies are to be deposited in such accounts as may be required by law.

4. Whenever, in any law, rule, regulation, contract, order, document, judicial or administrative proceeding, or otherwise, reference to the Council is made, the same shall mean the Commissioner of the Department of Community Affairs or the Department, as appropriate, except where the context clearly requires otherwise.

GENERAL PROVISIONS

1. I find that each aspect of this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L. 1969, c. 203. Specifically, this reorganization will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate, and consolidate functions in a more consistent and practical manner and eliminate overlapping and duplication of functions.

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2. Any section or part of this Plan that conflicts with Federal law or regulations shall be considered null and void unless and until addressed and corrected through an interagency agreement, Federal waiver, or other means.

3. All acts and parts of acts and reorganization plans or parts of reorganization plans inconsistent with the provisions of this Plan are superseded to the extent of such inconsistencies.

4. If any provision of this Plan, or the application thereof to any person, or circumstance, or the exercise of any power or authority thereunder, is held invalid or contrary to the law, such holding shall not affect other provisions or applications of the Plan, or affect other exercises or power or authority under such provisions not contrary to law. To this end, the provisions of this Plan are declared to be severable.

5. This Plan is intended to protect and promote public health, safety, and welfare, and shall be liberally construed to attain the objectives and effect the purposes thereof.

6. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L. 1971, c. 375 (C.52:14D-1 et seq.).

7. A copy of this Reorganization Plan was filed on June 29, 2011 with the Secretary of State and with the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective at the end of a period of 60 calendar days after the date of filing, unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than the end of such 60-calendar day period after the date of filing, should

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the Governor establish such a later date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."