

**CHAPTER 43**

**NEIGHBORHOOD PRESERVATION  
BALANCED HOUSING PROGRAM**

**Authority**

N.J.S.A. 52:27D-320.

**Source and Effective Date**

R.2010 d.266, effective October 20, 2010.  
See: 42 N.J.R. 1280(a), 42 N.J.R. 2753(d).

**Chapter Expiration Date**

Chapter 43, Neighborhood Preservation Balanced Housing Program, expires on October 20, 2015.

**Chapter Historical Note**

Chapter 43, Neighborhood Preservation Balanced Housing Program, was originally codified in Title 5 as Chapter 14, Neighborhood Preservation Balanced Housing Program. Chapter 14 was adopted as R.1985 d.688, effective January 21, 1986. See: 17 N.J.R. 2489(a), 18 N.J.R. 162(a). Subchapter 4, Affordability Controls, was adopted by R.1989 d.588, effective December 4, 1989. See: 21 N.J.R. 2153(a), 21 N.J.R. 3740(b).

Pursuant to Executive Order No. 66(1978), Chapter 14, Neighborhood Preservation Balanced Housing Program, was readopted as R.1990 d.604, effective November 9, 1990. See: 22 N.J.R. 1700(b), 22 N.J.R. 3734(a).

Pursuant to Executive Order No. 66(1978), Chapter 14, Neighborhood Preservation Balanced Housing Program, was readopted as R.1995 d.594, effective October 26, 1995. See: 27 N.J.R. 3256(a), 27 N.J.R. 4698(a).

Pursuant to Reorganization Plan No. 002-1998, Chapter 14, Neighborhood Preservation Balanced Housing Program, was recodified as N.J.A.C. 5:43, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Pursuant to Executive Order No. 66(1978), Chapter 43, Neighborhood Preservation Balanced Housing Program, was readopted as R.2000 d.464, effective October 25, 2000. See: 32 N.J.R. 1457(a), 32 N.J.R. 4103(a).

Subchapter 5, Multifamily Housing Preservation and Receivership, and Appendix K were adopted as new rules R.2005 d.268, effective September 6, 2005. See: 36 N.J.R. 4575(a), 37 N.J.R. 3288(a).

Chapter 43, Neighborhood Preservation Balanced Housing Program, was readopted by R.2006 d.11, effective November 30, 2005. See: 37 N.J.R. 2757(a), 38 N.J.R. 126(a).

Chapter 43, Neighborhood Preservation Balanced Housing Program, was readopted as R.2010 d.266, effective October 20, 2010. See: Source and Effective Date.

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## SUBCHAPTER 1. GENERAL PROVISIONS

**5:43-1.1 Purpose**

The purpose of the Neighborhood Preservation Balanced Housing Program is to provide municipalities, for-profit and non-profit developers with financial assistance needed to spur the development of affordable housing across the State, in conformance with the State Development and Redevelopment Plan and in fulfillment of Section 20 of the Fair Housing Act of 1985, as amended. The Balanced Housing subsidy provides a critical source of gap financing for affordable housing projects whose other sources of public subsidy and private financing are not sufficient to sustain economic viability. The Program's subsidy formula is responsive to increases in the cost of land and construction. The Program is established to support the construction and preservation of permanent, high quality, location efficient affordable housing that meets the demand for units affordable to low and moderate income families and individuals residing in New Jersey.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

NPBHP assists in delivery of services.

Amended by R.1998 d.438, effective September 8, 1998.

See: 30 N.J.R. 1880(a), 30 N.J.R. 3239(b).

Inserted ", in conformance with the State Development and Redevelopment Plan and" in the first sentence.

Amended by R.2002 d.325, effective October 7, 2002.

See: 33 N.J.R. 3261(a), 34 N.J.R. 3500(a).

Inserted ", as amended" following "1985" in the former first sentence; deleted the former second sentence.

Amended by R.2007 d.202, effective July 2, 2007.

See: 38 N.J.R. 3711(a), 39 N.J.R. 2517(a).

Substituted "is to provide municipalities, for-profit and non-profit developers with financial assistance needed to spur the development of affordable housing across the State" for "shall be to assist in the delivery of housing affordable to low and moderate income households in viable neighborhoods" and inserted the last three sentences.

**5:43-1.2 Severability**

If any part of this chapter shall be held invalid, the holding shall not affect the validity of the remaining part of these rules. If a part of these rules is held invalid in one or more of its applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

New Rule, R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Former section, "Eligible applicants", recodified to 5:14-1.3.

**5:43-1.3 Eligible applicants**

(a) The Neighborhood Preservation Balanced Housing Program will accept program and project applications submitted by municipal governments, non-profit organizations and for-profit organizations, provided that the proposed program or project is located in a municipality that meets at least one of the following criteria:

1. The municipality has petitioned the Council on Affordable Housing for substantive certification of its housing element;

2. The municipality has received substantive certification of its housing element from the Council on Affordable Housing;

3. The municipality is subject to a judicially-approved compliance agreement to settle its fair share housing obligation;

4. The municipality is subject to a court-ordered builder's remedy;

5. The municipality has been designated as a receiving municipality under a regional contribution agreement and project plan has been approved by the Council on Affordable Housing;

6. The municipality is eligible for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.); or

7. Any other municipalities provided that:

i. The Council on Affordable Housing has invoked its authority pursuant to N.J.S.A. 52:27D-320(c); and

ii. The municipality meets all conditions established by the Council in accordance with (a)7i above.

(b) Programs and projects in any municipality shall be funded only after receipt by the Commissioner of a written statement in support of the program or project from the municipal governing body.

(c) Applicants that are eligible in accordance with (a)1 above only shall not be eligible to receive program funding until the municipality's Fair Share Plan has received substantive certification from the Council on Affordable Housing.

(d) Applicants that are eligible in accordance with (a)4 above, shall not be eligible to receive a funding commitment or program funding until the municipality's Fair Share Plan has been judicially approved by the issuance of a judgment of repose.

Amended by R.1989 d.143, effective March 20, 1989.

See: 21 N.J.R. 3(a), 21 N.J.R. 750(a).

(b) and (c) added; established application and funding criteria for on or after July 1, 1989.

Amended by R.1992 d.144, effective April 6, 1992.

See: 23 N.J.R. 1075(a), 24 N.J.R. 1385(a).

References to July 1, 1989 deleted.

Recodified from 5:14-1.2 and amended by R.1996 d.226, effective May 20, 1996.

See: 28 N.J.R. 6(a), 28 N.J.R. 2573(a).

Former section, "Eligible activities", recodified to 5:14-1.3.

Amended by R.1998 d.438, effective September 8, 1998.

See: 30 N.J.R. 1880(a), 30 N.J.R. 3239(b).

Added (c) and (d).

Amended by R.2002 d.325, effective October 7, 2002.

See: 33 N.J.R. 3261(a), 34 N.J.R. 3500(a).

In (d), inserted "a funding commitment" preceding "or program".

Amended by R.2007 d.202, effective July 2, 2007.

See: 38 N.J.R. 3711(a), 39 N.J.R. 2517(a).

Rewrote the section.