



# Report of the Housing Transition Advisory Committee

Submitted to Governor-elect Phil Murphy and Lieutenant  
Governor-elect Sheila Oliver

January 1, 2018

## EXECUTIVE SUMMARY

The Housing Policy Group recommends that the Governor-elect consider the following actions to accomplish these priorities:

### **I. Priority: Commit to address the state's housing crisis through statewide coordination and policy**

A key component of a stronger and fairer economy is a place to call home. The Governor can achieve a statewide coordinated approach to housing with two main actions:

- i. Reinstating the Senior Deputy Commissioner of Housing and Statewide Commission on Housing by Executive Action.
- ii. Committing to protect affordable housing funding and maximize housing opportunity through funding and agency coordination through administrative authority.

Executive Action will reinstate the positions and administrative authority will direct funding and programs.

### **II. Priority: Incentivize housing production**

There is unmet need and outmigration across demographics. The Governor can incentivize the production of affordable housing with three actions:

- i. Endorse an expansion of the Neighborhood Revitalization Tax Credit (NRTC)
- ii. Incentivizing inclusionary zoning for low and moderate-incomes through the administration
- iii. Promoting a One-Stop Shop at the New Jersey Housing Mortgage Finance Agency by administrative direction

Governor Murphy may use administrative authority to guide incentives.

### **III. Priority: Reduce barriers to creating housing**

In a state with high property taxes, shortage of land and other challenges, the Governor can illustrate his commitment to making New Jersey affordable by:

- i. Streamline approvals for inclusionary development
- ii. Tasking the Statewide Commission to remove impediments and regulations to building
- iii. Increasing support to Local Planning Services to provide technical assistance to municipalities

Executive action, direction to the Commission, and providing support to existing departments will streamline and reduce the cost of housing in New Jersey.

### **IV. Priority: Provide legal assistance to individuals facing eviction and/or foreclosure**

Ensuring low-income New Jerseyans facing eviction and foreclosure have access to legal representation will keep people in their homes and support the Governor's goal of a fairer economy. Two actions accomplish this goal:

- i. Develop a pilot to provide legal representation for low income New Jerseyans facing eviction and foreclosure
- ii. Enforce the New Jersey Law Against Discrimination

Governor Murphy can introduce a Right to Counsel program by Executive Action.

### **V. Priority: End homelessness in New Jersey**

New Jersey can seek to end homelessness by setting a progressive Housing First policy. Actions include:

- i. Directing New Jersey to operate as Housing First, prioritizing permanent housing for all
- ii. Developing responsive bureaucracy with authority to create a collaborative approach to homelessness
- iii. Endorsing legislation to allow counties to increase Homeless Trust Funds
- iv. Banning tenant “Blacklisting”

Executive leadership, in combination with legislative victories, are needed to implement a comprehensive plan.

**VI. Priority: Combat the foreclosure crisis**

New Jersey has the highest foreclosure rates in the country. In order to recover from the crisis, the Governor should:

- i. Utilize foreclosed homes for affordable rental and homeownership
- ii. Prevent foreclosure, endorse legislation to codify mediation program
- iii. Revision of regulations impeding foreclosure programs
- iv. Direct the Attorney General to pursue Wall Street settlements

Widely supported legislation and programmatic solutions by Executive Action will be funded from the Attorney General’s pursuit of settlements.

## REPORT

### I. PRIORITY: COMMIT TO ADDRESS THE STATE'S HOUSING CRISIS THROUGH STATEWIDE COORDINATION AND POLICY

Brief introduction: A key component of a fairer economy for all is a place to call home. Housing access and production must be improved through vision, coordination, providing incentives, and reducing barriers. Through Executive Action, the Governor may reinstate the Senior Deputy Commissioner on Housing (reporting to the Lieutenant Governor/DCA Commissioner) and the Statewide Commission on Housing. This will create the vision and direction needed to make New Jersey a place that all residents can afford. The Senior Deputy Commissioner of Housing can commit to protect funding and orchestrate programs.

Current Situation: Ad-hoc programs create an inefficient landscape for affordable and middle-income housing production. Without an overarching housing policy, inefficient programs and regulations stymie affordability efforts. Federal tax changes will exacerbate New Jersey's needs for a coordinated action plan to improve affordability. NJ households are in crisis. According to the United Way of Northern New Jersey Asset Limited, Income Constrained, Employed (ALICE) 2016 report, nearly 40% of households in New Jersey, or more than 1.2 million households, struggle to meet basic needs, with the cost of housing a major factor. Estimates show that the State needs 150,000 new affordable homes immediately, as well as an ongoing production in succeeding years. This housing crisis undermines the Governor's goal of a stronger and fairer economy and contributes to the exodus of families, millennials, and seniors.

In the past eight years, this housing crisis has not been a State priority. In fact, funds to support the development and preservation of affordable homes have been re-allocated to the general treasury, exacerbating the housing problem. This has led to disjointed programs scattered across multiple departmental divisions attempting to fill gaps. To begin addressing the matter, existing programs that have gone unfilled and unenforced may be quickly put to use in the new administration. With Lieutenant Governor Oliver serving as DCA Commissioner, the State will have strong leadership to advance housing goals. The Senior Deputy Commissioner of Housing position and the Commission on Housing will assist the Lieutenant Governor in the goals of the DCA. The positions existed previously and reinstatement would be strongly supported. New housing policies and investments would significantly contribute to developing a vibrant and just economy that embraces and supports equal opportunity for all.

#### i. Recommendation: Reinstate the Senior Deputy Commissioner of Housing and Statewide Commission on Housing

Governor-elect Murphy should acknowledge the housing crisis and commit to address it. First, the Governor should reinstate the Senior Deputy Commissioner of Housing, reporting to DCA, and the Statewide Commission on Housing by Executive Action. The amended Fair Housing Act of 2008 created the positions, however, they never came to fruition in the previous administration. Failing to create the Commission or fill the position, the legislature subsequently removed the roles. The goal is to provide additional capacity to assist the DCA Commissioner in addressing the housing crisis and ensure optimal coordination of the Governor's policies and limited resources. The Senior Deputy would manage the DCA housing elements as well as coordinate with NJ Housing and Mortgage Finance Agency (NJHMFA), the NJ Redevelopment Authority, and serve as a point of contact for Public Housing Authorities (PHAs). DCA's Senior Deputy Commissioner will also oversee the Statewide Commission on Housing. The commission will be tasked with coordinating departments, identifying funding sources, and solving programmatic inefficiencies— such as streamlining programs to reduce and prevent homelessness at DCA (to be discussed later), consolidating housing finance related programs at

the NJHMFA, pursue opportunities to work with PHAs to preserve affordable housing, removing barriers to low and moderate-income housing production, addressing the foreclosure crisis, and combating the impacts of federal tax proposals anticipated to severely hurt New Jersey.

Currently, in lieu of a functioning Council on Affordable Housing board, municipal fair share plans are individually approved through court settlements. After years of inaction, much progress has been made through this process. Once the court process is complete, the next iteration of an administrative agent must be in place. This will provide time for the Commission to explore the optimal administrative agent and process to govern municipal fair share requirements in New Jersey. In the long term, the Commission will also update the State Housing Plan which has not been revised since 1998.

**ii. Recommendation: Commit to protect affordable housing funding and maximize housing opportunity through funding and agency coordination**

The Governor should maintain and foster the existing avenues to produce affordable housing.

First, the state Affordable Housing Trust Fund (**AHTF**) monies and State Balanced Housing Fund must be protected and used toward their intended purpose of ensuring that New Jersey is a place that people may afford to call home. Executive Action can trigger existing law providing a provision for unspent local AHTF dollars to be garnished and added to the state pool. Local AHTFs may also provide a portion of their funds to the existing and unused Urban Housing Assistance Fund. This will allow urban areas without fair share obligations to develop a range of affordable housing.

Second, the State should ensure that the developments occurring through the Economic Development Authority, New Jersey Redevelopment Authority, and New Jersey Transit that are obligated to provide affordable housing are held to those requirements. The Senior Deputy Commissioner will ensure guidance and oversight to the various entities. DCA will direct State agencies, such as the NJ Redevelopment Authority and New Jersey Transit, which have provided support to development projects along with a corresponding requirement for the inclusion of affordable homes, to report to DCA that such homes have been developed. Such agencies should document the procedures in place that ensure that future projects are fully in compliance with affordability requirements. The Senior Deputy Commissioner can also direct State agencies to review housing funds, such as Balance Housing Funds and Realty Transfer Fees, and report on fund balances towards identifying available resources and ensuring transparency. Further, this report should also identify any re-direction by the current administration of such housing funds for other uses so that Governor-elect Murphy may consider allocation of these funds for their intended housing purposes.

Costs: Though the creation of the Senior Deputy Commissioner on Housing is a salaried position (estimated approximately \$100k), the position can reduce inefficiencies, streamline processes, departmental oversight, and create overall savings. Recommendations to maintain and protect Affordable Housing Trust Funds and Balanced Housing Funds, and enforcement of collaborating agency housing requirements, are all existing legislation/programs and require only direction and enforcement, no additional staffing or costs.

## **II. PRIORITY: INCENTIVIZE HOUSING PRODUCTION**

Brief Introduction: Across demographics, there is unmet need which the previous administration did little to address. Necessity is the mother of invention, and the last eight years have seen a tremendous amount

of innovation in the housing sector. However, with dwindling subsidy and federal tax reform, we must do more. In order to encourage growth and innovation there needs to be a smart alignment of proven incentives such as inclusionary zoning, expanding public private partnerships, and good government. Much can be done using existing programs, some of which are currently underutilized. Facilitating smart municipal and agency partnerships will ensure success.

Current Situation: All age segments suffer from the lack of attainable housing, from early career millennials to middle-income earners to seniors on fixed or limited incomes. The average New Jersey resident pays a disproportionate amount of their income compared to the rest of the country. Our urban areas are increasingly becoming economic drivers, as more people move to cities to be close to work, transit, cultural and recreational amenities. There are currently transformative projects that have recognized this new reality. These projects are using a diverse array of funds that include tax credits, grants, and housing vouchers. Unfortunately, these programs are now at risk due to federal tax policy, state reallocation of vital subsidy funds, arbitrarily capping programs, and lack of commitment to affordable housing. Additionally, millions of dollars in existing funds are misallocated when faced with outdated barriers to implementation.

**i. Recommendation: Expand the Neighborhood Revitalization Tax Credit**

The Governor should endorse an expansion of the Neighborhood Revitalization Tax Credit (**NRTC**) cap to \$30 million (currently \$10 million). The NRTC was created by an act of the legislature in 2002 to incentivize businesses to invest in housing, commercial, and mixed-use projects that would help revitalize low and moderate-income neighborhoods. Businesses who make an equity investment receive a tax credit (equal to that of the investment) against various state taxes. In turn, the project sponsor gets the subsidy (equity investment) that allows the project to become financially feasible. According to the Housing and Community Development Network of New Jersey (**HCDNNJ**) the program has been an unqualified success. The \$31 million in NRTC funds spent so far has leveraged more than \$176M in private dollars and \$113M in public funds, or \$9 for every NRTC dollar. NRTC funds have helped build more than 1,200 homes, including 223 for-sale and 1011 rentals. The program has helped create 350,000 square feet of commercial space. At least \$2.35M of property taxes have been generated by this development. 521 jobs have been created through NRTC activities and 21 gardens and 3 schools have been developed. The program is perennially oversubscribed. Raising the tax credit cap would come with the support of participating companies, satisfy the needs of the communities, and allow approved projects to move forward.

After the state addresses the structural and revenue neutral approaches, the Governor should explore funding the HCDNNJ Building a Thriving New Jersey recommendations, supported by Regional Plan Association and more than 150 public officials. Though an initial outlay of subsidy, this commitment restores lost funding and further generates investment many times over.

**ii. Recommendation: Incentivize inclusionary zoning for low and moderate-incomes**

Inclusionary zoning can be an effective way for municipalities to meet fair share obligations and the Governor and DCA should set a directive to its agencies and municipalities to further this goal. Inclusionary zoning results in the significant production of multi-family development for individuals making very low (under 30%), low (under 60%) and moderate (under 120% of Area Median Income (**AMI**)) as integrated set asides within market rate housing with little to no subsidy. While the best

incentives for inclusionary zoning occur at the municipal level in the form of redevelopment plans, variances, or legislation, the state does have limited options for encouraging it. Namely, the Economic and Redevelopment Growth (**ERG**) program, currently administered by the Economic Development Authority (**EDA**) could include incentives for moderate-income affordable housing. Even for mixed-use developments, the residential component, which may not be directly subsidized, benefits from the subsidies received by the non-residential component and should lead to inclusionary obligation. Additionally, the state may provide limited competitive or discretionary funds available to municipalities with a record of encouraging higher-density Transit Oriented Development, using PILOTs, etc.

**iii. Recommendation: Promote a “One-Stop Shop” at the New Jersey Housing Mortgage Finance Agency**

To increase efficiency, reduce barriers, and enact the comprehensive statewide housing vision, DCA’s Senior Deputy Commissioner should conduct a reorganization of housing financing programs. Currently, housing programs are scattered across departments making financing development cumbersome. First, he or she will facilitate NJHMFA to become the “one-stop shop” for housing production programs. ERG, administered by the EDA is currently funded on first come first serve basis. Instead, the program should be administered at NJHMFA, awarded by scoring, and aligned with statewide housing priorities. Similarly, weatherization and lead hazard remediation programs, currently at DCA, are excellent tools for affordability preservation and could be expanded with single and multifamily housing financing if administered by NJHMFA. Lead hazard remediation and abatement programs will be further addressed in other committee reports.

Similarly, NJHMFA should also align its funding priorities with the overarching priorities of the state, available federal sources, and revise its regulations to create efficiencies. For example, PHAs have moved toward the Rental Assistance Demonstration (**RAD**) program to convert tenants to long term contract, which gives them stability and allows the PHAs the ability to access private funding, either debt or equity for capital improvements. The NJHMFA Qualified Allocation Plan (**QAP**) should prioritize RAD developments, many of which are in urban areas and currently penalized by the QAP. This would also further their relationship with PHAs which have access to land and homeownership vouchers. Moreover, the current point system of the QAP and priorities for funding must be reconsidered. Specifically, projects that are part of a court settlement should also be considered a priority, as well as the removal of barriers to funding based on poverty rates and jobs.

Foreclosure programs, discussed later, would also fall under the direction of the NJHMFA. The Agency can become the administrator for statewide bulk purchase foreclosure programs.

Costs: Increasing the cap on the NRTC is tax revenue forgone though the program has already proven to generate significant financial returns.

Reforming programmatic structure (within and across state departments/agencies) is revenue neutral and anticipated to save funds through efficiencies.

**III. PRIORITY: REDUCE BARRIERS TO CREATING HOUSING**

Brief Introduction: A commitment to reviewing existing laws and regulations will create a framework for removing impediments to creating housing for all needs and demographics. In a state with high property taxes, shortage of developable land, and other challenges, it is essential to remove barriers whenever possible that increase time and costs— making New Jersey less affordable. The Governor can illustrate his commitment to making New Jersey affordable by fast tracking inclusionary development, providing technical assistance to municipalities, and encouraging good government reforms.

Current Situation: New Jersey has multiple state agencies with housing related functions and over 500 municipalities with their own building departments, zoning rules and oversight functions. For a developer or non-profit operating in more than one municipality this can be confusing and costly. Excessive regulation, delays in approvals, and prohibitive zoning each increase project expenses and undermine delivery of units addressing the needs of New Jersey residents. In order for a developer or non-profit to build or preserve affordable or market rate housing in a low-income area the projects must be financially feasible. In too many municipalities, despite best intentions of project sponsors, projects are not being started and or completed due to fiscal constraints. Unnecessary and excessive regulation has the same affect. Furthermore, there is a lack of technical expertise within municipalities that needs to be addressed. Local support of inclusive development, without overstepping home rule, is key for implementation.

**i. Recommendation: Streamline approvals for inclusionary development**

The Governor can, by Executive Order, create a mechanism to allow by-right development approvals for projects that increase housing supply. If a proposed development that includes affordable units meets all the criteria of the underlying zoning for its proposed location, granting it by-right approval without an extensive application process can help reduce the developer's costs and administrative time, providing greater incentive to include affordable units. With the creation of the Statewide Commission on Housing, any criteria for this process can be addressed.

**ii. Recommendation: Task the Statewide Commission to remove impediments and regulations to building**

In the face of federal changes and limited funding, other barriers to housing production must be addressed. As referenced in the first recommendation, the Senior Deputy Commissioner and the Statewide Commission on Housing will address the various barriers to low and middle-income housing for New Jerseyans. This will include overhauling outdated regulations, streamlining processes for a more innovative government, including a review of the Licensed Site Remediation Professional (**LSRP**) program that privatized site remediation programs. Additionally, innovative programs vetoed by the previous administration, such as the Land Banking legislation, would facilitate avenues for single, multi-family, and mixed-use affordable development.

**iii. Recommendation: Increase support to Local Planning Services to provide technical assistance to municipalities**

The DCA Commissioner should support the Office of Local Planning Services (**LPS**) at DCA. LPS is an office within DCA that works with communities to achieve local land use and planning goals. DCA's professional planning staff offers comprehensive planning services at no-cost to local governments. Further support to this office will help ensure that municipalities are doing the most they can to promote healthy and balanced housing plans in line with the state's priorities and fair share obligations. Municipalities would also benefit



from increased technical assistance for identifying, tracking, and evaluating abandoned properties and the provision of the tools to do so. Partnerships with the Edward J. Bloustein School of Planning and Public Policy of Rutgers University and NJIT, for example, could increase State capacity for these purposes. This office may also bring back the capacity grants to nonprofits, which have a unique role in local community relations, to help them expand community development.

Costs: Streamlining approval for inclusionary development is revenue neutral and will promote statewide growth. Addressing other barriers through the Statewide Commission is also revenue neutral.

Increasing technical assistance to municipalities is estimated to minimally increase the budget allocation and exact costs will be determined before implementing the program.

#### **IV. PRIORITY: PROVIDE LEGAL ASSISTANCE TO INDIVIDUALS FACING EVICTION AND/OR FORECLOSURE**

Brief Introduction: Ensuring low-income New Jerseyans facing eviction and foreclosure have access to legal representation has the potential to create programmatic efficiencies and savings across multiple public systems serving these individuals, keep people in their homes, and support, in public perception and reality, a fairer economy. Governor-elect Murphy can implement a bold pilot program to address these issues, highlighting that assisting the vulnerable can be good government and cost effective.

Current Situation: Without a right to counsel in civil court, thousands of evictions and foreclosures go unchallenged and unmediated. Many low-income New Jerseyans depend on the Legal Services of New Jersey (LSNJ) for a myriad of legal issues, including housing issues. However, LSNJ has seen a drastic reduction in funding (funding went from \$72 million to \$40 million from 2008 to 2012). Recently implemented Right to Counsel pilots in New York City created significant reductions in shelter costs, welfare cost savings through prevention of job loss, and school savings through reduction in disruption for children. The city subsequently implemented the program permanently city-wide. Legal assistance may also increase efficiencies in use of homeless prevention dollars.

**i. Recommendation: Develop a pilot to provide legal representation for low-income New Jerseyans facing eviction and foreclosure**

The Governor can implement a pilot program by Executive Action and direct the DCA Commissioner to develop a plan and appropriate state staffing to oversee the project. People do not have a right to counsel in civil court the way they do in criminal court. The landlords and banks, however, always bring attorneys. It is difficult for tenants to attend daytime court hearings and the power dynamic puts the tenants at a severe disadvantage. The solution to this issue is publicly funded legal aid for housing court. This would be a cost-effective way to prevent eviction, foreclosure, homelessness, and landlord abuse/discrimination. During a pilot program in the Bronx, the provision of legal aid during the housing court hearing reduced eviction by 86%. It cost \$450,000 to serve 1,300 families but saved \$700,000 in estimated shelter costs alone. While in court, families are connected to social services. It is a small price to pay to keep families stable, kids in school, prevent homelessness, and support a fairer economy. The administration can create a similar pilot program dedicating \$500,000 to \$1,000,000 for one or two pilot counties that anticipate yielding similar results with a long-term view to expand statewide.

The pilot will operationalize a plan to develop close partnership with Legal Services of New Jersey and with local law schools (for pro-bono student requirements) to support program

infrastructure, development, and operations. This system will additionally benefit those in foreclosure in need of mediation.

**ii. Recommendation: Enforce the New Jersey Law Against Discrimination**

Additionally, the New Jersey Law Against Discrimination (**NJLAD**) must be enforced to the full extent of the law. This will ensure that all people are protected, not unduly denied housing or removed from housing. The Attorney General may assist with this goal of monitoring and upholding fair housing principles. Enforcing the NJLAD will provide additional support for fair housing, equal opportunity, quality housing conditions, and keeping people in their homes.

Costs: Depending on the scope of the pilot, the program is estimated to cost \$500,000 to \$1 million. Eventually, tracking and evaluating program outcomes will determine savings (from homeless prevention, shelters, jails etc.) which can be repurposed into sustainably funding the program.

**V. PRIORITY: WORK TO END HOMELESSNESS IN NEW JERSEY**

Brief Introduction: New Jersey can seek to reduce homelessness by developing a data driven, comprehensive statewide strategy that encourages responsible public/nonprofit/private partnerships and operates with Housing First principles. Governor-elect Murphy can set a progressive Housing First policy, support innovative department streamlining, and increase the Homeless Trust Fund. Prioritization of those populations most seriously failed by our social systems often experiencing expensive, super utilization across multiple public systems (healthcare, jail, school absenteeism) creates opportunities to reinvest savings from innovative programming.

Current situation: Presently, there is a lack of comprehensive strategy addressing homelessness and disjointed efforts across multiple departments at DCA, DHS, DMHAS, and DCF create an inefficient and cumbersome approach to end homelessness. Policies have not adequately supported or addressed the needs of our state's most vulnerable populations and fostered a culture of rejection. In order to support the Governor-elect's promise of a fairer and stronger New Jersey economy, we can seek to address homelessness in our state grounded in common sense guiding principles and encourage best practices to be implemented at a statewide level.

**i. Recommendation: Direct New Jersey to operate as Housing First**

Governor-elect Murphy should declare New Jersey a Housing First state, meaning we move towards a permanent, supportive housing model and strive to uphold key Housing First principles. This creates smart, lean, government that is able to both better serve individuals and reinvest savings back into the system and allow for the best use of state resources. It also redirects Emergency Assistance policies, eliminating "compliance review" determination of an individual "causing their own homelessness", and would allow additional lifetime benefits. Beyond simply ceasing the "compliance review", systems must move toward collaboration across systems and funding streams. Prevention should be prioritized, starting with universal legal assistance (see the fourth recommendation).

The Statewide Commission should develop the statewide Housing First initiative focused on individuals experiencing the most extreme utilization of multiple public systems (jail, healthcare, school absenteeism) that will generate savings across public systems and allow for continued reinvestment into housing for other populations. Reinvestment of generated savings may provide housing for individuals not eligible for scarce federal housing vouchers,

rental subsidies, and support services. Further, DCA can support creative solutions to address DCA's limited resources for vouchers. For example, Hudson County used Welfare Trust Fund money for vouchers and services to house frequent users of county jails and shelters.

**ii. Recommendation: Develop a sustainable and collaborative approach to homelessness**

Governor-elect Murphy and the Lieutenant Governor should set a clear DCA directive to encourage a statewide, coordinated approach and expectations for each regional Continuum of Care (**CoC**). First, directing DCA's Director of Housing to combine homeless programs for more effective and efficient use of funds. This includes recognizing county CoC homeless planning bodies as the lead for homeless activities. HUD and national homeless advocacy groups have drastically improved the best practices around ending homelessness. In many communities, Comprehensive Emergency Assistance Services (**CEAS**) and CoC are combined. The State should consider wrapping Health and Human Services CEAS/Social Services for the Homeless funding under the same umbrella of the CoCs which are required to have boards similar to CEAS. There is no need to duplicate this process for multiple departments and funding streams.

State funding around homelessness should always require coordination with CoC and Coordinated Entry. This would tie to prevention dollars and NJHMFA/Tax Credit set asides as well as how county welfare agencies work with the local homeless system. The New Jersey Interagency Council on Homelessness memorialized many of these suggestions in 2014 but they have yet to be implemented.

Finally, direct DCA to determine the viability for a standardized universal application for state aided public housing (as implemented in Massachusetts).

**iii. Recommendation: Endorse legislation to allow counties to increase Homeless Trust Funds**

Governor-elect Murphy should endorse legislation expanding the Homeless Trust Funds. Currently, 10 counties have passed the Homeless Trust Fund. In these counties, a \$3.00 fee is imposed on each recorded document, with few exceptions. The funds pool to form the Homeless Trust Fund, which is used to provide flexible funding to cover gaps in services, such as shelters or Emergency Assistance. Several counties that found great success with the Homeless Trust Fund wish to raise the fee but cannot because the enabling legislation does not allow for it. Legislation similar to the previously proposed Homeless Trust Fund Expansion (A4132/S3046) would allow counties to raise the fee from \$3 up to \$10, if they so choose.

Alternatively, the State could impose a blanket \$3.00 fee on all recorded documents (or a subset thereof, i.e. property recordation) to be placed into a statewide Homelessness Trust Fund. These funds could then be distributed to counties based on need and administered by the local Continuum of Care (CoC). The county CoCs oversee the homeless services and programming and would serve as the mechanism for administration without creating an additional administrative burden.

**iv. Recommendation: Ban tenant "blacklisting"**

Governor-elect Murphy should ban tenant "blacklisting" by executive action or legislation. Too often, those who lose their home in a difficult moment or are trying to re-enter after time

in an institution cannot find housing they can afford. This is further complicated when landlords use “tenant blacklisting” practices. When landlords review apartment applications they may investigate to see if a tenant is “blacklisted”.

Blacklists are compiled when courts sell lists of tenants that appear in housing court, regardless of fault, reason, or outcome. A tenant could escrow rent because a landlord has not repaired a major issue, like heat in winter, and the landlord then sued for nonpayment of rent.

A landlord could attempt to evict a tenant and should the tenant win, the tenant would still appear on the blacklist. Most lists do not distinguish the reason why the tenants appear and landlords do not want risk. This exacerbates the housing crisis and pushes people toward homelessness.

Costs: Currently, with programs addressing homelessness operating out of many departments there are inefficiencies and redundancies. Consolidating these departments and streamlining will not only save costs for DCA, but will be easier for service providers to use, and easier to track effectiveness and outcomes. Additionally, more effective partnerships across agencies (jails, Medicaid etc.) will provide additional funding and cost savings. Multiple county pilots have demonstrated savings by providing housing to frequent users of shelters, hospitals, and jails.

Allowing counties to increase the Homeless Trust Fund is revenue generating. It will provide much needed additional flexible dollars to local counties- possibly tripling sources- and municipalities to support service providers. The barriers to implementation are structural before the data driven savings reap returns.

Tenant blacklisting proposals are a regulatory change and revenue neutral.

## **VI. PRIORITY: COMBAT THE FORECLOSURE CRISIS**

Brief Introduction: In order for New Jersey to recover from the foreclosure crisis, it must both prevent further damage to homeowners and repurpose the glut of foreclosed housing stock as affordable homes. With aggressive action from the Attorney General, New Jersey can obtain its rightful share of Wall Street settlements and begin to address the crisis. Executive leadership can put the foreclosed and vacant homes to use as affordable homeownership and rental opportunities. Further action from the legislature to reintroduce previously passed bills will codify necessary foreclosure prevention mechanisms.

Current situation: New Jersey continues to have the worst foreclosure rate in the nation. Governor Christie took the \$75 million in foreclosure aid and used it to fill budget holes. When the administration had the opportunity to sign on to a lawsuit against Bank of America, he refused. Governor Christie vetoed legislation that would have turned foreclosed vacant homes into affordable housing three times. Christie rejected opportunities to help those impacted by Sandy in foreclosure. New Jersey’s federal programs moved more slowly than anywhere else in the country. The administration’s refusal to support proven mediation and modification programs or reform regulation to address the crisis has left New Jersey struggling to recover. Foreclosure prevention programs have ended as state support ceased and federal funds exhausted. The main barrier to resolution in the immediate is the lack of funding and the need for legislative action to create sources for that funding.

### **i. Recommendation: Utilize foreclosed homes for affordable rental and homeownership**

FHA and Fannie Mae have developed programs to encourage nonprofits and government to acquire loans in targeted areas to improve outcomes for both borrowers and their

communities. Under Executive Action by Governor-elect Murphy, NJHMFA can facilitate a bulk acquisition of non-performing mortgage loans and partner with local organizations. This serves two main purposes. First, by helping underwater homeowners obtain meaningful mortgage modifications with principal reductions “right-sized” to the current value of the home, families can stay in their homes and begin repairing their credit. Local groups such as New Jersey Community Capital have successfully demonstrated this approach.

Second, NJHMFA can repurpose foreclosed/abandoned homes with the bulk acquisition of nonperforming mortgage Loans from FHA and Fannie Mae. On average, 45% of the loans in these bulk mortgage pools are on vacant homes. These pools have proven to be a tremendous opportunity for repurposing vacant, foreclosed homes as quality, affordable housing. New Jersey should also consider implanting an accelerated foreclosure process for vacant properties, further enhancing the speed with which vacant homes become affordable options. FHA and Fannie Mae have been selling non-performing mortgage notes since 2012, including loans in New Jersey, and still have thousands of New Jersey loans in their portfolios. Such a program would operate very similarly to the program proposed in NJ Residential Foreclosure Transformation Act vetoed by the previous governor. The Act would have empowered the NJHMFA to purchase foreclosed residential properties and mortgage assets from institutional lenders in order to produce affordable housing.

Governor-elect Murphy can swiftly move this program into action by Executive Action with broad support from the legislature.

**ii. Recommendation: Prevent Foreclosure, endorse legislation to codify mediation program**

With federal funds exhausted, New Jersey does not currently have a mediation program for its homeowners in foreclosure. Previously, homeowners in foreclosure had access to pro bono housing counselors, legal assistance, and mediators to negotiate with the lender. Governor-elect Murphy should endorse the codification of the mediation program. The program would provide homeowners with the opportunity to negotiate their foreclosure and find a viable option for solvency. Currently proposed legislation revises residential mortgage foreclosure to require mortgage loan servicers to initiate a process to consider loss mitigation options through the New Jersey Judiciary Foreclosure Mediation. The Right to Counsel, addressed earlier in this document, will provide a critical compliment to foreclosure prevention. With counsel, or non-legal mediators, some homeowners can avoid the foreclosure process entirely.

Additionally, the proposed legislation operates on filing surcharges placed on foreclosure filings. Multiple counties throughout the state currently have such a filing system in place with great success. The Governor should endorse legislation to create a Foreclosure Prevention and Neighborhood Stabilization Revolving Trust Fund financed through a temporary \$800 surcharge, to be paid by the lender, placed on each foreclosure complaint filed in the State. It is anticipated it will generate \$10 million a year for qualified non-profit entities to maintain and/or expand their foreclosure prevention programs including additional housing counselors. Through this program, the state could also track foreclosure activity, providing a more comprehensive view of the issue at hand and more effective partnership with programs to use the vacant homes, should the foreclosure complete.

**iii. Recommendation: Revision of regulations impeding foreclosure programs**

The Governor should waive arm's length transaction rules for Community Development Financial Institutions (**CDFIs**) and nonprofits to facilitate principal reduction by Executive Action. Arm's length transaction rules were designed to ensure both parties are acting in their own self-interest during a sale. However, they obstruct programs designed to assist homeowners in foreclosure. Suspension would allow for programs like Boston Community Capital's SUN to refinance mortgages to the original homeowner on affordable terms. Currently, without this regulatory change, SUN has only been able to work with approximately 60 New Jersey homeowners. States like Massachusetts and Rhode Island, have passed legislation that strictly allows arm's length regulation to be waived only for CDFIs or nonprofits in foreclosure transactions.

The Creditor Responsibility Law (N.J.S.A. 46:10B-5) should be revised to allow municipalities to file liens on registration fees when the creditor neglects maintenance on the home. In 2014, the Creditor Responsibility Law was modified by Assembly Bill A347, which only requires creditors to maintain the land/property of a home, which becomes vacant during foreclosure, but not the home/structure. Without this provision, lenders have no responsibility for the home itself and the building can deteriorate. The law should revert to the original text, requiring the creditor to maintain both land and structure.

**iv. Recommendation: Direct the Attorney General to pursue Wall Street settlements**

The Governor should require the Attorney General to participate in all Department of Justice and Consumer Financial Protection Bureau settlements, pursuing legal action against lenders for their role in the foreclosure crisis. New Jersey should approach and secure a share of Department of Justice Settlement Funds from "50 state" financial institutions—those banks with settlement credit obligations in all 50 states—for innovative foreclosure intervention. Although New Jersey has the highest rate of foreclosures, the State has not been aggressive in pursuing DOJ settlement funds. The State of New Jersey should also evaluate and consider pursuing individual state settlements from financial institutions with DOJ Settlement obligations, similar to the individual state settlements negotiated by the State of New York. In total, these funds, estimated to be as much as \$600 million, will support the mediation programs as well as help write down the cost for the bulk purchase programs to make homes more deeply affordable.

Costs: Fortunately, the mechanisms to address foreclosure come with ample funding options. The surcharges on filings will fund the mediation efforts and may additionally support legal counsel as well. These surcharges are estimated to generate more than \$10 million a year, more than enough to support the programming.

The Wall Street Settlements, estimated at as much as \$600 million dollars for New Jersey, will provide much needed funding to address foreclosure and may also support additional programming to make homes affordable such as the Building a Thriving New Jersey initiative.

Finally, regulatory and programmatic proposals such as the arm's length waiver are revenue neutral.

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The Governor, Lieutenant Governor, and the entire senior transition team staff greatly appreciate the immense amount of work, participation and expertise that all our co-chairs, committee members and deputy directors who staffed each committee provided since the transition began in November. This hard work and positive energy about how New Jersey can once again become a national leader has resulted in a robust set of recommended priorities and actions for the incoming administration to consider. As with any collaborative endeavor, many recommendations and opinions were expressed and debated during the committee meetings and the drafting of the reports by co-chairs, committee members, and Deputy Directors. The final reports may contain recommendations that do not reflect the concurrence of all co-chairs or committee members, nor of the organizations they represent. These reports are purely advisory and do not reflect the positions of the Governor-elect or any other elected official.