

1 AN ACT concerning housing.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Affordable Housing Planning and Appeal Act
5 is amended by changing Sections 15, 25, 30, and 50 as follows:

6 (310 ILCS 67/15)

7 Sec. 15. Definitions. As used in this Act:

8 "Affordable housing" means housing that has a value or
9 cost or rental amount that is within the means of a household
10 that may occupy moderate-income or low-income housing. In the
11 case of owner-occupied dwelling units, housing that is
12 affordable means housing in which mortgage, amortization,
13 taxes, insurance, and condominium or association fees, if any,
14 constitute no more than 30% of the gross annual household
15 income for a household of the size that may occupy the unit. In
16 the case of dwelling units for rent, housing that is
17 affordable means housing for which the rent, ~~any required~~
18 ~~parking, maintenance, landlord-imposed fees,~~ and utilities
19 constitute no more than 30% of the gross annual household
20 income for a household of the size that may occupy the unit. In
21 the case of dwelling units for rent, the costs of any required
22 parking, maintenance, or landlord-imposed fees are to be
23 included in the calculation of affordable housing if available

1 from the U.S. Census Bureau.

2 "Affordable housing developer" means a nonprofit entity,
3 limited equity cooperative or public agency, or private
4 individual, firm, corporation, or other entity seeking to
5 build an affordable housing development.

6 "Affordable housing development" means (i) any housing
7 that is subsidized by the federal or State government or (ii)
8 any housing in which at least 20% of the dwelling units are
9 subject to covenants or restrictions that require that the
10 dwelling units be sold or rented at prices that preserve them
11 as affordable housing for a period of at least 15 years, in the
12 case of owner-occupied housing, and at least 30 years, in the
13 case of rental housing.

14 "Approving authority" means the governing body of the
15 county or municipality.

16 "Area median household income" means the median household
17 income adjusted for family size for applicable income limit
18 areas as determined annually by the federal Department of
19 Housing and Urban Development under Section 8 of the United
20 States Housing Act of 1937.

21 "Community land trust" means a private, not-for-profit
22 corporation organized exclusively for charitable, cultural,
23 and other purposes and created to acquire and own land for the
24 benefit of the local government, including the creation and
25 preservation of affordable housing.

26 "Development" means any building, construction,

1 renovation, or excavation or any material change in any
2 structure or land, or change in the use of such structure or
3 land, that results in a net increase in the number of dwelling
4 units in a structure or on a parcel of land by more than one
5 dwelling unit.

6 "Exempt local government" means any local government in
7 which at least 10% of its total year-round housing units are
8 affordable, as determined by the Illinois Housing Development
9 Authority in accordance with Section 20, or any municipality
10 with a population under 1,000. ~~"Exempt local government" means~~
11 ~~any local government in which at least 10% of its total~~
12 ~~year-round housing units are affordable, as determined by the~~
13 ~~Illinois Housing Development Authority pursuant to Section 20~~
14 ~~of this Act; or any municipality under 1,000 population.~~

15 "Household" means the person or persons occupying a
16 dwelling unit.

17 "Housing organization" means a trade or industry group
18 engaged in the construction or management of housing units, or
19 a nonprofit organization whose mission includes providing or
20 advocating for increased access to housing for low or
21 moderate-income households.

22 "Housing trust fund" means a separate fund, either within
23 a local government or between local governments pursuant to
24 intergovernmental agreement, established solely for the
25 purposes authorized in subsection (d) of Section 25,
26 including, without limitation, the holding and disbursing of

1 financial resources to address the affordable housing needs of
2 individuals or households that may occupy low-income or
3 moderate-income housing.

4 "Local government" means a county or municipality.

5 "Low-income housing" means housing that is affordable,
6 according to the federal Department of Housing and Urban
7 Development, for either home ownership or rental, and that is
8 occupied, reserved, or marketed for occupancy by households
9 with a gross household income that does not exceed 50% of the
10 area median household income.

11 "Moderate-income housing" means housing that is
12 affordable, according to the federal Department of Housing and
13 Urban Development, for either home ownership or rental, and
14 that is occupied, reserved, or marketed for occupancy by
15 households with a gross household income that is greater than
16 50% but does not exceed 80% of the area median household
17 income.

18 "Non-appealable local government requirements" means all
19 essential requirements that protect the public health and
20 safety, including any local building, electrical, fire, or
21 plumbing code requirements or those requirements that are
22 critical to the protection or preservation of the environment.

23 (Source: P.A. 102-175, eff. 7-29-21.)

24 (310 ILCS 67/25)

25 Sec. 25. Affordable housing plan.

1 (a) Prior to April 1, 2005, all non-exempt local
2 governments must approve an affordable housing plan. Any local
3 government that is determined by the Illinois Housing
4 Development Authority under Section 20 to be non-exempt for
5 the first time based on the recalculation of U.S. Census
6 Bureau data after 2010 shall have 18 months from the date of
7 notification of its non-exempt status to approve an affordable
8 housing plan under this Act. On and after the effective date of
9 this amendatory Act of the 102nd General Assembly, an
10 affordable housing plan, or any revision thereof, shall not be
11 adopted by a non-exempt local government until notice and
12 opportunity for public hearing have first been afforded.

13 (b) For the purposes of this Act, the affordable housing
14 plan shall consist of at least the following:

15 (i) a statement of the total number of affordable
16 housing units that are necessary to exempt the local
17 government from the operation of this Act as defined in
18 Section 15 and Section 20;

19 (ii) an identification of lands within the
20 jurisdiction that are most appropriate for the
21 construction of affordable housing and of existing
22 structures most appropriate for conversion to, or
23 rehabilitation for, affordable housing, including a
24 consideration of affordable housing for both
25 owner-occupied dwelling units and dwelling units for rent,
26 lands and structures of developers who have expressed a

1 commitment to provide affordable housing, and lands and
2 structures that are publicly or semi-publicly owned;

3 (iii) incentives that local governments may provide
4 for the purpose of attracting affordable housing to their
5 jurisdiction; ~~and~~

6 (iv) a description of any housing market conditions,
7 infrastructure limitations, local government ordinances,
8 including zoning and land use ordinances, local government
9 policies or practices that do not affirmatively further
10 fair housing as defined in the federal Fair Housing Act,
11 and other factors that may constrain the local
12 government's ability to create and preserve affordable
13 housing;

14 (v) a plan or potential strategies to eliminate or
15 mitigate these constraints identified in item (iv);

16 (vi) one or more of the following goals: ~~(iv) a goal of~~
17 a minimum of 15% of all new development or redevelopment
18 within the local government that would be defined as
19 affordable housing in this Act; ~~or~~ a minimum of a 5 ~~3~~
20 percentage point increase in the overall percentage of
21 affordable housing within its jurisdiction, as described
22 in subsection (b) of Section 20 of this Act; or a minimum
23 of a total of 10% affordable housing within its
24 jurisdiction as described in subsection (b) of Section 20
25 of this Act. These goals may be met, in whole or in part,
26 through the creation of affordable housing units under

1 intergovernmental agreements as described in subsection
2 (e) of this Section; and ~~—~~

3 (vii) proposed timelines to commence, within the first
4 24 months after the date upon which the affordable housing
5 plan was adopted, for actions to implement the components
6 of the affordable housing plan.

7 Local governments that have previously been determined as
8 a non-exempt municipality and that have submitted an
9 affordable housing plan shall also include a summary of
10 actions taken to implement the previously submitted plan, as
11 well as a summary of progress made toward achieving the goals
12 of the plan.

13 To comply with the affordable housing plan requirements,
14 no later than 4 years after adopting or updating an affordable
15 housing plan the local government shall submit a report to the
16 Illinois Housing Development Authority summarizing actions
17 taken to implement the current plan.

18 (c) Within 60 days after the adoption of an affordable
19 housing plan or revisions to its affordable housing plan, the
20 local government must submit a copy of that plan to the
21 Illinois Housing Development Authority.

22 (d) In order to promote the goals of this Act and to
23 maximize the creation, establishment, or preservation of
24 affordable housing throughout the State of Illinois, a local
25 government, whether exempt or non-exempt under this Act, may
26 adopt the following measures to address the need for

1 affordable housing:

2 (1) Local governments may individually or jointly
3 create or participate in a housing trust fund or otherwise
4 provide funding or support for the purpose of supporting
5 affordable housing, including, without limitation, to
6 support the following affordable housing activities:

7 (A) Housing production, including, without
8 limitation, new construction, rehabilitation, and
9 adaptive re-use.

10 (B) Acquisition, including, without limitation,
11 land, single-family homes, multi-unit buildings, and
12 other existing structures that may be used in whole or
13 in part for residential use.

14 (C) Rental payment assistance.

15 (D) Home-ownership purchase assistance.

16 (E) Preservation of existing affordable housing.

17 (F) Weatherization.

18 (G) Emergency repairs.

19 (H) Housing related support services, including
20 homeownership education and financial counseling.

21 (I) Grants or loans to not-for-profit
22 organizations engaged in addressing the affordable
23 housing needs of low-income and moderate-income
24 households.

25 Local governments may authorize housing trust funds to
26 accept and utilize funds, property, and other resources

1 from all proper and lawful public and private sources so
2 long as those funds are used solely for addressing the
3 affordable housing needs of individuals or households that
4 may occupy low-income or moderate-income housing.

5 (2) A local government may create a community land
6 trust, which may: acquire developed or undeveloped
7 interests in real property and hold them for affordable
8 housing purposes; convey such interests under long-term
9 leases, including ground leases; convey such interests for
10 affordable housing purposes; and retain an option to
11 reacquire any such real property interests at a price
12 determined by a formula ensuring that such interests may
13 be utilized for affordable housing purposes.

14 (3) A local government may use its zoning powers to
15 require the creation and preservation of affordable
16 housing as authorized under Section 5-12001 of the
17 Counties Code and Section 11-13-1 of the Illinois
18 Municipal Code.

19 (4) A local government may accept donations of money
20 or land for the purpose of addressing the affordable
21 housing needs of individuals or households that may occupy
22 low-income or moderate-income housing. These donations may
23 include, without limitation, donations of money or land
24 from persons, as long as the donations are demonstrably
25 used to preserve, create, or subsidize low-income housing
26 or moderate-income housing within the jurisdiction.

1 (e) In order to encourage regional cooperation and the
2 maximum creation of affordable housing in areas lacking such
3 housing in the State of Illinois, any non-exempt local
4 government may enter into intergovernmental agreements under
5 subsection (e) of Section 25 with local governments within 10
6 miles of its corporate boundaries in order to create
7 affordable housing units to meet the goals of this Act. A
8 non-exempt local government may not enter into an
9 intergovernmental agreement, however, with any local
10 government that contains more than 25% affordable housing as
11 determined under Section 20 of this Act. All intergovernmental
12 agreements entered into to create affordable housing units to
13 meet the goals of this Act must also specify the basis for
14 determining how many of the affordable housing units created
15 will be credited to each local government participating in the
16 agreement for purposes of complying with this Act. All
17 intergovernmental agreements entered into to create affordable
18 housing units to meet the goals of this Act must also specify
19 the anticipated number of newly created affordable housing
20 units that are to be credited to each local government
21 participating in the agreement for purposes of complying with
22 this Act. In specifying how many affordable housing units will
23 be credited to each local government, the same affordable
24 housing unit may not be counted by more than one local
25 government.

26 (f) To enforce compliance with the provisions of this

1 Section, and to encourage local governments to submit their
2 affordable housing plans to the Illinois Housing Development
3 Authority in a timely manner, the Illinois Housing Development
4 Authority shall notify any local government and may notify the
5 Office of the Attorney General that the local government is in
6 violation of State law if the Illinois Housing Development
7 Authority finds that the affordable housing plan submitted is
8 not in substantial compliance with this Section or that the
9 local government failed to submit an affordable housing plan.
10 The Attorney General may enforce this provision of the Act by
11 an action for mandamus or injunction or by means of other
12 appropriate relief.

13 (g) The Illinois Housing Development Authority shall post
14 each affordable housing plan submitted by a local government
15 on the Illinois Housing Development Authority's website.

16 (Source: P.A. 102-175, eff. 7-29-21.)

17 (310 ILCS 67/30)

18 Sec. 30. Appeal to State Housing Appeals Board.

19 (a) (Blank).

20 (b) (Blank). ~~Beginning January 1, 2009, an affordable~~
21 ~~housing developer whose application is either denied or~~
22 ~~approved with conditions that in his or her judgment render~~
23 ~~the provision of affordable housing infeasible may, within 45~~
24 ~~days after the decision, appeal to the State Housing Appeals~~
25 ~~Board challenging that decision unless the municipality or~~

~~county that rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development. In the case of local governments that are determined by the Illinois Housing Development Authority under Section 20 to be non exempt for the first time based on the recalculation of U.S. Census Bureau data after the effective date of this amendatory Act of the 98th General Assembly, no developer may appeal to the State Housing Appeals Board until 60 months after a local government has been notified of its non-exempt status.~~

(b-5) Beginning January 1, 2026, any of the following parties may file an appeal as an appellant to the State Housing Appeals Board against a non-exempt municipality if the proposed affordable housing development was denied by the municipality, or approved with conditions that in the appellant's judgment render the provision of affordable housing infeasible:

(1) the affordable housing developer of the proposed affordable housing development;

(2) a person who would be eligible to apply for residency in the proposed affordable housing development;

or

(3) a housing organization whose geographic focus area includes the municipality, or county if in an

1 unincorporated area, where the proposed affordable housing
2 development is located.

3 Appeals must be filed within 45 days after the decision by
4 the municipality. The appellant must submit information
5 regarding why the appellant believes the affordable housing
6 development was unfairly denied or unreasonable conditions
7 were placed upon the tentative approval of the development. In
8 the case of local governments that are determined by the
9 Illinois Housing Development Authority under Section 20 to be
10 non-exempt for the first time based on the recalculation of
11 U.S. Census Bureau data after the effective date of this
12 amendatory Act of the 103rd General Assembly, no appellant may
13 appeal to the State Housing Appeals Board until 6 months after
14 a local government has been notified of its non-exempt status.

15 (c) Beginning on the effective date of this amendatory Act
16 of the 98th General Assembly, the Board shall, whenever
17 possible, render a decision on the appeal within 120 days
18 after the appeal is filed. The Board may extend the time by
19 which it will render a decision where circumstances outside
20 the Board's control make it infeasible for the Board to render
21 a decision within 120 days. In any proceeding before the
22 Board, the appellant ~~affordable housing developer~~ bears the
23 burden of demonstrating that the proposed affordable housing
24 development (i) has been unfairly denied or (ii) has had
25 unreasonable conditions placed upon it by the decision of the
26 local government.

1 (d) The Board shall dismiss any appeal if:

2 (i) the local government has adopted an affordable
3 housing plan as defined in Section 25 of this Act and
4 submitted that plan to the Illinois Housing Development
5 Authority within the time frame required by this Act; and

6 (ii) the local government has implemented its
7 affordable housing plan and has met its goal as
8 established in its affordable housing plan as defined in
9 Section 25 of this Act.

10 (e) The Board shall dismiss any appeal if the reason for
11 denying the application or placing conditions upon the
12 approval is a non-appealable local government requirement
13 under Section 15 of this Act.

14 (f) The Board may affirm, reverse, or modify the
15 conditions of, or add conditions to, a decision made by the
16 approving authority. The decision of the Board constitutes an
17 order directed to the approving authority and is binding on
18 the local government.

19 (g) The appellate court has the exclusive jurisdiction to
20 review decisions of the Board. Any appeal to the Appellate
21 Court of a final ruling by the State Housing Appeals Board may
22 be heard only in the Appellate Court for the District in which
23 the local government involved in the appeal is located. The
24 appellate court shall apply the "clearly erroneous" standard
25 when reviewing such appeals. An appeal of a final ruling of the
26 Board shall be filed within 35 days after the Board's decision

1 and in all respects shall be in accordance with Section 3-113
2 of the Code of Civil Procedure.

3 (Source: P.A. 98-287, eff. 8-9-13.)

4 (310 ILCS 67/50)

5 Sec. 50. Housing Appeals Board.

6 (a) On and after the effective date of this amendatory Act
7 of the 103rd General Assembly, the ~~Prior to January 1, 2008, a~~
8 Housing Appeals Board consists ~~shall be created consisting~~ of
9 7 members appointed by the Governor as follows:

10 (1) a retired circuit judge, a ~~or~~ retired appellate
11 judge, a current or retired administrative law judge, or a
12 practicing or retired attorney with experience in the area
13 of land use law or related field, who shall act as
14 chairperson;

15 (2) 4 members selected from among the following
16 categories:

17 (A) county or municipal zoning board of appeals
18 members;

19 (B) county or municipal planning board members;

20 (C) a mayor or municipal council or board member;

21 (D) a county board member; ~~a zoning board of~~
22 ~~appeals member;~~

23 (3) an affordable housing developer; ~~a planning~~
24 ~~board member;~~

25 ~~(4) a mayor or municipal council or board member;~~

1 ~~(5) a county board member,~~

2 ~~(6) an affordable housing developer; and~~

3 (4) ~~(7)~~ an affordable housing advocate.

4 In addition, the Chairman of the Illinois Housing
5 Development Authority, ex officio, shall serve as a non-voting
6 member. At least 2 of the appointments under paragraph (2)
7 shall be from a local government that is non-exempt under this
8 Act. ~~No more than 4 of the appointed members may be from the~~
9 ~~same political party. Appointments under items (2), (3), and~~
10 ~~(4) shall be from local governments that are not exempt under~~
11 ~~this Act.~~

12 (b) Initial terms of 4 members designated by the Governor
13 under this amendatory Act of the 103rd General Assembly shall
14 be for 2 years. Initial terms of 3 members designated by the
15 Governor under this amendatory Act of the 103rd General
16 Assembly shall be for one year. Thereafter, members shall be
17 appointed for terms of 2 years. After a member's term expires,
18 the member shall continue to serve until a successor is
19 appointed. There shall be no limit to the number of terms an
20 appointee may serve. A member shall receive no compensation
21 for his or her services, but shall be reimbursed by the State
22 for all reasonable expenses actually and necessarily incurred
23 in the performance of his or her official duties. The Board
24 ~~board~~ shall hear all petitions for review filed under this Act
25 and shall conduct all hearings in accordance with the rules
26 and regulations established by the chairperson. The Illinois

1 Housing Development Authority shall provide space and clerical
2 and other assistance that the Board may require.

3 (c) (Blank).

4 (d) To the extent possible, any vacancies in the Housing
5 Appeals Board shall be filled within 90 days of the vacancy.

6 (e) The terms of members serving before the effective date
7 of this amendatory Act of the 103rd General Assembly expire on
8 the effective date of this amendatory Act of the 103rd General
9 Assembly.

10 (Source: P.A. 102-175, eff. 7-29-21.)