

AN ACT concerning housing.

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

Section 5. The Affordable Housing Planning and Appeal Act is amended by changing Sections 15, 20, 25, 30, and 50 as follows:

(310 ILCS 67/15)

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

"Affordable housing" means housing that has a value or cost ~~sales price~~ or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units ~~for sale~~, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build

an affordable housing development.

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

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

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

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

"Development" means any building, construction, renovation, or excavation or any material change in any structure or land, or change in the use of such structure or land, that results in a net increase in the number of dwelling units in a structure or on a parcel of land by more than one

dwelling unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

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

"Housing trust fund" means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purposes authorized in subsection (d) of Section 25, including, without limitation, the holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

"Local government" means a county or municipality.

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

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and

that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the area median household income.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04; 94-303, eff. 7-21-05.)

(310 ILCS 67/20)

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau ~~decennial census~~ for each local government within the State and by an inventory of owner-occupied ~~for-sale~~ and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau ~~decennial census~~ and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied ~~for sale~~ housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied ~~for sale~~ and rental units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau ~~decennial census~~ and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly ~~October 1, 2004~~, the Illinois Housing Development Authority shall publish ~~on an annual basis~~ a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list

of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

(Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04.)

(310 ILCS 67/25)

Sec. 25. Affordable housing plan.

(a) Prior to April 1, 2005, all non-exempt local governments must approve an affordable housing plan. Any local government that is 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 ~~decennial census~~ data after 2010 shall have 18 months from the date of notification of its non-exempt status to approve an affordable housing plan under this Act.

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

(i) a statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of this Act as defined in

Section 15 and Section 20;

(ii) an identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

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

(iv) a goal of a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as described in subsection (b) of Section 20 of this Act; or a minimum of a total of 10% affordable housing within its jurisdiction as described in subsection (b) of Section 20 of this Act. These goals may be met, in whole or in part, through the creation of affordable housing units under intergovernmental agreements as described in subsection (e) of this Section.

(c) Within 60 days after the adoption of an affordable

housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

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

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

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

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

(C) Rental payment assistance.

(D) Home-ownership purchase assistance.

(E) Preservation of existing affordable housing.

(F) Weatherization.

(G) Emergency repairs.

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

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

Local governments may authorize housing trust funds to accept and utilize funds, property, and other resources from all proper and lawful public and private sources so long as those funds are used solely for addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

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

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

(4) A local government may accept donations of money or

land for the purpose of addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing. These donations may include, without limitation, donations of money or land from persons in lieu of building affordable housing.

(e) In order to encourage regional cooperation and the maximum creation of affordable housing in areas lacking such housing in the State of Illinois, any non-exempt local government may enter into intergovernmental agreements under subsection (e) of Section 25 with local governments within 10 miles of its corporate boundaries in order to create affordable housing units to meet the goals of this Act. A non-exempt local government may not enter into an intergovernmental agreement, however, with any local government that contains more than 25% affordable housing as determined under Section 20 of this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the basis for determining how many of the affordable housing units created will be credited to each local government participating in the agreement for purposes of complying with this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the anticipated number of newly created affordable housing units that are to be credited to each local government participating in the agreement for purposes of complying with this Act. In specifying how many

affordable housing units will be credited to each local government, the same affordable housing unit may not be counted by more than one local government.

(Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04; 94-303, eff. 7-21-05.)

(310 ILCS 67/30)

Sec. 30. Appeal to State Housing Appeals Board.

(a) (Blank).

(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals 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 decennial census data after the effective date of this amendatory Act of the 98th General Assembly 2010, 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.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly January 1, 2009, the Board shall, whenever possible, render a decision on the appeal within 120 days after the appeal is filed. The Board may extend the time by which it will render a decision where circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. In any proceeding before the Board, the affordable housing developer bears the burden of demonstrating that the proposed affordable housing development (i) has been unfairly denied or (ii) has had unreasonable conditions placed upon it by the decision of the local government.

(d) The Board shall dismiss any appeal if:

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

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

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

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

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board. Any appeal to the Appellate Court of a final ruling by the State Housing Appeals Board may be heard only in the Appellate Court for the District in which the local government involved in the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing such appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Code of Civil Procedure.

(Source: P.A. 93-595, eff. 1-1-04; 94-303, eff. 7-21-05.)

(310 ILCS 67/50)

Sec. 50. Housing Appeals Board.

(a) Prior to January 1, 2008, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

- (1) a retired circuit judge or retired appellate judge, who shall act as chairperson;
- (2) a zoning board of appeals member;
- (3) a planning board member;

- (4) a mayor or municipal council or board member;
- (5) a county board member;
- (6) an affordable housing developer; and
- (7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. After a member's term expires, the member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) (Blank).

Public Act 098-0287

SB1790 Enrolled

LRB098 09695 KTG 39843 b

(Source: P.A. 93-595, eff. 1-1-04; 94-303, eff. 7-21-05.)

Section 99. Effective date. This Act takes effect upon becoming law.