

1 AMENDMENT TO HOUSE BILL 625

2 AMENDMENT NO. _____. Amend House Bill 625 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Affordable Housing Planning and Appeal Act.

6 Section 5. Findings. The legislature finds and declares
7 that:

8 (1) there exists a shortage of affordable,
9 accessible, safe, and sanitary housing in the State;

10 (2) it is imperative that action be taken to assure
11 the availability of workforce and retirement housing; and

12 (3) local governments in the State that do not have
13 sufficient affordable housing are encouraged to assist in
14 providing affordable housing opportunities to assure the
15 health, safety, and welfare of all citizens of the State.

16 Section 10. Purpose. The purpose of this Act is to
17 encourage counties and municipalities to incorporate
18 affordable housing within their housing stock sufficient to
19 meet the needs of their county or community. Further,
20 affordable housing developers who believe that they have been
21 unfairly treated due to the fact that the development

1 contains affordable housing may seek relief from local
2 ordinances and regulations that may inhibit the construction
3 of affordable housing needed to serve low-income and
4 moderate-income households in this State.

5 Section 15. Definitions. As used in this Act:

6 "Affordable housing" means housing that has a sales price
7 or rental amount that is within the means of a household that
8 may occupy moderate-income or low-income housing. In the case
9 of dwelling units for sale, housing that is affordable means
10 housing in which mortgage, amortization, taxes, insurance,
11 and condominium or association fees, if any, constitute no
12 more than 30% of the gross annual household income for a
13 household of the size that may occupy the unit. In the case
14 of dwelling units for rent, housing that is affordable means
15 housing for which the rent and utilities constitute no more
16 than 30% of the gross annual household income for a household
17 of the size that may occupy the unit.

18 "Affordable housing developer" means a nonprofit entity,
19 limited equity cooperative or public agency, or private
20 individual, firm, corporation, or other entity seeking to
21 build an affordable housing development.

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

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

32 "Development" means any building, construction,
33 renovation, or excavation or any material change in the use

1 or appearance of any structure or in the land itself; the
2 division of land into parcels; or any change in the intensity
3 or use of land, such as an increase in the number of dwelling
4 units in a structure or a change to a commercial use.

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

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

12 "Local government" means a county or municipality.

13 "Low-income housing" means housing that is affordable,
14 according to the federal Department of Housing and Urban
15 Development, for either home ownership or rental, and that is
16 occupied, reserved, or marketed for occupancy by households
17 with a gross household income that does not exceed 50% of the
18 median gross household income for households of the same size
19 within the county in which the housing is located.

20 "Moderate-income housing" means housing that is
21 affordable, according to the federal Department of Housing
22 and Urban Development, for either home ownership or rental,
23 and that is occupied, reserved, or marketed for occupancy by
24 households with a gross household income that is greater than
25 50% but does not exceed 80% of the median gross household
26 income for households of the same size within the county in
27 which the housing is located.

28 "Non-appealable local government requirements" means all
29 essential requirements that protect the public health and
30 safety, including any local building, electrical, fire, or
31 plumbing code requirements or those requirements that are
32 critical to the protection or preservation of the
33 environment.

1 Section 20. Determination of exempt local governments.

2 (a) Beginning January 1, 2006, the Illinois Housing
3 Development Authority shall determine which local governments
4 are exempt and not exempt from the operation of this Act
5 based on an identification of the total number of year-round
6 housing units in the most recent decennial census for each
7 local government within the State and by an inventory of
8 for-sale and rental affordable housing units, as defined in
9 this Act, for each local government from the decennial census
10 and other relevant sources.

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

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

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

23 (iii) adding the number of for-sale and rental
24 units for each local government from items (i) and (ii);
25 and

26 (iv) dividing the sum of (iii) above by the total
27 number of year-round housing units in the local
28 government as contained in the latest decennial census
29 and multiplying the result by 100 to determine the
30 percentage of affordable housing units within the
31 jurisdiction of the local government.

32 (c) Beginning January 1, 2006, the Illinois Housing
33 Development Authority shall publish on an annual basis a list
34 of exempt and non-exempt local governments and the data that

1 it used to calculate its determination. The data shall be
2 shown for each local government in the State and for the
3 State as a whole.

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

9 Section 25. Affordable housing plan.

10 (a) Prior to July 1, 2004, all non-exempt local
11 governments must approve an affordable housing plan.

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

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

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

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

30 (iv) a goal of a minimum of 15% of all new
31 development or redevelopment within the local government
32 that would be defined as affordable housing in this Act;
33 or a minimum of a 3 percentage point increase in the

1 overall percentage of affordable housing within its
2 jurisdiction, as defined in Section 20 of this Act; or a
3 minimum of a total of 10% of affordable housing within
4 its jurisdiction.

5 (c) Within 60 days after the adoption of an affordable
6 housing plan or revisions to its affordable housing plan, the
7 local government must submit a copy of that plan to the
8 Illinois Housing Development Authority.

9 Section 30. Appeal to State Housing Appeals Board.

10 (a) Beginning January 1, 2006, an affordable housing
11 developer whose application is either denied or approved with
12 conditions that in his or her judgment render the provision
13 of affordable housing infeasible may, within 45 days after
14 the decision, submit to the State Housing Appeals Board
15 information regarding why the developer believes he or she
16 was unfairly denied or conditions were placed upon the
17 tentative approval of the development unless the local
18 government that rendered the decision is exempt under Section
19 15 or Section 20 of this Act. The Board shall maintain all
20 information forwarded to them by developers and shall compile
21 and make available an annual report summarizing the
22 information thus received.

23 (b) Beginning January 1, 2009, an affordable housing
24 developer whose application is either denied or approved with
25 conditions that in his or her judgment render the provision
26 of affordable housing infeasible may, within 45 days after
27 the decision, appeal to the State Housing Appeals Board
28 challenging that decision unless the municipality or county
29 that rendered the decision is exempt under Section 15 of this
30 Act. The developer must submit information regarding why the
31 developer believes he or she was unfairly denied or
32 unreasonable conditions were placed upon the tentative
33 approval of the development.

1 (c) Beginning January 1, 2009, the Board shall render a
2 decision on the appeal within 120 days after the appeal is
3 filed. In its determination of an appeal, the Board shall
4 conduct a de novo review of the matter. In rendering its
5 decision, the Board shall consider the facts and whether the
6 developer was treated in a manner that places an undue burden
7 on the development due to the fact that the development
8 contains affordable housing as defined in this Act. The Board
9 shall further consider any action taken by the unit of local
10 government in regards to granting waivers or variances that
11 would have the effect of creating or prohibiting the economic
12 viability of the development. In any proceeding before the
13 Board, the developer bears the burden of demonstrating that
14 he or she has been unfairly denied or unreasonable conditions
15 have been placed upon the tentative approval for the
16 application for an affordable housing development.

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

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

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

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

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

1 (g) The appellate court has the exclusive jurisdiction
2 to review decisions of the Board.

3 Section 40. Nonresidential development as part of an
4 affordable housing development.

5 (a) An affordable housing developer who applies to
6 develop property that contains nonresidential uses in a
7 nonresidential zoning district must designate either at least
8 50% of the area or at least 50% of the square footage of the
9 development for residential use. Unless adjacent to a
10 residential development, the nonresidential zoning district
11 shall not include property zoned industrial. The applicant
12 bears the burden of proof of demonstrating that the purposes
13 of a nonresidential zoning district will not be impaired by
14 the construction of housing in the zoning district and that
15 the public health and safety of the residents of the
16 affordable housing will not be adversely affected by
17 nonresidential uses either in existence or permitted in that
18 zoning district. The development should be completed
19 simultaneously to the extent possible and shall be unified in
20 design.

21 (b) For purposes of subsection (a), the square footage
22 of the residential portion of the development shall be
23 measured by the interior floor area of dwelling units,
24 excluding that portion that is unheated. Square footage of
25 the nonresidential portion shall be calculated according to
26 the gross leasable area.

27 Section 50. Housing Appeals Board.

28 (a) Prior to July 1, 2006, a Housing Appeals Board shall
29 be created consisting of 7 members appointed by the Governor
30 as follows:

31 (1) a retired circuit judge or retired appellate
32 judge, who shall act as chairperson;

- 1 (2) a zoning board of appeals member;
- 2 (3) a planning board member;
- 3 (4) a mayor or municipal council or board member;
- 4 (5) a county board member;
- 5 (6) an affordable housing developer; and
- 6 (7) an affordable housing advocate.

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

13 (b) Initial terms of 4 members designated by the
14 Governor shall be for 2 years. Initial terms of 3 members
15 designated by the Governor shall be for one year. Thereafter,
16 members shall be appointed for terms of 2 years. A member
17 shall receive no compensation for his or her services, but
18 shall be reimbursed by the State for all reasonable expenses
19 actually and necessarily incurred in the performance of his
20 or her official duties. The board shall hear all petitions
21 for review filed under this Act and shall conduct all
22 hearings in accordance with the rules and regulations
23 established by the chairperson. The Illinois Housing
24 Development Authority shall provide space and clerical and
25 other assistance that the Board may require.

26 (c) The Illinois Housing Development Authority may adopt
27 such other rules and regulations as it deems necessary and
28 appropriate to carry out the Board's responsibilities under
29 this Act and to provide direction to local governments and
30 affordable housing developers."