



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/4/2004, by Jeffrey M. Schoenberg

**SYNOPSIS AS INTRODUCED:**

310 ILCS 67/15  
310 ILCS 67/20  
310 ILCS 67/25  
310 ILCS 67/30

Amends the Affordable Housing Planning and Appeal Act. Makes changes in the definitions of "low-income housing" and "moderate-income housing". Changes dates in provisions concerning the Illinois Housing Development Authority's determination of exempt local governments, affordable housing plans, and appeals to the State Housing Appeals Board. Effective immediately.

LRB093 19551 AMC 45291 b

FISCAL NOTE ACT  
MAY APPLY

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, 20, 25, and 30 as follows:

6 (310 ILCS 67/15)

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

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

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

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

32 "Approving authority" means the governing body of the

1 county or municipality.

2 "Development" means any building, construction,  
3 renovation, or excavation or any material change in the use or  
4 appearance of any structure or in the land itself; the division  
5 of land into parcels; or any change in the intensity or use of  
6 land, such as an increase in the number of dwelling units in a  
7 structure or a change to a commercial use.

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

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

15 "Local government" means a county or municipality.

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

24 "Moderate-income housing" means housing that is  
25 affordable, according to the federal Department of Housing and  
26 Urban Development, for either home ownership or rental, and  
27 that is occupied, reserved, or marketed for occupancy by  
28 households with a gross household income that is greater than  
29 50% but does not exceed 80% of the median gross household  
30 income for households of the same size within the primary  
31 metropolitan statistical area, metropolitan statistical area,  
32 or county in which the housing is located.

33 "Non-appealable local government requirements" means all  
34 essential requirements that protect the public health and  
35 safety, including any local building, electrical, fire, or  
36 plumbing code requirements or those requirements that are

1 critical to the protection or preservation of the environment.  
2 (Source: P.A. 93-595, eff. 1-1-04.)

3 (310 ILCS 67/20)

4 Sec. 20. Determination of exempt local governments.

5 (a) Beginning October 1, 2004 ~~January 1, 2006~~, the Illinois  
6 Housing Development Authority shall determine which local  
7 governments are exempt and not exempt from the operation of  
8 this Act based on an identification of the total number of  
9 year-round housing units in the most recent decennial census  
10 for each local government within the State and by an inventory  
11 of for-sale and rental affordable housing units, as defined in  
12 this Act, for each local government from the decennial census  
13 and other relevant sources.

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

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

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

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

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

34 (c) Beginning October 1, 2004 ~~January 1, 2006~~, the Illinois  
35 Housing Development Authority shall publish on an annual basis

1 a list of exempt and non-exempt local governments and the data  
2 that it used to calculate its determination. The data shall be  
3 shown for each local government in the State and for the State  
4 as a whole.

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

10 (Source: P.A. 93-595, eff. 1-1-04.)

11 (310 ILCS 67/25)

12 Sec. 25. Affordable housing plan.

13 (a) Prior to January 1, 2005 ~~July 1, 2004~~, all non-exempt  
14 local governments must approve an affordable housing plan.

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

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

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

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

33 (iv) a goal of a minimum of 15% of all new development  
34 or redevelopment within the local government that would be  
35 defined as affordable housing in this Act; or a minimum of

1 a 3 percentage point increase in the overall percentage of  
2 affordable housing within its jurisdiction every 5 years  
3 beginning January 1, 2005, as defined in Section 20 of this  
4 Act; or a minimum of a total of 10% of affordable housing  
5 within its jurisdiction.

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

10 (Source: P.A. 93-595, eff. 1-1-04.)

11 (310 ILCS 67/30)

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

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

25 (b) Beginning January 1, 2006 ~~2009~~, an affordable housing  
26 developer whose application is either denied or approved with  
27 conditions that in his or her judgment render the provision of  
28 affordable housing infeasible may, within 45 days after the  
29 decision, appeal to the State Housing Appeals Board challenging  
30 that decision unless the municipality or county that rendered  
31 the decision is exempt under Section 15 of this Act. The  
32 developer must submit information regarding why the developer  
33 believes he or she was unfairly denied or unreasonable  
34 conditions were placed upon the tentative approval of the  
35 development.

1 (c) Beginning January 1, 2006 ~~2009~~, the Board shall render  
2 a 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 he  
14 or she has been unfairly denied or unreasonable conditions have  
15 been placed upon the tentative approval for the application for  
16 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 established  
24 in its affordable housing plan as defined in Section 25 of  
25 this Act.

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

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

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

1 (Source: P.A. 93-595, eff. 1-1-04.)

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