

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 Counties Code is amended by changing Section
5 5-12001 as follows:

6 (55 ILCS 5/5-12001) (from Ch. 34, par. 5-12001)

7 Sec. 5-12001. Authority to regulate and restrict location
8 and use of structures.

9 For the purpose of promoting the public health, safety,
10 morals, comfort and general welfare, conserving the values of
11 property throughout the county, lessening or avoiding
12 congestion in the public streets and highways, and lessening or
13 avoiding the hazards to persons and damage to property
14 resulting from the accumulation or runoff of storm or flood
15 waters, the county board or board of county commissioners, as
16 the case may be, of each county, shall have the power to
17 regulate and restrict the location and use of buildings,
18 structures and land for trade, industry, residence and other
19 uses which may be specified by such board, to regulate and
20 restrict the intensity of such uses, to establish building or
21 setback lines on or along any street, trafficway, drive,
22 parkway or storm or floodwater runoff channel or basin outside
23 the limits of cities, villages and incorporated towns which
24 have in effect municipal zoning ordinances; to divide the
25 entire county outside the limits of such cities, villages and
26 incorporated towns into districts of such number, shape, area
27 and of such different classes, according to the use of land and
28 buildings, the intensity of such use (including height of
29 buildings and structures and surrounding open space) and other
30 classification as may be deemed best suited to carry out the
31 purposes of this Division; to prohibit uses, buildings or
32 structures incompatible with the character of such districts

1 respectively; and to prevent additions to and alteration or
2 remodeling of existing buildings or structures in such a way as
3 to avoid the restrictions and limitations lawfully imposed
4 hereunder: Provided, that permits with respect to the erection,
5 maintenance, repair, alteration, remodeling or extension of
6 buildings or structures used or to be used for agricultural
7 purposes shall be issued free of any charge. The corporate
8 authorities of the county may by ordinance require the
9 construction of fences around or protective covers over
10 previously constructed artificial basins of water dug in the
11 ground and used for swimming or wading, which are located on
12 private residential property and intended for the use of the
13 owner and guests. In all ordinances or resolutions passed under
14 the authority of this Division, due allowance shall be made for
15 existing conditions, the conservation of property values, the
16 directions of building development to the best advantage of the
17 entire county, and the uses to which property is devoted at the
18 time of the enactment of any such ordinance or resolution.

19 The powers by this Division given shall not be exercised so
20 as to deprive the owner of any existing property of its use or
21 maintenance for the purpose to which it is then lawfully
22 devoted, but provisions may be made for (i) the gradual
23 elimination of the uses of unimproved lands or lot areas when
24 the existing rights of the persons in possession are terminated
25 or when the uses to which they are devoted are discontinued,
26 (ii) the gradual elimination of uses to which the buildings and
27 structures are devoted if they are adaptable to permitted uses,
28 and (iii) the gradual elimination of the buildings and
29 structures when they are destroyed or damaged in major part;
30 nor shall they be exercised so as to impose regulations,
31 eliminate uses, buildings, or structures, or require permits
32 with respect to land used for agricultural purposes, which
33 includes the growing of farm crops, truck garden crops, animal
34 and poultry husbandry, apiculture, aquaculture, dairying,
35 floriculture, horticulture, nurseries, tree farms, sod farms,
36 pasturage, viticulture, and wholesale greenhouses when such

1 agricultural purposes constitute the principal activity on the
2 land, other than parcels of land consisting of less than 5
3 acres from which \$1,000 or less of agricultural products were
4 sold in any calendar year in counties with a population between
5 300,000 and 400,000 or in counties contiguous to a county with
6 a population between 300,000 and 400,000, and other than
7 parcels of land consisting of less than 5 acres in counties
8 with a population in excess of 400,000, or with respect to the
9 erection, maintenance, repair, alteration, remodeling or
10 extension of buildings or structures used or to be used for
11 agricultural purposes upon such land except that such buildings
12 or structures for agricultural purposes may be required to
13 conform to building or set back lines and counties may
14 establish a minimum lot size for residences on land used for
15 agricultural purposes; nor shall any such powers be so
16 exercised as to prohibit the temporary use of land for the
17 installation, maintenance and operation of facilities used by
18 contractors in the ordinary course of construction activities,
19 except that such facilities may be required to be located not
20 less than 1,000 feet from any building used for residential
21 purposes, and except that the period of such temporary use
22 shall not exceed the duration of the construction contract; nor
23 shall any such powers include the right to specify or regulate
24 the type or location of any poles, towers, wires, cables,
25 conduits, vaults, laterals or any other similar distributing
26 equipment of a public utility as defined in the Public
27 Utilities Act, if the public utility is subject to the Messages
28 Tax Act, the Gas Revenue Tax Act or the Public Utilities
29 Revenue Act, or if such facilities or equipment are located on
30 any rights of way and are used for railroad purposes, nor shall
31 any such powers be exercised with respect to uses, buildings,
32 or structures of a public utility as defined in the Public
33 Utilities Act, nor shall any such powers be exercised in any
34 respect as to the facilities, as defined in Section 5-12001.1,
35 of a telecommunications carrier, as also defined therein,
36 except to the extent and in the manner set forth in Section

1 5-12001.1. As used in this Act, "agricultural purposes" do not
2 include the extraction of sand, gravel or limestone, and such
3 activities may be regulated by county zoning ordinance even
4 when such activities are related to an agricultural purpose.

5 Nothing in this Division shall be construed to restrict the
6 powers granted by statute to cities, villages and incorporated
7 towns as to territory contiguous to but outside of the limits
8 of such cities, villages and incorporated towns. Any zoning
9 ordinance enacted by a city, village or incorporated town shall
10 supersede, with respect to territory within the corporate
11 limits of the municipality, any county zoning plan otherwise
12 applicable. The powers granted to counties by this Division
13 shall be treated as in addition to powers conferred by statute
14 to control or approve maps, plats or subdivisions. In this
15 Division, "agricultural purposes" include, without limitation,
16 the growing, developing, processing, conditioning, or selling
17 of hybrid seed corn, seed beans, seed oats, or other farm
18 seeds.

19 Nothing in this Division shall be construed to prohibit the
20 corporate authorities of a county from adopting an ordinance
21 that exempts pleasure driveways or park districts, as defined
22 in the Park District Code, with a population of greater than
23 100,000, from the exercise of the county's powers under this
24 Division.

25 The powers granted by this Division may be used to require
26 the creation and preservation of affordable housing, including
27 the power to provide increased density or other zoning
28 incentives to developers who are creating, establishing, or
29 preserving affordable housing.

30 (Source: P.A. 89-654, eff. 8-14-96; 90-261, eff. 1-1-98;
31 90-522, eff. 1-1-98; 90-655, eff. 7-30-98; 90-661, eff.
32 7-30-98.)

33 Section 10. The Illinois Municipal Code is amended by
34 changing Section 11-13-1 as follows:

1 (65 ILCS 5/11-13-1) (from Ch. 24, par. 11-13-1)

2 Sec. 11-13-1. To the end that adequate light, pure air, and
3 safety from fire and other dangers may be secured, that the
4 taxable value of land and buildings throughout the municipality
5 may be conserved, that congestion in the public streets may be
6 lessened or avoided, that the hazards to persons and damage to
7 property resulting from the accumulation or runoff of storm or
8 flood waters may be lessened or avoided, and that the public
9 health, safety, comfort, morals, and welfare may otherwise be
10 promoted, and to insure and facilitate the preservation of
11 sites, areas, and structures of historical, architectural and
12 aesthetic importance; the corporate authorities in each
13 municipality have the following powers:

14 (1) To regulate and limit the height and bulk of
15 buildings hereafter to be erected; (2) to establish,
16 regulate and limit, subject to the provisions of Division
17 14 of this Article 11, the building or set-back lines on or
18 along any street, traffic-way, drive, parkway or storm or
19 floodwater runoff channel or basin; (3) to regulate and
20 limit the intensity of the use of lot areas, and to
21 regulate and determine the area of open spaces, within and
22 surrounding such buildings; (4) to classify, regulate and
23 restrict the location of trades and industries and the
24 location of buildings designed for specified industrial,
25 business, residential, and other uses; (5) to divide the
26 entire municipality into districts of such number, shape,
27 area, and of such different classes (according to use of
28 land and buildings, height and bulk of buildings, intensity
29 of the use of lot area, area of open spaces, or other
30 classification) as may be deemed best suited to carry out
31 the purposes of this Division 13; (6) to fix standards to
32 which buildings or structures therein shall conform; (7) to
33 prohibit uses, buildings, or structures incompatible with
34 the character of such districts; (8) to prevent additions
35 to and alteration or remodeling of existing buildings or
36 structures in such a way as to avoid the restrictions and

1 limitations lawfully imposed under this Division 13; (9) to
2 classify, to regulate and restrict the use of property on
3 the basis of family relationship, which family
4 relationship may be defined as one or more persons each
5 related to the other by blood, marriage or adoption and
6 maintaining a common household; ~~and~~ (10) to regulate or
7 forbid any structure or activity which may hinder access to
8 solar energy necessary for the proper functioning of a
9 solar energy system, as defined in Section 1.2 of The
10 Comprehensive Solar Energy Act of 1977; and (11) to require
11 the creation and preservation of affordable housing,
12 including the power to provide increased density or other
13 zoning incentives to developers who are creating,
14 establishing, or preserving affordable housing.

15 The powers enumerated may be exercised within the corporate
16 limits or within contiguous territory not more than one and
17 one-half miles beyond the corporate limits and not included
18 within any municipality. However, if any municipality adopts a
19 plan pursuant to Division 12 of Article 11 which plan includes
20 in its provisions a provision that the plan applies to such
21 contiguous territory not more than one and one-half miles
22 beyond the corporate limits and not included in any
23 municipality, then no other municipality shall adopt a plan
24 that shall apply to any territory included within the territory
25 provided in the plan first so adopted by another municipality.
26 No municipality shall exercise any power set forth in this
27 Division 13 outside the corporate limits thereof, if the county
28 in which such municipality is situated has adopted "An Act in
29 relation to county zoning", approved June 12, 1935, as amended.
30 Nothing in this Section prevents a municipality of more than
31 112,000 population located in a county of less than 185,000
32 population that has adopted a zoning ordinance and the county
33 that adopted the zoning ordinance from entering into an
34 intergovernmental agreement that allows the municipality to
35 exercise its zoning powers beyond its territorial limits;
36 provided, however, that the intergovernmental agreement must

1 be limited to the territory within the municipality's planning
2 jurisdiction as defined by law or any existing boundary
3 agreement. The county and the municipality must amend their
4 individual zoning maps in the same manner as other zoning
5 changes are incorporated into revised zoning maps. No such
6 intergovernmental agreement may authorize a municipality to
7 exercise its zoning powers, other than powers that a county may
8 exercise under Section 5-12001 of the Counties Code, with
9 respect to land used for agricultural purposes. This amendatory
10 Act of the 92nd General Assembly is declarative of existing
11 law. No municipality may exercise any power set forth in this
12 Division 13 outside the corporate limits of the municipality
13 with respect to a facility of a telecommunications carrier
14 defined in Section 5-12001.1 of the Counties Code.

15 Notwithstanding any other provision of law to the contrary,
16 at least 30 days prior to commencing construction of a new
17 telecommunications facility within 1.5 miles of a
18 municipality, the telecommunications carrier constructing the
19 facility shall provide written notice of its intent to
20 construct the facility. The notice shall include, but not be
21 limited to, the following information: (i) the name, address,
22 and telephone number of the company responsible for the
23 construction of the facility and (ii) the address and telephone
24 number of the governmental entity that issued the building
25 permit for the telecommunications facility. The notice shall be
26 provided in person, by overnight private courier, or by
27 certified mail to all owners of property within 250 feet of the
28 parcel in which the telecommunications carrier has a leasehold
29 or ownership interest. For the purposes of this notice
30 requirement, "owners" means those persons or entities
31 identified from the authentic tax records of the county in
32 which the telecommunications facility is to be located. If,
33 after a bona fide effort by the telecommunications carrier to
34 determine the owner and his or her address, the owner of the
35 property on whom the notice must be served cannot be found at
36 the owner's last known address, or if the mailed notice is

1 returned because the owner cannot be found at the last known
2 address, the notice requirement of this paragraph is deemed
3 satisfied. For the purposes of this paragraph, "facility" means
4 that term as it is defined in Section 5-12001.1 of the Counties
5 Code.

6 If a municipality adopts a zoning plan covering an area
7 outside its corporate limits, the plan adopted shall be
8 reasonable with respect to the area outside the corporate
9 limits so that future development will not be hindered or
10 impaired; it is reasonable for a municipality to regulate or
11 prohibit the extraction of sand, gravel, or limestone even when
12 those activities are related to an agricultural purpose. If all
13 or any part of the area outside the corporate limits of a
14 municipality which has been zoned in accordance with the
15 provisions of this Division 13 is annexed to another
16 municipality or municipalities, the annexing unit shall
17 thereafter exercise all zoning powers and regulations over the
18 annexed area.

19 In all ordinances passed under the authority of this
20 Division 13, due allowance shall be made for existing
21 conditions, the conservation of property values, the direction
22 of building development to the best advantage of the entire
23 municipality and the uses to which the property is devoted at
24 the time of the enactment of such an ordinance. The powers
25 conferred by this Division 13 shall not be exercised so as to
26 deprive the owner of any existing property of its use or
27 maintenance for the purpose to which it is then lawfully
28 devoted, but provisions may be made for the gradual elimination
29 of uses, buildings and structures which are incompatible with
30 the character of the districts in which they are made or
31 located, including, without being limited thereto, provisions
32 (a) for the elimination of such uses of unimproved lands or lot
33 areas when the existing rights of the persons in possession
34 thereof are terminated or when the uses to which they are
35 devoted are discontinued; (b) for the elimination of uses to
36 which such buildings and structures are devoted, if they are

1 adaptable for permitted uses; and (c) for the elimination of
2 such buildings and structures when they are destroyed or
3 damaged in major part, or when they have reached the age fixed
4 by the corporate authorities of the municipality as the normal
5 useful life of such buildings or structures.

6 This amendatory Act of 1971 does not apply to any
7 municipality which is a home rule unit.

8 (Source: P.A. 92-509, eff. 1-1-02; 93-698, eff. 7-9-04.)

9 Section 15. The Affordable Housing Planning and Appeal Act
10 is amended by changing Sections 15, 25, 30, and 50 and by
11 adding Section 60 as follows:

12 (310 ILCS 67/15)

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

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

26 "Affordable housing developer" means a nonprofit entity,
27 limited equity cooperative or public agency, or private
28 individual, firm, corporation, or other entity seeking to build
29 an affordable housing development.

30 "Affordable housing development" means (i) any housing
31 that is subsidized by the federal or State government or (ii)
32 any housing in which at least 20% of the dwelling units are
33 subject to covenants or restrictions that require that the
34 dwelling units be sold or rented at prices that preserve them

1 as affordable housing for a period of at least 15 years, in the
2 case of for-sale housing, and at least 30 years, in the case of
3 rental housing.

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

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

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

16 "Development" means any building, construction,
17 renovation, or excavation or any material change in ~~the use or~~
18 ~~appearance of~~ any structure or ~~in the~~ land, ~~itself; the~~
19 ~~division of land into parcels; or any~~ change in the ~~intensity~~
20 ~~or~~ use of such structure or land, that results in a net
21 increase in the number of dwelling units in a structure or on a
22 parcel of land by more than one dwelling unit ~~such as an~~
23 ~~increase in the number of dwelling units in a structure or a~~
24 ~~change to a commercial use.~~

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

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

32 "Housing trust fund" means a separate fund, either within a
33 local government or between local governments pursuant to
34 intergovernmental agreement, established solely for the
35 purposes authorized in subsection (d) of Section 25, including,
36 without limitation, the holding and disbursing of financial

1 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. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04.)

24 (310 ILCS 67/25)

25 Sec. 25. Affordable housing plan.

26 (a) Prior to April 1, 2005, all non-exempt local
27 governments must approve an affordable housing plan. Any local
28 government that is determined by the Illinois Housing
29 Development Authority under Section 20 to be non-exempt for the
30 first time based on the recalculation of decennial census data
31 after 2010 shall have 18 months from the date of notification
32 of its non-exempt status to approve an affordable housing plan
33 under this Act.

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

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

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

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

17 (iv) a goal of a minimum of 15% of all new development
18 or redevelopment within the local government that would be
19 defined as affordable housing in this Act; or a minimum of
20 a 3 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
27 intergovernmental agreements as described in subsection
28 (e) of this Section.

29 (c) Within 60 days after the adoption of an affordable
30 housing plan or revisions to its affordable housing plan, the
31 local government must submit a copy of that plan to the
32 Illinois Housing Development Authority.

33 (d) In order to promote the goals of this Act and to
34 maximize the creation, establishment, or preservation of
35 affordable housing throughout the State of Illinois, a local
36 government, whether exempt or non-exempt under this Act, may

1 adopt the following measures to address the need for affordable
2 housing:

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

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

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

15 (C) Rental payment assistance.

16 (D) Home-ownership purchase assistance.

17 (E) Preservation of existing affordable housing.

18 (F) Weatherization.

19 (G) Emergency repairs.

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

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

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

32 (2) A local government may create a community land
33 trust, which may: acquire developed or undeveloped
34 interests in real property and hold them for affordable
35 housing purposes; convey such interests under long-term
36 leases, including ground leases; convey such interests for

1 affordable housing purposes; and retain an option to
2 reacquire any such real property interests at a price
3 determined by a formula ensuring that such interests may be
4 utilized for affordable housing purposes.

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

9 (4) A local government may accept donations of money or
10 land for the purpose of addressing the affordable housing
11 needs of individuals or households that may occupy
12 low-income or moderate-income housing. These donations may
13 include, without limitation, donations of money or land
14 from persons in lieu of building affordable housing.

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

1 government, the same affordable housing unit may not be counted
2 by more than one local government.

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

4 (310 ILCS 67/30)

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

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

18 (b) Beginning January 1, 2009, an affordable housing
19 developer whose application is either denied or approved with
20 conditions that in his or her judgment render the provision of
21 affordable housing infeasible may, within 45 days after the
22 decision, appeal to the State Housing Appeals Board challenging
23 that decision unless the municipality or county that rendered
24 the decision is exempt under Section 15 of this Act. The
25 developer must submit information regarding why the developer
26 believes he or she was unfairly denied or unreasonable
27 conditions were placed upon the tentative approval of the
28 development. In the case of local governments that are
29 determined by the Illinois Housing Development Authority under
30 Section 20 to be non-exempt for the first time based on the
31 recalculation of decennial census data after 2010, no developer
32 may appeal to the State Housing Appeals Board until 60 months
33 after a local government has been notified of its non-exempt
34 status.

35 (c) Beginning January 1, 2009, the Board shall render a

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

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

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

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

27 (e) The Board shall dismiss any appeal if the reason for
28 denying the application or placing conditions upon the approval
29 is a non-appealable local government requirement under Section
30 15 of this Act.

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

36 (g) The appellate court has the exclusive jurisdiction to

1 review decisions of the Board. Any appeal to the Appellate
2 Court of a final ruling by the State Housing Appeals Board may
3 be heard only in the Appellate Court for the District in which
4 the local government involved in the appeal is located.

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

6 (310 ILCS 67/50)

7 Sec. 50. Housing Appeals Board.

8 (a) Prior to January 1, 2008 ~~July 1, 2006~~, a Housing
9 Appeals Board shall be created consisting of 7 members
10 appointed by the Governor as follows:

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

13 (2) a zoning board of appeals member;

14 (3) a planning board member;

15 (4) a mayor or municipal council or board member;

16 (5) a county board member;

17 (6) an affordable housing developer; and

18 (7) an affordable housing advocate.

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

25 (b) Initial terms of 4 members designated by the Governor
26 shall be for 2 years. Initial terms of 3 members designated by
27 the Governor shall be for one year. Thereafter, members shall
28 be appointed for terms of 2 years. A member shall receive no
29 compensation for his or her services, but shall be reimbursed
30 by the State for all reasonable expenses actually and
31 necessarily incurred in the performance of his or her official
32 duties. The board shall hear all petitions for review filed
33 under this Act and shall conduct all hearings in accordance
34 with the rules and regulations established by the chairperson.
35 The Illinois Housing Development Authority shall provide space

1 and clerical and other assistance that the Board may require.

2 (c) (Blank). ~~The Illinois Housing Development Authority~~
3 ~~may adopt such other rules and regulations as it deems~~
4 ~~necessary and appropriate to carry out the Board's~~
5 ~~responsibilities under this Act and to provide direction to~~
6 ~~local governments and affordable housing developers.~~

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

8 (310 ILCS 67/60 new)

9 Sec. 60. Rulemaking authority. The Illinois Housing
10 Development Authority shall adopt other rules and regulations
11 as needed to carry out the Board's responsibilities under this
12 Act and to provide direction to local governments and
13 affordable housing developers.

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