



Sen. Sara Feigenholtz

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1 AMENDMENT TO SENATE BILL 635

2 AMENDMENT NO. _____. Amend Senate Bill 635 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Faith-Based Housing and Mixed-Use By-Right Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds that:

8 (1) Illinois faces persistent shortages of housing
9 across income levels, including supportive housing.

10 (2) Faith-based and religious institutions often own
11 or steward land that can be responsibly developed to meet
12 housing needs.

13 (3) Discretionary, subjective, or politically
14 contingent land use approvals can create unreasonable
15 barriers to timely housing production.

16 (b) The purpose of this Act is to establish a uniform

1 statewide, ministerial, by-right entitlement for multifamily
2 and mixed-use housing on qualifying faith-based land, while
3 preserving generally applicable health and safety regulation.

4 Section 10. Applicability.

5 (a) Except as provided in subsection (b), this Act applies
6 to all faith-based land within this State.

7 (b) This Act does not apply to faith-based land that is
8 located within one-quarter mile of:

9 (1) a heavy industrial use; or

10 (2) an airport with scheduled commercial service, a
11 public-use seaport, or an active military installation.

12 (c) A unit of local government bears the burden of
13 demonstrating the applicability of subsection (b) based on
14 substantial evidence in a written determination issued within
15 the periods described in Section 40.

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

17 "Affordable housing" has the meaning given to that term in
18 Section 3 of the Illinois Affordable Housing Act.

19 "By-right" means a use and development that is permitted
20 without any discretionary zoning or land use approval, and
21 that may be approved only through ministerial review for
22 compliance with objective standards and generally applicable
23 codes provided that the developments meet the following
24 affordable housing threshold:

1 (1) Upon the initial offering of any new housing,
2 developments that provide 5 housing units or more shall
3 provide at least 40% of their total units as affordable
4 housing units available to low-income or very low-income
5 households.

6 (2) Developments of 4 units or less shall be exempt
7 from affordable housing requirements, in addition to
8 housing that is solely available for employees of or
9 volunteers for a faith-based organization and their
10 spouses and their dependents.

11 "Discretionary approval" includes, without limitation, a
12 zoning map amendment, planned development, special use,
13 conditional use, variation, special exception, text amendment
14 required solely to enable the use, comprehensive plan
15 amendment, development agreement required solely to enable the
16 use, or any similar discretionary land use classification or
17 entitlement.

18 "Faith-based land" means real property in this State that
19 is:

20 (1) owned in fee simple by a faith-based organization;
21 or

22 (2) held of record in fee by trustees for the use or
23 benefit of a faith-based organization, religious
24 congregation, or religious corporation; or

25 (3) leased by a faith-based organization under a
26 recorded lease, with a remaining or initial term of not

1 less than 30 years.

2 "Faith-based organization" means:

3 (1) a religious corporation;

4 (2) a religious congregation; and

5 (3) any nonprofit corporation, not-for-profit
6 corporation, or other nonprofit entity that is tax-exempt
7 under Section 501(c)(3) of the Internal Revenue Code and
8 is controlled by, affiliated with, or acting at the
9 direction of an entity described in paragraph (1) or (2)
10 for religious, charitable, or community-service purposes.

11 "Generally applicable code" means a building, fire,
12 life-safety, electrical, plumbing, mechanical, energy,
13 accessibility, stormwater, floodplain, health, affordability,
14 or similar code, ordinance, or regulation that:

15 (1) applies broadly to the jurisdiction or to a zoning
16 district or overlay without regard to the identity of the
17 landowner or the religious status of the property;

18 (2) is not applied in a manner that imposes
19 requirements on a development authorized by this Act that
20 are more burdensome than those imposed on comparable
21 developments; and

22 (3) does not include any discretionary approval
23 process, subjective design guideline, or standard whose
24 satisfaction is determined by a board, commission,
25 council, or other discretionary body.

26 "Gross floor area" or "building gross floor area" means

1 the sum of the gross horizontal area of all floors of all
2 buildings and enclosed structures in a development, measured
3 from the exterior faces of the exterior walls or from the
4 centerline of walls separating two buildings, including
5 mezzanines and enclosed porches, and including below-grade or
6 partially below-grade floors, but excluding roof area open to
7 the sky and excluding floor area devoted solely to accessory
8 parking and required loading and the circulation areas serving
9 such parking and loading.

10 "Group home" means a residential facility providing
11 housing and support services in a community-based environment
12 for individuals requiring assistance due to physical, mental,
13 developmental, or behavioral disabilities.

14 "Heavy industrial use" means a storage, processing, or
15 manufacturing use:

16 (1) with processes using flammable or explosive
17 materials in a manner that triggers special hazard
18 occupancy classifications under generally adopted building
19 or fire codes;

20 (2) involving hazardous conditions regulated under
21 federal or State environmental law; or

22 (3) that is noxious or offensive from odors, smoke,
23 noise, fumes, or vibrations such that it is commonly
24 separated from residential uses in local zoning practice.

25 "Low-income household" has the meaning given to that term
26 in Section 3 of the Illinois Affordable Housing Act.

1 "Ministerial review" means a review limited to confirming
2 compliance with objective standards and generally applicable
3 codes, without discretion to deny, condition, or delay a
4 development based on subjective criteria, public opposition,
5 or policy considerations outside those standards and codes.

6 "Mixed-use" means use and development of a site consisting
7 of residential and nonresidential uses in which residential
8 uses occupy at least 60% of the total building gross floor area
9 of the development.

10 "Multifamily" means development of a site for 3 or more
11 dwelling units within one or more buildings, including a
12 residential condominium.

13 "Objective standard" means a standard that:

14 (1) is stated in fixed, measurable, or otherwise
15 ascertainable terms in the text of an ordinance, code, or
16 adopted engineering manual;

17 (2) is capable of being applied and determined without
18 the exercise of personal, subjective, or aesthetic
19 judgment by a public official or body; and

20 (3) is uniformly applicable to similarly situated
21 development within the jurisdiction.

22 "Religious corporation" means a corporation formed for
23 religious purposes under the Religious Corporation Act,
24 including a church, congregation, or society incorporated
25 under that Act.

26 "Religious congregation" means any church, congregation,

1 or society formed for the purposes of religious worship,
2 whether or not incorporated.

3 "Supportive housing" means residential accommodations
4 combined with on-site or off-site supportive services designed
5 to assist individuals or families in maintaining stable
6 housing and achieving greater independence.

7 "Trustees" includes trustees, wardens, vestrymen, or other
8 officers performing duties similar to trustees for a religious
9 congregation or religious corporation.

10 "Very low-income household" has the meaning given to that
11 term in Section 3 of the Illinois Affordable Housing Act.

12 Section 20. Proof of qualifying status; nondiscrimination.

13 (a) A faith-based organization may demonstrate qualifying
14 status by submitting any of the following:

15 (1) a recorded affidavit of incorporation or certified
16 copy thereof for a religious corporation formed under the
17 Religious Corporation Act;

18 (2) articles of incorporation, an IRS determination
19 letter, or other documentation establishing tax-exempt
20 status under Section 501(c)(3) of the Internal Revenue
21 Code as a religious or charitable organization;

22 (3) a recorded deed, trust, or other instrument
23 showing ownership or holding of title by trustees for the
24 use or benefit of a religious congregation or religious
25 corporation; or

1 (4) other objective documentation reasonably
2 sufficient to establish that the applicant is a
3 faith-based organization.

4 (b) A unit of local government shall not condition
5 approval on the faith-based organization's denomination,
6 theology, mode of worship, or other religious doctrine, and
7 shall apply this Act in a religion-neutral manner.

8 Section 25. Allowable uses; by-right entitlement.

9 (a) A unit of local government shall permit the following
10 as allowable by-right uses on faith-based land:

11 (1) multifamily developments that are not more than 6
12 stories above grade plane; and

13 (2) mixed-use developments that are not more than 6
14 stories above grade plane.

15 (b) A unit of local government may not require a proposed
16 multifamily or mixed-use development on faith-based land to
17 obtain any discretionary approval in order to:

18 (1) permit the proposed use and development; or

19 (2) allow for the minimum development standards and
20 limitations established by this Act.

21 (c) The by-right entitlement under this Act applies
22 whether or not the faith-based organization continues to
23 operate an existing religious, educational, or community
24 facility on the same parcel or adjacent parcel, and regardless
25 of whether the housing is owned, leased, operated, or

1 developed by the faith-based organization or by a partner
2 acting under agreement with the faith-based organization.

3 (d) Faith-based land used for developments permitted by
4 this Section does not qualify for the exemption described in
5 Section 15-40 of the Property Tax Code.

6 Section 30. Prohibited local requirements and constraints.
7 For a multifamily or mixed-use development on faith-based
8 land, a unit of local government may not:

9 (1) require setbacks in excess of 10 feet from the
10 front of the building, 10 feet from the rear of the
11 building, and 5 feet from the side of the building, except
12 as required to satisfy generally applicable fire access
13 standards or building code light or ventilation
14 requirements;

15 (2) establish or enforce any minimum off-street
16 parking requirement for dwelling units or nonresidential
17 uses, except as necessary to comply with:

18 (A) the Americans with Disabilities Act and
19 implementing regulations; or

20 (B) other federal law that expressly requires
21 minimum parking;

22 (3) restrict development through maximum or minimum
23 density caps, floor-area ratio, lot coverage, minimum unit
24 size, maximum unit size, maximum number of bedrooms, or
25 any other dimensional or quantitative constraint, except

1 as expressly permitted in paragraphs (1) and (2) of this
2 Section and except for generally applicable codes and
3 structural safety limits;

4 (4) prohibit or unreasonably restrict supportive
5 housing or group homes within a multifamily or mixed-use
6 development authorized by this Act;

7 (5) require the conversion to exceed standards imposed
8 by the generally adopted building code for a change of
9 occupancy for a proposed development converting an
10 existing building from a different use to a multifamily
11 use or mixed-use use, provided that this paragraph does
12 not limit generally applicable accessibility requirements;

13 (6) require review or approval based on subjective
14 standards including, without limitation, neighborhood
15 character, compatibility, aesthetic harmony, community
16 fit, or similar criteria, or require appearance-based
17 design approvals by a board, commission, council, or other
18 discretionary body as a condition of approval; or

19 (7) require a public hearing, vote of the corporate
20 authorities, plan commission recommendation, zoning board
21 recommendation, aldermanic prerogative sign-off, or any
22 other legislative or quasi-judicial proceeding as a
23 condition of approving the use or development authorized
24 by this Act.

25 Section 35. Permitted local regulation; objective

1 standards preserved.

2 (a) Nothing in this Act affects the authority of a unit of
3 local government to apply to a development authorized by this
4 Act requirements that are:

5 (1) generally applicable to comparable developments
6 within the jurisdiction;

7 (2) objective and ascertainable on the face of the
8 ordinance or code provision; and

9 (3) related to public health and safety.

10 (b) Permitted regulations include, without limitation:

11 (1) building codes, fire codes, and life-safety codes
12 of general applicability;

13 (2) generally applicable accessibility requirements;

14 (3) sewer, water, and utility connection requirements;

15 (4) stormwater and floodplain management requirements;

16 (5) environmental remediation requirements imposed by
17 State or federal law;

18 (6) construction-phase requirements of general
19 applicability including erosion control, dust control, and
20 hours that do not function as a denial of the by-right
21 entitlement.

22 (c) A unit of local government may impose ministerial
23 permit fees that do not exceed the ministerial permit fees
24 imposed on comparable multifamily or mixed-use developments.
25 However, a unit of local government may not condition approval
26 on an exaction, dedication, impact fee, or contribution that

1 is not also generally imposed on comparable developments, and
2 any such condition shall be subject to generally applicable
3 constitutional standards.

4 Section 40. Duty to approve; ministerial review;
5 timelines; deemed approval.

6 (a) A unit of local government shall approve an
7 application for a multifamily or mixed-use development on
8 faith-based land if the development satisfies the unit of
9 local government's generally applicable, objective land
10 development and building regulations as limited by this Act.

11 (b) The duty to approve under subsection (a) is
12 ministerial.

13 (c) Within 15 business days after submission, the unit of
14 local government shall notify the applicant in writing of any
15 specific, objective information required to deem the
16 application complete. If the unit of local government fails to
17 comply with this subsection, then the application shall be
18 deemed complete.

19 (d) Within 60 days after an application is deemed
20 complete, the unit of local government shall approve or deny
21 the application in a written determination. A denial must
22 identify each specific, objective provision of a generally
23 applicable code or ordinance with which the application fails
24 to comply, and shall describe the corrective action that would
25 result in compliance. If the unit of local government fails to

1 approve or deny an application within the time period required
2 by this subsection, then the application shall be deemed
3 approved by operation of law.

4 (e) Upon deemed approval, the applicant may request, and
5 the unit of local government shall issue within 10 business
6 days, all permits necessary to commence construction, subject
7 only to compliance with generally applicable building and
8 safety codes.

9 (f) A faith-based organization shall not engage in
10 unlawful discrimination, as defined in Section 1-103 of the
11 Illinois Human Rights Act, in the rental, lease, or
12 availability of residential property developed under this Act,
13 or otherwise discriminate against any tenant or prospective
14 tenant.

15 Section 45. Enforcement; remedies; fees; waiver of
16 immunity; expedited hearing.

17 (a) Any of the following may bring an action to enforce
18 this Act:

19 (1) a faith-based organization that owns, leases, or
20 is developing faith-based land;

21 (2) an applicant or developer acting under agreement
22 with a faith-based organization;

23 (3) any person directly aggrieved by a violation of
24 this Act, including by unlawful denial, unlawful delay, or
25 imposition of prohibited requirements.

1 (b) An action under this Section shall be brought in the
2 circuit court of the county in which the property is wholly or
3 partly located.

4 (c) In an action under this Section, the court may:

5 (1) enter declaratory judgment;

6 (2) issue a writ of mandamus compelling compliance
7 with this Act;

8 (3) issue temporary, preliminary, or permanent
9 injunctive relief;

10 (4) order issuance of permits wrongfully withheld;

11 (5) award damages for proven economic losses
12 proximately caused by the violation, including carrying
13 costs and increased construction costs attributable to
14 unlawful delay.

15 (d) The court shall award reasonable attorney's fees and
16 court costs to a prevailing plaintiff.

17 (e) Any statutory, common law, or governmental immunity of
18 a unit of local government is waived to the extent necessary to
19 effectuate the remedies expressly authorized by this Section,
20 including damages authorized under paragraph (5) of subsection
21 (c).

22 (f) The circuit court shall prioritize actions under this
23 Act and, upon motion of any party, shall set a hearing on
24 preliminary relief as soon as practicable.

25 Section 50. Home rule. A home rule municipality may not

1 regulate faith-based land in a manner inconsistent with this
2 Act. This Act is a limitation under subsection (i) of Section 6
3 of Article VII of the Illinois Constitution on the concurrent
4 exercise by home rule units of powers and functions exercised
5 by the State.

6 Section 97. Severability. The provisions of this Act are
7 severable under Section 1.31 of the Statute on Statutes.

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