



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1476

Introduced 2/7/2023, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

310 ILCS 67/15
310 ILCS 67/25
310 ILCS 67/30
310 ILCS 67/50

Amends the Affordable Housing Planning and Appeal Act. In provisions requiring non-exempt local governments to approve an affordable housing plan, provides that, in addition to other requirements, the affordable housing plan must consist of a description of any housing market conditions, infrastructure limitations, local government ordinances, local policies or practices that do not affirmatively further fair housing as defined in the federal Fair Housing Act, and other local factors that constrain the local government's ability to create and preserve affordable housing. Requires the plan to also include potential strategies to eliminate or mitigate the specified constraints. Provides that the plan must set forth certain benchmark goals for new affordable housing developments or redevelopments; as well as proposed timelines, within the first 24 months after the date upon which the affordable housing plan was adopted, for actions to implement the components of the affordable housing plan. Provides that no later than 36 months after adopting or updating an affordable housing plan, the local government shall submit a report to the Illinois Housing Development Authority summarizing actions taken to implement the current plan. Contains provisions concerning the review of affordable housing plans by the State Housing Appeals Board (Board); membership on the Board; and other matters.

LRB103 25764 KTG 52113 b

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, 25, 30, and 50 as follows:

6 (310 ILCS 67/15)

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

8 "Affordable housing" means housing that has a value or
9 cost or rental amount that is within the means of a household
10 that may occupy moderate-income or low-income housing. In the
11 case of owner-occupied dwelling units, housing that is
12 affordable means housing in which mortgage, amortization,
13 taxes, insurance, and condominium or association fees, if any,
14 constitute no more than 30% of the gross annual household
15 income for a household of the size that may occupy the unit. In
16 the case of dwelling units for rent, housing that is
17 affordable means housing for which the rent, ~~any required~~
18 ~~parking, maintenance, landlord-imposed fees,~~ and utilities
19 constitute no more than 30% of the gross annual household
20 income for a household of the size that may occupy the unit. In
21 the case of dwelling units for rent, the costs of any required
22 parking, maintenance, or landlord-imposed fees is to be
23 included in the calculation of affordable housing if available

1 from the U.S. Census Bureau or from a regional planning
2 commission, as described in the Regional Planning Commission
3 Act, for municipalities within the jurisdiction of the
4 regional planning commission.

5 "Affordable housing developer" means a nonprofit entity,
6 limited equity cooperative or public agency, or private
7 individual, firm, corporation, or other entity seeking to
8 build an affordable housing development.

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

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

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

24 "Community land trust" means a private, not-for-profit
25 corporation organized exclusively for charitable, cultural,
26 and other purposes and created to acquire and own land for the

1 benefit of the local government, including the creation and
2 preservation of affordable housing.

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

9 "Exempt local government" means any local government in
10 which the percentage of its total year-round housing units
11 that are affordable is greater than the 20th percentile of all
12 local governments, as determined by the Illinois Housing
13 Development Authority under Section 20, or any municipality
14 with a population under 1,000. ~~"Exempt local government" means~~
15 ~~any local government in which at least 10% of its total~~
16 ~~year round housing units are affordable, as determined by the~~
17 ~~Illinois Housing Development Authority pursuant to Section 20~~
18 ~~of this Act; or any municipality under 1,000 population.~~

19 "High cost housing community" or "nonexempt local
20 government" means any local government in which the percentage
21 of its total year-round housing units that are affordable is
22 less than or equal to the 20th percentile of all local
23 governments, as determined by the Illinois Housing Development
24 Authority under Section 20 of this Act. No municipality with a
25 population under 1,000 shall be considered a high cost housing
26 community or nonexempt local government.

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

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

11 "Local government" means a county or municipality.

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

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

25 "Non-appealable local government requirements" means all
26 essential requirements that protect the public health and

1 safety, including any local building, electrical, fire, or
2 plumbing code requirements or those requirements that are
3 critical to the protection or preservation of the environment.
4 (Source: P.A. 102-175, eff. 7-29-21.)

5 (310 ILCS 67/25)

6 Sec. 25. Affordable housing plan.

7 (a) Prior to April 1, 2005, all non-exempt local
8 governments must approve an affordable housing plan. Any local
9 government that is determined by the Illinois Housing
10 Development Authority under Section 20 to be non-exempt for
11 the first time based on the recalculation of U.S. Census
12 Bureau data after 2010 shall have 18 months from the date of
13 notification of its non-exempt status to approve an affordable
14 housing plan under this Act. On and after the effective date of
15 this amendatory Act of the 102nd General Assembly, an
16 affordable housing plan, or any revision thereof, shall not be
17 adopted by a non-exempt local government until notice and
18 opportunity for public hearing have first been afforded.

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

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

25 (ii) an identification of lands within the

1 jurisdiction that are most appropriate for the
2 construction of affordable housing and of existing
3 structures most appropriate for conversion to, or
4 rehabilitation for, affordable housing, including a
5 consideration of affordable housing for both
6 owner-occupied dwelling units and dwelling units for rent,
7 lands and structures of developers who have expressed a
8 commitment to provide affordable housing, and lands and
9 structures that are publicly or semi-publicly owned;

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

13 (iv) a description of any housing market conditions,
14 infrastructure limitations, local government ordinances,
15 including zoning and land use ordinances, local government
16 policies or practices that do not affirmatively further
17 fair housing as defined in the federal Fair Housing Act,
18 and other local factors that constrain the local
19 government's ability to create and preserve affordable
20 housing;

21 (v) a plan or potential strategies to eliminate or
22 mitigate these constraints identified in item (iv); and

23 (vi) one or more of the following goals with plans to
24 accomplish the goals within a period of no more than 5
25 years: ~~(iv) a goal of a minimum of 15% of all new~~
26 development or redevelopment within the local government

1 that would be defined as affordable housing in this Act;
2 ~~or~~ a minimum of a 5 ~~3~~ percentage point increase in the
3 overall percentage of affordable housing within its
4 jurisdiction, as described in subsection (b) of Section 20
5 of this Act; or a minimum of a total of 40% ~~10%~~ affordable
6 housing within its jurisdiction as described in subsection
7 (b) of Section 20 of this Act. These goals may be met, in
8 whole or in part, through the creation of affordable
9 housing units under intergovernmental agreements as
10 described in subsection (e) of this Section; and ~~-~~

11 (vii) proposed timelines, within the first 24 months
12 after the date upon which the affordable housing plan was
13 adopted, for actions to implement the components of the
14 affordable housing plan.

15 Local governments that have previously been determined as
16 a non-exempt municipality and that have submitted an
17 affordable housing plan shall also include a summary of
18 actions taken to implement the previously submitted plan, as
19 well as a summary of progress made toward achieving the goals
20 of the plan.

21 To comply with the affordable housing plan requirements,
22 no later than 36 months after adopting or updating an
23 affordable housing plan the local government shall submit a
24 report to the Illinois Housing Development Authority
25 summarizing actions taken to implement the current plan.

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

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

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

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

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

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

22 (C) Rental payment assistance.

23 (D) Home-ownership purchase assistance.

24 (E) Preservation of existing affordable housing.

25 (F) Weatherization.

26 (G) Emergency repairs.

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

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

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

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

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

1 (4) A local government may accept donations of money
2 or land for the purpose of addressing the affordable
3 housing needs of individuals or households that may occupy
4 low-income or moderate-income housing. These donations may
5 include, without limitation, donations of money or land
6 from persons, as long as the donations are demonstrably
7 used to preserve, create, or subsidize low-income housing
8 or moderate-income housing within the jurisdiction.

9 (e) In order to encourage regional cooperation and the
10 maximum creation of affordable housing in areas lacking such
11 housing in the State of Illinois, any non-exempt local
12 government may enter into intergovernmental agreements under
13 subsection (e) of Section 25 with local governments within 10
14 miles of its corporate boundaries in order to create
15 affordable housing units to meet the goals of this Act. A
16 non-exempt local government may not enter into an
17 intergovernmental agreement, however, with any local
18 government that contains more than 50% ~~25%~~ affordable housing
19 as determined under Section 20 of this Act. All
20 intergovernmental agreements entered into to create affordable
21 housing units to meet the goals of this Act must also specify
22 the basis for determining how many of the affordable housing
23 units created will be credited to each local government
24 participating in the agreement for purposes of complying with
25 this Act. All intergovernmental agreements entered into to
26 create affordable housing units to meet the goals of this Act

1 must also specify the anticipated number of newly created
2 affordable housing units that are to be credited to each local
3 government participating in the agreement for purposes of
4 complying with this Act. In specifying how many affordable
5 housing units will be credited to each local government, the
6 same affordable housing unit may not be counted by more than
7 one local government.

8 (e-5) Affordable housing plans from local governments
9 shall be subject to review by the State Housing Appeals Board
10 which shall determine whether affordable housing plans
11 submitted by local governments meet the minimum requirements
12 set forth in this Section. Based upon this review or other
13 relevant factors, the State Housing Appeals Board may reject
14 an affordable housing plan. The State Housing Appeals Board
15 may reject an affordable housing plan based on a
16 determination, as evidenced by a majority vote of members,
17 that the affordable housing plan does not meet the minimum
18 requirements set forth in this Section. A local government
19 submitting an affordable housing plan rejected by the State
20 Housing Appeals Board shall resubmit a revised plan within 180
21 days of being notified by the Illinois Housing Development
22 Authority of the State Housing Appeals Board's decision. If
23 upon resubmission a local government has their revised
24 affordable housing plan rejected by the State Housing Appeals
25 Board, the local government shall be subject to the provisions
26 in subsection (f).

1 (f) To enforce compliance with the provisions of this
2 Section, and to encourage local governments to submit their
3 affordable housing plans to the Illinois Housing Development
4 Authority in a timely manner, the Illinois Housing Development
5 Authority shall notify any local government and ~~may~~ notify the
6 Office of the Attorney General that the local government is in
7 violation of State law if the Illinois Housing Development
8 Authority or State Housing Appeals Board finds that the
9 affordable housing plan submitted is not in substantial
10 compliance with this Section or that the local government
11 failed to submit an affordable housing plan. The Attorney
12 General may enforce this provision of the Act by an action for
13 mandamus or injunction or by means of other appropriate
14 relief.

15 (Source: P.A. 102-175, eff. 7-29-21.)

16 (310 ILCS 67/30)

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

18 (a) (Blank).

19 (b) (Blank). ~~Beginning January 1, 2009, an affordable~~
20 ~~housing developer whose application is either denied or~~
21 ~~approved with conditions that in his or her judgment render~~
22 ~~the provision of affordable housing infeasible may, within 45~~
23 ~~days after the decision, appeal to the State Housing Appeals~~
24 ~~Board challenging that decision unless the municipality or~~
25 ~~county that rendered the decision is exempt under Section 15~~

1 ~~of this Act. The developer must submit information regarding~~
2 ~~why the developer believes he or she was unfairly denied or~~
3 ~~unreasonable conditions were placed upon the tentative~~
4 ~~approval of the development. In the case of local governments~~
5 ~~that are determined by the Illinois Housing Development~~
6 ~~Authority under Section 20 to be non exempt for the first time~~
7 ~~based on the recalculation of U.S. Census Bureau data after~~
8 ~~the effective date of this amendatory Act of the 98th General~~
9 ~~Assembly, no developer may appeal to the State Housing Appeals~~
10 ~~Board until 60 months after a local government has been~~
11 ~~notified of its non-exempt status.~~

12 (b-5) Beginning January 1, 2024, an affordable housing
13 developer, or resident of the municipality where an affordable
14 housing development is proposed, may file an appeal as a
15 plaintiff to the State Housing Appeals Board against a
16 non-exempt municipality if the proposed affordable housing
17 development was denied by the municipality or approved with
18 conditions that in the plaintiff's judgment render the
19 provision of affordable housing infeasible. Appeals must be
20 filed within 45 days after the decision by the municipality.
21 The plaintiff must submit information regarding why the
22 plaintiff believes the affordable housing development was
23 unfairly denied or unreasonable conditions were placed upon
24 the tentative approval of the development. In the case of
25 local governments that are determined by the Illinois Housing
26 Development Authority under Section 20 to be non-exempt for

1 the first time based on the recalculation of U.S. Census
2 Bureau data after the effective date of this amendatory Act of
3 the 103rd General Assembly, no developer may appeal to the
4 State Housing Appeals Board until 6 months after a local
5 government has been notified of its non-exempt status.

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

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
25 established in its affordable housing plan as defined in
26 item (vi) of subsection (b) of Section 25 of this Act.

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

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

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

20 (Source: P.A. 98-287, eff. 8-9-13.)

21 (310 ILCS 67/50)

22 Sec. 50. Housing Appeals Board.

23 (a) Prior to January 1, 2008, a Housing Appeals Board
24 shall be created consisting of 5 ~~7~~ members appointed by the
25 Governor as follows:

1 (1) a current or retired circuit judge, ~~or retired~~
2 appellate judge, administrative law judge, or attorney
3 with experience in the area of land use law, who shall act
4 as chairperson;

5 (2) 3 members selected from among the following
6 categories:

7 (A) county or municipal zoning board of appeals
8 members;

9 (B) county or municipal planning board members;

10 (C) a mayor or municipal council or board member;

11 (D) a county board member; and a zoning board of
12 appeals member;

13 (3) an affordable housing advocate. ~~a planning board~~
14 ~~member;~~

15 (4) (Blank). ~~a mayor or municipal council or board~~
16 ~~member;~~

17 (5) (Blank). ~~a county board member;~~

18 (6) (Blank). ~~an affordable housing developer; and~~

19 (7) (Blank). ~~an affordable housing advocate.~~

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

1 ~~this Act.~~

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

17 (c) (Blank).

18 (d) To the extent possible, any vacancies in the Housing
19 Appeals Board shall be filled within 90 days of the vacancy.

20 (Source: P.A. 102-175, eff. 7-29-21.)