

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 are to be
23 included in the calculation of affordable housing if available

1 from the U.S. Census Bureau.

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

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

14 "Approving authority" means the governing body of the
15 county or municipality.

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

21 "Community land trust" means a private, not-for-profit
22 corporation organized exclusively for charitable, cultural,
23 and other purposes and created to acquire and own land for the
24 benefit of the local government, including the creation and
25 preservation of affordable housing.

26 "Development" means any building, construction,

1 renovation, or excavation or any material change in any
2 structure or land, or change in the use of such structure or
3 land, that results in a net increase in the number of dwelling
4 units in a structure or on a parcel of land by more than one
5 dwelling unit.

6 "Exempt local government" means any local government in
7 which at least 15% of its total year-round housing units are
8 affordable, as determined by the Illinois Housing Development
9 Authority in accordance with Section 20, or any municipality
10 with a population under 2,500. ~~"Exempt local government" means~~
11 ~~any local government in which at least 10% of its total~~
12 ~~year-round housing units are affordable, as determined by the~~
13 ~~Illinois Housing Development Authority pursuant to Section 20~~
14 ~~of this Act; or any municipality under 1,000 population.~~

15 "Household" means the person or persons occupying a
16 dwelling unit.

17 "Housing trust fund" means a separate fund, either within
18 a local government or between local governments pursuant to
19 intergovernmental agreement, established solely for the
20 purposes authorized in subsection (d) of Section 25,
21 including, without limitation, the holding and disbursing of
22 financial resources to address the affordable housing needs of
23 individuals or households that may occupy low-income or
24 moderate-income housing.

25 "Local government" means a county or municipality.

26 "Low-income housing" means housing that is affordable,

1 according to the federal Department of Housing and Urban
2 Development, for either home ownership or rental, and that is
3 occupied, reserved, or marketed for occupancy by households
4 with a gross household income that does not exceed 50% of the
5 area median household income.

6 "Moderate-income housing" means housing that is
7 affordable, according to the federal Department of Housing and
8 Urban Development, for either home ownership or rental, and
9 that is occupied, reserved, or marketed for occupancy by
10 households with a gross household income that is greater than
11 50% but does not exceed 80% of the area median household
12 income.

13 "Non-appealable local government requirements" means all
14 essential requirements that protect the public health and
15 safety, including any local building, electrical, fire, or
16 plumbing code requirements or those requirements that are
17 critical to the protection or preservation of the environment.
18 (Source: P.A. 102-175, eff. 7-29-21.)

19 (310 ILCS 67/25)

20 Sec. 25. Affordable housing plan.

21 (a) Prior to April 1, 2005, all non-exempt local
22 governments must approve an affordable housing plan. Any local
23 government that is determined by the Illinois Housing
24 Development Authority under Section 20 to be non-exempt for
25 the first time based on the recalculation of U.S. Census

1 Bureau data after 2010 shall have 18 months from the date of
2 notification of its non-exempt status to approve an affordable
3 housing plan under this Act. On and after the effective date of
4 this amendatory Act of the 102nd General Assembly, an
5 affordable housing plan, or any revision thereof, shall not be
6 adopted by a non-exempt local government until notice and
7 opportunity for public hearing have first been afforded.

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

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

14 (ii) an identification of lands within the
15 jurisdiction that are most appropriate for the
16 construction of affordable housing and of existing
17 structures most appropriate for conversion to, or
18 rehabilitation for, affordable housing, including a
19 consideration of affordable housing for both
20 owner-occupied dwelling units and dwelling units for rent,
21 lands and structures of developers who have expressed a
22 commitment to provide affordable housing, and lands and
23 structures that are publicly or semi-publicly owned;

24 (iii) incentives that local governments may provide
25 for the purpose of attracting affordable housing to their
26 jurisdiction; ~~and~~

1 (iv) a description of any housing market conditions,
2 infrastructure limitations, local government ordinances,
3 including zoning and land use ordinances, local government
4 policies or practices that do not affirmatively further
5 fair housing as defined in the federal Fair Housing Act,
6 and other local factors that constrain the local
7 government's ability to create and preserve affordable
8 housing;

9 (v) a plan or potential strategies to eliminate or
10 mitigate these constraints identified in item (iv);

11 (vi) one or more of the following goals with plans to
12 accomplish the goals within a period of no more than 5
13 years: ~~(iv) a goal of~~ a minimum of 15% of all new
14 development or redevelopment within the local government
15 that would be defined as affordable housing in this Act;
16 ~~or~~ a minimum of a 5 3 percentage point increase in the
17 overall percentage of affordable housing within its
18 jurisdiction, as described in subsection (b) of Section 20
19 of this Act; or a minimum of a total of 15% ~~10%~~ affordable
20 housing within its jurisdiction as described in subsection
21 (b) of Section 20 of this Act. These goals may be met, in
22 whole or in part, through the creation of affordable
23 housing units under intergovernmental agreements as
24 described in subsection (e) of this Section; and -

25 (vii) proposed timelines, within the first 24 months
26 after the date upon which the affordable housing plan was

1 adopted, for actions to implement the components of the
2 affordable housing plan.

3 Local governments that have previously been determined as
4 a non-exempt municipality and that have submitted an
5 affordable housing plan shall also include a summary of
6 actions taken to implement the previously submitted plan, as
7 well as a summary of progress made toward achieving the goals
8 of the plan.

9 To comply with the affordable housing plan requirements,
10 no later than 36 months after adopting or updating an
11 affordable housing plan the local government shall submit a
12 report to the Illinois Housing Development Authority
13 summarizing actions taken to implement the current plan.

14 (c) Within 60 days after the adoption of an affordable
15 housing plan or revisions to its affordable housing plan, the
16 local government must submit a copy of that plan to the
17 Illinois Housing Development Authority.

18 (d) In order to promote the goals of this Act and to
19 maximize the creation, establishment, or preservation of
20 affordable housing throughout the State of Illinois, a local
21 government, whether exempt or non-exempt under this Act, may
22 adopt the following measures to address the need for
23 affordable housing:

24 (1) Local governments may individually or jointly
25 create or participate in a housing trust fund or otherwise
26 provide funding or support for the purpose of supporting

1 affordable housing, including, without limitation, to
2 support the following affordable housing activities:

3 (A) Housing production, including, without
4 limitation, new construction, rehabilitation, and
5 adaptive re-use.

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

10 (C) Rental payment assistance.

11 (D) Home-ownership purchase assistance.

12 (E) Preservation of existing affordable housing.

13 (F) Weatherization.

14 (G) Emergency repairs.

15 (H) Housing related support services, including
16 homeownership education and financial counseling.

17 (I) Grants or loans to not-for-profit
18 organizations engaged in addressing the affordable
19 housing needs of low-income and moderate-income
20 households.

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

1 (2) A local government may create a community land
2 trust, which may: acquire developed or undeveloped
3 interests in real property and hold them for affordable
4 housing purposes; convey such interests under long-term
5 leases, including ground leases; convey such interests for
6 affordable housing purposes; and retain an option to
7 reacquire any such real property interests at a price
8 determined by a formula ensuring that such interests may
9 be utilized for affordable housing purposes.

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

15 (4) A local government may accept donations of money
16 or land for the purpose of addressing the affordable
17 housing needs of individuals or households that may occupy
18 low-income or moderate-income housing. These donations may
19 include, without limitation, donations of money or land
20 from persons, as long as the donations are demonstrably
21 used to preserve, create, or subsidize low-income housing
22 or moderate-income housing within the jurisdiction.

23 (e) In order to encourage regional cooperation and the
24 maximum creation of affordable housing in areas lacking such
25 housing in the State of Illinois, any non-exempt local
26 government may enter into intergovernmental agreements under

1 subsection (e) of Section 25 with local governments within 10
2 miles of its corporate boundaries in order to create
3 affordable housing units to meet the goals of this Act. A
4 non-exempt local government may not enter into an
5 intergovernmental agreement, however, with any local
6 government that contains more than 25% affordable housing as
7 determined under Section 20 of this Act. All intergovernmental
8 agreements entered into to create affordable housing units to
9 meet the goals of this Act must also specify the basis for
10 determining how many of the affordable housing units created
11 will be credited to each local government participating in the
12 agreement for purposes of complying with this Act. All
13 intergovernmental agreements entered into to create affordable
14 housing units to meet the goals of this Act must also specify
15 the anticipated number of newly created affordable housing
16 units that are to be credited to each local government
17 participating in the agreement for purposes of complying with
18 this Act. In specifying how many affordable housing units will
19 be credited to each local government, the same affordable
20 housing unit may not be counted by more than one local
21 government.

22 (f) To enforce compliance with the provisions of this
23 Section, and to encourage local governments to submit their
24 affordable housing plans to the Illinois Housing Development
25 Authority in a timely manner, the Illinois Housing Development
26 Authority shall notify any local government and ~~may~~ notify the

1 Office of the Attorney General that the local government is in
2 violation of State law if the Illinois Housing Development
3 Authority finds that the affordable housing plan submitted is
4 not in substantial compliance with this Section or that the
5 local government failed to submit an affordable housing plan.
6 The Attorney General may enforce this provision of the Act by
7 an action for mandamus or injunction or by means of other
8 appropriate relief.

9 (g) The Illinois Housing Development Authority shall post
10 each affordable housing plan submitted by a local government
11 on the Illinois Housing Development Authority's website.

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

13 (310 ILCS 67/30)

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

15 (a) (Blank).

16 (b) (Blank). ~~Beginning January 1, 2009, an affordable~~
17 ~~housing developer whose application is either denied or~~
18 ~~approved with conditions that in his or her judgment render~~
19 ~~the provision of affordable housing infeasible may, within 45~~
20 ~~days after the decision, appeal to the State Housing Appeals~~
21 ~~Board challenging that decision unless the municipality or~~
22 ~~county that rendered the decision is exempt under Section 15~~
23 ~~of this Act. The developer must submit information regarding~~
24 ~~why the developer believes he or she was unfairly denied or~~
25 ~~unreasonable conditions were placed upon the tentative~~

1 ~~approval of the development. In the case of local governments~~
2 ~~that are determined by the Illinois Housing Development~~
3 ~~Authority under Section 20 to be non-exempt for the first time~~
4 ~~based on the recalculation of U.S. Census Bureau data after~~
5 ~~the effective date of this amendatory Act of the 98th General~~
6 ~~Assembly, no developer may appeal to the State Housing Appeals~~
7 ~~Board until 60 months after a local government has been~~
8 ~~notified of its non-exempt status.~~

9 (b-5) Beginning January 1, 2026, an affordable housing
10 developer, or resident of the municipality where an affordable
11 housing development is proposed, may file an appeal as an
12 appellant to the State Housing Appeals Board against a
13 non-exempt municipality if the proposed affordable housing
14 development was denied by the municipality or approved with
15 conditions that in the appellant's judgment render the
16 provision of affordable housing infeasible. Appeals must be
17 filed within 45 days after the decision by the municipality.
18 The appellant must submit information regarding why the
19 appellant believes the affordable housing development was
20 unfairly denied or unreasonable conditions were placed upon
21 the tentative approval of the development. In the case of
22 local governments that are determined by the Illinois Housing
23 Development Authority under Section 20 to be non-exempt for
24 the first time based on the recalculation of U.S. Census
25 Bureau data after the effective date of this amendatory Act of
26 the 103rd General Assembly, no developer may appeal to the

1 State Housing Appeals Board until 6 months after a local
2 government has been notified of its non-exempt status.

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

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

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

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

24 (e) The Board shall dismiss any appeal if the reason for
25 denying the application or placing conditions upon the
26 approval is a non-appealable local government requirement

1 under Section 15 of this Act.

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

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

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

18 (310 ILCS 67/50)

19 Sec. 50. Housing Appeals Board.

20 (a) On and after the effective date of this amendatory Act
21 of the 103rd General Assembly, the ~~Prior to January 1, 2008, a~~
22 Housing Appeals Board consists ~~shall be created consisting~~ of
23 5 ~~7~~ members appointed by the Governor as follows:

24 (1) a current or retired circuit judge, ~~or retired~~
25 appellate judge, administrative law judge, or attorney

1 with experience in the area of land use law, who shall act
2 as chairperson;

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

5 (A) county or municipal zoning board of appeals
6 members;

7 (B) county or municipal planning board members;

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

9 (D) a county board member; and a zoning board of
10 appeals member;

11 ~~(3) a planning board member;~~

12 ~~(4) a mayor or municipal council or board member;~~

13 ~~(5) a county board member;~~

14 ~~(6) an affordable housing developer; and~~

15 ~~(7) an affordable housing advocate.~~

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

24 (b) Initial terms of 3 of the 4 members designated by the
25 Governor under this amendatory Act of the 103rd General
26 Assembly shall be for 2 years. Initial terms of 2 of the 3

1 members designated by the Governor under this amendatory Act
2 of the 103rd General Assembly shall be for one year.
3 Thereafter, members shall be appointed for terms of 2 years.
4 After a member's term expires, the member shall continue to
5 serve until a successor is appointed. There shall be no limit
6 to the number of terms an appointee may serve. A member shall
7 receive no compensation for his or her services, but shall be
8 reimbursed by the State for all reasonable expenses actually
9 and necessarily incurred in the performance of his or her
10 official duties. The board shall hear all petitions for review
11 filed under this Act and shall conduct all hearings in
12 accordance with the rules and regulations established by the
13 chairperson. The Illinois Housing Development Authority shall
14 provide space and clerical and other assistance that the Board
15 may require.

16 (c) (Blank).

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

19 (e) The terms of members serving before the effective date
20 of this amendatory Act of the 103rd General Assembly expire on
21 the effective date of this amendatory Act of the 103rd General
22 Assembly.

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