

1 AN ACT concerning housing.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Affordable Housing Planning and Appeal Act
5 is amended by changing Sections 15, 20, 25, and 30 as follows:

6 (310 ILCS 67/15)

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

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

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

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

32 "Approving authority" means the governing body of the

1 county or municipality.

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

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

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

15 "Local government" means a county or municipality.

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

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

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

1 critical to the protection or preservation of the environment.

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

3 (310 ILCS 67/20)

4 Sec. 20. Determination of exempt local governments.

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

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

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

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

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

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

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

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

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

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

11 (310 ILCS 67/25)

12 Sec. 25. Affordable housing plan.

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

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

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

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

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

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

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

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

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

11 (310 ILCS 67/30)

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

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

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

1 (c) Beginning January 1, 2006 ~~2009~~, the Board shall render
2 a decision on the appeal within 120 days after the appeal is
3 filed. In its determination of an appeal, the Board shall
4 conduct a de novo review of the matter. In rendering its
5 decision, the Board shall consider the facts and whether the
6 developer was treated in a manner that places an undue burden
7 on the development due to the fact that the development
8 contains affordable housing as defined in this Act. The Board
9 shall further consider any action taken by the unit of local
10 government in regards to granting waivers or variances that
11 would have the effect of creating or prohibiting the economic
12 viability of the development. In any proceeding before the
13 Board, the developer bears the burden of demonstrating that he
14 or she has been unfairly denied or unreasonable conditions have
15 been placed upon the tentative approval for the application for
16 an affordable housing development.

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

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

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

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

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

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

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

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