

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, 30, and 50 as
6 follows:

7 (310 ILCS 67/15)

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

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

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

1 an affordable housing development.

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

10 "Approving authority" means the governing body of the
11 county or municipality.

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

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

22 "Development" means any building, construction,
23 renovation, or excavation or any material change in any
24 structure or land, or change in the use of such structure or
25 land, that results in a net increase in the number of dwelling
26 units in a structure or on a parcel of land by more than one

1 dwelling unit.

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

7 "Household" means the person or persons occupying a
8 dwelling unit.

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

17 "Local government" means a county or municipality.

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

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

1 that is occupied, reserved, or marketed for occupancy by
2 households with a gross household income that is greater than
3 50% but does not exceed 80% of the area median household
4 income.

5 "Non-appealable local government requirements" means all
6 essential requirements that protect the public health and
7 safety, including any local building, electrical, fire, or
8 plumbing code requirements or those requirements that are
9 critical to the protection or preservation of the environment.
10 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04;
11 94-303, eff. 7-21-05.)

12 (310 ILCS 67/20)

13 Sec. 20. Determination of exempt local governments.

14 (a) Beginning October 1, 2004, the Illinois Housing
15 Development Authority shall determine which local governments
16 are exempt and not exempt from the operation of this Act based
17 on an identification of the total number of year-round housing
18 units in the most recent data from the U.S. Census Bureau
19 ~~decennial census~~ for each local government within the State and
20 by an inventory of owner-occupied ~~for-sale~~ and rental
21 affordable housing units, as defined in this Act, for each
22 local government from the U.S. Census Bureau ~~decennial census~~
23 and other relevant sources.

24 (b) The Illinois Housing Development Authority shall make
25 this determination by:

1 (i) totaling the number of owner-occupied ~~for sale~~
2 housing units in each local government that are affordable
3 to households with a gross household income that is less
4 than 80% of the median household income within the county
5 or primary metropolitan statistical area;

6 (ii) totaling the number of rental units in each local
7 government that are affordable to households with a gross
8 household income that is less than 60% of the median
9 household income within the county or primary metropolitan
10 statistical area;

11 (iii) adding the number of owner-occupied ~~for sale~~ and
12 rental units for each local government from items (i) and
13 (ii); and

14 (iv) dividing the sum of (iii) above by the total
15 number of year-round housing units in the local government
16 as contained in the latest U.S. Census Bureau ~~decennial~~
17 ~~census~~ and multiplying the result by 100 to determine the
18 percentage of affordable housing units within the
19 jurisdiction of the local government.

20 (c) Beginning on the effective date of this amendatory Act
21 of the 98th General Assembly ~~October 1, 2004~~, the Illinois
22 Housing Development Authority shall publish ~~on an annual basis~~
23 a list of exempt and non-exempt local governments and the data
24 that it used to calculate its determination at least once every
25 5 years. The data shall be shown for each local government in
26 the State and for the State as a whole. Upon publishing a list

1 of exempt and non-exempt local governments, the Illinois
2 Housing Development Authority shall notify a local government
3 that it is not exempt from the operation of this Act and
4 provide to it the data used to calculate its determination.

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

11 (310 ILCS 67/25)

12 Sec. 25. Affordable housing plan.

13 (a) Prior to April 1, 2005, all non-exempt local
14 governments must approve an affordable housing plan. Any local
15 government that is determined by the Illinois Housing
16 Development Authority under Section 20 to be non-exempt for the
17 first time based on the recalculation of U.S. Census Bureau
18 ~~decennial census~~ data after 2010 shall have 18 months from the
19 date of notification of its non-exempt status to approve an
20 affordable housing plan under this Act.

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

23 (i) a statement of the total number of affordable
24 housing units that are necessary to exempt the local
25 government from the operation of this Act as defined in

1 Section 15 and Section 20;

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

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

14 (iv) a goal of a minimum of 15% of all new development
15 or redevelopment within the local government that would be
16 defined as affordable housing in this Act; or a minimum of
17 a 3 percentage point increase in the overall percentage of
18 affordable housing within its jurisdiction, as described
19 in subsection (b) of Section 20 of this Act; or a minimum
20 of a total of 10% affordable housing within its
21 jurisdiction as described in subsection (b) of Section 20
22 of this Act. These goals may be met, in whole or in part,
23 through the creation of affordable housing units under
24 intergovernmental agreements as described in subsection
25 (e) of this Section.

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 affordable
9 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 be
21 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 Counties
25 Code and Section 11-13-1 of the Illinois Municipal Code.

26 (4) A local government may accept donations of money or

1 land for the purpose of addressing the affordable housing
2 needs of individuals or households that may occupy
3 low-income or moderate-income housing. These donations may
4 include, without limitation, donations of money or land
5 from persons in lieu of building affordable housing.

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

1 affordable housing units will be credited to each local
2 government, the same affordable housing unit may not be counted
3 by more than one local government.

4 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04;
5 94-303, eff. 7-21-05.)

6 (310 ILCS 67/30)

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

8 (a) (Blank).

9 (b) Beginning January 1, 2009, an affordable housing
10 developer whose application is either denied or approved with
11 conditions that in his or her judgment render the provision of
12 affordable housing infeasible may, within 45 days after the
13 decision, appeal to the State Housing Appeals Board challenging
14 that decision unless the municipality or county that rendered
15 the decision is exempt under Section 15 of this Act. The
16 developer must submit information regarding why the developer
17 believes he or she was unfairly denied or unreasonable
18 conditions were placed upon the tentative approval of the
19 development. In the case of local governments that are
20 determined by the Illinois Housing Development Authority under
21 Section 20 to be non-exempt for the first time based on the
22 recalculation of U.S. Census Bureau decennial census data after
23 the effective date of this amendatory Act of the 98th General
24 Assembly 2010, no developer may appeal to the State Housing
25 Appeals Board until 60 months after a local government has been

1 notified of its non-exempt status.

2 (c) Beginning on the effective date of this amendatory Act
3 of the 98th General Assembly January 1, 2009, the Board shall,
4 whenever possible, render a decision on the appeal within 120
5 days after the appeal is filed. The Board may extend the time
6 by which it will render a decision where circumstances outside
7 the Board's control make it infeasible for the Board to render
8 a decision within 120 days. In any proceeding before the Board,
9 the affordable housing developer bears the burden of
10 demonstrating that the proposed affordable housing development
11 (i) has been unfairly denied or (ii) has had unreasonable
12 conditions placed upon it by the decision of the local
13 government.

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

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

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

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

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

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

16 (Source: P.A. 93-595, eff. 1-1-04; 94-303, eff. 7-21-05.)

17 (310 ILCS 67/50)

18 Sec. 50. Housing Appeals Board.

19 (a) Prior to January 1, 2008, a Housing Appeals Board shall
20 be created consisting of 7 members appointed by the Governor as
21 follows:

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

24 (2) a zoning board of appeals member;

25 (3) a planning board member;

- 1 (4) a mayor or municipal council or board member;
- 2 (5) a county board member;
- 3 (6) an affordable housing developer; and
- 4 (7) an affordable housing advocate.

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

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

26 (c) (Blank).

1 (Source: P.A. 93-595, eff. 1-1-04; 94-303, eff. 7-21-05.)

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