



Sen. Iris Y. Martinez

Filed: 4/12/2013

09800SB1790sam001

LRB098 09695 KTG 44521 a

1 AMENDMENT TO SENATE BILL 1790

2 AMENDMENT NO. _____. Amend Senate Bill 1790 by replacing
3 everything after the enacting clause with the following:

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

1 the unit. In the case of dwelling units for rent, housing that
2 is affordable means housing for which the rent and utilities
3 constitute no more than 30% of the gross annual household
4 income for a household of the size that may occupy the unit.

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 build
8 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 ~~for-sale~~ housing, and at least 30 years,
16 in the 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 at least 10% of its total year-round housing units are
11 affordable, as determined by the Illinois Housing Development
12 Authority pursuant to Section 20 of this Act; or any
13 municipality under 1,000 population.

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

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

24 "Local government" means a county or municipality.

25 "Low-income housing" means housing that is affordable,
26 according to the federal Department of Housing and Urban

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

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

12 "Non-appealable local government requirements" means all
13 essential requirements that protect the public health and
14 safety, including any local building, electrical, fire, or
15 plumbing code requirements or those requirements that are
16 critical to the protection or preservation of the environment.
17 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04;
18 94-303, eff. 7-21-05.)

19 (310 ILCS 67/20)

20 Sec. 20. Determination of exempt local governments.

21 (a) Beginning October 1, 2004, the Illinois Housing
22 Development Authority shall determine which local governments
23 are exempt and not exempt from the operation of this Act based
24 on an identification of the total number of year-round housing
25 units in the most recent data from the U.S. Census Bureau

1 ~~decennial census~~ for each local government within the State and
2 by an inventory of owner-occupied ~~for-sale~~ and rental
3 affordable housing units, as defined in this Act, for each
4 local government from the U.S. Census Bureau ~~decennial census~~
5 and other relevant sources.

6 (b) The Illinois Housing Development Authority shall make
7 this determination by:

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

13 (ii) totaling the number of rental units in each local
14 government that are affordable to households with a gross
15 household income that is less than 60% of the median
16 household income within the county or primary metropolitan
17 statistical area;

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

21 (iv) dividing the sum of (iii) above by the total
22 number of year-round housing units in the local government
23 as contained in the latest U.S. Census Bureau ~~decennial~~
24 ~~census~~ and multiplying the result by 100 to determine the
25 percentage of affordable housing units within the
26 jurisdiction of the local government.

1 (c) Beginning on the effective date of this amendatory Act
2 of the 98th General Assembly October 1, 2004, the Illinois
3 Housing Development Authority shall publish ~~on an annual basis~~
4 a list of exempt and non-exempt local governments and the data
5 that it used to calculate its determination at least once every
6 5 years. The data shall be shown for each local government in
7 the State and for the State as a whole. Upon publishing a list
8 of exempt and non-exempt local governments, the Illinois
9 Housing Development Authority shall notify a local government
10 that it is not exempt from the operation of this Act and
11 provide to it the data used to calculate its determination.

12 (d) A local government or developer of affordable housing
13 may appeal the determination of the Illinois Housing
14 Development Authority as to whether the local government is
15 exempt or non-exempt under this Act in connection with an
16 appeal under Section 30 of this Act.

17 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04.)

18 (310 ILCS 67/25)

19 Sec. 25. Affordable housing plan.

20 (a) Prior to April 1, 2005, all non-exempt local
21 governments must approve an affordable housing plan. Any local
22 government that is determined by the Illinois Housing
23 Development Authority under Section 20 to be non-exempt for the
24 first time based on the recalculation of U.S. Census Bureau
25 ~~decennial census~~ data after 2010 shall have 18 months from the

1 date of notification of its non-exempt status to approve an
2 affordable housing plan under this Act.

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

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

9 (ii) an identification of lands within the
10 jurisdiction that are most appropriate for the
11 construction of affordable housing and of existing
12 structures most appropriate for conversion to, or
13 rehabilitation for, affordable housing, including a
14 consideration of lands and structures of developers who
15 have expressed a commitment to provide affordable housing
16 and lands and structures that are publicly or semi-publicly
17 owned;

18 (iii) incentives that local governments may provide
19 for the purpose of attracting affordable housing to their
20 jurisdiction; and

21 (iv) a goal of a minimum of 15% of all new development
22 or redevelopment within the local government that would be
23 defined as affordable housing in this Act; or a minimum of
24 a 3 percentage point increase in the overall percentage of
25 affordable housing within its jurisdiction, as described
26 in subsection (b) of Section 20 of this Act; or a minimum

1 of a total of 10% affordable housing within its
2 jurisdiction as described in subsection (b) of Section 20
3 of this Act. These goals may be met, in whole or in part,
4 through the creation of affordable housing units under
5 intergovernmental agreements as described in subsection
6 (e) of this Section.

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

11 (d) In order to promote the goals of this Act and to
12 maximize the creation, establishment, or preservation of
13 affordable housing throughout the State of Illinois, a local
14 government, whether exempt or non-exempt under this Act, may
15 adopt the following measures to address the need for affordable
16 housing:

17 (1) Local governments may individually or jointly
18 create or participate in a housing trust fund or otherwise
19 provide funding or support for the purpose of supporting
20 affordable housing, including, without limitation, to
21 support the following affordable housing activities:

22 (A) Housing production, including, without
23 limitation, new construction, rehabilitation, and
24 adaptive re-use.

25 (B) Acquisition, including, without limitation,
26 land, single-family homes, multi-unit buildings, and

1 other existing structures that may be used in whole or
2 in part for residential use.

3 (C) Rental payment assistance.

4 (D) Home-ownership purchase assistance.

5 (E) Preservation of existing affordable housing.

6 (F) Weatherization.

7 (G) Emergency repairs.

8 (H) Housing related support services, including
9 homeownership education and financial counseling.

10 (I) Grants or loans to not-for-profit
11 organizations engaged in addressing the affordable
12 housing needs of low-income and moderate-income
13 households.

14 Local governments may authorize housing trust funds to
15 accept and utilize funds, property, and other resources
16 from all proper and lawful public and private sources so
17 long as those funds are used solely for addressing the
18 affordable housing needs of individuals or households that
19 may occupy low-income or moderate-income housing.

20 (2) A local government may create a community land
21 trust, which may: acquire developed or undeveloped
22 interests in real property and hold them for affordable
23 housing purposes; convey such interests under long-term
24 leases, including ground leases; convey such interests for
25 affordable housing purposes; and retain an option to
26 reacquire any such real property interests at a price

1 determined by a formula ensuring that such interests may be
2 utilized for affordable housing purposes.

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

7 (4) A local government may accept donations of money or
8 land for the purpose of addressing the affordable housing
9 needs of individuals or households that may occupy
10 low-income or moderate-income housing. These donations may
11 include, without limitation, donations of money or land
12 from persons in lieu of building affordable housing.

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

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

11 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04;
12 94-303, eff. 7-21-05.)

13 (310 ILCS 67/30)

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

15 (a) (Blank).

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

1 development. In the case of local governments that are
2 determined by the Illinois Housing Development Authority under
3 Section 20 to be non-exempt for the first time based on the
4 recalculation of U.S. Census Bureau decennial census data after
5 the effective date of this amendatory Act of the 98th General
6 Assembly 2010, no developer may appeal to the State Housing
7 Appeals Board until 60 months after a local government has been
8 notified of its non-exempt status.

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

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

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

26 (ii) the local government has implemented its

1 affordable housing plan and has met its goal as established
2 in its affordable housing plan as defined in Section 25 of
3 this Act.

4 (e) The Board shall dismiss any appeal if the reason for
5 denying the application or placing conditions upon the approval
6 is a non-appealable local government requirement under Section
7 15 of this Act.

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

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

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

24 (310 ILCS 67/50)

25 Sec. 50. Housing Appeals Board.

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

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

6 (2) a zoning board of appeals member;

7 (3) a planning board member;

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

9 (5) a county board member;

10 (6) an affordable housing developer; and

11 (7) an affordable housing advocate.

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

18 (b) Initial terms of 4 members designated by the Governor
19 shall be for 2 years. Initial terms of 3 members designated by
20 the Governor shall be for one year. Thereafter, members shall
21 be appointed for terms of 2 years. After a member's term
22 expires, the member shall continue to serve until a successor
23 is appointed. There shall be no limit to the number of terms an
24 appointee may serve. A member shall receive no compensation for
25 his or her services, but shall be reimbursed by the State for
26 all reasonable expenses actually and necessarily incurred in

1 the performance of his or her official duties. The board shall
2 hear all petitions for review filed under this Act and shall
3 conduct all hearings in accordance with the rules and
4 regulations established by the chairperson. The Illinois
5 Housing Development Authority shall provide space and clerical
6 and other assistance that the Board may require.

7 (c) (Blank).

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

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