

AN ACT concerning State government.

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

Section 5. The Illinois Housing Development Act is amended by changing Sections 2, 8, and 10 as follows:

(20 ILCS 3805/2) (from Ch. 67 1/2, par. 302)

Sec. 2. As used in this Act:

(a) "Authority" means the Illinois Housing Development Authority created in this Act.

(b) "Development costs" means the costs approved by the Authority as appropriate expenditures which may be incurred prior to commitment and initial closing of assisted mortgage financing or of housing related commercial facilities, including but not limited to: (1) payments for options to purchase properties for the proposed development or facilities, deposits on contracts of purchase, or, with the prior approval of the Authority, payments for the purchases of such properties; (2) legal, organizational and consultants' expenses; (3) payment of fees for preliminary feasibility studies and engineering and architectural work; (4) necessary application and other fees to federal, State and local government agencies; and (5) such other expenses as the Authority may deem appropriate to effectuate the purposes of

this Act.

(c) "Assisted mortgage financing" means a below market interest rate mortgage insured or purchased, or a loan made, by the Secretary of the United States Department of Housing and Urban Development or by any other federal agency or governmental corporation or by any political subdivision of the State of Illinois or by any Illinois public corporation; a market interest rate mortgage insured or purchased, or a loan made in combination with, or as augmented by, a program of rent supplements, interest subsidies, leasing, contributions or grants, or other programs as are now or hereafter authorized by federal law to serve low or moderate income persons; a mortgage or loan made pursuant to this Act; or a mortgage or loan from any private or public source with an interest rate and terms satisfactory to the Authority and which will meet the requirements and purposes of this Act.

(d) "Lending institution" means any bank, trust company, savings bank, savings and loan association, credit union, national banking association, mortgage banking association, federal savings and loan association or federal credit unit maintaining an office in the State, any insurance company or any other entity or organization which makes or acquires loans secured by real property.

(e) "Residential mortgage" means a loan owed to a lending institution, to the Authority or to a trustee for holders of bonds or notes of the Authority or to a trustee for owners of

pools of mortgages, and secured by a lien on real property located in the State and improved by a residential structure or a mixed residential and commercial structure, or unimproved if the proceeds of such loan shall be used for the erection of a residential structure or a mixed residential and commercial structure thereon, whether or not such loan is insured or guaranteed by the United States of America or any agency or corporation thereof.

(f) "Development" means a specific work or improvement undertaken to provide dwelling accommodations, including the acquisition, construction or rehabilitation of lands, buildings and community facilities and in connection therewith to provide nonhousing facilities which are a part of a planned large-scale project or new community.

(g) "Persons and families of low and moderate income" and "Low income or moderate income persons" means families and persons who cannot afford to pay the amounts at which private enterprise, without assisted mortgage financing, is providing a substantial supply of decent, safe and sanitary housing. The income limits for the admission of such families and persons to developments shall be those established pursuant to the rules applicable to the assisted mortgage financing program under which such developments are financed.

(h) "Moderate rentals" means rent charges less than those rents generally charged for new dwelling units of comparable size and location built by the unassisted efforts of private

enterprise and financed at then current market interest rates.

(i) "Low rentals" means rent charges at least 10% lower than moderate rentals.

(j) "Rents" or "Rentals" shall mean fees or charges paid for use of a development under this Act, whether the development is operated on a landlord-tenant basis or as a condominium or cooperative.

(k) "Limited-profit entity" means any individual, joint venture, partnership, limited partnership, trust or corporation organized or existing under the laws of the State of Illinois or authorized to do business in this State and having articles of incorporation or comparable documents of organization or a written agreement with the Authority which, in addition to other requirements of law, provide that if the limited-profit entity receives any loan from the Authority as provided for in this Act, it shall be authorized to enter into an agreement with the Authority providing for regulations with respect to rents, profits, dividends and disposition of property or franchises. ÷

~~(1) that if the limited-profit entity receives any loan from the Authority as provided for in this Act, it shall be authorized to enter into an agreement with the Authority providing for regulations with respect to rents, profits, dividends and disposition of property or franchises; and~~

~~(2) that if the limited-profit entity receives a loan, as provided for in this Act, the Chairman of the Authority,~~

~~acting with the prior approval of the Authority, shall have the power, if he determines that any such loan is in jeopardy of not being repaid, or that the proposed development for which such loan was made is in jeopardy of not being constructed, or the limited profit entity is otherwise in violation of rules and regulations promulgated by the Authority, to appoint to the board of directors or other comparable controlling body of such limited profit entity a number of new directors or persons, which number shall be sufficient to constitute a voting majority of such board or controlling body, notwithstanding any other provisions of the limited profit entity's articles of incorporation or other documents of organization, or of any other provisions of law, provided that this requirement set forth in this paragraph (2) is not mandatory in the case of loans made solely with monies from the Authority's administrative fund.~~

(1) "Land development" means the process of clearing and grading land, making, installing, or constructing waterlines and water supply installations, sewerlines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use.

(m) "Nonprofit corporation" means a nonprofit corporation incorporated pursuant to the provisions of the Illinois General Not For Profit Corporation Act or the State Housing Act of 1933 and having articles of incorporation which, in addition to other requirements of law, provide:

(1) that the corporation has been organized to provide housing facilities for persons of low and moderate income;

(2) that all income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation shall inure to the benefit or profit of any private individual, firm, corporation, partnership, or association;

(3) that the corporation is in no manner controlled or under the direction or acting in the substantial interest of private individuals, firms, corporations, partnerships, or associations seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith;

(4) that if the corporation receives any loan or advance from the Authority as provided for in this Act, it shall be authorized to enter into an agreement with the Authority providing for regulation with respect to rents, profits, dividends, and disposition of property or franchises;

(5) that if the corporation receives a loan or advance,

as provided for in this Act, the chairman of the Authority, acting with the prior approval of the majority of the members of the Authority, shall have the power if he determines that any such loan or advance is in jeopardy of not being repaid, or that the proposed development for which such loan or advance was made is in jeopardy of not being constructed, or that some part of the net income or net earnings of the corporation is inuring to the benefit of any private individual, firm, corporation, partnership, or association, or that the corporation is in some manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership, or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith, or is in violation of rules and regulations promulgated by the Authority to appoint to the board of directors of such corporation a number of new directors, which number shall be sufficient to constitute a majority of such board, notwithstanding any other provisions of such articles of incorporation or of any other provisions of law; and

(6) that each development of such corporation shall be operated exclusively for the benefit of the persons who are housed in such development which shall include families or persons of low or moderate income as required by this Act, and that such development shall reserve for families or

persons of low or moderate income the number and types of dwelling units required by applicable federal or State law.

The requirements contained in paragraphs (2), (3), (5) and (6) are not mandatory in the case of loans made solely from the Authority's administrative fund.

(n) "State" means the State of Illinois.

(o) "Community facilities" means the land, buildings, improvements and equipment for land development, for health, welfare, recreational, social, educational and commercial activities, and for public, common or municipal services.

(p) "Sinking fund payment" means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular period for the retirement of term bonds at maturity after such period, but shall not include any amount payable by reason only of the maturity of a bond.

(q) "Housing related commercial facilities" means commercial facilities which are or are to be related to a development. Commercial facilities are related to a development if they are, in the sole judgment of the Authority, located in the same area as the development and (i) necessary or desirable in order to provide services for residents of that area in which the development is located; or (ii) a portion of the revenues of the commercial facilities are to be used to provide funds for paying costs of construction, acquisition, rehabilitation, operation, maintenance of or payment of debt

service on the development or (iii) necessary or desirable in order to make the development successful, such as, without limitation, eliminating or preventing slum or blighted conditions, preserving historic structures or ensuring that facilities are not inconsistent with the development. For purposes of this Section, "commercial facilities" includes land, buildings, improvements, equipment and all ancillary facilities for use for offices, stores, retirement homes, hotels, financial institutions, service health care, education, recreation or research establishments or any other commercial purpose.

(r) "Rate protection contract" means interest rate exchange agreements; currency exchange agreements; forward payment conversion agreements; contracts providing for payment or receipt of funds based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices; contracts to exchange cash flows or a series of payments; contracts, including without limitation, interest rate caps; interest rate floors; interest rate locks; interest rate collars; rate of return guarantees or assurances, to manage payment, currency, rate, spread or similar exposure; the obligation, right, or option to issue, put, lend, sell, grant a security interest in, buy, borrow or otherwise acquire, a bond, note or other security or interest therein as an investment, as collateral, as a hedge, or otherwise as a source or assurance of payment to or by the Authority or as a reduction of the

Authority's or an obligor's risk exposure; repurchase agreements; securities lending agreements; and other agreements or arrangements similar to the foregoing.

(s) "Affordable Housing Program Trust Fund Bonds or Notes" means bonds or notes issued by the Authority pursuant to the provisions of this Act for the purposes of providing affordable housing to low and very low income persons as provided in the Illinois Affordable Housing Act through the use or pledge, in whole or in part, of Trust Fund Moneys dedicated or otherwise made available to the Authority.

(t) "Trust Fund Moneys" has the meaning given to that term in Section 3 of the Illinois Affordable Housing Act.

(Source: P.A. 87-250; 88-93.)

(20 ILCS 3805/8) (from Ch. 67 1/2, par. 308)

Sec. 8. The Authority may, pursuant to its rules or regulations, or pursuant to agreements with persons to whom it makes mortgage or other loans, provide for methods of limiting profits or cash flow or other distributions available to limited-profit entities to whom it has made or will make such loans. ~~A limited profit entity which receives loans from the Authority may not make distributions in any one year with respect to a development financed by the Authority in excess of 6% of its equity in such development, except that the right to such distribution shall be cumulative. This distribution limitation may not be increased above 6% during the life of the~~

~~Authority's loan, whether the loan is outstanding on or is made after the effective date of this amendatory Act of 1991, unless, by resolution of the members, the Authority determines that an increase is necessary to preserve the development as affordable to low and moderate income persons and families or that an increase provides for the creation of additional units of housing affordable to low or moderate income persons and families in the development or otherwise in this State. The equity in a development shall consist of the difference between the amount of the mortgage loan and the total cost of the development. The total cost of the development shall include construction or rehabilitation costs including job overhead and a builder's and sponsor's profit and risk fee, architectural, engineering, legal and accounting costs, organizational expenses, land value, interest and financing charges paid during construction, the cost of landscaping and off site improvements, whether or not such costs have been paid in cash or in a form other than cash. With respect to every development the Authority shall, by resolution, establish the entity's equity at the time of making of the final mortgage advance and, for purposes of this paragraph, that figure shall remain constant during the life of the Authority's loan with respect to such development, unless adjusted pursuant to a resolution of the members based on criteria set forth in the Authority's rules or regulations. The Authority may, pursuant to its rules or regulations, or pursuant to agreements with~~

~~persons to whom it makes mortgage or other loans, provide for methods of limiting profits or cash flow or other distributions available to the person.~~ Such alternative methods may include, without limitation, a limitation which may vary from period to period based on changes in the costs of borrowing money and may be changed from time to time. ~~Such alternative methods may be in lieu of the 6% limitation as provided in this Section.~~ With respect to mortgage loans to limited profit entities, the alternative method shall be such as shall, in the sole judgment of the Authority, result in the lowest rents consistent with attracting private enterprise to acquire, construct, rehabilitate, operate and maintain the development. The equity in a development shall consist of the difference between the amount of the mortgage loan and the total cost of the development. The total cost of the development shall include construction or rehabilitation costs including job overhead and a builder's and sponsor's profit and risk fee, architectural, engineering, legal, and accounting costs, organizational expenses, land value, interest and financing charges paid during construction, and the cost of landscaping and off-site improvements, whether or not such costs have been paid in cash or in a form other than cash.

(Source: P.A. 87-250.)

(20 ILCS 3805/10) (from Ch. 67 1/2, par. 310)

Sec. 10. The ~~Prior to making a loan commitment for a~~

~~development under this Act, the~~ Authority shall approve a tenant selection plan submitted by the applicant for the loan prior to disbursing any funds in connection with the acquisition, rehabilitation, or construction of a development.

The Authority shall formulate regulations from time to time setting forth the criteria for tenant selection plans. These criteria shall include income limits, which may vary with the size and circumstances of the family unit of tenants. The income limits shall be sufficiently flexible to avoid undue economic homogeneity among the tenants of a development. The Authority may formulate regulations from time to time for the alteration of occupancies of tenants who exceed established income limits. The tenant selection plan shall specify how many units in the development shall be held available for rentals to persons of low or moderate income, as defined in this Act.

In determining the number of units which shall be so held available for rental to persons of low or moderate income, the Authority shall require that the number of dwelling units so held reserved for them in each development shall not be less than the number required by applicable federal and State law.

In connection with any mortgage loan for a development, the Authority may enter into an agreement with the owner of the development as a part of the loan providing that as long as the loan remains outstanding or such longer period as is set forth in the agreement, the development shall be held available for such rentals. Any such agreement shall, upon being recorded in

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the manner provided for recording of deeds or registered in the manner specified for registration of titles, be binding upon any subsequent owners of the development as provided by its terms.

(Source: P.A. 87-250.)

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