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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TOWNS AND CITIES - LOW AND MODERATE INCOME HOUSING

Introduced By: Representatives Morin, Casey, Carson, Phillips, and Maldonado

Date Introduced: March 23, 2016

Referred To: House Finance

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-53-3 of the General Laws in Chapter 45-53 entitled "Low and
2 Moderate Income Housing" is hereby amended to read as follows:

3 **45-53-3. Definitions.** -- The following words, wherever used in this chapter, unless a
4 different meaning clearly appears from the context, have the following meanings:

5 (1) "Affordable housing plan" means a component of a housing element, as defined in
6 subdivision 45-22.2-4(1), to meet housing needs in a city or town that is prepared in accordance
7 with guidelines adopted by the state planning council, and/or to meet the provisions of subsection
8 45-53-4(b)(1) and (c).

9 (2) "Approved affordable housing plan" means an affordable housing plan that has been
10 approved by the director of administration as meeting the guidelines for the local comprehensive
11 plan as promulgated by the state planning council; provided, however, that state review and
12 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
13 having completed, adopted, or amended its comprehensive plan as provided for in sections 45-
14 22.2-8, 45-22.2-9, or 45-22.2-12.

15 (3) "Comprehensive plan" means a comprehensive plan adopted and approved by a city
16 or town pursuant to chapters 22.2 and 22.3 of this title.

17 (4) "Consistent with local needs" means reasonable in view of the state need for low and
18 moderate income housing, considered with the number of low income persons in the city or town
19 affected and the need to protect the health and safety of the occupants of the proposed housing or

1 of the residence of the city or town, to promote better site and building design in relation to the
2 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
3 requirements, and regulations are applied as equally as possible to both subsidized and
4 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
5 consistent with local needs when imposed by a city or town council after comprehensive hearing
6 in a city or town where:

7 (i) Low or moderate income housing exists which is: (A) in the case of an urban city or
8 town which has at least 5,000 occupied year-round rental units and the units, as reported in the
9 latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the
10 year-round housing units, is in excess of fifteen percent (15%) of the total occupied year-round
11 rental units; or (B) in the case of all other cities or towns, is in excess of ten percent (10%) of the
12 year-round housing units reported in the census.

13 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
14 regulations to implement a comprehensive plan which has been adopted and approved pursuant to
15 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
16 for low and moderate income housing in excess of either ten percent (10%) of the year-round
17 housing units or fifteen percent (15%) of the occupied year-round rental housing units as
18 provided in subdivision (2)(i).

19 (5) "Credit unit(s)" means a unit or units of low-income or subsidized housing which
20 exists in a community that exceeds its required percentage of low-income/affordable housing
21 which can be transferred, or sold to a community which does not meet its ten percent (10%) goal
22 of low-income/affordable housing as established by this section.

23 (6) "Host community" means a community having in excess of the ten percent (10%) of
24 the year round low or moderate income housing units required by this chapter.

25 ~~(5)~~(7) "Infeasible" means any condition brought about by any single factor or
26 combination of factors, as a result of limitations imposed on the development by conditions
27 attached to the approval of the comprehensive permit, to the extent that it makes it impossible for
28 a public agency, nonprofit organization, or limited equity housing cooperative to proceed in
29 building or operating low or moderate income housing without financial loss, within the
30 limitations set by the subsidizing agency of government, on the size or character of the
31 development, on the amount or nature of the subsidy, or on the tenants, rentals, and income
32 permissible, and without substantially changing the rent levels and unit sizes proposed by the
33 public agency, nonprofit organization, or limited equity housing cooperative.

34 ~~(6)~~(8) "Letter of eligibility" means a letter issued by the Rhode Island housing and

1 mortgage finance corporation in accordance with subsection 42-55-5.3(a).

2 ~~(7)~~(9) "Local board" means any town or city official, zoning board of review, planning
3 board or commission, board of appeal or zoning enforcement officer, local conservation
4 commission, historic district commission, or other municipal board having supervision of the
5 construction of buildings or the power of enforcing land use regulations, such as subdivision, or
6 zoning laws.

7 ~~(8)~~(10) "Local review board" means the planning board as defined by subdivision 45-
8 22.2-4(26), or if designated by ordinance as the board to act on comprehensive permits for the
9 town, the zoning board of review established pursuant to section 45-24-56.

10 ~~(9)~~(11) "Low or moderate income housing" means any housing whether built or operated
11 by any public agency or any nonprofit organization or by any limited equity housing cooperative
12 or any private developer, that is subsidized by a federal, state, or municipal government subsidy
13 under any program to assist the construction or rehabilitation of housing affordable to low or
14 moderate income households, as defined in the applicable federal or state statute, or local
15 ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-
16 nine (99) years or such other period that is either agreed to by the applicant and town or
17 prescribed by the federal, state, or municipal government subsidy program but that is not less than
18 thirty (30) years from initial occupancy.

19 ~~(10)~~(12) "Meeting housing needs" means adoption of the implementation program of an
20 approved affordable housing plan and the absence of unreasonable denial of applications that are
21 made pursuant to an approved affordable housing plan in order to accomplish the purposes and
22 expectations of the approved affordable housing plan.

23 ~~(11)~~(13) "Municipal government subsidy" means assistance that is made available
24 through a city or town program sufficient to make housing affordable, as affordable housing is
25 defined in § 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial
26 support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or
27 internal subsidies, and any combination of forms of assistance.

28 (14) "Recipient community" means a community having less than its required ten percent
29 (10%) of low or moderate income housing.

30 SECTION 2. Chapter 45-53 of the General Laws entitled "Low and Moderate Income
31 Housing" is hereby amended by adding thereto the following sections:

32 **45-53-3.1. Penalty.** – Any city or town that fails to obtain the minimum amount of low
33 and moderate housing rental units as required by §45-53-3 shall be fined yearly, two thousand
34 dollars (\$2,000) for each unit that is short of its required minimum. Provided, a municipality may

1 [also meet its low and moderate housing requirements by purchasing credits pursuant to §45-53-](#)
2 [3.2.](#)

3 **45-53-3.2. Yearly purchase of credit for affordable housing units.** – [Any host](#)
4 [community may yearly sell any of its excess low and moderate credit housing units to a recipient](#)
5 [community for not less than one thousand dollars \(\\$1,000\) per unit.](#)

6 SECTION 3. This act shall take effect on January 1, 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES - LOW AND MODERATE INCOME HOUSING

1 This act would encourage those cities and towns that have failed to meet their low and
2 moderate housing unit minimum goals to meet those goals and would establish penalties for
3 failing to meet those goals. It would also allow those municipalities that have met their goal, to
4 sell their excess housing unit credits to under-performing affordable housing unit communities.

5 This act would take effect on January 1, 2018.

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