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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND HOUSING
RESOURCES ACT OF 1998 AND TOWNS AND CITIES - LOW AND MODERATE
INCOME HOUSING

Introduced By: Representatives Roberts, Morgan, Giarrusso, Nardolillo, and
Quattrocchi

Date Introduced: February 28, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-128-8.1 of the General Laws in Chapter 42-128 entitled "Rhode
2 Island Housing Resources Act of 1998" is hereby amended to read as follows:

3 **42-128-8.1. Housing production and rehabilitation.**

4 (a) Short title. This section shall be known and may be cited as the "Comprehensive
5 Housing Production and Rehabilitation Act of 2004."

6 (b) Findings. The general assembly finds and declares that:

7 (1) The state must maintain a comprehensive housing strategy applicable to all cities and
8 towns that addresses the housing needs of different populations including, but not limited to,
9 workers and their families who earn less than ~~one hundred twenty percent (120%)~~ sixty percent
10 (60%) of median income, older citizens, students attending institutions of higher education, low
11 and very low income individuals and families, and vulnerable populations including, but not
12 limited to, persons with disabilities, homeless individuals and families, and individuals released
13 from correctional institutions.

14 (2) Efforts and programs to increase the production of housing must be sensitive to the
15 distinctive characteristics of cities and towns, neighborhoods and areas and the need to manage
16 growth and to pace and phase development, especially in high growth areas.

17 (3) The state in partnership with local communities must remove barriers to housing
18 development and update and maintain zoning and building regulations to facilitate the

1 construction, rehabilitation of properties and retrofitting of buildings for use as safe affordable
2 housing.

3 (4) Creative funding mechanisms are needed at the local and state levels that provide
4 additional resources for housing development, because there is an inadequate amount of federal
5 and state subsidies to support the affordable housing needs of Rhode Island's current and
6 projected population.

7 (5) Innovative community planning tools, including, but not limited to, density bonuses
8 and permitted accessory dwelling units, are needed to offset escalating land costs and project
9 financing costs that contribute to the overall cost of housing and tend to restrict the development
10 and preservation of housing affordable to very low income, low income and moderate income
11 persons.

12 (6) The gap between the annual increase in personal income and the annual increase in
13 the median sales price of a single-family home is growing, therefore, the construction,
14 rehabilitation and maintenance of affordable, multi-family housing needs to increase to provide
15 more rental housing options to individuals and families, especially those who are unable to afford
16 homeownership of a single-family home.

17 (7) The state needs to foster the formation of cooperative partnerships between
18 communities and institutions of higher education to significantly increase the amount of
19 residential housing options for students.

20 (8) The production of housing for older citizens as well as urban populations must keep
21 pace with the next twenty-year projected increases in those populations of the state.

22 (9) Efforts must be made to balance the needs of Rhode Island residents with the ability
23 of the residents of surrounding states to enter into Rhode Island's housing market with much
24 higher annual incomes at their disposal.

25 (c) Strategic plan. The commission, in conjunction with the statewide planning program,
26 shall develop by July 1, 2006, a five (5) year strategic plan for housing, which plan shall be
27 adopted as an element of the state guide plan, and which shall include quantified goals,
28 measurable intermediate steps toward the accomplishment of the goals, implementation activities,
29 and standards for the production and/or rehabilitation of year-round housing to meet the housing
30 needs including, but not limited to, the following:

31 (1) Older Rhode Islanders, including senior citizens, appropriate, affordable housing
32 options;

33 (2) Workers, housing affordable at their income level;

34 (3) Students, dormitory, student housing and other residential options;

- 1 (4) Low income and very low income households, rental housing;
2 (5) Persons with disabilities, appropriate housing; and
3 (6) Vulnerable individuals and families, permanent housing, single room occupancy
4 units, transitional housing and shelters.

5 (d) As used in this section and for the purposes of the preparation of affordable housing
6 plans as specified in chapter 45-22.2, words and terms shall have the meaning set forth in chapter
7 45-22.2, chapter 45-53, and/or § 42-11-10, unless this section provides a different meaning or
8 unless the context indicates a different meaning or intent.

9 (1) "Affordable housing" means residential housing that has a sales price or rental
10 amount that is within the means of a household that is moderate income or less. In the case of
11 dwelling units for sale, housing that is affordable means housing in which principal, interest,
12 taxes, which may be adjusted by state and local programs for property tax relief, and insurance
13 constitute no more than thirty percent (30%) of the gross household income for a household with
14 less than ~~one hundred and twenty percent (120%) of area~~ sixty percent (60%) of city or town
15 median income, ~~adjusted for family size~~. In the case of dwelling units for rent, housing that is
16 affordable means housing for which the rent, heat, and utilities other than telephone constitute no
17 more than thirty percent (30%) of the gross annual household income for a household with ~~eighty~~
18 ~~percent (80%)~~ sixty percent (60%) or less of ~~area~~ city or town median income, ~~adjusted for family~~
19 ~~size~~. Affordable housing shall include all types of year-round housing, including, but not limited
20 to, manufactured housing, housing originally constructed for workers and their families,
21 accessory dwelling units, housing accepting rental vouchers and/or tenant-based certificates under
22 Section 8 of the United States Housing Act of 1937, as amended, and assisted living housing,
23 where the sales or rental amount of such housing, adjusted for any federal, state, or municipal
24 government subsidy, is less than or equal to thirty percent (30%) of the gross household income
25 of the low and/or moderate income occupants of the housing.

26 (2) "Affordable housing plan" means a plan prepared and adopted by a town or city either
27 to meet the requirements of chapter 45-53 or to meet the requirements of § 45-22.2-10(f), which
28 require that comprehensive plans and the elements thereof be revised to conform with
29 amendments to the state guide plan.

30 (3) "Approved affordable housing plan" means an affordable housing plan that has been
31 reviewed and approved in accordance with § 45-22.2-9.

32 (4) "Moderate income household" means a single person, family, or unrelated persons
33 living together whose adjusted gross income is more than ~~eighty percent (80%) but less than one~~
34 ~~hundred twenty percent (120%)~~ sixty percent (60%) of the area median income, adjusted for

1 family size.

2 (5) "Seasonal housing" means housing that is intended to be occupied during limited
3 portions of the year.

4 (6) "Year-round housing" means housing that is intended to be occupied by people as
5 their usual residence and/or vacant units that are intended by their owner for occupancy at all
6 times of the year; occupied rooms or suites of rooms in hotels are year-round housing only when
7 occupied by permanent residents as their usual place of residence.

8 (e) The strategic plan shall be updated and/or amended as necessary, but not less than
9 once every five (5) years.

10 (f) Upon the adoption of the strategic plan as an element of the state guide plan, towns
11 and cities shall bring their comprehensive plans into conformity with its requirements, in
12 accordance with the timetable set forth in § 45-22.2-10(f), provided, however, that any town that
13 has adopted an affordable housing plan in order to comply with the provisions of chapter 45-53,
14 which has been approved for consistency pursuant to § 45-22.2-9, shall be deemed to satisfy the
15 requirements of the strategic plan for low and moderate income housing until such time as the
16 town must complete its next required comprehensive community plan update.

17 (g) Guidelines. The commission shall advise the state planning council and the state
18 planning council shall promulgate and adopt not later than July 1, 2006, guidelines for higher
19 density development, including, but not limited to: (A) inclusionary zoning provisions for low
20 and moderate income housing with appropriate density bonuses and other subsidies that make the
21 development financially feasible; and (B) mixed-use development that includes residential
22 development, which guidelines shall take into account infrastructure availability; soil type and
23 land capacity; environmental protection; water supply protection; and agricultural, open space,
24 historical preservation, and community development pattern constraints.

25 (h) The statewide planning program shall maintain a geographic information system map
26 that identifies, to the extent feasible, areas throughout the state suitable for higher density
27 residential development consistent with the guidelines adopted pursuant to subsection (g).

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

30 **45-53-3. Definitions.**

31 The following words, wherever used in this chapter, unless a different meaning clearly
32 appears from the context, have the following meanings:

33 [\(1\) "Affordable housing" means housing as defined in § 42-128-8.1\(d\)\(1\).](#)

34 ~~(2)~~ [\(2\)](#) "Affordable housing plan" means a component of a housing element, as defined in

1 subdivision 45-22.2-4(1), to meet housing needs in a city or town that is prepared in accordance
2 with guidelines adopted by the state planning council, and/or to meet the provisions of subsection
3 45-53-4(b)(1) and (c).

4 ~~(3)~~(3) "Approved affordable housing plan" means an affordable housing plan that has
5 been approved by the director of administration as meeting the guidelines for the local
6 comprehensive plan as promulgated by the state planning council; provided, however, that state
7 review and approval, for plans submitted by December 31, 2004, shall not be contingent on the
8 city or town having completed, adopted, or amended its comprehensive plan as provided for in
9 sections 45- 22.2-8, 45-22.2-9, or 45-22.2-12.

10 ~~(4)~~(4) "Comprehensive plan" means a comprehensive plan adopted and approved by a
11 city or town pursuant to chapters 22.2 and 22.3 of this title, and shall include all affordable
12 housing as defined in § 42-128-8.1(d)(1).

13 ~~(5)~~(5) "Consistent with local needs" means reasonable in view of the state need for low
14 and moderate income housing, considered with the number of low income persons in the city or
15 town affected and the need to protect the health and safety of the occupants of the proposed
16 housing or of the residence of the city or town, to promote better site and building design in
17 relation to the surroundings, or to preserve open spaces, and if the local zoning or land use
18 ordinances, requirements, and regulations are applied as equally as possible to both subsidized
19 and unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
20 consistent with local needs when imposed by a city or town council after comprehensive hearing
21 in a city or town where:

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

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

34 ~~(6)~~(6) "Infeasible" means any condition brought about by any single factor or

1 combination of factors, as a result of limitations imposed on the development by conditions
2 attached to the approval of the comprehensive permit, to the extent that it makes it impossible for
3 a public agency, nonprofit organization, or limited equity housing cooperative to proceed in
4 building or operating low or moderate income housing without financial loss, within the
5 limitations set by the subsidizing agency of government, on the size or character of the
6 development, on the amount or nature of the subsidy, or on the tenants, rentals, and income
7 permissible, and without substantially changing the rent levels and unit sizes proposed by the
8 public agency, nonprofit organization, or limited equity housing cooperative.

9 ~~(6)~~(7) "Letter of eligibility" means a letter issued by the Rhode Island housing and
10 mortgage finance corporation in accordance with subsection 42-55-5.3(a).

11 ~~(7)~~(8) "Local board" means any town or city official, zoning board of review, planning
12 board or commission, board of appeal or zoning enforcement officer, local conservation
13 commission, historic district commission, or other municipal board having supervision of the
14 construction of buildings or the power of enforcing land use regulations, such as subdivision, or
15 zoning laws.

16 ~~(8)~~(9) "Local review board" means the planning board as defined by subdivision 45-22.2-
17 4(26), or if designated by ordinance as the board to act on comprehensive permits for the town,
18 the zoning board of review established pursuant to section 45-24-56.

19 ~~(9)~~(10) "Low or moderate income housing" means any housing whether built or operated
20 by any public agency or any nonprofit organization or by any limited equity housing cooperative
21 or any private developer, that is subsidized by a federal, state, or municipal government subsidy
22 under any program to assist the construction or rehabilitation of housing affordable to low or
23 moderate income households, as defined in the applicable federal or state statute, or local
24 ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-
25 nine (99) years or such other period that is either agreed to by the applicant and town or
26 prescribed by the federal, state, or municipal government subsidy program but that is not less than
27 thirty (30) years from initial occupancy.

28 ~~(10)~~(11) "Meeting housing needs" means adoption of the implementation program of an
29 approved affordable housing plan and the absence of unreasonable denial of applications that are
30 made pursuant to an approved affordable housing plan in order to accomplish the purposes and
31 expectations of the approved affordable housing plan.

32 ~~(11)~~(12) "Municipal government subsidy" means assistance that is made available
33 through a city or town program sufficient to make housing affordable, as affordable housing is
34 defined in § 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial

1 support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or
2 internal subsidies, and any combination of forms of assistance.

3 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND HOUSING
RESOURCES ACT OF 1998 AND TOWNS AND CITIES - LOW AND MODERATE
INCOME HOUSING

1 This act would alter the definition of "affordable housing" to include housing that costs
2 no more than thirty percent (30%) of gross household income for a household with income less
3 than sixty percent (60%) of the median income for city or town. Amends definition of
4 "comprehensive plan" to include the above defined affordable housing in the comprehensive plan.

5 This act would take effect upon passage.

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