

2022 -- H 7948 SUBSTITUTE A

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LC005358/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO TOWNS AND CITIES -- LOW AND MODERATE INCOME HOUSING

Introduced By: Representatives Potter, and Speakman

Date Introduced: March 07, 2022

Referred To: House Municipal Government & Housing

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.**

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

6 (1) "Affordable housing plan" means a component of a housing element, as defined in §
7 45-22.2-4(1), to meet housing needs in a city or town that is prepared in accordance with guidelines
8 adopted by the state planning council, and/or to meet the provisions of § 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 § 45-22.2-8, §
14 45-22.2-9, or § 45-22.2-12.

15 (3) "[Area median income](#)" means [area median income figures as generated by the U.S.](#)
16 [Department of Housing and Urban Development \("HUD"\)](#).

17 ~~(4)~~ "Comprehensive plan" means a comprehensive plan adopted and approved by a city
18 or town pursuant to chapters 22.2 and 22.3 of this title.

19 ~~(4)~~(5) "Consistent with local needs" means reasonable in view of the state need for low and

1 moderate income housing, considered with the number of low income persons in the city or town
2 affected and the need to protect the health and safety of the occupants of the proposed housing or
3 of the residence of the city or town, to promote better site and building design in relation to the
4 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
5 requirements, and regulations are applied as equally as possible to both subsidized and
6 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
7 consistent with local needs when imposed by a city or town council after a comprehensive hearing
8 in a city or town where:

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

15 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
16 regulations to implement a comprehensive plan which has been adopted and approved pursuant to
17 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
18 for low and moderate income housing in excess of either ten percent (10%) of the year-round
19 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
20 in subdivision (4)(i).

21 ~~(5)~~(6) "Infeasible" means any condition brought about by any single factor or combination
22 of factors, as a result of limitations imposed on the development by conditions attached to the
23 approval of the comprehensive permit, to the extent that it makes it impossible for a public agency,
24 nonprofit organization, or limited equity housing cooperative to proceed in building or operating
25 low or moderate income housing without financial loss, within the limitations set by the subsidizing
26 agency of government, on the size or character of the development, on the amount or nature of the
27 subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the
28 rent levels and unit sizes proposed by the public agency, nonprofit organization, or limited equity
29 housing cooperative.

30 ~~(6)~~(7) "Letter of eligibility" means a letter issued by the Rhode Island housing and
31 mortgage finance corporation in accordance with § 42-55-5.3(a).

32 ~~(7)~~(8) "Local board" means any town or city official, zoning board of review, planning
33 board or commission, board of appeal or zoning enforcement officer, local conservation
34 commission, historic district commission, or other municipal board having supervision of the

1 construction of buildings or the power of enforcing land use regulations, such as subdivision, or
2 zoning laws.

3 ~~(8)~~(9) "Local review board" means the planning board as defined by § 45-22.2-4(20), or if
4 designated by ordinance as the board to act on comprehensive permits for the town, the zoning
5 board of review established pursuant to § 45-24-56.

6 ~~(9)~~(10) "Low or moderate income housing" means:

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

15 (ii) Mobile and manufactured homes as defined in chapter 44 of title 31 ("mobile and
16 manufactured homes"), shall be counted towards meeting a municipalities affordable housing goals
17 if the following conditions are met:

18 (A) The owner of the mobile or manufactured home is also the owner of the land on which
19 the mobile or manufactured home is situated and utilizes the home as their primary residence; or

20 (B) The mobile or manufactured home is located within a resident owned community; and

21 (C) The mobile or manufactured home meets the standards of the National Manufacturing
22 Housing Construction and Safety Standards Act.

23 (D) Mobile and manufactured homes eligible to be counted toward a municipality's
24 affordable housing goal under this section are counted as 0.5 units in each year for which
25 documentation is provided to Rhode Island housing that affirms compliance with § 45-53-10(ii).

26 ~~(10)~~(11) "Meeting housing needs" means adoption of the implementation program of an
27 approved affordable housing plan and the absence of unreasonable denial of applications that are
28 made pursuant to an approved affordable housing plan in order to accomplish the purposes and
29 expectations of the approved affordable housing plan.

30 ~~(11)~~(12) "Municipal government subsidy" means assistance that is made available through
31 a city or town program sufficient to make housing affordable, as affordable housing is defined in §
32 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support,
33 abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal
34 subsidies, and any combination of forms of assistance.

1 (13) "Resident owned community" means a mobile and manufactured home community in
2 which the owners of the units also own the land beneath the mobile and manufactured home
3 community through a member run cooperative.

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

6 **45-53-3.1. Formula to determine additional units as low and moderate income**
7 **housing.**

8 (a) In calculating the number of year-round housing units towards meeting the goals of an
9 excess of ten percent (10%) of the year-round housing units or an excess of fifteen percent (15%)
10 of the total year-round rental units required pursuant to § 45-53-3(5)(i), housing units shall be
11 counted towards meeting the low and moderate income requirements as follows:

<u>Area Median Income (AMI) of Deed Restriction:</u>	<u>Weighting low and moderate income</u> <u>housing unit:</u>
<u>Above 100% and up to and including 120% AMI</u>	<u>0.5 Units</u>
<u>Above 80% and up to and include 100% AMI</u>	<u>0.75</u>
<u>Above 60% and up to and including 80%</u>	<u>1.0</u>
<u>Above 30% and up to and including 60% AMI</u>	<u>1.5</u>
<u>Up to and including 30% AMI</u>	<u>2.0</u>

19 (b) Mobile and manufactured homes may be included and counted as low and moderate
20 income housing units, subject to the definitions and limitations set forth in § 45-53-3 and 45-53-
21 3.1 regardless of the income of residents.

22 (c) Weighting formula for low and moderate income housing units shall apply to housing
23 units built and issued a certificate of occupancy after January 1, 2023. All units counted as low and
24 moderate income housing prior to January 1, 2023 shall retain their value of 1.0 per unit, regardless
25 of the area median income target of the deed restriction.

26 SECTION 3. This act shall take effect upon passage and have prospective application only.

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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 allow mobile and manufactured homes to be included and counted as low
2 and moderate income housing units pursuant to the definitions and limitations set forth in chapter
3 53 of title 45 relating to low and moderate income housing.

4 This act would take effect upon passage and have prospective application only.

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