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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

**RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND HOUSING
RESOURCES ACT OF 1998**

Introduced By: Representatives McEntee, Fogarty, Tanzi, Casimiro, McGaw, Craven,
Corvese, Spears, Kennedy, and DeSimone

Date Introduced: March 05, 2024

Referred To: House Municipal Government & Housing

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%) of median
10 income, older citizens, students attending institutions of higher education, low- and very-low
11 income individuals and families, and vulnerable populations including, but not limited to, persons
12 with disabilities, homeless individuals and families, and individuals released from correctional
13 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 construction,

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

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

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

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

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

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

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

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

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

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

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

34 (4) Low-income and very-low income households, rental housing;

1 (5) Persons with disabilities, appropriate housing; and

2 (6) Vulnerable individuals and families, permanent housing, single-room occupancy units,
3 transitional housing and shelters.

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

8 (1) “Affordable housing” means residential housing that has a sales price or rental amount
9 that is within the means of a household that is moderate income or less. In the case of dwelling
10 units for sale, housing that is affordable means housing in which principal, interest, taxes, which
11 may be adjusted by state and local programs for property tax relief, and insurance constitute no
12 more than thirty percent (30%) of the gross household income for a household with less than one
13 hundred and twenty percent (120%) of area median income, adjusted for family size. Provided,
14 however, that exclusively for the residents of New Shoreham, their affordable housing eligibility
15 standards shall include households whose adjusted gross income is less than one hundred forty
16 percent (140%) of their residents’ median income, adjusted for family size. In the case of dwelling
17 units for rent, housing that is affordable means housing for which the rent, heat, and utilities other
18 than telephone constitute no more than thirty percent (30%) of the gross annual household income
19 for a household with eighty percent (80%) or less of area median income, adjusted for family size.

20 (i) Affordable housing shall include all types of year-round housing, including, but not
21 limited to: manufactured housing; housing originally constructed for workers and their families;
22 accessory dwelling units; housing accepting rental vouchers and/or tenant-based certificates under
23 Section 8 of the United States Housing Act of 1937, as amended; and assisted living housing, where
24 the sales or rental amount of such housing, adjusted for any federal, state, or municipal government
25 subsidy, is less than or equal to thirty percent (30%) of the gross household income of the low
26 and/or moderate income occupants of the housing.

27 (ii) Mobile and manufactured homes shall be included as affordable housing if such home
28 constitutes a primary residence of the occupant or occupants; and such home is located within a
29 community owned by the residents or the land containing the home is owned by the occupant or
30 occupants; and such home was constructed after June 15, 1976; and such home complies with the
31 Manufactured Home Construction and Safety Standards of the United States Department of
32 Housing and Urban Development.

33 ~~(i)~~(iii) In that New Shoreham has reached its ten percent (10%) low- and moderate-income
34 housing goal, and for so long as they maintain at least ten percent (10%) of their year-round housing

1 stock as low- and moderate-income housing as defined in § 45-53-3(4)(ii), and inasmuch as there
2 are provable economic impacts related to the municipalities' substantial offshore location,
3 residential housing units produced for sale in which principal, interest, taxes, which may be
4 adjusted by state and local programs for property tax relief, and insurance constitute no more than
5 thirty percent (30%) of the gross household income for a household with less than one hundred
6 forty percent (140%) of the area median income, adjusted for family size, shall be counted towards
7 the municipalities' low- and moderate-income housing inventory as defined in § 45-53-3(9).

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

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

14 (4) "Moderate-income household" means a single person, family, or unrelated persons
15 living together whose adjusted gross income is more than eighty percent (80%) but less than one
16 hundred twenty percent (120%) of the area median income, adjusted for family size.

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

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

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

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

32 (g) Guidelines. The commission shall advise the state planning council and the state
33 planning council shall promulgate and adopt not later than July 1, 2006, guidelines for higher
34 density development, including, but not limited to: (1) Inclusionary zoning provisions for low- and

1 moderate-income housing with appropriate density bonuses and other subsidies that make the
2 development financially feasible; and (2) Mixed-use development that includes residential
3 development, which guidelines shall take into account infrastructure availability; soil type and land
4 capacity; environmental protection; water supply protection; and agricultural, open space, historical
5 preservation, and community development pattern constraints.

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

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

11 **45-53-3. Definitions. [Effective January 1, 2024.]**

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

14 (1) "Adjustment(s)" means a request or requests by the applicant to seek relief from the
15 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
16 standards or requirements of the municipal land development and subdivision regulations. The
17 standard for the local review board's consideration of adjustments is set forth in § 45-53-
18 4(d)(2)(iii)(E)(II).

19 (2) "Affordable housing plan" means a component of a housing element, as defined in §
20 45-22.2-4(1), that addresses housing needs in a city or town that is prepared in accordance with
21 guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-4(e)(1)
22 and (f).

23 (3) "Approved affordable housing plan" means an affordable housing plan that has been
24 approved by the director of administration as meeting the guidelines for the local comprehensive
25 plan as promulgated by the state planning council; provided, however, that state review and
26 approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town
27 having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, §
28 45-22.2-9, or § 45-22.2-12.

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

31 (5) "Consistent with local needs" means reasonable in view of the state need for low- and
32 moderate-income housing, considered with the number of low-income persons in the city or town
33 affected and the need to protect the health and safety of the occupants of the proposed housing or
34 of the residents of the city or town, to promote better site and building design in relation to the

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

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

12 (ii) The city or town has promulgated zoning or land use ordinances, requirements, and
13 regulations to implement a comprehensive plan that has been adopted and approved pursuant to
14 chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides
15 for low- and moderate-income housing in excess of either ten percent (10%) of the year-round
16 housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided
17 in subsection (5)(i).

18 (iii) Multi-family rental units built under a comprehensive permit may be calculated
19 towards meeting the requirements of a municipality's low- or moderate-income housing inventory,
20 as long as the units meet and are in compliance with the provisions of § 45-53-3.1.

21 (6) "Infeasible" means any condition brought about by any single factor or combination of
22 factors, as a result of limitations imposed on the development by conditions attached to the approval
23 of the comprehensive permit, to the extent that it makes it financially or logistically impracticable
24 for any applicant to proceed in building or operating low- or moderate-income housing within the
25 limitations set by the subsidizing agency of government or local review board, on the size or
26 character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and
27 income permissible, and without substantially changing the rent levels and unit sizes proposed by
28 the applicant.

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

31 (8) "Local review board" means the planning board as defined by § 45-22.2-4.

32 (9) "Low- or moderate-income housing" shall be synonymous with "affordable housing"
33 as defined in § 42-128-8.1, and further means any [type of](#) housing whether built or operated by any
34 public agency or any nonprofit organization or by any limited equity housing cooperative or any

1 private developer, that is subsidized by a federal, state, or municipal government subsidy under any
2 program to assist the construction or rehabilitation of affordable housing and that will remain
3 affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other
4 period that is either agreed to by the applicant and town or prescribed by the federal, state, or
5 municipal government subsidy program but that is not less than thirty (30) years from initial
6 occupancy.

7 (i) Any housing unit which qualifies under this subsection and under § 42-128-8.1 shall be
8 counted as one whole unit toward the municipality's requirement for low- or moderate-income
9 housing.

10 (ii) Any mobile or manufactured home(s) which meet the requirements of § 42-128-
11 8.1(d)(1)(ii) but are not subsidized by a federal, state, or municipal government subsidy and/or do
12 not have a deed restriction or land lease as described in this subsection, shall count as one-half (1/2)
13 of one unit for the purpose of the calculation of the total of low- or moderate-income year-round
14 housing within a city or town, as long as a municipality contracts with a monitoring agent to verify
15 that the requirements of § 42-128-8.1(d)(1)(ii) are met for these units. Such units shall not be
16 required to meet the income verification requirements of § 42-128-8.1. The monitoring agent shall
17 provide a listing of the eligible units to Rhode Island housing, who shall provide a report as to the
18 qualifying mobile or manufactured homes under this subsection to the governor, speaker of the
19 house of representatives, senate president and secretary of housing on an annual basis, beginning
20 on or before December 31, 2025.

21 (10) "Meeting local housing needs" means as a result of the adoption of the implementation
22 program of an approved affordable housing plan, the absence of unreasonable denial of applications
23 that are made pursuant to an approved affordable housing plan in order to accomplish the purposes
24 and expectations of the approved affordable housing plan, and a showing that at least twenty percent
25 (20%) of the total residential units approved by a local review board or any other municipal board
26 in a calendar year are for low- and moderate-income housing as defined in § 42-128-8.1.

27 (11) "Monitoring agents" means those monitoring agents appointed by the Rhode Island
28 housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and oversight
29 set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

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

1 combination of forms of assistance.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND HOUSING
RESOURCES ACT OF 1998

- 1 This act would provide that mobile and manufactured homes be included as affordable
- 2 housing under certain conditions.
- 3 This act would take effect upon passage.

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