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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

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

Introduced By: Representatives Diaz, Slater, Morales, Kazarian, Biah, Alzate, Giraldo,
Stewart, Kennedy, and Perez

Date Introduced: June 06, 2024

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. [Effective January 1, 2024.]**

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) "Adjustment(s)" means a request or requests by the applicant to seek relief from the
7 literal use and dimensional requirements of the municipal zoning ordinance and/or the design
8 standards or requirements of the municipal land development and subdivision regulations. The
9 standard for the local review board's consideration of adjustments is set forth in § 45-53-
10 4(d)(2)(iii)(E)(II).

11 (2) "Affordable housing plan" means a component of a housing element, as defined in §
12 45-22.2-4(1), that addresses housing needs in a city or town that is prepared in accordance with
13 guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-4(e)(1)
14 and (f).

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

1 45-22.2-9, or § 45-22.2-12.

2 (4) “Comprehensive plan” means a comprehensive plan adopted and approved by a city or
3 town pursuant to chapters 22.2 and 22.3 of this title.

4 (5) “Consistent with local needs” means reasonable in view of the state need for low- and
5 moderate-income housing, considered with the number of low-income persons in the city or town
6 affected and the need to protect the health and safety of the occupants of the proposed housing or
7 of the residents of the city or town, to promote better site and building design in relation to the
8 surroundings, or to preserve open spaces, and if the local zoning or land use ordinances,
9 requirements, and regulations are applied as equally as possible to both subsidized and
10 unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are
11 consistent with local needs when imposed by a city or town council after a comprehensive hearing
12 in a city or town where:

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

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

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

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

1 the applicant.

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

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

5 (9) “Low- or moderate-income housing” shall be synonymous with “affordable housing”
6 as defined in § 42-128-8.1, and further means any housing whether built or operated by any public
7 agency or any nonprofit organization or by any limited equity housing cooperative or any private
8 developer, that is subsidized by a federal, state, or municipal government subsidy under any
9 program to assist the construction or rehabilitation of affordable housing and that will remain
10 affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other
11 period that is either agreed to by the applicant and town or prescribed by the federal, state, or
12 municipal government subsidy program but that is not less than thirty (30) years from initial
13 occupancy.

14 (i) Low- or moderate-income housing also includes rental property located within a
15 municipality that is secured with a federal government rental assistance voucher.

16 (ii) Any housing unit which qualifies as low- or moderate- income housing under this
17 subsection and under § 42-128-8.1 shall be counted as one whole unit toward the municipality's
18 requirement for low- or moderate- income housing, except that a rental property secured with a
19 federal government rental assistance voucher which is effective for the period beginning on or after
20 July 1, 2024, that does not otherwise meet the other requirements to qualify as low- or moderate-
21 income housing under this section, shall count as one-half (1/2) of one unit for the purpose of the
22 calculation of the total of low- or moderate- income year-round housing within a city or town, in
23 the municipality in which the voucher is being utilized, as long as a municipality confirms with the
24 issuing authority that the voucher is in good standing and active.

25 (10) “Meeting local housing needs” means as a result of the adoption of the implementation
26 program of an approved affordable housing plan, the absence of unreasonable denial of applications
27 that are made pursuant to an approved affordable housing plan in order to accomplish the purposes
28 and expectations of the approved affordable housing plan, and a showing that at least twenty percent
29 (20%) of the total residential units approved by a local review board or any other municipal board
30 in a calendar year are for low- and moderate-income housing as defined in § 42-128-8.1.

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

34 (12) “Municipal government subsidy” means assistance that is made available through a

1 city or town program sufficient to make housing affordable, as affordable housing is defined in §
2 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct
3 financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses
4 and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any
5 combination of forms of assistance.

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

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

1 This act would amend the definition of "low- and moderate-income housing" to include
2 housing secured by a federal government voucher or subsidy, but only if the voucher or subsidy is
3 applied prospectively.

4 This act would take effect upon passage.

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