

**2014 -- S 2086 SUBSTITUTE A**

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LC003146/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2014**

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A N A C T

RELATING TO TOWNS AND CITIES - ZONING ORDINANCES

Introduced By: Senators Bates, Hodgson, Archambault, Cool Rumsey, and Sosnowski

Date Introduced: January 21, 2014

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 45-24-46.1 of the General Laws in Chapter 45-24 entitled "Zoning  
2 Ordinances" is hereby amended to read as follows:

3           **45-24-46.1. Inclusionary zoning.** - (a) A zoning ordinance requiring the inclusion of  
4 affordable housing as part of a development shall provide that the housing will be affordable  
5 housing, as defined in ~~section §~~42-128-8.1(d)(1); that the affordable housing will constitute not  
6 less than ten percent (10%) of the total units in the development; and that the units will remain  
7 affordable for a period of not less than thirty (30) years from initial occupancy enforced through a  
8 land lease and/or deed restriction enforceable by the municipality and the state of Rhode Island.

9           (b) A zoning ordinance that includes inclusionary zoning may provide that the affordable  
10 housing must be built on-site or utilize one or more alternative methods of production, including,  
11 but not limited to, off-site construction or rehabilitation, donation of land suitable for  
12 development of the required affordable units, and/or the payment of a fee in lieu of the  
13 construction or provision of affordable housing units. For all projects subject to inclusionary  
14 zoning, density bonuses and other incentives shall be established by the community and shall  
15 apply to offset differential costs of below-market units.

16           (c) This fee in lieu of the construction or provision of affordable housing shall be the  
17 choice of the developer or builder applied on a per-unit basis and may be used for new  
18 developments, purchasing property and/or homes, rehabilitating properties, or any other manner  
19 that creates additional low- or moderate-income housing as defined in § 45-53-3(9).

1           (1) For affordable, single-family homes and condominium units, the per-unit fee shall be  
2 the difference between the maximum affordable sales price for a family of four (4) earning eighty  
3 percent (80%) of the area median income as determined annually by the U.S. Department of  
4 Housing and Urban Development and the average cost of developing a single unit of affordable  
5 housing. The average cost of developing a single unit of affordable housing shall be determined  
6 annually based on the average, per-unit development cost of affordable homes financed by Rhode  
7 Island housing over the previous three (3) years, excluding existing units that received  
8 preservation financing.

9           (2) Notwithstanding subsection (c)(1) of this section, in no case shall the per-unit fee for  
10 affordable single family homes and condominium units be less than forty thousand dollars  
11 (\$40,000).

12           (d) The municipality shall deposit all in-lieu payments into restricted accounts that shall  
13 be allocated and spent only for the creation and development of affordable-housing within the  
14 municipality serving individuals or families at or below eighty percent (80%) of the area median  
15 income. The municipality shall maintain a local affordable housing board to oversee the funds in  
16 the restricted accounts and shall allocate the funds within two (2) years. The municipality shall  
17 include in the housing element of their local comprehensive plan, if applicable, the process it will  
18 use to allocate the funds.

19           (e) As an alternative to the provisions of subsection (d), the municipality may elect to  
20 transfer in-lieu payments promptly upon receipt, or within the two-year (2) period after receipt to  
21 the housing resources commission or Rhode Island housing for the purpose of developing  
22 affordable housing within that community.

23           (f) Rhode Island housing shall report to the general assembly and the housing resources  
24 commission the amount of fees in lieu collected by community; the projects that were provided  
25 funding with the fees; the dollar amounts allocated to the projects; and the number of units  
26 created.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would provide that zoning ordinances that contain inclusionary zoning may or  
2 require developers to build affordable housing on-site or would allow a developer to pay a fee-in-  
3 lieu of constructing the affordable housing. It would be the developer's choice as to whether to  
4 construct affordable housing or pay a fee-in-lieu of construction of the affordable housing.  
5 Further, this would set forth what a municipality is to do with fees paid in lieu of construction.

6           This act would take effect upon passage.

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