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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

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

Introduced By: Representatives Williams, Giraldo, Henries, Biah, Cassar, Hull, Diaz,  
Batista, Felix, and Perez

Date Introduced: March 25, 2022

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

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

3 ~~CHAPTER 42-128~~

4 ~~Rhode Island Housing Resources Act of 1998~~

5 CHAPTER 42-128

6 COMPREHENSIVE HOUSING AFFORDABILITY ACT OF 2022

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

9 **42-128-8.1. Housing production and rehabilitation.**

10 (a) Short title. This ~~section~~ chapter shall be known and may be cited as the "~~Comprehensive~~  
11 ~~Housing Production and Rehabilitation Act of 2004.~~" "Comprehensive Housing Affordability Act  
12 of 2022."

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

14 (1) The state must maintain a comprehensive housing strategy applicable to all cities and  
15 towns that addresses the housing needs of different populations including, but not limited to,  
16 workers and their families who earn less than ~~one hundred twenty percent (120%)~~ ninety percent  
17 (90%) of median income, older citizens, students attending institutions of higher education, low  
18 and very low income individuals and families, and vulnerable populations including, but not limited

1 to, persons with disabilities, homeless individuals and families, and individuals released from  
2 correctional institutions.

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

6 (3) The state in partnership with local communities must remove barriers to housing  
7 development and update and maintain zoning and building regulations to facilitate the construction,  
8 rehabilitation of properties and retrofitting of buildings for use as safe affordable housing.

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

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

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

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

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

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

31 (c) Strategic plan. The commission, in conjunction with the statewide planning program,  
32 shall develop by July 1, 2006, a five (5) year strategic plan for housing, which plan shall be adopted  
33 as an element of the state guide plan, and which shall include quantified goals, measurable  
34 intermediate steps toward the accomplishment of the goals, implementation activities, and

1 standards for the production and/or rehabilitation of year-round housing to meet the housing needs  
2 including, but not limited to, the following:

3 (1) Older Rhode Islanders, including senior citizens, appropriate, affordable housing  
4 options;

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

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

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

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

9 (6) Vulnerable individuals and families, permanent housing, single room occupancy units,  
10 transitional housing and shelters.

11 (d) As used in this section and for the purposes of the preparation of affordable housing  
12 plans as specified in chapter 45-22.2, words and terms shall have the meaning set forth in chapter  
13 45-22.2, chapter 45-53, and/or § 42-11-10, unless this section provides a different meaning or  
14 unless the context indicates a different meaning or intent.

15 (1) "Affordable housing" means residential housing that has a sales price or rental amount  
16 that is within the means of a household that is moderate income or less. In the case of dwelling  
17 units for sale, housing that is affordable means housing in which principal, interest, taxes, which  
18 may be adjusted by state and local programs for property tax relief, and insurance constitute no  
19 more than thirty percent (30%) of the gross household income for a household with less than ~~one~~  
20 ~~hundred and twenty percent (120%)~~ ninety percent (90%) of area median income, adjusted for  
21 family size. In the case of dwelling units for rent, housing that is affordable means housing for  
22 which the rent, heat, and utilities other than telephone constitute no more than thirty percent (30%)  
23 of the gross annual household income for a household with eighty percent (80%) or less of area  
24 median income, adjusted for family size. Affordable housing shall include all types of year-round  
25 housing, including, but not limited to, manufactured housing, housing originally constructed for  
26 workers and their families, accessory dwelling units, housing accepting rental vouchers and/or  
27 tenant-based certificates under Section 8 of the United States Housing Act of 1937, as amended,  
28 and assisted living housing, where the sales or rental amount of such housing, adjusted for any  
29 federal, state, or municipal government subsidy, is less than or equal to thirty percent (30%) of the  
30 gross household income of the low and/or moderate income occupants of the housing.

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

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

3 (4) "Moderate income household" means a single person, family, or unrelated persons  
4 living together whose adjusted gross income is more than eighty percent (80%) but less than ~~one~~  
5 ~~hundred twenty percent (120%)~~ ninety percent (90%) of the area median income, adjusted for  
6 family size.

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

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

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

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

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

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

33 SECTION 3. Chapter 42-128 of the General Laws entitled "Rhode Island Housing  
34 Resources Act of 1998" is hereby amended by adding thereto the following section:

1           **42-128-1.1. Name change.**

2           When in any existing law, rule or regulation reference is made to the "Rhode Island  
3 Housing Act of 1998" or the "Comprehensive Housing Production and Rehabilitation Act of 2004"  
4 as variously used, the reference shall be deemed to refer to the "Comprehensive Housing  
5 Affordability Act of 2022."

6           SECTION 4. Section 45-53-4 of the General Laws in Chapter 45-53 entitled "Low and  
7 Moderate Income Housing" is hereby amended to read as follows:

8           **45-53-4. Procedure for approval of construction of low or moderate income housing.**

9           (a) Any applicant proposing to build low or moderate income housing may submit to the  
10 local review board a single application for a comprehensive permit to build that housing in lieu of  
11 separate applications to the applicable local boards. This procedure is only available for proposals  
12 in which at least twenty-five percent (25%) of the housing is low or moderate income housing. The  
13 application and review process for a comprehensive permit shall be as follows:

14           (1) Submission requirements. Applications for a comprehensive permit shall include:

15           (i) A letter of eligibility issued by the Rhode Island housing mortgage finance corporation,  
16 or in the case of projects primarily funded by the U.S. Department of Housing and Urban  
17 Development or other state or federal agencies, an award letter indicating the subsidy, or  
18 application in such form as may be prescribed for a municipal government subsidy; ~~and~~ however,

19           (A) Except as provided in subsection (a)(1)(i)(C) of this section, any residential  
20 development, whether it includes homes for sale or for rent or is a mixed use development that  
21 includes homes for sale or for rent, that receives a federal, state or municipal subsidy in any form,  
22 including, but not limited to, a development cost or interest rate subsidy; a dedicated housing  
23 voucher; tax abatement, tax stabilization or payment in lieu of taxes or other tax subsidy;  
24 contribution or discounted value of land; abatement of environmental conditions, or construction  
25 of infrastructure; shall maintain, for not less than twenty (20) years from the date of initial  
26 occupancy, not less than twenty percent (20%) of its residential units as affordable as defined in §  
27 42-128-8.1 and restrict occupancy of those units to households whose income at time of the  
28 residents' initial occupancy is not more than eighty percent (80%) of area median income as  
29 adjusted for family size for rental households and not more than ninety percent (90%) of area  
30 median income as adjusted for family size for owner occupants.

31           (B) Notwithstanding any other provision of state or local law, rule, regulation, ordinance  
32 or resolution, in no instance shall a home developed or refinanced after June 30, 2022, be  
33 considered affordable if the income limit or deed restriction for that home exceeds ninety percent  
34 (90%) of area median income (AMI) adjusted for family size.

1           (C) If the purchaser of a home with a deed restriction on affordability imposed pursuant to  
2 a state law or local ordinance, or resolution, is a first-generation homebuyer whose income at time  
3 of purchase was less than eighty percent (80%) of area median income and has occupied that home  
4 as their primary residence for ten (10) or more years, then such deed restriction shall no longer be  
5 in effect and the requirement for twenty percent (20%) affordable units provided by the provisions  
6 of subsection (a)(1)(i)(A) of this section shall be proportionately reduced by the number of deed  
7 restrictions released pursuant to the provisions of this subsection. Deed restrictions shall contain  
8 language to this effect and the monitoring agent shall periodically notify the homeowners of this  
9 deed restriction release provision and provide evidence of the release to the homeowners if  
10 requested. For the purposes of this section, a "first generation homebuyer" shall be defined as a  
11 household in which no member of the household nor any of the household members' parent(s) or  
12 guardian(s) previously owned a home. Any household member who lived in foster care and has not  
13 previously owned a home may also be considered as a first generation homebuyer. This provision  
14 shall not supersede the provisions of any deed restriction required by any federal program.

15           (ii) A written request to the local review board to submit a single application to build or  
16 rehabilitate low or moderate income housing in lieu of separate applications to the applicable local  
17 boards. The written request shall identify the specific sections and provisions of applicable local  
18 ordinances and regulations from which the applicant is seeking relief; and

19           (iii) A proposed timetable for the commencement of construction and completion of the  
20 project; and

21           (iv) A sample land lease or deed restriction with affordability liens that will restrict use as  
22 low and moderate income housing in conformance with the guidelines of the agency providing the  
23 subsidy for the low and moderate income housing, but for a period of not less than thirty (30) years;  
24 and

25           (v) Identification of an approved entity that will monitor the long-term affordability of the  
26 low and moderate income units; and

27           (vi) A financial pro-forma for the proposed development; and

28           (vii) For comprehensive permit applications: (A) not involving major land developments  
29 or major subdivisions including, but not limited to, applications seeking relief from specific  
30 provisions of a local zoning ordinance, or involving administrative subdivisions, minor land  
31 developments or minor subdivisions, or other local ordinances and regulations: those items required  
32 by local regulations promulgated pursuant to applicable state law, with the exception of evidence  
33 of state or federal permits; and for comprehensive permit applications; and (B) involving major  
34 land developments and major subdivisions, unless otherwise agreed to by the applicant and the

1 town; those items included in the checklist for the master plan in the local regulations promulgated  
2 pursuant to § 45-23-40. Subsequent to master plan approval, the applicant must submit those items  
3 included in the checklist for a preliminary plan for a major land development or major subdivision  
4 project in the local regulations promulgated pursuant to § 45-23-41, with the exception of evidence  
5 of state or federal permits. All required state and federal permits must be obtained prior to the final  
6 plan approval or the issuance of a building permit; and

7 (viii) Municipalities may impose fees on comprehensive permit applications that are  
8 consistent with but do not exceed fees that would otherwise be assessed for a project of the same  
9 scope and type but not proceeding under this chapter, provided, however, that the imposition of  
10 such fees shall not preclude a showing by a non-profit applicant that the fees make the project  
11 financially infeasible; and

12 (xi) Notwithstanding the submission requirements set forth above, the local review board  
13 may request additional, reasonable documentation throughout the public hearing, including, but not  
14 limited to, opinions of experts, credible evidence of application for necessary federal and/or state  
15 permits, statements and advice from other local boards and officials.

16 (2) Certification of completeness. The application must be certified complete or incomplete  
17 by the administrative officer according to the provisions of § 45-23-36; provided, however, that for  
18 a major land development or major subdivision, the certificate for a master plan shall be granted  
19 within thirty (30) days and for a preliminary plan shall be granted within forty-five (45) days. The  
20 running of the time period set forth herein will be deemed stopped upon the issuance of a certificate  
21 of incompleteness of the application by the administrative officer and will recommence upon the  
22 resubmission of a corrected application by the applicant. However, in no event will the  
23 administrative officer be required to certify a corrected submission as complete or incomplete less  
24 than fourteen (14) days after its resubmission. If the administrative officer certifies the application  
25 as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

26 (3) Pre-application conference. Where the comprehensive permit application proposal is a  
27 major land development project or a major subdivision pursuant to chapter 23 of this title a  
28 municipality may require an applicant proposing a project under this chapter to first schedule a pre-  
29 application conference with the local review board, the technical review committee established  
30 pursuant to § 45-23-56, or with the administrative officer for the local review board and other local  
31 officials, as appropriate. To request a pre-application conference, the applicant shall submit a short  
32 description of the project in writing including the number of units, type of housing, as well as a  
33 location map. The purpose of the pre-application conference shall be to review a concept plan of  
34 the proposed development. Upon receipt of a request by an applicant for a pre-application

1 conference, the municipality has thirty (30) days to schedule and hold the pre-application  
2 conference. If thirty (30) days has elapsed from the filing of the pre-application submission and no  
3 pre-application conference has taken place, nothing shall be deemed to preclude an applicant from  
4 thereafter filing and proceeding with an application for a comprehensive permit.

5 (4) Review of applications. An application filed in accordance with this chapter shall be  
6 reviewed by the local review board at a public hearing in accordance with the following provisions:

7 (i) Notification. Upon issuance of a certificate of completeness for a comprehensive permit,  
8 the local review board shall immediately notify each local board, as applicable, of the filing of the  
9 application, by sending a copy to the local boards and to other parties entitled to notice of hearings  
10 on applications under the zoning ordinance and/or land development and subdivision regulations  
11 as applicable.

12 (ii) Public Notice. Public notice for all public hearings will be the same notice required  
13 under local regulations for a public hearing for a preliminary plan promulgated in accordance with  
14 § 45-23-42. The cost of notice shall be paid by the applicant.

15 (iii) Review of minor projects. The review of a comprehensive permit application involving  
16 only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief  
17 from other local regulations or ordinances not otherwise addressed in this subsection, shall be  
18 conducted following the procedures in the applicable local regulations, with the exception that all  
19 minor land developments or minor subdivisions under this section are required to hold a public  
20 hearing on the application, and within ninety-five (95) days of issuance of the certificate of  
21 completeness, or within such further time as is agreed to by the applicant and the local review  
22 board, render a decision.

23 (iv) Review of major projects. In the review of a comprehensive permit application  
24 involving a major land development and/or major subdivision, the local review board shall hold a  
25 public hearing on the master plan and shall, within one hundred and twenty (120) days of issuance  
26 of the certification of completeness, or within such further amount of time as may be agreed to by  
27 the local review board and the applicant, render a decision. Preliminary and final plan review shall  
28 be conducted according to local regulations promulgated pursuant to chapter 23 of this title except  
29 as otherwise specified in this section.

30 (v) Required findings. In approving on an application, the local review board shall make  
31 positive findings, supported by legally competent evidence on the record which discloses the nature  
32 and character of the observations upon which the fact finders acted, on each of the following  
33 standard provisions, where applicable:

34 (A) The proposed development is consistent with local needs as identified in the local



1 comprehensive community plan with particular emphasis on the community's affordable housing  
2 plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

3 (B) The proposed development is in compliance with the standards and provisions of the  
4 municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or  
5 waived local concerns that have been affected by the relief granted do not outweigh the state and  
6 local need for low and moderate income housing.

7 (C) All low and moderate income housing units proposed are integrated throughout the  
8 development; are compatible in scale and architectural style to the market rate units within the  
9 project; and will be built and occupied prior to, or simultaneous with the construction and  
10 occupancy of any market rate units.

11 (D) There will be no significant negative environmental impacts from the proposed  
12 development as shown on the final plan, with all required conditions for approval.

13 (E) There will be no significant negative impacts on the health and safety of current or  
14 future residents of the community, in areas including, but not limited to, safe circulation of  
15 pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability  
16 of potable water, adequate surface water run-off, and the preservation of natural, historical or  
17 cultural features that contribute to the attractiveness of the community.

18 (F) All proposed land developments and all subdivisions lots will have adequate and  
19 permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).

20 (G) The proposed development will not result in the creation of individual lots with any  
21 physical constraints to development that building on those lots according to pertinent regulations  
22 and building standards would be impracticable, unless created only as permanent open space or  
23 permanently reserved for a public purpose on the approved, recorded plans.

24 (vi) The local review board has the same power to issue permits or approvals that any local  
25 board or official who would otherwise act with respect to the application, including, but not limited  
26 to, the power to attach to the permit or approval, conditions, and requirements with respect to  
27 height, site plan, size, or shape, or building materials, as are consistent with the terms of this section.

28 (vii) In reviewing the comprehensive permit request, the local review board may deny the  
29 request for any of the following reasons: (A) if city or town has an approved affordable housing  
30 plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing  
31 plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs  
32 identified in an approved comprehensive plan, and/or local zoning ordinances and procedures  
33 promulgated in conformance with the comprehensive plan; (C) the proposal is not in conformance  
34 with the comprehensive plan; (D) the community has met or has plans to meet the goal of ten

1 percent (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%)  
2 of the occupied rental housing units as defined in § 45-53-3(2)(i) being low and moderate income  
3 housing; or (E) concerns for the environment and the health and safety of current residents have  
4 not been adequately addressed.

5 (viii) All local review board decisions on comprehensive permits shall be by majority vote  
6 of the membership of the board and may be appealed by the applicant to the state housing appeals  
7 board.

8 (ix) If the public hearing is not convened or a decision is not rendered within the time  
9 allowed in subsection (a)(4)(iii) and (iv), the application is deemed to have been allowed and the  
10 relevant approval shall issue immediately; provided, however, that this provision shall not apply to  
11 any application remanded for hearing in any town where more than one application has been  
12 remanded for hearing provided for in § 45-53-6(f)(2).

13 (x) Any person aggrieved by the issuance of an approval may appeal to the superior court  
14 within twenty (20) days of the issuance of approval.

15 (xi) A comprehensive permit shall expire unless construction is started within twelve (12)  
16 months and completed within sixty (60) months of final plan approval unless a longer and/or phased  
17 period for development is agreed to by the local review board and the applicant. Low and moderate  
18 income housing units shall be built and occupied prior to, or simultaneous with the construction  
19 and occupancy of market rate units.

20 (xii) A town with an approved affordable housing plan and that is meeting local housing  
21 needs may by council action limit the annual total number of dwelling units in comprehensive  
22 permit applications from for-profit developers to an aggregate of one percent (1%) of the total  
23 number of year-round housing units in the town, as recognized in the affordable housing plan and  
24 notwithstanding the timetables set forth elsewhere in this section, the local review board shall have  
25 the authority to consider comprehensive permit applications from for-profit developers, which are  
26 made pursuant to this paragraph, sequentially in the order in which they are submitted.

27 (xiii) The local review board of a town with an approved affordable housing plan shall  
28 report the status of implementation to the housing resources commission, including the disposition  
29 of any applications made under the plan, as of June 30, 2006, by September 1, 2006 and for each  
30 June 30 thereafter by September 1 through 2010. The housing resources commission shall prepare  
31 by October 15 and adopt by December 31, a report on the status of implementation, which shall be  
32 submitted to the governor, the speaker, the president of the senate and the chairperson of the state  
33 housing appeals board, and shall find which towns are not in compliance with implementation  
34 requirements.

1 (xiv) Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, to  
2 commence hearings within thirty (30) days of receiving an application remanded by the state  
3 housing appeals board pursuant to § 45-53-6(f)(2) shall be heard as herein provided; in any town  
4 with more than one remanded application, applications may be scheduled for hearing in the order  
5 in which they were received, and may be taken up sequentially, with the thirty (30) day requirement  
6 for the initiation of hearings, commencing upon the decision of the earlier filed application.

7 (b)(1) The general assembly finds and declares that in January 2004 towns throughout  
8 Rhode Island have been confronted by an unprecedented volume and complexity of development  
9 applications as a result of private for-profit developers using the provisions of this chapter and that  
10 in order to protect the public health and welfare in communities and to provide sufficient time to  
11 establish a reasonable and orderly process for the consideration of applications made under the  
12 provisions of this chapter, and to have communities prepare plans to meet low and moderate income  
13 housing goals, that it is necessary to impose a moratorium on the use of comprehensive permit  
14 applications as herein provided by private for-profit developers; a moratorium is hereby imposed  
15 on the use of the provisions of this chapter by private for-profit developers, which moratorium shall  
16 be effective on passage and shall expire on January 31, 2005 and may be revisited prior to expiration  
17 and extended to such other date as may be established by law. Notwithstanding the provisions of  
18 subsection (a) of this section, private for-profit developers may not utilize the procedure of this  
19 chapter until the expiration of the moratorium.

20 (2) No for-profit developer shall submit a new application for comprehensive permits until  
21 July 1, 2005, except by mutual agreement with the local review board.

22 (3) Notwithstanding the provisions of subdivision (b)(2) of this section, a local review  
23 board in a town which has submitted a plan in accordance with subsection (c) of this section, shall  
24 not be required to accept an application for a new comprehensive permit from a for-profit developer  
25 until October 1, 2005.

26 (c) Towns and cities that are not in conformity with the provisions of § 45-53-3(2)(i) shall  
27 prepare by December 31, 2004, a comprehensive plan housing element for low and moderate  
28 income housing as specified by § 45-53-3(2)(ii), consistent with applicable law and regulation.  
29 That the secretary of the planning board or commission of each city or town subject to the  
30 requirements of this paragraph shall report in writing the status of the preparation of the housing  
31 element for low and moderate income housing on or before June 30, 2004, and on or before  
32 December 31, 2004, to the secretary of the state planning council, to the chair of the house  
33 committee on corporations and to the chair of the senate committee on commerce, housing and  
34 municipal government. The state housing appeals board shall use said plan elements in making

1 determinations provided for in § 45-53-6(b)(2).

2 (d) If any provision of this section or the application thereof shall for any reason be judged  
3 invalid, such judgment shall not affect, impair, or invalidate the remainder of this section or of any  
4 other provision of this chapter, but shall be confined in its effect to the provision or application  
5 directly involved in the controversy giving rise to the judgment, and a moratorium on the  
6 applications of for-profit developers pursuant to this chapter shall remain and continue to be in  
7 effect for the period commencing on the day this section becomes law [February 13, 2004] and  
8 continue until it shall expire on January 31, 2005, or until amended further.

9 (e) In planning for, awarding and otherwise administering programs and funds for housing  
10 and for community development, state departments, agencies, boards and commissions, public  
11 corporations, as defined in chapter 18 of title 35, shall among the towns subject to the provision of  
12 § 45-53-3(ii) give priority to the maximum extent allowable by law, to towns with an approved  
13 affordable housing plan. The director of administration shall adopt not later than January 31, 2005,  
14 regulations to implement the provisions of this section.

15 SECTION 5. Section 42-128-2.1 of the General Laws in Chapter 42-128 entitled "Rhode  
16 Island Housing Resources Act of 1998" is hereby amended to read as follows:

17 **42-128-2.1. Housing Production Fund.**

18 (a) There is hereby established a restricted receipt account within the general fund of the  
19 state, to be known as the housing production fund. Funds from this account shall be administered  
20 by the Rhode Island housing and mortgage finance corporation, subject to program and reporting  
21 guidelines adopted by the coordinating committee of the Rhode Island housing resources  
22 commission for housing production initiatives, including:

23 (1) Financial assistance by loan, grant, or otherwise, for the planning, production, or  
24 preservation of affordable housing in Rhode Island for households earning not more than eighty  
25 percent (80%) of area median income; and

26 (2) Technical and financial assistance for cities and towns to support increased local  
27 housing production, including by reducing regulatory barriers and through the housing incentives  
28 for municipalities program.

29 (b) In administering the housing production fund, the Rhode Island housing and mortgage  
30 finance corporation shall give priority to households either exiting homelessness or earning not  
31 more than thirty percent (30%) of area median income.

32 (c) Notwithstanding any ordinance, resolution, regulation or finding, any fee paid by a  
33 builder to offset a local obligation to build affordable homes shall be deposited by the city or town  
34 into a restricted receipt account created and administered by the Rhode Island housing resources

1 [commission to provide grants to first generation homebuyers whose household income at the time](#)  
2 [of purchase does not exceed eighty percent \(80%\) of area median income. For the purposes of this](#)  
3 [section, a "first generation homebuyer" shall have the same meaning as provided in § 45-53-4.](#)

4 SECTION 6. 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 -- AFFORDABLE HOUSING

\*\*\*

1           This act would require any residential development that receives any form of federal, state  
2 or local subsidy or incentive, to allocate twenty percent (20%) of the development for affordable  
3 housing.

4           This act would provide that the affordable housing eligibility standards for households with  
5 gross household income be not more than eighty percent (80%) of area median income for rental  
6 units and not more than ninety percent (90%) of area median income for owner-occupied units.

7           This act would also allow an affordability deed restriction to expire after ten (10) years on  
8 a primary residence occupied by a first generation homebuyer.

9           This act would also create a restricted receipt account for any fees generated pursuant to §  
10 42-128-2.1(c) to be used for grants to first generation homebuyers.

11           This act would take effect upon passage.

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