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LC001544

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

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

Introduced By: Senators Felag, DiPalma, F. Lombardi, and Sosnowski

Date Introduced: February 16, 2023

Referred To: Senate Housing & Municipal Government

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 § 45-22.2-9.

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

17 (4) "Consistent with local needs" means reasonable in view of the state need for low- and  
18 moderate-income housing, considered with the number of low-income persons in the city or town  
19 affected and the need to protect the health and safety of the occupants of the proposed housing or

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

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

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

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

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

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

33 (7) "Local board" means any town or city official, zoning board of review, planning board  
34 or commission, board of appeal or zoning enforcement officer, local conservation commission,

1 historic district commission, or other municipal board having supervision of the construction of  
2 buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.

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

16 (10) “Meeting housing needs” means adoption of the implementation program of an  
17 approved affordable housing plan and the absence of unreasonable denial of applications that are  
18 made pursuant to an approved affordable housing plan in order to accomplish the purposes and  
19 expectations of the approved affordable housing plan.

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

23 (12) “Municipal government subsidy” means assistance that is made available through a  
24 city or town program sufficient to make housing affordable, as affordable housing is defined in §  
25 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support,  
26 abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal  
27 subsidies, and any combination of forms of assistance.

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

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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

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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.

3           This act would take effect upon passage.

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