

2012 -- H 7625

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TOWNS AND CITIES - LOW AND MODERATE INCOME HOUSING

Introduced By: Representative Donald J. Lally

Date Introduced: February 16, 2012

Referred To: House 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.** -- The following words, wherever used in this chapter, unless a
4 different meaning clearly appears from the context, have the following meanings:

5 (1) "Affordable housing plan" means a component of a housing element, as defined in
6 subdivision 45-22.2-4(1), to meet housing needs in a city or town that is prepared in accordance
7 with guidelines adopted by the state planning council, and/or to meet the provisions of subsection
8 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 sections 45-
14 22.2-8, 45-22.2-9, or 45-22.2-12.

15 (3) "Comprehensive plan" means a comprehensive plan adopted and approved by a city
16 or 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 residence 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 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
10 year-round housing units, 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 which 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
18 provided in subdivision (2)(i).

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

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

30 (7) "Local board" means any town or city official, zoning board of review, planning
31 board or commission, board of appeal or zoning enforcement officer, local conservation
32 commission, historic district commission, or other municipal board having supervision of the
33 construction of buildings or the power of enforcing land use regulations, such as subdivision, or
34 zoning laws.

1 (8) "Local review board" means the planning board as defined by subdivision 45-22.2-
2 4(26), or if designated by ordinance as the board to act on comprehensive permits for the town,
3 the zoning board of review established pursuant to section 45-24-56.

4 (9) "Low or moderate income housing" means any housing whether built or operated by
5 any public agency or any nonprofit organization or by any limited equity housing cooperative or
6 any private developer, that is subsidized by a federal, state, or municipal government subsidy
7 under any program to assist the construction or rehabilitation of housing affordable to low or
8 moderate income households, as defined in the applicable federal or state statute, or local
9 ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-
10 nine (99) years or such other period that is either agreed to by the applicant and town or
11 prescribed by the federal, state, or municipal government subsidy program but that is not less than
12 thirty (30) years from initial occupancy. "Low and moderate income housing" also means all
13 rental units, including, but not limited to, naturally occurring rental units, not subsidized, in which
14 the amount of rent charged for said unit falls within the appropriate amounts as defined by
15 applicable federal or state laws relating to low and moderate income housing. The
16 aforementioned rental units shall have a lease with a minimum term of twelve (12) months. Low
17 and moderate income housing shall also include any rental unit utilizing the H.U.D. section 8
18 program and reported to the Rhode Island office of housing and community development on
19 January 1 of any given year.

20 (10) "Meeting housing needs" means adoption of the implementation program of an
21 approved affordable housing plan and the absence of unreasonable denial of applications that are
22 made pursuant to an approved affordable housing plan in order to accomplish the purposes and
23 expectations of the approved affordable housing plan.

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

29 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

1 This act would expand the definition of “low or moderate income housing” to also mean
2 all rental units, not subsidized, in which the amount of rent charged falls within the appropriate
3 amounts as defined by applicable federal or state law relating to low and moderate income
4 housing.

5 This act would take effect upon passage.

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