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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

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A N A C T

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

Introduced By: Representatives Menard, Petrarca, Winfield, Gallison, and Malik

Date Introduced: January 29, 2004

Referred To: House read and passed

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-53-4 of the General Laws in Chapter 45-53 entitled "Low and
2 Moderate Income Housing" is hereby amended to read as follows:

3 **45-53-4. Procedure for approval of construction of low or moderate income housing.**

4 = (a) Any public agency, nonprofit organization, or limited equity housing cooperative proposing
5 to build low or moderate income housing may submit to the zoning board of review, established
6 under section 45-24-56, a single application for a comprehensive permit to build that housing in
7 lieu of separate applications to the applicable local boards. In the case of a private developer, this
8 procedure is only available for low or moderate income housing proposals which remain as low
9 or moderate income housing for a period of not less than thirty (30) years from initial occupancy.
10 The zoning board of review shall immediately notify each local board, as applicable, of the filing
11 of the application, by sending a copy to the local boards and to other parties entitled to notice of
12 hearings on applications under the zoning ordinance and shall, within thirty (30) days of the
13 receipt of the application, hold a public hearing on the application. The chair of the state housing
14 appeals board shall, by regulation, provide for review by planning boards in cases of applications
15 involving land development projects or subdivisions. The zoning board of review has the same
16 power to issue permits or approvals that any local board or official who would otherwise act with
17 respect to the application, including, but not limited to, the power to attach to the permit or
18 approval, conditions, and requirements with respect to height, site plan, size, or shape, or building
19 materials, as are consistent with the terms of this section. In reviewing the comprehensive permit

1 request, the zoning board may deny the request for any of the following reasons: if the proposal is
2 inconsistent with local needs, including, but not limited to, the needs identified in an approved
3 comprehensive plan, and local zoning ordinances and procedures promulgated in conformance
4 with the comprehensive plan; if the proposal is not in conformance with the comprehensive plan;
5 if the community has met or has plans to meet the standard of ten percent (10%) of the units or, in
6 the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as
7 defined in section 45-53-3(2)(i) being low and moderate income housing; or if concerns for the
8 environment and the health and safety of current residents have not been adequately addressed.
9 The zoning board shall render a decision, based upon a majority vote of the board, within forty
10 (40) days after the termination of the public hearing and, if favorable to the applicant, shall
11 immediately issue a decision approving the application. If the hearing is not convened or a
12 decision is not rendered within the time allowed, unless the time has been extended by mutual
13 agreement between the zoning board and the applicant, the application is deemed to have been
14 allowed and the approval shall issue immediately. Any person aggrieved by the issuance of an
15 approval may appeal to the supreme court.

16 (b) The general assembly finds and declares that in January 2004 towns throughout
17 Rhode Island have been confronted by an unprecedented volume and complexity of development
18 applications as a result of private for-profit developers using the provisions of this chapter and
19 that in order to protect the public health and welfare in communities and to provide sufficient
20 time to establish a reasonable and orderly process for the consideration of applications made
21 under the provisions of this chapter, and to have communities prepare plans to meet low and
22 moderate income housing goals, that it is necessary to impose a moratorium on the use of
23 comprehensive permit applications as herein provided by private for-profit developers; a
24 moratorium is hereby imposed on the use of the provisions of this chapter by private for-profit
25 developers, which moratorium shall be effective on passage and shall expire on January 31, 2005
26 and may be revisited prior to expiration and extended to such other date as may be established by
27 law.

28 Notwithstanding the provisions of subsection (a) of this section, private for-profit
29 developers may not utilize the procedure of this chapter until the expiration of the moratorium.

30 (c) Towns and cities that are not in conformity with the provisions of section 45-53-
31 3(2)(i) shall prepare by December 31, 2004, a comprehensive plan housing element for low and
32 moderate income housing as specified by section 45-53-3(2)(ii), consistent with applicable law
33 and regulation. That the secretary of the planning board or commission of each city or town
34 subject to the requirements of this paragraph shall report in writing the status of the preparation of

1 the housing element for low and moderate income housing on or before June 30, 2004, and on or
2 before December 31, 2004, to the secretary of the state planning council, to the chair of the house
3 committee on corporations and to the chair of the senate committee on commerce, housing and
4 municipal government. The state housing appeals board shall use said plan elements in making
5 determinations provided for in subsection 45-53-6(b)(2).

6 (d) If any provision of this act or the application thereof shall for any reason be judged
7 invalid, such judgment shall not affect, impair, or invalidate the remainder of this act or of any
8 other provision of chapter 45-53 of the general laws, but shall be confined in its effect to the
9 provision or application directly involved in the controversy giving rise to the judgment, and a
10 moratorium on the applications of for-profit developers pursuant to chapter 45-53 of the general
11 laws shall remain and continue to be in effect for the period commencing on the day this act
12 becomes law and continue until it shall expire on January 31, 2005 or until amended further.

13 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 impose a moratorium on the use of comprehensive permit applications by
2 for-profit developers for low and moderate income housing, which moratorium would be in effect
3 until January 31, 2005.

4 This act would also permit the general assembly to revisit the overall effect of the
5 moratorium prior to January 31, 2005 and to extend the moratorium beyond said date should the
6 same be deemed necessary.

7 This act would take effect upon passage.

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