

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1257 Session of
2023

INTRODUCED BY KINSEY, KHAN, MADDEN, PROBST, SANCHEZ, KAZEEM,
HILL-EVANS, INNAMORATO AND O'MARA, MAY 24, 2023

REFERRED TO COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT,
MAY 24, 2023

AN ACT

1 Providing for middle-income, low-income and very-low-income
2 housing units in new residential development projects.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Affordable
7 Housing for Working Families Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Community center." An indoor or outdoor building, space,
13 structure or improvement intended for active or passive
14 recreation, including parks, ball fields, meeting halls and
15 classrooms, that accommodate either organized or informal
16 activity and are oriented toward serving residents of the
17 municipality.

1 "Developer." A person or entity who engages in the
2 development or rehabilitation of real estate for residential
3 occupancy and is responsible for the development of the real
4 estate, including acquisition, design, construction, repairing,
5 leasing, sale, operation and financing.

6 "Low-income housing." Affordable housing that is reserved
7 for occupancy by households with a gross household income that
8 does not exceed 80% of the median gross household income for
9 households of the same size within the housing region in which
10 the housing is located.

11 "Middle-income housing." Affordable housing that is reserved
12 for occupancy by households with a gross household income equal
13 to more than 80% but less than 120% of the median gross
14 household income for households of the same size within the
15 housing region in which the housing is located.

16 "Project." The development or rehabilitation of real estate,
17 including acquisition, construction, repairing, leasing, sale,
18 operation and financing.

19 "Very-low-income housing." Affordable housing that is
20 reserved for occupancy by households with a gross household
21 income that does not exceed 50% of the median gross household
22 income for households of the same size within the housing region
23 in which the housing is located.

24 Section 3. Housing development project requirement.

25 (a) Eligibility.--This section shall apply to a developer of
26 a project with 30 or more residential units that:

27 (1) Is approved by a municipal planning board or zoning
28 board to develop a project.

29 (2) Is permissible under either a use variance, a
30 density variance increasing the permissible density at the

1 site, a rezoning permitting multiple residential units where
2 not previously permitted, a new or amended redevelopment plan
3 or a new or amended rehabilitation plan.

4 (3) Has a net density of six or more units per acre.

5 (4) Has an application for a construction permit that is
6 submitted on or after the effective date of this paragraph.

7 (b) General rule.--The developer shall reserve at least:

8 (1) Five percent of the residential units for very-low-
9 income housing.

10 (2) Ten percent of the residential units for low-income
11 housing.

12 (3) Ten percent of the residential units for middle-
13 income housing.

14 (c) Requirements.--A project under this section shall be
15 developed as follows:

16 (1) If more than 25% of market-rate housing units are
17 completed, no less than 10% of very-low-income housing, low-
18 income housing and middle-income housing units shall be
19 completed.

20 (2) If 50% or more of the market-rate housing units are
21 completed, no less than 50% of very-low-income housing, low-
22 income housing and middle-income housing units shall be
23 completed.

24 (3) If 75% or more of the market-rate housing units are
25 completed, no less than 75% of very-low-income housing, low-
26 income housing and middle-income housing units shall be
27 completed.

28 (4) If 90% or more of the market-rate housing units are
29 completed, no less than 100% of very-low-income housing, low-
30 income housing and middle-income housing units shall be

completed.

(d) Withholding of certificate of occupancy.--The municipality shall withhold a certificate of occupancy for market-rate units, at any stage of development, if the requirements of this section are not satisfied.

(e) Location of units.--The developer of a project subject to this section may develop the residential units reserved for very-low-income housing, low-income housing and middle-income housing onsite or offsite within the municipality in which the project is located.

(f) Contract provisions.--A municipal approval or agreement entered into between a municipality and a developer concerning the development of a project shall incorporate contractual guarantees and procedures ensuring that a residential unit reserved for very-low-income housing, low-income housing and middle-income housing shall continue to be reserved for a period of at least three years.

(g) Unit requirements.--For a project that is not age-restricted, at least 30% of all the very-low-income housing, low-income housing and middle-income housing units required by this section shall be two-bedroom units and at least 20% of all the very-low-income housing, low-income housing and middle-income housing units required by this section shall be three-bedroom units.

(h) Payment in lieu of construction.--

(1) A municipality that is authorized to impose and collect impact or development fees may, in its discretion and in lieu of requiring the construction of very-low-income housing, low-income housing and middle-income housing units under this section, require a developer to pay an impact or

development fee in an amount equal to 30% of the total project cost, as determined by the municipal engineer or other qualified municipal official designated by ordinance. The amount of the fee that may be required under this subsection shall be 25% of the total project cost if the project achieves a silver rating according to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council.

(2) A fee required under paragraph (1) shall be paid prior to the issuance of a construction permit for the project.

(3) A municipality shall, by ordinance, either:

(i) deposit all fees collected under this subsection into an affordable housing trust fund and spend the funds on the development of very-low-income housing or low-income housing within the municipality; or

(ii) deposit 50% of the fees collected under this subsection into an affordable housing trust fund and spend those funds on the development of very-low-income housing or low-income housing within the municipality and deposit the remaining 50% of the fee into a community center trust fund and spend the funds on the development of community centers.

(i) Construction.--Nothing in this section shall be construed to affect the obligation of a municipality to plan and zone to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for very-low-income housing or low-income housing. Nothing in this act shall be construed to alter the

1 obligations of a developer or municipality to comply with the
2 terms of a court-approved agreement or fair share plan or to
3 prevent a municipality from creating or enforcing requirements
4 beyond the minimum requirements established in this section.

5 Section 4. Effective date.

6 This act shall take effect in 90 days.