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HOUSE BILL NO. 1105

Offered January 10, 2024

Prefiled January 10, 2024

A *BILL to amend the Code of Virginia by adding in Title 36 a chapter numbered 13, consisting of sections numbered 36-176 through 36-181, relating to housing; Zoning for Housing Production Fund created; affordable dwelling unit policy incentives; report.*

Patrons—Carr and Keys-Gamarra

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 36 a chapter numbered 13, consisting of sections numbered 36-176 through 36-181, as follows:

CHAPTER 13.**ZONING FOR HOUSING PRODUCTION ACT.****§ 36-176. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Accessory dwelling unit" means a self-contained residential dwelling unit located on the same lot as a stand-alone or detached single-family home.

"Affordable housing" means a dwelling for which the rent is no greater than 30 percent of the total household income of a household earning 80 percent of the area median income and that is held available for persons or families that have a household income no greater than 80 percent of the area median income.

"By-right development" means land that may be developed without applying for a zoning special exception or special use permit.

"Department" means the Department of Housing and Community Development.

"Fund" means the Zoning for Housing Production Fund created pursuant to § 36-178.

"Mixed-income community" means a development that includes residential dwelling units that are affordable to persons and families with a range of income levels.

"Moderately priced housing" means housing for which the rent is no more than 30 percent of the income of a tenant whose income is no greater than the area median income.

"Multifamily housing" means residential buildings consisting of more than one self-contained dwelling unit, including duplexes, triplexes, and quadriplexes.

"Single-family housing" means a dwelling consisting of only one self-contained residential unit.

§ 36-177. Powers and duties of the Department; report.

A. The Department shall administer this chapter and shall have the following powers and duties:

1. Create an application form and develop an application scoring matrix that assigns each application for a grant from the Fund points based on the extent to which the application addresses the grant criteria described in § 36-179 to determine the distribution, duration, and termination of awards from the Fund;

2. Determine a minimum and a maximum grant award amount to be awarded to successful applicants prior to accepting applications;

3. Establish a time period, of no less than 30 days, during which applications for grants from the Fund will be accepted on an annual basis;

4. Review each application received and request any additional information that it deems necessary to evaluate the application within 90 days of the last date designated for localities to submit an application;

5. Grant awards to localities from the Fund based on the points assigned to each application according to the scoring matrix;

6. Collect and keep record of the actual number of affordable housing units developed in localities that receive a grant from the Fund and projections made by such locality during the application process;

7. Seek independent analytical assistance from outside consultants, as necessary, including post-grant assessments and reviews to evaluate the results and outcomes of grants awarded pursuant to this chapter; and

8. Submit an annual report to the Governor and the General Assembly no later than December 1 of each year with the information described in subsection B as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents

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59 and reports and shall be posted on the General Assembly's website.

60 B. The annual report submitted by the Department to the Governor and the General Assembly
61 pursuant to subsection A shall include the following information:

62 1. The number of applicants for a grant from the Fund;

63 2. The number and dollar amounts of grants awarded;

64 3. The projected number of housing units to be created in each locality awarded a grant from the
65 Fund and the actual number of housing units developed in each locality from the use of such grant;

66 4. Any legislative recommendations relevant to the provisions of this chapter; and

67 5. Any other information deemed by the Department to be relevant and useful to the Governor and
68 General Assembly in assessing such report.

69 **§ 36-178. Zoning for Housing Production Fund.**

70 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
71 Zoning for Housing Production Fund. The Fund shall be established on the books of the Comptroller.
72 All moneys appropriated by the General Assembly for the Fund, and from any other sources, public or
73 private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the
74 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, included
75 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
76 the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on
77 warrants issued by the Comptroller upon written request signed by the Director of the Department.

78 B. Moneys in the Fund shall be used to encourage localities to adopt flexible zoning policies that
79 promote a full range of housing choices, create mixed-income neighborhoods, and encourage the
80 construction and continued existence of affordable housing and moderately priced housing in the
81 Commonwealth. Specifically, the Fund shall be used to make grant awards to counties, cities, and towns
82 that adopt changes to their existing zoning policies to allow for by-right development that is expected to
83 further the goals listed in this subsection.

84 **§ 36-179. Application process; award of grants to localities.**

85 A. To qualify for receipt of a grant from the Fund, a locality shall make at least one of the following
86 changes to its zoning ordinances:

87 1. Allow by-right development of multifamily housing in zones designated for single-family residential
88 use;

89 2. Reduce lot size requirements or allow for the division of existing lots;

90 3. Allow for the construction of accessory dwelling units in single-family zones that can be legally
91 inhabited by individuals who are not relatives of the primary homeowner;

92 4. Implement or expand affordable dwelling unit policies under § 15.2-2304 or 15.2-2305; or

93 5. Allow lower-cost home construction alternatives, such as modular, 3-D printed, and pre-fabricated
94 housing.

95 B. The Department shall establish guidelines and procedures for the award and distribution of grants
96 from the Fund to localities, which shall include the following requirements:

97 1. The Department shall award grants from the Fund for zoning activities that (i) promote
98 mixed-income communities; (ii) promote the development of affordable housing near public transit,
99 employment centers, health care facilities, schools, grocery stores, commercial centers, or other
100 community amenities; and (iii) do not foreseeably result in the displacement of existing affordable
101 housing.

102 2. The Department shall give priority to applications reasonably projected, based on the methodology
103 used by the locality to determine such projection, to most significantly reduce the locality's unmet
104 affordable housing needs, to be measured by the proportion of needed housing units projected to be
105 created by new housing.

106 3. The Department shall make awards to those applicants with the greatest potential for
107 accomplishing the purposes of this chapter. If an application is denied, the governing body shall be
108 informed of that fact, together with the reasons for the denial.

109 C. Grant amounts shall be made at the sole discretion of the Department in accordance with its
110 established guidelines and procedures. Decisions of the Department regarding grant awards shall be
111 final and not subject to review or appeal.

112 **§ 36-180. Expenditure of grants by localities.**

113 In addition to any other purpose authorized by this chapter, localities may use grants awarded from
114 the Fund for new construction of or improvements to any combination of the following categories:
115 schools, roads, transportation systems, fire and emergency medical services and other public safety
116 facilities, libraries, parks, community centers, stormwater management systems, or water and sewer line
117 extensions. Such localities shall report to the Department the estimated dollar amount of the grant
118 award expended in each category and the actual number of affordable housing units developed in areas
119 impacted by zoning actions for which they received grant awards on an annual basis for three years
120 following the award of a grant from the Fund.

121 **§ 36-181. Sunset.**
122 *The provisions of this chapter shall expire on July 1, 2029.*