

HOUSE BILL NO. 1105

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations

on February 7, 2024)

(Patron Prior to Substitute--Delegate Carr)

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 Pilot Program created; affordable dwelling unit policy incentives; report.

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.

"Eligible locality" means the City of Richmond, the City of Manassas, the City of Manassas Park, Chesterfield County, Hanover County, Henrico County, Prince William County, Spotsylvania County, and Stafford County.

"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.

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

"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 Program 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 Program;

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 Program 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 eligible localities from the Program 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 Program 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 November 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 and reports and shall be posted on the General Assembly's website.

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

1. The number of applicants for a grant from the Program;
2. The number and dollar amounts of grants awarded;
3. The projected number of housing units to be created in each locality awarded a grant from the Program and the actual number of housing units developed in each locality from the use of such grant;
4. Any legislative recommendations relevant to the provisions of this chapter;
5. An assessment of which additional localities could be added to the list of eligible localities to further the goals of the Program and the estimated cost of adding such localities;
6. The estimated cost of expanding the Program to all localities of the Commonwealth; and
7. Any other information deemed by the Department to be relevant and useful to the Governor and General Assembly in assessing such report.

§ 36-178. Zoning for Housing Production Pilot Program.

A. There is hereby created the Zoning for Housing Production Pilot Program (the Program). All funds as may be appropriated by the General Assembly and from any other sources, public or private, shall be paid into the state treasury and credited to the Program.

B. The Program shall encourage localities to adopt flexible zoning policies that promote a full range of housing choices, create mixed-income neighborhoods, and encourage the construction and continued existence of affordable housing and moderately priced housing in the Commonwealth. Specifically, the Program shall be used to make grant awards to eligible localities that adopt changes to their existing zoning policies to allow for by-right development that is expected to further the goals listed in this subsection. No locality that is not an eligible locality may receive funding from the Program.

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

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

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

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

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

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

89 5. Allow lower-cost home construction alternatives, such as modular, 3-D printed, pre-fabricated,
90 manufactured, and duplex-manufactured housing.

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

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

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

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

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

§ 36-180. Expenditure of grants by localities.

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

§ 36-181. Sunset.

The provisions of this chapter shall expire on July 1, 2027.

2. That the Department of Housing and Community Development shall, no later than September 1, 2024, develop the application and scoring matrix required by subsection A 1 of § 36-177, as created by this act, establish guidelines to be followed by the eligible localities in submitting applications to the Program, and establish guidelines to be followed by the Department in receiving and evaluating applications and awarding grant funds.

3. That the Department of Housing and Community Development shall, no later than September 1, 2024, formally notify the eligible localities, as that term is defined in § 36-176, as created by this act, of the existence and purpose of the Program and invite applications to be considered for Program awards.

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