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SENATE BILL DRS35123-MQ-22A

Short Title: Addressing the Workforce Housing Crisis. (Public)

Sponsors: Senators P. Newton, Moffitt, and Lowe (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH WORKFORCE HOUSING DEVELOPMENTS TO ADDRESS  
3 CRITICAL HOUSING SHORTAGES FOR FIREFIGHTERS, LAW ENFORCEMENT  
4 OFFICERS, TEACHERS, NURSES, FIRST RESPONDERS, AND OTHER VITAL  
5 WORKERS AND FIRST-TIME HOMEBUYERS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 160D-102 reads as rewritten:

8 **"§ 160D-102. Definitions.**

9 Unless otherwise specifically provided, or unless otherwise clearly required by the context,  
10 the words and phrases defined in this section shall have the following meanings indicated when  
11 used in this Chapter:

12 (1) Administrative decision. – Decisions made in the implementation,  
13 administration, or enforcement of development regulations that involve the  
14 determination of facts and the application of objective standards set forth in  
15 this Chapter or local government development regulations. These are  
16 sometimes referred to as ministerial decisions or administrative  
17 determinations.

18 ...

19 (33a) Workforce housing development. – A development that meets the criteria for  
20 approval established in G.S. 160D-802.1.

21 (33b) Workforce housing improved lot. – A lot that is subdivided, developed with  
22 an owner-occupied dwelling unit, and conveyed to a qualifying person, as  
23 specified in G.S. 160D-802.1.

24 (34) Zoning map amendment or rezoning. – An amendment to a zoning regulation  
25 for the purpose of changing the zoning district that is applied to a specified  
26 property or properties. The term also includes (i) the initial application of  
27 zoning when land is added to the territorial jurisdiction of a local government  
28 that has previously adopted zoning regulations and (ii) the application of an  
29 overlay zoning district or a conditional zoning district. The term does not  
30 include (i) the initial adoption of a zoning map by a local government, (ii) the  
31 repeal of a zoning map and readoption of a new zoning map for the entire  
32 planning and development regulation jurisdiction, or (iii) updating the zoning  
33 map to incorporate amendments to the names of zoning districts made by  
34 zoning text amendments where there are no changes in the boundaries of the  
35 zoning district or land uses permitted in the district.



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1 (35) Zoning regulation. – A zoning regulation authorized by Article 7 of this  
2 Chapter."

3 **SECTION 2.** G.S. 160D-702 reads as rewritten:

4 **"§ 160D-702. Grant of power.**

5 (a) A local government may adopt zoning regulations. Except as provided in subsections  
6 (b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of  
7 stories, and size of buildings and other structures; the percentage of lots that may be occupied;  
8 the size of yards, courts, and other open spaces; the density of population; the location and use  
9 of buildings, structures, and land. A local government may regulate development, including  
10 floating homes, over estuarine waters and over lands covered by navigable waters owned by the  
11 State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable  
12 development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.  
13 Where appropriate, a zoning regulation may include requirements that street and utility  
14 rights-of-way be dedicated to the public, that provision be made of recreational space and  
15 facilities, and that performance guarantees be provided, all to the same extent and with the same  
16 limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

17 (b) Any regulation relating to building design elements adopted under this Chapter may  
18 not be applied to any structures subject to regulation under the North Carolina Residential Code  
19 for One- and Two-Family Dwellings except under one or more of the following circumstances:

- 20 (1) The structures are located in an area designated as a local historic district  
21 pursuant to Part 4 of Article 9 of this Chapter.
- 22 (2) The structures are located in an area designated as a historic district on the  
23 National Register of Historic Places.
- 24 (3) The structures are individually designated as local, State, or national historic  
25 landmarks.
- 26 (4) The regulations are directly and substantially related to the requirements of  
27 applicable safety codes adopted under G.S. 143-138.
- 28 (5) Where the regulations are applied to manufactured housing in a manner  
29 consistent with G.S. 160D-908 and federal law.
- 30 (6) Where the regulations are adopted as a condition of participation in the  
31 National Flood Insurance Program.

32 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any  
33 zoning district or conditional district unless voluntarily consented to by the owners of all the  
34 property to which those regulations may be applied as part of and in the course of the process of  
35 seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval,  
36 nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604  
37 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted  
38 comprehensive plan or other applicable officially adopted plan.

39 For the purposes of this subsection, the phrase "building design elements" means exterior  
40 building color; type or style of exterior cladding material; style or materials of roof structures or  
41 porches; exterior nonstructural architectural ornamentation; location or architectural styling of  
42 windows and doors, including garage doors; the number and types of rooms; and the interior  
43 layout of rooms. The phrase "building design elements" does not include any of the following:  
44 (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering  
45 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect  
46 the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the  
47 permitted uses of land or structures subject to the North Carolina Residential Code for One- and  
48 Two-Family Dwellings.

49 Nothing in this subsection affects the validity or enforceability of private covenants or other  
50 contractual agreements among property owners relating to building design elements.

51 (c) A zoning or other development regulation shall not do any of the following:

- 1 (1) Set a minimum square footage of any structures subject to regulation under
- 2 the North Carolina Residential Code for One- and Two-Family Dwellings.
- 3 (2) Set a maximum parking space size larger than 9 feet wide by 20 feet long
- 4 unless the parking space is designated for handicap, parallel, or diagonal
- 5 parking.

6 (d) Except as provided in G.S. 160D-802.1, a local government may not implement or  
7 enforce a zoning regulation for a development that qualifies as a workforce housing development,  
8 including, without limitation, development standards regulating lot widths, setbacks, density, or  
9 building design elements."

10 **SECTION 3.** Article 8 of Chapter 160D of the General Statutes is amended by  
11 adding a new section to read:

12 **"§ 160D-802.1. Workforce housing developments.**

13 (a) Notwithstanding any provision of law or any ordinance or regulation to the contrary,  
14 a development that meets the criteria for a workforce housing development provided in this  
15 section shall be permitted in any zoning district and in any territorial area of a local government  
16 and made subject only to the land development regulations set forth in this section.

17 (b) A local government shall, upon submission of an application for development  
18 approval by a landowner, issue a development approval as a workforce housing development for  
19 a development meeting the following criteria:

- 20 (1) The development is at least 10 acres.
- 21 (2) No fewer than twenty percent (20%) of the lots in the development will be  
22 improved with dwelling units as defined by the North Carolina Residential  
23 Code for One- and Two-Family Dwellings and conveyed as workforce  
24 housing improved lots. If a building is constructed on the remaining lots in the  
25 development, it must (i) conform with the North Carolina Residential Code  
26 for One- and Two-Family Dwellings or (ii) be an accessory building or  
27 accessory structure, as defined in the North Carolina Uniform Residential  
28 Building Code.
- 29 (3) At least fifty percent (50%) of the workforce housing improved lots in the  
30 development will be conveyed to owner-occupants that qualify for lender  
31 financing based upon an income amount that does not exceed eighty percent  
32 (80%) of the most recently published area median income (AMI), as provided  
33 by the federal Department of Housing and Urban Development. The  
34 remaining workforce housing improved lots may be conveyed to  
35 owner-occupants that qualify for lender financing based upon an income  
36 amount that does not exceed one hundred percent (100%) of the most recently  
37 published AMI. For the purposes of this section, the AMI for the area where  
38 the majority of the development is situated shall be used.
- 39 (4) Workforce housing improved lots will be conveyed subject to the following  
40 conditions:
  - 41 a. The owner-occupant will move into the dwelling within 60 days of the  
42 conveyance.
  - 43 b. The owner-occupant will maintain the dwelling as the principal  
44 residence for at least a majority of a calendar year after moving into  
45 the dwelling. After the first full year of owner-occupancy, the  
46 owner-occupancy requirement is extinguished.
  - 47 c. The owner-occupant has either of the following:
    - 48 1. A greater than fifty percent (50%) ownership interest in the lot.
    - 49 2. A beneficiary of a trust where the primary purpose of the trust  
50 is for estate planning and where the settlors of the trust have  
51 placed the lot into the trust.

1           d.     The lot will be used solely for single family residential purposes. For  
2           the purposes of this sub-subdivision, the term "family" means the  
3           person who owns the lot and (i) any persons living together with the  
4           owner that are related by blood, adoption, or marriage or (ii) no more  
5           than three other persons who are not related to the owner. Single  
6           family residential use does not include fractional ownership or  
7           timeshares.

8           (c)     Unless geographically impossible, a local government may require that a workforce  
9           housing development provide and maintain a vegetative buffer zone not exceeding 20 feet in  
10          width, including existing trees and shrubs, along the perimeter of the development between the  
11          development and any adjoining properties. A local government may not impose any type of  
12          vegetation requirement, including the removal, preservation, or use of trees and shrubs, in any  
13          area of the workforce housing development beyond the vegetative buffer described in this  
14          subsection.

15          (d)     A local government may require that a workforce housing development be identified  
16          on a preliminary site plan or plat and that a permit application be administratively approved by  
17          the local government by its planning staff or a planning board subject only to the criteria provided  
18          in subsection (b) of this section. Notwithstanding any provision of law to the contrary, a local  
19          government receiving a permit application submitted pursuant to this subsection shall approve or  
20          deny the application within 45 days of receipt. During the initial 45-day period, the local  
21          government shall communicate with the applicant to resolve questions and issues with the  
22          application. If the local government requests additional information or requires that the  
23          application be resubmitted with changes, the local government shall review the requested  
24          information or resubmitted application and issue an approval or denial within 15 days from the  
25          receipt of the requested information or resubmitted application. If the local government does not  
26          issue a written approval or denial within 60 days of the initial application submission, the  
27          application shall be deemed approved. A local government may require a developer to record a  
28          declaration describing the limitations imposed upon a workforce housing development described  
29          by this section. Nothing in this section shall limit a developer from imposing restrictive covenants  
30          or other restrictions upon lots in the development.

31          (e)     A local government may restrict the issuance of certificates of occupancy for the  
32          development to ensure that the workforce housing improved lots are constructed in a ratio  
33          roughly proportional to the other lots in the development. The local government may require a  
34          builder to certify that a purchaser of a workforce housing improved lot qualifies pursuant to this  
35          section.

36          (f)     Notwithstanding any provision of law to the contrary, a local government may not  
37          require a connection to a public utility operated by the local government, nor may a local  
38          government deny an application to serve the workforce housing development with the extension  
39          or connection of a public utility operated by the local government, unless (i) the provision of  
40          service would exceed capacity limits established pursuant to applicable statutes or (ii) the nearest  
41          point of the existing public utility infrastructure is more than 3 miles from the development. If  
42          public utility infrastructure is denied due to lack of capacity or if either water or wastewater  
43          infrastructure is not contiguous to the workforce housing development, then the developer may  
44          provide the unavailable service to the development by private system under applicable law. A  
45          local government may not charge a higher rate to residents in a workforce housing development  
46          than the local government charges to other residential customers in its territorial area. For the  
47          purposes of this subsection, the term "local government" includes a city, county, sanitary district,  
48          water and sewer authority, and any applicable interlocal agreement between a city or county and  
49          a water and sewer authority.

50          (g)     Nothing in this section shall prohibit a local government from enforcing any of the  
51          following:

- 1           (1) Article 11 or Article 12 of this Chapter.  
2           (2) With the exception of G.S. 160D-921, any local development regulation  
3           described in Part 2 of Article 9 of this Chapter, subject to the limitations in  
4           subdivision (h)(1) of this section.  
5           (3) With the exception of dedications under G.S. 136-66.10 or G.S. 136-66.11,  
6           any regulations providing for the dedication of rights-of-way or easements for  
7           street or utility purposes or road or utility construction performance standards.  
8           (4) G.S. 160D-804.1.  
9        (h) A local government may not do any of the following:  
10        (1) Implement or enforce an ordinance or regulation that is more restrictive than,  
11        or that exceeds requirements necessary to comply with, federal or State law.  
12        (2) Impose impact fees or water or wastewater system development fees on  
13        workforce housing improved lots.  
14        (i) A person aggrieved by the failure of a local government to comply with this section  
15        may apply for an order in superior court compelling compliance by the local government. An  
16        action brought pursuant to this subsection, and any subsequent appeals, shall be given preference  
17        over other matters on the court's calendar. The provisions of G.S. 6-21.7 shall apply to an action  
18        brought pursuant to this subsection. The remedies provided in this subsection shall supplement  
19        any other remedy available at law.  
20        (j) Nothing in this section shall be deemed to establish, alter, or expand a local  
21        government's authority to enact or enforce owner-occupancy development standards, rent  
22        control, or other standards related to affordable housing."

23           **SECTION 4.** This act becomes effective October 1, 2023.