**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4334**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. W. Jones, Gilliard, King, Williams and Cobb-Hunter

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Introduced in the House on April 18, 2023

Currently residing in the House

Summary: SC Residential Opportunity and Education Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/18/2023 House Introduced and read first time (House Journal‑page 147)

 4/18/2023 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** (House Journal‑page 147)

 4/19/2023 House Member(s) request name added as sponsor:
 Gilliard, King, Williams, Cobb-Hunter

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**VERSIONS OF THIS BILL**

[04/18/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4334_20230418.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “SOUTH CAROLINA RESIDENTIAL OPPORTUNITY AND EDUCATION ACT”; AND BY ADDING ARTICLE 5 TO CHAPTER 7, TITLE 6 SO AS TO PROVIDE FOR THE GENERAL ASSEMBLY’S FINDINGS, AND TO PROVIDE THAT COUNTIES AND MUNICIPALITIES ARE AUTHORIZED TO USE INCLUSIONARY ZONING STRATEGIES TO INCREASE THE AVAILABILITY OF AFFORDABLE HOUSING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “South Carolina Residential Opportunity and Education Act”.

SECTION 2. Chapter 7, Title 6 of the S.C. Code is amended by adding:

 Article 5

 Residential Opportunity and Education Act

 Section 6‑7‑510. (A) The General Assembly finds:

 (1) in many counties and municipalities, there is a critical shortage of decent, safe, and affordable residential housing available to low and moderate income families;

 (2) the affordable housing shortage constitutes a danger to the health, safety, and welfare of residents of the State and is a barrier to sound growth and sustainable economic development for South Carolina counties and municipalities; and

 (3) affordable housing can include multifamily rental, single‑family rental, and single‑family homeownership.

 (B) The purpose of this article is to provide the authority for counties and municipalities to use inclusionary zoning strategies to increase the development of affordable housing for low and moderate income families.

 Section 6‑7‑520. (A)(1) “Able‑bodied” means having the skills and physical qualities to be capable of working at a job or in the military and includes people who do not have an illness, injury, or condition that makes obtaining employment or service in the military unfeasible. In the event of a dispute as to whether or not an applicant is able‑bodied, the applicant bears the burden of proving that they are able‑bodied through medical evidence.

 (2) “Affordable housing” means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development. South Carolina’s high‑cost counties will not exceed one hundred twenty percent of the Area Median Income for the sale or rental of affordable housing. The Federal Housing Administration (FHA) designates high‑cost counties through its annual publication of loan limits – “Counties with FHA Loan Limits Between the National Floor and Ceiling”.

 (3) “Inclusionary zoning” means a zoning regulation, requirement, or condition of development imposed by ordinance or regulation, or pursuant to a special or conditional permit, special exception, or subdivision plan, that promotes the development of affordable dwelling units.

 (B)(1) A municipality or county may adopt a land use regulation or functional plan provision or impose, as a condition for approving a permit, a requirement that has the effect of establishing the sales or rental price for a new multifamily or single‑family structure, or that requires a new multifamily or single‑family structure to be designated for sale or rent as affordable housing.

 (2) A regulation, provision, or requirement adopted or imposed pursuant to this section:

 (a) may not require more than thirty percent of housing units within a multifamily structure or single‑family development to be sold or rented as affordable housing. The specific percentage will be determined by local municipal or county zoning ordinances. The ratio threshold established by the local municipal or county zoning ordinance may not be modified as applicants vacate the affordable housing;

 (b) may only apply to multifamily or single‑family developments containing five or more housing units;

 (c) shall provide developers the option to pay a “fee in lieu”, in an amount determined by the municipality or county, rather than including affordable units within their overall development; and

 (d) shall provide an expedited process for developments that meet the percentage of affordable units. An expedited process may include giving these developments priority placement for the review of plans and other requirements, or providing other ways to reduce the time for the review and permitting process.

 (3) A regulation, provision, or requirement adopted or imposed under item (2) of this subsection shall offer developers one or more of the following incentives:

 (a) density adjustments;

 (b) the modification of height, floor area, or other site specific requirements;

 (c) whole or partial waivers of system development charges, or impact or permit fees, set by the municipality or county;

 (d) tax adjustments; or

 (e) other incentives as determined by the municipality or county.

 (4) Item (2) of this subsection does not:

 (a) restrict the authority of a municipality or county to offer additional incentives for building affordable housing units that are affordable to households with incomes at or below sixty percent of the area median income for the county or metropolitan statistical area; or

 (b) apply to existing multifamily structures or single‑family developments for sale or rent, or to pending developments that have received permits prior to the municipality or county enacting an inclusionary zoning ordinance.

 (5) A municipality or county is authorized to require recorded deed restrictions or restrictive covenants to ensure that the affordable units within a development remain affordable for a period of time to be determined by the municipality or county.

 (6)(a) A municipality or county that adopts or imposes a regulation, provision, or requirement pursuant to item (2) of this subsection shall adopt and apply only clear and objective standards, conditions, and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions, and procedures may not have the effect, either individually or cumulatively, of discouraging the development of affordable housing units through unreasonable cost or delay.

 (b) In addition to an approval process for affordable housing based on clear and objective standards, conditions, and procedures as provided in this item, a municipality or county may adopt and apply an alternative approval process for applications and permits for residential development based on clear and objective approval criteria regulating aesthetics, either in whole or in part.

 (C)(1) A person who is determined to have a low to moderate income who is also deemed to be able‑bodied is eligible for affordable housing so long as:

 (a) within twelve months of occupying the affordable housing, he takes advantage of a workforce scholarship at a technical school in this State to obtain certification in a field that provides the average median income of his county; and

 (b) completes the certification program within five years of occupying affordable housing.

 (2) Upon completion of the certification, he has twelve months to vacate the affordable housing and find market‑rate housing.

 (D) The South Carolina Housing Authority shall:

 (1) publish information about this act and affordable housing on its website;

 (2) provide applications; and

 (3) serve as a monitoring agency.

SECTION 3. This act takes effect upon approval by the Governor.

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