COMMITTEE REPORT

January 26, 2022

**H. 3938**

Introduced by Reps. Tedder, Pendarvis, J.L. Johnson, Garvin, Cogswell, M.M. Smith, Stavrinakis, Thigpen, Clyburn, Hosey, Jefferson, King and Bradley

S. Printed 1/26/22--H.

Read the first time February 23, 2021.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3938) to amend the Code of Laws of South Carolina, 1976, by adding Article 5 to Chapter 7, Title 6, enTitled the “South Carolina Inclusionary Housing Act” so, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

Majority favorable. Minority unfavorable.

LEON HOWARD JONATHON HILL

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Local Expenditure**

This bill establishes the South Carolina Inclusionary Housing Act to allow counties and municipalities to adopt and use voluntary strategies to increase the development of affordable housing for low- and moderate-income families, termed an inclusionary housing policy.

This bill allows a municipality or county with a population of over 50,000 to adopt a voluntary inclusionary housing policy to:

 establish the sales or rental price for a new multifamily or single-family home, and

 require a new multifamily or single-family home be designated for sale or rent as affordable housing.

An inclusionary housing policy cannot require more than 25 percent of housing units be sold or rented as affordable housing, can only apply to developments containing five or more units, and must provide developers the option to pay a fee in lieu of including affordable units within their overall development. This bill also requires counties and municipalities adopting an inclusionary housing policy to offer developers economic incentives.

This bill allows counties and municipalities to adopt an inclusionary housing policy. Since this bill is permissive, the number of local governments that will elect to adopt an inclusionary housing policy is unknown, and the resulting expenditure impact from developing and implementing the policy is undetermined.

**Local Revenue**

This bill allows a county or municipality with a population of over 50,000 to adopt an inclusionary housing policy. An adopted policy must provide developers the option to pay a fee in lieu of including affordable units within their overall development. Revenue from these fees must be placed in a housing trust fund, which may be used for construction, rehabilitating, or repairing affordable housing.

Based on 2019 estimates from the Census Bureau, the following 24 counties and seven municipalities have a population over 50,000:

County 2019 Census Bureau Population Estimate

Aiken County 170,872

Anderson County 202,558

Beaufort County 192,122

Berkeley County 227,907

Charleston County 411,406

Cherokee County 57,300

Darlington County 66,618

Dorchester County 162,809

Florence County 138,293

Georgetown County 62,680

Greenville County 523,542

Greenwood County 70,811

Horry County 354,081

Kershaw County 66,551

Lancaster County 98,012

Laurens County 67,493

Lexington County 298,750

Oconee County 79,546

Orangeburg County 86,175

Pickens County 126,884

Richland County 415,759

Spartanburg County 319,785

Sumter County 106,721

York County 280,979

Source: U.S. Census Bureau. County Population Totals 2010-2019.

Municipality 2019 Census Bureau Population Estimate

Charleston City 137,566

Columbia City 131,674

Greenville City 70,635

Mount Pleasant Town 91,684

North Charleston City 115,382

Rock Hill City 75,048

Summerville Town 52,549

Source: U.S. Census Bureau. Annual Estimates of the Resident

Population for Incorporated Places in South Carolina 2010-2019.

This bill may generate additional revenue from developers opting to pay a fee in lieu of including affordable housing units in their development complex. However, the amount of revenue generated from these fees will depend on the number of counties and municipalities that elect to adopt an inclusionary housing policy, the fee amount imposed by the county or municipality, and how many developers elect to pay a fee in lieu of including affordable units. Since this bill is permissive, the number of local governments that will elect to adopt an inclusionary housing policy is unknown, and the resulting revenue is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 7, TITLE 6, ENTITLED THE “SOUTH CAROLINA INCLUSIONARY HOUSING ACT” SO AS TO PROVIDE THAT COUNTIES AND MUNICIPALITIES ARE AUTHORIZED TO ADOPT AND USE VOLUNTARY INCLUSIONARY HOUSING STRATEGIES TO INCREASE THE AVAILABILITY OF AFFORDABLE HOUSING.

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

SECTION 1. Chapter 7, Title 6 of the 1976 Code is amended by adding:

“Article 5

South Carolina Inclusionary Housing Act

Section 6‑7‑300. (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 act is to provide authority for counties and municipalities to use inclusionary housing policies to increase the development of affordable housing for low‑ and moderate‑income families.

Section 6‑7‑310. As used in this article:

(1) ‘Affordable housing’ means residential housing for rent or sale which 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 (HUD).

(2) ‘Inclusionary housing policy’ means a policy established by a local government that incentivizes the development of affordable dwelling units.

Section 6‑7‑320. (1) A municipality with a population in excess of fifty thousand according to the latest official United States census or a county may adopt a voluntary inclusionary housing policy 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) An inclusionary housing policy adopted pursuant to this article:

(a) may not require more than twenty‑five 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;

(b) only may 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 to include affordable units within their overall development. The municipality or county shall deposit all in‑lieu payments into a housing trust fund, which may be used for construction, rehabilitating, or repairing housing affordable to persons and families of low and moderate income. A municipality or county that does not have a housing trust fund must establish one before it may provide developers with the option to pay the fee. As contained in this subitem, ‘housing trust fund’ means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purpose of holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low‑income or moderate‑income housing; and

(d) shall provide an expedited process for developments that meets the percentage of affordable units. For example, an expedited process may include putting these developments at the front of the line for review of plans and other requirements, or other ways to reduce the time for the review and permitting process.

Section 6‑7‑330. An inclusionary housing policy shall offer developers at least one or more of the following incentives:

(1) density adjustments;

(2) modification of height, floor area, or other site‑specific requirements; or

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

(4) tax adjustments; or

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

Section 6‑7‑340. An inclusionary housing policy adopted pursuant to this article does not:

(1) 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 eighty percent of the AMI for the county or metropolitan statistical area; or

(2) 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 housing ordinance.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑