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Reps. Baumbach, Gray, Lambert, Osinski, Phillips

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 22

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO ESTABLISHING THE DELAWARE
WORKFORCE HOUSING PROGRAM.

1 WHEREAS, Delaware is facing a severe housing crisis, with home prices and rents unaffordable to many in the
2 workforce; and

3 WHEREAS, the Delaware State Housing Authority's 2023 Housing Needs Assessment report finds that the State
4 is over 19,000 affordable units short to accommodate demand; and

5 WHEREAS, it is increasingly difficult for workers to buy or rent housing in the areas in which they work due to
6 the limited supply of affordable housing; and

7 WHEREAS, workers are then forced to move to the outer fringes of a region, leading to longer commute times,
8 higher levels of traffic and pollution, and decreased quality of life; and

9 WHEREAS, workforce housing fills an important societal need by creating safe homes and enabling communities
10 to recruit and retain their vital employees; and

11 WHEREAS, lack of workforce housing can contribute to workforce shortages in critical fields like healthcare,
12 which can have broader negative impacts on the health and wellness of the surrounding communities; and

13 WHEREAS, collaboration between the public and private sectors holds immense potential in addressing
14 workforce shortages by combining the expertise, resources, and networks of both sectors; and

15 WHEREAS, the Delaware Downtown Development Districts Act of 2014 was enacted to spur private capital
16 investment in commercial business districts and other neighborhoods, stimulate job growth, and improve the commercial
17 vitality of districts, help build a stable community of long term residents by improving housing opportunities, and assist
18 municipalities in strengthening neighborhoods; and

WHEREAS, the Downtown Development Districts Program has been a successful model for public-private investment in designated business corridors and adjacent neighborhoods, with 298 small and 64 large projects completed and \$527 million in private investment attracted since its creation.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This Act shall be known as the “Delaware Workforce Housing Program.”

Section 2. Amend Chapter 40, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VII. Delaware Workforce Housing Program.

§ 4070. Purpose.

Increasing the amount and quality of workforce housing is a critical need for Delaware’s residents to ensure economic well-being and better quality of life. The purpose of this subchapter is to encourage use of private capital investment into residential housing units as set forth in this subchapter.

§ 4071. Definitions.

(a) “DSHA” means the Delaware State Housing Authority as established in Chapter 86 of Title 29.

(b) “DWH Grant” or “Grant” means a Delaware Workforce Housing Grant as set forth in § 4072 of this title.

(c) “Investment Level 1” and “Investment Level 2” means the investment levels as set forth by the Delaware Strategies for State Policies and Spending document approved by the Governor in Executive Order 42 on July 23, 2020.

(d) “Minimum qualified workforce housing threshold” means the minimum level of qualified workforce housing investment required by a qualified workforce housing investor in a workforce housing unit to qualify for a Grant, as determined by DSHA. The minimum qualified workforce housing threshold must be no lower than \$25,000. No more than once per year, DSHA may amend the minimum qualified workforce housing threshold with respect to the types of projects or other criteria determined by DSHA to be necessary or convenient to accomplish the purposes of this subchapter.

(e) “Qualified workforce housing investment” means the amount in excess of the minimum qualified workforce housing threshold that is properly chargeable to a capital account for improvements to rehabilitate, expand, or construct depreciable real property placed in service during the calendar year.

(f) “Qualified workforce housing investor” means an owner or tenant of real property located within an Investment Level 1 or Investment Level 2 zone who expands, rehabilitates, or constructs such real property for use as a workforce housing unit. In the case of a tenant, the amounts of qualified workforce housing investment specified in this section must relate to the proportion of the workforce housing unit for which the tenant holds a valid lease. In the case of an owner of an

individual unit within a common interest community, as such term is defined in § 81-103 of Title 25, the amount of qualified workforce housing investment specified in this subchapter must relate to the proportion of the workforce housing unit for which the owner holds title and not to common elements.

(g) “Workforce housing unit” means a residential dwelling for a household whose income does not exceed 100% of the median income for the area as defined by the United States Department of Housing and Urban Development.

§ 4072. Qualifications for DWH Grants.

Subject to the limitations set forth in this subpart, any qualified workforce housing investor making a qualified workforce housing investment in an Investment Level 1 or Investment Level 2 is entitled to a grant in an amount up to 20% of the qualified workforce housing investment in excess of the minimum qualified workforce housing threshold.

§ 4073. Limitations and conditions.

(a) The availability of DWH Grants in any given year is subject to appropriation by the General Assembly.

(b) Except as otherwise provided in subsection (c) of this section, DSHA may not approve a DWH Grant for a workforce housing unit that uses a federal low-income or state low-income housing tax credit.

(c) DSHA may approve a DWH Grant for 1 or more workforce housing units in a multiple unit housing project so long as those workforce housing units do not utilize a federal low-income or state low-income housing tax credit.

(d) In addition to its other powers and responsibilities, DSHA is expressly authorized to establish any other limitations and conditions with respect to DWH Grants as may be necessary or convenient to accomplish the purposes of this subchapter, including:

(1) Amending the minimum qualified workforce investment threshold, except that the minimum qualified workforce investment threshold must not be less than \$25,000.

(2) Establishing caps or limits on DWH Grants available to any qualified workforce housing investor, alone or in combination with other local, state, or federal incentives for any workforce housing unit including State Historic Preservation Tax Credits pursuant to Chapter 18 of Title 30.

(3) Establishing additional qualifying criteria with respect to residential uses or types of projects.

(4) Incentivizing particular types of uses or projects in 1 or more workforce housing units.

(5) Establishing such other limitations and conditions in 1 or more workforce housing units as DSHA may determine from time to time.

(e) DSHA may use part of the allocations made for the Delaware Workforce Housing Program towards the administration of the program.

(f) DSHA may establish or amend the foregoing limitations and conditions no more than once per year.

§ 4074. Policies and procedures for allocation of DWH Grants.

(a) Qualified workforce housing investors are eligible to receive DWH Grants provided for in this subchapter to the extent that they apply for and are approved for grant allocations through DSHA.

(b) The accuracy and validity of information on qualified workforce housing investments is subject to verification procedures in accordance with rules promulgated by DSHA, on forms supplied by DSHA, and in accordance with dates specified by DSHA.

§ 4075. Administration.

(a) DSHA holds primary responsibility for administering the Delaware Workforce Housing Program. DSHA's powers and duties include:

(1) Adopting rules and procedures as needed or desirable to effectuate provisions of this subchapter.

(2) Administering, enforcing, and interpreting such rules and procedures.

(3) Allocating DWH Grant funds in accordance with the provisions of this subchapter.

(4) Monitoring the implementation and operation of this subchapter.

(b) Beginning no later than November 15, 2025, and occurring every November 15 thereafter, DSHA shall issue an annual report to the Governor and the General Assembly evaluating the effectiveness of the Delaware Workforce Housing Program.

(c) DSHA may delegate to and receive assistance from other state agencies in carrying out its responsibilities of this subchapter.

(d) DSHA shall adopt regulations necessary to implement this subchapter in accordance with the procedures specified in the Administrative Procedures Act, Chapter 101 of Title 29.

Section 3. This Act is effective immediately and is to be implemented the earlier of the following:

(1) One year from the date of the Act's enactment.

(2) Notice by the Director of DSHA published in the Register of Regulations that final regulations to implement this Act have been promulgated.

SYNOPSIS

This Act establishes the "Delaware Workforce Housing Program" (DWHP). Modeled after the Downtown Development District Program, the DWHP allows a qualified workforce housing investor to be reimbursed through a grant up to 20 percent of the capital costs associated with workforce housing units they create.

To be eligible for a grant, the project must be located in Investment Levels 1 and 2 as established by the Delaware Strategies for State Policies and Spending. A grant may not be awarded for a housing unit that also uses a federal low-income or state low-income housing tax credit. This program will be administered by the Delaware State Housing Authority (DSHA) and requires the DSHA to provide an annual report on the effectiveness of the program. The Act provides the DSHA with the power to adopt regulations for the DWHP.

The substitute bill differs from Senate Bill No. 22 by changing most references to the word “affordable” and replacing it with the word “workforce.” Accordingly, the substitute bill modifies “affordable housing unit” to “workforce housing unit” and modifies “qualified affordable housing investment” to “qualified workforce housing investment.” The change in terminology is to avoid confusion within the housing industry, where the word “affordable” is generally accepted to mean housing for a median income level of 80% and below. To be clear, this Act provides workforce housing for median income levels of 100% and below. References to “affordable” have been changed to “workforce” to reflect this distinction throughout the Act.

The substitute further clarifies that, although DSHA may not award a DWH Grant for a housing unit that would also use a federal low-income or state low-income housing tax credit, DSHA may approve DWH Grants for workforce housing units in a multiple unit housing project so long as the DWH Grants are awarded to those specific units that do not use federal low-income or state low-income housing tax credits.

The substitute allows for DSHA to use part of the allocations for the administrative costs of the DWHP.

Author: Senator Huxtable