

# STATE OF NEW YORK

3397--A

2025-2026 Regular Sessions

## IN SENATE

January 27, 2025

Introduced by Sens. GOUNARDES, BAILEY, CLEARE, COMRIE, COONEY, FAHY, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, MAY, MAYER, MYRIE, PARKER, RAMOS, RIVERA, S. RYAN, SALAZAR, SEPULVEDA, SERRANO, STAVISKY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to enacting the "faith-based affordable housing act" and residential development on religious land

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "faith-based affordable housing act".

3 § 2. The general municipal law is amended by adding a new section 96-c  
4 to read as follows:

5 § 96-c. Residential development on religious land. 1. For the purposes  
6 of this section, the following terms shall have the following meanings:

7 (a) "Covered site" shall mean any parcel of land, or group of one or  
8 more contiguous parcels of land, that lies within an urban area as  
9 defined by the U.S. Census Bureau but does not lie within a locally  
10 designated manufacturing or industrial zoning district, where such  
11 parcel or group of one or more contiguous parcels of land is owned sole-  
12 ly, directly or indirectly (e.g. via a wholly owned limited liability  
13 company) by a religious corporation as of the effective date of this  
14 section.

15 (b) "Religious corporation" shall have the same meaning as defined in  
16 the religious corporations law and shall also include nonprofit corpo-  
17 rations that include in their purpose worship or the training or  
18 conducting of religious rituals or the reading or study of religious

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 texts incorporated under the not-for-profit corporation law or foreign  
2 corporations subject to such law.

3 (c) "Buildings department" shall mean the city, town, or village  
4 department, division, or other agency or office having primary super-  
5 vision of the construction of buildings and issuance of building  
6 permits.

7 (d) "Commissioner" shall mean the commissioner of the division of  
8 housing and community renewal.

9 (e) "Residential building" shall mean any structure used in part or  
10 entirely for full-time, non-transient residential occupation that  
11 contains at least four residential units; that is connected to community  
12 or public water and sewerage systems, including sewage treatment works,  
13 upon date of initial occupancy; and in which no more than thirty-five  
14 percent of the floor area is devoted to religious or educational use or  
15 charitable or community facility use, provided that any existing reli-  
16 gious, educational, charitable, or community facility floor area shall  
17 not be counted toward such thirty-five percent in the case that the  
18 residential building is an addition or an enlargement of an existing  
19 building.

20 (f) "Affordable unit" shall mean a housing unit affordable to a  
21 specific percentage of the applicable area median income, as defined  
22 annually by the U.S. Department of Housing and Urban Development. Such  
23 units may either be homeownership or rental units.

24 (g) "Affordability percentage" shall mean the percentage of a residen-  
25 tial building's gross floor area required to be set aside as affordable  
26 housing.

27 (h) "Affordable floor area" shall mean the amount of a residential  
28 building's floor area to be set aside for affordable units.

29 (i) "Construction" and variations thereof shall mean the construction  
30 of new residential buildings as well as the addition to or alteration of  
31 existing buildings.

32 2. Notwithstanding the provisions of any local law, ordinance, resol-  
33 ution or regulation, each village, town, and city shall allow the  
34 construction and occupation of residential buildings on any covered site  
35 up to the specified densities provided in this subdivision. Each  
36 village, town, and city shall allow such construction and occupation on  
37 an as-of-right, ministerial basis, without site plan review. Addi-  
38 tionally, this section shall not reduce or disallow development rights  
39 or options provided under local zoning laws.

40 (a) On any covered site located within a village, town, or city with  
41 fewer than one million inhabitants, residential buildings with the  
42 affordable floor area prescribed in subdivision seven of this section  
43 shall be allowed up to a height of ten feet above the maximum height  
44 otherwise applicable to the covered site as of the effective date of  
45 this section and a density of a floor area up to thirty residential  
46 units per acre.

47 (b) On any covered site located within a village, town, or city with  
48 fewer than one million inhabitants, residential buildings with the  
49 affordable floor area prescribed in subdivision seven of this section  
50 which have received a loan from a municipal, state, or federal entity  
51 and which enter into a regulatory agreement with such entity guarantee-  
52 ing the provision of housing accommodations for persons and families of  
53 low income shall be allowed up to a height of twenty feet above the  
54 maximum height otherwise applicable to the covered site as of the effec-  
55 tive date of this section and a density of up to fifty residential units  
56 per acre.

1 (c) On any covered site located within a city with one million or more  
2 inhabitants, residential buildings with the affordable floor area  
3 prescribed in subdivision seven of this section shall be allowed up to a  
4 height of ten feet above the maximum height otherwise applicable to the  
5 covered site as of the effective date of this section and a density of a  
6 floor area ratio of 2.2 square feet; provided, however, that if the  
7 covered site is located within eight hundred feet of a zoning district  
8 that permits a height or density for residential use greater than what  
9 is otherwise provided for in this paragraph, then the city shall allow  
10 residential buildings on the covered site up to the maximum height and  
11 density permitted in such zoning district, or allow such residential  
12 buildings to utilize any other optional rules or regulations regulating  
13 residential bulk and height in such zoning district, provided, however  
14 the residential building shall not have to comply with any other regu-  
15 lations provided for in such zoning district other than bulk and height  
16 regulations.

17 (d) On any covered site located within a city with one million or more  
18 inhabitants, residential buildings with the affordable floor area  
19 prescribed in subdivision seven of this section which have received a  
20 loan from a municipal, state, or federal entity and which enter into a  
21 regulatory agreement with such entity guaranteeing the provision of  
22 housing accommodations for persons and families of low income shall be  
23 allowed up to a height of twenty feet above the maximum height otherwise  
24 applicable to the covered site as of the effective date of this section  
25 and a density of a floor area ratio of three square feet, provided,  
26 however, that if the covered site is located within eight hundred feet  
27 of a zoning district that permits a height or density for residential  
28 use greater than what is otherwise provided for in this paragraph, then  
29 the city shall allow residential buildings on the covered site up to the  
30 maximum height and density permitted in such zoning district, or allow  
31 such residential buildings to utilize any other optional rules or regu-  
32 lations regulating residential bulk and height in such zoning district,  
33 provided, however the residential building shall not have to comply with  
34 any other regulations provided for in such zoning district other than  
35 bulk and height regulations.

36 For the purposes of this subdivision, the term "persons and families  
37 of low income" shall have the meaning set forth in section two of the  
38 private housing finance law.

39 3. If a religious corporation disposes of land via sale or lease for  
40 development of a residential building pursuant to this section, an offi-  
41 cer or key person, as defined in section one hundred two of the not-for-  
42 profit corporation law, of such religious corporation who will be  
43 involved in such sale or lease on behalf of the religious corporation  
44 must have attended and received a certificate of completion of a train-  
45 ing course on real estate development and affordable housing. Such  
46 training course must include content regarding the development process,  
47 timeline and funding sources for affordable and mixed-income housing,  
48 the types and selection of vendors and consultants related to such  
49 development, a review of the statutory requirements for such sale or  
50 lease by a religious corporation and other information relevant to hous-  
51 ing development as determined by the commissioner. Pursuant to the proc-  
52 ess required by section twelve of the religious corporations law and/or  
53 section five hundred ten of the not-for-profit corporation law, as  
54 applicable, the religious corporation shall submit to the court or to  
55 the attorney general a copy of such certificate of completion for such  
56 training as a condition of a sale or lease of land for housing develop-

1 ment pursuant to this section. Such training may be conducted by any  
2 governmental entity, religious corporation, or nonprofit, or any number  
3 or combination of the foregoing, approved by the commissioner.

4 4. For buildings constructed pursuant to this section, a village,  
5 town, or city may regulate the following, provided the regulation is  
6 reasonable and applied equally to all residential developments and shall  
7 not impede the full development of the floor area and height provided in  
8 subdivision two of this section:

9 (a) the construction of sidewalks up to five feet in width and up to  
10 five feet of street lawn or road verge along the parcel's street fron-  
11 tage, including up to one street tree per twenty-five feet of frontage,  
12 with standards to conform to the standard specifications for  
13 construction and materials promulgated by the department of transporta-  
14 tion;

15 (b) up to twenty feet of rear yard and up to ten feet of side yards at  
16 the boundaries of the covered site; and

17 (c) appropriate placement of curb cuts for accessory parking or load-  
18 ing that ensure public safety while also allowing reasonable access to  
19 the parcel and the residential building.

20 5. For residential buildings constructed pursuant to this section, a  
21 village, town, or city shall not require any development standards or  
22 conditions of approval, other than state law, building, and fire codes,  
23 or in the case of a city with one million or more inhabitants, local  
24 fire and building codes. No village, town, or city shall require the  
25 following and any such requirements shall be void:

26 (a) the provision of accessory off-street parking;

27 (b) minimum, maximum, or average unit sizes;

28 (c) the regulation of the number of allowable housing units based on  
29 lot size or any other criteria, other than the densities prescribed in  
30 subdivision two of this section;

31 (d) the prioritization of housing units to residents of certain neigh-  
32 borhoods or jurisdictions;

33 (e) the prioritization of housing units for any age group;

34 (f) the imposition of any mandatory affordability requirements or  
35 minimum income or asset standards other than what is otherwise provided  
36 for in subdivision seven of this section;

37 (g) minimum purchase price for any homeownership units;

38 (h) the adherence to any local building or fire code beyond the stand-  
39 ards specified by the New York State Uniform Fire Prevention and Build-  
40 ing Code Act, except in a city with one million or more inhabitants; and

41 (i) any other requirement that is determined by a court, pursuant to  
42 proceedings brought under subdivision nine of this section, to impede  
43 the full development of permissible residential buildings on a covered  
44 site.

45 6. (a) Notwithstanding the provisions of any local law, ordinance,  
46 resolution or regulation, the building department shall ministerially  
47 and without discretionary review or a hearing process an application for  
48 a building permit within sixty days of receipt of an application pursu-  
49 ant to this section.

50 (b) A village, town, or city shall not impose any substantial burden  
51 on buildings constructed pursuant to this section, as compared with new  
52 single-family residential buildings, including the provision of municip-  
53 al services and utility access.

54 (c) Nothing in this section shall be construed to restrict the use or  
55 size of buildings permitted at a greater height and/or bulk than that  
56 allowed by this section under local law, regulation, or resolution.

1 (d) The approval by the building department shall only take into  
2 consideration conformance with this section and applicable state laws  
3 and state building, fire, and energy codes. No other local law, policy,  
4 regulation, or resolution shall be the basis for the denial of a permit,  
5 except in a city of one million or more inhabitants, where adherence to  
6 local building and fire codes may be required.

7 (e) No payment greater than one quarter dollar per square foot of  
8 floor area shall be required in total for building and other permits  
9 issued for residential developments constructed pursuant to this  
10 section. A town, village, or city shall not charge impact fees, recre-  
11 ation fees, or any other fees beyond the amount provided in this para-  
12 graph.

13 (f) (i) Notwithstanding article eight of the environmental conserva-  
14 tion law and its implementing regulations, no environmental impact  
15 statement for a residential building shall be required if it conforms to  
16 the provisions of this section, provided the following studies and  
17 certifications are completed and submitted to the building department  
18 and any state or local agencies as designated by the commissioner: a  
19 Phase I Environmental Site Assessment (ESA) pursuant to the federal  
20 Comprehensive Environmental Response, Compensation and Liability Act (42  
21 U.S.C. Chapter 103); soil and water testing consistent with standards  
22 promulgated by the commissioner of environmental conservation; and a  
23 certification from a qualified environmental professional, where such  
24 term shall be defined by the commissioner of environmental conservation  
25 pursuant to regulation, that such action, as proposed, will not violate  
26 any state wetland laws or drinking water laws under article eleven of  
27 the public health law, or any rules or regulations promulgated thereto.

28 (ii) Provided further that environmental impact statements completed  
29 pursuant to article eight of the environmental conservation law for  
30 proposed actions other than the construction and occupation of residen-  
31 tial buildings made possible by this section, which are completed on or  
32 after the effective date of this section, shall not be required to  
33 consider the as-of-right construction and occupation of residential  
34 buildings made possible by this section on such other actions.

35 (g) For the purposes of fees and building permits, for buildings  
36 constructed pursuant to this section, a village, town, or city shall not  
37 discriminate between rental units and condominium or cooperative units.  
38 No permit or additional fee shall be required as a condition for use as  
39 a rental apartment building.

40 7. (a) All residential buildings constructed pursuant to this section  
41 in a town, village, or city with fewer than one million inhabitants  
42 shall set aside at least twenty percent of the residential floor area  
43 for households earning an average of eighty percent of the area median  
44 income. In a city with one million or more inhabitants, a residential  
45 building shall provide affordable housing by complying with one of the  
46 following options:

47 (i) the residential building shall set aside at least twenty-five  
48 percent of its residential floor area for households earning an average  
49 of sixty percent of the area median income provided that a minimum of  
50 five percent of units are affordable to households at forty percent of  
51 the area median income;

52 (ii) the residential building shall set aside at least thirty percent  
53 of its residential floor area for households earning an average of  
54 eighty percent of the area median income; or

1 (iii) the residential building shall set aside at least twenty percent  
2 of its residential floor area for households earning an average of forty  
3 percent of the area median income.

4 (b) The amount of affordable floor area shall be calculated by multi-  
5 plying gross residential floor area by the percentage of the floor area  
6 that must be affordable pursuant to this paragraph. The resulting floor  
7 area must be devoted to affordable housing, less the applicable propor-  
8 tion of the building devoted to residential circulation and common  
9 space, not to exceed twenty-five percent of the affordable floor area.  
10 The number of required affordable units shall be the affordability  
11 percentage multiplied by the total number of residential units in the  
12 development, with the product rounded to the nearest whole number. To  
13 achieve the affordability levels specified in this paragraph, buildings  
14 may contain units affordable to a variety of incomes, provided that on  
15 average the affordability levels meet the requirements of this paragraph  
16 and no affordable unit shall be rented to any household with an income  
17 greater than one hundred percent of the area median income. Nothing in  
18 this subdivision shall be construed to prohibit the inclusion of addi-  
19 tional affordable floor area in a residential building on a covered  
20 site, at the discretion of the owner of such building.

21 (c) A property containing any affordable units must be restricted  
22 using a mechanism such as a declaration of restrictive covenants or a  
23 regulatory agreement with a local or state agency that shall ensure that  
24 the affordable units shall remain subject to affordable regulations for  
25 the life of the building. Such covenants shall require that the unit be  
26 the primary residence of the household selected to occupy the unit. Upon  
27 approval, such declaration or regulatory agreement shall be recorded  
28 against the property containing the affordable unit prior to the issua-  
29 nce of a certificate of occupancy for the development.

30 (d) The affordable units shall be physically integrated into the  
31 design of the development and shall be distributed among various sizes  
32 (efficiency, one-, two-, three- and four-bedroom units) in the same  
33 proportion as all other units in the development. The minimum gross  
34 floor area per affordable unit shall not be less than ninety percent of  
35 the average floor area of non-restricted housing units of equivalent  
36 size (efficiency, one-, two-, three- and four-bedroom units) in the  
37 development. Affordable units shall be distributed evenly among floors.

38 (e) The affordable units shall not be distinguishable from other units  
39 from the outside or building exteriors. Interior finishes and  
40 furnishings shall be indistinguishable from the other units in the  
41 building. Affordable units shall not have a separate entrance or  
42 differing access to common amenities. Buildings constructed pursuant to  
43 this section may not charge residents of affordable units additional  
44 fees for access to common amenities, if such charges would mean that  
45 total housing costs for such units would exceed thirty percent of the  
46 specified percentage of the area median income.

47 (f) For affordable homeownership units, the title to said property  
48 shall be restricted so that in the event of any resale by the home buyer  
49 or any successor, the resale price shall not exceed an amount affordable  
50 to a household at the specified percentage of the area median income.

51 8. Nothing in this section shall be interpreted to override the New  
52 York State Uniform Fire Prevention and Building Code Act, the Freshwater  
53 Wetlands Act, the public health law, or any regulations, restrictions,  
54 limitations, or conditions, existing as of the effective date of this  
55 section, which have been placed upon a site, building, or structure  
56 designated as a landmark or containing an interior landmark or in a

1 historic district under any local law, regulation, resolution, or ordi-  
2 nance governing the demolition, construction, reconstruction, alter-  
3 ation, and/or other work on or near such site, building, or structure.

4 9. (a) Upon a failure of a local government to timely act upon an  
5 application to construct or occupy residences in accordance with this  
6 section, or denial of such application in violation of this section, any  
7 party aggrieved by any such failure or denial may commence a special  
8 proceeding against the subject local government and the officer pursuant  
9 to article seventy-eight of the civil practice law and rules, in the  
10 supreme court within the judicial district in which the local government  
11 or the greater portion of the territory is located, to compel compliance  
12 with the provisions of this section.

13 (b) If, upon commencement of such proceeding, it shall appear to the  
14 court that testimony is necessary for the proper disposition of the  
15 matter, the court may take evidence and determine the matter. Alterna-  
16 tively, the court may appoint a hearing officer pursuant to article  
17 forty-three of the civil practice law and rules to take such evidence as  
18 it may direct and report the same to the court with the hearing offi-  
19 cer's findings of fact and conclusions of law, which shall constitute a  
20 part of the proceedings upon which the determination of the court shall  
21 be made. The court may reverse or affirm, wholly or partly, or may modi-  
22 fy any decision brought to the court for review.

23 (c) Attorneys' fees and costs shall be allowed against the local  
24 government whose failure or refusal gave rise to the special proceeding  
25 in cases in which the denial of building permits is overturned by the  
26 court.

27 10. Notwithstanding the provisions of subdivision five of this  
28 section, a city, state, or federal housing agency may regulate the  
29 design, construction, occupancy, marketing, and leasing of affordable  
30 housing developed pursuant to this section when such agency is subsidiz-  
31 ing the operations, development, or preservation of the housing and  
32 entering into a regulatory agreement with the owner thereof.

33 11. The division of housing and community renewal, the attorney gener-  
34 al, and the department of environmental conservation shall have the  
35 authority to promulgate any rules and regulations necessary to implement  
36 the provisions of this section. No later than one year from the effec-  
37 tive date of this section, the division of housing and community renewal  
38 shall promulgate rules and regulations including but not limited to the  
39 following:

40 (a) the percentage of a household's income that may be devoted to  
41 housing costs when initially occupying an affordable unit and which  
42 expenses shall be included in the calculation of housing costs;

43 (b) occupancy standards for affordable units;

44 (c) enforcement mechanisms to ensure permanent affordability of  
45 affordable units developed pursuant to this section;

46 (d) marketing standards for affordable units constructed pursuant to  
47 this section, provided, however, that a city of one million or more  
48 inhabitants may regulate the marketing and leasing of such affordable  
49 units according to the standard marketing guidelines promulgated by such  
50 city's department of housing preservation and development, and provided  
51 further that marketing standards for all units constructed pursuant to  
52 this section must include a requirement that they be leased or sold  
53 without consideration of an applicant's religious beliefs and/or prac-  
54 tices; and

1 (e) the content of training that must be received by the religious  
2 corporation as a condition of the sale or lease of land for the develop-  
3 ment of a residential building pursuant to this section.

4 12. The division of housing and community renewal shall provide tech-  
5 nical assistance to municipal governments to aid in the adherence to the  
6 provisions of this section and with the applicable revisions to local  
7 land use regulations and plans.

8 § 3. This act shall take effect immediately.