

STATE OF NEW YORK

3397--B

2025-2026 Regular Sessions

IN SENATE

January 27, 2025

Introduced by Sens. GOUNARDES, BAILEY, CLEARE, COONEY, FAHY, GONZALEZ, 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 -- 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

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

LBD07303-04-5

1 conducting of religious rituals or the reading or study of religious
2 texts incorporated under the not-for-profit corporation law or foreign
3 corporations subject to such law.

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

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

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

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

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

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

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

33 (j) "Qualifying mass transit station" shall mean any rail station,
34 including subway stations, within the state of New York that is not
35 operated on an exclusively seasonal basis and that is owned, operated,
36 or otherwise served by Metro-North railroad, the Long Island railroad,
37 the port authority of New York and New Jersey, the New Jersey transit
38 corporation, the New York city transit authority, or the metropolitan
39 transportation authority.

40 (k) "Housing stock" shall mean the total number of residential units
41 existing in a town, village, or city as reported in the most recently
42 published United States decennial census.

43 2. Notwithstanding the provisions of any local law, ordinance, resol-
44 ution or regulation, each village, town, and city shall allow the
45 construction and occupation of residential buildings on any covered site
46 up to the specified densities provided in this subdivision. Each
47 village, town, and city shall allow such construction and occupation on
48 an as-of-right, ministerial basis, without site plan review. Addi-
49 tionally, this section shall not reduce or disallow development rights
50 or options provided under local zoning laws.

51 (a) On any covered site located within a village, town, or city with
52 fewer than one million inhabitants, residential buildings with the
53 affordable floor area prescribed in subdivision seven of this section
54 shall be allowed up to a height of ten feet above the maximum height
55 otherwise applicable to the covered site as of the effective date of

1 this section and a density of a floor area up to thirty residential
2 units per acre.

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

13 (c) Provided, however, that the size of such residential buildings
14 within a village, town, or city with fewer than one million inhabitants
15 shall be further limited by this paragraph. Such building shall not
16 result in more than one hundred residential units, or five percent of
17 the housing stock, whichever is lower, in total on a covered site in
18 order to qualify for the as-of-right construction and occupation created
19 in this section. In the event that the residential building is located
20 within a quarter-mile radius of any publicly accessible area of a quali-
21 ifying mass transit station, however, the residential building shall not
22 result in more than two hundred and fifty residential units, but shall
23 not be limited to a percentage of the housing stock, in total on a
24 covered site in order to qualify for the as-of-right construction and
25 occupation created in this section, provided that such publicly accessi-
26 ble area of a qualifying mass transit station includes, but is not
27 limited to, platforms, ticketing areas, waiting areas, entrances and
28 exits, and parking lots or parking structures that provide parking for
29 customers of such qualifying station and are a component of such
30 station.

31 (d) On any covered site located within a city with one million or more
32 inhabitants, residential buildings with the affordable floor area
33 prescribed in subdivision seven of this section shall be allowed up to a
34 height of ten feet above the maximum height otherwise applicable to the
35 covered site as of the effective date of this section and a density of a
36 floor area ratio of 2.2 square feet; provided, however, that if the
37 covered site is located within eight hundred feet of a zoning district
38 that permits a height or density for residential use greater than what
39 is otherwise provided for in this paragraph, then the city shall allow
40 residential buildings on the covered site up to the maximum height and
41 density permitted in such zoning district, or allow such residential
42 buildings to utilize any other optional rules or regulations regulating
43 residential bulk and height in such zoning district, provided, however
44 the residential building shall not have to comply with any other regu-
45 lations provided for in such zoning district other than bulk and height
46 regulations.

47 (e) On any covered site located within a city with one million or more
48 inhabitants, residential buildings with the affordable floor area
49 prescribed in subdivision seven of this section which have received a
50 loan from a municipal, state, or federal entity and which enter into a
51 regulatory agreement with such entity guaranteeing the provision of
52 housing accommodations for persons and families of low income shall be
53 allowed up to a height of twenty feet above the maximum height otherwise
54 applicable to the covered site as of the effective date of this section
55 and a density of a floor area ratio of three square feet, provided,
56 however, that if the covered site is located within eight hundred feet

1 of a zoning district that permits a height or density for residential
2 use greater than what is otherwise provided for in this paragraph, then
3 the city shall allow residential buildings on the covered site up to the
4 maximum height and density permitted in such zoning district, or allow
5 such residential buildings to utilize any other optional rules or regu-
6 lations regulating residential bulk and height in such zoning district,
7 provided, however the residential building shall not have to comply with
8 any other regulations provided for in such zoning district other than
9 bulk and height regulations.

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

13 3. If a religious corporation disposes of land via sale or lease for
14 development of a residential building pursuant to this section, an offi-
15 cer or key person, as defined in section one hundred two of the not-for-
16 profit corporation law, of such religious corporation who will be
17 involved in such sale or lease on behalf of the religious corporation
18 must have attended and received a certificate of completion of a train-
19 ing course on real estate development and affordable housing. Such
20 training course must include content regarding the development process,
21 timeline and funding sources for affordable and mixed-income housing,
22 the types and selection of vendors and consultants related to such
23 development, a review of the statutory requirements for such sale or
24 lease by a religious corporation and other information relevant to hous-
25 ing development as determined by the commissioner. Pursuant to the proc-
26 ess required by section twelve of the religious corporations law and/or
27 section five hundred ten of the not-for-profit corporation law, as
28 applicable, the religious corporation shall submit to the court or to
29 the attorney general a copy of such certificate of completion for such
30 training as a condition of a sale or lease of land for housing develop-
31 ment pursuant to this section. Such training may be conducted by any
32 governmental entity, religious corporation, or nonprofit, or any number
33 or combination of the foregoing, approved by the commissioner.

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

39 (a) the construction of sidewalks up to five feet in width and up to
40 five feet of street lawn or road verge along the parcel's street fron-
41 tage, including up to one street tree per twenty-five feet of frontage,
42 with standards to conform to the standard specifications for
43 construction and materials promulgated by the department of transporta-
44 tion;

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

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

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

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

(b) minimum, maximum, or average unit sizes;
(c) the regulation of the number of allowable housing units based on lot size or any other criteria, other than the densities prescribed in subdivision two of this section;
(d) the prioritization of housing units to residents of certain neighborhoods or jurisdictions;
(e) the prioritization of housing units for any age group;
(f) the imposition of any mandatory affordability requirements or minimum income or asset standards other than what is otherwise provided for in subdivision seven of this section;
(g) minimum purchase price for any homeownership units;
(h) the adherence to any local building or fire code beyond the standards specified by the New York State Uniform Fire Prevention and Building Code Act, except in a city with one million or more inhabitants; and
(i) any other requirement that is determined by a court, pursuant to proceedings brought under subdivision nine of this section, to impede the full development of permissible residential buildings on a covered site.

6. (a) Notwithstanding the provisions of any local law, ordinance, resolution or regulation, the building department shall ministerially and without discretionary review or a hearing process an application for a building permit within sixty days of receipt of an application pursuant to this section. If the building department does not process a completed application within sixty days of such receipt, the application shall be deemed approved. If the building department denies the application, the department shall, within sixty days of receipt of the application, return a full set of comments to the applicant with a list of items that are defective and/or deficient and a description of how the applicant can remedy the application.

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

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

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

(e) No payment greater than one quarter dollar per square foot of floor area shall be required in total for building and other permits issued for residential developments constructed pursuant to this section. A town, village, or city shall not charge impact fees, recreation fees, or any other fees beyond the amount provided in this paragraph.

(f) (i) Notwithstanding article eight of the environmental conservation law and its implementing regulations, no environmental impact statement for a residential building shall be required if it conforms to the provisions of this section, provided the following studies and certifications are completed and submitted to the building department and any state or local agencies as designated by the commissioner: a Phase I Environmental Site Assessment (ESA) pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act (42

1 U.S.C. Chapter 103); soil and water testing consistent with standards
2 promulgated by the commissioner of environmental conservation; and a
3 certification from a qualified environmental professional, where such
4 term shall be defined by the commissioner of environmental conservation
5 pursuant to regulation, that such action, as proposed, will not violate
6 any state wetland laws or drinking water laws under article eleven of
7 the public health law, or any rules or regulations promulgated thereto.

8 (ii) Provided further that environmental impact statements completed
9 pursuant to article eight of the environmental conservation law for
10 proposed actions other than the construction and occupation of residen-
11 tial buildings made possible by this section, which are completed on or
12 after the effective date of this section, shall not be required to
13 consider the as-of-right construction and occupation of residential
14 buildings made possible by this section on such other actions.

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

20 7. (a) All residential buildings constructed pursuant to this section
21 in a town, village, or city with fewer than one million inhabitants
22 shall set aside at least twenty percent of the residential floor area
23 for households earning an average of eighty percent of the area median
24 income. In a city with one million or more inhabitants, a residential
25 building shall provide affordable housing by complying with one of the
26 following options:

27 (i) the residential building shall set aside at least twenty-five
28 percent of its residential floor area for households earning an average
29 of sixty percent of the area median income provided that a minimum of
30 five percent of units are affordable to households at forty percent of
31 the area median income;

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

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

38 (b) The amount of affordable floor area shall be calculated by multi-
39 plying gross residential floor area by the percentage of the floor area
40 that must be affordable pursuant to this paragraph. The resulting floor
41 area must be devoted to affordable housing, less the applicable propor-
42 tion of the building devoted to residential circulation and common
43 space, not to exceed twenty-five percent of the affordable floor area.
44 The number of required affordable units shall be the affordability
45 percentage multiplied by the total number of residential units in the
46 development, with the product rounded to the nearest whole number. To
47 achieve the affordability levels specified in this paragraph, buildings
48 may contain units affordable to a variety of incomes, provided that on
49 average the affordability levels meet the requirements of this paragraph
50 and no affordable unit shall be rented to any household with an income
51 greater than one hundred percent of the area median income. Nothing in
52 this subdivision shall be construed to prohibit the inclusion of addi-
53 tional affordable floor area in a residential building on a covered
54 site, at the discretion of the owner of such building.

55 (c) A property containing any affordable units must be restricted
56 using a mechanism such as a declaration of restrictive covenants or a

1 regulatory agreement with a local or state agency that shall ensure that
2 the affordable units shall remain subject to affordable regulations for
3 the life of the building. Such covenants shall require that the unit be
4 the primary residence of the household selected to occupy the unit. Upon
5 approval, such declaration or regulatory agreement shall be recorded
6 against the property containing the affordable unit prior to the issu-
7 ance of a certificate of occupancy for the development.

8 (d) The affordable units shall be physically integrated into the
9 design of the development and shall be distributed among various sizes
10 (efficiency, one-, two-, three- and four-bedroom units) in the same
11 proportion as all other units in the development. The minimum gross
12 floor area per affordable unit shall not be less than ninety percent of
13 the average floor area of non-restricted housing units of equivalent
14 size (efficiency, one-, two-, three- and four-bedroom units) in the
15 development. Affordable units shall be distributed evenly among floors.

16 (e) The affordable units shall not be distinguishable from other units
17 from the outside or building exteriors. Interior finishes and
18 furnishings shall be indistinguishable from the other units in the
19 building. Affordable units shall not have a separate entrance or
20 differing access to common amenities. Buildings constructed pursuant to
21 this section may not charge residents of affordable units additional
22 fees for access to common amenities, if such charges would mean that
23 total housing costs for such units would exceed thirty percent of the
24 specified percentage of the area median income.

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

29 8. Nothing in this section shall be interpreted to override the New
30 York State Uniform Fire Prevention and Building Code Act, the Freshwater
31 Wetlands Act, the public health law, or any regulations, restrictions,
32 limitations, or conditions, existing as of the effective date of this
33 section, which have been placed upon a site, building, or structure
34 designated as a landmark or containing an interior landmark or in a
35 historic district under any local law, regulation, resolution, or ordi-
36 nance governing the demolition, construction, reconstruction, alter-
37 ation, and/or other work on or near such site, building, or structure.

38 9. (a) Upon a failure of a local government to timely act upon an
39 application to construct or occupy residences in accordance with this
40 section, or denial of such application in violation of this section, any
41 party aggrieved by any such failure or denial may commence a special
42 proceeding against the subject local government and the officer pursuant
43 to article seventy-eight of the civil practice law and rules, in the
44 supreme court within the judicial district in which the local government
45 or the greater portion of the territory is located, to compel compliance
46 with the provisions of this section.

47 (b) If, upon commencement of such proceeding, it shall appear to the
48 court that testimony is necessary for the proper disposition of the
49 matter, the court may take evidence and determine the matter. Alterna-
50 tively, the court may appoint a hearing officer pursuant to article
51 forty-three of the civil practice law and rules to take such evidence as
52 it may direct and report the same to the court with the hearing offi-
53 cer's findings of fact and conclusions of law, which shall constitute a
54 part of the proceedings upon which the determination of the court shall
55 be made. The court may reverse or affirm, wholly or partly, or may modi-
56 fy any decision brought to the court for review.

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

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

11 11. The division of housing and community renewal, the attorney gener-
12 al, and the department of environmental conservation shall have the
13 authority to promulgate any rules and regulations necessary to implement
14 the provisions of this section. No later than one year from the effec-
15 tive date of this section, the division of housing and community renewal
16 shall promulgate rules and regulations including but not limited to the
17 following:

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

21 (b) occupancy standards for affordable units;

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

24 (d) marketing standards for affordable units constructed pursuant to
25 this section, provided, however, that a city of one million or more
26 inhabitants may regulate the marketing and leasing of such affordable
27 units according to the standard marketing guidelines promulgated by such
28 city's department of housing preservation and development, and provided
29 further that marketing standards for all units constructed pursuant to
30 this section must include a requirement that they be leased or sold
31 without consideration of an applicant's religious beliefs and/or prac-
32 tices; and

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

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

40 § 3. This act shall take effect immediately.