§ 699-b. Long Island workforce housing program. 1. When a local government approves a subdivision plat or site plan for five or more residential units or a mixed-use development that incorporates five or more residential units, except as otherwise provided in subdivision two of this section, the applicant shall receive a density bonus or other incentive pursuant to a written agreement between the applicant and the local government and such local government shall require of the applicant:

(a) the set aside of at least ten percent of such units for affordable workforce housing on site; or

(b) the provision of other land and the construction of the required affordable workforce housing units that are not part of the applicant's current subdivision plat or site plan but are to be provided on another site within the same local government; or

(c) the payment of a fee equal to two times the median income for a family of four for the Nassau-Suffolk primary metropolitan statistical area as defined by the federal Department of Housing and Urban Development, for each additional unit which results, or would have resulted, from the density bonus or, when such fee exceeds the appraised value of each lot resulting from such density bonus, then such fee shall be equal to the appraised value of the lot or lots, or the equivalent thereof, for each additional unit created by the density bonus. All fees collected by the local government as provided in this section shall, at the sole discretion of the local government, be:

(i) deposited in a single trust fund under the control of the local government to be kept in trust and separate and apart from all other monies of such local government, for the specific purpose of constructing affordable workforce housing, acquiring land for the purpose of providing affordable workforce housing or rehabilitating structures for the purpose of providing affordable workforce housing. Pending expenditures from such trust fund, monies therein may be invested in the manner provided by law. Any interest earned or capital gain realized on the monies so deposited shall accrue to and become part of such trust fund; or

(ii) paid to another local government within the county within which the local government paying such monies is located, pursuant to an intermunicipal agreement, to be kept in trust and separate and apart

from all other monies of such other local government, for the specific purpose of constructing affordable workforce housing, acquiring land for the purpose of providing affordable workforce housing or rehabilitating structures for the purpose of providing affordable workforce housing within such other local government. Pending expenditures from such trust fund, monies therein may be invested in the manner provided by law. Any interest earned or capital gain realized on the monies so deposited shall accrue to and become part of such trust fund; or

(iii) paid into a single trust fund under the control of the Long Island Housing Partnership to be kept in trust and separate and apart from all other monies of such partnership, fifty percent of which shall be used for the specific purpose of constructing affordable workforce housing, acquiring land for the purpose of providing affordable workforce housing or rehabilitating structures for the purpose of providing affordable workforce housing within the county within which the local government paying such monies is located. The remaining fifty percent of such funds shall be used to provide downpayment assistance to eligible homebuyers who qualify for the existing employer assistance housing benefit program administered by such partnership. The downpayment assistance funds shall be secured by a note and mortgage on the property purchased with such funds and shall be fully repaid to the fund by the recipient upon the sale or refinancing of the aforementioned property.

2. The provisions of this article shall not apply when an applicant elects a lesser percentage than the maximum allowable residential density, or floor area ratio if part of a mixed-use development, under the applicable zoning ordinance and comprehensive plan in effect as of the date of the application by the applicant to the local government.

3. Local governments shall ensure that all affordable housing units created pursuant to this article remain affordable. Subsequent purchasers of such units shall have at the time of purchase, pursuant to the definition of "affordable workforce housing", an income at or below one hundred thirty percent of the median income for the Nassau-Suffolk primary statistical area as defined by the federal Department of Housing and Urban Development.

4. Within six months of the establishment of a trust fund as set forth in subparagraphs (i) and (ii) of paragraph (c) of subdivision one of this section, the local government shall issue guidelines and policies which shall govern the expenditure of trust fund monies. Any monies that are not expended by the local government three years from the date of such monies being collected shall be paid into a single trust fund under the control of the Long Island Housing Partnership, as set forth in subparagraph (iii) of paragraph (c) of subdivision one of this section.

5. A local government may enter into intermunicipal agreements with any local government within the same county to meet the purposes of this article.