

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation, Housing & Local Government.

SB23-213 be amended as follows:

1 Amend reengrossed bill, page 78, after line 2 insert:

2 "PART 2

3 ACCESSORY DWELLING UNITS

4 **29-33-201. Legislative declaration.** (1) (a) THE GENERAL
5 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

6 (I) LOCAL GOVERNMENT LAND USE DECISIONS CAN LIMIT
7 ACCESSORY DWELLING UNIT DEVELOPMENT;

8 (II) HOUSING SUPPLY IMPACTS HOUSING AFFORDABILITY;

9 (III) HOUSING PRICES ARE TYPICALLY HIGHER WHEN HOUSING
10 SUPPLY IS RESTRICTED BY LOCAL LAND USE REGULATIONS IN A
11 METROPOLITAN REGION, ACCORDING TO STUDIES SUCH AS THE NATIONAL
12 BUREAU OF ECONOMIC RESEARCH WORKING PAPERS "REGULATION AND
13 HOUSING SUPPLY", "THE IMPACT OF ZONING ON HOUSING
14 AFFORDABILITY", AND "THE IMPACT OF LOCAL RESIDENTIAL LAND USE
15 RESTRICTIONS ON LAND VALUES ACROSS AND WITHIN SINGLE FAMILY
16 HOUSING MARKETS". INCREASING HOUSING SUPPLY MODERATES PRICE
17 INCREASES AND IMPROVES HOUSING AFFORDABILITY ACROSS ALL
18 INCOMES, ACCORDING TO STUDIES SUCH AS "THE ECONOMIC
19 IMPLICATIONS OF HOUSING SUPPLY", IN THE JOURNAL OF ECONOMIC
20 PERSPECTIVES, AND "SUPPLY SKEPTICISM: HOUSING SUPPLY AND
21 AFFORDABILITY", IN THE JOURNAL OF HOUSING POLICY DEBATE.

22 (IV) MORE PERMISSIVE LOCAL GOVERNMENT ACCESSORY
23 DWELLING UNIT REGULATIONS CAN HELP INCREASE HOUSING SUPPLY AND
24 STABILIZE HOUSING COSTS;

25 (V) ACCESSORY DWELLING UNITS OFFER A WAY TO PROVIDE
26 COMPACT, RELATIVELY AFFORDABLE HOUSING IN ESTABLISHED
27 NEIGHBORHOODS WITH MINIMAL IMPACTS TO THE INFRASTRUCTURE AND
28 ALSO SUPPLY NEW HOUSING WITHOUT ADDED NEW DISPERSED
29 LOW-DENSITY HOUSING;

30 (VI) RELATIVE TO DISPERSED LOW-DENSITY DEVELOPMENT,
31 COMPACT INFILL DEVELOPMENT, INCLUDING ACCESSORY DWELLING UNIT
32 DEVELOPMENT, REDUCES WATER USE, GREENHOUSE GAS EMISSIONS,
33 INFRASTRUCTURE COSTS, AND HOUSEHOLD ENERGY AND TRANSPORTATION
34 COSTS;

35 (VII) ACCESSORY DWELLING UNITS PROVIDE FINANCIAL BENEFITS
36 TO HOMEOWNERS;

37 (VIII) ACCESSORY DWELLING UNITS GENERATE RENTAL INCOME TO
38 HELP HOMEOWNERS COVER MORTGAGE PAYMENTS OR OTHER COSTS,
39 WHICH CAN BE IMPORTANT FOR OLDER HOMEOWNERS ON FIXED INCOMES;

40 (IX) ACCESSORY DWELLING UNITS CAN PROVIDE FAMILIES WITH

1 OPTIONS FOR INTERGENERATIONAL LIVING ARRANGEMENTS THAT ENABLE
2 CHILD OR ELDER CARE AND AGING IN PLACE; AND
3 (X) ACCESSORY DWELLING UNITS USE SIGNIFICANTLY LESS
4 ENERGY FOR HEATING AND COOLING THAN SINGLE-UNIT DETACHED
5 DWELLINGS BECAUSE OF THEIR SMALLER SIZE, WHICH REDUCES
6 HOUSEHOLD ENERGY COSTS AND GREENHOUSE GAS EMISSIONS.
7 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE
8 INCREASED SUPPLY OF HOUSING THROUGH ACCESSORY DWELLING UNITS
9 IS A MATTER OF MIXED STATEWIDE AND LOCAL CONCERN.
10 **29-33-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:
12 (1) "ELIGIBLE PARCEL" MEANS A PARCEL, EXCLUDING A STANDARD
13 EXEMPT PARCEL, ON WHICH A SINGLE-UNIT DETACHED DWELLING IS
14 ALLOWED AS A USE BY RIGHT.
15 (2) "MINIMUM STANDARDS" MEANS THE MINIMUM STANDARDS
16 ESTABLISHED IN SECTION 29-33-205.
17 (3) "MODEL CODE" MEANS THE MODEL CODE PROMULGATED BY
18 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS
19 PURSUANT TO SECTION 29-33-204.
20 (4) "SUBJECT JURISDICTION" MEANS AN URBAN MUNICIPALITY.
21 **29-33-203. Applicability - exemptions.** (1) THE REQUIREMENTS
22 OF THIS PART 2 APPLY ONLY IN A SUBJECT JURISDICTION.
23 (2) UNLESS A SUBJECT JURISDICTION DECIDES OTHERWISE, LOCAL
24 LAWS ADOPTED PURSUANT TO THIS PART 2 ONLY APPLY TO PARCELS THAT
25 ARE NOT STANDARD EXEMPT PARCELS.
26 **29-33-204. Model code.** (1) (a) NO LATER THAN JUNE 30, 2024,
27 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL
28 PROMULGATE AN ACCESSORY DWELLING UNIT MODEL CODE.
29 (b) THE MULTI-AGENCY ADVISORY COMMITTEE SHALL PROVIDE
30 RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
31 OF LOCAL AFFAIRS CONCERNING THE MODEL CODE.
32 (2) IN DEVELOPING RECOMMENDATIONS CONCERNING THE MODEL
33 CODE, THE MULTI-AGENCY COMMITTEE SHALL:
34 (a) PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC
35 MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO
36 COMMENT ON THE MODEL CODE;
37 (b) ALLOW THE SUBMISSION OF WRITTEN COMMENTS ON THE
38 MODEL CODE;
39 (c) CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM LOCAL
40 GOVERNMENTS AND REGIONAL PLANNING AGENCIES; AND
41 (d) CONSULT WITH EXPERTS IN DISABILITY RIGHTS, RACIAL EQUITY
42 AND HOMELESSNESS PREVENTION, AFFORDABLE HOUSING, FAIR HOUSING,
43 PLANNING, ZONING, AND RELATED FIELDS.

1 (3) THE MODEL CODE MUST, AT A MINIMUM:
2 (a) ALLOW ACCESSORY DWELLING UNITS AS A USE BY RIGHT AS AN
3 ACCESSORY USE TO A SINGLE-UNIT DETACHED DWELLING IN ANY PART OF
4 THE MUNICIPALITY WHERE THE MUNICIPALITY ALLOWS SINGLE-UNIT
5 DETACHED DWELLINGS AS A USE BY RIGHT; AND
6 (b) ESTABLISH OBJECTIVE STANDARDS FOR ALL OF THE ELEMENTS
7 ADDRESSED IN THE MINIMUM STANDARDS.
8 (4) THE MODEL CODE MUST INCLUDE A REQUIREMENT THAT
9 SUBJECT JURISDICTIONS MAY NOT REQUIRE NEW OFF-STREET VEHICLE
10 PARKING IN CONNECTION WITH THE CONSTRUCTION OR PERMITTING OF AN
11 ACCESSORY DWELLING UNIT.
12 **29-33-205. Minimum standards.** (1) NOTWITHSTANDING ANY
13 LOCAL LAW TO THE CONTRARY, A SUBJECT JURISDICTION THAT DOES NOT
14 ADOPT THE MODEL CODE SHALL:
15 (a) ALLOW ACCESSORY DWELLING UNITS AS A USE BY RIGHT AS AN
16 ACCESSORY USE TO A SINGLE-UNIT DETACHED DWELLING IN ANY PART OF
17 THE MUNICIPALITY WHERE THE MUNICIPALITY ALLOWS SINGLE-UNIT
18 DETACHED DWELLINGS AS A USE BY RIGHT;
19 (b) ONLY ADOPT OR ENFORCE LOCAL LAWS CONCERNING
20 ACCESSORY DWELLING UNIT LAND USE THAT USE OBJECTIVE STANDARDS
21 AND OBJECTIVE PROCEDURES;
22 (c) ALLOW ADDITIONS TO, OR THE CONVERSION OF, AN EXISTING
23 SINGLE-UNIT DETACHED DWELLING TO CREATE AN ACCESSORY DWELLING
24 UNIT SO LONG AS THE ADDITION OR CONVERSION DOES NOT INCREASE
25 NONCONFORMANCE WITH APPLICABLE OBJECTIVE STANDARDS, UNLESS
26 LOCAL LAWS ALLOW FOR SUCH AN INCREASE IN NONCONFORMANCE; AND
27 (d) ALLOW ACCESSORY DWELLING UNIT SIZES BETWEEN FIVE
28 HUNDRED AND EIGHT HUNDRED SQUARE FEET. SUBJECT JURISDICTIONS
29 MAY ADDITIONALLY PERMIT SMALLER OR LARGER ACCESSORY DWELLING
30 UNITS AT THEIR DISCRETION.
31 (2) NOTWITHSTANDING ANY LOCAL LAW TO THE CONTRARY, A
32 SUBJECT JURISDICTION THAT DOES NOT ADOPT THE MODEL CODE SHALL
33 NOT:
34 (a) APPLY STANDARDS CONCERNING ARCHITECTURAL STYLE,
35 BUILDING MATERIALS, OR LANDSCAPING THAT ARE MORE RESTRICTIVE
36 THAN THE STANDARDS THAT THE SUBJECT JURISDICTION APPLIES TO A
37 SINGLE-UNIT DETACHED DWELLING IN THE SAME ZONING DISTRICT;
38 (b) ADOPT, ENACT, OR ENFORCE LOCAL LAWS THAT MAKE THE
39 PERMITTING, APPROVAL OF, SITING, OR CONSTRUCTION OF AN ACCESSORY
40 DWELLING UNIT PHYSICALLY IMPOSSIBLE OR PRACTICALLY DIFFICULT;
41 (c) IMPOSE A REQUIREMENT ON AN ACCESSORY DWELLING UNIT
42 THAT IS CONTINGENT UPON THE PRIMARY RESIDENCE ON THE SAME LOT
43 BEING OWNER-OCCUPIED;

1 (d) AMEND, DEVELOP, OR INTERPRET A LOCAL LAW APPLICABLE TO
2 AN ACCESSORY DWELLING UNIT IN A MANNER THAT INTERFERES WITH THE
3 INTENT OF THIS PART 2;

4 (e) REQUIRE NEW OFF-STREET VEHICLE PARKING IN CONNECTION
5 WITH THE CONSTRUCTION OR THE PERMITTING OF AN ACCESSORY
6 DWELLING UNIT; OR

7 (f) REQUIRE SIDE OR REAR SETBACKS FOR AN ACCESSORY
8 DWELLING UNIT GREATER THAN THE MINIMUM SIDE SETBACK REQUIRED
9 FOR A SINGLE-UNIT DETACHED DWELLING OR THE SETBACK REQUIRED FOR
10 OTHER ACCESSORY BUILDINGS IN THE SAME ZONING DISTRICT, UNLESS
11 SUCH A SETBACK IS NECESSARY TO COMPLY WITH PUBLIC HEALTH OR
12 SAFETY STANDARDS.

13 (3) THE DEPARTMENT OF LOCAL AFFAIRS MAY PROMULGATE RULES
14 AS IT DEEMS NECESSARY TO UPDATE THE MINIMUM STANDARDS OR MODEL
15 CODE, UTILIZING A PUBLIC HEARING AND COMMENT PROCESS.

16 **29-33-206. Adoption of model codes - satisfaction of minimum**
17 **standards - reporting.** (1) NO LATER THAN JUNE 30, 2025, A SUBJECT
18 JURISDICTION SHALL EITHER:

19 (a) ADOPT LOCAL LAWS CONCERNING ACCESSORY DWELLING UNITS
20 THAT SATISFY THE MINIMUM STANDARDS ESTABLISHED IN SECTION
21 29-33-205; OR

22 (b) ADOPT THE MODEL CODE.

23 (2) IF A SUBJECT JURISDICTION DOES NOT SATISFY THE
24 REQUIREMENT OF SUBSECTION (1) OF THIS SECTION BEFORE DECEMBER 31,
25 2025, THE MODEL CODE GOES INTO EFFECT IMMEDIATELY FOR ALL
26 ELIGIBLE PARCELS AND THE SUBJECT JURISDICTION SHALL NOT DENY OR
27 CONDITION APPROVAL OF AN APPLICATION FOR AN ACCESSORY DWELLING
28 UNIT ON ANY ELIGIBLE PARCEL ON ANY BASIS THAT IS INCONSISTENT WITH
29 THE MODEL CODE, AS SPECIFIED IN SECTION 29-33-303, IN THE SUBJECT
30 JURISDICTION AND REMAINS IN EFFECT UNTIL THE DEPARTMENT OF LOCAL
31 AFFAIRS DETERMINES THAT THE SUBJECT JURISDICTION HAS ADOPTED
32 LAWS THAT COMPLY WITH THE MINIMUM STANDARDS.

33 (3) IF A SUBJECT JURISDICTION ADOPTS THE MODEL CODE OR THE
34 MODEL CODE IS OTHERWISE IN EFFECT FOR A SUBJECT JURISDICTION
35 PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE SUBJECT
36 JURISDICTION'S ACCESSORY DWELLING UNIT DECISIONS SHALL BE
37 CONSISTENT WITH THE MODEL CODE AND THE SUBJECT JURISDICTION
38 SHALL:

39 (a) USE OBJECTIVE PROCEDURES TO DETERMINE WHETHER AN
40 ACCESSORY DWELLING PROJECT SATISFIES THE MODEL CODE AND APPROVE
41 SUCH A PROJECT IF IT SATISFIES THE MODEL CODE; AND

42 (b) NOT ADOPT, ENACT, OR ENFORCE ANY LOCAL LAWS THAT
43 CONTRAVENE THE MODEL CODE.

1 (4) A SUBJECT JURISDICTION THAT ALREADY HAS LOCAL LAWS IN
2 EFFECT THAT MEET THE MINIMUM STANDARDS ESTABLISHED IN SECTION
3 29-33-205 NEED NOT UPDATE THEIR LOCAL LAWS, AND MAY SUBMIT
4 EVIDENCE TO THE DEPARTMENT OF LOCAL AFFAIRS DEMONSTRATING SUCH
5 COMPLIANCE.

6 (5) (a) NO LATER THAN JUNE 30, 2024, A SUBJECT JURISDICTION
7 MAY NOTIFY THE DEPARTMENT OF LOCAL AFFAIRS THAT AN EXEMPTION OR
8 AN EXTENSION IS NECESSARY FROM THE REQUIREMENTS OF SUBSECTION
9 (1) OF THIS SECTION.

10 (b) THE NOTICE MUST DEMONSTRATE THAT THE WATER, SEWER,
11 WASTEWATER, OR STORMWATER SERVICES ARE CURRENTLY DEFICIENT IN
12 SPECIFIC GEOGRAPHIC AREAS OF THE SUBJECT JURISDICTION OR IN THE
13 SUBJECT JURISDICTION AS A WHOLE, OR THE SUBJECT JURISDICTION
14 EXPECTS SUCH SERVICES TO BECOME DEFICIENT IN THE NEXT FIVE YEARS.
15 AS USED IN THIS SUBSECTION (5)(b), "DEFICIENT" MEANS, IN REFERENCE
16 TO THE SUBJECT JURISDICTION'S WATER SUPPLY MASTER PLAN, WATER
17 DISTRIBUTION AND WASTEWATER COLLECTION MASTER PLAN,
18 WASTEWATER MASTER PLAN, OR STORMWATER MASTER PLAN, IF
19 APPLICABLE, ISSUES CONCERNING:

20 (I) WATER SUPPLY;
21 (II) WASTEWATER TREATMENT CAPACITY;
22 (III) WATER DISTRIBUTION AND WASTEWATER COLLECTION
23 CAPACITY; OR
24 (IV) STORMWATER MANAGEMENT CAPACITY.

25 (c) IF A SUBJECT JURISDICTION SUBMITS A NOTICE TO THE
26 DEPARTMENT OF LOCAL AFFAIRS PURSUANT TO SUBSECTION (5)(b) OF THIS
27 SECTION, THE SUBJECT JURISDICTION MAY INCLUDE A PLAN OF ACTION TO
28 REMEDY THE DEFICIENT WATER SUPPLY, WATER OR WASTEWATER
29 TREATMENT CAPACITY, WATER DISTRIBUTION AND WASTEWATER
30 COLLECTION CAPACITY, OR STORMWATER MANAGEMENT CAPACITY IN THE
31 SPECIFIC AREAS IDENTIFIED IN A CAPITAL IMPROVEMENT PLAN INCLUDED
32 IN THE NOTICE.

33 (d) THE DEPARTMENT OF LOCAL AFFAIRS MAY ADOPT RULES OR
34 PROMULGATE GUIDANCE AS NECESSARY TO IMPLEMENT THIS SUBSECTION
35 (5).

36 (6) (a) NO LATER THAN JUNE 30, 2025, A SUBJECT JURISDICTION
37 SHALL SUBMIT TO THE DEPARTMENT OF LOCAL AFFAIRS, IN A FORM AND
38 MANNER DETERMINED BY THE DEPARTMENT OF LOCAL AFFAIRS, A REPORT
39 DEMONSTRATING EVIDENCE OF COMPLIANCE WITH EITHER THE MODEL
40 CODE OR MINIMUM STANDARDS.

41 (b) WITHIN NINETY DAYS OF RECEIVING A REPORT DESCRIBED IN
42 SUBSECTION (6)(a) OF THIS SECTION, THE DEPARTMENT OF LOCAL AFFAIRS
43 SHALL REVIEW AND APPROVE THE SUBMITTED REPORT OR REJECT THE

1 REPORT AND PROVIDE FEEDBACK TO A SUBJECT JURISDICTION. THE
2 DEPARTMENT OF LOCAL AFFAIRS MAY GRANT A JURISDICTION AN
3 ADDITIONAL ONE HUNDRED TWENTY DAYS TO CORRECT THE RELEVANT
4 LOCAL LAWS AND RE-SUBMIT A REPORT.

5 (c) IF THE DEPARTMENT OF LOCAL AFFAIRS REJECTS A SUBJECT
6 JURISDICTION'S REPORT, THE MODEL CODE GOES INTO EFFECT
7 IMMEDIATELY IN THE SUBJECT JURISDICTION UNTIL THE DEPARTMENT OF
8 LOCAL AFFAIRS DETERMINES THAT THE SUBJECT JURISDICTION HAS
9 ADOPTED LAWS THAT COMPLY WITH THE MINIMUM STANDARDS.

10 **29-33-207. Subject jurisdiction restrictions.** (1) NOTHING IN
11 THIS PART 2 PREVENTS A LOCAL GOVERNMENT FROM:

12 (a) REQUIRING PARKING SPACES IN ACCORDANCE WITH THE
13 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
14 12101 ET SEQ., AS AMENDED, OR TO OTHERWISE PROVIDE PARKING SIGNED
15 FOR USE BY PERSONS EXPERIENCING DISABILITIES;

16 (b) ADOPTING GENERALLY APPLICABLE REQUIREMENTS FOR THE
17 PAYMENT OF IMPACT FEES OR OTHER SIMILAR DEVELOPMENT CHARGES, IN
18 CONFORMANCE WITH THE REQUIREMENTS OF SECTION 29-20-104.5, OR THE
19 MITIGATION OF IMPACTS IN CONFORMANCE WITH THE REQUIREMENTS OF
20 PART 2 OF ARTICLE 20 OF TITLE 29;

21 (c) IMPOSING REQUIREMENTS ON THE SHORT-TERM RENTAL OF AN
22 ACCESSORY DWELLING UNIT;

23 (d) ALLOWING THE CONSTRUCTION OF, OR ISSUING PERMITS FOR
24 THE CONSTRUCTION OF, A SINGLE-UNIT DETACHED DWELLING IN AN AREA
25 ZONED FOR SINGLE-UNIT DETACHED DWELLINGS; OR

26 (e) APPLYING THE STANDARDS AND PROCEDURES OF A HISTORIC
27 DISTRICT TO A PARCEL ON WHICH AN ACCESSORY DWELLING UNIT IS
28 ALLOWED IN THAT HISTORIC DISTRICT, INCLUDING RULES RELATED TO
29 DEMOLITION."

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