

LOCAL LAND USE AND DEVELOPMENT REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Stephen L. Whyte

LONG TITLE**General Description:**

This bill amends provisions related to local land use and development.

Highlighted Provisions:

This bill:

- ▶ amends the penalties for noncompliance with the requirements applicable to a political subdivision's moderate income housing report;
- ▶ defines the circumstances under which a garage may be included in the definition of an internal accessory dwelling unit;
- ▶ amends a political subdivision's authority with respect to restrictions and requirements for internal accessory dwelling units;
- ▶ enacts a new process for subdivision review and approval; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-408, as last amended by Laws of Utah 2022, Chapter 406

10-9a-530, as enacted by Laws of Utah 2021, Chapter 102



17-27a-408, as last amended by Laws of Utah 2022, Chapter 406

17-27a-526, as enacted by Laws of Utah 2021, Chapter 102

ENACTS:

10-9a-604.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and

(ii) an implementation plan.

59 (c) The moderate income housing report submitted in each calendar year after 2022
60 shall include:

- 61 (i) the information required under Subsection (2)(b);
- 62 (ii) a description of each action, whether one-time or ongoing, taken by the specified
63 municipality during the previous fiscal year to implement the moderate income housing
64 strategies selected by the specified municipality for implementation;
- 65 (iii) a description of each land use regulation or land use decision made by the
66 specified municipality during the previous fiscal year to implement the moderate income
67 housing strategies, including an explanation of how the land use regulation or land use decision
68 supports the specified municipality's efforts to implement the moderate income housing
69 strategies;
- 70 (iv) a description of any barriers encountered by the specified municipality in the
71 previous fiscal year in implementing the moderate income housing strategies;
- 72 (v) information regarding the number of internal and external or detached accessory
73 dwelling units located within the specified municipality for which the specified municipality:
74 (A) issued a building permit to construct; or
75 (B) issued a business license to rent;
- 76 (vi) a description of how the market has responded to the selected moderate income
77 housing strategies, including the number of entitled moderate income housing units or other
78 relevant data; and
- 79 (vii) any recommendations on how the state can support the specified municipality in
80 implementing the moderate income housing strategies.

81 (d) The moderate income housing report shall be in a form:

- 82 (i) approved by the division; and
- 83 (ii) made available by the division on or before July 1 of the year in which the report is
84 required.

85 (3) Within 90 days after the day on which the division receives a specified
86 municipality's moderate income housing report, the division shall:

- 87 (a) post the report on the division's website;
- 88 (b) send a copy of the report to the Department of Transportation, the Governor's
89 Office of Planning and Budget, the association of governments in which the specified

municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.

(5) (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds and fees owed under Subsection (7).

(7) (a) A specified municipality is ineligible for funds and owes a fee under this Subsection (7) if the specified municipality:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division sent to the specified municipality a notice of noncompliance under Subsection (6).

(b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and

~~[(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7)]~~

(ii) beginning with the moderate income housing report submitted in 2024, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of \$250 per day that the specified municipality:

(A) fails to submit a moderate income housing report to the division in accordance with Subsection (2), beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the specified municipality's moderate income

housing report, beginning the day after the day by which the cure was required to occur as described in the notice under Subsection (6)(b).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) specify the fiscal year during which the specified municipality is ineligible for funds; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 2. Section 10-9a-530 is amended to read:

10-9a-530. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of [30] 31 consecutive days or longer.

(b) (i) "Primary dwelling" means a single-family dwelling that:

[~~(i)~~] (A) is detached; and

[~~(ii)~~] (B) is occupied as the primary residence of the owner of record.

(ii) "Primary dwelling" includes a garage if the garage is connected to the primary dwelling by a common wall.

(2) In any area zoned primarily for residential use:

- 214 (a) the use of an internal accessory dwelling unit is a permitted use; ~~[and]~~
- 215 (b) except as provided in Subsections (3) and (4), a municipality may not establish any
- 216 restrictions or requirements for the construction or use of one internal accessory dwelling unit
- 217 within a primary dwelling, including a restriction or requirement governing:
- 218 (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;
- 219 (ii) total lot size; ~~[or]~~
- 220 (iii) street frontage~~[-]; or~~
- 221 (iv) internal connectivity; and
- 222 (c) a municipality's regulation of architectural elements for internal accessory dwelling
- 223 units must be consistent with the regulation for single family units.
- 224 (3) An internal accessory dwelling unit shall comply with all applicable building,
- 225 health, and fire codes.
- 226 (4) A municipality may:
- 227 (a) prohibit the installation of a separate utility meter for an internal accessory dwelling
- 228 unit;
- 229 (b) require that an internal accessory dwelling unit be designed in a manner that does
- 230 not change the appearance of the primary dwelling as a single-family dwelling;
- 231 (c) require a primary dwelling:
- 232 (i) regardless of whether the primary dwelling is existing or new construction, to
- 233 include one additional on-site parking space for an internal accessory dwelling unit, ~~regardless~~
- 234 ~~of whether the primary dwelling is existing or new construction~~ in addition to the parking
- 235 spaces required under the municipality's land use ordinance, except that if the municipality's
- 236 land use ordinance requires four or more off-street parking spaces within the setbacks, the
- 237 municipality may not require the additional space contemplated under this Subsection (4)(c)(i);
- 238 and
- 239 (ii) to replace any parking spaces contained within a garage or carport if an internal
- 240 accessory dwelling unit is created within the garage or carport;
- 241 (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as
- 242 defined in Section 57-16-3;
- 243 (e) require the owner of a primary dwelling to obtain a permit or license for renting an
- 244 internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units with a final plat approval dated on or after October 1, 2021; or

(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the municipality provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the

276 written notice of violation under Subsection (5)(b);

277 (v) the municipality provides a written notice of lien in accordance with Subsection
278 (5)(c); and

279 (vi) the municipality records a copy of the written notice of lien described in
280 Subsection ~~[(5)(a)(iv)]~~ (5)(a)(v) with the county recorder of the county in which the property is
281 located.

282 (b) The written notice of violation shall:

283 (i) describe the specific violation;

284 (ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity
285 to cure the violation that is:

286 (A) no less than 14 days after the day on which the municipality sends the written
287 notice of violation, if the violation results from the owner renting or offering to rent the internal
288 accessory dwelling unit for a period of less than 30 consecutive days; or

289 (B) no less than 30 days after the day on which the municipality sends the written
290 notice of violation, for any other violation;

291 (iii) state that if the owner of the property fails to cure the violation within the time
292 period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property
293 in an amount of up to \$100 for each day of violation after the day on which the opportunity to
294 cure the violation expires;

295 (iv) notify the owner of the property:

296 (A) that the owner may file a written objection to the violation within 14 days after the
297 day on which the written notice of violation is post-marked or posted on the property; and

298 (B) of the name and address of the municipal office where the owner may file the
299 written objection;

300 (v) be mailed to:

301 (A) the property's owner of record; and

302 (B) any other individual designated to receive notice in the owner's license or permit
303 records; and

304 (vi) be posted on the property.

305 (c) The written notice of lien shall:

306 (i) comply with the requirements of Section 38-12-102;

- 307 (ii) state that the property is subject to a lien;
- 308 (iii) specify the lien amount, in an amount of up to \$100 for each day of violation after
- 309 the day on which the opportunity to cure the violation expires;
- 310 (iv) be mailed to:
- 311 (A) the property's owner of record; and
- 312 (B) any other individual designated to receive notice in the owner's license or permit
- 313 records; and
- 314 (v) be posted on the property.
- 315 (d) (i) If an owner of property files a written objection in accordance with Subsection
- 316 (5)(b)(iv), the municipality shall:
- 317 (A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings
- 318 Act, to conduct a review and determine whether the specific violation described in the written
- 319 notice of violation under Subsection (5)(b) has occurred; and
- 320 (B) notify the owner in writing of the date, time, and location of the hearing described
- 321 in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.
- 322 (ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a
- 323 municipality may not record a lien under this Subsection (5) until the municipality holds a
- 324 hearing and determines that the specific violation has occurred.
- 325 (iii) If the municipality determines at the hearing that the specific violation has
- 326 occurred, the municipality may impose a lien in an amount of up to \$100 for each day of
- 327 violation after the day on which the opportunity to cure the violation expires, regardless of
- 328 whether the hearing is held after the day on which the opportunity to cure the violation has
- 329 expired.
- 330 (e) If an owner cures a violation within the time period prescribed in the written notice
- 331 of violation under Subsection (5)(b), the municipality may not hold a lien against the property,
- 332 or impose any penalty or fee on the owner, in relation to the specific violation described in the
- 333 written notice of violation under Subsection (5)(b).
- 334 (6) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an
- 335 owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to
- 336 an owner of a primary dwelling to create an internal accessory dwelling unit, may record a
- 337 notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit;

and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 3. Section **10-9a-604.1** is enacted to read:

10-9a-604.1. Process for subdivision review and approval.

(1) As used in this section:

(a) "Administrative land use authority" means a person, board, or commission, including municipal staff or a municipal planning commission.

(b) "Administrative land use authority" does not include a municipal legislative body.

(2) A municipal ordinance governing the subdivision of land shall:

(a) comply with this section;

(b) designate a single administrative land use authority for the review of preliminary applications to subdivide land; and

(c) identify a standard method and form of application for preliminary subdivision applications and final subdivision applications.

(3) A preliminary subdivision application shall comply with all applicable municipal ordinances and requirements of this section.

(4) An administrative land use authority shall review a preliminary subdivision application in a public meeting.

(5) With respect to a preliminary application to subdivide land, an administrative land use authority may:

(a) receive public comment; and

(b) conduct one public hearing.

(6) A municipality shall give written notice of the preliminary subdivision application and the time, place, and manner of the public meeting under Subsection (4), and any public comment opportunity or public hearing under Subsection (5), at least 30 days before the

meeting, public comment opportunity, or public hearing, by:

(a) mailing the notice to the owners of any property that is within 300 feet of the property that is the subject property of the application to subdivide land; or

(b) posting the notice on a sign that:

(i) is on the property that is the subject property of the application to subdivide; and

(ii) at a location and of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(7) (a) An administrative land use authority shall approve a preliminary subdivision application if the application and record of proceedings before the administrative land use authority demonstrate that the application complies with:

(i) the applicable municipal ordinances; and

(ii) the requirements of this section.

(b) An administrative land use authority may deny a preliminary subdivision application only if there is substantial evidence to show that the application does not comply with:

(i) the applicable municipal ordinances; or

(ii) the requirements of this section.

(8) A municipality shall review and approve or deny a final subdivision application in accordance with the provisions of this section and municipal ordinances, which:

(a) may permit concurrent processing of the final subdivision application with the preliminary subdivision application; and

(b) shall not require planning commission or city council approval.

(9) A municipality shall approve the final subdivision application if the final subdivision application complies with:

(a) the preliminary subdivision approval granted under Subsection (7)(a);

(b) the applicable municipal ordinances; and

(c) the requirements of this section.

Section 4. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection [~~10-9a-403(2)(c)~~] 17-27a-401(3)(a).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified county shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified county for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified county during the previous fiscal year to implement the moderate income housing strategies selected by the specified county for implementation;

(iii) a description of each land use regulation or land use decision made by the specified county during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified county in the previous fiscal year in implementing the moderate income housing strategies; and

(v) information regarding the number of internal and external or detached accessory

dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified county's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified county's selected moderate income housing strategies.

(5) (a) A specified county qualifies for priority consideration under this Subsection (5) if the specified county's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The following apply to a specified county described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the unincorporated areas of the specified county in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive

priority consideration;

(iii) specify the fiscal year during which the specified county qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified county qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified county's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds and fees owed under Subsection (7).

(7) (a) A specified county is ineligible for funds and owes a fee under this Subsection (7) if the specified county:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified county's moderate income housing report within 90 days after the day on which the division sent to the specified county a notice of noncompliance under Subsection (6).

(b) The following apply to a specified county described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6); and

~~[(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7)]~~

(ii) beginning with the moderate income housing report submitted in 2024, the

specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of \$250 per day that the specified county:

(A) fails to submit a moderate income housing report to the division in accordance with Subsection (2), beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the specified municipality's moderate income housing report, beginning the day after the day by which the cure was required to occur as described in the notice under Subsection (6)(b).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) specify the fiscal year during which the specified county is ineligible for funds;

and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section 17-27a-526 is amended to read:

17-27a-526. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of [30] 31 consecutive days or longer.

(b) (i) "Primary dwelling" means a single-family dwelling that:

555 [(i)] (A) is detached; and

556 [(ii)] (B) is occupied as the primary residence of the owner of record.

557 (ii) "Primary dwelling" includes a garage if the garage is connected to the primary
558 dwelling by a common wall.

559 (2) In any area zoned primarily for residential use:

560 (a) the use of an internal accessory dwelling unit is a permitted use; [~~and~~]

561 (b) except as provided in Subsections (3) and (4), a county may not establish any
562 restrictions or requirements for the construction or use of one internal accessory dwelling unit
563 within a primary dwelling, including a restriction or requirement governing:

564 (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

565 (ii) total lot size; [~~or~~]

566 (iii) street frontage[~~:-~~]; or

567 (iv) internal connectivity; and

568 (c) a county's regulation of architectural elements for internal accessory dwelling units
569 must be consistent with the regulation for single family units.

570 (3) An internal accessory dwelling unit shall comply with all applicable building,
571 health, and fire codes.

572 (4) A county may:

573 (a) prohibit the installation of a separate utility meter for an internal accessory dwelling
574 unit;

575 (b) require that an internal accessory dwelling unit be designed in a manner that does
576 not change the appearance of the primary dwelling as a single-family dwelling;

577 (c) require a primary dwelling:

578 (i) regardless of whether the primary dwelling is existing or new construction, to
579 include one additional on-site parking space for an internal accessory dwelling unit, [~~regardless~~
580 ~~of whether the primary dwelling is existing or new construction~~] in addition to the parking
581 spaces required under the county's land use ordinance, except that if the county's land use
582 ordinance requires four or more off-street parking spaces within the setbacks, the county may
583 not require the additional space contemplated under this Subsection (4)(c)(i); and

584 (ii) to replace any parking spaces contained within a garage or carport if an internal
585 accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units with a final plat approval dated on or after October 1, 2021;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the county provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the

written notice of violation under Subsection (5)(b);

(v) the county provides a written notice of lien in accordance with Subsection (5)(c);
and

(vi) the county records a copy of the written notice of lien described in Subsection
[(5)(a)(iv)] (5)(a)(v) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity
to cure the violation that is:

(A) no less than 14 days after the day on which the county sends the written notice of
violation, if the violation results from the owner renting or offering to rent the internal
accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the county sends the written notice of
violation, for any other violation; [and]

(iii) state that if the owner of the property fails to cure the violation within the time
period described in Subsection (5)(b)(ii), the county may hold a lien against the property in an
amount of up to \$100 for each day of violation after the day on which the opportunity to cure
the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the
day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the county office where the owner may file the written
objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit
records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) describe the specific violation;

(iii) specify the lien amount, in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the county shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a county may not record a lien under this Subsection (5) until the county holds a hearing and determines that the specific violation has occurred.

(iii) If the county determines at the hearing that the specific violation has occurred, the county may impose a lien in an amount of up to \$100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the county may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

679 (ii) a statement that the primary dwelling contains an internal accessory dwelling unit;
680 and

681 (iii) a statement that the internal accessory dwelling unit may only be used in
682 accordance with the county's land use regulations.

683 (c) The county shall, upon recording the notice described in Subsection (6)(a), deliver a
684 copy of the notice to the owner of the internal accessory dwelling unit.