

Article 16: Relating to Housing

Article 16 establishes a comprehensive new framework for the development of housing in Rhode Island. The article modifies the governance, policy-making, and funding mechanisms available to the State to ensure sufficient housing for Rhode Islanders. Changes are effective July 1, 2021, except for the real estate conveyance tax amendments in Section 6, which are effective on January 1, 2022. Specifically, the article:

- **Reorganization of Housing Governance:** Modifies the membership of both the Housing Resources Coordinating Committee (HRCC) and Housing Resources Commission (HRC) and elevates the Office of Housing and Community Development (OHCD).
- **Dedicated Funding for Housing Development:** Modifies how the revenue generated from the real estate conveyance tax is allocated among statutorily-prescribed recipients and increases the real estate conveyance tax on the portion of real estate value over \$700,000. The additional revenue from these changes is to be used to support increased housing opportunities in the State, including affordable and workforce housing initiatives.
- **Housing Incentives for Municipalities (HIM):** Creates a new incentive for municipalities to support and develop housing by making school impact offset payments through RIHousing.

FISCAL IMPACT

Section 6 of the article reallocates real estate conveyance tax revenue by shifting \$0.16 of the State's \$0.90 allocation from the General Fund to a new, restricted Housing Production Fund. The Office of Revenue Analysis (ORA) estimates this change will yield \$1.3 million in the second half of FY2022 for the Housing Production Fund, accompanied by a corresponding decrease in general revenue. Section 6 also increases the real estate conveyance tax on the portion of real estate value greater than \$700,000. ORA estimates that this will generate an additional \$1.7 million in Housing Production Funds in FY2022 based on a January 1, 2022, effective date.

The Budget includes \$2.6 million in new expenses from the Housing Production Fund in FY2022, out of which the HIM program incentive may be paid. The Budget also includes \$262,051 from general revenues for the personnel costs of a new Deputy Secretary for Housing and Community Development within the Executive Office of Commerce and \$125,288 in federal Community Development Block Grant program funds to a new 1.0 Assistance Administrator – Financial Management within the new Division of Housing and Community Development.

| Initiative | General Revenue | | FY2022 Federal Funds | | Housing Production Fund | |
|--|----------------------|------------------|-------------------------|------------------|-------------------------|--------------------|
| | Revenue | Expenditure | Revenue | Expenditure | Revenue | Expenditure |
| Real Estate Conveyance Tax Increase | - | - | - | - | \$1,719,412 | - |
| Real Estate Conveyance Tax Reallocation | (1,293,796) | - | - | - | 1,293,796 | - |
| Housing Production Support* | - | - | - | - | - | 2,598,731 |
| New Housing Related Staff | - | 262,051 | - | 125,228 | - | - |
| Total | (\$1,293,796) | \$262,051 | - | \$125,228 | \$3,013,208 | \$2,598,731 |

* Support includes funds for the HIM program.

ANALYSIS AND BACKGROUND

Article 16 establishes a comprehensive new framework for the development of housing in Rhode Island. The elements of this new framework are outlined below.

Reorganization of Housing Governance

Rhode Island currently has a network of public and quasi-public entities responsible for housing policy development, planning, program administration, and financing. There are several aspects of this network that facilitate its coordination.

- **RIHousing:** The Rhode Island Housing and Mortgage Financing Corporation, RIHousing, is Rhode Island's official State-chartered housing finance agency. Housing finance agencies vary from state-to-state, but typically are independent entities that operate under the direction of a board of directors appointed by the state's governor. They administer a wide range of affordable housing and community development programs, including providing mortgage loans. RIHousing is also charged with administering affordable housing bonds.
- **Housing Resources Commission:** Under the Housing Resources Act of 1998, the Housing Resources Commission (HRC) was established as the State's principal organization for housing policy, strategy, and coordination. It is comprised of 28 members, including six State agency directors, eight community groups, several municipal planning officials, banking and professional associations, and the chair of RIHousing. The HRC is charged with developing the State's housing strategic plan, setting housing standards, developing programs, and providing technical assistance to organizations and municipalities related to housing and homelessness. The HRC receives funding for these activities from a dedicated 13.0 percent of the State's real estate conveyance tax revenue. This revenue is deposited into a Housing Resources Commission restricted receipt account called the Housing Resources Commission Fund.
- **Housing Resources Agency Coordinating Committee:** The Housing Resources Act of 1998 also created an entity within the executive department called the Housing Resources Agency Coordinating Committee (HRACC) for the purpose of providing "coherence to the housing programs of the State and its departments, agencies, commissions, corporations, and subdivisions" and provide guidance on what federal housing assistance the State should apply for. It consists of the chairs of RIHousing and the HRC as well as the Director of the Department of Administration (DOA).
- **Office of Housing and Community Development:** The Office of Housing and Community Development (OHCD) provides financial and operational support as well as staffing for all housing programs administered by the HRC, including the State's rental assistance and homelessness programs. OHCD is also responsible for administering the federal Community Development Block Grant (CDBG) and other related programs. When the General Assembly established the Executive Office of Commerce (EOC) in 2013, it transferred the OHCD from DOA to the EOC. The OHCD is comprised of two sections and is led by a 1.0 Chief of Housing and Community Development FTE position.

Article 16 modifies how the State is organized around housing and homelessness issues by aligning, streamlining, and updating the entities described above by amending board memberships, clarifying responsibilities, and other changes.

| RI Housing and Mortgage Finance Corporation (RIHousing) | |
|---|-------------------------------------|
| Current | Article 16 Proposed |
| DOA | Ex . Dir. - HRC [#] |
| Treasurer | Chair - HRC [#] |
| DBR | DOA |
| Representing Appointee [†] | Treasurer |
| Representing Appointee [†] | DBR |
| Representing Appointee [†] | Representing Appointee [†] |
| Representing Appointee [†] | Representing Appointee [†] |
| | Representing Appointee [†] |
| | Representing Appointee [†] |

Serves ex-officio

Gubernatorial appointment with advice and consent of Senate

Serves ex-officio, non-voting

† The representing appointees are to be drawn from the following: housing design, development, finance, management, state finance, municipal finance.

- **RIHousing:** Article 16 increases the number of RIHousing board members from 7 to 9, adding the Executive Director and Chair of the HRC (or designee) as ex-officio, non-voting members. According to the Executive Office of Commerce, these additions strengthen the integration across the official organizations charged with developing and implementing housing policies and programs in the State.

- **Housing Resources Commission:** Article 16 also modifies the structure and responsibilities of the Housing Resources Commission.

- **Membership:** The article streamlines and updates the HRC's board composition, reducing the total number of members from 28 to 20 (see table), while retaining significant stakeholder input opportunities.

- **Strategic Housing Plan:** Under current law, the HRC, in conjunction with the State Planning Council, is required to develop a five-year strategic plan for housing. The plan includes quantified goals, measurable intermediate steps towards accomplishing those goals, implementation activities, and standards for the production and/or rehabilitation of year-round housing to meet the housing needs of the State. The plan addresses the need for workforce housing as well as housing for seniors, students, low-income individuals, individuals with disabilities, and other vulnerable populations. Article 16 changes the planning period from five years to four. The plan currently on file with the State Planning Council is outdated, having expired in 2010.

- **Executive Director and Staff:** The Housing Resources Commission is currently staffed by the OHCD and is headed by a Chief of Housing and Community Development. Currently, the chief is the ranking staff person within the EOC on housing issues and is appointed by the HRC to be its Executive Director. Article 16 transfers the appointing authority for the Executive Director to the Governor, with the advice of the HRC. The article also provides that the Executive Director "may also serve in the Executive Office of Commerce as the Deputy Secretary for Housing and Homelessness." The Budget authorizes a new 1.0 Deputy Chief of Staff/Policy FTE position within the Executive Office of Commerce and \$262,051 in general revenue in FY2022, ostensibly to accommodate the Executive Director/Deputy Secretary post. According to EOC, the chief will remain as part of the staff at the OHCD, which is elevated to the Division of Housing and Community Development pursuant to the article. The Budget also includes a new 1.0 Assistance Administrator – Financial Management within the new division along with \$125,228 in federal Community Development Block Grant program funds to support the personnel expenses.

| Housing Resources Commission (HRC) | |
|------------------------------------|-------------------------------------|
| Current | Article 16 Proposed |
| DOA | RIHousing |
| DBR | Chair HRC |
| Elderly Affairs | Secretary of Commerce |
| DOH | Secretary of EOHHS |
| DHS | RI Continuum of Care/Agency |
| BHDDH | Agency or Political |
| RIHousing | Subdivision Rep. |
| Attorney General | Agency or Political |
| RI Bankers Assoc. | Subdivision Rep. |
| RI Mortg. Bankers Assoc. | Representing Appointee [†] |
| RI Realtors | Representing Appointee [†] |
| RI Homeless Coalition | Representing Appointee [†] |
| Assoc. of Housing Ex. Dir. | Representing Appointee [†] |
| RI Housing Network | Representing Appointee [†] |
| Operation Stand Down | Representing Appointee [†] |
| Community Develop Rep. | Representing Appointee [†] |
| Lead Abatement Rep. | Representing Appointee [†] |
| Local Planner | Representing Appointee [†] |
| Local Building Official | Representing Appointee [†] |
| Fair Housing Advocate | Representing Appointee [†] |
| Advocate for Minority Housing | Representing Appointee [†] |
| RI Builders Assoc. | Representing Appointee [†] |
| Insurer Rep. | Representing Appointee [†] |
| Community Develop Intermediary | |
| Non-profit Developer | |
| Senior Housing Rep. | |
| Citizen Rep. | |
| Citizen Rep. | |

Serves ex-officio

Gubernatorial appointment with advice and consent of Senate

Gubernatorial appointment only

[†] The representing appointees are to be drawn from the following: disability advocacy, homelessness, veterans, banking/lending, fair housing, education, healthy housing, health equity, business, public housing, for-profit/non-profit development, community development corporations, local government, senior housing, colleges/universities, realty, and homeownership advocates.

Analyst Note: Article 16 that states the Chair of the HRC is to be one of five members to serve ex-officio on the HRC. RIGL 42-128-6(b), however, states that the Governor shall appoint the HRC chair, with the advice and consent of the Senate, and shall not be an ex-officio member.

- **Housing Resources Agency Coordinating Committee:** Article 16 modifies the structure and responsibilities of the current HRACC.

- **Membership:** The article amends the membership of the existing HRACC by replacing the Director of Administration with the Secretary of Commerce, replacing the Executive Director of RIHousing with the Secretary of the Executive Office of Health and Human Services, and adding two gubernatorial-appointed members that represent an agency or political subdivision of the State.

| Housing Resources Agency Coordinating Committee (HRACC) | |
|--|--------------------------------------|
| Current | Article 16 Proposed* |
| Chair of RIHousing | Chair of RIHousing |
| Chair HRC | Chair HRC |
| Director - DOA | Secretary of Commerce |
| Ex. Dir - RIHousing | Secretary of EOHHS |
| | Agency or Political Subdivision Rep. |
| | Agency or Political Subdivision Rep. |
| Serves ex-officio | |
| Gubernatorial appointment only | |
| * Governor designates the HRACC Chair from among the entire membership | |

- **Powers and Duties:** Under current law, the scope of the HRACC is very limited. The HRACC is primarily responsible for articulating the fiscal and operational relationship between the HRC and RIHousing. Article 16 expands the scope by providing the HRACC with the authority to negotiate and enter into contracts and agreements with State agencies, political subdivisions, and non-profit and for profit corporations and other partnerships for the purposes of addressing housing and homelessness issues covered under the Rhode Island Housing Resources Act (RIGL 42-128).
- **Division of Housing and Community Development (DHCD):** Article 16 elevates the Office of Housing and Community (OHCD) to a formal division within the Executive Office of Commerce. The new division retains the same responsibilities as the OHCD, administering programs pertaining to housing, housing services, and community development including services for the homeless; rental assistance; community development; disaster assistance; outreach, education, and technical assistance; and financial support to non-profits and community development organizations. DHCD is required to provide the Governor and General Assembly with annual reports on its activities and recommendations by March 1 of each year, beginning March 1, 2022. The Budget transfers the existing 11.0 FTE positions and personnel and operating costs in the OHCD to the DHCD in FY2022.

| FY2022 | | | |
|----------------------|------------------|------------------|-----------------|
| DHCD | General Revenue | Federal Funds | HRCF |
| Personnel | \$705,281 | \$706,355 | \$34,734 |
| Operating | 228,838 | 47,769 | 4,408 |
| Total | \$934,119 | \$754,124 | \$39,142 |
| Authorized FTE Level | | 12.0 | |

Dedicated Funding for Housing Development

Article 16 modifies the how revenue generated by the real estate conveyance tax is allocated among its statutorily-proscribed recipients and increases the portion of real estate value over \$700,000. Revenue from these changes would be deposited into a new restricted receipt account used to increase housing opportunities for Rhode Islanders.

Housing Production Fund/Housing Resources Commission Fund: Article 16 establishes a new fund related to finance housing programs in the State. The Housing Production Fund (HPF) is a new restricted receipt fund to be administered by RIHousing for the purposes of providing “financial assistance, loans, grants, or otherwise for the planning, production, or preservation of housing opportunities in Rhode Island, including housing affordable to workers and located near workforce centers”. The fund may also be used to support technical and financial assistance for municipalities to support increased local housing production, including the Housing Incentives for Municipalities program, described below. Revenue from the proposed

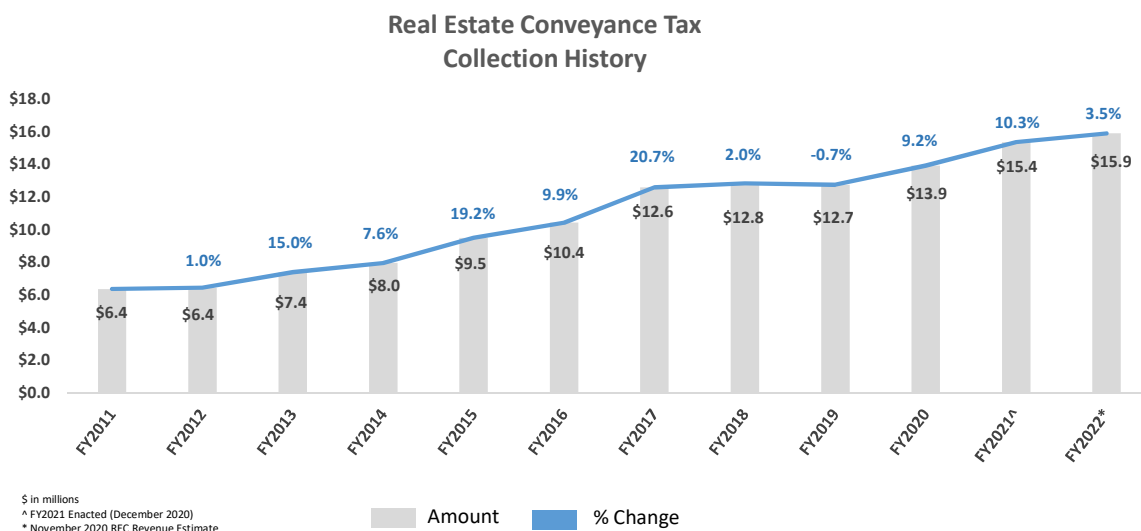
changes to the real estate conveyance tax authorized by Article 16, described below, will be deposited into the HPF.

Analyst Note: Although Article 16 does not specifically define workforce housing, it is generally understood to be housing that is affordable to workers and close to their jobs. It may include both home ownership and rental housing opportunities. Workforce housing is typically defined as housing that is affordable to households earning 60.0 to 120.0 percent of the area median income, ranging between \$42,701 and \$85,403. It may also be defined as housing costs that are no more than 30.0 to 40.0 percent of income.

Article 16 also modifies the existing Housing Resources Commission Fund (HRCF). Under current law, the HRCF is administered by the HRC, in conjunction with RIHousing and OHCD, and is used to support lead abatement programs, housing rental subsidy programs, and housing retention and homelessness programs. Article 16 adds housing production to the authorized uses of the funds. The funds will be used to by the HRCC for initiatives including housing production, lead hazard abatement, housing rental subsidies, housing retention assistance, homelessness services, and veteran services.

Real Estate Conveyance Tax: The State imposes a tax on each deed, instrument, or writing by which interests in real estate are conveyed to a purchaser when the value of the transfer is greater than \$100. The tax rate is \$2.30 for each additional \$500 in value.

Real estate conveyance tax collections grew by 33.5 percent during the five-year period from FY2016 to FY2020. Based on the November 2020 Revenue Estimating Conference adopted estimate, the general revenue portion of the tax is estimated to be \$15.9 million in FY2022.



Tax payments are due upon the making, execution, delivery, acceptance, or recording of the instrument of conveyance. The municipality where the real estate is located collects the fee at the time the deed is recorded and then remits the State share on a monthly basis. The State collects the fee directly when the transaction involves the sale or transfer of ownership interest in a real estate company. Collections are shared between the State and the municipality in which the property is situated.

Article 16 Changes: Article 16 makes several changes to the real estate conveyance tax.

- **Real Estate Conveyance Tax Distribution:** Section 6 of the article modifies the distribution of the real estate conveyance tax by shifting a portion the State's share from the general fund to the new HPF

restricted receipt fund. Under current law, the real estate conveyance tax is applied at a rate of \$2.30 per \$500 of value and \$0.60 is deposited into the general fund. Article 16 shifts \$0.16 per \$500 from the general fund to the HPF. Based on a January 1, 2022, effective date, ORA estimates this change will yield \$1.3 million in FY2022 (half a year) and \$2.9 million in FY2023 (first full year of the shift) in additional Housing Production Funds, with a corresponding decrease in general revenue.

| Real Estate Conveyance Tax Distribution | | | |
|---|---------------|------------------|------------------|
| Fund | Current | Article 16 | |
| | | Portion < \$700K | Portion > \$700K |
| | | Per \$500 | Per \$500 |
| State | \$1.20 | \$1.20 | \$1.20 |
| General Revenue | 0.60 | 0.44 | 0.44 |
| Distressed Communities | 0.30 | 0.30 | 0.30 |
| Housing Resources Commission Fund | 0.30 | 0.30 | 0.30 |
| Housing Production Fund | - | 0.16 | 2.46 |
| Local Government | 1.10 | 1.10 | 1.10 |
| Total | \$2.30 | \$2.30 | \$4.60 |

- **Real Estate Conveyance Tax Increase:** Section 6 also increases the real estate conveyance tax on the portion of real estate value over \$700,000. The rate applied to this portion doubles from \$2.30 to \$4.60 per each \$500 in value above \$700,000. Revenue from this increase would be deposited into the HPF, to be administered by RIHousing and used to increase housing opportunities across the State. The Office of Revenue Analysis (ORA) estimates that this will generate \$1.7 million in new Housing Production Funds in FY2022 based on a January 1, 2022, effective date. The estimate for a full year of the increase is \$3.8 million in FY2023.

| Tax Liabilities of Various Real Estate Values | | | |
|---|---------------|---------------|--------|
| Real Estate Value | Tax Liability | Tax Liability | Change |
| | (Current) | (Article 16) | |
| \$350,000 | \$1,610 | \$1,610 | 0.0% |
| 700,000 | 3,220 | 3,220 | 0.0% |
| 900,000 | 4,140 | 5,060 | 22.2% |
| 1,750,000 | 8,050 | 12,880 | 60.0% |

Source: Office of Management and Budget

Housing Incentives for Municipalities

Article 16 authorizes a new program designed to encourage municipalities to establish new overlay zoning districts to promote affordable housing production. Article 16 provides a financial incentive for municipalities to participate by providing payments to offset the additional costs of educating students living in new affordable housing districts. The Budget does not include a specific appropriation for these new housing incentives in FY2022, however the new Housing Production Fund, out of which the incentives may be paid, includes \$2.9 million in expenditures in FY2022. Because the school impact offset payments are reimbursements made after housing is built and occupied, it is unlikely that there would be any FY2022 fiscal impact relative to this incentive.

Administration: The new program will be administered by the HRACC in consultation with State's Division of Statewide Planning and RIHousing. The HRACC is charged with developing rules and regulations, including application criteria, eligible locations for housing incentive districts, minimum requirements for districts, eligible students for the calculation of school impact offset payments, and the amount and method of payment to municipalities for school impact offset payments. The HRACC is also authorized to provide municipalities with technical assistance and other support related to developing affordable housing. The HRACC is required to provide annual reports to the Governor and General Assembly that include information on the commitment and disbursement of funds allocated under the program.

Housing Incentive Districts: Municipalities are encouraged to establish special overlay zones in locations that—by virtue of their infrastructure, existing underutilized facilities, proximity to public transit centers, and concentrated development—are determined by the HRACC to be suitable as housing incentive districts. A housing incentive district under Article 16 is intended to encourage residential development and must permit minimum residential uses. The district may accommodate uses complimentary to residential use; however, the majority of lots must be dedicated to housing. Although the districts may adopt zoning that encourages residential development, Article 16 does not infringe upon a municipality's zoning and permitting authority.

School Impact Offset Payments: Article 16 establishes a school impact offset payment program based on a Massachusetts program known as 40S. In Massachusetts, eligible communities are reimbursed for any net cost of educating students living in new housing in a designated smart growth district. The reimbursement is equal to the cost of educating students living in new housing in a smart growth district, less the percentage of new revenues from the district that would otherwise be devoted to educational costs and any increase in state educational aid resulting from students living in new housing in the district.

Article 16 defines school impact offset payments as payments to a city or town to help offset increased municipal costs of educating a student attending a school in the town that lives in newly constructed housing that would not otherwise have been built absent the housing incentive district zoning. The article charges the HRCC with developing a framework for the school impact offset payment component of the new incentive program, including the amount and method of payment. Article 16 does not address the duration of payments and whether they are transitional or permanent for a particular project. The offset payments are to be made out of the new Housing Production Fund. Article 16 also authorizes RIHousing to make the payments.