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BILL 43

HOUSING SUPPLY ACT

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Attorney General and Minister Responsible for Housing

Explanatory Note

This Bill provides a framework for housing targets to be established for specified municipalities, and for the minister or Lieutenant Governor in Council to take certain actions if housing targets are not met.

BILL 43 – 2022

HOUSING SUPPLY ACT

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – DEFINITIONS

Definitions

1 In this Act:

“**advisor**” means an advisor appointed under section 8 (1) [*advisor*];

“**authorized internet site**” means an internet site that is

- (a) maintained by the minister or authorized by the minister to be used for the purposes of this Act, and
- (b) publicly and freely accessible;

“**housing needs report**” means,

- (a) in relation to a municipality other than the City of Vancouver, a housing needs report as defined in section 1 [*definitions*] of the Schedule to the *Local Government Act*, and
- (b) in relation to the City of Vancouver, a housing needs report as defined in section 2 [*interpretation*] of the *Vancouver Charter*;

“**housing target**” means a housing target established by a housing target order;

“**housing target order**” means an order made under section 2 (1);

“**housing target progress report**” means a housing target progress report required under section 4 [*housing target progress report*];

“**Indigenous land**” means any of the following:

- (a) treaty lands of a Treaty First Nation;
- (b) Nisga’a Lands;
- (c) shíshálh lands, as defined in section 2 (1) [*definitions*] of the *shíshálh Nation Self-Government Act* (Canada);
- (d) a reserve, as defined in section 2 (1) [*definitions*] of the *Indian Act* (Canada);
- (e) land held under aboriginal title;
- (f) prescribed land;

“**municipal internet site**”, in relation to a specified municipality, means an internet site that is

- (a) maintained by the specified municipality or authorized by the specified municipality to be used for the purposes of this Act, and
- (b) publicly and freely accessible;

“official development plan” has the same meaning as in section 559 [interpretation] of the *Vancouver Charter*;

“specified municipality” means a prescribed municipality.

PART 2 – HOUSING TARGETS

Housing target order

- 2 (1) The minister may, by order, establish housing targets for a specified municipality in relation to housing supply, including the availability and affordability of housing.
- (2) A housing target order must specify the following:
- (a) the specified municipality to which the housing target order applies;
 - (b) the housing target or housing targets established;
 - (c) the performance indicators and timeline by which progress by the specified municipality toward meeting each housing target is to be assessed;
 - (d) the reporting period for the specified municipality;
 - (e) any other matters required by regulation.
- (3) A housing target order does not apply in relation to Indigenous land.
- (4) The Lieutenant Governor in Council may make regulations respecting the establishment of housing targets, including in relation to
- (a) matters that may be the subject of a housing target, and
 - (b) time periods to which a housing target may apply.

Requirements for making housing target order

- 3 (1) The minister must, in making a housing target order for a specified municipality, consider the following information, if available, in relation to the specified municipality:
- (a) current and previous housing needs reports;
 - (b) current and previous official community plans or official development plans, as applicable;
 - (c) current and previous regional district regional growth strategies;
 - (d) information in relation to the demand for and supply of housing, including
 - (i) statistical information about current and projected population,
 - (ii) statistical information about household income,

- (iii) information about significant economic sectors, and
 - (iv) information about currently available housing units and housing units that are anticipated to be available, including information about types of housing units;
 - (e) information about current investments in transportation and investments in transportation that are anticipated to be made, including information about the types of transportation;
 - (f) a report made by an advisor under section 10 (1) [*report of advisor*];
 - (g) information provided to the minister under section 13 [*provision of housing information to minister*];
 - (h) any other information the minister considers relevant;
 - (i) any other prescribed information.
- (2) Before making a housing target order for a specified municipality, the minister must consult with the specified municipality.
- (3) For the purposes of subsection (2), the minister must
- (a) provide a description of the proposed housing target order to the specified municipality,
 - (b) provide, in accordance with the regulations, an opportunity for the specified municipality to provide comments to the minister, and
 - (c) comply with any other requirements set out in the regulations.

PART 3 – HOUSING TARGET PROGRESS REPORT

Housing target progress report

- 4 (1) A specified municipality to which a housing target order applies must prepare a housing target progress report, in the form required by the minister, for each reporting period specified in the order.
- (2) A housing target progress report must include the following in relation to each housing target established in the order:
- (a) information about the actions taken by the specified municipality toward meeting the housing target;
 - (b) information about the progress of the specified municipality toward meeting the housing target, as assessed in accordance with the performance indicators and timeline specified in the housing target order;
 - (c) if the housing target has not been met, information about any actions that the specified municipality intends to take toward meeting the housing target within the 2-year period following the report;
 - (d) any other prescribed information.

- (3) The specified municipality must,
 - (a) within the prescribed number of days after the end of the reporting period, by resolution, receive the housing target progress report at a meeting that is open to the public, and
 - (b) as soon as practicable after receiving the housing target progress report under paragraph (a),
 - (i) publish the report on a municipal internet site, and
 - (ii) submit the report to the minister, in the manner required by the minister.
- (4) As soon as practicable after receiving a housing target progress report under subsection (3) (b) (ii), the minister must publish the report on an authorized internet site.

Review of housing target progress report

- 5 The minister must, as soon as practicable after receiving a housing target progress report from a specified municipality under section 4 (3) (b) (ii), review the report and determine, for each housing target that applies to the specified municipality, the following:
 - (a) whether the housing target has been met;
 - (b) if the housing target has not been met, whether the specified municipality has made satisfactory progress toward meeting the housing target.

PART 4 – COMPLIANCE

Application

- 6 (1) This Part applies if the minister determines, after reviewing a housing target progress report submitted by a specified municipality under section 4 (3) (b) (ii), that the specified municipality
 - (a) has not met a housing target that applies to it, and
 - (b) has not made satisfactory progress toward meeting the housing target.
- (2) If the minister makes a determination referred to in subsection (1), the minister may do one or both of the following:
 - (a) appoint one or more advisors under section 8 [*advisor*] in relation to the specified municipality;
 - (b) issue a directive under section 11 [*directive*] to the specified municipality.

Requirements for appointing advisor or issuing directive

- 7 (1) The minister must, in taking an action referred to in section 6 (2) in relation to a specified municipality, consider
- (a) any information described in section 3 (1) [*requirements for making housing target order*] that
 - (i) is relevant to the housing target or to the performance indicators and timeline specified in the housing target order, and
 - (ii) was not available when the housing target order was made, or was revised after the order was made, and
 - (b) any actions taken by the specified municipality toward meeting the housing target within the timeline specified in the housing target order.
- (2) Before taking an action referred to in section 6 (2) in relation to a specified municipality, the minister must consult with the specified municipality.
- (3) For the purposes of subsection (2), the minister must
- (a) provide a description of the proposed action to the specified municipality,
 - (b) provide, in accordance with the regulations, an opportunity for the specified municipality to provide comments to the minister, and
 - (c) comply with any other requirements set out in the regulations.

Advisor

- 8 (1) The minister may appoint one or more advisors to review one or more of the following:
- (a) the actions taken by a specified municipality toward meeting a housing target that applies to it;
 - (b) the current and previous policies, practices and processes of the specified municipality in relation to housing development;
 - (c) the progress of the specified municipality toward meeting the housing target;
 - (d) any actions that the specified municipality intends to take toward meeting the housing target;
 - (e) any other matters set out in the regulations.
- (2) For the purposes of conducting a review under subsection (1) in relation to a specified municipality, an advisor may, at any reasonable time,
- (a) enter an office or other premises of the specified municipality, and
 - (b) subject to subsection (3), inspect any record or system of the specified municipality.

- (3) An advisor must not inspect a record respecting
 - (a) a part of a meeting of the council of a specified municipality that is closed to the public under section 90 [*meetings that may or must be closed to the public*] of the *Community Charter*,
 - (b) a part of a meeting of the Council of the City of Vancouver that is closed to the public under section 165.2 [*meetings that may or must be closed to the public*] of the *Vancouver Charter*, or
 - (c) a prescribed matter.
- (4) Subsection (3) (a) and (b) does not apply in relation to a record if the council of the specified municipality, or the Council of the City of Vancouver, as applicable, provides public access to the record.

Duties of municipal employee

- 9 On the request of an advisor conducting a review under section 8 [*advisor*] in relation to a specified municipality, an employee of the specified municipality must, without delay,
 - (a) allow the advisor to enter an office or other premises of the specified municipality,
 - (b) give the advisor every reasonable assistance for the purposes of the review,
 - (c) provide information requested by the advisor for the purposes of the review, and
 - (d) provide access to a record or system of the specified municipality as requested by the advisor for the purposes of the review.

Report of advisor

- 10 (1) An advisor must, without delay after concluding a review under section 8 [*advisor*] in relation to a specified municipality, report the advisor's activities and findings to the minister.
- (2) A report under subsection (1) must include any recommendations of the advisor respecting
 - (a) actions that may be taken by the specified municipality toward meeting a housing target that applies to it,
 - (b) actions that may be taken by the minister under this Part,
 - (c) the establishment of, or revisions to, a housing target for the specified municipality, and
 - (d) revisions to the methodology used by the minister in establishing housing targets under this Act.

- (3) If the minister publishes a report received under subsection (1), the minister must
 - (a) remove any portions of the report containing information that could or must be withheld by a public body under sections 12 to 19 and 21 to 22.1 [exceptions] of the *Freedom of Information and Protection of Privacy Act*,
 - (b) identify any withheld portions, and
 - (c) summarize any withheld portions to the extent possible without disclosing information referred to in paragraph (a).

Directive

- 11 (1) Subject to subsection (2), the minister may issue a directive requiring a specified municipality to do any of the following, within the time period specified in the directive:
 - (a) enact or amend a bylaw referred to in section 584 (1) [*ministerial override orders in the public interest*] of the *Local Government Act*;
 - (b) issue or refuse to issue a permit that the specified municipality may issue under the *Community Charter*, the *Local Government Act*, the *Vancouver Charter* or a prescribed enactment.
- (2) The minister may issue a directive under subsection (1) to a specified municipality only if satisfied that
 - (a) the benefit of issuing the directive is greater than the benefit of not issuing it,
 - (b) no less onerous alternative would result in the specified municipality meeting, or making satisfactory progress toward meeting, a housing target that applies to it, and
 - (c) issuing the directive is in the public interest.
- (3) A specified municipality must report to the minister, within the time period and in the form and manner required by the minister, on the actions taken by the specified municipality to comply with the directive.
- (4) Nothing in this section affects any procedural or other requirement, including a requirement for notice, a public hearing, consultation or ministerial approval, under the *Community Charter*, the *Local Government Act*, the *Vancouver Charter* or a prescribed enactment in relation to
 - (a) enacting or amending a bylaw referred to in section 584 (1) of the *Local Government Act*, or
 - (b) issuing or refusing to issue a permit under the *Community Charter*, the *Local Government Act*, the *Vancouver Charter* or a prescribed enactment.

PART 5 – ORDER IN COUNCIL

Order in council

- 12 (1) If a specified municipality fails to comply with a directive issued under section 11 (1), the Lieutenant Governor in Council, on the recommendation of the minister, may, by order, do one or both of the following:
- (a) enact or amend a bylaw referred to in section 584 (1) [*ministerial override orders in the public interest*] of the *Local Government Act*;
 - (b) issue or refuse to issue a permit that the specified municipality may issue under the *Community Charter*, the *Local Government Act*, the *Vancouver Charter* or a prescribed enactment.
- (2) The Lieutenant Governor in Council may make an order under subsection (1) in relation to a specified municipality only if satisfied that
- (a) the benefit of making the order is greater than the benefit of not making it,
 - (b) no less onerous alternative would result in the specified municipality meeting, or making satisfactory progress toward meeting, a housing target that applies to it, and
 - (c) making the order is in the public interest.
- (3) On the date specified in an order made under subsection (1),
- (a) any bylaw enacted or amended under the order is conclusively deemed to be enacted or amended, as applicable, by the specified municipality in accordance with the order,
 - (b) any permit issued under the order is conclusively deemed to be issued by the specified municipality in accordance with the order, and
 - (c) any refusal to issue a permit under the order is conclusively deemed to be a refusal by the specified municipality to issue the permit in accordance with the order.
- (4) An order made under subsection (1) must specify a period, not exceeding 2 years from the date the order is made, for the purposes of subsection (5).
- (5) Except with the consent of the Lieutenant Governor in Council, a specified municipality must not, before the expiry of the period specified in an order made under subsection (1) in relation to the specified municipality, do any of the following:
- (a) in the case of a bylaw referred to in subsection (3) (a), amend or repeal the bylaw;

- (b) in the case of a permit referred to in subsection (3) (b), amend or cancel the permit;
 - (c) in the case of a refusal to issue a permit referred to in subsection (3) (c), issue a permit that is substantially the same as the permit that was refused.
- (6) This section and section 11 apply despite any provision of the *Community Charter*, the *Local Government Act*, the *Vancouver Charter* or a prescribed enactment.

PART 6 – INFORMATION REQUIREMENTS

Provision of housing information to minister

- 13** Subject to the regulations, a municipality must, on the request of the minister, collect and provide to the minister any of the following information in relation to the demand for and supply of housing within the municipality that is required by the minister:
- (a) statistical information about current and projected population;
 - (b) statistical information about household income;
 - (c) information about significant economic sectors;
 - (d) information about currently available housing units and housing units that are anticipated to be available, including information about types of housing units;
 - (e) any other prescribed information.

Submission of housing needs report to minister

- 14** (1) A specified municipality to which Division 22 [*Housing Needs Reports*] of Part 14 of the *Local Government Act* applies must, within 30 days after receiving a housing needs report under section 585.31 [*when and how housing needs report must be received*] of that Act, submit the report to the minister.
- (2) The Council of the City of Vancouver must, within 30 days after receiving a housing needs report under section 574.4 [*when and how housing needs report must be received*] of the *Vancouver Charter*, submit the report to the minister.
- (3) A housing needs report must be submitted to the minister in the manner required by the minister.

PART 7 – PUBLICATION AND ANNUAL REPORT

Publication of housing target order, directive or order in council

- 15** (1) As soon as practicable after making a housing target order under section 2 (1) or issuing a directive under section 11 (1), or after the Lieutenant Governor in Council makes an order under section 12 (1), the minister must
- (a) provide the order, directive or order in council to each specified municipality to which the order, directive or order in council applies, and
 - (b) publish the order, directive or order in council on an authorized internet site.
- (2) As soon as practicable after receiving a housing target order, directive or order in council under subsection (1), a specified municipality must publish the order, directive or order in council on a municipal internet site.

Annual report

- 16** (1) The minister must, for each fiscal year of the government, publish a report that includes a description of all
- (a) actions taken by the minister under Part 4 [*Compliance*], and
 - (b) orders made by the Lieutenant Governor in Council under section 12 [*order in council*].
- (2) A report under subsection (1) for a fiscal year must be published on an authorized internet site by September 30 in the following fiscal year.

PART 8 – GENERAL

Standard of review – housing target order, directive or order in council respecting permit

- 17** (1) In a judicial review proceeding relating to a housing target order made by the minister under section 2 (1), a directive issued by the minister under section 11 (1) or an order made by the Lieutenant Governor in Council under section 12 (1) (b),
- (a) a finding of fact or law or an exercise of discretion by the minister or the Lieutenant Governor in Council must not be interfered with unless it is patently unreasonable,
 - (b) questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the minister or the Lieutenant Governor in Council acted fairly, and
 - (c) for all matters other than those identified in paragraphs (a) and (b), the standard of review to be applied to the decision is correctness.

- (2) For the purposes of subsection (1) (a), a discretionary decision is patently unreasonable if the discretion
 - (a) is exercised arbitrarily or in bad faith,
 - (b) is exercised for an improper purpose,
 - (c) is based entirely or predominantly on irrelevant factors, or
 - (d) fails to take statutory requirements into account.

Standard of review – order in council respecting bylaw

- 18** In a judicial review proceeding relating to an order made by the Lieutenant Governor in Council under section 12 (1) (a) [*order in council*], the standard of review to be applied is patent unreasonableness.

Immunity protection – advisor

- 19** (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against an advisor or a person acting on behalf of or under the direction of an advisor, because of anything done or omitted
 - (a) in the performance or intended performance of a duty under this Act, or
 - (b) in the exercise or intended exercise of a power under this Act.
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Regulations

- 20** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 [*powers to make regulations*] of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may, on the recommendation of the minister, make regulations as follows:
 - (a) for the purposes of the definition of “specified municipality” in section 1 [*definitions*], prescribing municipalities as specified municipalities;
 - (b) for the purposes of sections 11 (1) (b) and (4) [*directive*] and 12 (1) (b) and (6) [*order in council*], prescribing enactments.
- (3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
 - (a) respecting any factors that the minister must consider before making a recommendation to the Lieutenant Governor in Council under subsection (2) (a), including factors in relation to the phased implementation of this Act;

- (b) for the purposes of sections 3 (3) (c) [*requirements for making housing target order*] and 7 (3) (c) [*requirements for appointing advisor or issuing directive*], respecting the requirements that the minister must comply with, including in relation to
 - (i) any factors that the minister must consider,
 - (ii) the persons or entities with whom the minister must consult, and
 - (iii) the time periods that must be met for the purposes of consultation;
 - (c) establishing qualifications and conflict of interest requirements for advisors;
 - (d) respecting the remuneration of advisors;
 - (e) respecting information that must be collected and provided to the minister under section 13 [*provision of housing information to minister*], including in relation to the nature, level of detail and type of information that must be collected and prescribing the periods of time for which the information must be collected;
 - (f) respecting any other matter for which regulations are contemplated by this Act.
- (4) A regulation made under this section may
- (a) delegate a matter to a person,
 - (b) confer a discretion on a person,
 - (c) establish classes of housing targets or classes of specified municipalities, and
 - (d) make different regulations in relation to different classes.
- (5) The authority to make regulations under this section does not limit and is not limited by the authority to make regulations under section 2 (4) [*housing target order*].

Commencement

- 21** This Act comes into force by regulation of the Lieutenant Governor in Council.