

38% PILOT PROGRAM Final Guidelines

Updated 12/31/2025

Background:

Public Law 2025 Chapter 325 authorizes the Secretary of Housing “to develop a four-year (4) pilot program sunsetting on December 31, 2029, to explore alternative underwriting criteria to aid in the development of affordable dwelling units for sale to moderate-income households.” The law states that “[a]lternative underwriting criteria shall be limited to no more than thirty eight percent (38%) of gross household income” and defines moderate income households as those between 100% and 120% of the Area Median Income, adjusted by metropolitan statistical area and household size. Any property first sold under these criteria will have the same criteria incorporated into the deed as a deed restriction for any resale, in accordance with the Low- and Moderate-Income Housing (LMIH) Act.

Guidelines

- 1. Applicability:** These guidelines will apply to any home developed under the Rhode Island Low and Moderate-Income Housing Act (LMIH Act) if the developer seeks to set a sales price above 30% of the area median income for a household at 120% Area Median Income. The initial sale of any home being sold above the standard 30% limits must follow these guidelines to be considered affordable housing under the LMIH Act – and it must contain a deed restriction that requires these guidelines to be met upon resale for a period of no less than 30 years from initial occupancy.
- 2. Timing of Pilot:** Homes sold under the pilot program must be first sold between January 1, 2026, and December 31, 2029, unless the program is extended under state law. A home permitted before the start of the pilot as affordable may still be sold under the pilot rules if sold during the pilot period. A home permitted during the pilot period will only be able to use the pilot sales pricing if sold before the end of the pilot.
- 3. No state or federal subsidy:** For a home to be priced under the 38% pilot, there may not be any federal or state subsidy. A local density bonus awarded under the state comprehensive permit is permitted. A municipality may provide any other subsidy and may allow other local subsidies to be combined with this pilot program, if not otherwise prohibited under state or federal law.

4. **Maximum sales price:** The maximum sales price will be set using the same methodology as that used under the state's monitoring agent guidelines for any other affordable home, but with maximum front end debt equal to 38% of the gross area median income for the given household size and income level, rather than 30 percent, which applies in all other cases. Household size for the purposes of calculating purchase price is equal to the number of bedrooms plus one.¹
5. **Differential from Market rate units in the development:** The marketed sales price of any affordable units, in a development with both market rate and affordable units, must be no more than 80% of the listed sales price for the lowest priced market rate unit in the development of the same bedroom size. If a market rate unit is sold at a discount to an employee of the developer, or other similar circumstances where the unit is not made public available and the sales price does not reflect the market price, that discounted unit would not be used to calculate the maximum affordable price.

Example: A developer has a set of 2 bedroom townhomes and 3 bedroom detached homes in a development, with market rate and affordable for each. The market rate 3br detached are marketed for sale at \$600,000 and the market rate 2br townhouses are marketed at \$500,000. The maximum sales prices for affordable units would be as follows

2br townhouse - The 38% calculation OR \$400,000, whichever is lower (\$400,000 is equal to 80% of \$500,000 market price)

3br detached – The 38% calculation OR \$480,000, whichever is lower (\$480,000 is equal to 80% of the \$600,000 market price)

6. **Underwriting criteria for the purchase:** The buyer of any property priced using this pilot, including during a resale period, must meet all of the following criteria:
 - a. The buyer's household income must be between 100 and 120 percent of area median income based on household size and MSA where the property is located.

¹Example: If a two-bedroom home is set at affordable for 120% of area median income home, the household size is 3 for the purposes of setting a purchase price. In the Providence MSA, the gross monthly income in 2025 for a 3 person household at 120% AMI is \$10,290 (or \$123,480 annually as of FY2025). Under the normal 30% rules, the max front end debt payment (which includes property tax, homeowners insurance, and mortgage insurance as well as principal and interest) would be \$3,087 per month. Under the 38 percent pilot, the maximum payment for the purposes of calculating a sales price would be \$3,910.

- b. The buyer's front-end debt (total monthly housing payment at time of sale) must not exceed 38 percent of their household income, and their total debt to income ratio must not exceed 43 percent of income as calculated and documented by a mortgage lender.
 - c. The buyer must live in the property as their primary residence.
- 7. **Compliance monitoring:** The developer must hire a monitoring agent that is certified and in good standing with the Executive Office of Housing. The monitoring agent must monitor compliance with all of the guidelines listed here.

