



# House of Representatives

General Assembly

**File No. 374**

*January Session, 2003*

Substitute House Bill No. 6516

*House of Representatives, April 15, 2003*

The Committee on Planning and Development reported through REP. WALLACE of the 109th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE PRESERVATION OF FEDERALLY-ASSISTED HOUSING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) As used in sections 1 to 4,  
2 inclusive, of this act:

3 (1) "Development" means a rental housing development that  
4 receives government assistance under any of the following federal  
5 programs, including any property development held by the United  
6 States Department of Housing and Urban Development which was  
7 formerly insured under any of the following programs:

8 (A) New construction, substantial rehabilitation, moderate  
9 rehabilitation, property disposition and loan management set-aside  
10 programs or any other program providing project-based assistance  
11 under Section 8 of the United States Housing Act of 1937, as from time  
12 to time amended;

13 (B) The Below Market Interest Rate Program under Section 221(d)(3)  
14 of the National Housing Act, 12 USC 1715l(d)(3), (5);

15 (C) Section 236 of the National Housing Act, 12 USC 1715z-1;

16 (D) Section 202 of the Housing Act of 1959, 12 USC 1701q;

17 (E) Programs for rent supplement assistance under Section 101 of  
18 the Housing and Urban Development Act of 1965, 12 USC 1701s;

19 (F) Programs under Section 515 of the Housing Act of 1949, 42 USC  
20 1485; or

21 (G) The Low Income Housing Tax Credit program, 26 USC 42.

22 (2) "HUD" means the United States Department of Housing and  
23 Urban Development or the Federal Housing Administration, the  
24 Farmers Home Administration or a local housing authority  
25 administering a HUD program.

26 (3) "Nonprofit corporation" means a nonprofit corporation, other  
27 than a tenant association, that has been designated by at least twenty-  
28 five per cent of the tenants in the development for the purpose of  
29 assisting in the purchase or acquisition of the development.

30 (4) "Owner" means an individual, partnership, corporation,  
31 association, joint venture or business entity that is a party to a contract  
32 with HUD providing for a mortgage, mortgage assistance, mortgage  
33 insurance or rent subsidy; or any spouse, employee, agent, partner or  
34 entity that receives or demands rent for the development.

35 (5) "Tenant" means a tenant, subtenant, lessee, sublessee or other  
36 person entitled to possession, occupancy or benefits of a rental unit  
37 within the development.

38 (6) "Tenant association" means an association, organization or other  
39 entity that represents tenants in a development, including, but not  
40 limited to, a nonprofit corporation or a cooperative.

41 (7) "Cooperative" shall have the same meaning as in subdivision (10)  
42 of section 47-202 of the general statutes.

43 (8) "Lease extension and relocation assistance" means the extension  
44 of the lease for and the payments to the tenant of any assisted unit in  
45 the development.

46 (9) "Termination of subsidy for the development" means: (A) Any  
47 sale, transfer of title, lease, prepayment of loan insured by HUD or  
48 other action that would result in the cessation of the financial  
49 assistance designed to make the rental unit affordable to low and  
50 moderate income individuals; or (B) an owner's decision not to extend  
51 or renew its participation in a federal subsidy program, either at or  
52 prior to the scheduled date of the expiration of the contract or a  
53 decision to terminate the rental restrictions for a development that may  
54 result in an increase in tenant rent or a change in the form of the  
55 subsidy from project-based to tenant-based.

56 Sec. 2. (NEW) (*Effective October 1, 2003*) (a) At least two years prior  
57 to the date of intended termination of the subsidy for the development,  
58 the owner shall provide written notice sent by first class mail or hand  
59 delivered to the following persons or entities:

60 (1) Each tenant;

61 (2) Each tenant association;

62 (3) The chief executive officer of the municipality in which the  
63 development is located;

64 (4) The executive director of any housing authority of the  
65 municipality in which the development is located;

66 (5) The executive director of the Connecticut Housing Finance  
67 Authority;

68 (6) The Commissioner of Economic and Community Development;  
69 and

70 (7) The executive director of the Connecticut Housing Coalition.

71 (b) The notice shall be posted in a conspicuous common area of the  
72 development accessible to the tenants.

73 (c) A copy of any notice required by this section shall be filed in the  
74 land records of the municipality in which the development is located.

75 (d) The notice shall (1) inform the persons and entities described in  
76 subsection (a) of this section that the owner intends to sell or otherwise  
77 dispose of the development or terminate the subsidy or rental  
78 restrictions for the development and that they have the right of first  
79 refusal to purchase the property pursuant to sections 1 to 4, inclusive,  
80 of this act, (2) inform the tenants of their right to lease extension and  
81 relocation assistance if the subsidy for the development is terminated,  
82 (3) identify the number of units that will no longer be subject to the  
83 restrictions imposed by the federal program, and (4) include  
84 information on the estimated rents that will be charged compared to  
85 the rent charged under the federal program and the action the owner  
86 will take to assist displaced tenants in obtaining other housing.

87 (e) Upon the request of a tenant association, the Department of  
88 Economic and Community Development and the Connecticut Housing  
89 Finance Authority shall assist said association in developing financing  
90 for the purchase of the development.

91 (f) No termination of the subsidy for the development shall be valid  
92 unless the notice required by this section is provided and filed in  
93 accordance with this section.

94 Sec. 3. (NEW) (*Effective October 1, 2003*) (a) At least one year prior to  
95 the date of intended termination of subsidy for the development, the  
96 owner shall provide to each person and entity specified in subsection  
97 (a) of section 2 of this act a written copy of a bona fide offer to sell sent  
98 by first class mail or hand delivered and post a copy of the offer to sell  
99 in a conspicuous place in the common areas of the development  
100 accessible to tenants.

101 (b) An offer to sell made pursuant to this section shall include, but  
102 not be limited to:

103 (1) The essential terms of the sale, which shall include, but not be  
104 limited to, (A) the sale price, (B) the terms of seller financing, including  
105 the amount, interest rate and amortization rate, (C) the terms of the  
106 assumable financing, including the amount, interest rate and  
107 amortization rate, and (D) any proposed improvements to the property  
108 to be made by the owner in connection with the sale or other economic  
109 concessions by the owner in connection with the sale.

110 (2) A statement that each of the following persons or entities has the  
111 right to purchase the development for the purpose of preserving the  
112 development as affordable housing according to the following order of  
113 priorities: (A) A tenant association which represents not less than  
114 twenty-five per cent of the tenants in the development, (B) a nonprofit  
115 corporation which has been designated by not less than twenty-five  
116 per cent of the tenants in the development for the purpose of assisting  
117 in the purchase or acquisition of the development, (C) any other  
118 nonprofit corporation, (D) the housing authority of the municipality in  
119 which the development is located, (E) the municipality in which the  
120 development is located, (F) the Connecticut Housing Finance  
121 Authority, or (G) the Department of Economic and Community  
122 Development.

123 (c) The interested person or entity shall notify the owner, in writing,  
124 no later than two hundred forty days before the date of intended  
125 termination of subsidy for the development of its intent to purchase  
126 the development.

127 (d) After receiving a notice of the interested person's or entity's  
128 intent to purchase, the owner shall comply with any reasonable  
129 request to make documents available to the interested person or entity,  
130 during normal business hours at the owner's principal place of  
131 business no later than thirty days after the date the owner receives  
132 such a request, including, but not limited to: (1) The floor plan of the  
133 development; (2) an itemized list of monthly operating expenses; (3)

134 the capital expenditures in each of the two preceding calendar years  
135 and deferred maintenance costs; (4) the amount of project reserves; (5)  
136 utility consumption rates; (6) copies of financial and physical  
137 inspection reports filed with federal, state or local agencies; (7) the  
138 most recent rent rolls; (8) a list of tenants; (9) a list of vacant units; and  
139 (10) a statement of the vacancy rate of the development for each of the  
140 two preceding years.

141 (e) The interested person or entity shall, no later than one hundred  
142 twenty days before the date of the intended termination of subsidy for  
143 the development, provide the owner with a bona fide offer to purchase  
144 evidenced by a purchase contract reflecting the sales price and any  
145 terms agreed to by the parties or the sales price and terms determined  
146 pursuant to the contract and a deposit equal to five per cent of the  
147 amount of the bona fide offer to purchase.

148 (f) If the parties are unable to agree on a purchase price, the  
149 interested person or entity shall have the right to purchase the  
150 property:

151 (1) If the interested person or entity matches the essential provisions  
152 of any existing bona fide offer to purchase the development made by  
153 another potential purchaser which offer by such other purchaser the  
154 owner is prepared to accept; or

155 (2) If there is no bona fide offer, at a purchase price to be established  
156 by an appraiser chosen by the interested entity and the owner. If the  
157 two cannot agree upon one appraiser, either party may notify the  
158 Connecticut Housing Finance Authority and the other party, in  
159 writing, of such disagreement. In such case, the interested person or  
160 entity shall choose one appraiser and the owner shall choose one  
161 appraiser and the two appraisers shall jointly choose a third appraiser.  
162 The three appraisers shall establish a value for the development. If the  
163 owner or the interested entity does not select an appraiser by the  
164 fifteenth day after the date of the mailing of the notice of the  
165 disagreement, the Connecticut Housing Finance Authority shall  
166 choose an appraiser for the owner or the interested entity. The costs of

167 all appraisers shall be paid equally by the interested person or entity  
168 and the owner.

169 (g) The interested person or entity shall agree to close the sale no  
170 later than the date of the intended termination of subsidy for the  
171 development.

172 (h) The tenant association or one or more tenants or the interested  
173 person or entity may bring a civil action for injunctive relief against an  
174 owner who has violated the provisions of sections 1 to 4, inclusive, of  
175 this act. In such action, the court may award a civil penalty to each  
176 tenant in the amount of five hundred dollars, in addition to reasonable  
177 attorney's fees and costs incurred in bringing the action. This  
178 subsection shall not limit any other rights or remedies available to  
179 persons entitled to receive notice or to purchase under sections 1 to 4,  
180 inclusive, of this act.

181 Sec. 4. (NEW) (*Effective October 1, 2003*) (a) The owner shall provide  
182 no less than the lease extension and relocation assistance specified in  
183 this section to all tenants in occupancy on the date that the notice of  
184 intended termination of subsidy of the development is given pursuant  
185 to section 2 of this act or who enter into occupancy after that date but  
186 prior to the termination of subsidy for the development:

187 (1) Offer to each tenant a lease extension or extensions for a period  
188 of at least one year from the date of the mailing of the notice of the  
189 offer to sell or until the date of intended termination of subsidy for the  
190 development, whichever is later. The amount of rent for which the  
191 tenant shall be liable during such extended lease term shall not exceed  
192 the amount required to be contributed to the tenant under the prior  
193 lease pursuant to the federal program as of the day preceding the date  
194 of the mailing of such notice. All the terms, conditions and procedures  
195 governing the extended lease shall be the same as the lease in effect on  
196 the day preceding the giving of notice of offer to sell.

197 (2) Pay each tenant the sum of two thousand dollars no later than  
198 the date on which the tenant vacates the unit. Such payments shall not



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Department of Economic & Community Development	GF/GO Bond Funds - Cost	Potential Significant	Potential Significant
CT. Housing Finance Authority (quasi-public)	Revenue Bond Funds - Cost	Potential Significant	Potential Significant

Note: GF=General Fund

**Municipal Impact:** Minimal

**Explanation**

Requiring the Department of Economic and Community Development (DECD) and the Connecticut Housing Finance Authority (CHFA) to assist tenant associations to develop financing to purchase housing developments would increase costs to the state and CHFA. There are approximately 500 housing developments containing approximately 20,000 units that could be impacted statewide. It is estimated that DECD would require a .5 FTE per project at a cost of approximately \$40,000. Thirty-six housing developments of the five hundred, are specifically under DECD's their jurisdiction. The exact impact would depend on the number of projects which are unknown at this time. It is anticipated that costs to CHFA could be in the hundreds of thousands of dollars per project. The actual costs of providing financing for the acquisition of any of the developments is estimated at \$125,000 to \$150,000 per unit.

Any filing or notifications to impacted municipalities is anticipated to result in a minimal workload increase.

**OLR Bill Analysis**

sHB 6516

**AN ACT CONCERNING THE PRESERVATION OF FEDERALLY-ASSISTED HOUSING****SUMMARY:**

This bill requires owners of housing developments that (1) received government assistance under certain Department of Housing and Urban Development (HUD) programs and (2) intend to stop making their rental units affordable to low- and moderate-income people to:

1. provide lease extensions and relocation assistance (i.e., payments) to tenants, including those receiving federal Section 8 vouchers;
2. notify tenants and various entities two years before terminating a subsidy for the development of their right to first refusal to purchase the development; and
3. notify tenants and various entities one year before an intended termination of subsidy, including a detailed offer to sell.

The bill invalidates the termination of a development's subsidy when an owner fails to provide and file the notice it requires and subjects violators to civil action. Under the bill, an owner is an individual, partnership, corporation, association, joint venture, or business entity with a HUD contract for a mortgage, mortgage assistance, mortgage insurance, or rent subsidy, and includes any person or entity that receives rent for the development.

EFFECTIVE DATE: October 1, 2003

**LEASE EXTENSION AND RELOCATION ASSISTANCE**

The bill requires owners to send notice to tenants and other entities (1) two years before terminating a development's subsidy that, among other things informs the tenants of their right to first refusal to purchase and (2) one year before the termination with an offer to sell.

It requires owners to provide, at least, lease extensions and relocation assistance to all tenants occupying assisted units when they send the notice. They must also offer people who become tenants after the notice is sent, but before the subsidy ends, an extension and relocation assistance.

Terminating a development's subsidy under the bill means (1) selling, transferring title, leasing, prepaying a HUD insured loan, or taking other action that would end the financial assistance that makes rental units affordable to low- and moderate-income people or (2) an owner's decision (a) not to extend or renew participation in a federal subsidy program either when or before the program contract expires; (b) to terminate a development's rental restrictions, which may result in rent increases; or (c) to change from a project-based subsidy to a tenant-based subsidy (e.g., from a HUD mortgage to Section 8 vouchers).

A "tenant" is a tenant, subtenant, lessee, sublessee, or other person entitled to possession, occupancy, or benefits of a development's rental unit.

### ***Lease Extensions***

The owner must offer each tenant an extension or extensions for at least one year from the date he notifies them of the offer to sell or until the intended subsidy termination date, whichever is later.

The bill requires the tenant's rent contribution and the terms, conditions, and procedures of the extended lease to be the same as they were under the development's federal subsidy program the day before the notice was sent.

### ***Relocation Assistance***

The owner must pay each tenant \$2,000 in relocation assistance no later than the day the tenant vacates the unit. The bill specifies that the payment is not considered income to the tenant.

The lease extension and payment are in addition to any other rights or benefits available to the tenants under the bill.

## **REQUIRED NOTICES FROM AN OWNER**

***Notice of Intent to Terminate Subsidy***

At least two years before an owner intends to terminate the subsidy for the development, he must give written notice to:

1. each tenant and tenant association,
2. the chief executive officer of the town where the development is located,
3. the executive director of the housing authority where the development is located,
4. the Connecticut Housing Finance Authority's (CHFA) executive director,
5. the Department of Economic and Community Development (DECD) commissioner, and
6. the Connecticut Housing Coalition's executive director.

The notice must:

1. describe what the owner intends to do (e.g., sell) and inform tenants that they have the right of first refusal to purchase the property,
2. inform tenants of their right to a lease extension and relocation assistance if the development subsidy is terminated,
3. identify the number of units that will no longer be subject to federal program restrictions,
4. include estimated rents once the subsidy is terminated as compared to the subsidized rents, and
5. include the action that the owner will take to help displaced tenants obtain other housing.

The notice must be sent by first class mail or hand delivered, posted in a common area of the development accessible to the tenants, and filed

in the land records of the municipality where the development is located.

***CHFA and DECD Responsibilities***

CHFA and DECD must assist a tenant association that asks to develop financing to purchase the development. Under the bill, a tenant association is an association, organization, or other entity that represents a development's tenants, including a nonprofit corporation that at least 25% of the development's tenants designate to help them purchase or acquire the development or a cooperative. A cooperative is a common interest community where an association owns the real property and each association member has ownership interest and is therefore entitled to the exclusive possession of a unit.

***Notice of Offer to Sell***

At least one year before an owner intends to terminate the development's subsidy, he must provide each person or entity to whom he had to give the two-years notice a written copy of a bona fide offer to sell. He must mail it first class or hand deliver it and post a copy in a conspicuous, common area of the development for all to see.

***Owner's Offer to Sell***

The offer to sell includes the following essential sale terms:

1. the sale price;
2. terms of seller financing and assumable financing , including for each, the amount, interest rate, and rate at which it will be paid off; and
3. any proposed property improvements or other economic concessions that the owner will make in connection with the sale.

The offer to sell must also contain a statement that the following people or entities, in order of priority, have the right to purchase the development to preserve it as affordable housing:

1. a tenant association representing at least 25% of the

- development's tenants,
2. a nonprofit corporation designated by at least 25% of the development's tenants to help purchase or acquire the development,
  3. any other nonprofit corporation,
  4. the housing authority in the town where the development is located,
  5. the town where the development is located,
  6. CHFA, or
  7. DECD.

## **SALES BEFORE SUBSIDY TERMINATION**

### ***Notice of Intent to Purchase and Owner's Documentation***

A person or entity listed above that intends to purchase the development must notify the owner in writing at least 240 days before the intended termination of subsidy date. After receiving this notice, the owner must comply with reasonable requests to make documents available (1) during normal business hours, (2) at the owner's principal place of business, and (3) no later than 30 days after the owner receives the request notice.

The documents that the owner must provide include:

1. the development's floor plan;
2. an itemized list of monthly operating expenses;
3. the development's capital expenditures and vacancy rate from each of the two preceding calendar years along with deferred maintenance costs;
4. the amount of project reserves;
5. utility consumption rate;

6. copies of financial and physical inspection reports filed with federal, state, and local agencies;
7. the most recent rent rolls; and
8. a list of current tenants and vacancies.

### ***Offer to Purchase***

An interested person or entity must provide the owner with a bona fide purchase offer at least 120 days before the intended termination of subsidy date. The offer must include (1) a purchase contract listing the sale price and any terms agreed to by the parties or (2) the sale price, terms of the contract, and a deposit equal to 5% of the bona fide purchase offer.

### ***Purchase Price Disagreement***

When the parties cannot agree to a purchase price, the interested person or entity has the right to purchase the development if (1) it can match the essential provisions of another existing bona fide offer that the owner is prepared to accept or (2) there is no other bona fide offer and the owner and interested party agree on an appraiser to determine a price. If they cannot agree on an appraiser, they follow an alternative procedure.

Under the alternative procedure, either side may notify CHFA and the other party of the disagreement in writing. Each party then chooses an appraiser and those two appraisers in turn choose a third. CHFA chooses the appraiser for any party that has not chosen one 15 days after the notice was mailed. The three appraisers then establish the development's value. The costs of all of the appraisers are paid equally by both sides.

### ***Closing the Sale***

The interested person or entity must agree to close the sale no later than the date that the owner intended to terminate the development's subsidy.

## **VIOLATIONS**

Any tenant, tenant association, or other person or entity eligible to buy the development may ask a court for an injunction against an owner that violates any provision of the bill. The court may award a \$500 civil penalty to each tenant, plus reasonable attorney's fees and legal costs. Bringing an action does not limit the rights or remedies available to those the bill entitles to receive notice or to purchase.

The bill also invalidates a termination of subsidy when the two-year notice is not provided and filed as required. (But the bill does not explain what invalidation means.)

## **APPLICABLE HUD PROGRAMS**

### ***Developments***

The bill covers rental housing developments that received government assistance from any of the following federal programs, including any property held by HUD that was previously insured under them:

1. new construction, substantial rehabilitation, moderate rehabilitation, property disposition, loan management set-aside program, and any other program that provides project-based assistance under the Section 8 voucher program;
2. the Below Market Interest Rate Program (12 USC § 1715l (d)(3), (5));
3. rental and cooperative housing for lower income families (12 USC § 1715z-1);
4. supportive housing for the elderly (12 USC § 1701q),
5. rent supplement programs for qualified lower income families (12 USC § 1701s);
6. housing and related facilities for elderly, handicapped, low- and moderate-income people and families, or other low-income people and families in rural areas (42 USC § 1484); and
7. the Low Income Housing Tax Credit program (26 USC § 42).

## **COMMITTEE ACTION**

Housing Committee

Joint Favorable Substitute Change of Reference

Yea 9 Nay 4

Planning and Development Committee

Joint Favorable Report

Yea 11 Nay 5