



Senate

General Assembly

File No. 112

February Session, 2006

Senate Bill No. 545

Senate, March 23, 2006

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING HOUSING PRESERVATION.

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

1 Section 1. (NEW) (*Effective July 1, 2006, and applicable to any*
2 *termination of subsidy for the rental housing development occurring on or*
3 *after July 1, 2007*) As used in sections 2 and 3 of this act:

4 (1) "Development" means a rental housing development that
5 receives government assistance under any covered program, including
6 any property whose mortgage is held by the United States Department
7 of Housing and Urban Development and was formerly insured under
8 any covered program but excluding the foreclosure of a development
9 by an applicable agency.

10 (2) "Covered program" means:

11 (A) New construction, substantial rehabilitation, moderate
12 rehabilitation, property disposition and loan management set-aside
13 programs or any other program providing project-based assistance

14 under Section 8 of the United States Housing Act of 1937, as from time
15 to time amended;

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

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

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

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

22 (F) Programs under Section 515 of the Housing Act of 1949, 42 USC
23 1485;

24 (G) Programs under Section 521 of the Housing Act of 1949, 42 USC
25 1490a; or

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

27 (3) "Applicable agency" means any governmental agency that
28 administers a covered program.

29 (4) "Assisted unit" means a dwelling unit in a development,
30 including a cooperative, that is receiving assistance pursuant to a
31 covered program.

32 (5) "Owner" means an individual, partnership, corporation,
33 association, joint venture or business entity that owns or controls a
34 development or any successor in interest of such individual,
35 partnership, corporation, association, joint venture or business entity.

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

39 (7) "Tenant association" means an association, organization or other
40 entity that represents tenants in a development, including, but not

41 limited to, an association that is incorporated as a nonprofit
42 corporation or a cooperative.

43 (8) "Cooperative" shall have the same meaning as in subdivision (10)
44 of section 47-202 of the general statutes. For purposes of sections 2 and
45 3 of this act, a cooperative shall be deemed to be a rental housing
46 development, and the terms "rent" and "rental" shall include
47 occupancy payments made by a member of a cooperative, and the
48 term "tenants" shall include residents of a cooperative.

49 (9) "Low and moderate income household" means any household
50 with an adjusted gross income that satisfies the occupancy
51 requirements for income-restricted units in the development existing
52 before termination of subsidy for the development.

53 (10) "Termination of subsidy for the development" or "termination
54 of subsidy" means: (A) Any sale, transfer of title, lease or prepayment
55 of a loan that was made pursuant to a covered program with respect to
56 a development that would result in the cessation or reduction of the
57 financial assistance or regulatory requirements designed to make the
58 assisted unit affordable to low and moderate income households; (B)
59 an owner's decision not to extend or renew its contractual participation
60 in a covered program, either at or prior to the scheduled date of the
61 expiration of the contract; or (C) the expiration of restrictions for a
62 development that may result in an increase in tenant rent or a change
63 in the form of the subsidy from project-based to tenant-based.

64 (11) "Affordability preservation transaction" means a transaction
65 described in section 3 of this act.

66 Sec. 2. (NEW) *(Effective July 1, 2006, and applicable to any termination of*
67 *subsidy for the rental housing development occurring on or after July 1, 2007)*
68 On and after July 1, 2006, any owner of a development shall, not later
69 than one year before the termination of subsidy for the development,
70 provide written notice of the owner's intent to terminate the subsidy.
71 Such notice shall be sent by first class mail or hand-delivered to (1)
72 each tenant residing in the development, (2) each tenant association

73 representing tenants in the development, (3) the executive director of
74 any housing authority of the municipality in which the development is
75 located, (4) the chief executive officer of the municipality in which the
76 development is located, (5) the executive director of the Connecticut
77 Housing Finance Authority, (6) the Commissioner of Economic and
78 Community Development, and (7) the executive director of the
79 Connecticut Housing Coalition. The notice shall be posted in a
80 conspicuous common area of the development accessible to the
81 tenants. A copy of the notice shall be filed in the land records of the
82 municipality in which the development is located.

83 Sec. 3. (NEW) (*Effective July 1, 2006, and applicable to any termination of*
84 *subsidy for the development occurring on or after July 1, 2007*) The
85 provisions of sections 1 to 3, inclusive, of this act shall not apply to an
86 affordability preservation transaction undertaken by the owner in
87 connection with the refinancing of such a development's governmental
88 program mortgage, or undertaken by a buyer in connection with the
89 sale, transfer or other disposition of such a development by contract or
90 agreement with a proposed new mortgage lender or equity investor, or
91 with the United States Department of Housing and Urban
92 Development, the Connecticut Housing Finance Authority, the
93 Department of Economic and Community Development or any other
94 governmental agency or body, provided the contract or agreement
95 requires the owner or buyer and owner's or buyer's respective
96 successors and assigns to comply with all of the following affordability
97 preservation criteria contained in a regulatory agreement that has been
98 recorded against the property:

99 (1) To maintain the development as low and moderate income
100 housing on terms at least as advantageous to existing and future
101 tenants as the terms required by the affected development's
102 governmental program in effect before the date of notice required by
103 section 2 of this act for a period of time at least as long as what the
104 remaining term of the governmental program would have been but for
105 the termination of subsidy or for a period of time not less than twenty
106 years after the date of the termination of subsidy, whichever is greater;

107 (2) To maintain at least as many dwelling units as low and moderate
 108 income housing as were required to be affordable to such households
 109 under the governmental program in effect prior to the termination of
 110 subsidy for a period of time not less than twenty years after the date of
 111 the termination of subsidy; and

112 (3) To maintain as rental subsidy program units such number of
 113 units as were required to be subsidy program units under the contract
 114 for the rental subsidy program in effect prior to the termination of
 115 subsidy for a period of time not less than twenty years after the date of
 116 the termination of subsidy, subject to the existence of a rental subsidy
 117 program.

118 Sec. 4. Section 8-68c of the general statutes is repealed. (*Effective July*
 119 *1, 2006, and applicable to any termination of subsidy for the development*
 120 *occurring on or after July 1, 2007*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006, and applicable to any termination of subsidy for the rental housing development occurring on or after July 1, 2007</i>	New section
Sec. 2	<i>July 1, 2006, and applicable to any termination of subsidy for the rental housing development occurring on or after July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2006, and applicable to any termination of subsidy for the development occurring on or after July 1, 2007</i>	New section

Sec. 4	<i>July 1, 2006, and applicable to any termination of subsidy for the development occurring on or after July 1, 2007</i>	Repealer section
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PD *Joint Favorable*

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: None

Municipal Impact: None

Explanation

The bill expands notice provisions to certain property owners and has no fiscal impact to the state or municipalities.

The Out Years

None

OLR BILL ANALYSIS**SB 545*****AN ACT CONCERNING HOUSING PRESERVATION.*****SUMMARY:**

By law, owners of federally subsidized housing projects must notify tenants and other parties before they prepay the project's mortgage, which could remove restrictions making some or all of the units affordable to low- and moderate-income people. This bill (1) expands the range of events subject to this notification requirement, (2) broadens the types of federal programs subject to the requirement, and (3) requires owners to notify more parties. But it also exempts owners from giving notice for certain transactions if the project remains affordable to low- and moderate-income people.

EFFECTIVE DATE: July 1, 2006 and applicable to any action terminating a housing project's subsidy occurring on or after July 1, 2007

EVENTS REQUIRING NOTIFICATION

An owner must notify the specified parties at least one year before an event that could end the project's federal subsidy if:

1. he decides to sell or lease the project, transfer its title, or prepay a federally insured loan if the outcome ends or reduces federal requirements intended to make the units affordable to low- and moderate-income people;
2. he decides not to extend or renew the contract under which the federal program subsidizes the project, including decisions made at or before the contract's expiration date; or

3. federal rent restrictions expire, which could lead to rent increases. The owner must also give notice if the subsidy changes from a “project-based subsidy” to a “tenant-based subsidy.” (Project-based subsidies are those that keep rents down by reducing the owner’s cost of developing and operating the project. Tenant-based subsidies are those that go pay a portion of the tenant’s rent.)

FEDERAL PROJECTS AFFECTED

The bill increases the types of federally subsidized rental and cooperative housing projects whose owners must notify tenants and other parties before an event that could remove federal restrictions. Under current law, an owner must give notice if the project’s mortgage was guaranteed under the following programs:

1. Below Market Interest Rate Program (12 USC § 1715l (d) (3), (5));
2. rental and cooperative housing for lower-income families (12 USC 1715z-1); and
3. 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 § 1485).

The bill extends the notice requirement to projects that were subsidized under the following programs:

1. project-based subsidies under Section 8 of the 1937 U.S. Housing Act (42 USC § 1437 et seq.);
2. supportive housing for the elderly (12 USC § 1701q);
3. rent supplement programs for qualified lower-income families (12 USC § 1701s);
4. rural rental assistance payments (42 USC 1490a); and
5. Low Income Housing Tax Credit Program (26 USC § 42).

PARTIES TO BE NOTICED

The bill requires owners to notify more parties. Current law requires them to give written notice to the tenants of the affected project, the chief executive officer of the town where it is located, and the economic and community development commissioner. The bill also requires owners to notify each tenant association in the project, the executive director of the town's housing authority, and the executive directors of the Connecticut Housing Finance Authority and the Connecticut Housing Coalition. He must hand the notice to each party or send it to them by first-class mail.

ACTIONS EXEMPTED FROM NOTIFICATION

The bill exempts owners from the notification requirement for transactions under which the project remains affordable to low- and moderate-income people (i.e., "affordability preservation transactions"). An owner does not have to give notice when he refinances a project's federally subsidized mortgage. Nor does he have to give notice if a party acquires the project under a contract or agreement with a new mortgage lender, equity investor, U.S. Department of Housing and Urban Development, Connecticut Housing Finance Authority, Department of Economic and Community Development, and any other government agency.

In both cases, the exemption applies only if the contract governing the transaction requires the owner or buyer and their respective successors and assigns to comply with the certain assurances, which must be specified in a regulatory agreement recorded against the property. The agreement must stipulate these requirements:

1. It must require the owner or buyer to maintain the project as low- and moderate-income housing. The terms under which they must do so must be at least as advantageous to the current and future tenants as those that were imposed by the program that subsidized the project and that were still in effect one year before the subsidy ended. The terms must remain in effect for

the greater of two time periods: the period that is at least as long as the period remaining under the program if it continued subsidizing the project, or 20 years after the subsidy's termination date.

2. The owner or buyer must maintain at least the same number of low- and moderate-income units that the program required before the subsidy ended.
3. If the project receives a rent subsidy, the number of subsidized units must at least equal the number of units that were subsidized under the program before the project's initial subsidy expired. The owner or buyer must maintain that number for at least 20 years from the date after the subsidy ended.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 16 Nay 0 (03/13/2006)