



General Assembly

January Session, 2007

Committee Bill No. 6645

LCO No. 4629

04629HB06645HSG

Referred to Committee on Select Committee on Housing

Introduced by:
(HSG)

AN ACT CONCERNING THE PROMOTION OF SMART GROWTH AND AFFORDABLE HOUSING.

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

1 Section 1. Section 12-494 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) There is imposed a tax on each deed, instrument or writing,
4 whereby any lands, tenements or other realty is granted, assigned,
5 transferred or otherwise conveyed to, or vested in, the purchaser, or
6 any other person by his direction, when the consideration for the
7 interest or property conveyed equals or exceeds two thousand dollars,
8 (1) subject to the provisions of subsection (b) of this section, at the rate
9 of five-tenths of one per cent of the consideration for the interest in real
10 property conveyed by such deed, instrument or writing, the revenue
11 from which shall be remitted by the town clerk of the municipality in
12 which such tax is paid, not later than ten days following receipt
13 thereof, to the Commissioner of Revenue Services for deposit to the
14 credit of the state General Fund, and (2) at the rate of one-fourth of one
15 per cent of the consideration for the interest in real property conveyed
16 by such deed, instrument or writing, and on and after July 1, 2007, at

17 the rate of eleven one-hundredths of one per cent of the consideration
18 for the interest in real property conveyed by such deed, instrument or
19 writing, provided the amount imposed under this subdivision shall
20 become part of the general revenue of the municipality in accordance
21 with section 12-499.

22 (b) The rate of tax imposed under subdivision (1) of subsection (a) of
23 this section shall, in lieu of the rate under said subdivision (1), be
24 imposed on certain conveyances as follows: (1) In the case of any
25 conveyance of real property which at the time of such conveyance is
26 used for any purpose other than residential use, except unimproved
27 land, the tax under said subdivision (1) shall be imposed at the rate of
28 one per cent of the consideration for the interest in real property
29 conveyed; (2) in the case of any conveyance in which the real property
30 conveyed is a residential estate, including a primary dwelling and any
31 auxiliary housing or structures, regardless of the number of deeds,
32 instruments or writings used to convey such residential real estate, for
33 which the consideration or aggregate consideration, as the case may
34 be, in such conveyance is eight hundred thousand dollars or more, the
35 tax under said subdivision (1) shall be imposed (A) at the rate of one-
36 half of one per cent on that portion of such consideration up to and
37 including the amount of eight hundred thousand dollars, and (B) at the
38 rate of one per cent on that portion of such consideration in excess of
39 eight hundred thousand dollars; and (3) in the case of any conveyance
40 in which real property on which mortgage payments have been
41 delinquent for not less than six months is conveyed to a financial
42 institution or its subsidiary which holds such a delinquent mortgage
43 on such property, the tax under said subdivision (1) shall be imposed
44 at the rate of one-half of one per cent of the consideration for the
45 interest in real property conveyed.

46 (c) In addition to the tax imposed under subsection (a) of this
47 section, any targeted investment community, as defined in section 32-
48 222, or any municipality in which properties designated as
49 manufacturing plants under section 32-75c are located, may, on or after

50 March 15, 2003, impose an additional tax on each deed, instrument or
51 writing, whereby any lands, tenements or other realty is granted,
52 assigned, transferred or otherwise conveyed to, or vested in, the
53 purchaser, or any other person by his direction, when the
54 consideration for the interest or property conveyed equals or exceeds
55 two thousand dollars, which additional tax shall be at a rate of up to
56 one-fourth of one per cent of the consideration for the interest in real
57 property conveyed by such deed, instrument or writing. The revenue
58 from such additional tax shall become part of the general revenue of
59 the municipality in accordance with section 12-499.

60 (d) Notwithstanding the provisions of subsection (b) of this section,
61 in any municipality meeting the criteria for affordable housing
62 provided for in subsection (k) of section 8-30g, as amended by this act,
63 the rate of tax imposed under subdivision (1) of subsection (a) of this
64 section shall, in lieu of the rate under said subdivision (1), be imposed
65 on certain conveyances as follows: Subject to the provisions of
66 subsection (b) of this section, at the rate of one-quarter of one per cent
67 of the consideration for the interest in real property conveyed by any
68 deed, instrument or writing.

69 (e) Notwithstanding the provisions of subsection (b) of this section,
70 any municipality that does not meet the criteria for affordable housing
71 provided for in subsection (k) of section 8-30g, as amended by this act,
72 shall continue to receive the revenue under subdivision (1) of
73 subsection (a) of this section only if such revenue is used to promote
74 affordable housing in accordance with this subsection. Such
75 municipality shall continue to receive such revenue upon approval of
76 the Commissioner of Economic and Community Development of a
77 plan submitted by the municipality for the use of such funds. The plan
78 may include, but is not limited to, provisions for (1) adoption of an
79 ordinance by the legislative body under section 12-81bb providing
80 property tax credits for affordable housing deed restrictions, (2)
81 awarding of grants and loans for the development of affordable
82 housing in the municipality, (3) joint agreements with other

83 municipalities for the development of affordable housing, and (4)
84 guidelines for development of affordable housing, which may include
85 a right of first refusal for residents of the municipal and priority for
86 municipal employees, police, firefighters and teachers.

87 Sec. 2. Section 12-499 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective July 1, 2007*):

89 The tax imposed by section 12-494, as amended by this act, and the
90 revenues produced thereby shall, after remitting the portion thereof
91 payable to the Commissioner of Revenue Services as provided in said
92 section 12-494, become part of the general revenue of the municipality
93 in which the tax is paid except that [,] (1) in municipalities where the
94 town clerk is paid from fees, such town clerk shall retain one dollar of
95 the tax for each deed, instrument or writing recorded, the value of the
96 property or interest of which is two thousand dollars or more, and (2)
97 any municipality receiving revenue under subsection (e) of said section
98 12-494, shall establish a special fund under section 3 of this act for
99 deposit of such revenue. Each town clerk shall remit at least monthly
100 all revenues due to the municipality under this chapter.

101 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) Any municipality, by vote of
102 its legislative body, may establish a special fund, which shall be known
103 as the Affordable Housing Fund. There shall be deposited in said fund
104 (1) all moneys received by the municipality under subsection (e) of
105 section 12-494 of the general statutes, as amended by this act; (2) all
106 moneys received by the municipality, from whatever source and by
107 whatever means, as grants or loans for affordable housing purposes;
108 and (3) all moneys appropriated to said fund by the municipality.

109 (b) Said fund shall be in the custody of the treasurer or other officer
110 in charge of funds of the municipality. All or any part of the moneys in
111 said fund may, from time to time, be invested in any securities in
112 which public funds may lawfully be invested. All income derived from
113 such investments shall be paid into the fund and become a part
114 thereof. The moneys so invested shall at all times be subject to

115 withdrawal from such investment for use as provided in subsection (e)
116 of section 12-494 of the general statutes, as amended by this act.

117 (c) Annually, the treasurer or other officer having custody of said
118 fund shall submit to the legislative body of the municipality a
119 complete and detailed report of the condition of said fund, which
120 report shall be made a part of the annual municipal report.

121 (d) Upon authorization of the body in such municipality having the
122 power of appropriation, the moneys in said fund may be used by the
123 municipality for activities pursuant to the plan approved by the
124 Commissioner of Economic and Community Development under
125 subsection (e) of section 12-494 of the general statutes, as amended by
126 this act. Any funds not used for affordable housing activities pursuant
127 to such plan shall be paid to the regional planning organization in the
128 planning region in which the municipality is located and distributed
129 by such regional planning organization equally to each municipality
130 that is a member of the regional planning for use solely for affordable
131 housing activities.

132 Sec. 4. Section 8-30g of the general statutes is repealed and the
133 following is substituted in lieu thereof (*Effective October 1, 2007*):

134 (a) As used in this section:

135 (1) "Affordable housing development" means a proposed housing
136 development which is (A) assisted housing, or (B) a set-aside
137 development, except that an application for a housing development on
138 land that has a net land area of less than two acres shall not be an
139 affordable housing development unless the total number of proposed
140 housing units is not more than the maximum number of housing that
141 would have been permitted on land under the zoning regulation
142 applicable to the land during the three years immediately preceding
143 the filing of the application;

144 (2) "Affordable housing application" means any application made to

145 a commission in connection with an affordable housing development
146 by a person who proposes to develop such affordable housing;

147 (3) "Assisted housing" means housing which is receiving, or will
148 receive, financial assistance under any governmental program for the
149 construction or substantial rehabilitation of low and moderate income
150 housing, and any housing occupied by persons receiving rental
151 assistance under chapter 319uu or Section 1437f of Title 42 of the
152 United States Code;

153 (4) "Commission" means a zoning commission, planning
154 commission, planning and zoning commission, zoning board of
155 appeals or municipal agency exercising zoning or planning authority;

156 (5) "Municipality" means any town, city or borough, whether
157 consolidated or unconsolidated;

158 (6) "Set-aside development" means a development in which not less
159 than thirty per cent of the dwelling units will be conveyed by deeds
160 containing covenants or restrictions which shall require that, for at
161 least forty years after the initial occupation of the proposed
162 development, such dwelling units shall be sold or rented at, or below,
163 prices which will preserve the units as housing for which persons and
164 families pay thirty per cent or less of their annual income, where such
165 income is less than or equal to eighty per cent of the median income. In
166 a set-aside development, of the dwelling units conveyed by deeds
167 containing covenants or restrictions, a number of dwelling units equal
168 to not less than fifteen per cent of all dwelling units in the
169 development shall be sold or rented to persons and families whose
170 income is less than or equal to sixty per cent of the median income and
171 the remainder of the dwelling units conveyed by deeds containing
172 covenants or restrictions shall be sold or rented to persons and families
173 whose income is less than or equal to eighty per cent of the median
174 income;

175 (7) "Median income" means, after adjustments for family size, the

176 lesser of the state median income or the area median income for the
177 area in which the municipality containing the affordable housing
178 development is located, as determined by the United States
179 Department of Housing and Urban Development; [and]

180 (8) "Commissioner" means the Commissioner of Economic and
181 Community Development; and

182 (9) "Net land area" means the total area of a parcel of land not
183 including (A) wetland, as defined in section 22a-29, (B) wetlands and
184 watercourses, as defined in section 22a-38, and (C) land with slopes in
185 excess of twenty-five per cent.

186 (b) (1) Any person filing an affordable housing application with a
187 commission shall submit, as part of the application, an affordability
188 plan which shall include at least the following: (A) Designation of the
189 person, entity or agency that will be responsible for the duration of any
190 affordability restrictions, for the administration of the affordability
191 plan and its compliance with the income limits and sale price or rental
192 restrictions of this chapter; (B) an affirmative fair housing marketing
193 plan governing the sale or rental of all dwelling units; (C) a sample
194 calculation of the maximum sales prices or rents of the intended
195 affordable dwelling units; (D) a description of the projected sequence
196 in which, within a set-aside development, the affordable dwelling
197 units will be built and offered for occupancy and the general location
198 of such units within the proposed development; and (E) [draft zoning
199 regulations,] conditions of approvals, deeds, restrictive covenants or
200 lease provisions that will govern the affordable dwelling units.

201 (2) The commissioner shall, within available appropriations, adopt
202 regulations pursuant to chapter 54 regarding the affordability plan.
203 Such regulations may include additional criteria for preparing an
204 affordability plan and shall include: (A) A formula for determining
205 rent levels and sale prices, including establishing maximum allowable
206 down payments to be used in the calculation of maximum allowable
207 sales prices; (B) a clarification of the costs that are to be included when

208 calculating maximum allowed rents and sale prices; (C) a clarification
209 as to how family size and bedroom counts are to be equated in
210 establishing maximum rental and sale prices for the affordable units;
211 and (D) a listing of the considerations to be included in the
212 computation of income under this section.

213 (c) Any commission, by regulation, may require that an affordable
214 housing application seeking a change of zone shall include the
215 submission of a conceptual site plan describing the proposed
216 development's total number of residential units and their arrangement
217 on the property and the proposed development's roads and traffic
218 circulation, sewage disposal and water supply.

219 (d) For any affordable dwelling unit that is rented as part of a set-
220 aside development, if the maximum monthly housing cost, as
221 calculated in accordance with subdivision (6) of subsection (a) of this
222 section, would exceed one hundred per cent of the Section 8 fair
223 market rent as determined by the United States Department of
224 Housing and Urban Development, in the case of units set aside for
225 persons and families whose income is less than or equal to sixty per
226 cent of median income, then such maximum monthly housing cost
227 shall not exceed one hundred per cent of said Section 8 fair market
228 rent. If the maximum monthly housing cost, as calculated in
229 accordance with subdivision (6) of subsection (a) of this section, would
230 exceed one hundred twenty per cent of the Section 8 fair market rent,
231 as determined by the United States Department of Housing and Urban
232 Development, in the case of units set aside for persons and families
233 whose income is less than or equal to eighty per cent of median
234 income, then such maximum monthly housing cost shall not exceed
235 one hundred twenty per cent of such Section 8 fair market rent.

236 (e) For any affordable dwelling unit that is rented in order to
237 comply with the requirements of a set-aside development, no person
238 shall impose on a prospective tenant who is receiving governmental
239 rental assistance a maximum percentage-of-income-for-housing

240 requirement that is more restrictive than the requirement, if any,
241 imposed by such governmental assistance program.

242 (f) Any person whose affordable housing application is denied or is
243 approved with restrictions which have a substantial adverse impact on
244 the viability of the affordable housing development or the degree of
245 affordability of the affordable dwelling units in a set-aside
246 development, may appeal such decision pursuant to the procedures of
247 this section. Such appeal shall be filed within the time period for filing
248 appeals as set forth in section 8-8, 8-9, 8-28, 8-30 or 8-30a, as applicable,
249 and shall be made returnable to the superior court for the judicial
250 district where the real property which is the subject of the application
251 is located. Affordable housing appeals, including pretrial motions,
252 shall be heard by a judge assigned by the Chief Court Administrator to
253 hear such appeals. To the extent practicable, efforts shall be made to
254 assign such cases to a small number of judges, sitting in geographically
255 diverse parts of the state, so that a consistent body of expertise can be
256 developed. Unless otherwise ordered by the Chief Court
257 Administrator, such appeals, including pretrial motions, shall be heard
258 by such assigned judges in the judicial district in which such judge is
259 sitting. Appeals taken pursuant to this subsection shall be privileged
260 cases to be heard by the court as soon after the return day as is
261 practicable. Except as otherwise provided in this section, appeals
262 involving an affordable housing application shall proceed in
263 conformance with the provisions of said section 8-8, 8-9, 8-28, 8-30 or 8-
264 30a, as applicable.

265 (g) Upon an appeal taken under subsection (f) of this section, the
266 burden shall be on the commission to prove, based upon the evidence
267 in the record compiled before such commission that the decision from
268 which such appeal is taken and the reasons cited for such decision are
269 supported by sufficient evidence in the record. The commission shall
270 also have the burden to prove, based upon the evidence in the record
271 compiled before such commission, that (1) (A) the decision is necessary
272 to protect substantial public interests in health, safety, or other matters

273 which the commission may legally consider; (B) such public interests
274 clearly outweigh the need for affordable housing; and (C) such public
275 interests cannot be protected by reasonable changes to the affordable
276 housing development, or (2) (A) the application which was the subject
277 of the decision from which such appeal was taken would locate
278 affordable housing in an area which is zoned for industrial use and
279 which does not permit residential uses, and (B) the development is not
280 assisted housing, as defined in subsection (a) of this section. If the
281 commission does not satisfy its burden of proof under this subsection,
282 the court shall wholly or partly revise, modify, remand or reverse the
283 decision from which the appeal was taken in a manner consistent with
284 the evidence in the record before it.

285 (h) Following a decision by a commission to reject an affordable
286 housing application or to approve an application with restrictions
287 which have a substantial adverse impact on the viability of the
288 affordable housing development or the degree of affordability of the
289 affordable dwelling units, the applicant may, within the period for
290 filing an appeal of such decision, submit to the commission a proposed
291 modification of its proposal responding to some or all of the objections
292 or restrictions articulated by the commission, which shall be treated as
293 an amendment to the original proposal. The day of receipt of such a
294 modification shall be determined in the same manner as the day of
295 receipt is determined for an original application. The filing of such a
296 proposed modification shall stay the period for filing an appeal from
297 the decision of the commission on the original application. The
298 commission shall hold a public hearing on the proposed modification
299 if it held a public hearing on the original application and may hold a
300 public hearing on the proposed modification if it did not hold a public
301 hearing on the original application. The commission shall render a
302 decision on the proposed modification not later than sixty-five days
303 after the receipt of such proposed modification, provided, if, in
304 connection with a modification submitted under this subsection, the
305 applicant applies for a permit for an activity regulated pursuant to
306 sections 22a-36 to 22a-45, inclusive, and the time for a decision by the

307 commission on such modification under this subsection would lapse
308 prior to the thirty-fifth day after a decision by an inland wetlands and
309 watercourses agency, the time period for decision by the commission
310 on the modification under this subsection shall be extended to thirty-
311 five days after the decision of such agency. The commission shall issue
312 notice of its decision as provided by law. Failure of the commission to
313 render a decision within said sixty-five days or subsequent extension
314 period permitted by this subsection shall constitute a rejection of the
315 proposed modification. Within the time period for filing an appeal on
316 the proposed modification as set forth in section 8-8, 8-9, 8-28, 8-30 or
317 8-30a, as applicable, the applicant may appeal the commission's
318 decision on the original application and the proposed modification in
319 the manner set forth in this section. Nothing in this subsection shall be
320 construed to limit the right of an applicant to appeal the original
321 decision of the commission in the manner set forth in this section
322 without submitting a proposed modification or to limit the issues
323 which may be raised in any appeal under this section. (h) Following a
324 decision by a commission to reject an affordable housing application or
325 to approve an application with restrictions which have a substantial
326 adverse impact on the viability of the affordable housing development
327 or the degree of affordability of the affordable dwelling units, the
328 applicant may, within the period for filing an appeal of such decision,
329 submit to the commission a proposed modification of its proposal
330 responding to some or all of the objections or restrictions articulated by
331 the commission, which shall be treated as an amendment to the
332 original proposal. The day of receipt of such a modification shall be
333 determined in the same manner as the day of receipt is determined for
334 an original application. The filing of such a proposed modification
335 shall stay the period for filing an appeal from the decision of the
336 commission on the original application. The commission shall hold a
337 public hearing on the proposed modification if it held a public hearing
338 on the original application and may hold a public hearing on the
339 proposed modification if it did not hold a public hearing on the
340 original application. The commission shall render a decision on the

341 proposed modification not later than sixty-five days after the receipt of
342 such proposed modification, provided, if, in connection with a
343 modification submitted under this subsection, the applicant applies for
344 a permit for an activity regulated pursuant to sections 22a-36 to 22a-45,
345 inclusive, and the time for a decision by the commission on such
346 modification under this subsection would lapse prior to the thirty-fifth
347 day after a decision by an inland wetlands and watercourses agency,
348 the time period for decision by the commission on the modification
349 under this subsection shall be extended to thirty-five days after the
350 decision of such agency. The commission shall issue notice of its
351 decision as provided by law. Failure of the commission to render a
352 decision within said sixty-five days or subsequent extension period
353 permitted by this subsection shall constitute a rejection of the proposed
354 modification. Within the time period for filing an appeal on the
355 proposed modification as set forth in section 8-8, 8-9, 8-28, 8-30 or 8-
356 30a, as applicable, the applicant may appeal the commission's decision
357 on the original application and the proposed modification in the
358 manner set forth in this section. Nothing in this subsection shall be
359 construed to limit the right of an applicant to appeal the original
360 decision of the commission in the manner set forth in this section
361 without submitting a proposed modification or to limit the issues
362 which may be raised in any appeal under this section.

363 (i) Nothing in this section shall be deemed to preclude any right of
364 appeal under the provisions of section 8-8, 8-9, 8-28, 8-30 or 8-30a.

365 (j) A commission or its designated authority shall have, with respect
366 to compliance of an affordable housing development with the
367 provisions of this chapter, the same powers and remedies provided to
368 commissions by section 8-12.

369 (k) Notwithstanding the provisions of subsections (a) to (j),
370 inclusive, of this section, the affordable housing appeals procedure
371 established under this section shall not be available if the real property
372 which is the subject of the application is located in a municipality in

373 which at least ten per cent of all dwelling units in the municipality are
374 (1) assisted housing, or (2) currently financed by Connecticut Housing
375 Finance Authority mortgages, or (3) subject to binding recorded deeds
376 containing covenants or restrictions which require that such dwelling
377 units be sold or rented at, or below, prices which will preserve the
378 units as housing for which persons and families pay thirty per cent or
379 less of income, where such income is less than or equal to eighty per
380 cent of the median income, or (4) mobile manufactured homes located
381 in mobile manufactured home parks or legally-approved accessory
382 apartments, which homes or apartments are subject to binding
383 recorded deeds containing covenants or restrictions which require that
384 such dwelling units be sold or rented at, or below, prices which will
385 preserve the units as housing for which, for a period of not less than
386 ten years, persons and families pay thirty per cent or less of income,
387 where such income is less than or equal to eighty per cent of the
388 median income. The municipalities meeting the criteria set forth in this
389 subsection shall be listed in the report submitted under section 32-1m.
390 As used in this subsection, "accessory apartment" means a separate
391 living unit that (A) is attached to the main living unit of a house, which
392 house has the external appearance of a single-family residence, (B) has
393 a full kitchen, (C) has a square footage that is not more than thirty per
394 cent of the total square footage of the house, (D) has an internal
395 doorway connecting to the main living unit of the house, (E) is not
396 billed separately from such main living unit for utilities, and (F)
397 complies with the building code and health and safety regulations.

398 (l) (1) Notwithstanding the provisions of subsections (a) to (j),
399 inclusive, of this section, the affordable housing appeals procedure
400 established under this section shall not be applicable to an affordable
401 housing application filed with a commission during a moratorium,
402 which shall be the four-year period after (A) a certification of
403 affordable housing project completion issued by the commissioner is
404 published in the Connecticut Law Journal, or (B) after notice of a
405 provisional approval is published pursuant to subdivision (4) of this
406 subsection. Any moratorium that is in effect on October 1, 2002, is

407 extended by one year.

408 (2) Notwithstanding the provisions of this subsection, such
409 moratorium shall not apply to (A) affordable housing applications for
410 assisted housing in which ninety-five per cent of the dwelling units are
411 restricted to persons and families whose income is less than or equal to
412 sixty per cent of median income, (B) other affordable housing
413 applications for assisted housing containing forty or fewer dwelling
414 units, or (C) affordable housing applications which were filed with a
415 commission pursuant to this section prior to the date upon which the
416 moratorium takes effect.

417 (3) Eligible units completed after a moratorium has begun may be
418 counted toward establishing eligibility for a subsequent moratorium.

419 (4) (A) The commissioner shall issue a certificate of affordable
420 housing project completion for the purposes of this subsection upon
421 finding that there has been completed within the municipality one or
422 more affordable housing developments which create housing unit-
423 equivalent points equal to the greater of two per cent of all dwelling
424 units in the municipality, as reported in the most recent United States
425 decennial census, or seventy-five housing unit-equivalent points.

426 (B) A municipality may apply for a certificate of affordable housing
427 project completion pursuant to this subsection by applying in writing
428 to the commissioner, and including documentation showing that the
429 municipality has accumulated the required number of points within
430 the applicable time period. Such documentation shall include the
431 location of each dwelling unit being counted, the number of points
432 each dwelling unit has been assigned, and the reason, pursuant to this
433 subsection, for assigning such points to such dwelling unit. Upon
434 receipt of such application, the commissioner shall promptly cause a
435 notice of the filing of the application to be published in the Connecticut
436 Law Journal, stating that public comment on such application shall be
437 accepted by the commissioner for a period of thirty days after the
438 publication of such notice. Not later than ninety days after the receipt

439 of such application, the commissioner shall either approve or reject
440 such application. Such approval or rejection shall be accompanied by a
441 written statement of the reasons for approval or rejection, pursuant to
442 the provisions of this subsection. If the application is approved, the
443 commissioner shall promptly cause a certificate of affordable housing
444 project completion to be published in the Connecticut Law Journal. If
445 the commissioner fails to either approve or reject the application
446 within such ninety-day period, such application shall be deemed
447 provisionally approved, and the municipality may cause notice of such
448 provisional approval to be published in a conspicuous manner in a
449 daily newspaper having general circulation in the municipality, in
450 which case, such moratorium shall take effect upon such publication.
451 The municipality shall send a copy of such notice to the commissioner.
452 Such provisional approval shall remain in effect unless the
453 commissioner subsequently acts upon and rejects the application, in
454 which case the moratorium shall terminate upon notice to the
455 municipality by the commissioner.

456 (5) For purposes of this subsection, "elderly units" are dwelling units
457 whose occupancy is restricted by age and "family units" are dwelling
458 units whose occupancy is not restricted by age.

459 (6) For purposes of this subsection, housing unit-equivalent points
460 shall be determined by the commissioner as follows: (A) No points
461 shall be awarded for a unit unless its occupancy is restricted to persons
462 and families whose income is equal to or less than eighty per cent of
463 median income, except that unrestricted units in a set-aside
464 development shall be awarded one-fourth point each. (B) Family units
465 restricted to persons and families whose income is equal to or less than
466 eighty per cent of median income shall be awarded one point if an
467 ownership unit and one and one-half points if a rental unit. (C) Family
468 units restricted to persons and families whose income is equal to or
469 less than sixty per cent of median income shall be awarded one and
470 one-half points if an ownership unit and two points if a rental unit. (D)
471 Family units restricted to persons and families whose income is equal

472 to or less than forty per cent of median income shall be awarded two
473 points if an ownership unit and two and one-half points if a rental
474 unit. (E) Elderly units restricted to persons and families whose income
475 is equal to or less than eighty per cent of median income shall be
476 awarded one-half point. (F) A set-aside development containing family
477 units which are rental units shall be awarded additional points equal
478 to twenty-two per cent of the total points awarded to such
479 development, provided the application for such development was filed
480 with the commission prior to July 6, 1995. (G) A unit whose occupancy
481 is restricted to persons and families whose income is equal to or less
482 than eighty per cent of the median income that was constructed
483 pursuant to a housing plan approved by the commissioner pursuant to
484 subsection (e) of section 12-494, as amended by this act, shall be
485 awarded three points.

486 (7) Points shall be awarded only for dwelling units which were (A)
487 newly-constructed units in an affordable housing development, as that
488 term was defined at the time of the affordable housing application, for
489 which a certificate of occupancy was issued after July 1, 1990, or (B)
490 newly subjected after July 1, 1990, to deeds containing covenants or
491 restrictions which require that, for at least the duration required by
492 subsection (a) of this section for set-aside developments on the date
493 when such covenants or restrictions took effect, such dwelling units
494 shall be sold or rented at, or below, prices which will preserve the
495 units as affordable housing for persons or families whose income does
496 not exceed eighty per cent of median income.

497 (8) Points shall be subtracted, applying the formula in subdivision
498 (6) of this subsection, for any affordable dwelling unit which, on or
499 after July 1, 1990, was affected by any action taken by a municipality
500 which caused such dwelling unit to cease being counted as an
501 affordable dwelling unit.

502 (9) A newly-constructed unit shall be counted toward a moratorium
503 when it receives a certificate of occupancy. A newly-restricted unit

504 shall be counted toward a moratorium when its deed restriction takes
505 effect.

506 (10) The affordable housing appeals procedure shall be applicable to
507 affordable housing applications filed with a commission after a three-
508 year moratorium expires, except (A) as otherwise provided in
509 subsection (k) of this section, or (B) when sufficient unit-equivalent
510 points have been created within the municipality during one
511 moratorium to qualify for a subsequent moratorium.

512 (11) The commissioner shall, within available appropriations, adopt
513 regulations in accordance with chapter 54 to carry out the purposes of
514 this subsection. Such regulations shall specify the procedure to be
515 followed by a municipality to obtain a moratorium, and shall include
516 the manner in which a municipality is to document the units to be
517 counted toward a moratorium. A municipality may apply for a
518 moratorium in accordance with the provisions of this subsection prior
519 to, as well as after, such regulations are adopted.

520 (m) The commissioner shall, pursuant to regulations adopted in
521 accordance with the provisions of chapter 54, promulgate model deed
522 restrictions which satisfy the requirements of this section. A
523 municipality may waive any fee which would otherwise be required
524 for the filing of any long-term affordability deed restriction on the land
525 records.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2007</i> | 12-494 |
| Sec. 2 | <i>July 1, 2007</i> | 12-499 |
| Sec. 3 | <i>July 1, 2007</i> | New section |
| Sec. 4 | <i>October 1, 2007</i> | 8-30g |

Statement of Purpose:

To revise affordable housing provisions, promote smart growth and affordable housing and establish incentives for affordable housing using revenues generated by the real estate conveyance tax.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. BARTLETT, 2nd Dist.

H.B. 6645