

# The Connecticut General Assembly

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## Memorandum

**To:** Legislative Regulation Review Committee  
**From:** Legislative Commissioners' Office  
**Committee Meeting Date:** June 25, 2013

<b>Regulation No:</b>	2013-13
<b>Agency:</b>	Department of Economic and Community Development
<b>Subject Matter:</b>	Tenant Rights in State Public Housing
<b>Statutory Authority:</b> (copy attached)	8-68f

	Yes or No
<b>Mandatory</b>	Y
<b>Federal Requirement</b>	N
<b>Permissive</b>	N

### For the Committee's Information:

Pursuant to HB 6705 of the 2013 regular legislative session, the responsibility for the oversight of tenants' rights and grievance procedures, which is the subject of the proposed regulation, will transfer from the Department of Economic and Community Development to the Department of Housing.

### Substantive Concerns:

1. The statutory authority for the proposed regulation, section 8-68f of the general statutes, provides, in part, that the "Commissioner of Economic and Community Development shall adopt regulations...to establish uniform minimum standards for the requirements in this section". One of the requirements in said section is for the adoption of "procedures for soliciting tenant comment on proposed changes in housing authority policies and procedures, including changes to its lease and to its admission and occupancy policies". The proposed regulation does not establish uniform minimum standards for the adoption of such procedures by each housing authority and the Connecticut Housing Finance Authority, as section 8-68f of the general statutes requires.

2. On page 1, in section 8-68f-1(2), within the definition of "Criminal activity", it is unclear what is meant by an act "usually deemed socially harmful or dangerous".

3. On page 2, in section 8-68f-1(13), the use of the terms "elderly" and "near-elderly" is unclear. It is not known whether the use of the term "elderly" is intended to refer to the definition of "elderly persons" found in subsection (m) of section 8-113a of the general statutes or what is intended by the use of the term "near-elderly".

4. On page 2, in section 8-68f-2, the proposed regulation provides, in part, "Each Landlord that received or receives...financial assistance...shall enter into a written lease with each tenant". Accordingly, it appears that the regulation would have a retroactive effect. However, the statutory authority only requires that the requirement of the statute, 8-68f, apply to landlords who receive such financial assistance. Accordingly, the intent of using the term "received" is unclear.

5. On page 3, in section 8-68f-3(a), in the second line, the use of "other requirements" is unclear. It is not clear what these other requirements may be.

6. On page 3, in section 8-68f-3(d), the proposed regulation provides, in part, that the lease may provide for the payment of reasonable penalties for late payment "to the extent any such penalties are permitted under Connecticut law". It is unclear what provisions of Connecticut law the proposed regulation attempts to invoke.

7. On page 4, in section 8-68f-5(c), the proposed regulation provides, in part, that in developing policies in relation to allowing residence in the dwelling unit by live-in-aides and foster children, "factors to be considered by the Landlord may include, but not are not necessarily limited to...". By not exhaustively listing the factors that the landlord may consider, it is unclear what other factors the landlord could consider in developing policies on this subject.

8. On page 5, in section 8-68f-6(i)(1), the regulation provides, in part, that "Such adverse action includes, but is not limited to...". Accordingly, it is unclear what other adverse action is intended by the regulation.

9. On page 7, in section 8-68f-7(k)(2), the regulation requires the tenant to make reasonable efforts to assure that no tenant, member of the household or a guest engages in "any drug-related criminal activity...off such Premises". It is unclear how a tenant could

possibly undertake reasonable efforts to assure that another individual did not engage in any drug-related criminal activity off such premises.

10. On page 8, in section 8-68f-10(c), it is unclear what constitute "special circumstances".

11. On page 9, in section 8-68f-12(a)(3), with the use of the phrase "include, but not be limited to" it is unclear what else could constitute "good cause" to enable a landlord to terminate or refuse to renew a lease.

12. On page 12, in section 8-68f-17, the regulation provides, in part that the landlord's grievance procedures are not applicable to "class Grievances". It is unclear what is meant by class grievances as this is not a defined term in statute or the proposed regulation.

13. On page 12, in section 8-68f-18(b), in the first line, it is unclear what would constitute "a reasonable period of time".

14. On page 12, in section 8-68f-18(c), the regulation "discourages actions that result in an undue financial burden on the tenant or the landlord". It is unclear what constitutes an undue financial burden on either the tenant or the landlord, as that term is not defined in the proposed regulation and would presumably differ in nature for each of the two.

15. On page 13, in section 8-68f-20, in the second line, it is unclear what would constitute "a reasonable period of time".

16. On page 13, in section 8-68f-20(b), in the third line, it is unclear whether the restriction on who may serve as a hearing officer or on a hearing panel applies to an officer or member of the board of commissioners.

17. On page 13, in section 8-68f-20(b)(1) and(2), the proposed regulation provides, in part, that the method for appointment of a hearing officer or a hearing panel shall be stated in the landlord's grievance procedures and that in appointing such officer or panel, the landlord may use a method approved by tenants or a method that appears in the landlord's grievance procedures. Accordingly, it remains unclear as to the variety of methods for such selection that a landlord may employ in his or her grievance procedure. Moreover, it remains unclear as to when the appointment of a hearing officer is required and, conversely, when the appointment of a hearing panel is required.

18. On page 14, in section 8-68f-20(b)(3), the regulation provides, in part, that if the method for selection of a hearing officer or hearing panel fails to select an "impartial person" then, within thirty days of the request for a hearing, the landlord's disposition of the grievance becomes final. It is unclear what standard, or who, makes a determination that the selection has failed to select an impartial person.

19. On page 14, in section 8-68f-20(d), it is unclear what constitutes "good cause" to enable a waiver of the provisions of the subsection.

20. On page 14, in section 8-68f-20(e), it is unclear what a complainant must do in order to comply with the provisions of subsection (e) of this section. Subsection (e) does not appear to create any requirements for the complainant.

21. On page 14, in section 8-68f-20(h), the regulation provides, in part, "Subject to the requirements of this section". It is unclear what requirements of this section are intended.

22. On page 16, in section 8-68f-22(a) and (b), in the second and third lines, respectively, it is unclear what would constitute "a reasonable period of time".

23. On page 16, in section 8-68f-23, the provision is vague and provides no guidance as to what activity a landlord might take that would constitute a "good faith effort" to encourage tenant participation in the operation of state housing programs. The provision is also unclear in stating where it would be appropriate to facilitate tenant participation in the management of housing projects.

### **Technical Corrections**

1. Throughout the proposed regulation, defined terms, except for the first word of a sentence, should not be capitalized, for proper form.
2. Throughout the proposed regulation, defined terms should be preceded by articles, such as "the", for clarity and proper form. For example, on page 2, in section 8-68f-2(d), "That Tenant shall request Landlord's written approval" should be "That the tenant shall request the landlord's written approval".
3. Throughout the proposed regulation, defined terms, including "landlord" and "tenant", should be in the possessive form, as applicable, for clarity and proper form.
4. Throughout the proposed regulation, catchlines should be in bold, for proper form.
5. Throughout the proposed regulation, "wilfully" should be "willfully", for proper form.
6. Throughout the proposed regulation, "effected" should be "affected", for proper form.
7. Throughout the proposed regulation, parentheses should not be used around phrases or clauses, for proper form.
8. Throughout the proposed regulation, in sections that merely contain a list of items, such items should not be contained in individually lettered subsections, rather numbered subdivisions should be used instead.
9. On page 1, "Section 1." should be inserted before "**The Regulations of Connecticut State Agencies...**" and "**Sections 8-68f-1 through 8-68f-23**" should be "**Sections 8-68f-1 to 8-68f-23**", for proper form.

10. On page 1, in section 8-68f-1, in the first line, "Sections 8-86f-1 through 8-68f-23 inclusive," should be "sections 8-68f-1 to 8-68f-23, inclusive," for accuracy and proper form.
11. On page 1, in section 8-68f-1(1), "the Landlord" should be "his or her landlord", for proper form.
12. On page 1, in section 8-68f-1(1), "sections 8-68f-20 through 8-68f-21" should be "sections 8-68f-20 and 8-68f-21", for proper form.
13. On page 1, in section 8-68f-1(4), "47a-15(d)" should be "47a-1", for accuracy.
14. On page 1, in section 8-68f-1(9), "to hear Grievances" should be "to conduct a hearing", for consistency.
15. On page 1, in section 8-68f-1(10), "as such term is defined in subsection (13) of this section," should be deleted as unnecessary.
16. On page 2, in section 8-68f-1(13), "(i)", "(ii)" and "(iii)" should be "(A)", "(B)" and "(C)", in the second line, the first "is" should be "Is", and in the second and third lines, "the person(s)" should be "such persons", for proper form.
17. On page 2, in section 8-68f-1(14), in the first line, "building or complex or development" should be "building, complex or development" and in the second line, a comma should be inserted after "grounds" and "which is" should be "that are", for clarity and proper form, and in the second and third lines "as defined in subsection (12) of this section" should be deleted as unnecessary.
18. On page 2, in section 8-68f-1(17), "has the same meaning as provided in" should be "means a notice as described in", for accuracy.
19. On page 2, in section 8-68f-2, in the first line, "Each" should be "Any", for consistency.
20. On page 2, in section 8-68f-2(b), "Family" should be "household", for clarity and accuracy, and "as approved by the Landlord (Household members and any Landlord-approved Live-In Aide)" should be deleted as unnecessary.
21. On page 2, in section 8-68f-2(e), "Dwelling Unit rented (by" and the closing parenthesis after "Unit" should be deleted, for clarity and proper form.
22. On page 2, in section 8-68f-2(f), a comma should be inserted after "renewal", for proper form.
23. On page 2, in section 8-68f-2(g), in the second line and third lines, "what" should be "any" and "are" should be deleted, for proper form.
24. On page 3, in section 8-68f-3(a), in the second line, "Tenant" should be deleted, for clarity.

25. On page 3, in section 8-68f-3(b), in the second and third lines, "Tenant" should be deleted before the word "rent", for proper form and in the third line, "Notice" should be "such notice", for clarity.
26. On page 3, in section 8-68f-3(c), in the fourth line, "state or federal law" should be "state and federal law", for accuracy.
27. On page 3, in section 8-68f-3(e), in the first and second lines, "shall not be due and collectible until two weeks after" should be "shall be due and collectible not less than two weeks after", for proper form and in the second line, "Such notice constitutes" should be "Such notice shall constitute", for clarity.
28. On page 3, section 8-68f-3(f) should be deleted as unnecessary, as it is duplicative of subsection (i) of section 8-68f-6, and subsection (g) should be relettered as subsection (f).
29. On page 3, in section 8-68f-3(g)(2), in the second line, the "or" following "VII" should be "of" for accuracy and in the second line, "do so" should be "pay interest on such security deposit", for clarity and accuracy.
30. On page 4, in section 8-68f-4, the subsection designators (a) to (d) should be subdivision designators (1) to (4), respectively, for proper form.
31. On page 4, in section 8-68f-5(a), in the third and fourth lines, "The term" should be "For purposes of this section," in the fourth line ", other than a tenant," should be inserted after "person" and "and does not mean a tenant" should be deleted for proper form.
32. On page 5, in section 8-68f-5(h), in the first line, "which receipt" should be "that" and in the second line "if" should be "provided", for proper form.
33. On page 5, in section 8-68f-6(i), the creation of subdivision (1) is not necessary and therefore the subdivision designator and accompanying indentation and spacing should be deleted, for clarity and proper form.
34. On page 6, in section 8-68f-6(2), in the second and third lines, the parentheses should be commas, for proper form.
35. On page 6, in section 8-68f-7(g), in the second line, a comma should be inserted after "including", for proper form.
36. On page 6, in section 8-68f-7(i), the parentheses should be commas, for proper form.
37. On page 6, in section 8-68f-7(k), "a guest" should be "any guest", for accuracy.
38. On page 7, in section 8-68f-7(k)(2), in the first line, the comma following "off" should be deleted, and "Any drug-related criminal activity in violation of the preceding sentence" should be "Such activity", for proper form. In the third line, the definition of "drug-related

criminal activity” should be deleted and moved to the definitions in section 8-68f-1 of the proposed regulation, for clarity and proper form.

39. On page 7, in section 8-68f-7(l), "other" should be deleted as unnecessary.

40. On page 7, in section 8-68f-7(m), in the first line, "The lease may provide that the Tenant shall perform" should be "To perform" and in the third line, "that" should be deleted, for consistency and proper form.

41. On page 7, in section 8-68f-8(b), in the second line, "Household or guests," should be "Household, a guest", for clarity and proper form.

42. On page 7, in section 8-68f-8(d), in the second line, "as a" should be "of the", in the third line, " as applicable," should be inserted after the comma and in the fifth line, "Household or guests," should be "Household, a guest", for clarity and proper form.

43. On page 8, in section 8-68f-9, in the first line, "representative(s)" should be "representatives" and in the second line, "will" should be "shall", for proper form.

44. On page 8, in section 8-68f-10, in the third line, "include provision that" should be "provide", for proper form.

45. On page 8, in section 8-68f-10(a), in the first line, "A Landlord" should be "The Landlord", for consistency.

46. On page 8, in section 8-68f-10(c), in the first line, "Landlord" should be "Landlord's", for clarity and proper form.

47. On page 9, in section 8-68f-12, in the first line, "indicate that" should be "provide", for consistency.

48. On page 9, in section 8-68f-12(a)(1), a semi-colon should be inserted after "lease", "Such as the following:" should be deleted, subparagraphs (A) and (B) should be redesignated as subdivisions (2) and (3), respectively, subdivisions (2) and (3) should be renumbered as subdivisions (4) and (5), respectively, and in the newly designated subdivision (4), "Being over an" should be "For the Tenant's income exceeding an", for clarity and proper form.

49. On page 10, in section 8-68f-12(b)(1), in the second line, the final "or" should be deleted, for proper form.

50. On page 10, in section 8-68f-12(d)(1), in the second line, each "or" should be deleted, for proper form.

51. On page 11, in section 8-68f-13, in the second line, ". Nothing in the lease, however, shall preclude a waiver of the writing requirement" should be "except a waiver of such requirement may be made", for clarity.

52. On page 11, in section 8-68f-14(a), in the third line, ", if any," should be inserted after "office", "development" should be "Premises" and "these" should be "such", in the fifth line, "provided that the Landlord" should be ", provided the Landlord" and in the sixth line, the comma after "modification" should be deleted and replaced with "and", for clarity, consistency and proper form.

53. On page 11, in section 8-68f-14(b), in the second line, "those" should be "such", for proper form.

54. On page 11, in section 8-68f-15(a), the subdivision (a) designator should be deleted, "provisions that are" should be "any provision that is" and in the second line, after the period, "Any such provision shall be unenforceable" should be inserted, for clarity and proper form. Subsection (b) of section 8-68f-15 should be deleted as unnecessary.

55. On page 12, in section 8-68f-18(b), in the third line, "dates of meeting" should be "date of such discussion" and in the fifth line, "with the proposed disposition" should be inserted after "satisfied", for clarity and consistency.

56. On page 12, in section 8-68f-18(c), in the second sentence, "Therefore," should be deleted, for proper form.

57. On page 12, in section 8-68f-19(a), in the first line, "compliance" should be "complying", for proper form.

58. On page 13, in section 8-68f-20(b)(2)(A), the parentheses should be deleted, for proper form.

59. On page 13, in section 8-68f-20(b)(2)(B), the parentheses should be commas, for proper form.

60. On page 14, in section 8-68f-20(b)(3), in the fourth line, "then" should be deleted, in the fifth line, "final: provided, that" should be "final, provided the" and in the seventh line, "action in disposing" should be "disposition", for consistency and proper form.

61. On page 14, in section 8-68f-20(c), in the second line "then" should be deleted, in the second line "final; provided, that" should be "final, provided the" and in the fourth line, "action in disposing" should be "disposition", for consistency and proper form.

62. On page 14, in section 8-68f-20(g), "Section 8-68f-18 of the Regulations of Connecticut State Agencies shall not apply" should be inserted at the beginning of the first line, and ", section 8-68f-18 of the Regulations of Connecticut State Agencies is not applicable" should be deleted, for clarity.

63. On page 15, in section 8-68f-21(a)(2), "his" should be "his or her", for proper form.

64. On page 15, in section 8-68f-21(a)(4), in the second line, the comma should be deleted, for proper form.

65. On page 15, in section 8-68f-21(b), in the third and fifth lines, "his" should be "his or her", for proper form.

66. On page 16, in section 8-68f-21(f), in the third line, the comma after "locations" should be deleted, for proper form.

67. On page 16, in section 8-68f-22(a), in the second line, a comma should be inserted after "decision" and in the fifth line, "his" should be "his or her", for consistency and proper form.

68. On page 16, in section 8-68f-22(b)(1), in the second line, "rules/regulations" should be "rules or regulations" and the comma after "regulations" should be deleted, for proper form.

69. On page 16, in section 8-68f-23, "(a)" should be deleted, for proper form.

**Recommendation:**

<p><b>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <input checked="" type="checkbox"/> Rejection without prejudice</b></p>
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**Reviewed by:** Nicholas F. Bombace / Bradford M. Towson

**Date:** June 13, 2013

**Sec. 8-68f. Tenants' rights and grievance procedures. Regulations.** Each housing authority which receives financial assistance under any state housing program, and the Connecticut Housing Finance Authority or its subsidiary when said authority or subsidiary is the successor owner of housing previously owned by a housing authority under part II or part VI of this chapter, shall, for housing which it owns and operates, (1) provide each of its tenants with a written lease, (2) adopt a procedure for hearing tenant complaints and grievances, (3) adopt procedures for soliciting tenant comment on proposed changes in housing authority policies and procedures, including changes to its lease and to its admission and occupancy policies, and (4) encourage tenant participation in the housing authority's operation of state housing programs, including, where appropriate, the facilitation of tenant participation in the management of housing projects. If such housing authority or the Connecticut Housing Finance Authority or its subsidiary operates both a federal and a state-assisted housing program, it shall use the same procedure for hearing tenant grievances in both programs. The Commissioner of Economic and Community Development shall adopt regulations in accordance with the provisions of chapter 54 to establish uniform minimum standards for the requirements in this section.