



# Senate

General Assembly

January Session, 2015

**File No. 291**

Senate Bill No. 407

*Senate, March 30, 2015*

The Committee on Housing reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE AFFORDABLE HOUSING LAND USE APPEALS PROCEDURE.***

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

1 Section 1. Section 8-30g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) As used in this section:

4 (1) "Affordable housing development" means a proposed housing  
5 development which is (A) assisted housing, or (B) a set-aside  
6 development;

7 (2) "Affordable housing application" means any application made to  
8 a commission in connection with an affordable housing development  
9 by a person who proposes to develop such affordable housing;

10 (3) "Assisted housing" means housing which is receiving, or will  
11 receive, financial assistance under any governmental program for the  
12 construction or substantial rehabilitation of low and moderate income

13 housing, and any housing occupied by persons receiving rental  
14 assistance under chapter 319uu or Section 1437f of Title 42 of the  
15 United States Code;

16 (4) "Commission" means a zoning commission, planning  
17 commission, planning and zoning commission, zoning board of  
18 appeals or municipal agency exercising zoning or planning authority;

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

21 (6) "Set-aside development" means a development in which not less  
22 than thirty per cent of the dwelling units will be conveyed by deeds  
23 containing covenants or restrictions which shall require that, for at  
24 least forty years after the initial occupation of the proposed  
25 development, such dwelling units shall be sold or rented at, or below,  
26 prices which will preserve the units as housing for which persons and  
27 families pay thirty per cent or less of their annual income, where such  
28 income is less than or equal to eighty per cent of the median income. In  
29 a set-aside development, of the dwelling units conveyed by deeds  
30 containing covenants or restrictions, a number of dwelling units equal  
31 to not less than fifteen per cent of all dwelling units in the  
32 development shall be sold or rented to persons and families whose  
33 income is less than or equal to sixty per cent of the median income and  
34 the remainder of the dwelling units conveyed by deeds containing  
35 covenants or restrictions shall be sold or rented to persons and families  
36 whose income is less than or equal to eighty per cent of the median  
37 income;

38 (7) "Median income" means, after adjustments for family size, the  
39 lesser of the state median income or the area median income for the  
40 area in which the municipality containing the affordable housing  
41 development is located, as determined by the United States  
42 Department of Housing and Urban Development; and

43 (8) "Commissioner" means the Commissioner of Housing.

44 (b) (1) Any person filing an affordable housing application with a  
45 commission shall submit, as part of the application, an affordability  
46 plan which shall include at least the following: (A) Designation of the  
47 person, entity or agency that will be responsible for the duration of any  
48 affordability restrictions, for the administration of the affordability  
49 plan and its compliance with the income limits and sale price or rental  
50 restrictions of this chapter; (B) an affirmative fair housing marketing  
51 plan governing the sale or rental of all dwelling units; (C) a sample  
52 calculation of the maximum sales prices or rents of the intended  
53 affordable dwelling units; (D) a description of the projected sequence  
54 in which, within a set-aside development, the affordable dwelling  
55 units will be built and offered for occupancy and the general location  
56 of such units within the proposed development; and (E) draft zoning  
57 regulations, conditions of approvals, deeds, restrictive covenants or  
58 lease provisions that will govern the affordable dwelling units.

59 (2) The commissioner shall, within available appropriations, adopt  
60 regulations pursuant to chapter 54 regarding the affordability plan.  
61 Such regulations may include additional criteria for preparing an  
62 affordability plan and shall include: (A) A formula for determining  
63 rent levels and sale prices, including establishing maximum allowable  
64 down payments to be used in the calculation of maximum allowable  
65 sales prices; (B) a clarification of the costs that are to be included when  
66 calculating maximum allowed rents and sale prices; (C) a clarification  
67 as to how family size and bedroom counts are to be equated in  
68 establishing maximum rental and sale prices for the affordable units;  
69 and (D) a listing of the considerations to be included in the  
70 computation of income under this section.

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

77 (d) For any affordable dwelling unit that is rented as part of a set-  
78 aside development, if the maximum monthly housing cost, as  
79 calculated in accordance with subdivision (6) of subsection (a) of this  
80 section, would exceed one hundred per cent of the Section 8 fair  
81 market rent as determined by the United States Department of  
82 Housing and Urban Development, in the case of units set aside for  
83 persons and families whose income is less than or equal to sixty per  
84 cent of median income, then such maximum monthly housing cost  
85 shall not exceed one hundred per cent of said Section 8 fair market  
86 rent. If the maximum monthly housing cost, as calculated in  
87 accordance with subdivision (6) of subsection (a) of this section, would  
88 exceed one hundred twenty per cent of the Section 8 fair market rent,  
89 as determined by the United States Department of Housing and Urban  
90 Development, in the case of units set aside for persons and families  
91 whose income is less than or equal to eighty per cent of median  
92 income, then such maximum monthly housing cost shall not exceed  
93 one hundred twenty per cent of such Section 8 fair market rent.

94 (e) For any affordable dwelling unit that is rented in order to  
95 comply with the requirements of a set-aside development, no person  
96 shall impose on a prospective tenant who is receiving governmental  
97 rental assistance a maximum percentage-of-income-for-housing  
98 requirement that is more restrictive than the requirement, if any,  
99 imposed by such governmental assistance program.

100 (f) Any person whose affordable housing application is denied, or is  
101 approved with restrictions which have a substantial adverse impact on  
102 the viability of the affordable housing development or the degree of  
103 affordability of the affordable dwelling units in a set-aside  
104 development, may appeal such decision pursuant to the procedures of  
105 this section. Such appeal shall be filed within the time period for filing  
106 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and  
107 shall be made returnable to the superior court for the judicial district  
108 where the real property which is the subject of the application is  
109 located. Affordable housing appeals, including pretrial motions, shall  
110 be heard by a judge assigned by the Chief Court Administrator to hear

111 such appeals. To the extent practicable, efforts shall be made to assign  
112 such cases to a small number of judges, sitting in geographically  
113 diverse parts of the state, so that a consistent body of expertise can be  
114 developed. Unless otherwise ordered by the Chief Court  
115 Administrator, such appeals, including pretrial motions, shall be heard  
116 by such assigned judges in the judicial district in which such judge is  
117 sitting. Appeals taken pursuant to this subsection shall be privileged  
118 cases to be heard by the court as soon after the return day as is  
119 practicable. Except as otherwise provided in this section, appeals  
120 involving an affordable housing application shall proceed in  
121 conformance with the provisions of said section 8-8, 8-9, 8-28 or 8-30a,  
122 as applicable.

123 (g) Upon an appeal taken under subsection (f) of this section, the  
124 burden shall be on the commission to prove, based upon the evidence  
125 in the record compiled before such commission, that the decision from  
126 which such appeal is taken and the reasons cited for such decision are  
127 supported by sufficient evidence in the record. The commission shall  
128 also have the burden to prove, based upon the evidence in the record  
129 compiled before such commission, that (1) (A) the decision is necessary  
130 to protect substantial public interests in health, safety or other matters  
131 which the commission may legally consider; (B) such public interests  
132 clearly outweigh the need for affordable housing; and (C) such public  
133 interests cannot be protected by reasonable changes to the affordable  
134 housing development, or (2) (A) the application which was the subject  
135 of the decision from which such appeal was taken would locate  
136 affordable housing in an area which is zoned for industrial use and  
137 which does not permit residential uses; and (B) the development is not  
138 assisted housing, as defined in subsection (a) of this section. If the  
139 commission does not satisfy its burden of proof under this subsection,  
140 the court shall wholly or partly revise, modify, remand or reverse the  
141 decision from which the appeal was taken in a manner consistent with  
142 the evidence in the record before it.

143 (h) Following a decision by a commission to reject an affordable  
144 housing application or to approve an application with restrictions

145 which have a substantial adverse impact on the viability of the  
146 affordable housing development or the degree of affordability of the  
147 affordable dwelling units, the applicant may, within the period for  
148 filing an appeal of such decision, submit to the commission a proposed  
149 modification of its proposal responding to some or all of the objections  
150 or restrictions articulated by the commission, which shall be treated as  
151 an amendment to the original proposal. The day of receipt of such a  
152 modification shall be determined in the same manner as the day of  
153 receipt is determined for an original application. The filing of such a  
154 proposed modification shall stay the period for filing an appeal from  
155 the decision of the commission on the original application. The  
156 commission shall hold a public hearing on the proposed modification  
157 if it held a public hearing on the original application and may hold a  
158 public hearing on the proposed modification if it did not hold a public  
159 hearing on the original application. The commission shall render a  
160 decision on the proposed modification not later than sixty-five days  
161 after the receipt of such proposed modification, provided, if, in  
162 connection with a modification submitted under this subsection, the  
163 applicant applies for a permit for an activity regulated pursuant to  
164 sections 22a-36 to 22a-45, inclusive, and the time for a decision by the  
165 commission on such modification under this subsection would lapse  
166 prior to the thirty-fifth day after a decision by an inland wetlands and  
167 watercourses agency, the time period for decision by the commission  
168 on the modification under this subsection shall be extended to thirty-  
169 five days after the decision of such agency. The commission shall issue  
170 notice of its decision as provided by law. Failure of the commission to  
171 render a decision within said sixty-five days or subsequent extension  
172 period permitted by this subsection shall constitute a rejection of the  
173 proposed modification. Within the time period for filing an appeal on  
174 the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a,  
175 as applicable, the applicant may appeal the commission's decision on  
176 the original application and the proposed modification in the manner  
177 set forth in this section. Nothing in this subsection shall be construed  
178 to limit the right of an applicant to appeal the original decision of the  
179 commission in the manner set forth in this section without submitting

180 a proposed modification or to limit the issues which may be raised in  
181 any appeal under this section.

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

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

188 (k) Notwithstanding the provisions of subsections (a) to (j),  
189 inclusive, of this section, the affordable housing appeals procedure  
190 established under this section shall not be available if (1) the proposed  
191 development which is the subject of the application contains less than  
192 four affordable dwelling units, or (2) the real property which is the  
193 subject of the application is located in a municipality in which at least  
194 ten per cent of all dwelling units in the municipality are [(1)] (A)  
195 assisted housing, or [(2)] (B) currently financed by Connecticut  
196 Housing Finance Authority mortgages, or [(3)] (C) subject to binding  
197 recorded deeds containing covenants or restrictions which require that  
198 such dwelling units be sold or rented at, or below, prices which will  
199 preserve the units as housing for which persons and families pay thirty  
200 per cent or less of income, where such income is less than or equal to  
201 eighty per cent of the median income, or [(4)] (D) mobile manufactured  
202 homes located in mobile manufactured home parks or legally  
203 approved accessory apartments, which homes or apartments are  
204 subject to binding recorded deeds containing covenants or restrictions  
205 which require that such dwelling units be sold or rented at, or below,  
206 prices which will preserve the units as housing for which, for a period  
207 of not less than ten years, persons and families pay thirty per cent or  
208 less of income, where such income is less than or equal to eighty per  
209 cent of the median income. The municipalities meeting the criteria set  
210 forth in this subsection shall be listed in the report submitted under  
211 section 8-37qqq. As used in subdivision (2) of this subsection,  
212 "accessory apartment" means a separate living unit that [(A)] (i) is

213 attached to the main living unit of a house, which house has the  
214 external appearance of a single-family residence, [(B)] (ii) has a full  
215 kitchen, [(C)] (iii) has a square footage that is not more than thirty per  
216 cent of the total square footage of the house, [(D)] (iv) has an internal  
217 doorway connecting to the main living unit of the house, [(E)] (v) is not  
218 billed separately from such main living unit for utilities, and [(F)] (vi)  
219 complies with the building code and health and safety regulations.

220 (l) (1) Notwithstanding the provisions of subsections (a) to (j),  
221 inclusive, of this section, the affordable housing appeals procedure  
222 established under this section shall not be applicable to an affordable  
223 housing application filed with a commission during a moratorium,  
224 which shall be the four-year period after (A) a certification of  
225 affordable housing project completion issued by the commissioner is  
226 published in the Connecticut Law Journal, or (B) after notice of a  
227 provisional approval is published pursuant to subdivision (4) of this  
228 subsection. Any moratorium that is in effect on October 1, 2002, is  
229 extended by one year.

230 (2) Notwithstanding the provisions of this subsection, such  
231 moratorium shall not apply to (A) affordable housing applications for  
232 assisted housing in which ninety-five per cent of the dwelling units are  
233 restricted to persons and families whose income is less than or equal to  
234 sixty per cent of median income, (B) other affordable housing  
235 applications for assisted housing containing forty or fewer dwelling  
236 units, or (C) affordable housing applications which were filed with a  
237 commission pursuant to this section prior to the date upon which the  
238 moratorium takes effect.

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

241 (4) (A) The commissioner shall issue a certificate of affordable  
242 housing project completion for the purposes of this subsection upon  
243 finding that there has been completed within the municipality one or  
244 more affordable housing developments which create housing unit-  
245 equivalent points equal to the greater of two per cent of all dwelling

246 units in the municipality, as reported in the most recent United States  
247 decennial census, or [seventy-five] fifty housing unit-equivalent points.

248 (B) A municipality may apply for a certificate of affordable housing  
249 project completion pursuant to this subsection by applying in writing  
250 to the commissioner, and including documentation showing that the  
251 municipality has accumulated the required number of points within  
252 the applicable time period. Such documentation shall include the  
253 location of each dwelling unit being counted, the number of points  
254 each dwelling unit has been assigned, and the reason, pursuant to this  
255 subsection, for assigning such points to such dwelling unit. Upon  
256 receipt of such application, the commissioner shall promptly cause a  
257 notice of the filing of the application to be published in the Connecticut  
258 Law Journal, stating that public comment on such application shall be  
259 accepted by the commissioner for a period of thirty days after the  
260 publication of such notice. Not later than ninety days after the receipt  
261 of such application, the commissioner shall either approve or reject  
262 such application. Such approval or rejection shall be accompanied by a  
263 written statement of the reasons for approval or rejection, pursuant to  
264 the provisions of this subsection. If the application is approved, the  
265 commissioner shall promptly cause a certificate of affordable housing  
266 project completion to be published in the Connecticut Law Journal. If  
267 the commissioner fails to either approve or reject the application  
268 within such ninety-day period, such application shall be deemed  
269 provisionally approved, and the municipality may cause notice of such  
270 provisional approval to be published in a conspicuous manner in a  
271 daily newspaper having general circulation in the municipality, in  
272 which case, such moratorium shall take effect upon such publication.  
273 The municipality shall send a copy of such notice to the commissioner.  
274 Such provisional approval shall remain in effect unless the  
275 commissioner subsequently acts upon and rejects the application, in  
276 which case the moratorium shall terminate upon notice to the  
277 municipality by the commissioner.

278 (5) For purposes of this subsection, "elderly units" are dwelling units  
279 whose occupancy is restricted by age and "family units" are dwelling

280 units whose occupancy is not restricted by age.

281 (6) For purposes of this subsection, housing unit-equivalent points  
282 shall be determined by the commissioner as follows: (A) No points  
283 shall be awarded for a unit unless its occupancy is restricted to persons  
284 and families whose income is equal to or less than eighty per cent of  
285 median income, except that unrestricted units in a set-aside  
286 development shall be awarded one-fourth point each. (B) Family units  
287 restricted to persons and families whose income is equal to or less than  
288 eighty per cent of median income shall be awarded one point if an  
289 ownership unit and one and one-half points if a rental unit. (C) Family  
290 units restricted to persons and families whose income is equal to or  
291 less than sixty per cent of median income shall be awarded one and  
292 one-half points if an ownership unit and two points if a rental unit. (D)  
293 Family units restricted to persons and families whose income is equal  
294 to or less than forty per cent of median income shall be awarded two  
295 points if an ownership unit and two and one-half points if a rental  
296 unit. (E) Restricted family units containing at least three bedrooms  
297 shall be awarded an additional one-fourth point. (F) Elderly units  
298 restricted to persons and families whose income is equal to or less than  
299 eighty per cent of median income shall be awarded one-half point. [(F)]  
300 (G) If at least sixty per cent of the total restricted units submitted by a  
301 municipality as part of an application for a certificate of affordable  
302 housing project completion are family units, any elderly units  
303 submitted within such application shall be awarded an additional one-  
304 half point. (H) Restricted family units located within an approved  
305 incentive housing development, as defined in section 8-13m, as  
306 amended by this act, shall be awarded an additional one-fourth point.  
307 (I) A set-aside development containing family units which are rental  
308 units shall be awarded additional points equal to twenty-two per cent  
309 of the total points awarded to such development, provided the  
310 application for such development was filed with the commission prior  
311 to July 6, 1995.

312 (7) Points shall be awarded only for dwelling units which were (A)  
313 newly-constructed units in an affordable housing development, as that

314 term was defined at the time of the affordable housing application, for  
315 which a certificate of occupancy was issued after July 1, 1990, [or] (B)  
316 newly subjected after July 1, 1990, to deeds containing covenants or  
317 restrictions which require that, for at least the duration required by  
318 subsection (a) of this section for set-aside developments on the date  
319 when such covenants or restrictions took effect, such dwelling units  
320 shall be sold or rented at, or below, prices which will preserve the  
321 units as affordable housing for persons or families whose income does  
322 not exceed eighty per cent of median income, or (C) located within an  
323 approved incentive housing development, as defined in section 8-13m,  
324 as amended by this act.

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

330 (9) A newly-constructed unit shall be counted toward a moratorium  
331 when it receives a certificate of occupancy. A newly-restricted unit  
332 shall be counted toward a moratorium when its deed restriction takes  
333 effect.

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

340 (11) The commissioner shall, within available appropriations, adopt  
341 regulations in accordance with chapter 54 to carry out the purposes of  
342 this subsection. Such regulations shall specify the procedure to be  
343 followed by a municipality to obtain a moratorium, and shall include  
344 the manner in which a municipality is to document the units to be  
345 counted toward a moratorium. A municipality may apply for a  
346 moratorium in accordance with the provisions of this subsection prior

347 to, as well as after, such regulations are adopted.

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

354 Sec. 2. Subdivision (12) of section 8-13m of the general statutes is  
355 repealed and the following is substituted in lieu thereof (*Effective*  
356 *October 1, 2015, and applicable to any final determination of eligibility for an*  
357 *incentive housing zone or any grant that has not yet been approved under*  
358 *section 8-13x of the general statutes as of October 1, 2015*):

359 (12) "Median income" means, after adjustments for household size,  
360 the lesser of the state median income or the area median income as  
361 determined by the United States Department of Housing and Urban  
362 Development for the municipality in which an approved incentive  
363 housing zone or development is located.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	8-30g
Sec. 2	October 1, 2015, and applicable to any final determination of eligibility for an incentive housing zone or any grant that has not yet been approved under section 8-13x of the general statutes as of October 1, 2015	8-13m(12)

**HSG**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 16 \$</b>	<b>FY 17 \$</b>
Various Municipalities	Potential Savings	Minimal	Minimal

**Explanation**

The bill: 1) reduces the instances in which an affordable housing developer can appeal a municipality's rejection of an affordable housing project; and 2) expands the types of housing that allow a municipality to qualify for an affordable housing moratorium.

The bill impacts any municipalities which are currently required to defend, in court, the rejection of an affordable housing project (if a developer appeals such rejection). These municipalities may participate in fewer legal hearings as a result of the bill. To the extent this occurs, there is a potential, minimal savings associated with reduced legal and administrative expenses.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****SB 407*****AN ACT CONCERNING THE AFFORDABLE HOUSING LAND USE APPEALS PROCEDURE.*****SUMMARY:**

This bill narrows the circumstances in which the affordable housing land use appeals procedure (“procedure”) is available to developers by making it available only in appeals concerning developments with at least four affordable units. The bill also makes it easier for municipalities to qualify for a four-year exemption from the procedure (i.e., moratorium) by (1) expanding the unit types that qualify toward the moratorium and (2) establishing “bonus points” for certain unit types.

The procedure is a set of rules requiring zoning and planning commissions to defend their decisions denying affordable housing developments or approving them with certain conditions. In traditional zoning appeals, the developer must convince the court that the municipality acted illegally, arbitrarily, or abused its discretion by rejecting his or her proposed development. The procedure instead places the burden of proof on municipalities.

By law, a developer cannot appeal under the procedure in a municipality (1) in which the Department of Housing (DOH) determines at least 10% of the housing stock is affordable or (2) that obtains a four-year moratorium. A municipality is eligible for a moratorium each time it shows it has added a certain number of affordable housing units since the last census.

Additionally, the bill changes the definition of “median income” applicable to the incentive housing zones (IHZ) statutes, conforming it to the affordable housing land use appeals procedure statutes. IHZs

are overlay zones in which developers can build, as a matter of right, high-density housing.

EFFECTIVE DATE: October 1, 2015, but the definition of “median income” does not apply to IHZs that DOH approves, or approves grants for, before October 1, 2015.

## **AFFORDABLE HOUSING LAND USE APPEALS PROCEDURE**

### ***Availability of Procedure to Developers***

The bill prevents developers from appealing, under the procedure, a decision concerning a development with fewer than four affordable units. Under current law, a developer can appeal under the procedure if he or she proposes to build at least one affordable unit, unless (1) at least 10% of the municipality’s housing stock is affordable or (2) the municipality obtained a moratorium.

### ***Moratoria: Required Housing Unit Equivalent (HUE) Points***

Under current law, a municipality is eligible for a moratorium if it shows it has added affordable housing units, measured in HUE points, equaling the greater of (1) 2% of the housing stock, as of the last census or (2) 75 HUE points (see BACKGROUND). The bill retains the 2% standard but lowers, from 75 to 50, the minimum number of HUE points municipalities need to qualify for a four-year moratorium.

### ***Moratoria: Incentive Housing Development (IHD) Units***

Under current law, IHD units do not qualify for HUE points if they are not income-restricted (“restricted”) for at least 40 years. The bill makes all restricted IHD units in an IHZ eligible for HUE points toward a moratorium. An IHD is a residential or mixed-use development (1) located within an IHZ and (2) in which at least 20% of the units are restricted for at least 30 years.

Under the bill, restricted units in an IHD qualify for HUE points, even if they are restricted for fewer than 40 years.

### ***Moratoria: Bonus Points***

The bill makes three categories of units eligible for bonus HUE

points, as shown in Table 1. Bonus points are awarded in addition to base HUE points a unit receives (see BACKGROUND.) Restricted IHD and family units with at least three bedrooms receive a quarter-point bonus. Restricted elderly units receive a half-point bonus, if at least 60% of the restricted units counted toward the moratorium are family units (i.e., elderly units will not receive a half-point bonus if they make up more than 40% of the restricted units counted toward the moratorium).

**Table 1: Bonus Points**

Unit Type	Bonus Points	
	Current Law	Bill
Owned or rented restricted family units in an IHD	No bonus	0.25 bonus
Owned or rented restricted family units with at least 3 bedrooms	No bonus	0.25 bonus
Owned or rented restricted elderly units, if at least 60% of restricted units used toward the moratorium are family units	No bonus	0.50 bonus
Rental family units in a set-aside development, if the developer applied for local approval before 07/06/1995	Bonus equal to 22% of the total points awarded to such development	No change

## **IHZ: DEFINITION OF MEDIAN INCOME**

The bill conforms the definition of “median income” applicable to IHDs to the definition applicable to the affordable housing land use appeals procedure statutes. Under current law, restricted units in an IHD must be affordable to individuals earning 80% or less than the area median income (AMI). The bill instead requires restricted units in an IHD to be affordable to individuals earning 80% or less of the AMI or state median income (SMI), whichever is less. The new definition of “median income” does not apply to IHDs in IHZs that DOH approves, or approves grants for, before October 1, 2015.

## **BACKGROUND**

### ***Affordable Housing Developments***

Under the procedure, “affordable housing development” means a housing development that is (1) assisted housing or (2) a set-aside

development. "Assisted housing" means housing that receives government assistance to construct or rehabilitate low- and moderate-income housing, or, housing occupied by individuals receiving rental assistance (e.g., Section 8). A "set-aside development" is a development in which, for at least 40 years after initial occupancy, at least (1) 15% of the units are deed restricted to households earning 60% or less of the AMI or SMI, whichever is less and (2) 15% of units are deed restricted to households earning 80% or less of the AMI or SMI, whichever is less.

***Applicability of the Procedure***

A municipality is subject to the procedure if less than 10% of its housing stock:

1. is assisted housing,
2. is currently financed by Connecticut Housing Finance Authority mortgages,
3. is subject to deeds and conditions restricting the sale or rental to low-and moderate-income people, or
4. consists of mobile homes or accessory apartments subject to similar deed restrictions.

However, municipalities are eligible for a four-year moratorium on appeals taken under the procedure each time the municipality shows it has added affordable housing units, measured in HUE points, equaling the greater of (1) 2% of the housing stock, as of the last census or (2) 75 HUE points. Table 2 shows the types of units that count toward a moratorium and their HUE point value, as established in CGS § 8-30g.

**Table 2: Base Points**

Unit Type	HUE point value (per unit)
Owned or rented market-rate unit in a set-aside development	0.25
Owned or rented elderly unit restricted to households earning no more than 80% of the median income	0.50

Owned family unit restricted to households earning no more than:	80% of median income	1.00
	60% of median income	1.50
	40% of median income	2.00
Rented family unit restricted to households earning no more than:	80% of median income	1.50
	60% of median income	2.00
	40% of median income	2.50

***IHZs and IHDs***

An IHZ is an overlay zone allowing developers to build, as a matter of right, high-density housing close to (1) public transportation, (2) an area of concentrated development, or (3) existing or planned infrastructure. DOH is authorized to make grants to municipalities that adopt, or are working to adopt, IHZ regulations (CGS § 8-13m et seq.).

An IHD is a residential or mixed-use development (1) located within a DOH-approved IHZ and (2) eligible for grants. Additionally, at least 20% of the units must be affordable, for at least 30 years, to households earning 80% or less of the AMI. Income restrictions are guaranteed by various means, including deed restrictions, covenants, zoning regulations, and site plan approval conditions.

***Related Bill***

SB 892, favorably reported by the Housing Committee, makes several changes to the IHZ statutes, including provisions related to grants and minimum density requirements.

**COMMITTEE ACTION**

Housing Committee

Joint Favorable

Yea 13    Nay 0    (03/11/2015)