



# Senate

General Assembly

**File No. 33**

January Session, 2015

Senate Bill No. 891

*Senate, March 5, 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 ADMINISTRATIVE HEARINGS CONDUCTED  
BY THE DEPARTMENT OF HOUSING.***

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

1 Section 1. (NEW) (*Effective October 1, 2015*) An aggrieved person  
2 authorized by law to request a fair hearing on a decision of the  
3 Commissioner of Housing, or the conservator of any such aggrieved  
4 person on his or her behalf, may make application for such hearing in  
5 writing over his or her signature to the commissioner and shall state in  
6 such application in simple language the reasons why he or she claims  
7 to be aggrieved. Such application shall be mailed to the commissioner  
8 within sixty days after the rendition of such decision. The  
9 commissioner shall thereupon hold a fair hearing within thirty days  
10 from receipt thereof and shall, at least ten days prior to the date of  
11 such hearing, mail a notice, giving the time and place thereof to such  
12 aggrieved person. A reasonable period of continuance may be granted  
13 for good cause. The aggrieved person shall appear personally at the  
14 hearing, unless such person's physical or mental condition precludes

15 appearing in person, and may be represented by an attorney or other  
16 authorized representative. A stenographic or mechanical record shall  
17 be made of each hearing, but need not be transcribed except (1) in the  
18 event of an appeal from the decision of the hearing officer, or (2) if a  
19 copy is requested by the aggrieved person, in either of which cases it  
20 shall be furnished by the commissioner without charge. The  
21 commissioner, and any person authorized by him or her to conduct  
22 any hearing under the provisions of this section, shall have power to  
23 administer oaths and take testimony under oath relative to the matter  
24 of the hearing and may subpoena witnesses and require the  
25 production of records, papers and documents pertinent to such  
26 hearing. No witness under subpoena authorized to be issued by the  
27 provisions of this section shall be excused from testifying or from  
28 producing records, papers or documents on the ground that such  
29 testimony or the production of such records or other documentary  
30 evidence would tend to incriminate him or her, but such evidence or  
31 the records or papers so produced shall not be used in any criminal  
32 proceeding against him or her. If any person disobeys such process or,  
33 having appeared in obedience thereto, refuses to answer any pertinent  
34 question requested by the commissioner or the commissioner's  
35 authorized agent or to produce any records and papers pursuant  
36 thereto, the commissioner or the commissioner's agent may apply to  
37 the superior court for the judicial district of Hartford or for the judicial  
38 district wherein the person resides, or to any judge of said court if the  
39 same is not in session, setting forth such disobedience to process or  
40 refusal to answer, and said court or such judge shall cite such person to  
41 appear before said court or such judge to answer such question or to  
42 produce such records and papers and, upon his refusal to do so, shall  
43 commit such person to a community correctional center until he  
44 testifies, but not for a longer period than sixty days. Notwithstanding  
45 the serving of the term of such commitment by any person, the  
46 commissioner or the commissioner's agent may proceed with such  
47 inquiry and examination as if the witness had not previously been  
48 called upon to testify. Officers who serve subpoenas issued by the  
49 commissioner or under the commissioner's authority and witnesses

50 attending hearings conducted by such commissioner hereunder shall  
51 receive like fees and compensation as officers and witnesses in the  
52 courts of this state to be paid on vouchers of the commissioner on  
53 order of the Comptroller.

54 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) Not later than sixty days  
55 after such hearing, the Commissioner of Housing, or the  
56 commissioner's designated hearing officer, shall render a final decision  
57 based upon all the evidence introduced before him or her and  
58 applying all pertinent provisions of law, regulations and departmental  
59 policy, and such final decision shall supersede the decision made  
60 without a hearing, provided final definitive administrative action shall  
61 be taken by the commissioner or the commissioner's designee within  
62 ninety days after the request of such hearing pursuant to section 1 of  
63 this act. Notice of such final decision shall be given to the aggrieved  
64 person by mailing him or her a copy thereof within one business day  
65 of its rendition. Such decision after hearing shall be final except as  
66 provided in subsections (b) and (c) of this section.

67 (b) The applicant for such hearing, if aggrieved, may appeal  
68 therefrom in accordance with section 4-183 of the general statutes.  
69 Appeals from decisions of said commissioner shall be privileged cases  
70 to be heard by the court as soon after the return day as shall be  
71 practicable.

72 (c) The commissioner may, for good cause shown by an aggrieved  
73 person, extend the time for filing an appeal to Superior Court beyond  
74 the time limitations of section 4-183 of the general statutes, as set forth  
75 below:

76 (1) Any aggrieved person who is authorized to appeal a decision of  
77 the commissioner, pursuant to subsection (b) of this section, but who  
78 fails to serve or file a timely appeal to the Superior Court pursuant to  
79 section 4-183 of the general statutes, may, as provided in this  
80 subsection, petition that the commissioner, for good cause shown,  
81 extend the time for filing any such appeal. Such a petition must be  
82 filed with the commissioner in writing and contain a complete and

83 detailed explanation of the reasons that precluded the petitioner from  
84 serving or filing an appeal within the statutory time period. Such  
85 petition must also be accompanied by all available documentary  
86 evidence that supports or corroborates the reasons advanced for the  
87 extension request. In no event shall a petition for extension be  
88 considered or approved if filed later than ninety days after the  
89 rendition of the final decision. The decision as to whether to grant an  
90 extension shall be made consistent with the provisions of subdivision  
91 (2) of this subsection and shall be final and not subject to judicial  
92 review.

93 (2) In determining whether to grant a good cause extension, as  
94 provided for in this subsection, the commissioner, or the  
95 commissioner's authorized designee, shall, without the necessity of  
96 further hearing, review and, as necessary, verify the reasons advanced  
97 by the petition in justification of the extension request. A  
98 determination that good cause prevented the filing of a timely appeal  
99 shall be issued in writing and shall enable the petitioner to serve and  
100 file an appeal within the time provisions of section 4-183 of the general  
101 statutes, from the date of the decision granting an extension. The  
102 circumstances that precluded the petitioner from filing a timely appeal,  
103 and which may be deemed good cause for purposes of granting an  
104 extension petition, include, but are not limited to: (A) Serious illness or  
105 incapacity of the petitioner which has been documented as materially  
106 affecting the conduct of personal affairs; (B) a death or serious illness  
107 in the petitioner's immediate family that has been documented as  
108 precluding the petitioner from perfecting a timely appeal; (C) incorrect  
109 or misleading information given to the petitioner by the agency,  
110 relating to the appeal time period, and shown to have been materially  
111 relied on by the petitioner as the basis for failure to file a timely appeal;  
112 (D) evidence that the petitioner did not receive notice of the agency  
113 decision; and (E) other unforeseen and unavoidable circumstances of  
114 an exceptional nature which prevented the filing of a timely appeal.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section

**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:*** None***Explanation***

The bill has no fiscal impact by establishing a hearing and appeals procedure for various programs transferred to the Department of Housing (DOH) from the Department of Social Services under PA 13-234. Since July 1, 2014 DOH has been conducting the hearings. The bill therefore codifies current practice and has no fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****SB 891*****AN ACT CONCERNING ADMINISTRATIVE HEARINGS  
CONDUCTED BY THE DEPARTMENT OF HOUSING.*****SUMMARY:**

PA 13-234 transferred, from the Department of Social Services (DSS) to the Department of Housing (DOH), certain housing programs under which individuals denied program benefits could request an administrative hearing. This bill establishes in statute the same hearing and appeals procedures for DOH as the law establishes for DSS. By law, the DOH programs under which individuals may request a hearing are the (1) rental assistance program (RAP); (2) transitional rental assistance program (T-RAP); and (3) security deposit guarantee program.

The bill's procedures generally match those set by practice and regulations (Conn. Agencies Regs. §§ 17b-802-12 and 17b-812-14). However, statutes governing RAP and T-RAP (CGS §§ 8-345 and 8-346a) require that hearings for these programs follow the Uniform Administrative Procedure Act (UAPA) (CGS § 4-176e et seq.). The UAPA establishes deadlines and procedures that differ from those in the bill and regulations (e.g., final decisions must be rendered within 90 days after a hearing under the UAPA, but within 60 days under the bill). It is unclear which hearing and appeals procedures DOH would be required to follow for RAP and T-RAP

EFFECTIVE DATE: October 1, 2015

**HEARING AND APPEALS PROCEDURES**

The bill sets the same hearing and appeals procedures for DOH as the law sets for DSS. Generally, this means that:

1. an aggrieved person, or his or her conservator, must apply for a hearing within 60 days after the commissioner's decision;
2. the commissioner must (a) provide the aggrieved person at least 10 days notice of the hearing date and time and (b) hold the hearing within 30 days after receiving the application;
3. the commissioner or hearing officer must render a final decision no later than 60 days after the hearing;
4. DOH must take administrative action on the matter within 90 days after the hearing request;
5. a person aggrieved by the department's final decision may appeal under the UAPA (generally, under the UAPA, aggrieved parties have 45 days to appeal final agency decisions to Superior Court);
6. an aggrieved person who fails to timely serve or file an appeal to Superior Court may petition the commissioner in writing for an extension; and
7. the commissioner may consider petitions received within 90 days after the final decision and extend the UAPA's appeals deadlines for good cause.

**COMMITTEE ACTION**

Housing Committee

Joint Favorable

Yea 13 Nay 0 (02/19/2015)