



General Assembly

**Amendment**

January Session, 2015

LCO No. 8434



Offered by:  
SEN. HWANG, 28<sup>th</sup> Dist.

To: House Bill No. 6694

File No. 466

Cal. No. 538

**"AN ACT CONCERNING FREEDOM OF ASSOCIATION IN PUBLIC HOUSING."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 8-30g of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2015, and*  
5 *applicable to any affordable housing application filed on or after October 1,*  
6 *2015*):

7 (a) As used in this section:

8 (1) "Affordable housing development" means a proposed housing  
9 development which is (A) assisted housing, or (B) a set-aside  
10 development;

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

14 (3) "Assisted housing" means housing which is receiving, or will  
15 receive, financial assistance under any governmental program for the  
16 construction or substantial rehabilitation of low and moderate income  
17 housing, and any housing occupied by persons receiving rental  
18 assistance under chapter 319uu or Section 1437f of Title 42 of the  
19 United States Code;

20 (4) "Commission" means a zoning commission, planning  
21 commission, planning and zoning commission, zoning board of  
22 appeals or municipal agency exercising zoning or planning authority;

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

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

42 (7) "Median income" means, after adjustments for family size, the  
43 lesser of the state median income or the area median income for the  
44 area in which the municipality containing the affordable housing  
45 development is located, as determined by the United States

46 Department of Housing and Urban Development; and

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

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

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

75 (c) Any commission, by regulation, may require that an affordable  
76 housing application seeking a change of zone shall include the  
77 submission of a conceptual site plan describing the proposed

78 development's total number of residential units and their arrangement  
79 on the property and the proposed development's roads and traffic  
80 circulation, sewage disposal and water supply.

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

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

104 (f) Any person whose affordable housing application is denied, or is  
105 approved with restrictions which have a substantial adverse impact on  
106 the viability of the affordable housing development or the degree of  
107 affordability of the affordable dwelling units in a set-aside  
108 development, may appeal such decision pursuant to the procedures of  
109 this section. Such appeal shall be filed within the time period for filing  
110 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and

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

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

145 decision from which the appeal was taken in a manner consistent with  
146 the evidence in the record before it.

147 (h) Following a decision by a commission to reject an affordable  
148 housing application or to approve an application with restrictions  
149 which have a substantial adverse impact on the viability of the  
150 affordable housing development or the degree of affordability of the  
151 affordable dwelling units, the applicant may, within the period for  
152 filing an appeal of such decision, submit to the commission a proposed  
153 modification of its proposal responding to some or all of the objections  
154 or restrictions articulated by the commission, which shall be treated as  
155 an amendment to the original proposal. The day of receipt of such a  
156 modification shall be determined in the same manner as the day of  
157 receipt is determined for an original application. The filing of such a  
158 proposed modification shall stay the period for filing an appeal from  
159 the decision of the commission on the original application. The  
160 commission shall hold a public hearing on the proposed modification  
161 if it held a public hearing on the original application and may hold a  
162 public hearing on the proposed modification if it did not hold a public  
163 hearing on the original application. The commission shall render a  
164 decision on the proposed modification not later than sixty-five days  
165 after the receipt of such proposed modification, provided, if, in  
166 connection with a modification submitted under this subsection, the  
167 applicant applies for a permit for an activity regulated pursuant to  
168 sections 22a-36 to 22a-45, inclusive, and the time for a decision by the  
169 commission on such modification under this subsection would lapse  
170 prior to the thirty-fifth day after a decision by an inland wetlands and  
171 watercourses agency, the time period for decision by the commission  
172 on the modification under this subsection shall be extended to thirty-  
173 five days after the decision of such agency. The commission shall issue  
174 notice of its decision as provided by law. Failure of the commission to  
175 render a decision within said sixty-five days or subsequent extension  
176 period permitted by this subsection shall constitute a rejection of the  
177 proposed modification. Within the time period for filing an appeal on  
178 the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a,

179 as applicable, the applicant may appeal the commission's decision on  
180 the original application and the proposed modification in the manner  
181 set forth in this section. Nothing in this subsection shall be construed  
182 to limit the right of an applicant to appeal the original decision of the  
183 commission in the manner set forth in this section without submitting  
184 a proposed modification or to limit the issues which may be raised in  
185 any appeal under this section.

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

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

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

212 less of income, where such income is less than or equal to eighty per  
213 cent of the median income. The municipalities meeting the criteria set  
214 forth in this subsection shall be listed in the report submitted under  
215 section 8-37qq. As used in subdivision (2) of this subsection,  
216 "accessory apartment" means a separate living unit that [(A)] (i) is  
217 attached to the main living unit of a house, which house has the  
218 external appearance of a single-family residence, [(B)] (ii) has a full  
219 kitchen, [(C)] (iii) has a square footage that is not more than thirty per  
220 cent of the total square footage of the house, [(D)] (iv) has an internal  
221 doorway connecting to the main living unit of the house, [(E)] (v) is not  
222 billed separately from such main living unit for utilities, and [(F)] (vi)  
223 complies with the building code and health and safety regulations.

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

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

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



245 (4) (A) The commissioner shall issue a certificate of affordable  
246 housing project completion for the purposes of this subsection upon  
247 finding that there has been completed within the municipality one or  
248 more affordable housing developments which create housing unit-  
249 equivalent points equal to the greater of two per cent of all dwelling  
250 units in the municipality, as reported in the most recent United States  
251 decennial census, or [seventy-five] fifty housing unit-equivalent points.

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

279 commissioner subsequently acts upon and rejects the application, in  
280 which case the moratorium shall terminate upon notice to the  
281 municipality by the commissioner.

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

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

312 units shall be awarded additional points equal to twenty-two per cent  
313 of the total points awarded to such development, provided the  
314 application for such development was filed with the commission prior  
315 to July 6, 1995.

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

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

334 (9) A newly-constructed unit shall be counted toward a moratorium  
335 when it receives a certificate of occupancy. A newly-restricted unit  
336 shall be counted toward a moratorium when its deed restriction takes  
337 effect.

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

344 (11) The commissioner shall, within available appropriations, adopt  
345 regulations in accordance with chapter 54 to carry out the purposes of  
346 this subsection. Such regulations shall specify the procedure to be  
347 followed by a municipality to obtain a moratorium, and shall include  
348 the manner in which a municipality is to document the units to be  
349 counted toward a moratorium. A municipality may apply for a  
350 moratorium in accordance with the provisions of this subsection prior  
351 to, as well as after, such regulations are adopted.

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

358 Sec. 502. Section 8-30g of the general statutes, as amended by section  
359 1 of this act, is repealed and the following is substituted in lieu thereof  
360 (*Effective October 1, 2020, and applicable to any affordable housing*  
361 *application filed on or after October 1, 2020*):

362 (a) As used in this section:

363 (1) "Affordable housing development" means a proposed housing  
364 development which is (A) assisted housing, or (B) a set-aside  
365 development;

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

369 (3) "Assisted housing" means housing which is receiving, or will  
370 receive, financial assistance under any governmental program for the  
371 construction or substantial rehabilitation of low and moderate income  
372 housing, and any housing occupied by persons receiving rental  
373 assistance under chapter 319uu or Section 1437f of Title 42 of the  
374 United States Code;

375 (4) "Commission" means a zoning commission, planning  
376 commission, planning and zoning commission, zoning board of  
377 appeals or municipal agency exercising zoning or planning authority;

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

380 (6) "Set-aside development" means a development in which not less  
381 than thirty per cent of the dwelling units will be conveyed by deeds  
382 containing covenants or restrictions which shall require that, for at  
383 least forty years after the initial occupation of the proposed  
384 development, such dwelling units shall be sold or rented at, or below,  
385 prices which will preserve the units as housing for which persons and  
386 families pay thirty per cent or less of their annual income, where such  
387 income is less than or equal to eighty per cent of the median income. In  
388 a set-aside development, of the dwelling units conveyed by deeds  
389 containing covenants or restrictions, a number of dwelling units equal  
390 to not less than fifteen per cent of all dwelling units in the  
391 development shall be sold or rented to persons and families whose  
392 income is less than or equal to sixty per cent of the median income and  
393 the remainder of the dwelling units conveyed by deeds containing  
394 covenants or restrictions shall be sold or rented to persons and families  
395 whose income is less than or equal to eighty per cent of the median  
396 income;

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

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

403 (b) (1) Any person filing an affordable housing application with a  
404 commission shall submit, as part of the application, an affordability  
405 plan which shall include at least the following: (A) Designation of the

406 person, entity or agency that will be responsible for the duration of any  
407 affordability restrictions, for the administration of the affordability  
408 plan and its compliance with the income limits and sale price or rental  
409 restrictions of this chapter; (B) an affirmative fair housing marketing  
410 plan governing the sale or rental of all dwelling units; (C) a sample  
411 calculation of the maximum sales prices or rents of the intended  
412 affordable dwelling units; (D) a description of the projected sequence  
413 in which, within a set-aside development, the affordable dwelling  
414 units will be built and offered for occupancy and the general location  
415 of such units within the proposed development; and (E) draft zoning  
416 regulations, conditions of approvals, deeds, restrictive covenants or  
417 lease provisions that will govern the affordable dwelling units.

418 (2) The commissioner shall, within available appropriations, adopt  
419 regulations pursuant to chapter 54 regarding the affordability plan.  
420 Such regulations may include additional criteria for preparing an  
421 affordability plan and shall include: (A) A formula for determining  
422 rent levels and sale prices, including establishing maximum allowable  
423 down payments to be used in the calculation of maximum allowable  
424 sales prices; (B) a clarification of the costs that are to be included when  
425 calculating maximum allowed rents and sale prices; (C) a clarification  
426 as to how family size and bedroom counts are to be equated in  
427 establishing maximum rental and sale prices for the affordable units;  
428 and (D) a listing of the considerations to be included in the  
429 computation of income under this section.

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

436 (d) For any affordable dwelling unit that is rented as part of a set-  
437 aside development, if the maximum monthly housing cost, as  
438 calculated in accordance with subdivision (6) of subsection (a) of this

439 section, would exceed one hundred per cent of the Section 8 fair  
440 market rent as determined by the United States Department of  
441 Housing and Urban Development, in the case of units set aside for  
442 persons and families whose income is less than or equal to sixty per  
443 cent of median income, then such maximum monthly housing cost  
444 shall not exceed one hundred per cent of said Section 8 fair market  
445 rent. If the maximum monthly housing cost, as calculated in  
446 accordance with subdivision (6) of subsection (a) of this section, would  
447 exceed one hundred twenty per cent of the Section 8 fair market rent,  
448 as determined by the United States Department of Housing and Urban  
449 Development, in the case of units set aside for persons and families  
450 whose income is less than or equal to eighty per cent of median  
451 income, then such maximum monthly housing cost shall not exceed  
452 one hundred twenty per cent of such Section 8 fair market rent.

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

459 (f) Any person whose affordable housing application is denied, or is  
460 approved with restrictions which have a substantial adverse impact on  
461 the viability of the affordable housing development or the degree of  
462 affordability of the affordable dwelling units in a set-aside  
463 development, may appeal such decision pursuant to the procedures of  
464 this section. Such appeal shall be filed within the time period for filing  
465 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and  
466 shall be made returnable to the superior court for the judicial district  
467 where the real property which is the subject of the application is  
468 located. Affordable housing appeals, including pretrial motions, shall  
469 be heard by a judge assigned by the Chief Court Administrator to hear  
470 such appeals. To the extent practicable, efforts shall be made to assign  
471 such cases to a small number of judges, sitting in geographically

472 diverse parts of the state, so that a consistent body of expertise can be  
473 developed. Unless otherwise ordered by the Chief Court  
474 Administrator, such appeals, including pretrial motions, shall be heard  
475 by such assigned judges in the judicial district in which such judge is  
476 sitting. Appeals taken pursuant to this subsection shall be privileged  
477 cases to be heard by the court as soon after the return day as is  
478 practicable. Except as otherwise provided in this section, appeals  
479 involving an affordable housing application shall proceed in  
480 conformance with the provisions of said section 8-8, 8-9, 8-28 or 8-30a,  
481 as applicable.

482 (g) Upon an appeal taken under subsection (f) of this section, the  
483 burden shall be on the commission to prove, based upon the evidence  
484 in the record compiled before such commission, that the decision from  
485 which such appeal is taken and the reasons cited for such decision are  
486 supported by sufficient evidence in the record. The commission shall  
487 also have the burden to prove, based upon the evidence in the record  
488 compiled before such commission, that (1) (A) the decision is necessary  
489 to protect substantial public interests in health, safety or other matters  
490 which the commission may legally consider; (B) such public interests  
491 clearly outweigh the need for affordable housing; and (C) such public  
492 interests cannot be protected by reasonable changes to the affordable  
493 housing development, or (2) (A) the application which was the subject  
494 of the decision from which such appeal was taken would locate  
495 affordable housing in an area which is zoned for industrial use and  
496 which does not permit residential uses; and (B) the development is not  
497 assisted housing, as defined in subsection (a) of this section. If the  
498 commission does not satisfy its burden of proof under this subsection,  
499 the court shall wholly or partly revise, modify, remand or reverse the  
500 decision from which the appeal was taken in a manner consistent with  
501 the evidence in the record before it.

502 (h) Following a decision by a commission to reject an affordable  
503 housing application or to approve an application with restrictions  
504 which have a substantial adverse impact on the viability of the



505 affordable housing development or the degree of affordability of the  
506 affordable dwelling units, the applicant may, within the period for  
507 filing an appeal of such decision, submit to the commission a proposed  
508 modification of its proposal responding to some or all of the objections  
509 or restrictions articulated by the commission, which shall be treated as  
510 an amendment to the original proposal. The day of receipt of such a  
511 modification shall be determined in the same manner as the day of  
512 receipt is determined for an original application. The filing of such a  
513 proposed modification shall stay the period for filing an appeal from  
514 the decision of the commission on the original application. The  
515 commission shall hold a public hearing on the proposed modification  
516 if it held a public hearing on the original application and may hold a  
517 public hearing on the proposed modification if it did not hold a public  
518 hearing on the original application. The commission shall render a  
519 decision on the proposed modification not later than sixty-five days  
520 after the receipt of such proposed modification, provided, if, in  
521 connection with a modification submitted under this subsection, the  
522 applicant applies for a permit for an activity regulated pursuant to  
523 sections 22a-36 to 22a-45, inclusive, and the time for a decision by the  
524 commission on such modification under this subsection would lapse  
525 prior to the thirty-fifth day after a decision by an inland wetlands and  
526 watercourses agency, the time period for decision by the commission  
527 on the modification under this subsection shall be extended to thirty-  
528 five days after the decision of such agency. The commission shall issue  
529 notice of its decision as provided by law. Failure of the commission to  
530 render a decision within said sixty-five days or subsequent extension  
531 period permitted by this subsection shall constitute a rejection of the  
532 proposed modification. Within the time period for filing an appeal on  
533 the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a,  
534 as applicable, the applicant may appeal the commission's decision on  
535 the original application and the proposed modification in the manner  
536 set forth in this section. Nothing in this subsection shall be construed  
537 to limit the right of an applicant to appeal the original decision of the  
538 commission in the manner set forth in this section without submitting  
539 a proposed modification or to limit the issues which may be raised in

540 any appeal under this section.

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

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

547 (k) Notwithstanding the provisions of subsections (a) to (j),  
548 inclusive, of this section, the affordable housing appeals procedure  
549 established under this section shall not be available if [(1) the proposed  
550 development which is the subject of the application contains less than  
551 four affordable dwelling units, or (2)] the real property which is the  
552 subject of the application is located in a municipality in which at least  
553 ten per cent of all dwelling units in the municipality are [(A)] (1)  
554 assisted housing, or [(B)] (2) currently financed by Connecticut  
555 Housing Finance Authority mortgages, or [(C)] (3) subject to binding  
556 recorded deeds containing covenants or restrictions which require that  
557 such dwelling units be sold or rented at, or below, prices which will  
558 preserve the units as housing for which persons and families pay thirty  
559 per cent or less of income, where such income is less than or equal to  
560 eighty per cent of the median income, or [(D)] (4) mobile manufactured  
561 homes located in mobile manufactured home parks or legally  
562 approved accessory apartments, which homes or apartments are  
563 subject to binding recorded deeds containing covenants or restrictions  
564 which require that such dwelling units be sold or rented at, or below,  
565 prices which will preserve the units as housing for which, for a period  
566 of not less than ten years, persons and families pay thirty per cent or  
567 less of income, where such income is less than or equal to eighty per  
568 cent of the median income. The municipalities meeting the criteria set  
569 forth in this subsection shall be listed in the report submitted under  
570 section 8-37qqq. As used in [subdivision (2) of] this subsection,  
571 "accessory apartment" means a separate living unit that [(i)] (A) is  
572 attached to the main living unit of a house, which house has the

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

579 (l) (1) Notwithstanding the provisions of subsections (a) to (j),  
580 inclusive, of this section, the affordable housing appeals procedure  
581 established under this section shall not be applicable to an affordable  
582 housing application filed with a commission during a moratorium,  
583 which shall be the four-year period after (A) a certification of  
584 affordable housing project completion issued by the commissioner is  
585 published in the Connecticut Law Journal, or (B) after notice of a  
586 provisional approval is published pursuant to subdivision (4) of this  
587 subsection. Any moratorium that is in effect on October 1, 2002, is  
588 extended by one year.

589 (2) Notwithstanding the provisions of this subsection, such  
590 moratorium shall not apply to (A) affordable housing applications for  
591 assisted housing in which ninety-five per cent of the dwelling units are  
592 restricted to persons and families whose income is less than or equal to  
593 sixty per cent of median income, (B) other affordable housing  
594 applications for assisted housing containing forty or fewer dwelling  
595 units, or (C) affordable housing applications which were filed with a  
596 commission pursuant to this section prior to the date upon which the  
597 moratorium takes effect.

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

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

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

607 (B) A municipality may apply for a certificate of affordable housing  
608 project completion pursuant to this subsection by applying in writing  
609 to the commissioner, and including documentation showing that the  
610 municipality has accumulated the required number of points within  
611 the applicable time period. Such documentation shall include the  
612 location of each dwelling unit being counted, the number of points  
613 each dwelling unit has been assigned, and the reason, pursuant to this  
614 subsection, for assigning such points to such dwelling unit. Upon  
615 receipt of such application, the commissioner shall promptly cause a  
616 notice of the filing of the application to be published in the Connecticut  
617 Law Journal, stating that public comment on such application shall be  
618 accepted by the commissioner for a period of thirty days after the  
619 publication of such notice. Not later than ninety days after the receipt  
620 of such application, the commissioner shall either approve or reject  
621 such application. Such approval or rejection shall be accompanied by a  
622 written statement of the reasons for approval or rejection, pursuant to  
623 the provisions of this subsection. If the application is approved, the  
624 commissioner shall promptly cause a certificate of affordable housing  
625 project completion to be published in the Connecticut Law Journal. If  
626 the commissioner fails to either approve or reject the application  
627 within such ninety-day period, such application shall be deemed  
628 provisionally approved, and the municipality may cause notice of such  
629 provisional approval to be published in a conspicuous manner in a  
630 daily newspaper having general circulation in the municipality, in  
631 which case, such moratorium shall take effect upon such publication.  
632 The municipality shall send a copy of such notice to the commissioner.  
633 Such provisional approval shall remain in effect unless the  
634 commissioner subsequently acts upon and rejects the application, in  
635 which case the moratorium shall terminate upon notice to the  
636 municipality by the commissioner.

637 (5) For purposes of this subsection, "elderly units" are dwelling units

638 whose occupancy is restricted by age and "family units" are dwelling  
639 units whose occupancy is not restricted by age.

640 (6) For purposes of this subsection, housing unit-equivalent points  
641 shall be determined by the commissioner as follows: (A) No points  
642 shall be awarded for a unit unless its occupancy is restricted to persons  
643 and families whose income is equal to or less than eighty per cent of  
644 median income, except that unrestricted units in a set-aside  
645 development shall be awarded one-fourth point each. (B) Family units  
646 restricted to persons and families whose income is equal to or less than  
647 eighty per cent of median income shall be awarded one point if an  
648 ownership unit and one and one-half points if a rental unit. (C) Family  
649 units restricted to persons and families whose income is equal to or  
650 less than sixty per cent of median income shall be awarded one and  
651 one-half points if an ownership unit and two points if a rental unit. (D)  
652 Family units restricted to persons and families whose income is equal  
653 to or less than forty per cent of median income shall be awarded two  
654 points if an ownership unit and two and one-half points if a rental  
655 unit. (E) [Restricted family units containing at least three bedrooms  
656 shall be awarded an additional one-fourth point. (F)] Elderly units  
657 restricted to persons and families whose income is equal to or less than  
658 eighty per cent of median income shall be awarded one-half point. (F)  
659 [(G) If at least sixty per cent of the total restricted units submitted by a  
660 municipality as part of an application for a certificate of affordable  
661 housing project completion are family units, any elderly units  
662 submitted within such application shall be awarded an additional one-  
663 half point. (H) Restricted family units located within an approved  
664 incentive housing development, as defined in section 8-13m, as  
665 amended by this act, shall be awarded an additional one-fourth point.  
666 (I)] A set-aside development containing family units which are rental  
667 units shall be awarded additional points equal to twenty-two per cent  
668 of the total points awarded to such development, provided the  
669 application for such development was filed with the commission prior  
670 to July 6, 1995.

671 (7) Points shall be awarded only for dwelling units which were (A)  
672 newly-constructed units in an affordable housing development, as that  
673 term was defined at the time of the affordable housing application, for  
674 which a certificate of occupancy was issued after July 1, 1990, or (B)  
675 newly subjected after July 1, 1990, to deeds containing covenants or  
676 restrictions which require that, for at least the duration required by  
677 subsection (a) of this section for set-aside developments on the date  
678 when such covenants or restrictions took effect, such dwelling units  
679 shall be sold or rented at, or below, prices which will preserve the  
680 units as affordable housing for persons or families whose income does  
681 not exceed eighty per cent of median income. [ or (C) located within  
682 an approved incentive housing development, as defined in section 8-  
683 13m, as amended by this act.]

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

689 (9) A newly-constructed unit shall be counted toward a moratorium  
690 when it receives a certificate of occupancy. A newly-restricted unit  
691 shall be counted toward a moratorium when its deed restriction takes  
692 effect.

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

699 (11) The commissioner shall, within available appropriations, adopt  
700 regulations in accordance with chapter 54 to carry out the purposes of  
701 this subsection. Such regulations shall specify the procedure to be  
702 followed by a municipality to obtain a moratorium, and shall include

703 the manner in which a municipality is to document the units to be  
704 counted toward a moratorium. A municipality may apply for a  
705 moratorium in accordance with the provisions of this subsection prior  
706 to, as well as after, such regulations are adopted.

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

713 Sec. 503. Subdivision (12) of section 8-13m of the general statutes is  
714 repealed and the following is substituted in lieu thereof (*Effective*  
715 *October 1, 2015, and applicable to any incentive housing development*  
716 *application filed with a zoning commission on or after October 1, 2015*):

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

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2015, and applicable to any affordable housing application filed on or after October 1, 2015</i>	8-30g
Sec. 502	<i>October 1, 2020, and applicable to any affordable housing application filed on or after October 1, 2020</i>	8-30g

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Sec. 503	<i>October 1, 2015, and applicable to any incentive housing development application filed with a zoning commission on or after October 1, 2015</i>	8-13m(12)
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