General Assembly

Amendment

January Session, 2015

LCO No. 9044

Offered by:
SEN. HWANG, 28th Dist.

To: Subst. House Bill No. 6830 File No. 826 Cal. No. 501

"AN ACT CONCERNING THE REMEDIAL ACTION AND REDEVELOPMENT MUNICIPAL GRANT PROGRAM, THE TARGETED BROWNFIELD DEVELOPMENT LOAN PROGRAM AND THE REMEDIATION OF STATE-OWNED AND FORMERLY STATE-OWNED BROWNFIELDS."

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

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 Section 8-30g of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2015, and applicable to any affordable housing application filed on or after October 1,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

(a) As used in this section:

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

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

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

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

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

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

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

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

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

(2) The commissioner shall, within available appropriations, adopt
regulations pursuant to chapter 54 regarding the affordability plan.
Such regulations may include additional criteria for preparing an
affordability plan and shall include: (A) A formula for determining
rent levels and sale prices, including establishing maximum allowable
down payments to be used in the calculation of maximum allowable
sales prices; (B) a clarification of the costs that are to be included when
calculating maximum allowed rents and sale prices; (C) a clarification
as to how family size and bedroom counts are to be equated in
establishing maximum rental and sale prices for the affordable units;
and (D) a listing of the considerations to be included in the
computation of income under this section.
(c) Any commission, by regulation, may require that an affordable housing application seeking a change of zone shall include the submission of a conceptual site plan describing the proposed development's total number of residential units and their arrangement on the property and the proposed development's roads and traffic circulation, sewage disposal and water supply.

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

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

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

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

(h) Following a decision by a commission to reject an affordable housing application or to approve an application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, the applicant may, within the period for filing an appeal of such decision, submit to the commission a proposed modification of its proposal responding to some or all of the objections or restrictions articulated by the commission, which shall be treated as an amendment to the original proposal. The day of receipt of such a modification shall be determined in the same manner as the day of receipt is determined for an original application. The filing of such a proposed modification shall stay the period for filing an appeal from the decision of the commission on the original application. The commission shall hold a public hearing on the proposed modification if it held a public hearing on the original application and may hold a public hearing on the proposed modification if it did not hold a public hearing on the original application. The commission shall render a decision on the proposed modification not later than sixty-five days after the receipt of such proposed modification, provided, if, in connection with a modification submitted under this subsection, the applicant applies for a permit for an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by the commission on such modification under this subsection would lapse prior to the thirty-fifth day after a decision by an inland wetlands and watercourses agency, the time period for decision by the commission on the modification under this subsection shall be extended to thirty-five days after the decision of such agency. The commission shall issue notice of its decision as provided by law. Failure of the commission to render a decision within said sixty-five days or subsequent extension
period permitted by this subsection shall constitute a rejection of the
proposed modification. Within the time period for filing an appeal on
the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a,
as applicable, the applicant may appeal the commission's decision on
the original application and the proposed modification in the manner
set forth in this section. Nothing in this subsection shall be construed
to limit the right of an applicant to appeal the original decision of the
commission in the manner set forth in this section without submitting
a proposed modification or to limit the issues which may be raised in
any appeal under this section.

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

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

(k) Notwithstanding the provisions of subsections (a) to (j),
inclusive, of this section, the affordable housing appeals procedure
established under this section shall not be available if (1) the proposed
development which is the subject of the application contains less than
four affordable dwelling units, or (2) the real property which is the
subject of the application is located in a municipality in which at least
ten per cent of all dwelling units in the municipality are [(1)] (A)
assisted housing, or [(2)] (B) currently financed by Connecticut
Housing Finance Authority mortgages, or [(3)] (C) subject to binding
recorded deeds containing covenants or restrictions which require that
such dwelling units be sold or rented at, or below, prices which will
preserve the units as housing for which persons and families pay thirty
per cent or less of income, where such income is less than or equal to
eighty per cent of the median income, or [(4)] (D) mobile manufactured
homes located in mobile manufactured home parks or legally
approved accessory apartments, which homes or apartments are
subject to binding recorded deeds containing covenants or restrictions
which require that such dwelling units be sold or rented at, or below,
prices which will preserve the units as housing for which, for a period
of not less than ten years, persons and families pay thirty per cent or
less of income, where such income is less than or equal to eighty per
cent of the median income. The municipalities meeting the criteria set
forth in this subsection shall be listed in the report submitted under
section 8-37qqq. As used in subdivision (2) of this subsection,
"accessory apartment" means a separate living unit that [(A)] (ii) is
attached to the main living unit of a house, which house has the
external appearance of a single-family residence, [(B)] (ii) has a full
kitchen, [(C)] (iii) has a square footage that is not more than thirty per
cent of the total square footage of the house, [(D)] (iv) has an internal
doorway connecting to the main living unit of the house, [(E)] (v) is not
billed separately from such main living unit for utilities, and [(F)] (vi)
complies with the building code and health and safety regulations.

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

(2) Notwithstanding the provisions of this subsection, such
moratorium shall not apply to (A) affordable housing applications for
assisted housing in which ninety-five per cent of the dwelling units are
restricted to persons and families whose income is less than or equal to
sixty per cent of median income, (B) other affordable housing
applications for assisted housing containing forty or fewer dwelling
units, or (C) affordable housing applications which were filed with a
commission pursuant to this section prior to the date upon which the
(3) Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium.

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

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

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

(6) For purposes of this subsection, housing unit-equivalent points
shall be determined by the commissioner as follows: (A) No points
shall be awarded for a unit unless its occupancy is restricted to persons
and families whose income is equal to or less than eighty per cent of
median income, except that unrestricted units in a set-aside
development shall be awarded one-fourth point each. (B) Family units
restricted to persons and families whose income is equal to or less than
eighty per cent of median income shall be awarded one point if an
ownership unit and one and one-half points if a rental unit. (C) Family
units restricted to persons and families whose income is equal to or
less than sixty per cent of median income shall be awarded one and
one-half points if an ownership unit and two points if a rental unit. (D)
Family units restricted to persons and families whose income is equal
to or less than forty per cent of median income shall be awarded two
points if an ownership unit and two and one-half points if a rental
unit. (E) Restricted family units containing at least three bedrooms
shall be awarded an additional one-fourth point. (F) Elderly units
restricted to persons and families whose income is equal to or less than
eighty per cent of median income shall be awarded one-half point. [(F)]
(G) If at least sixty per cent of the total restricted units submitted by a
municipality as part of an application for a certificate of affordable
housing project completion are family units, any elderly units
submitted within such application shall be awarded an additional one-
half point. (H) Restricted family units located within an approved
incentive housing development, as defined in section 8-13m, as
amended by this act, shall be awarded an additional one-fourth point.

(I) A set-aside development containing family units which are rental
units shall be awarded additional points equal to twenty-two per cent
of the total points awarded to such development, provided the
application for such development was filed with the commission prior
to July 6, 1995.

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

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

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

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

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

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

Sec. 502. Section 8-30g of the general statutes, as amended by section 501 of this act, is repealed and the following is substituted in lieu thereof (Effective October 1, 2020, and applicable to any affordable housing application filed on or after October 1, 2020):

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Upon an appeal taken under subsection (f) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission, that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record. The commission shall also have the burden to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision is necessary to protect substantial public interests in health, safety or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development, or (2) (A) the application which was the subject of the decision from which such appeal was taken would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses; and (B) the development is not assisted housing, as defined in subsection (a) of this section. If the commission does not satisfy its burden of proof under this subsection, the court shall wholly or partly revise, modify, remand or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it.
(h) Following a decision by a commission to reject an affordable housing application or to approve an application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, the applicant may, within the period for filing an appeal of such decision, submit to the commission a proposed modification of its proposal responding to some or all of the objections or restrictions articulated by the commission, which shall be treated as an amendment to the original proposal. The day of receipt of such a modification shall be determined in the same manner as the day of receipt is determined for an original application. The filing of such a proposed modification shall stay the period for filing an appeal from the decision of the commission on the original application. The commission shall hold a public hearing on the proposed modification if it held a public hearing on the original application and may hold a public hearing on the proposed modification if it did not hold a public hearing on the original application. The commission shall render a decision on the proposed modification not later than sixty-five days after the receipt of such proposed modification, provided, if, in connection with a modification submitted under this subsection, the applicant applies for a permit for an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by the commission on such modification under this subsection would lapse prior to the thirty-fifth day after a decision by an inland wetlands and watercourses agency, the time period for decision by the commission on the modification under this subsection shall be extended to thirty-five days after the decision of such agency. The commission shall issue notice of its decision as provided by law. Failure of the commission to render a decision within said sixty-five days or subsequent extension period permitted by this subsection shall constitute a rejection of the proposed modification. Within the time period for filing an appeal on the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, the applicant may appeal the commission's decision on the original application and the proposed modification in the manner set forth in this section. Nothing in this subsection shall be construed
to limit the right of an applicant to appeal the original decision of the
commission in the manner set forth in this section without submitting
a proposed modification or to limit the issues which may be raised in
any appeal under this section.

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

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

(k) Notwithstanding the provisions of subsections (a) to (j),
inclusive, of this section, the affordable housing appeals procedure
established under this section shall not be available if [(1) the proposed
development which is the subject of the application contains less than
four affordable dwelling units, or (2)] the real property which is the
subject of the application is located in a municipality in which at least
ten per cent of all dwelling units in the municipality are [(A)] (1)
assisted housing, or [(B)] (2) currently financed by Connecticut
Housing Finance Authority mortgages, or [(C)] (3) subject to binding
recorded deeds containing covenants or restrictions which require that
such dwelling units be sold or rented at, or below, prices which will
preserve the units as housing for which persons and families pay thirty
per cent or less of income, where such income is less than or equal to
eighty per cent of the median income, or [(D)] (4) mobile manufactured
homes located in mobile manufactured home parks or legally
approved accessory apartments, which homes or apartments are
subject to binding recorded deeds containing covenants or restrictions
which require that such dwelling units be sold or rented at, or below,
prices which will preserve the units as housing for which, for a period
of not less than ten years, persons and families pay thirty per cent or
less of income, where such income is less than or equal to eighty per
cent of the median income. The municipalities meeting the criteria set
forth in this subsection shall be listed in the report submitted under
section 8-37qqq. As used in [subdivision (2) of] this subsection, "accessory apartment" means a separate living unit that [(i) (A)] is attached to the main living unit of a house, which house has the external appearance of a single-family residence, [(ii) (B)] has a full kitchen, [(C) (iii)] has a square footage that is not more than thirty per cent of the total square footage of the house, [(iv) (D)] has an internal doorway connecting to the main living unit of the house, [(v) (E)] is not billed separately from such main living unit for utilities, and [(vi) (F)] complies with the building code and health and safety regulations.

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

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

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

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

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

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

(6) For purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded for a unit unless its occupancy is restricted to persons and families whose income is equal to or less than eighty per cent of median income, except that unrestricted units in a set-aside development shall be awarded one-fourth point each. (B) Family units restricted to persons and families whose income is equal to or less than eighty per cent of median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units restricted to persons and families whose income is equal to or less than sixty per cent of median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units restricted to persons and families whose income is equal to or less than forty per cent of median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) [Restricted family units containing at least three bedrooms shall be awarded an additional one-fourth point. (F)] Elderly units restricted to persons and families whose income is equal to or less than eighty per cent of median income shall be awarded one-half point. (F) [[(G) If at least sixty per cent of the total restricted units submitted by a municipality as part of an application for a certificate of affordable housing project completion are family units, any elderly units submitted within such application shall be awarded an additional one-half point. (H) Restricted family units located within an approved incentive housing development, as defined in section 8-13m, as amended by this act, shall be awarded an additional one-fourth point. (I) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the...
application for such development was filed with the commission prior to July 6, 1995.

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

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

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

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

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

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

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

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

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

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<thead>
<tr>
<th>Section</th>
<th>Effective Date</th>
<th>Amended Section</th>
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</thead>
<tbody>
<tr>
<td>501</td>
<td>October 1, 2015, and applicable to any affordable housing application filed on or after October 1, 2015</td>
<td>8-30g</td>
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<tr>
<td>502</td>
<td>October 1, 2020, and applicable to any affordable housing application filed on or after October 1, 2020</td>
<td>8-30g</td>
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<tr>
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<td>Sec. 503</td>
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