



General Assembly

**Amendment**

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LCO No. 9081



Offered by:

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To: Subst. Senate Bill No. 888

File No. 258

Cal. No. 652

(As Amended by Senate Amendment Schedule "A")

**"AN ACT CONCERNING ADEQUATE AND SAFE HOUSING FOR  
THE ELDERLY AND YOUNGER PERSONS WITH DISABILITIES."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (*Effective July 1, 2015*) (a) For purposes of this section,  
4 "elderly tenants" means tenants sixty-two years of age or older. The  
5 Commissioner of Housing, in consultation with the Commissioner of  
6 Mental Health and Addiction Services, the Department on Aging, the  
7 Department of Developmental Services, the Department of  
8 Rehabilitation Services and the Office of Protection and Advocacy for  
9 Persons with Disabilities, shall, within available appropriations,  
10 conduct a study of public housing in the state that houses both elderly  
11 tenants and younger tenants with disabilities. The study shall include,  
12 but not be limited to: (1) Recommendations concerning the feasibility

13 and means of providing comparable housing to tenants who are  
14 displaced due to units being reserved in such housing primarily for  
15 either the elderly or younger tenants with disabilities, (2)  
16 recommendations for the provision of additional support services  
17 needed for both elderly tenants and younger tenants with disabilities,  
18 (3) an estimate of any additional state appropriations needed to  
19 implement any recommendations pursuant to subdivisions (1) and (2)  
20 of this subsection, (4) an assessment of support services available to  
21 assist elderly tenants and younger tenants with disabilities and any  
22 gaps in such services, (5) a summary of the number of negative  
23 incidents between elderly tenants and younger tenants with  
24 disabilities from calendar years 2010 to 2014, inclusive, and the  
25 number of evictions related to such incidents, and (6)  
26 recommendations for changes to section 8-30g of the general statutes,  
27 as amended by this act, that will encourage additional housing  
28 opportunities for the elderly and younger tenants with disabilities.

29 (b) On or before December 1, 2015, the Commissioner of Housing  
30 shall report, in accordance with the provisions of section 11-4a of the  
31 general statutes, the findings of such study to the joint standing  
32 committee of the General Assembly having cognizance of matters  
33 relating to housing.

34 Sec. 2. Section 8-30g of the general statutes is repealed and the  
35 following is substituted in lieu thereof (*Effective from passage*):

36 (a) As used in this section:

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

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

43 (3) "Assisted housing" means housing which is receiving, or will

44 receive, financial assistance under any governmental program for the  
45 construction or substantial rehabilitation of low and moderate income  
46 housing, and any housing occupied by persons receiving rental  
47 assistance under chapter 319uu or Section 1437f of Title 42 of the  
48 United States Code;

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

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

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

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

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

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

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

104 (c) Any commission, by regulation, may require that an affordable  
105 housing application seeking a change of zone shall include the  
106 submission of a conceptual site plan describing the proposed  
107 development's total number of residential units and their arrangement  
108 on the property and the proposed development's roads and traffic

109 circulation, sewage disposal and water supply.

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

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

133 (f) Any person whose affordable housing application is denied, or is  
134 approved with restrictions which have a substantial adverse impact on  
135 the viability of the affordable housing development or the degree of  
136 affordability of the affordable dwelling units in a set-aside  
137 development, may appeal such decision pursuant to the procedures of  
138 this section. Such appeal shall be filed within the time period for filing  
139 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and  
140 shall be made returnable to the superior court for the judicial district  
141 where the real property which is the subject of the application is

142 located. Affordable housing appeals, including pretrial motions, shall  
143 be heard by a judge assigned by the Chief Court Administrator to hear  
144 such appeals. To the extent practicable, efforts shall be made to assign  
145 such cases to a small number of judges, sitting in geographically  
146 diverse parts of the state, so that a consistent body of expertise can be  
147 developed. Unless otherwise ordered by the Chief Court  
148 Administrator, such appeals, including pretrial motions, shall be heard  
149 by such assigned judges in the judicial district in which such judge is  
150 sitting. Appeals taken pursuant to this subsection shall be privileged  
151 cases to be heard by the court as soon after the return day as is  
152 practicable. Except as otherwise provided in this section, appeals  
153 involving an affordable housing application shall proceed in  
154 conformance with the provisions of said section 8-8, 8-9, 8-28 or 8-30a,  
155 as applicable.

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

176 (h) Following a decision by a commission to reject an affordable  
177 housing application or to approve an application with restrictions  
178 which have a substantial adverse impact on the viability of the  
179 affordable housing development or the degree of affordability of the  
180 affordable dwelling units, the applicant may, within the period for  
181 filing an appeal of such decision, submit to the commission a proposed  
182 modification of its proposal responding to some or all of the objections  
183 or restrictions articulated by the commission, which shall be treated as  
184 an amendment to the original proposal. The day of receipt of such a  
185 modification shall be determined in the same manner as the day of  
186 receipt is determined for an original application. The filing of such a  
187 proposed modification shall stay the period for filing an appeal from  
188 the decision of the commission on the original application. The  
189 commission shall hold a public hearing on the proposed modification  
190 if it held a public hearing on the original application and may hold a  
191 public hearing on the proposed modification if it did not hold a public  
192 hearing on the original application. The commission shall render a  
193 decision on the proposed modification not later than sixty-five days  
194 after the receipt of such proposed modification, provided, if, in  
195 connection with a modification submitted under this subsection, the  
196 applicant applies for a permit for an activity regulated pursuant to  
197 sections 22a-36 to 22a-45, inclusive, and the time for a decision by the  
198 commission on such modification under this subsection would lapse  
199 prior to the thirty-fifth day after a decision by an inland wetlands and  
200 watercourses agency, the time period for decision by the commission  
201 on the modification under this subsection shall be extended to thirty-  
202 five days after the decision of such agency. The commission shall issue  
203 notice of its decision as provided by law. Failure of the commission to  
204 render a decision within said sixty-five days or subsequent extension  
205 period permitted by this subsection shall constitute a rejection of the  
206 proposed modification. Within the time period for filing an appeal on  
207 the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a,  
208 as applicable, the applicant may appeal the commission's decision on  
209 the original application and the proposed modification in the manner  
210 set forth in this section. Nothing in this subsection shall be construed

211 to limit the right of an applicant to appeal the original decision of the  
212 commission in the manner set forth in this section without submitting  
213 a proposed modification or to limit the issues which may be raised in  
214 any appeal under this section.

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

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

221 (k) Notwithstanding the provisions of subsections (a) to (j),  
222 inclusive, of this section, the affordable housing appeals procedure  
223 established under this section shall not be available if the real property  
224 which is the subject of the application is located in a municipality in  
225 which at least ten per cent of all dwelling units in the municipality are  
226 (1) assisted housing, or (2) currently financed by Connecticut Housing  
227 Finance Authority mortgages, or (3) subject to binding recorded deeds  
228 containing covenants or restrictions which require that such dwelling  
229 units be sold or rented at, or below, prices which will preserve the  
230 units as housing for which persons and families pay thirty per cent or  
231 less of income, where such income is less than or equal to eighty per  
232 cent of the median income, or (4) mobile manufactured homes located  
233 in mobile manufactured home parks or legally approved accessory  
234 apartments, which homes or apartments are subject to binding  
235 recorded deeds containing covenants or restrictions which require that  
236 such dwelling units be sold or rented at, or below, prices which will  
237 preserve the units as housing for which, for a period of not less than  
238 ten years, persons and families pay thirty per cent or less of income,  
239 where such income is less than or equal to eighty per cent of the  
240 median income. The municipalities meeting the criteria set forth in this  
241 subsection shall be listed in the report submitted under section 8-  
242 37qqq. As used in this subsection, "accessory apartment" means a  
243 separate living unit that (A) is attached to the main living unit of a

244 house, which house has the external appearance of a single-family  
245 residence, (B) has a full kitchen, (C) has a square footage that is not  
246 more than thirty per cent of the total square footage of the house, (D)  
247 has an internal doorway connecting to the main living unit of the  
248 house, (E) is not billed separately from such main living unit for  
249 utilities, and (F) complies with the building code and health and safety  
250 regulations.

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

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

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

272 (4) (A) The commissioner shall issue a certificate of affordable  
273 housing project completion for the purposes of this subsection upon  
274 finding that (1) there has been completed within the municipality one  
275 or more affordable housing developments which create housing unit-

276 equivalent points equal to the greater of two per cent of all dwelling  
277 units in the municipality, as reported in the most recent United States  
278 decennial census, or seventy-five housing unit-equivalent points; or (2)  
279 existing housing stock within the municipality creates housing unit-  
280 equivalent points equal to the greater of two per cent of all dwelling  
281 units in the municipality, as reported in the most recent United States  
282 decennial census, or seventy-five housing unit-equivalent points.

283 (B) A municipality may apply for a certificate of affordable housing  
284 project completion pursuant to this subsection by applying in writing  
285 to the commissioner, and including documentation showing that the  
286 municipality has accumulated the required number of points within  
287 the applicable time period. Such documentation shall include the  
288 location of each dwelling unit being counted, the number of points  
289 each dwelling unit has been assigned, and the reason, pursuant to this  
290 subsection, for assigning such points to such dwelling unit. Upon  
291 receipt of such application, the commissioner shall promptly cause a  
292 notice of the filing of the application to be published in the Connecticut  
293 Law Journal, stating that public comment on such application shall be  
294 accepted by the commissioner for a period of thirty days after the  
295 publication of such notice. Not later than ninety days after the receipt  
296 of such application, the commissioner shall either approve or reject  
297 such application. Such approval or rejection shall be accompanied by a  
298 written statement of the reasons for approval or rejection, pursuant to  
299 the provisions of this subsection. If the application is approved, the  
300 commissioner shall promptly cause a certificate of affordable housing  
301 project completion to be published in the Connecticut Law Journal. If  
302 the commissioner fails to either approve or reject the application  
303 within such ninety-day period, such application shall be deemed  
304 provisionally approved, and the municipality may cause notice of such  
305 provisional approval to be published in a conspicuous manner in a  
306 daily newspaper having general circulation in the municipality, in  
307 which case, such moratorium shall take effect upon such publication.  
308 The municipality shall send a copy of such notice to the commissioner.  
309 Such provisional approval shall remain in effect unless the

310 commissioner subsequently acts upon and rejects the application, in  
311 which case the moratorium shall terminate upon notice to the  
312 municipality by the commissioner.

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

316 (6) For purposes of this subsection, housing unit-equivalent points  
317 shall be determined by the commissioner as follows: (A) No points  
318 shall be awarded for a unit unless its occupancy is restricted to persons  
319 and families whose income is equal to or less than eighty per cent of  
320 median income, except that unrestricted units in a set-aside  
321 development shall be awarded one-fourth point each. (B) Family units  
322 restricted to persons and families whose income is equal to or less than  
323 eighty per cent of median income shall be awarded one point if an  
324 ownership unit and one and one-half points if a rental unit. (C) Family  
325 units restricted to persons and families whose income is equal to or  
326 less than sixty per cent of median income shall be awarded one and  
327 one-half points if an ownership unit and two points if a rental unit. (D)  
328 Family units restricted to persons and families whose income is equal  
329 to or less than forty per cent of median income shall be awarded two  
330 points if an ownership unit and two and one-half points if a rental  
331 unit. (E) Elderly units restricted to persons and families whose income  
332 is equal to or less than eighty per cent of median income shall be  
333 awarded one-half point. (F) A set-aside development containing family  
334 units which are rental units shall be awarded additional points equal  
335 to twenty-two per cent of the total points awarded to such  
336 development, provided the application for such development was filed  
337 with the commission prior to July 6, 1995.

338 (7) Points shall be awarded only for dwelling units which were (A)  
339 newly-constructed units in an affordable housing development, as that  
340 term was defined at the time of the affordable housing application, for  
341 which a certificate of occupancy was issued after July 1, 1990, or (B)  
342 newly subjected after July 1, 1990, to deeds containing covenants or

343 restrictions which require that, for at least the duration required by  
344 subsection (a) of this section for set-aside developments on the date  
345 when such covenants or restrictions took effect, such dwelling units  
346 shall be sold or rented at, or below, prices which will preserve the  
347 units as affordable housing for persons or families whose income does  
348 not exceed eighty per cent of median income.

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

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

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

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

372 (m) The commissioner shall, pursuant to regulations adopted in  
373 accordance with the provisions of chapter 54, promulgate model deed

374 restrictions which satisfy the requirements of this section. A  
375 municipality may waive any fee which would otherwise be required  
376 for the filing of any long-term affordability deed restriction on the land  
377 records."

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|---|---------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                     |             |
| Section 1   | <i>July 1, 2015</i> | New section |
| Sec. 2  | <i>from passage</i> | 8-30g       |