



General Assembly

Amendment

February Session, 2016

LCO No. 5951



Offered by:
SEN. SLOSSBERG, 14th Dist.

To: Subst. House Bill No. 5340 File No. 773 Cal. No. 561

**"AN ACT CONCERNING THE REPLACEMENT OF HOUSING
PROJECTS BY HOUSING AUTHORITIES."**

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, as amended by
4 section 1 of substitute house bill 5363 of the current session, is repealed
5 and the following is substituted in lieu thereof (*Effective October 1,*
6 *2016*):

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 the real property
195 which is the subject of the application is located in a municipality in
196 which at least ten per cent of all dwelling units in the municipality are
197 (1) assisted housing, or (2) currently financed by Connecticut Housing
198 Finance Authority mortgages, or (3) subject to binding recorded deeds
199 containing covenants or restrictions which require that such dwelling
200 units be sold or rented at, or below, prices which will preserve the
201 units as housing for which persons and families pay thirty per cent or
202 less of income, where such income is less than or equal to eighty per
203 cent of the median income, or (4) mobile manufactured homes located
204 in mobile manufactured home parks or legally approved accessory
205 apartments, which homes or apartments are subject to binding
206 recorded deeds containing covenants or restrictions which require that
207 such dwelling units be sold or rented at, or below, prices which will
208 preserve the units as housing for which, for a period of not less than
209 ten years, persons and families pay thirty per cent or less of income,
210 where such income is less than or equal to eighty per cent of the
211 median income. The municipalities meeting the criteria set forth in this

212 subsection shall be listed in the report submitted under section 8-
213 37qqq. As used in this subsection, "accessory apartment" means a
214 separate living unit that (A) is attached to the main living unit of a
215 house, which house has the external appearance of a single-family
216 residence, (B) has a full kitchen, (C) has a square footage that is not
217 more than thirty per cent of the total square footage of the house, (D)
218 has an internal doorway connecting to the main living unit of the
219 house, (E) is not billed separately from such main living unit for
220 utilities, and (F) complies with the building code and health and safety
221 regulations.

222 (l) Notwithstanding the provisions of subsections (a) to (j), inclusive,
223 of this section, the affordable housing appeals procedure established
224 under this section shall not be available if the proposed development
225 that is the subject of the application is located on one acre or less.

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

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

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

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

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

279 The municipality shall send a copy of such notice to the commissioner.
280 Such provisional approval shall remain in effect unless the
281 commissioner subsequently acts upon and rejects the application, in
282 which case the moratorium shall terminate upon notice to the
283 municipality by the commissioner.

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

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

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

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

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

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

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

345 moratorium to qualify for a subsequent moratorium.

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

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

360 Sec. 502. Section 8-30g of the general statutes, as amended by section
361 2 of substitute house bill 5363 of the current session, is repealed and
362 the following is substituted in lieu thereof (*Effective October 1, 2021*):

363 (a) As used in this section:

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

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

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

375 United States Code;

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

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

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

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

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

404 (b) (1) Any person filing an affordable housing application with a
405 commission shall submit, as part of the application, an affordability

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

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

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

437 (d) For any affordable dwelling unit that is rented as part of a set-
438 aside development, if the maximum monthly housing cost, as

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

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

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

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

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

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

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

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

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

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

576 utilities, and (F) complies with the building code and health and safety
577 regulations.

578 (l) Notwithstanding the provisions of subsections (a) to (j), inclusive,
579 of this section, the affordable housing appeals procedure established
580 under this section shall not be available if the proposed development
581 that is the subject of the application is located on one acre or less.

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

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

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

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

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

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

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

642 units whose occupancy is not restricted by age.

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

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

676 term was defined at the time of the affordable housing application, for
677 which a certificate of occupancy was issued after July 1, 1990, or (B)
678 newly subjected after July 1, 1990, to deeds containing covenants or
679 restrictions which require that, for at least the duration required by
680 subsection (a) of this section for set-aside developments on the date
681 when such covenants or restrictions took effect, such dwelling units
682 shall be sold or rented at, or below, prices which will preserve the
683 units as affordable housing for persons or families whose income does
684 not exceed eighty per cent of median income. [or (C) located within
685 an approved incentive housing development, as defined in section 8-
686 13m, as amended by this act.]

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

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

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

702 (11) The commissioner shall, within available appropriations, adopt
703 regulations in accordance with chapter 54 to carry out the purposes of
704 this subsection. Such regulations shall specify the procedure to be
705 followed by a municipality to obtain a moratorium, and shall include
706 the manner in which a municipality is to document the units to be
707 counted toward a moratorium. A municipality may apply for a

708 moratorium in accordance with the provisions of this subsection prior
709 to, as well as after, such regulations are adopted.

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

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2016	8-30g
Sec. 502	October 1, 2021	8-30g