



House of Representatives

General Assembly

File No. 515

January Session, 2017

House Bill No. 7297

House of Representatives, April 11, 2017

The Committee on Planning and Development reported through REP. LEMAR of the 96th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT ESTABLISHING A PRIVATE RIGHT OF ACTION IN THE DUTY TO PROMOTE FAIR HOUSING AND REQUIRING A STUDY OF CONNECTICUT'S HOUSING INVENTORY AND CURRENT AND FUTURE HOUSING NEEDS.

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

1 Section 1. Section 46a-98a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2017*):

3 Any person claiming to be aggrieved by a violation of section 8-
4 37cc, 46a-64c or 46a-81e or by a breach of a conciliation agreement
5 entered into pursuant to this chapter, may bring an action in the
6 Superior Court, or the housing session of said court if appropriate
7 within one year of the date of the alleged discriminatory practice or of
8 a breach of a conciliation agreement entered into pursuant to this
9 chapter. No action pursuant to this section may be brought in the
10 Superior Court regarding the alleged discriminatory practice after the
11 commission has obtained a conciliation agreement pursuant to section
12 46a-83 or commenced a hearing pursuant to section 46a-84, except for

13 an action to enforce the conciliation agreement. The court shall have
14 the power to grant relief, by injunction or otherwise, as it deems just
15 and suitable. The court may grant any relief which a presiding officer
16 may grant in a proceeding under section 46a-86 or which the court
17 may grant in a proceeding under section 46a-89. The commission,
18 through commission legal counsel or the Attorney General, may
19 intervene as a matter of right in any action brought pursuant to this
20 section without permission of the court or the parties.

21 Sec. 2. (NEW) (*Effective from passage*) (a) The Connecticut Housing
22 Finance Authority shall, in cooperation with the Department of
23 Housing, conduct a study analyzing the gap between the state-wide
24 housing inventory and the state's current housing needs and projected
25 housing needs over the next year, five years, ten years and fifteen
26 years. Such study shall (1) assess the need for both rental and
27 ownership units; and (2) identify how housing needs vary by relevant
28 demographic characteristics, including, but not limited to, income, age,
29 familial status, disability status and race.

30 (b) In determining current and projected housing needs for the gap
31 analysis described in subsection (a) of this section, the Connecticut
32 Housing Finance Authority shall consider it a priority of this state to
33 ensure that (1) all residents have access to affordable housing, as
34 defined in section 8-39a of the general statutes, and (2) persons and
35 families with income levels up to and including one hundred twenty
36 per cent of the area median income, as determined by the United States
37 Department of Housing and Urban Development, have access to
38 affordable housing in opportunity areas, as defined in section 8-348 of
39 the general statutes.

40 (c) Not later than January 1, 2018, the Connecticut Housing Finance
41 Authority shall submit a report on the study described in subsection
42 (a) of this section, in accordance with the provisions of section 11-4a of
43 the general statutes, to the joint standing committee of the General
44 Assembly having cognizance of matters relating to planning and
45 development. Such report shall include data from the gap analysis

46 described in subsection (a) of this section by the smallest feasible
47 geographic region.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	46a-98a
Sec. 2	<i>from passage</i>	New section

PD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Department of Housing	GF - Cost	Potential Significant	Potential Significant
CHFA	Resources of CHFA - Cost	Potential Significant	Potential Significant
Human Rights & Opportunities, Com.	GF - Cost	70,060	70,060
State Comptroller - Fringe Benefits ¹	GF - Cost	26,884	26,884

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in the fiscal impact enumerated below by section.

Section 1 results in a potential cost, which could be significant, to the Department of Housing (DOH) and to the Connecticut Housing Finance Authority (CHFA) by allowing a private right of action, or right to sue in court, in the event that DOH or CHFA do not comply with C.G.S. 8-37cc.

To the extent that a lawsuit is filed against either agency for noncompliance of this statute, there would be cost to defending agency in legal expenses as well as for compensatory and/or punitive damages in the event that the agency loses the case. The cost in a given

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.08% of payroll in FY 18 and FY 19.

fiscal year would depend upon the number and scope of each case.² At an estimated rate of \$350 per hour for legal services, a case involving 100 hours of legal service would cost \$35,000. A complex case involving significantly more hours could result in legal costs over \$100,000.

Due to the complexity and time involved with litigating a cause of action, the Commission on Human Rights and Opportunities would need to hire one Human Rights Attorney position, with an annualized salary of \$70,060 plus annualized fringe benefit costs of \$26,884.

Section 2 results in a one-time cost of \$50,000 to the CHFA by requiring the quasi-public state agency to conduct a study analyzing the gap between state-wide housing inventory and the state's current and projected needs over fifteen years.

The study requires CHFA to look at specific demographics outlined in the bill that are currently not collected or researched by the agency. CHFA would therefore require consulting services to assist in this research and complete the study by the January 1, 2018 report date. Based on a similar housing inventory study prepared for CHFA in 2013, it is anticipated that the consulting costs would amount to \$50,000.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. The cost associated with Section 2 impacts FY 18 only as study must be completed by January 1, 2018.

² In FY 16, 220 housing discrimination cases were filed with CHRO.

OLR Bill Analysis**HB 7297*****AN ACT ESTABLISHING A PRIVATE RIGHT OF ACTION IN THE DUTY TO PROMOTE FAIR HOUSING AND REQUIRING A STUDY OF CONNECTICUT'S HOUSING INVENTORY AND CURRENT AND FUTURE HOUSING NEEDS.*****SUMMARY**

This bill establishes a private right of action (i.e., right to sue in court) to enforce state housing agencies' duty to administer their housing programs to (1) affirmatively promote fair housing choice and integration and (2) serve the lowest income households. However, because the bill does not make failure to comply with these fair housing obligations a "discriminatory practice" under CGS § 46a-51, it is unclear whether they can be enforced in the same manner as other housing discrimination suits.

By law, "state housing agencies" are the Department of Housing (DOH), Connecticut Housing Finance Authority (CHFA), and Connecticut Housing Authority (CHA). (In practice, CHA is not active and its duties were transferred to CHFA.)

The bill also requires CHFA, in cooperation with DOH, to analyze the gap between the statewide housing inventory and the state's current and projected housing needs. CHFA must submit the results of the gap analysis to the Planning and Development Committee by January 1, 2018.

EFFECTIVE DATE: Upon passage for the housing stock gap analysis provision and July 1, 2017 for the private right of action.

PRIVATE RIGHT OF ACTION (§ 1)

Existing law requires state housing agencies, (1) within available resources and to the extent practicable, to prioritize serving lower-

income households and (2) in the programs they administer or supervise, to affirmatively promote fair housing choice and racial and economic integration. The bill makes failure to comply with these requirements enforceable by a private right of action.

As under existing law for suits alleging a discriminatory housing practice, anyone suing to enforce a state housing agency's fair housing obligations must bring the action in Superior Court within a year after the alleged violation. The Commission on Human Rights and Opportunities or the attorney general may intervene in the suit and the court may grant injunctive or other relief, including compensatory damages (e.g., costs for obtaining alternate housing) and punitive damages of up to \$50,000.

HOUSING STOCK GAP ANALYSIS (§ 2)

CHFA must, in cooperation with DOH, conduct a study analyzing the gap between the state's housing inventory and its current and projected housing needs over the next year, five years, 10 years, and 15 years. The gap analysis must assess the need for both rental and ownership units and identify how needs vary by demographic group, considering characteristics such as income, age, familial status, disability status, and race. The analysis must assess housing stock gaps by the smallest feasible geographic region.

In conducting the analysis, CHFA must consider it a state priority to ensure:

1. all residents have access to affordable housing (i.e., housing that costs no more than 30% of a household's income) and
2. households with incomes of up to 120% of the area median income have access to affordable housing in opportunity areas (i.e., areas identified using opportunity mapping analysis that includes a census tract level assessment of educational, economic, and neighborhood characteristics).

CHFA must report its findings by January 1, 2018 to the Planning

and Development Committee.

BACKGROUND

Related Case

In *Asylum Hill Problem Solving Revitalization Association v. King*, 277 Conn. 238 (2006), an interest group and an affected resident sued CHFA alleging it failed to administer a tax credit program in a manner that promoted racial and economic integration, as required by CGS § 8-37cc. The Connecticut Supreme Court examined the statute's legislative history and determined the legislature did not establish a private right of action to enforce its requirements, including pursuant to CGS § 46a-98a.

Related Bill

sSB 752, reported favorably by the Housing Committee, requires CHFA to conduct a nearly identical housing stock gap analysis.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 15 Nay 6 (03/24/2017)