



General Assembly

January Session, 2017

**Committee Bill No. 6880**

LCO No. 3804



Referred to Committee on HOUSING

Introduced by:  
(HSG)

**AN ACT CONCERNING THE AFFORDABLE HOUSING LAND USE  
APPEALS PROCEDURE.**

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

1 Section 1. Section 8-30g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) As used in this section:

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

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

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

15 United States Code;

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

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

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

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

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

44 (b) (1) Any person filing an affordable housing application with a

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

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

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

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

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

100 (f) [Any] Except as provided in subsections (k) and (l) of this section,  
101 any person whose affordable housing application is denied, or is  
102 approved with restrictions which have a substantial adverse impact on  
103 the viability of the affordable housing development or the degree of  
104 affordability of the affordable dwelling units in a set-aside  
105 development, may appeal such decision pursuant to the procedures of  
106 this section. Such appeal shall be filed within the time period for filing  
107 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and  
108 shall be made returnable to the superior court for the judicial district  
109 where the real property which is the subject of the application is

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

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

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

178 set forth in this section. Nothing in this subsection shall be construed  
179 to limit the right of an applicant to appeal the original decision of the  
180 commission in the manner set forth in this section without submitting  
181 a proposed modification or to limit the issues which may be raised in  
182 any appeal under this section.

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

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

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

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

219 (l) (1) [Notwithstanding the provisions of subsections (a) to (j),  
220 inclusive,] Except as provided in subdivision (2) of this [section]  
221 subsection, the affordable housing appeals procedure established  
222 under this section shall not be applicable to an affordable housing  
223 application filed with a commission during a moratorium, which shall  
224 be the four-year period after (A) a certification of affordable housing  
225 project completion issued by the commissioner is published in the  
226 Connecticut Law Journal, or (B) [after] notice of a provisional approval  
227 is published pursuant to subdivision (4) of this subsection. Any  
228 moratorium that is in effect on October 1, 2002, is extended by one  
229 year.

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

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

241 (4) (A) The commissioner shall issue a certificate of affordable



242 housing project completion for the purposes of this subsection upon  
243 finding that there has been completed within the municipality one or  
244 more affordable housing developments which create housing unit-  
245 equivalent points equal to the greater of two per cent of all dwelling  
246 units in the municipality, as reported in the most recent United States  
247 decennial census, or [seventy-five] fifty housing unit-equivalent points.

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

276 which case the moratorium shall terminate upon notice to the  
277 municipality by the commissioner.

278 (5) For the purposes of this subsection, "elderly units" are dwelling  
279 units whose occupancy is restricted by age, [and] "family units" are  
280 dwelling units whose occupancy is not restricted by age and "mobile  
281 manufactured home" means a unit located in a resident-owned mobile  
282 manufactured home park consisting of land that is deed restricted at  
283 the time of issuance of a loan for the purchase of such land where such  
284 loan requires (A) seventy-five per cent of units to be set aside for  
285 persons with incomes equal to or less than eighty per cent of median  
286 income, and (B) forty per cent of said seventy-five per cent to be set  
287 aside for persons with incomes equal to or less than sixty per cent of  
288 median income.

289 (6) For the purposes of this subsection, housing unit-equivalent  
290 points shall be determined by the commissioner as follows: (A) No  
291 points shall be awarded for a unit unless its occupancy is restricted to  
292 persons and families whose income is equal to or less than eighty per  
293 cent of median income, except that unrestricted units in a set-aside  
294 development shall be awarded one-fourth point each. (B) Family units  
295 restricted to persons and families whose income is equal to or less than  
296 eighty per cent of median income shall be awarded one point if an  
297 ownership unit and one and one-half points if a rental unit. (C) Family  
298 units restricted to persons and families whose income is equal to or  
299 less than sixty per cent of median income shall be awarded one and  
300 one-half points if an ownership unit and two points if a rental unit. (D)  
301 Family units restricted to persons and families whose income is equal  
302 to or less than forty per cent of median income shall be awarded two  
303 points if an ownership unit and two and one-half points if a rental  
304 unit. (E) Restricted family units containing at least three bedrooms  
305 shall be awarded an additional one-fourth point. (F) Elderly units  
306 restricted to persons and families whose income is equal to or less than  
307 eighty per cent of median income shall be awarded one-half point. [(F)]  
308 (G) If at least sixty per cent of the total restricted units submitted by a

309 municipality as part of an application for a certificate of affordable  
310 housing project completion are family units, any elderly units  
311 submitted within such application shall be awarded an additional one-  
312 half point. (H) Restricted family units located within an approved  
313 incentive housing development, as defined in section 8-13m, as  
314 amended by this act, shall be awarded an additional one-fourth point.  
315 (I) A set-aside development containing family units which are rental  
316 units shall be awarded additional points equal to twenty-two per cent  
317 of the total points awarded to such development, provided the  
318 application for such development was filed with the commission prior  
319 to July 6, 1995. (J) A mobile manufactured home shall be awarded  
320 points as follows: (i) One and one-half points shall be awarded where a  
321 mobile manufactured home is occupied by persons and families with  
322 an income equal to or less than eighty per cent of the median income;  
323 (ii) two points shall be awarded where a mobile manufactured home is  
324 occupied by persons and families with an income equal to or less than  
325 sixty per cent of the median income; and (iii) one-fourth point shall be  
326 awarded for the remaining units.

327 (7) Points shall be awarded only for dwelling units which were (A)  
328 newly-constructed units in an affordable housing development, as that  
329 term was defined at the time of the affordable housing application, for  
330 which a certificate of occupancy was issued after July 1, 1990, [or] (B)  
331 newly subjected after July 1, 1990, to deeds containing covenants or  
332 restrictions which require that, for at least the duration required by  
333 subsection (a) of this section for set-aside developments on the date  
334 when such covenants or restrictions took effect, such dwelling units  
335 shall be sold or rented at, or below, prices which will preserve the  
336 units as affordable housing for persons or families whose income does  
337 not exceed eighty per cent of median income, (C) located within an  
338 approved incentive housing development, as defined in section 8-13m,  
339 as amended by this act, or (D) located on land in a resident-owned  
340 mobile manufactured home park that contains mobile manufactured  
341 homes.

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

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

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

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

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

371 Sec. 2. Section 8-30g of the general statutes, as amended by section 1  
372 of this act, is repealed and the following is substituted in lieu thereof

373 (Effective October, 1, 2022):

374 (a) As used in this section:

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

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

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

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

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

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

403 development shall be sold or rented to persons and families whose  
404 income is less than or equal to sixty per cent of the median income and  
405 the remainder of the dwelling units conveyed by deeds containing  
406 covenants or restrictions shall be sold or rented to persons and families  
407 whose income is less than or equal to eighty per cent of the median  
408 income;

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

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

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

430 (2) The commissioner shall, within available appropriations, adopt  
431 regulations pursuant to chapter 54 regarding the affordability plan.  
432 Such regulations may include additional criteria for preparing an  
433 affordability plan and shall include: (A) A formula for determining  
434 rent levels and sale prices, including establishing maximum allowable

435 down payments to be used in the calculation of maximum allowable  
436 sales prices; (B) a clarification of the costs that are to be included when  
437 calculating maximum allowed rents and sale prices; (C) a clarification  
438 as to how family size and bedroom counts are to be equated in  
439 establishing maximum rental and sale prices for the affordable units;  
440 and (D) a listing of the considerations to be included in the  
441 computation of income under this section.

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

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

465 (e) For any affordable dwelling unit that is rented in order to  
466 comply with the requirements of a set-aside development, no person

467 shall impose on a prospective tenant who is receiving governmental  
468 rental assistance a maximum percentage-of-income-for-housing  
469 requirement that is more restrictive than the requirement, if any,  
470 imposed by such governmental assistance program.

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

495 (g) Upon an appeal taken under subsection (f) of this section, the  
496 burden shall be on the commission to prove, based upon the evidence  
497 in the record compiled before such commission, that the decision from  
498 which such appeal is taken and the reasons cited for such decision are  
499 supported by sufficient evidence in the record. The commission shall



500 also have the burden to prove, based upon the evidence in the record  
501 compiled before such commission, that (1) (A) the decision is necessary  
502 to protect substantial public interests in health, safety or other matters  
503 which the commission may legally consider; (B) such public interests  
504 clearly outweigh the need for affordable housing; and (C) such public  
505 interests cannot be protected by reasonable changes to the affordable  
506 housing development, or (2) (A) the application which was the subject  
507 of the decision from which such appeal was taken would locate  
508 affordable housing in an area which is zoned for industrial use and  
509 which does not permit residential uses; and (B) the development is not  
510 assisted housing, as defined in subsection (a) of this section. If the  
511 commission does not satisfy its burden of proof under this subsection,  
512 the court shall wholly or partly revise, modify, remand or reverse the  
513 decision from which the appeal was taken in a manner consistent with  
514 the evidence in the record before it.

515 (h) Following a decision by a commission to reject an affordable  
516 housing application or to approve an application with restrictions  
517 which have a substantial adverse impact on the viability of the  
518 affordable housing development or the degree of affordability of the  
519 affordable dwelling units, the applicant may, within the period for  
520 filing an appeal of such decision, submit to the commission a proposed  
521 modification of its proposal responding to some or all of the objections  
522 or restrictions articulated by the commission, which shall be treated as  
523 an amendment to the original proposal. The day of receipt of such a  
524 modification shall be determined in the same manner as the day of  
525 receipt is determined for an original application. The filing of such a  
526 proposed modification shall stay the period for filing an appeal from  
527 the decision of the commission on the original application. The  
528 commission shall hold a public hearing on the proposed modification  
529 if it held a public hearing on the original application and may hold a  
530 public hearing on the proposed modification if it did not hold a public  
531 hearing on the original application. The commission shall render a  
532 decision on the proposed modification not later than sixty-five days  
533 after the receipt of such proposed modification, provided, if, in

534 connection with a modification submitted under this subsection, the  
535 applicant applies for a permit for an activity regulated pursuant to  
536 sections 22a-36 to 22a-45, inclusive, and the time for a decision by the  
537 commission on such modification under this subsection would lapse  
538 prior to the thirty-fifth day after a decision by an inland wetlands and  
539 watercourses agency, the time period for decision by the commission  
540 on the modification under this subsection shall be extended to thirty-  
541 five days after the decision of such agency. The commission shall issue  
542 notice of its decision as provided by law. Failure of the commission to  
543 render a decision within said sixty-five days or subsequent extension  
544 period permitted by this subsection shall constitute a rejection of the  
545 proposed modification. Within the time period for filing an appeal on  
546 the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a,  
547 as applicable, the applicant may appeal the commission's decision on  
548 the original application and the proposed modification in the manner  
549 set forth in this section. Nothing in this subsection shall be construed  
550 to limit the right of an applicant to appeal the original decision of the  
551 commission in the manner set forth in this section without submitting  
552 a proposed modification or to limit the issues which may be raised in  
553 any appeal under this section.

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

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

560 (k) The affordable housing appeals procedure established under this  
561 section shall not be available if the real property which is the subject of  
562 the application is located in a municipality in which at least ten per  
563 cent of all dwelling units in the municipality are (1) assisted housing,  
564 or (2) currently financed by Connecticut Housing Finance Authority  
565 mortgages, or (3) subject to binding recorded deeds containing

566 covenants or restrictions which require that such dwelling units be  
567 sold or rented at, or below, prices which will preserve the units as  
568 housing for which persons and families pay thirty per cent or less of  
569 income, where such income is less than or equal to eighty per cent of  
570 the median income, or (4) mobile manufactured homes located in  
571 mobile manufactured home parks or legally approved accessory  
572 apartments, which homes or apartments are subject to binding  
573 recorded deeds containing covenants or restrictions which require that  
574 such dwelling units be sold or rented at, or below, prices which will  
575 preserve the units as housing for which, for a period of not less than  
576 ten years, persons and families pay thirty per cent or less of income,  
577 where such income is less than or equal to eighty per cent of the  
578 median income. The municipalities meeting the criteria set forth in this  
579 subsection shall be listed in the report submitted under section 8-  
580 37qqq. As used in this subsection, "accessory apartment" means a  
581 separate living unit that (A) is attached to the main living unit of a  
582 house, which house has the external appearance of a single-family  
583 residence, (B) has a full kitchen, (C) has a square footage that is not  
584 more than thirty per cent of the total square footage of the house, (D)  
585 has an internal doorway connecting to the main living unit of the  
586 house, (E) is not billed separately from such main living unit for  
587 utilities, and (F) complies with the building code and health and safety  
588 regulations.

589 (l) (1) Except as provided in subdivision (2) of this subsection, the  
590 affordable housing appeals procedure established under this section  
591 shall not be applicable to an affordable housing application filed with a  
592 commission during a moratorium, which shall be the four-year period  
593 after (A) a certification of affordable housing project completion issued  
594 by the commissioner is published in the Connecticut Law Journal, or  
595 (B) notice of a provisional approval is published pursuant to  
596 subdivision (4) of this subsection. Any moratorium that is in effect on  
597 October 1, 2002, is extended by one year.

598 (2) Such moratorium shall not apply to (A) affordable housing

599 applications for assisted housing in which ninety-five per cent of the  
600 dwelling units are restricted to persons and families whose income is  
601 less than or equal to sixty per cent of median income, (B) other  
602 affordable housing applications for assisted housing containing forty  
603 or fewer dwelling units, or (C) affordable housing applications which  
604 were filed with a commission pursuant to this section prior to the date  
605 upon which the moratorium takes effect.

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

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

615 (B) A municipality may apply for a certificate of affordable housing  
616 project completion pursuant to this subsection by applying in writing  
617 to the commissioner, and including documentation showing that the  
618 municipality has accumulated the required number of points within  
619 the applicable time period. Such documentation shall include the  
620 location of each dwelling unit being counted, the number of points  
621 each dwelling unit has been assigned, and the reason, pursuant to this  
622 subsection, for assigning such points to such dwelling unit. Upon  
623 receipt of such application, the commissioner shall promptly cause a  
624 notice of the filing of the application to be published in the Connecticut  
625 Law Journal, stating that public comment on such application shall be  
626 accepted by the commissioner for a period of thirty days after the  
627 publication of such notice. Not later than ninety days after the receipt  
628 of such application, the commissioner shall either approve or reject  
629 such application. Such approval or rejection shall be accompanied by a  
630 written statement of the reasons for approval or rejection, pursuant to

631 the provisions of this subsection. If the application is approved, the  
632 commissioner shall promptly cause a certificate of affordable housing  
633 project completion to be published in the Connecticut Law Journal. If  
634 the commissioner fails to either approve or reject the application  
635 within such ninety-day period, such application shall be deemed  
636 provisionally approved, and the municipality may cause notice of such  
637 provisional approval to be published in a conspicuous manner in a  
638 daily newspaper having general circulation in the municipality, in  
639 which case, such moratorium shall take effect upon such publication.  
640 The municipality shall send a copy of such notice to the commissioner.  
641 Such provisional approval shall remain in effect unless the  
642 commissioner subsequently acts upon and rejects the application, in  
643 which case the moratorium shall terminate upon notice to the  
644 municipality by the commissioner.

645 (5) For the purposes of this subsection, "elderly units" are dwelling  
646 units whose occupancy is restricted by age, "family units" are dwelling  
647 units whose occupancy is not restricted by age and ["resident-owned  
648 mobile manufactured home"] "mobile manufactured home" means a  
649 unit located in a resident-owned mobile manufactured home park  
650 consisting of land that is deed restricted at the time of issuance of a  
651 loan for the purchase of such land where such loan requires (A)  
652 seventy-five per cent of units to be set aside for persons with incomes  
653 equal to or less than eighty per cent of median income, and (B) forty  
654 per cent of said seventy-five per cent to be set aside for persons with  
655 incomes equal to or less than sixty per cent of median income.

656 (6) For the purposes of this subsection, housing unit-equivalent  
657 points shall be determined by the commissioner as follows: (A) No  
658 points shall be awarded for a unit unless its occupancy is restricted to  
659 persons and families whose income is equal to or less than eighty per  
660 cent of median income, except that unrestricted units in a set-aside  
661 development shall be awarded one-fourth point each. (B) Family units  
662 restricted to persons and families whose income is equal to or less than  
663 eighty per cent of median income shall be awarded one point if an

664 ownership unit and one and one-half points if a rental unit. (C) Family  
665 units restricted to persons and families whose income is equal to or  
666 less than sixty per cent of median income shall be awarded one and  
667 one-half points if an ownership unit and two points if a rental unit. (D)  
668 Family units restricted to persons and families whose income is equal  
669 to or less than forty per cent of median income shall be awarded two  
670 points if an ownership unit and two and one-half points if a rental  
671 unit. (E) [Restricted family units containing at least three bedrooms  
672 shall be awarded an additional one-fourth point. (F)] Elderly units  
673 restricted to persons and families whose income is equal to or less than  
674 eighty per cent of median income shall be awarded one-half point. [(G)  
675 If at least sixty per cent of the total restricted units submitted by a  
676 municipality as part of an application for a certificate of affordable  
677 housing project completion are family units, any elderly units  
678 submitted within such application shall be awarded an additional one-  
679 half point. (H) Restricted family units located within an approved  
680 incentive housing development, as defined in section 8-13m shall be  
681 awarded an additional one-fourth point. (I)] (F) A set-aside  
682 development containing family units which are rental units shall be  
683 awarded additional points equal to twenty-two per cent of the total  
684 points awarded to such development, provided the application for  
685 such development was filed with the commission prior to July 6, 1995.  
686 [(J) A resident-owned] (G) A mobile manufactured home park shall be  
687 awarded points as follows: (i) One and one-half points shall be  
688 awarded where a [resident-owned] mobile manufactured home is  
689 occupied by [a lessee] persons and families with an income equal to or  
690 less than eighty per cent of the median income; (ii) two points shall be  
691 awarded where a [resident-owned] mobile manufactured home is  
692 occupied by [a lessee] persons and families with an income equal to or  
693 less than sixty per cent of the median income; and (iii) one-fourth point  
694 shall be awarded for the remaining units.

695 (7) Points shall be awarded only for dwelling units which were (A)  
696 newly-constructed units in an affordable housing development, as that  
697 term was defined at the time of the affordable housing application, for

698 which a certificate of occupancy was issued after July 1, 1990, (B)  
699 newly subjected after July 1, 1990, to deeds containing covenants or  
700 restrictions which require that, for at least the duration required by  
701 subsection (a) of this section for set-aside developments on the date  
702 when such covenants or restrictions took effect, such dwelling units  
703 shall be sold or rented at, or below, prices which will preserve the  
704 units as affordable housing for persons or families whose income does  
705 not exceed eighty per cent of median income, or (C) [located within an  
706 approved incentive housing development, as defined in section 8-13m  
707 or (D)] located on land in a resident-owned mobile manufactured  
708 home park that contains [resident-owned] mobile manufactured  
709 homes.

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

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

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

725 (11) The commissioner shall, within available appropriations, adopt  
726 regulations in accordance with chapter 54 to carry out the purposes of  
727 this subsection. Such regulations shall specify the procedure to be  
728 followed by a municipality to obtain a moratorium, and shall include  
729 the manner in which a municipality is to document the units to be

730 counted toward a moratorium. A municipality may apply for a  
731 moratorium in accordance with the provisions of this subsection prior  
732 to, as well as after, such regulations are adopted.

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

739 Sec. 3. Subdivision (12) of section 8-13m of the general statutes is  
740 repealed and the following is substituted in lieu thereof (*Effective*  
741 *October 1, 2017, and applicable to any final determination of eligibility for an*  
742 *incentive housing zone or any grant that has not yet been approved under*  
743 *section 8-13x of the general statutes as of October 1, 2017*):

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

749 Sec. 4. Subdivision (12) of section 8-13m of the general statutes, as  
750 amended by section 3 of this act, is repealed and the following is  
751 substituted in lieu thereof (*Effective October 1, 2022, and applicable to any*  
752 *final determination of eligibility for an incentive housing zone or any grant*  
753 *that has not yet been approved under section 8-13x of the general statutes as*  
754 *of October 1, 2022*):

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



This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	8-30g
Sec. 2	<i>October, 1, 2022</i>	8-30g
Sec. 3	<i>October 1, 2017, and applicable to any final determination of eligibility for an incentive housing zone or any grant that has not yet been approved under section 8-13x of the general statutes as of October 1, 2017</i>	8-13m(12)
Sec. 4	<i>October 1, 2022, and applicable to any final determination of eligibility for an incentive housing zone or any grant that has not yet been approved under section 8-13x of the general statutes as of October 1, 2022</i>	8-13m(12)

**Statement of Purpose:**

To lower the minimum number of housing unit-equivalent points needed for a moratorium, expand the unit types that count towards a moratorium and redefine median income for purposes of the incentive housing zone statutes, and to sunset such changes after five years.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors:     REP. KUPCHICK, 132nd Dist.; SEN. HWANG, 28th Dist.  
                           REP. DEVLIN, 134th Dist.

H.B. 6880