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Housing Committee

Public hearing – February 18, 2020
Testimony of Raphael L. Podolsky

H.B. 5126 – Late charges, move-in move-out inspections, and state housing ombudsman **SUPPORT WITH CHANGES**

This bill, which attempts to provide protections to tenants, contains three distinct proposals. Section 2, however, could actually hurt tenants unless it is revised; Section 1 needs revised language for it to work as intended; and Section 3 we support as is. A proposed revision of the bill will be submitted to the Committee separately.

* Pre-occupancy and pre-vacancy inspections (Sec. 1): This section gives the tenant the right to a joint inspection of the apartment before moving in and another before moving out. This can be helpful in preventing disputes about the condition of the unit at the beginning and end of the tenancy. To be effective, however, we believe that the timing of the move-out inspection needs to be changed so that it can permit the inspection to be made after the tenant has removed his or her possessions, that more explicit requirements for the forms should be added (such as plain language, a checklist format, perhaps promulgation of a standard form by DOH along the lines of a real estate disclosure form), and clarity that the form is evidence but is not conclusive

* Late fees (Sec. 2): Current law precludes late fees unless they are included in the lease and prohibits them from being imposed during the grace period for the payment of rent. By court decision, they are also unenforceable if they are unreasonable in amount. We support a capping of the amount of late fees, but it is important that (a) not permit late fees in the absence of a lease authorizing them and (b) not set an unreasonably high cap that actually encourages the use of late fees. We believe that the proposed 10% cap is excessive and that provisions should be added to prevent a late fee clause from multiplying late fees by charging late fees on late fees or applying current rent payments to old late fees rather than to the current month's rent. Any percentage maximum for rent payments partially made by a governmental agency should be calculated only on the tenant's share of the rent. Proposed language that should be substituted for Section 2 of the raised bill is attached to the end of this testimony.

* Housing ombudsman (Sec. 3): The bill creates a "Rental Housing Ombudsman" in the Department of Housing. A statewide source to provide information and, at least in some cases, to attempt to resolve disputes is badly needed. We support this proposal.

H.B. 5120 – Housing authority voter registration **SUPPORT**

This bill would give housing authority residents the opportunity to register to vote (or to re-register at a new address) at the time of initial move-in to a housing authority apartment or at annual recertification. It is modeled on a program already in effect at the New Haven Housing Authority and is analogous to the existing state "Motor Voter" registration program, voter registration forms at government offices, door-to-door registration, and other outreach intended to encourage more Connecticut residents to register to vote. Universal voting – and therefore universal registration – is a fundamental commitment of democracies. While this bill expands the opportunity to register at public agencies (a housing authority is a public agency), it is worth noting that a number of cities across the country have gone much farther to promote voter registration. An internet search, for example, reveals that cities as diverse as Minneapolis and St. Paul, Minnesota, Seattle, Washington, East Lansing, Michigan, and Tacoma Park, Maryland, require all landlords, not just housing authorities, to provide new tenants with voter registration forms.

S.B. 105 – Right to housing **SUPPORT WITH CHANGES**

We strongly support the right to housing and strongly urge the Committee to approve a bill that asserts housing as a fundamental right. We believe, however, that the bill needs to be changed significantly from its current draft and would welcome the opportunity to work with the Committee on how this can best be done.

* Right to housing (Sec. 1): Section 1 is the heart of the bill. The section, however, has a tone of being about homelessness more the housing. The right to housing is not merely to avoid homelessness but to have affordable housing that is decent, safe, and sanitary and free from unlawful discrimination. There are a number of existing statutes that hint at this principle. For example, C.G.S. 8-39a defines "affordable" housing as costing no more than 30% of income for households with income below area median income (AMI). C.G.S. 8-37aa breaks this group for data-gathering purposes into four subgroups based on AMI: (1) under 25%, (2) 25% to 50%, (3) 50% to 80%, and (4) 80% to 100%. C.G.S. 8-37cc directs DOH and CHFA to focus their programs on the two lowest income groups and within those groups to attempt to serve households in the lower-income portion within each income group. The Housing Incentive Zone Program (C.G.S. 8-13m) targets the lower of state median income (SMI) and area median income (AMI). These statutes provide context for a right to housing. In our view, the key to articulating these rights is to adopt, as a goal, to achieve housing affordability, at least for all households below 50% of median income, using the 30% of income standard. We encourage the Committee to broaden Section 1 by defining the right to housing as much broader than the right to avoid homelessness.

* Housing impact and regulatory flexibility analysis (Secs. 2-10): These sections are intended to require state agencies to consider the impact that their regulations have on housing. As written, however, these sections seem to be both too broad and too narrow. They are derived from C.G.S. 4-168a, an law that was presented as a way to free businesses from excessive state regulation. State regulation, however, is the way that the state provides protections for consumers. In the housing context, consumers are the residents – renters and home owners. History has shown the importance of state regulation to protect them from abusive practices. These sections, however, discourage renter and owner protection. See, for example, the less stringent compliance and reporting standards in lines 144-150 and the exemption of housing providers from requirements to protect residents in lines 158-161. These sections should either be dropped from the bill altogether or converted into language that separately addresses the construction of housing (where more flexibility may be desirable) from the protection of residents (who need the protections that rules provide.

S.B. 108 – Rental assistance and school choice **SUPPORT**

Connecticut currently has voluntary regional school desegregation ("Open Choice") programs in the Hartford, New Haven, and Bridgeport areas. They all involve efforts to expand educational opportunities in the face of major racial and income differences in housing demographics between center cities and suburban towns that were identified in the landmark Connecticut Supreme Court case of Sheff v. O'Neill. The school diversity issues that the Sheff case was (and still is) based on is the direct result of the concentration of low-income households and racial minorities in center cities. This bill would authorize additional state Rental Assistance Program (RAP) certificates so that some families of students who attend school out-of-district through an interdistrict school choice program could afford to live in the town where their child goes to school. The beauty of the pilot is that it will reach the very households likely to be most interested in moving to a suburban town, while simultaneously opening a slot for another child in Open Choice. In addition, it can link directly to mobility and similar programs.

Note: It may be necessary to take a close look at the time lines in the bill to be sure that their deadlines are realistic.

H.B. 5121 – Child day care homes **SUPPORT**
Technical amendment requested

Connecticut has a strong policy in favor of encouraging and expanding the availability of child day care for working parents by preventing towns from discriminating against the provision of family day in residential areas. This is especially important, because it allows parents to find licensed child care near their homes (and offers employment opportunities to day care providers). Sections 8-2 and 8-30j of the Connecticut statutes explicitly prohibit zoning laws from discriminating against licensed day care providers. This bill strengthens the

language of the zoning sections, while prohibiting landlords from preventing licensed tenants from providing family day care in their apartments. State licensing and inspection assure that such units are appropriate in size and conditions for the number of children authorized.

S.B. 110 – Expanded areas for housing authorities **SUPPORT**

This bill allows housing authorities to extend their programmatic jurisdiction to provide more housing choices for their residents in areas of high opportunity. In particular, expanding a housing authority's area of operation has the practical effect of incentivizing the use of three tools for encouraging more regional diversity. First, it prevents the loss of administrative fees to a housing authority when a tenant takes a Section 8 voucher to another town. Second, it makes it easier for housing authorities to work with regional developers to include their tenants in a wider range of housing developments. Third, it allows housing authorities to play a more active regional housing development role without having to create spin-off corporations.

Proposed substitute language for Section 2 of H.B. 5126

Sec. 2. A new subdivision (9) is inserted after subdivision (8) of subsection (a) of section 47a-4 of the general statutes and the following is substituted in lieu thereof (*Effective October 1, 2020*) [new language is underlined, and the former subdivision (9) becomes subdivision (10)]:

(a) A rental agreement shall not provide that the tenant:….(8) agrees to pay a late charge prior to the expiration of the grace period set forth in section 47a-15a or to pay rent in a reduced amount if such rent is paid prior to the expiration of such grace period; (9) agrees to pay a late charge subsequent to such grace period in an amount exceeding the lesser of (i) five dollars per day but not more than twenty-five dollars or (ii) five per cent of the periodic rent but, in the case of a rental agreement paid in whole or in part by a governmental or charitable entity, of the tenant's share of the periodic rent; and provided further that only one late charge may be assessed upon any delinquent payment, regardless of the period during which it remains in default, and that rent payments, when received, shall first be applied to the most recent payment due; and (10) agrees.....