
OLR Bill Analysis

SB 49

AN ACT INCREASING OPPORTUNITIES FOR WORKFORCE HOUSING DEVELOPMENT IN THE STATE.

SUMMARY

This bill establishes various state and local financial incentives for individuals and businesses investing in and developing rental units set aside for designated workforce populations and low- and moderate-income households under these programs. Specifically, the bill does the following:

1. establishes a new tax credit against the personal income and corporation business taxes, administered by the Department of Housing (DOH), for individuals or entities making cash contributions to eligible developers constructing or rehabilitating eligible “workforce housing opportunity development projects” in federally designated opportunity zones (see BACKGROUND) (§ 1);
2. expressly allows businesses making cash contributions to nonprofits developing eligible “workforce housing development projects,” including those in an opportunity zone, to qualify for tax credits under the Connecticut Housing Finance Authority’s (CHFA) Housing Program Contribution tax credit program (§ 3);
3. requires municipal tax assessors to assess workforce housing opportunity development projects using the capitalization of net income method based on actual rent received for property tax assessment purposes (§§ 1 & 2);
4. exempts both of these categories of workforce housing projects from building permit application fees (§§ 1 & 4);

5. allows municipalities to provide up to a seven-year, 70% property tax exemption for workforce housing development projects, offset by a 70% state grant in lieu of taxes (§§ 5–6);
6. requires CHFA to develop and administer a mortgage assistance program for developers of both categories of these projects (§ 7); and
7. requires DOH to conduct a workforce housing study and report to the Housing Committee (§ 8).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2021, except for the (1) local option exemption, state grant in lieu of taxes, and CHFA mortgage assistance program provisions, which are effective October 1, 2021, and (2) DOH workforce housing study provision, which is effective upon passage; the local option exemption is applicable to assessment years beginning on or after October 1, 2021.

§ 1 — WORKFORCE HOUSING OPPORTUNITY DEVELOPMENT TAX CREDIT

Administration

The bill requires DOH to administer a new program providing tax credit vouchers to individuals or entities making cash contributions to eligible developers constructing or rehabilitating eligible housing projects in opportunity zones. The department must begin accepting applications from eligible developers by January 1, 2023. Under the bill, the DOH commissioner must determine the program’s additional eligibility criteria, certification conditions, and application guidelines. The bill requires the commissioner to adopt regulations to implement the program.

Eligible Projects

Under the bill, an eligible workforce housing opportunity development project is a project to build or substantially rehabilitate rental housing that is (1) located in an opportunity zone in the state and (2) partially designated for certain targeted residents (see “Rental

Requirements”). Additionally, the bill requires these projects, to the extent feasible, to incorporate renewable energy and be transit-oriented.

In the case of rehabilitation projects, the bill requires that (1) a building’s repairs, replacements, or improvements exceed 25% of the building’s value when rehabilitation is complete, or (2) the project replace two or more major components of the building (i.e., roof, wall, or floor structures; plumbing, heating and air conditioning, or electrical systems; and ceilings or foundations).

Eligible Developers

The bill authorizes developers to apply to DOH, in the form and manner the commissioner prescribes, to be certified to receive credit-eligible cash investments under the program. Under the bill, the following entities may qualify as eligible developers:

1. nonprofits and business corporations incorporated in Connecticut and other business entities (i.e., partnerships, limited partnerships, limited liability partnerships, joint ventures, trusts, limited liability companies (LLC), or associations) that (a) construct, rehabilitate, own, or operate housing and (b) are either certified by DOH under the program or whose articles of incorporation or organizational documents, as applicable, have been approved by DOH in accordance with its regulations for the moderate rental housing or moderate cost program;
2. municipal housing authorities (and the Connecticut Housing Authority, although it is no longer active); and
3. municipal developers.

Under the bill, a “municipal developer” is a municipality that has not established a housing authority; it may be the municipality’s board of selectmen if the town meeting or representative town meeting authorized the board to act as the developer.

Rental Requirements

The bill requires that completed workforce housing opportunity development projects be rented as follows:

1. 50% of the units at market rate (i.e., the rate the property would most probably command on the open market based on current comparable rentals in the opportunity zone);
2. 40% of the units to a designated workforce population (as described below) at a rate of up to 20% of the prevailing rent of the opportunity zone in which the development is located (the bill does not specify how the prevailing rent is measured); and
3. 10% of the units to low- and moderate-income households (i.e., those that lack the income to rent mixed income housing without financial assistance, as determined by the DOH commissioner) that also receive rental assistance through certain state programs or the U.S. Department of Housing and Urban Development's federal section 8 program.

Under the bill, the program must establish a method for selecting tenants who meet the income criteria that does not discriminate on the basis of race, creed, color, national origin, ancestry, sex, gender identity or expression, age, or physical or intellectual disability.

Designation of Workforce Population

The bill requires that eligible developers receive municipal approval for proposed workforce housing opportunity development projects from zoning commissions and other applicable municipal agencies. No later than 30 days after a municipality approves a project, its legislative body (or board of selectmen if its legislative body is a town meeting) must vote to designate the workforce population the project will serve. The bill allows developers to make this designation if municipalities fail to do so within the given time limit. Under the bill, the designated workforce population may include volunteer firefighters, teachers, police officers, emergency medical personnel, and any other professions working in the town where the project is located.

Timeframe for Completion

The bill requires eligible developers to (1) schedule the workforce housing opportunity development projects for completion within three years of DOH's project approval and (2) submit quarterly progress reports and a final report to the DOH commissioner. If a project is not completed within the three-year timeframe, or at any time if the DOH commissioner determines that it is unlikely to be completed, the bill allows the commissioner to ask the attorney general to reclaim any remaining contributions made by individuals and entities to the developer and reallocate the funds to another eligible project.

Tax Credits for Qualifying Contributions

The bill requires the DOH commissioner to administer the tax credit vouchers, similar to CHFA's existing Housing Contribution tax credit program, for individuals or entities that make a cash contribution of at least \$250 to an eligible developer for the eligible projects described above. The vouchers may be claimed against state corporation business and personal income taxes, except for the withholding tax, for taxable income years beginning in 2023 (presumably for tax years or income years beginning in 2023). The Department of Revenue Services must grant the credits in the amount specified by DOH in the tax credit vouchers.

The bill caps the total amount of credits allowed per fiscal year at \$5 million. Taxpayers may claim the credits in the taxable income year in which they made the cash contribution and may carry unused credits forward or back for five years. In the case of S corporations or entities treated as a partnership for federal tax purposes, the entity's shareholders or partners may claim the credits. If the entity is a single member LLC that is disregarded as an entity separate from its owner, only the owner may claim the credit.

§ 3 — CHFA'S HOUSING PROGRAM CONTRIBUTION TAX CREDIT

The bill expressly makes "workforce housing development projects" a credit-eligible housing program under the Housing Program Contribution tax credit. Under this program, CHFA administers tax credit vouchers for businesses that make cash contributions of at least

\$250 to nonprofits that develop, sponsor, or manage housing programs benefiting low- and moderate-income households. The credits apply against various business taxes, including the insurance premiums, corporation business, and utility companies taxes.

Under the bill, “workforce housing development projects” are generally similar to the workforce housing opportunity projects described above, except that they are not limited to opportunity zones. (It is unclear whether projects that meet the eligibility criteria for both programs would qualify for both credits for the same cash contributions.)

Specifically, workforce housing development projects are to construct or substantially rehabilitate rental housing where:

1. 50% of the units are market rate units (i.e., the rate the unit would probably command on the open market based on comparable units in the same area);
2. 40% are rented to the workforce population designated by the developer, in consultation with the host municipality; and
3. 10% are affordable housing (i.e., when households earning no more than the host municipality’s area median income, as determined by the U.S. Department of Housing and Urban Development, spend 30% or less of their annual income on it).

Under the bill, “substantial rehabilitation” has the same definition as described above for workforce housing opportunity development projects. An eligible “workforce housing opportunity development” project is also considered an eligible “workforce housing development” project.

By law, unchanged by the bill, the total amount of tax credits allowed to businesses under the program is capped at \$10 million per fiscal year and \$1 million of these credits must be set aside each year for workforce housing as defined in CHFA’s written procedures. The bill also makes various conforming changes to the Housing Program

Contribution tax credit.

§§ 1 & 2 — PROPERTY TAX ASSESSMENT FOR WORKFORCE HOUSING OPPORTUNITY DEVELOPMENT PROJECTS

The bill requires assessors to determine the value of workforce housing opportunity development projects for property tax purposes by using the capitalization of net income method based on actual rent received. This means assessors must consider net rental income, rather than market rent for similar property, when determining the project's gross potential income. Under the capitalization of net income method, all else being equal, a property with a lower gross potential income will also have a lower valuation.

Under current law, assessors must consider three methods when assessing the fair market value of rental properties (with certain exceptions):

1. replacement cost less depreciation, plus the land's market value;
2. capitalization of net income based on market rent for similar property; and
3. comparable sales.

For property tax assessment purposes, the bill treats workforce housing opportunity development projects the same as properties used solely for housing low- or moderate-income individuals and families located in municipalities that have chosen to abate property taxes on these properties (CGS §§ 8-215 & 8-216a).

§ 4 — BUILDING PERMIT FEE EXEMPTION

The bill exempts both categories of workforce housing development projects defined under the bill (i.e., workforce housing development and workforce housing opportunity development projects) from all building permit application fees. In doing so, it supersedes any municipal charters, home rule ordinances, and special acts.

§§ 5 & 6 — LOCAL OPTION PROPERTY TAX EXEMPTION AND STATE REIMBURSEMENT

The bill allows a municipality's legislative body (or board of selectmen if the legislative body is a town meeting) to provide up to a seven-year, 70% property tax exemption to the workforce housing development projects eligible for the Housing Program Contribution tax credit. Under the bill, the property tax exemption may begin in the first full assessment year after the project's construction or rehabilitation is complete.

Additionally, the bill requires the Office of Policy and Management (OPM) secretary, beginning in FY 24, to pay a state grant in lieu of taxes to municipalities that (1) provide this local option exemption and (2) submit an annual grant application to OPM, as OPM prescribes. OPM must determine the amount due to these municipalities annually by January 1.

Under the bill, the grant in lieu of taxes equals 70% of the property taxes that would have been paid for the assessment year two years before the fiscal year in which the grant is paid (excluding exemptions for certain housing authority properties). The grants are payable for a maximum of seven assessment years, beginning in FY 24, and may be reduced proportionately if the total of all grants in a fiscal year exceeds state appropriations for the grants.

§ 7 — CHFA MORTGAGE ASSISTANCE PROGRAM

The bill requires CHFA to (1) develop and administer a mortgage assistance program for developers of both categories of workforce housing projects under the bill and (2) use any appropriate housing subsidies in providing this mortgage assistance.

§ 8 — DOH WORKFORCE HOUSING STUDY

The bill requires DOH to conduct a study, within available appropriations, on ways to (1) increase housing options for apprentices and newly hired employees and (2) enable this population to live in the municipalities where they work. Under the bill, the DOH commissioner must submit a report to the Housing Committee, including recommendations and legislation necessary for implementation, by January 1, 2022.

BACKGROUND

Opportunity Zones

The federal Opportunity Zone program, created as part of the 2017 federal Tax Cuts and Jobs Act (P.L. 115-97), is designed to spur economic development and job creation in distressed communities by providing federal tax benefits for private investments in the zones. The program's tax benefits are available to investors that reinvest gains earned on prior investments in a qualified opportunity zone fund that invests in zone businesses. Investors may receive additional tax benefits if they hold their investments in the fund for at least five, seven, or 10 years.

Connecticut has 72 opportunity zones in 27 municipalities that were approved by the U.S. Treasury Department in 2018.

COMMITTEE ACTION

Housing Committee

Joint Favorable

Yea 15 Nay 0 (03/11/2021)