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## OLR Bill Analysis

### sSB 478

***AN ACT CONCERNING PROPERTY ASSESSMENT APPEALS AND HOMEOWNERSHIP INCENTIVE TRACTS, ESTABLISHING TAX CREDIT VOUCHER PROGRAMS TO INCENTIVIZE COMMERCIAL LEASES AND RESIDENTIAL CONVERSIONS AND AUTHORIZING THE CAPITAL REGION DEVELOPMENT AUTHORITY TO SOLICIT INVESTMENT FUNDS.***

#### **SUMMARY**

This bill requires property owners who are aggrieved by a board of assessment appeals' decision and appeal their real property's valuation to the Superior Court to file a property appraisal with the court within 90 days after filing their appeal. In certain assessment appeals brought to the Superior Court, it also prohibits (1) anyone compensated on a contingency fee basis from representing an applicant and (2) expert witnesses compensated on a contingency fee basis from testifying.

Current law requires Hartford to implement a homeownership incentive program providing 100% municipal property tax abatements and state income tax exemptions for residents of designated areas who meet specified criteria. The bill (1) limits the tax benefits provided under the program to a 100% income tax exemption and (2) expands the areas Hartford must designate for the program from two census blocks to at least two census tracts.

The bill also establishes two new business tax credit programs. The first is designed to incentivize new or expanded commercial office space leases in certain distressed municipalities. The credit equals up to 10% of the amount of (1) lease payments made by qualifying participants for up to 10 years and (2) capital improvements made to newly leased or additionally leased commercial office space. It establishes eligibility criteria for the program, including requirements that the (1) property or project be located in the downtown area of a distressed municipality with a population of 80,000 or more (i.e., Bridgeport, Hartford, or

Waterbury) and (2) business meet specified minimum investment and employment thresholds.

The second tax credit program is for property owners, including municipalities, rehabilitating or renovating commercial office buildings in distressed municipalities to convert them to residential or mixed uses. The credit equals 25% of the project's qualified expenditures or 30% if the project is in an opportunity zone or meets specified affordable housing criteria. The bill caps the total amount of credits that may be awarded at \$60 million per year and \$9 million per project.

Lastly, the bill authorizes the Capital Regional Development Authority (CRDA) to solicit private investment funds from companies for projects it undertakes and establishes conditions under which businesses may make these investments if one of their officers, directors, shareholders, or employees is a CRDA board member.

EFFECTIVE DATE: October 1, 2022, except that the tax credit provisions are effective July 1, 2022.

## **§§ 1 & 2 — REAL PROPERTY TAX ASSESSMENT APPEALS**

### ***Property Appraisal Requirement for Appeals Under CGS § 12-117a***

Existing law allows property owners to appeal their assessments to a municipality's board of assessment appeals. The appeals board must hold a hearing on each appeal, except for those on commercial, industrial, utility, or apartment properties assessed at over \$1 million. A taxpayer aggrieved by an appeals board's decision can appeal to Superior Court (CGS § 12-117a).

In property tax assessment appeals concerning the valuation of real property brought to the Superior Court under this law, the bill requires applicants to file a property appraisal with the court within 90 days after filing the appeal. The appraisal must be completed by an individual or company licensed to perform real estate appraisals in Connecticut. The bill authorizes the court to (1) extend the 90-day period for good cause and (2) dismiss the appeal if the appraisal is not timely filed.

### **Contingency Fee Agreements**

In certain property tax assessment appeals brought to the Superior Court where the assessed value of the property is \$700,000 or less, the bill prohibits (1) anyone compensated on a contingency fee basis from representing an applicant and (2) expert witnesses compensated on a contingency fee basis from testifying.

The bill's provisions apply to appeals made by a taxpayer (1) aggrieved by a decision of the board of assessment appeals (CGS § 12-117a); (2) following a board's decision not to hear an appeal concerning commercial, industrial, utility, or apartment property assessed at over \$1 million (CGS § 12-111); or (3) alleging an illegal property tax (CGS § 12-119).

### **§ 3 — HOMEOWNERSHIP INCENTIVE PROGRAM**

Current law requires 100% municipal property abatements and state income tax exemptions for residents meeting specified criteria in a municipality that annually adjusts the property tax assessment ratios for residential property. Because Hartford is the only municipality that adjusts these ratios, it is the only municipality where these benefits must be granted. To date, it has not yet implemented the program.

The bill (1) limits the tax benefits provided under the program to a 100% income tax exemption and (2) expands the areas Hartford must designate for the program from two census blocks to at least two census tracts. As under current law, the designated areas must have a homeownership rate of 15% or less to qualify.

The bill makes various conforming changes to the program. As is required under current law, the state must provide the income tax exemptions to the following people who reside in the designated areas:

1. owners of owner-occupied homes (generally residential structures with three or fewer units) and
2. people renting dwellings in the designated areas as their primary residence who graduated from a four-year college within two years before signing the lease agreement.

As under current law, the exemption lasts until the homeownership rate for one- to three-unit dwellings in the designated area reaches or exceeds 49%. At that point, the municipality must notify the owners and eligible renters that the exemption will be phased out over five years. The phase-out must reduce the exemption's value by 20% per year until the residents are liable for 100% of the income taxes owed.

#### **§ 4 — TAX CREDIT FOR NEW OR EXPANDED COMMERCIAL OFFICE SPACE LEASES**

##### ***Credit***

The bill establishes a new business tax credit program, administered by the Department of Economic and Community Development (DECD), to incentivize new or expanded commercial office space leases in designated municipal downtown areas.

##### ***Program Participant Eligibility Requirements***

To participate in the tax credit program, an applicant must meet the following requirements:

1. the property or project (presumably the commercial office building where the applicant's business is, or will be, located) is located within the "downtown" of a distressed municipality (see BACKGROUND) with a population of 80,000 or more (currently, only Bridgeport, Hartford, and Waterbury meet this criteria);
2. the lease must be (a) a new lease for commercial office space previously unoccupied by the applicant or a lease that expands the applicant's existing office space; (b) for new or additional commercial office space of at least 10,000 square feet; and (c) for a minimum of three years, but cannot be a sublease; and
3. the applicant must be (a) already located in the same municipality as the office space it will be leasing, (b) relocating from another state, or (c) relocating from another municipality in the state and present a letter from that municipality's chief executive officer or chief economic development official supporting the applicant's move or expansion.

Under the bill, a distressed municipality’s “downtown” is its central business district or other commercial neighborhood area that serves as a center of socioeconomic interaction, characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious, and residential buildings and public spaces, typically served by public infrastructure, and arranged along a main street and intersecting side streets.

### ***Program Administration***

***Application Form.*** DECD must develop the program’s application form and publicize the program. It must post the form and program information on the department’s webpage, including the eligibility requirements and application materials required to substantiate eligibility. Eligible applicants may apply to DECD to participate in the program and DECD must notify each participant that it accepts.

***Annual Application Process.*** Participants must apply for credit vouchers, on an annual basis, within 90 days after the annual period. In doing so, they must provide the information the DECD commissioner requires concerning the lease payment amounts, capital improvement expenditures, and employment levels for the annual period, as described below. If the commissioner determines that the participant is eligible for a voucher, DECD must enter on the voucher the (1) amount of payments and expenditures established to the commissioner’s satisfaction and (2) credit amount allowed.

***Regulations.*** The DECD commissioner may adopt regulations to implement the program.

### ***Credit Amounts***

Under the bill, DECD must award eligible program participants with credit vouchers of up to 10% of the amount of (1) lease payments the participant made during the annual period, for the term of the lease, up to 10 years, and (2) capital improvements made during the annual period to newly leased or additionally leased commercial office space. (The bill appears to give DECD discretion in establishing the actual credit amounts, as long as they do not exceed 10%.) Capital

improvements include furniture, fixtures, and equipment; telecommunications and cybersecurity upgrades and improvements; and other improvements to commercial office space DECD allows. (The bill does not specify whether these capital improvement costs must be incurred by the applicant or property owner in order to be credit-eligible.)

### ***Minimum Investment and Employment Requirements***

Program participants must demonstrate that they comply with minimum investment and employment requirements in order to claim a credit voucher.

Participants that are new businesses must demonstrate a minimum investment into the business of at least \$2.5 million for the annual period. Existing businesses must demonstrate they at least doubled their real property and capital improvement expenditures over the previous annual period.

All program participants, except for those in their first year of the program, must also demonstrate (1) that they hired at least 10 new full-time employees since signing the lease or (2) an employment increase of at least 10% over their preceding 12-month average. If participants do not meet these employment requirements after their first year, DECD must proportionately reduce the amount of their tax credit voucher.

### ***Credit Claims***

The credit applies against the following business taxes: insurance premiums tax; corporation business tax; air carriers tax; railroad companies tax; cable, satellite, and video companies tax; and utility companies tax. Taxpayers (presumably the program participants that have been issued tax credit vouchers) must file the credit voucher with the respective tax return in order to claim the credit.

### ***Penalty for Fraudulent or False Submissions***

The bill imposes a financial penalty equal to the amount of the participant's tax credit voucher on any participant that deliberately submits false or fraudulent information to DECD. The bill's penalty is

in addition to other penalties already provided by law.

***Reporting Requirement***

Beginning by January 1, 2024, the DECD commissioner must annually report to the Commerce, Planning and Development, and Finance, Revenue and Bonding committees and at least include:

1. the total number of program participants,
2. a summary of the locations for which applications were received and participants were accepted,
3. a summary of the participants' employment levels, and
4. the amount of each tax credit voucher and total vouchers allowed for the previous fiscal year.

**§ 5 — TAX CREDIT FOR REHABILITATING OR RENOVATING COMMERCIAL OFFICE BUILDINGS**

***Credit***

The bill establishes a new business tax credit program for property owners, including municipalities and businesses, rehabilitating or renovating commercial office buildings in distressed municipalities to convert them to residential or mixed uses.

The credit equals 25% of the qualified rehabilitation expenditures. But it may be 30% if (1) the project is in a federally designated opportunity zone or (2) a portion of the units are affordable to low- and moderate-income people. A project is considered affordable if (1) at least 20% of the units are affordable rental units or (2) 10% are affordable homeownership units. A unit is affordable if it costs a household no more than 30% of its income. A household falls into this category if it earns no more than the median income of the town where the unit is located.

The bill caps the total amount of credits that may be awarded at \$60 million per fiscal year and \$9 million per project.

### ***Eligible Property Owners and Projects***

Individuals, municipalities, partnerships, limited liability companies, corporations, or other businesses are eligible for the credit if they have title to a commercial office building that is an eligible project. The “project” must (1) be located in a distressed municipality’s “downtown” and (2) rehabilitate or renovate the building, or units or spaces in it, to convert the building or units to residential or mixed-use. The bill applies the same definition of “downtown” as described above for the commercial office space expanded leasing program.

### ***Reserving the Credits***

The bill establishes a two-step process for accessing the credits. First, the property’s owner must ask DECD to reserve credits on its behalf before it starts rehabilitating the property. In requesting a credit reservation, the owner must submit the following:

1. a certification that the commercial building has been vacant or underutilized for at least six consecutive months since March 15, 2020, along with any additional information the commissioner requires to substantiate this certification;
2. the rehabilitation or renovation plans; and
3. a description and anticipated schedule for the project’s phases, if applicable.

If the project will include affordable housing units, the owner must also provide (1) the number of units to be created, (2) their proposed rents or sales prices, and (3) the median income of the municipality where the project is located. The owner must submit this data to the Department of Housing (DOH) commissioner who must determine whether the project qualifies as affordable housing, as described above, and issue a certificate if she approves. DECD cannot reserve the affordable housing credits unless the owner submits the DOH certificate.

DECD may charge the owner up to a \$10,000 application fee to cover the program’s administrative costs.



***Claiming the Credits***

The second step in accessing the credits is when the owner notifies the DECD commissioner that the rehabilitation or renovation is complete. The owner must show that the work was performed and submit certification of the qualified expenditures incurred for the project. "Qualified expenditures" are the costs incurred in the project's physical construction. They include all costs other than (1) the owner's personal labor; (2) new additions that are not needed to comply with the state building and fire safety codes; and (3) architectural, legal, and financing fees and other non-construction costs.

DECD must review the owner's documents and verify whether the work complies with the rehabilitation or renovation plan. After completing its review, DECD must issue a credit voucher equal to 25% or 30% of the actual qualified expenses, as appropriate, as long as they do not exceed the reserved credit amount. DECD may issue the credit to the owner or to another taxpayer the owner names as contributing to the rehabilitation or renovation.

Taxpayers may claim the credits against the following business taxes: insurance premiums tax; corporation business tax; air carriers tax; railroad companies tax; cable, satellite, and video companies tax; and utility companies tax. A taxpayer claims the credit by attaching the voucher to its tax return.

The credits can be used in the tax year when the "substantially rehabilitated or renovated" property is placed in service. This happens when the project's qualified expenditures exceed 25% of the commercial office building's assessed value and the building may be occupied, which can be for the entire building or an identifiable portion of it. For multiphase projects, credit holders may claim a part of the credit in proportion to the part of the project that is placed in service.

Taxpayers may carry forward any unused portion of the credit for the next five years or until the full credit is used, whichever happens first.

### ***Credit Transfers***

Multiple owners of a property must pass the credits through to designated partners, members, or owners on either a pro rata basis or according to an agreement among them, regardless of their other tax or economic attributes.

Taxpayers may also sell or transfer the credits, in whole or part, to one or more people, up to three times. The transferor and transferee must jointly notify DECD, in writing, no later than 30 days after the sale or transfer. In doing so, they must provide their tax identification numbers, the credit voucher number, the transfer date, the amount transferred, the pre- and post-transfer credit balance, and any other information DECD requires. The credit is disallowed until both the transferor and transferee fully comply with the notice requirement.

The DECD commissioner must annually give the revenue services commissioner a list of credits approved or transferred for the most recent fiscal year.

### ***DECD Regulations***

The bill authorizes DECD to adopt implementing regulations, which may include application procedures, criteria for evaluating projects, and timeframes for approving requests. Any criteria for evaluating projects must give priority to projects located in federally designated opportunity zones.

### ***Reporting Requirement***

Beginning by July 1, 2023, DECD must annually report on the credits it reserved for the previous fiscal year to the Commerce, Planning and Development, and Finance, Revenue and Bonding committees. Each report must include the following information for each project for which credits are reserved:

1. total project cost and credit amounts reserved;
2. whether the project is mixed-use, and if so, the proportion that is nonresidential;

3. number of residential units to be created; and
4. if applicable, the percentage of the residential units that qualify as affordable housing.

## **§§ 6 & 7 — CRDA’S SOLICITATION OF PRIVATE INVESTMENTS**

The bill authorizes CRDA to solicit private investment funds from businesses to finance any capital city project (see BACKGROUND) or other project CRDA undertakes. It requires that the private investments be made on equivalent or substantially similar terms and conditions as the investments CRDA makes for the project, as set by CRDA’s board of directors, but allows CRDA to give these private investments repayment priority.

The bill allows businesses to make these private investments even if an employee, officer, director, or shareholder of the business is a CRDA board member, so long as the member recuses himself or herself from any board deliberation, action, or vote on the project that is specific to the business.

## **BACKGROUND**

### ***Distressed Municipalities***

By law, the DECD commissioner must annually designate distressed municipalities based on a combination of economic, education, demographic, and housing criteria. The current (2021) distressed municipalities are Ansonia, Bridgeport, Chaplin, Derby, East Hartford, East Haven, Griswold, Groton, Hartford, Meriden, Montville, New Britain, New London, Norwich, Plainfield, Putnam, Sprague, Sterling, Stratford, Torrington, Voluntown, Waterbury, West Haven, Winchester, and Windham.

### ***Capital City Projects***

By law, “capital city projects” include, among other things, the:

1. construction or rehabilitation of up to 3,000 downtown housing units,
2. development and redevelopment of buildings in Hartford,

3. development of riverfront infrastructure and improvements in Hartford and East Hartford,
4. demolition or redevelopment of vacant buildings in Hartford and East Hartford, and
5. addition of downtown parking.

***Related Bill***

sHB 5496 (File 505), favorably reported by the Government Administration and Elections Committee, contains similar provisions on CRDA's solicitation of private investment funds.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 34 Nay 17 (04/06/2022)