



General Assembly

January Session, 2023

**Raised Bill No. 6633**

LCO No. 4013



Referred to Committee on HOUSING

Introduced by:  
(HSG)

***AN ACT CONCERNING A NEEDS ASSESSMENT AND FAIR SHARE  
PLANS FOR MUNICIPALITIES TO INCREASE AFFORDABLE  
HOUSING.***

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

- 1 Section 1. (NEW) (*Effective July 1, 2023*) (a) As used in this section:
- 2 (1) "Affordable housing unit" means a dwelling unit conveyed by an  
3 instrument containing a covenant or restriction that requires such  
4 dwelling unit to be sold or rented at or below a price intended to  
5 preserve such unit as housing for a low income household;
- 6 (2) "Commission", "zoning commission" or "zoning authority" means  
7 a zoning commission, planning commission, planning and zoning  
8 commission, zoning board of appeals or other municipal agency  
9 exercising zoning or planning authority;
- 10 (3) "Commissioner" means the Commissioner of Housing, unless  
11 otherwise specified;
- 12 (4) "Dwelling unit" means any house or building, or portion thereof,

13 which is occupied, is designed to be occupied, or is rented, leased or  
14 hired out to be occupied, as a home or residence of one or more persons;

15 (5) "Low income household" means a person or family with an annual  
16 income less than or equal to eighty per cent of the state median income,  
17 as determined by the United States Department of Housing and Urban  
18 Development;

19 (6) "Very low income household" means a person or family with an  
20 annual income less than or equal to fifty per cent of the state median  
21 income, as determined by the United States Department of Housing and  
22 Urban Development;

23 (7) "Extremely low income household" means a person or family with  
24 an annual income less than or equal to thirty per cent of the state median  
25 income, as determined by the United States Department of Housing and  
26 Urban Development;

27 (8) "Interested party" means (A) a nonprofit organization that  
28 represents low income households or addresses their housing needs, or  
29 (B) a housing developer who seeks to construct housing contributing to  
30 a municipality's fair share allocation if the intended or proposed  
31 development (i) conforms with subdivision (3) or (6) of subsection (a) of  
32 section 8-30g of the general statutes, revision of 1958, revised to January  
33 1, 2023, or (ii) includes not less than twenty per cent of affordable  
34 housing units conveyed by deeds containing affordable housing  
35 covenants or restrictions applying for at least forty years, or a number  
36 of nonage-restricted affordable housing units equal to not less than five  
37 per cent of all units in the development that shall be sold or rented to  
38 persons and families whose income is less than or equal to thirty per  
39 cent of the lesser of state or area median income and the remainder of  
40 the affordable housing units conveyed by deeds containing covenants  
41 or restrictions shall be sold or rented to persons and families whose  
42 income is less than or equal to eighty per cent of the lesser of state or  
43 area median income. In such housing at least ten per cent of the deed-  
44 restricted units shall have two or more bedrooms;

45 (9) "Median income" is the state median income, as determined by the  
46 United States Department of Housing and Urban Development;

47 (10) "Multifamily housing" means a residential building that contains  
48 three or more dwelling units;

49 (11) "Municipal fair share allocation" means the portion of the  
50 minimum need for affordable housing units in a planning region, as  
51 determined pursuant to subsection (b) of this section, that is allocated to  
52 a municipality located within such planning region;

53 (12) "Municipal fair share goal" means the number of units each  
54 municipality includes in its fair share plan, inclusive of additional bonus  
55 points awarded, as described in subdivision (2) of subsection (c) of this  
56 section;

57 (13) "Municipal fair share plan" means a municipality's plan and  
58 updated zoning regulations and planning documents designed to  
59 achieve its municipal fair share goal;

60 (14) "Planning region" means a planning region of the state, as  
61 defined or redefined by the Secretary of the Office of Policy and  
62 Management or the secretary's designee under the provisions of section  
63 16a-4a of the general statutes, except the Metropolitan and Western  
64 planning regions shall be considered a single planning region;

65 (15) "Secretary" means the Secretary of the Office of Policy and  
66 Management; and

67 (16) "Supportive housing" means affordable housing units available  
68 to persons or families who qualify for assistance in accordance with  
69 section 17a-485c of the general statutes.

70 (b) (1) Not later than July 1, 2024, the secretary, in consultation with  
71 the Commissioners of Housing and Economic and Community  
72 Development and, as may be determined by the secretary, experts,  
73 advocates and organizations with expertise in affordable housing, fair  
74 housing and planning and zoning, shall establish a methodology for

75 each municipality's fair share allocation by:

76 (A) Determining the need for affordable housing units in each  
77 planning region; and

78 (B) Fairly allocating such need to the municipalities in each planning  
79 region considering the duty of the state and municipalities to  
80 affirmatively further fair housing pursuant to section 8-2 of the general  
81 statutes and 42 USC 3608. Such methodology shall rely on data from the  
82 Comprehensive Housing Affordability Strategy data set published by  
83 the United States Department of Housing and Urban Development, or  
84 from a similar source as may be determined by the secretary.

85 (2) The secretary shall ensure that the fair share allocation  
86 methodology:

87 (A) Is designed with due consideration for the duty of the state and  
88 each municipality to affirmatively further fair housing in accordance  
89 with section 8-2 of the general statutes and 42 USC 3608;

90 (B) Relies on appropriate metrics of the minimum need for affordable  
91 housing units in a planning region to ensure adequate housing options,  
92 including the number of extremely low income households in the  
93 planning region;

94 (C) Relies on appropriate factors for fairly allocating such need to  
95 each municipality within each planning region, including a  
96 municipality's compliance with the requirements of sections 8-2 and 8-  
97 23 of the general statutes with regard to promoting housing choice and  
98 economic diversity in housing, including housing for both low and  
99 moderate income households, and encouraging the development of  
100 housing which meets the identified housing needs and the development  
101 of housing opportunities, including opportunities for multifamily  
102 dwellings, for all residents of the municipality and the planning region  
103 in which the municipality is located;

104 (D) Does not assign a fair share allocation to any municipality with a

105 federal poverty rate of twenty per cent or greater based on data reported  
106 in the most recent United States decennial census or similar source; and

107 (E) Increases the municipal fair share allocation of a municipality if  
108 such municipality, when compared to other municipalities in the same  
109 planning region, has:

110 (i) A greater dollar value of the ratable real and personal property, as  
111 reflected by its equalized net grand list, calculated in accordance with  
112 the provisions of section 10-261a of the general statutes, for residential,  
113 commercial, industrial, public utility and vacant land;

114 (ii) A higher median income, based on data reported in the most  
115 recent United States decennial census or similar source;

116 (iii) A lower percentage of its population that is below the federal  
117 poverty threshold, based on data reported in such census or similar  
118 source; or

119 (iv) A lower percentage of its population that lives in multifamily  
120 housing, based on data reported in such census or similar source.

121 (3) (A) Not later than July 1, 2024, and every ten years thereafter, the  
122 secretary, in consultation with the commissioners, shall, using the  
123 methodology established pursuant to this subsection, determine the  
124 minimum need for affordable housing units for each planning region  
125 and a municipal fair share allocation for each municipality within each  
126 planning region.

127 (B) No municipal fair share allocation determined pursuant to  
128 subparagraph (A) of this subdivision shall exceed twenty per cent of the  
129 occupied dwelling units in such municipality.

130 (c) (1) Not later than July 1, 2024, the secretary, in consultation with  
131 the commissioners and, as may be determined by the secretary, experts,  
132 advocates and organizations with expertise in affordable housing, fair  
133 housing and planning and zoning, shall establish:

134 (A) A process by which each municipality shall be required to  
135 develop, adopt and submit to the secretary and the commissioner  
136 municipal fair share plans setting forth the new zoning regulations and  
137 planning documents the municipality has adopted and other actions the  
138 municipality will take to achieve its municipal fair share goal;

139 (B) The required contents and timing for submission of such plans,  
140 including updated zoning regulations and planning documents;

141 (C) Requirements to ensure that each municipal fair share plan  
142 provides for the creation of a sufficient supply of the different types of  
143 deed-restricted affordable housing required for meeting its fair share  
144 goal, including ensuring:

145 (i) Not less than fifty per cent of the units are affordable to very low  
146 income households;

147 (ii) Not less than thirteen per cent of units are affordable to extremely  
148 low income households;

149 (iii) Not more than fifty per cent of the units are affordable to  
150 households with incomes above very low income but less than the low  
151 income threshold;

152 (iv) Not less than twenty-five per cent of the units are rental units;

153 (v) Not more than twenty-five per cent of units are restricted by  
154 occupant age;

155 (vi) Not less than fifty per cent of the units are unrestricted by  
156 occupant age and include two or more bedrooms;

157 (vii) Not more than twenty per cent of the units are studios or one  
158 bedroom; and

159 (viii) All units, regardless of sources of funding, are affirmatively  
160 marketed in accordance with section 8-37ee of the general statutes and  
161 associated regulations;

162 (D) Policies ensuring that no municipal fair share plan creates, in the  
163 determination of the secretary, undue concentrations of households  
164 below the federal poverty threshold in the applicable planning region;  
165 and

166 (E) Policies ensuring that each municipal fair share plan provides for  
167 the equitable distribution of affordable housing within the municipality  
168 in accordance with section 46a-64c of the general statutes and 42 USC  
169 3601 to 3619, inclusive.

170 (2) In defining each municipality's obligation pursuant to this section,  
171 the secretary shall include the ability of each municipality to convert its  
172 municipal fair share allocation into a municipal fair share goal  
173 represented by points wherein:

174 (A) Each affordable housing unit constitutes one point;

175 (B) Additional bonus points may be added for certain types of  
176 housing units at a ratio conforming to the threshold requirements of  
177 subparagraph (C) of subdivision (1) of this subsection, provided that no  
178 fair share goal shall fall below eighty per cent of the municipality's initial  
179 fair share allocation;

180 (C) Only one bonus point shall be awarded per unit such that the  
181 bonus points are not cumulative; and

182 (D) Bonus points shall be awarded as follows:

183 (i) Qualifying housing affordable to households at or below the  
184 extremely low income threshold shall receive one additional point;

185 (ii) Qualifying units with two or more bedrooms shall receive one  
186 additional point; and

187 (iii) Qualifying units that constitute supportive housing as defined in  
188 section 17a-485c of the general statutes shall receive an additional point.

189 (d) Not later than July 1, 2025, and every ten years thereafter, each

190 municipality shall prepare and adopt a municipal fair share plan that  
191 creates a realistic opportunity for achieving the municipality's fair share  
192 goal, in accordance with the process established pursuant to subsection  
193 (c) of this section.

194 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) Each municipality shall meet  
195 its fair share goals by issuing certificates of occupancy conforming to the  
196 requirements of subparagraph (C) of subdivision (1) of subsection (c) of  
197 section 1 of this act on the following schedule:

198 (1) By year three: Five per cent completion;

199 (2) By year five: Thirty per cent completion;

200 (3) By year seven: Sixty per cent completion; and

201 (4) By year ten: One hundred per cent completion.

202 (b) (1) Beginning on July 1, 2026, and annually thereafter, each  
203 municipality shall submit a report to the Commissioner of Housing  
204 documenting its progress toward meeting its fair share goal that  
205 includes (A) the addresses of the units meeting its fair share goal, (B) the  
206 income restrictions applicable to each unit, (C) relevant completed or  
207 planned infrastructure expansion, and (D) the details of affirmative  
208 marketing efforts, including copies of active affirmative marketing  
209 plans for relevant developments; and (2) supporting documentation for  
210 such reporting, which shall be made publicly available upon request,  
211 excluding any redacted personally identifying information.

212 (c) Beginning on July 1, 2028, and annually thereafter, the  
213 commissioner shall conduct random audits of at least ten per cent of the  
214 municipal fair share plans to ensure that such plans comply with the  
215 requirements of section 1 of this act.

216 (d) Not later than July 1, 2024, and periodically thereafter in the  
217 discretion of the Secretary of the Office of Policy and Management, the  
218 secretary, in consultation with the commissioner and, as may be  
219 determined by the secretary, experts, advocates and organizations with



220 expertise in affordable housing, fair housing and planning and zoning,  
221 shall publish and disseminate technical assistance materials to aid each  
222 municipality in compliance with the requirements of this section and  
223 shall arrange for the provision of technical assistance briefings,  
224 trainings, webinars and such other guidance to each municipality as the  
225 secretary deems necessary.

226 (e) If any municipality has not submitted a fair share plan to the  
227 secretary in accordance with subsection (c) of section 1 of this act or has  
228 not issued certificates of occupancy in accordance with subsection (a) of  
229 this section, such municipality shall be subject to default zoning that,  
230 notwithstanding any other provision of the general statutes:

231 (1) In any area where water and sewer infrastructure and capacity are  
232 available or where water and sewer service can be provided by  
233 extending existing lines at the developer's expense, the following uses  
234 are permitted as of right: multifamily housing of not more than twenty  
235 units per acre if (A) at least twenty per cent of the units are nonage-  
236 restricted two or more bedroom units affordable to low income  
237 households and deed restricted for forty years, or (B) ten per cent of the  
238 units are nonage-restricted two or more bedroom units affordable to  
239 very low income households and deed restricted for twenty years.

240 (2) In all other areas, as of right development of multifamily housing  
241 subject to limitations on the number of units, density and other aspects  
242 of the development required for any particular site by the applicable  
243 provisions of chapter 368a of the general statutes and associated public  
244 health regulations, with the greater of one unit or ten per cent of units  
245 having two or more bedrooms, affordable to low income households,  
246 and so deed restricted for forty years.

247 (f) When any municipality fails to submit a fair share plan to the  
248 secretary in accordance with subsection (c) of section 1 of this act, or  
249 when a fair share plan submitted by a municipality fails to create a  
250 realistic opportunity for the municipality to attain its municipal fair  
251 share allocation, any interested party may bring an action in the

252 Superior Court of the judicial district in which the municipality is  
253 located to seek (1) a court order that the municipality issue a fair share  
254 plan and updated zoning regulations that create a realistic opportunity  
255 for the municipality to meet its municipal fair share allocation, including  
256 through express agreements with developers for housing development  
257 projects contributing to the municipality's total fair share allocation; or  
258 (2) if a particular housing development conforming with subparagraph  
259 (B) of subdivision (8) of section (a) of section 1 of this act has been  
260 rejected by the municipality's zoning authority and an appeal is brought  
261 by the developer, a court order permitting the development unless the  
262 defendant demonstrates that the decision from which such appeal is  
263 taken and the reasons cited for such decision are supported by sufficient  
264 evidence in the record and the defendant has demonstrated that (A) (i)  
265 the decision is necessary to protect substantial public interests in health,  
266 safety or other matters which the commission may legally consider; (ii)  
267 such public interests clearly outweigh the need for affordable housing;  
268 and (iii) such public interests cannot be protected by reasonable changes  
269 to the affordable housing development, or (B) (i) the application which  
270 was the subject of the decision from which such appeal was taken would  
271 locate affordable housing in an area which is zoned for industrial use  
272 and which does not permit residential uses; and (ii) the development is  
273 not assisted housing. If the defendant does not satisfy its burden of  
274 proof under this subsection, the court may wholly or partly revise,  
275 modify, remand or reverse the decision from which the appeal was  
276 taken in a manner consistent with the evidence in the record before it  
277 and, if the plaintiff interested party prevails, the court may award  
278 additional relief in accordance with section 46a-104 of the general  
279 statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	New section
Sec. 2	<i>July 1, 2023</i>	New section

***Statement of Purpose:***

To (1) require an assessment of the state-wide need for affordable housing and an allocation of such need to planning regions and municipalities, (2) require the creation of fair share plans for each municipality, and (3) establish penalties for municipalities that fail to submit fair share plans.

*[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.]*