OLR Bill Analysis

sHB 5337

AN ACT CONCERNING AFFORDABLE HOUSING DEVELOPMENT PRACTICES.

SUMMARY

This bill makes two separate changes related to the state's affordable housing laws. Specifically, it (1) requires developers to provide a surety bond in conjunction with their application to build an affordable housing development under the affordable housing land use appeals procedure (CGS § 8-30g; hereinafter "8-30g") and (2) authorizes municipalities to use tax increment district funds to renovate certain 8-30g deed-restricted affordable housing in exchange for the owner renewing the development's affordability restrictions.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2024

SURETY BOND REQUIREMENT FOR AFFORDABLE HOUSING DEVELOPMENTS

The bill requires an applicant (i.e., developer) for a proposed affordable housing development under 8-30g (see BACKGROUND) to provide a $100,000 surety bond in favor of the commission's municipality. A "commission" means a municipality's zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals, or other agency exercising zoning or planning authority.

The bond, which acts as surety for the developer's construction of the project as described in the application, must (1) be issued by a licensed insurance company, banking institution, or surety company authorized to do business in Connecticut and (2) have a one-year effective period.

The bill allows a municipality to take action to collect on the bond if the developer withdraws the application without good cause, as determined by the commission. Municipalities must use recovered bond proceeds only for (1) making capital improvements to public property, (2) acquiring or preserving land designated as open space, or (3) developing affordable housing (i.e., that for which households earning no more than the federally determined area median income pay 30% or less of their annual income).

TAX INCREMENT DISTRICT FUNDING FOR AFFORDABLE HOUSING RENOVATION

By law, municipalities that have adopted a tax increment district generally must establish a "district master plan fund" (see BACKGROUND). Current law limits the use of the fund to paying for specified categories of expenses, including costs (1) of certain improvements made in the district, or outside the district that are directly related to or necessary for establishing or operating the district, and (2) related to economic development, environmental improvements, or employment training associated with the district.

The bill allows municipalities to also use the fund for improvement costs outside the district for renovating or rehabilitating certain 8-30g "set-aside developments" (i.e., deed-restricted affordable housing; see BACKGROUND). A municipality can do so if the (1) development's affordability deed restrictions will expire in three years or less and (2) improvement costs are paid based on an agreement between the municipality and the development's owner that the owner will renew the deed restrictions for at least 40 years.

BACKGROUND

Affordable Housing Developments

By law, an affordable housing development under 8-30g means "assisted housing" or a "set-aside development." The former is generally certain government-assisted housing or housing occupied by people receiving rental assistance. The latter is a development in which, for at least 40 years after initial occupancy, at least 30% of the units are deed restricted based on specified household income limits.

8-30g requires commissions to defend their decisions to reject affordable housing applications or approve them with costly conditions. In traditional land use appeals, the developer must convince the court that the municipality acted illegally, arbitrarily, or abused its discretion. The 8-30g procedure instead places the burden of proof on municipalities.

Tax Increment Districts

Existing law allows municipalities, through their legislative bodies, to establish a tax increment district (generally known as a tax increment financing (TIF) district) to finance economic development projects in eligible areas (CGS § 7-339cc et seq.). It requires them to adopt a district master plan for the district and a statement of the percentage or amount of increased assessed value that will be designated as "captured assessed value" under the plan (i.e., the percentage or amount of the incremental increase in property values that is used from year to year to finance the plan's project costs). Municipalities generally must establish a "district master plan fund" for depositing incremental tax revenues and paying project costs. They must also deposit any benefit assessments imposed on real property in the district.

COMMITTEE ACTION

Housing Committee

Joint Favorable
Yea 14 Nay 1 (03/07/2024)