



House of Representatives

General Assembly

File No. 110

February Session, 2024

Substitute House Bill No. 5336

House of Representatives, March 25, 2024

The Committee on Housing reported through REP. FELIPE of the 130th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE CONNECTICUT HOUSING AND SEGREGATION STUDY.

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

1 Section 1. (NEW) (*Effective October 1, 2024*) On or before January 1,
2 2025, and not less than annually thereafter, the Commissioner of
3 Housing shall undertake an assessment of the housing assistance
4 payments available under the federal Housing Choice Voucher
5 Program, 42 USC 1437f(o), as amended from time to time, to residents
6 in the state. The commissioner shall, to the extent practicable, equalize
7 housing assistance payments made available by the commissioner
8 under the rental assistance program established pursuant to chapter
9 138a of the general statutes, or any other housing voucher programs
10 administered in whole or in part by the commissioner, with the housing
11 assistance payments available under the federal Housing Choice
12 Voucher Program based on (1) housing unit size, location or other
13 pertinent physical characteristics of such unit, and (2) the income level
14 of the individual or family that may reside in such unit.

15 Sec. 2. Subsection (g) of section 8-345 of the 2024 supplement to the
16 general statutes is repealed and the following is substituted in lieu
17 thereof (*Effective October 1, 2024*):

18 (g) The commissioner shall adopt regulations in accordance with the
19 provisions of chapter 54 to carry out the purposes of this section. The
20 regulations shall establish maximum income eligibility guidelines for
21 such rental assistance and criteria for determining the amount of rental
22 assistance [which] that shall be provided to eligible families, provided
23 such regulations shall require that the commissioner conduct a
24 reexamination concerning any eligible family's continued eligibility for
25 rental assistance not more frequently than biennially.

26 Sec. 3. Section 8-72 of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective October 1, 2024*):

28 (a) Each developer or housing authority shall manage and operate its
29 housing projects in an efficient manner so as to enable it to fix the rentals
30 for dwelling accommodations at the lowest possible rates consistent
31 with providing decent, safe and sanitary dwelling accommodations,
32 and no housing authority or nonprofit corporation shall construct or
33 operate any such project for profit. To this end an authority or a
34 nonprofit corporation shall fix the rentals for dwelling in its projects at
35 no higher rates than it finds to be necessary in order to produce revenues
36 which, together with all other available money, revenues, income and
37 receipts of the authority or nonprofit corporation from whatever sources
38 derived, will be sufficient [(a)] (1) to pay, as the same become due, the
39 principal and interest on the bonds of the authority or nonprofit
40 corporation; and [(b)] (2) to meet the cost of, and to provide for,
41 maintaining and operating the projects, including the cost of any
42 insurance, and the administrative expenses of the authority or nonprofit
43 corporation, [;] provided nothing in this section shall be construed as
44 prohibiting any authority or nonprofit corporation from providing for
45 variable rentals based on family income.

46 (b) In the operation or management of housing projects an authority
47 or nonprofit corporation shall, at all times, rent or lease the dwelling

48 accommodations therein at rentals within the financial reach of families
49 of low income. The Commissioner of Housing may establish maximum
50 income limits for the admission and continued occupancy of tenants,
51 provided (1) such maximum income limits and all revisions thereof for
52 housing projects operated pursuant to any contract with any agency of
53 the federal government shall be subject to the prior approval of such
54 federal agency, and (2) no tenant shall be subject to a reexamination
55 concerning such tenant's income for the purposes of such tenant's
56 continued occupancy more frequently than biennially unless otherwise
57 required by federal law.

58 (c) The [Commissioner of Housing] commissioner shall define the
59 income of a family to provide the basis for determining eligibility for the
60 admission, rentals and for the continued occupancy of families under
61 the maximum income limits fixed and approved, provided no family
62 shall be subject to a reexamination concerning such family's income for
63 the purposes of such family's continued occupancy more frequently
64 than biennially unless otherwise required by federal law. The definition
65 of family income [,] adopted by the [Commissioner of Housing,]
66 commissioner may provide for the exclusion of all or part of the income
67 of any family [members which] member that, in the judgment of [said]
68 the commissioner, is not generally available to meet the cost of basic
69 living needs of the family. No housing authority or developer shall
70 refuse to rent any dwelling accommodation to an otherwise qualified
71 applicant on the ground that one or more of the proposed occupants are
72 children born out of wedlock.

73 (d) Each housing authority and developer shall provide a receipt to
74 each applicant for admission to its housing projects stating the time and
75 date of application and shall maintain a list of such applications, which
76 shall be a public record, as defined in section 1-200. The [Commissioner
77 of Housing] commissioner shall, by regulation, provide for the manner
78 in which such list shall be created, maintained and revised.

79 (e) No provision of this part shall be construed as limiting the right
80 of the authority to vest in an obligee the right, in the event of a default

81 by such authority, to take possession of a housing project or cause the
82 appointment of a receiver thereof or acquire title thereto through
83 foreclosure proceedings, free from all the restrictions imposed by this
84 chapter with respect to rental rates and tenant selection. The
85 [Commissioner of Housing] commissioner shall approve an operation
86 or management plan of each housing project, which shall provide an
87 income adequate for debt service, if any, administration, including a
88 state service charge, other operating costs and establishment of
89 reasonable reserves for repairs, maintenance and replacements, vacancy
90 and collection losses. [Said] The commissioner shall have the right of
91 inspection of any housing during the period between the date on which
92 construction thereof begins and the date the state loan is fully paid or,
93 in the case of a grant, during the period for which any housing project
94 built pursuant to such grant is used for housing for families of low and
95 moderate income.

96 (f) An authority or developer shall semiannually submit to [said] the
97 commissioner a sworn statement setting forth such information with
98 respect to the tenants and rentals for each housing project hereunder
99 and the costs of operating each housing project under its jurisdiction as
100 said commissioner requires.

101 (g) Any person who makes a false statement concerning the income
102 of the family for which application for admission to or continued
103 occupancy of housing projects is made may be fined not more than five
104 hundred dollars or imprisoned not more than six months, or both. With
105 regard to a family who, since the last [annual] recertification, received
106 any public assistance or state-administered general assistance and
107 received earnings from employment, the authority or developer shall
108 not require any interim recertification due to an earnings increase. At
109 the [annual] recertification, the authority or developer shall base rent
110 levels on such family's average income throughout the preceding twelve
111 months. During the subsequent [twelve-month] twenty-four-month
112 period, the authority or developer shall not require any interim
113 recertifications due to increased earnings from employment. However,
114 if a family's income has decreased, nothing in this section shall preclude

115 an interim recertification or recertification based on the reduced income
116 level.

117 Sec. 4. Subsection (g) of section 8-119kk of the general statutes is
118 repealed and the following is substituted in lieu thereof (*Effective October*
119 *1, 2024*):

120 (g) The commissioner shall adopt regulations in accordance with the
121 provisions of chapter 54 to carry out the purposes of this section. The
122 regulations shall establish maximum income eligibility guidelines for
123 such rental assistance and criteria for determining the amount of rental
124 assistance which shall be provided to elderly persons, provided (1) the
125 amount of assistance for elderly persons who are certificate holders shall
126 be the difference between thirty per cent of their adjusted gross income,
127 less a utility allowance, and the base rent, and (2) such regulations shall
128 require that the commissioner conduct a reexamination concerning any
129 eligible elderly person's continued eligibility for rental assistance not
130 more frequently than biennially.

131 Sec. 5. (NEW) (*Effective October 1, 2024*) On or before August 1, 2025,
132 the Commissioner of Housing, in coordination with the Connecticut
133 Housing Finance Authority, shall adopt a qualified allocation plan that
134 shall (1) replace any existing priority score or other point allocation
135 based on the location of a proposed housing development with a
136 priority score or other point allocation based upon the extent to which
137 such development meets a need for units of affordable housing, as
138 defined in section 8-39a of the general statutes, in the planning region,
139 as defined in section 4-68ii of the general statutes, pursuant to the
140 municipal fair share allocation established under section 4-68ii of the
141 general statutes, and (2) replace any existing priority score or other point
142 allocation based on the lowest credit per qualified unit of a proposed
143 housing development with a priority score or other point allocation
144 based upon whether the municipality in which such development is
145 proposed has not previously received funding through the federal Low-
146 Income Housing Tax Credit Program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	New section
Sec. 2	October 1, 2024	8-345(g)
Sec. 3	October 1, 2024	8-72
Sec. 4	October 1, 2024	8-119kk(g)
Sec. 5	October 1, 2024	New section

Statement of Legislative Commissioners:

In Section 3(c), "adopted" was added for clarity; in Sections 3(c), (d) and (e), "Commissioner of Housing" was changed to "commissioner" for consistency; and in Section 3(g), "twelve-month" was changed to "twenty-four-month" for accuracy.

HSG *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Department of Housing	GF - Potential Cost	See Below	See Below
Department of Housing	GF - Cost	Potential	At least 1 million
CHFA	FF - Revenue Loss	None	Potential

Note: GF=General Fund; FF=Federal Funds

Municipal Impact: None

Explanation

The bill makes significant changes to state rental assistance programs which are anticipated to result in various costs and potential costs to the Department of Housing (DOH) beginning in FY 25. The bill could also jeopardize the state's allocation of federal Low Income Housing Tax Credits (LIHTC) in FY 26, administered by the Connecticut Housing Finance Authority (CHFA).

Elderly Rental Assistance Program Cost

The bill requires DOH to amend regulations to ensure that Elderly Rental Assistance Program (ERAP) participants' rent contributions are increased no more frequently than once every two years. Assuming it takes DOH approximately one year to adopt such regulations, this results in a cost that could exceed \$1 million to DOH beginning in FY 26 and biennially thereafter.

Currently, annual increases to the cost of operating the state-assisted

elderly rental housing developments are split between DOH (in the form of higher grants) and ERAP tenants' contributions, which reflect increases to their income (e.g., from inflation adjustments or Social Security benefits). Since most program participants' incomes would have been reexamined in FY 25 under the current process, the state would bear nearly the full cost of inflationary increases in FY 26 when those tenants' contributions cannot be updated. DOH can control costs in the program to some extent by not allowing new participants into the program when existing tenants stop receiving rental assistance, but the savings generated are unlikely to cover the biennial cost resulting from the bill.

For reference, in FY 23, there were 952 tenants receiving rental assistance through ERAP at properties managed by 28 housing authorities and non-profits.

Rental Assistance Program Impacts

Assessment. The bill requires DOH to conduct an assessment of housing assistance payments (HAP) under the federal Housing Choice Voucher (HCV) program by January 1, 2025 and annually thereafter. To the extent this requirement is limited to the HCV program administered by DOH, there is no cost. If DOH must assess HAP across all Connecticut public housing authorities (PHA), there could be a cost of up to \$75,000 annually beginning in FY 25 for a vendor to collect and analyze such data.

Equalization. The bill is anticipated to result in significant Rental Assistance Program (RAP) subsidy changes beginning in FY 25, to the extent DOH implements the requirement to equalize HAP under RAP with payments under the federal HCV program (also known as Section 8). DOH administers RAP and is one of 45 PHA administering HCV in Connecticut. Subsidy amounts in both programs depend on: (1) the rent of the chosen unit and (2) the share of the tenant's income that must be contributed towards rent, among several other factors. For reference, the average annualized RAP rental subsidy in January 2024 was \$11,750 per certificate and DOH funds approximately 6,500 RAP certificates.

Equalizing HAP across the two programs DOH administers will result in significantly different costs for RAP as described below; however, the program is generally managed within available funding (including administration costs) by restricting the turnover of certificates to new households if there is insufficient budgeted funding.

Cumulative Impact to RAP

Because RAP is not an entitlement program and is currently operating near full capacity, the impacts to per-voucher and administrative costs described below are not anticipated to result in a permanent cost or savings to DOH. It is not clear which impacts will prevail, so the bill may result in a significant DOH temporary cost in FY 25 or FY 26 until the number of certificates can be reduced to match the available funding.

Lower Maximum Allowable Rents (MAR)

Under current law, DOH allows RAP tenants to select units with the same or higher maximum allowable rent amounts as the U.S. Department of Housing and Urban Development (HUD) allows for the HCV program. This means RAP tenants can generally rent a more expensive apartment than DOH's federally subsidized voucher holders.

Equalizing the payment standards by unit size and location as required by the bill will significantly reduce the value of RAP certificates for most current and future recipients. This will correspondingly lower per-voucher costs to DOH, since changes in rent are fully incurred by the state if tenant income and other family attributes remain the same. Lower RAP values may also reduce certificate utilization rates if recipients struggle to find units offered at the lower allowable rents. The savings to DOH could offset higher per-certificate costs described below or be used to issue additional lower-value certificates.

As an example, the DOH maximum allowable rent for a one-bedroom unit in Guilford is \$1,885 per month. HUD gives the public housing authority administering the HCV program some flexibility in setting

payment standards for their allotment of vouchers, which DOH utilizes by setting its HCV payment standard at 110% of HUD-calculated Fair Market Rents (FMR).¹ This equates to an allowable monthly rent of \$1,511 for the same one-bedroom unit in Guilford for DOH HCV voucher holders, which is \$374 (20%) less per month.

Lower Tenant Contribution for Some

Another difference between the programs' subsidies is the share of the family's income that must be contributed towards rent. RAP families that are not elderly or disabled must contribute 40% of their adjusted household income towards rent, while HUD rules require tenants to contribute 30% of their adjusted income for HCV.² As most RAP recipients are disabled or elderly, the estimated cost to DOH to reduce tenant contributions for those RAP recipients impacted is between \$1 million and \$3 million per year for existing RAP voucher holders.

Less Frequent Recertification of Income

The bill results in a potentially significant cost to the RAP program beginning in FY 26, to the extent the bill prohibits the current requirement in DOH regulations for certificate holders to notify them about income increases that occur between recertifications. If tenant contributions are not increased as frequently, DOH will incur higher subsidy costs for those families.

Administrative Costs

The bill may result in an administrative savings for RAP beginning in FY 26, due to the change from annual to biennial recertification. RAP is currently administered by a vendor at cost to the state of \$48 per unit per month. Administrative costs will be rebid for FY 25.

¹ DOH increases HCV rents up to 120% of FMR with HUD approval on a case-by-case basis. The bill is not likely to standardize payment standards across all tenant-based rental assistance programs in Connecticut, as other public housing authorities operating the HCV program within their own jurisdictions also have some flexibility to set payment standards for their allotted vouchers.

² There is also an adjustment for utilities.

Potential Cost to Adopt Regulations

The bill requires DOH to modify ERAP and RAP regulations. To the extent the agency requires outside assistance to do so, there is a potential cost to DOH in FY 25 of up to \$50,000 for legal services.

Qualified Allocation Plan (QAP) Changes

The bill requires DOH to make certain changes to the state's QAP, which governs the way CHFA distributes Connecticut's allocation of federal Low Income Housing Tax Credits (LIHTC). To the extent CHFA adopts a QAP that conflicts with federal Internal Revenue Code requirements, there is a risk of CHFA not receiving such tax credits to allocate beginning in FY 26.

Moderate Rental Housing Program

There is no fiscal impact to the state or municipalities for biennial reexamination in the Moderate Rental Housing Program because any related tenant rent and administrative cost changes will not be incurred by the state or municipalities. Housing authorities, which operate many such properties, are autonomous public corporations.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Department of Housing, Annual Report 2022-2023
Department of Housing, RAP Maximum Allowable Rent Schedule 2024
Department of Housing, Section 8 HCV Payment Standards 2024*

OLR Bill Analysis**sHB 5336*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE CONNECTICUT HOUSING AND SEGREGATION STUDY.*****SUMMARY**

This bill makes several changes to laws on affordable housing programs in the state. Specifically, it requires:

1. the Department of Housing (DOH) to assess housing assistance payments under the federal Housing Choice Voucher (HCV) program and attempt to equalize housing assistance payments under state housing voucher programs to the HCV standards;
2. that reexaminations to determine continued eligibility for certain housing programs (e.g., the Rental Assistance Program, Moderate Rental Housing Program, and Elderly Rental Assistance Program) occur no more frequently than biennially; and
3. the DOH commissioner, in coordination with the Connecticut Housing Finance Authority (CHFA), to adopt a qualified allocation plan for federal low-income housing tax credits that prioritizes municipalities based on (a) their need for affordable housing units, as determined in their fair share allocation, and (b) having no previous developments that received these tax credits.

Finally, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2024

§ 1 — HOUSING ASSISTANCE PAYMENTS FOR VOUCHERS

The bill requires DOH, annually beginning by January 1, 2025, to

assess housing assistance payments for state residents under the federal HCV program. It also requires DOH, to the extent practicable, to equalize housing assistance payments under the state's Rental Assistance Program (RAP), or any other housing voucher programs it administers, with the payments available under the HCV program. DOH must do so based on (1) housing unit size, location, or other physical characteristics, and (2) the income level of households that may live in the units.

Under the HCV program and RAP, "housing assistance payments" are generally the portion of a tenant's rent that the administering entity pays.

Existing law requires DOH to (1) set maximum rent levels under RAP for each municipality in a way that promotes the use of the program in all municipalities (CGS § 8-345(e)) and (2) adopt regulations determining the amount of rental assistance provided to eligible households. (The bill adds a requirement to these regulations; see below.)

§§ 2-4 — INCOME REEXAMINATIONS FOR CERTAIN HOUSING PROGRAMS

Under the bill, DOH's RAP regulations must require the department to conduct income reexaminations for eligible households no more than biennially. Current RAP regulations require DOH to (1) conduct annual reexaminations of participating families' income and composition and (2) adjust the amount of each household's assistance payment to reflect changes in the family's adjusted gross income. The regulations also require participating families to report changes in income or family composition to the department within 30 days (Conn. Agencies Regs., § 17b-812-9). Additionally, DOH's Administrative RAP Plan requires the department to process interim reexaminations when households have an increase in income that results in an increase of at least \$50 per month in tenant rent.

Similarly, the bill prohibits households living in certain state-supported housing projects (e.g., the Moderate Rental Housing

program) from having their income reexamined more than biennially unless the unit is subject to federal law requiring more frequent reexaminations. Under existing law and unchanged by the bill, entities operating or managing these housing units may reexamine a household's income more frequently if it is based on an income reduction. Current DOH regulations generally require annual income verifications under the Moderate Rental Housing program (Conn. Agencies Regs., § 8-79a-16).

Lastly, under the bill, DOH's regulations for the Elderly Rental Assistance Program (ERAP) must require the department to conduct a continued eligibility reexamination for elderly people receiving rental assistance under the program no more than biennially. Current ERAP regulations require grantees to conduct a reexamination of household income and composition annually and adjust the amount of each household's assistance payment accordingly (Conn. Agencies Regs., § 8-119kk-6).

§ 5 — LIHTC PROGRAM QUALIFIED ALLOCATION PLAN

The bill requires the DOH commissioner, by August 1, 2025, and in coordination with CHFA, to adopt a qualified allocation plan (QAP) for federal low-income housing tax credits that replaces certain existing priority scores or other point allocations.

Specifically, the QAP must replace a score or allocation based on a proposed housing development's location with one that is based on the extent to which the development meets a need for affordable housing units, as determined in the municipal fair share allocation the Office of Policy and Management (OPM) must calculate under existing law (see BACKGROUND). Additionally, it must replace a score or allocation based on a proposed development's lowest credit per qualified unit with one that is based on whether the proposed development is in a municipality that has not previously received funding under the Low-Income Housing Tax Credit (LIHTC) program.

It is unclear whether the bill's QAP provisions conflict with federal

requirements (see BACKGROUND).

BACKGROUND

Fair Share Allocation

PA 23-207, § 18, requires the OPM secretary, by December 1, 2024, to create a methodology for each municipality's fair share allocation of affordable housing by generally (1) determining the need for affordable housing units in each of the state's planning regions and (2) fairly allocating this need to each region's municipalities. It also requires the secretary, by this date, to use the methodology to determine the minimum need for affordable housing units for each planning region and a municipal fair share allocation for each region's municipalities. He must submit the fair share allocation methodology to (1) the Housing and Planning and Development committees and (2) each chamber of the General Assembly for approval.

LIHTC Program

The LIHTC program is the federal government's primary policy tool for developing affordable rental housing. Tax credits are awarded to developers of eligible projects to offset the cost of constructing rental housing in exchange for agreeing to reserve a specified portion of rent-restricted units for lower-income households. Developers typically use the credits as a financing tool by selling them to private investors, who benefit from a reduction in tax liability. The proceeds from the sales generate equity for the development, thus reducing the need for debt and other financing that would otherwise be required.

QAP Requirements. Under the LIHTC program, allocating agencies are responsible for awarding tax credits to qualifying projects that meet their QAP. (In Connecticut, CHFA is the allocating agency.) Federal law requires QAPs to give preference to certain projects, including those that (1) serve the lowest-income tenants, (2) are obligated to serve qualified tenants for the longest periods, and (3) are located in qualified census tracts and whose development contributes to a concerted community revitalization plan. Additionally, QAPs must incorporate certain selection criteria (e.g., project location, housing needs characteristics,

public housing waiting list, etc.) (26 U.S.C. § 42(m)).

Related Bills

sSB 6 (§ 25) and sSB 146 (§ 2), both reported favorably by the Housing Committee and containing nearly identical provisions, require DOH to take certain actions related to its administration of RAP and other housing voucher programs. These actions include conducting an annual assessment on maximum rent amounts under these programs and adjusting the amounts based on certain considerations.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 11 Nay 4 (03/07/2024)