



# House of Representatives

General Assembly

**File No. 65**

February Session, 2024

Substitute House Bill No. 5337

*House of Representatives, March 20, 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 CONCERNING AFFORDABLE HOUSING DEVELOPMENT PRACTICES.**

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

1 Section 1. Subsection (a) of section 8-30g of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2024*):

4 (a) As used in this section, [and] section 8-30j and section 2 of this act:

5 (1) "Affordable housing development" means a proposed housing  
6 development which is (A) assisted housing, or (B) a set-aside  
7 development;

8 (2) "Affordable housing application" means any application made to  
9 a commission in connection with an affordable housing development by  
10 a person who proposes to develop such affordable housing;

11 (3) "Assisted housing" means housing [which] that is receiving, or  
12 will receive, financial assistance under any governmental program for  
13 the construction or substantial rehabilitation of low and moderate

14 income housing, and any housing occupied by persons receiving rental  
15 assistance under chapter 319uu or Section 1437f of Title 42 of the United  
16 States Code;

17 (4) "Commission" means a zoning commission, planning  
18 commission, combined planning and zoning commission, zoning board  
19 of appeals or municipal agency exercising zoning or planning authority;

20 (5) "Municipality" means any town, city or borough, whether  
21 consolidated or unconsolidated;

22 (6) "Set-aside development" means a development in which not less  
23 than thirty per cent of the dwelling units will be conveyed by deeds  
24 containing covenants or restrictions which shall require that, for at least  
25 forty years after the initial occupation of the proposed development,  
26 such dwelling units shall be sold or rented at, or below, prices which  
27 will preserve the units as housing for which persons and families pay  
28 thirty per cent or less of their annual income, where such income is less  
29 than or equal to eighty per cent of the median income. In a set-aside  
30 development, of the dwelling units conveyed by deeds containing  
31 covenants or restrictions, a number of dwelling units equal to not less  
32 than fifteen per cent of all dwelling units in the development shall be  
33 sold or rented to persons and families whose income is less than or equal  
34 to sixty per cent of the median income and the remainder of the dwelling  
35 units conveyed by deeds containing covenants or restrictions shall be  
36 sold or rented to persons and families whose income is less than or equal  
37 to eighty per cent of the median income;

38 (7) "Median income" means, after adjustments for family size, the  
39 lesser of the state median income or the area median income for the area  
40 in which the municipality containing the affordable housing  
41 development is located, as determined by the United States Department  
42 of Housing and Urban Development; and

43 (8) "Commissioner" means the Commissioner of Housing.

44 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) Each applicant who

45 submits an affordable housing application to a commission shall  
46 provide a surety bond issued by a licensed insurance company, banking  
47 institution or surety company authorized to do business in this state, in  
48 the amount of one hundred thousand dollars, as surety for the  
49 applicant's development of the project as specified in such application.  
50 The bond shall be in favor of the municipality in which such commission  
51 is located and shall have an effective period of one year.

52 (b) A municipality may proceed on such bond against the amount of  
53 such bond if the applicant withdraws such applicant's affordable  
54 housing application without good cause, as determined by the  
55 commission. Any proceeds of such bond recovered by the municipality  
56 shall be used by the municipality solely for (1) the development of  
57 affordable housing, as defined in section 8-39a of the general statutes,  
58 (2) capital improvements to the public property of the municipality, or  
59 (3) the acquisition or preservation of land designated as open space.

60 Sec. 3. Section 7-339hh of the general statutes is repealed and the  
61 following is substituted in lieu thereof (*Effective October 1, 2024*):

62 Costs authorized for payment from a district master plan fund,  
63 established pursuant to section 7-339gg are limited to:

64 (1) Costs of improvements made within the tax increment district,  
65 including, but not limited to, (A) capital costs, including, but not limited  
66 to, (i) the acquisition or construction of land, improvements,  
67 infrastructure, public ways, parks, buildings, structures, railings, street  
68 furniture, signs, landscaping, plantings, benches, trash receptacles,  
69 curbs, sidewalks, turnouts, recreational facilities, structured parking,  
70 transportation improvements, pedestrian improvements and other  
71 related improvements, fixtures and equipment for public use, (ii) the  
72 acquisition or construction of land, improvements, infrastructure,  
73 buildings, structures, including facades and signage, fixtures and  
74 equipment for industrial, commercial, residential, mixed-use or retail  
75 use or transit-oriented development, (iii) the demolition, alteration,  
76 remodeling, repair or reconstruction of existing buildings, structures  
77 and fixtures; (iv) environmental remediation; (v) site preparation and

78 finishing work; and (vi) all fees and expenses associated with the capital  
79 cost of such improvements, including, but not limited to, licensing and  
80 permitting expenses and planning, engineering, architectural, testing,  
81 legal and accounting expenses; (B) financing costs, including, but not  
82 limited to, closing costs, issuance costs, reserve funds and capitalized  
83 interest; (C) real property assembly costs; (D) costs of technical and  
84 marketing assistance programs; (E) professional service costs,  
85 including, but not limited to, licensing, architectural, planning,  
86 engineering, development and legal expenses; (F) maintenance and  
87 operation costs; (G) administrative costs, including, but not limited to,  
88 reasonable charges for the time spent by municipal employees, other  
89 agencies or third-party entities in connection with the implementation  
90 of a district master plan; and (H) organizational costs relating to the  
91 planning and the establishment of the tax increment district, including,  
92 but not limited to, the costs of conducting environmental impact and  
93 other studies and the costs of informing the public about the creation of  
94 tax increment districts and the implementation of the district master  
95 plan;

96 (2) Costs of improvements that are made outside the tax increment  
97 district but are directly related to or are made necessary by the  
98 establishment or operation of the tax increment district, including, but  
99 not limited to, (A) that portion of the costs reasonably related to the  
100 construction, alteration or expansion of any facilities not located within  
101 the tax increment district that are required due to improvements or  
102 activities within the tax increment district, including, but not limited to,  
103 roadways, traffic signalization, easements, sewage treatment plants,  
104 water treatment plants or other environmental protection devices, storm  
105 or sanitary sewer lines, water lines, electrical lines, improvements to fire  
106 stations, and street signs; (B) costs of public safety and public school  
107 improvements made necessary by the establishment of the tax  
108 increment district; and (C) costs of funding to mitigate any adverse  
109 impact of the tax increment district upon the municipality and its  
110 constituents; [and]

111 (3) Costs related to economic development, environmental

112 improvements or employment training associated with the tax  
 113 increment district, including, but not limited to, (A) economic  
 114 development programs or events related to the tax increment district;  
 115 (B) environmental improvement projects developed by the municipality  
 116 related to the tax increment district; (C) the establishment of permanent  
 117 economic development revolving loan funds, investment funds and  
 118 grants; and (D) services and equipment necessary for employment skills  
 119 development and training, including scholarships to in-state  
 120 educational institutions for jobs created or retained in the tax increment  
 121 district; and

122 (4) Costs of improvements that are made outside the tax increment  
 123 district for the renovation or rehabilitation of a housing development  
 124 that is a set-aside development, as defined in subsection (a) of section 8-  
 125 30g, as amended by this act, for which development the deed covenants  
 126 or restrictions that preserve such development as a set-aside  
 127 development will expire in not more than three years, provided the  
 128 costs of such improvements are paid pursuant to an agreement between  
 129 the municipality and the owner of such development in which the  
 130 owner agrees to renew such deed covenants or restrictions for not less  
 131 than forty years.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	8-30g(a)
Sec. 2	October 1, 2024	New section
Sec. 3	October 1, 2024	7-339hh

**Statement of Legislative Commissioners:**

In Section 1(a)(4), "combined" was inserted before "planning and zoning commission" for statutory consistency; in Section 2(a) "run for a" was replaced with "have an effective" for clarity; and in Section 2(b), "used solely by the municipality" was changed to "used by the municipality solely" for accuracy.

**HSG**      *Joint Favorable Subst. -LCO*

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:** None

**Municipal Impact:**

Municipalities	Effect	FY 25 \$	FY 26 \$
All Municipalities	Potential Revenue Gain	See Below	See Below

**Explanation**

The bill (1) requires applicants for certain proposed affordable housing developments to provide a \$100,000 surety bond with their application, and (2) expands the use of district master plan funds from tax increment financing districts. This results in a potential revenue gain for municipalities beginning in FY 25 to the extent that municipalities take action to collect the surety bond if and when developers withdraw an application.

The bill may also result in municipalities using funds from district master plan funds more quickly. This will only impact municipalities that have established tax increment financing districts.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of surety bonds that are collected.

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**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)