



General Assembly

Amendment

February Session, 2024

LCO No. 4967



Offered by:
REP. O'DEA, 125th Dist.

To: Subst. House Bill No. 5337

File No. 65

Cal. No. 77

"AN ACT CONCERNING AFFORDABLE HOUSING DEVELOPMENT PRACTICES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 8-30g of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2024*):

5 (a) As used in this section, [and] section 8-30j and section 502 of this
6 act:

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

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

13 (3) "Assisted housing" means housing which is receiving, or will

14 receive, financial assistance under any governmental program for the
15 construction or substantial rehabilitation of low and moderate income
16 housing, and any housing occupied by persons receiving rental
17 assistance under chapter 319uu or Section 1437f of Title 42 of the United
18 States Code;

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

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

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

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

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

46 (b) (1) Any person filing an affordable housing application with a
47 commission shall submit, as part of the application, an affordability plan
48 which shall include at least the following: (A) Designation of the person,
49 entity or agency that will be responsible for the duration of any
50 affordability restrictions, for the administration of the affordability plan
51 and its compliance with the income limits and sale price or rental
52 restrictions of this chapter; (B) an affirmative fair housing marketing
53 plan governing the sale or rental of all dwelling units; (C) a sample
54 calculation of the maximum sales prices or rents of the intended
55 affordable dwelling units; (D) a description of the projected sequence in
56 which, within a set-aside development, the affordable dwelling units
57 will be built and offered for occupancy and the general location of such
58 units within the proposed development; and (E) draft zoning
59 regulations, conditions of approvals, deeds, restrictive covenants or
60 lease provisions that will govern the affordable dwelling units.

61 (2) The commissioner shall, within available appropriations, adopt
62 regulations pursuant to chapter 54 regarding the affordability plan.
63 Such regulations may include additional criteria for preparing an
64 affordability plan and shall include: (A) A formula for determining rent
65 levels and sale prices, including establishing maximum allowable down
66 payments to be used in the calculation of maximum allowable sales
67 prices; (B) a clarification of the costs that are to be included when
68 calculating maximum allowed rents and sale prices; (C) a clarification
69 as to how family size and bedroom counts are to be equated in
70 establishing maximum rental and sale prices for the affordable units;
71 and (D) a listing of the considerations to be included in the computation
72 of income under this section.

73 (c) Any commission, by regulation, may require that an affordable
74 housing application seeking a change of zone include the submission of
75 a conceptual site plan describing the proposed development's total
76 number of residential units and their arrangement on the property and
77 the proposed development's roads and traffic circulation, sewage
78 disposal and water supply.

79 (d) For any affordable dwelling unit that is rented as part of a set-
80 aside development, if the maximum monthly housing cost, as calculated
81 in accordance with subdivision (6) of subsection (a) of this section,
82 would exceed one hundred per cent of the Section 8 fair market rent as
83 determined by the United States Department of Housing and Urban
84 Development, in the case of units set aside for persons and families
85 whose income is less than or equal to sixty per cent of the median
86 income, then such maximum monthly housing cost shall not exceed one
87 hundred per cent of said Section 8 fair market rent. If the maximum
88 monthly housing cost, as calculated in accordance with subdivision (6)
89 of subsection (a) of this section, would exceed one hundred twenty per
90 cent of the Section 8 fair market rent, as determined by the United States
91 Department of Housing and Urban Development, in the case of units set
92 aside for persons and families whose income is less than or equal to
93 eighty per cent of the median income, then such maximum monthly
94 housing cost shall not exceed one hundred twenty per cent of such
95 Section 8 fair market rent.

96 (e) For any affordable dwelling unit that is rented in order to comply
97 with the requirements of a set-aside development, no person shall
98 impose on a prospective tenant who is receiving governmental rental
99 assistance a maximum percentage-of-income-for-housing requirement
100 that is more restrictive than the requirement, if any, imposed by such
101 governmental assistance program.

102 (f) Except as provided in subsections (k), [and] (l) and (m) of this
103 section, any person whose affordable housing application is denied, or
104 is approved with restrictions which have a substantial adverse impact
105 on the viability of the affordable housing development or the degree of
106 affordability of the affordable dwelling units in a set-aside
107 development, may appeal such decision pursuant to the procedures of
108 this section. Such appeal shall be filed within the time period for filing
109 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and
110 shall be made returnable to the superior court for the judicial district
111 where the real property which is the subject of the application is located.
112 Affordable housing appeals, including pretrial motions, shall be heard

113 by a judge assigned by the Chief Court Administrator to hear such
114 appeals. To the extent practicable, efforts shall be made to assign such
115 cases to a small number of judges, sitting in geographically diverse parts
116 of the state, so that a consistent body of expertise can be developed.
117 Unless otherwise ordered by the Chief Court Administrator, such
118 appeals, including pretrial motions, shall be heard by such assigned
119 judges in the judicial district in which such judge is sitting. Appeals
120 taken pursuant to this subsection shall be privileged cases to be heard
121 by the court as soon after the return day as is practicable. Except as
122 otherwise provided in this section, appeals involving an affordable
123 housing application shall proceed in conformance with the provisions
124 of section 8-8, 8-9, 8-28 or 8-30a, as applicable.

125 (g) Upon an appeal taken under subsection (f) of this section, the
126 burden shall be on the commission to prove, based upon the evidence
127 in the record compiled before such commission, that the decision from
128 which such appeal is taken and the reasons cited for such decision are
129 supported by sufficient evidence in the record. The commission shall
130 also have the burden to prove, based upon the evidence in the record
131 compiled before such commission, that (1) (A) the decision is necessary
132 to protect substantial public interests in health, safety or other matters
133 which the commission may legally consider; (B) such public interests
134 clearly outweigh the need for affordable housing; and (C) such public
135 interests cannot be protected by reasonable changes to the affordable
136 housing development, or (2) (A) the application which was the subject
137 of the decision from which such appeal was taken would locate
138 affordable housing in an area which is zoned for industrial use and
139 which does not permit residential uses; and (B) the development is not
140 assisted housing. If the commission does not satisfy its burden of proof
141 under this subsection, the court shall wholly or partly revise, modify,
142 remand or reverse the decision from which the appeal was taken in a
143 manner consistent with the evidence in the record before it.

144 (h) Following a decision by a commission to reject an affordable
145 housing application or to approve an application with restrictions which
146 have a substantial adverse impact on the viability of the affordable

147 housing development or the degree of affordability of the affordable
148 dwelling units, the applicant may, within the period for filing an appeal
149 of such decision, submit to the commission a proposed modification of
150 its proposal responding to some or all of the objections or restrictions
151 articulated by the commission, which shall be treated as an amendment
152 to the original proposal. The day of receipt of such a modification shall
153 be determined in the same manner as the day of receipt is determined
154 for an original application. The filing of such a proposed modification
155 shall stay the period for filing an appeal from the decision of the
156 commission on the original application. The commission shall hold a
157 public hearing on the proposed modification if it held a public hearing
158 on the original application and may hold a public hearing on the
159 proposed modification if it did not hold a public hearing on the original
160 application. The commission shall render a decision on the proposed
161 modification not later than sixty-five days after the receipt of such
162 proposed modification, provided, if, in connection with a modification
163 submitted under this subsection, the applicant applies for a permit for
164 an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive,
165 and the time for a decision by the commission on such modification
166 under this subsection would lapse prior to the thirty-fifth day after a
167 decision by an inland wetlands and watercourses agency, the time
168 period for decision by the commission on the modification under this
169 subsection shall be extended to thirty-five days after the decision of such
170 agency. The commission shall issue notice of its decision as provided by
171 law. Failure of the commission to render a decision within said sixty-
172 five days or subsequent extension period permitted by this subsection
173 shall constitute a rejection of the proposed modification. Within the time
174 period for filing an appeal on the proposed modification as set forth in
175 section 8-8, 8-9, 8-28 or 8-30a, as applicable, the applicant may appeal
176 the commission's decision on the original application and the proposed
177 modification in the manner set forth in this section. Nothing in this
178 subsection shall be construed to limit the right of an applicant to appeal
179 the original decision of the commission in the manner set forth in this
180 section without submitting a proposed modification or to limit the
181 issues which may be raised in any appeal under this section.

182 (i) Nothing in this section shall be deemed to preclude any right of
183 appeal under the provisions of section 8-8, 8-9, 8-28 or 8-30a.

184 (j) A commission or its designated authority shall have, with respect
185 to compliance of an affordable housing development with the
186 provisions of this chapter, the same powers and remedies provided to
187 commissions by section 8-12.

188 (k) The affordable housing appeals procedure established under this
189 section shall not be available if the real property which is the subject of
190 the application is located in a municipality in which at least ten per cent
191 of all dwelling units in the municipality are (1) assisted housing, (2)
192 currently financed by Connecticut Housing Finance Authority
193 mortgages, (3) subject to binding recorded deeds containing covenants
194 or restrictions which require that such dwelling units be sold or rented
195 at, or below, prices which will preserve the units as housing for which
196 persons and families pay thirty per cent or less of income, where such
197 income is less than or equal to eighty per cent of the median income, (4)
198 mobile manufactured homes located in mobile manufactured home
199 parks or legally approved accessory apartments, which homes or
200 apartments are subject to binding recorded deeds containing covenants
201 or restrictions which require that such dwelling units be sold or rented
202 at, or below, prices which will preserve the units as housing for which,
203 for a period of not less than ten years, persons and families pay thirty
204 per cent or less of income, where such income is less than or equal to
205 eighty per cent of the median income, or (5) mobile manufactured
206 homes located in resident-owned mobile manufactured home parks. For
207 the purposes of calculating the total number of dwelling units in a
208 municipality, accessory apartments built or permitted after January 1,
209 2022, but that are not described in subdivision (4) of this subsection,
210 shall not be counted toward such total number. The municipalities
211 meeting the criteria set forth in this subsection shall be listed in the
212 report submitted under section 8-37qqq. As used in this subsection,
213 "accessory apartment" has the same meaning as provided in section 8-
214 1a, as amended by this act, and "resident-owned mobile manufactured
215 home park" means a mobile manufactured home park consisting of

216 mobile manufactured homes located on land that is deed restricted, and,
217 at the time of issuance of a loan for the purchase of such land, such loan
218 required seventy-five per cent of the units to be leased to persons with
219 incomes equal to or less than eighty per cent of the median income, and
220 either (A) forty per cent of said seventy-five per cent to be leased to
221 persons with incomes equal to or less than sixty per cent of the median
222 income, or (B) twenty per cent of said seventy-five per cent to be leased
223 to persons with incomes equal to or less than fifty per cent of the median
224 income.

225 (l) (1) Except as provided in subdivision (2) of this subsection, the
226 affordable housing appeals procedure established under this section
227 shall not be applicable to an affordable housing application filed with a
228 commission during a moratorium, which shall commence after (A) a
229 certification of affordable housing project completion issued by the
230 commissioner is published in the Connecticut Law Journal, or (B) notice
231 of a provisional approval is published pursuant to subdivision (4) of this
232 subsection. Any such moratorium shall be for a period of four years,
233 except that for any municipality that has (i) twenty thousand or more
234 dwelling units, as reported in the most recent United States decennial
235 census, and (ii) previously qualified for a moratorium in accordance
236 with this section, any subsequent moratorium shall be for a period of
237 five years. Any moratorium that is in effect on October 1, 2002, is
238 extended by one year.

239 (2) Such moratorium shall not apply to (A) affordable housing
240 applications for assisted housing in which ninety-five per cent of the
241 dwelling units are restricted to persons and families whose income is
242 less than or equal to sixty per cent of the median income, (B) other
243 affordable housing applications for assisted housing containing forty or
244 fewer dwelling units, or (C) affordable housing applications which were
245 filed with a commission pursuant to this section prior to the date upon
246 which the moratorium takes effect.

247 (3) Eligible units completed after a moratorium has begun may be
248 counted toward establishing eligibility for a subsequent moratorium.

249 (4) (A) The commissioner shall issue a certificate of affordable
250 housing project completion for the purposes of this subsection upon
251 finding that there has been completed within the municipality one or
252 more affordable housing developments which create housing unit-
253 equivalent points equal to (i) the greater of two per cent of all dwelling
254 units in the municipality, as reported in the most recent United States
255 decennial census, or seventy-five housing unit-equivalent points, or (ii)
256 for any municipality that has (I) adopted an affordable housing plan in
257 accordance with section 8-30j, (II) twenty thousand or more dwelling
258 units, as reported in the most recent United States decennial census, and
259 (III) previously qualified for a moratorium in accordance with this
260 section, one and one-half per cent of all dwelling units in the
261 municipality, as reported in the most recent United States decennial
262 census.

263 (B) A municipality may apply for a certificate of affordable housing
264 project completion pursuant to this subsection by applying in writing to
265 the commissioner, and including documentation showing that the
266 municipality has accumulated the required number of points within the
267 applicable time period. Such documentation shall include the location
268 of each dwelling unit being counted, the number of points each dwelling
269 unit has been assigned, and the reason, pursuant to this subsection, for
270 assigning such points to such dwelling unit. Upon receipt of such
271 application, the commissioner shall promptly cause a notice of the filing
272 of the application to be published in the Connecticut Law Journal,
273 stating that public comment on such application shall be accepted by the
274 commissioner for a period of thirty days after the publication of such
275 notice. Not later than ninety days after the receipt of such application,
276 the commissioner shall either approve or reject such application. Such
277 approval or rejection shall be accompanied by a written statement of the
278 reasons for approval or rejection, pursuant to the provisions of this
279 subsection. If the application is approved, the commissioner shall
280 promptly cause a certificate of affordable housing project completion to
281 be published in the Connecticut Law Journal. If the commissioner fails
282 to either approve or reject the application within such ninety-day

283 period, such application shall be deemed provisionally approved, and
284 the municipality may cause notice of such provisional approval to be
285 published in a conspicuous manner in a daily newspaper having general
286 circulation in the municipality, in which case, such moratorium shall
287 take effect upon such publication. The municipality shall send a copy of
288 such notice to the commissioner. Such provisional approval shall
289 remain in effect unless the commissioner subsequently acts upon and
290 rejects the application, in which case the moratorium shall terminate
291 upon notice to the municipality by the commissioner.

292 (5) For the purposes of this subsection, "elderly units" are dwelling
293 units whose occupancy is restricted by age, "family units" are dwelling
294 units whose occupancy is not restricted by age, and "resident-owned
295 mobile manufactured home park" has the same meaning as provided in
296 subsection (k) of this section.

297 (6) For the purposes of this subsection, housing unit-equivalent
298 points shall be determined by the commissioner as follows: (A) No
299 points shall be awarded for a unit unless its occupancy is restricted to
300 persons and families whose income is equal to or less than eighty per
301 cent of the median income, except that unrestricted units in a set-aside
302 development shall be awarded one-fourth point each. (B) Family units
303 restricted to persons and families whose income is equal to or less than
304 eighty per cent of the median income shall be awarded one point if an
305 ownership unit and one and one-half points if a rental unit. (C) Family
306 units restricted to persons and families whose income is equal to or less
307 than sixty per cent of the median income shall be awarded one and one-
308 half points if an ownership unit and two points if a rental unit. (D)
309 Family units restricted to persons and families whose income is equal to
310 or less than forty per cent of the median income shall be awarded two
311 points if an ownership unit and two and one-half points if a rental unit.
312 (E) Elderly units restricted to persons and families whose income is
313 equal to or less than eighty per cent of the median income shall be
314 awarded one-half point. (F) A set-aside development containing family
315 units which are rental units shall be awarded additional points equal to
316 twenty-two per cent of the total points awarded to such development,

317 provided the application for such development was filed with the
318 commission prior to July 6, 1995. (G) A mobile manufactured home in a
319 resident-owned mobile manufactured home park shall be awarded
320 points as follows: One and one-half points when occupied by persons
321 and families with an income equal to or less than eighty per cent of the
322 median income; two points when occupied by persons and families with
323 an income equal to or less than sixty per cent of the median income; and
324 one-fourth point for the remaining units.

325 (7) Points shall be awarded only for dwelling units which (A) were
326 newly-constructed units in an affordable housing development, as that
327 term was defined at the time of the affordable housing application, for
328 which a certificate of occupancy was issued after July 1, 1990, (B) were
329 newly subjected after July 1, 1990, to deeds containing covenants or
330 restrictions which require that, for at least the duration required by
331 subsection (a) of this section for set-aside developments on the date
332 when such covenants or restrictions took effect, such dwelling units
333 shall be sold or rented at, or below, prices which will preserve the units
334 as affordable housing for persons or families whose income does not
335 exceed eighty per cent of the median income, or (C) are located in a
336 resident-owned mobile manufactured home park.

337 (8) Points shall be subtracted, applying the formula in subdivision (6)
338 of this subsection, for any affordable dwelling unit which, on or after
339 July 1, 1990, was affected by any action taken by a municipality which
340 caused such dwelling unit to cease being counted as an affordable
341 dwelling unit.

342 (9) A newly-constructed unit shall be counted toward a moratorium
343 when it receives a certificate of occupancy. A newly-restricted unit shall
344 be counted toward a moratorium when its deed restriction takes effect.

345 (10) The affordable housing appeals procedure shall be applicable to
346 affordable housing applications filed with a commission after a three-
347 year moratorium expires, except (A) as otherwise provided in
348 subsection (k) of this section, or (B) when sufficient unit-equivalent

349 points have been created within the municipality during one
350 moratorium to qualify for a subsequent moratorium.

351 (11) The commissioner shall, within available appropriations, adopt
352 regulations in accordance with chapter 54 to carry out the purposes of
353 this subsection. Such regulations shall specify the procedure to be
354 followed by a municipality to obtain a moratorium, and shall include
355 the manner in which a municipality is to document the units to be
356 counted toward a moratorium. A municipality may apply for a
357 moratorium in accordance with the provisions of this subsection prior
358 to, as well as after, such regulations are adopted.

359 (m) The affordable housing appeals procedure established under this
360 section shall not be applicable to an affordable housing application if the
361 municipality in which such application was filed has elected to purchase
362 the real property identified as an affordable housing development in
363 such application pursuant to the provisions of section 502 of this act.

364 [(m)] (n) The commissioner shall, pursuant to regulations adopted in
365 accordance with the provisions of chapter 54, promulgate model deed
366 restrictions which satisfy the requirements of this section. A
367 municipality may waive any fee [which] that would otherwise be
368 required for the filing of any long-term affordability deed restriction on
369 the land records.

370 Sec. 502. (NEW) (*Effective October 1, 2024*) (a) Upon the filing of an
371 affordable housing application, the municipality in which such
372 application was filed shall have the option to purchase the real property
373 identified as an affordable housing development in such application,
374 provided the municipality (1) notifies the applicant of the municipality's
375 election to exercise its purchase option pursuant to this section in
376 writing by certified mail not later than forty-five days after the
377 submission of the affordable housing application by the applicant, (2)
378 agrees to pay to the applicant a purchase price equal to one hundred
379 two per cent of the purchase price the applicant paid when the applicant
380 acquired the real property, or if the applicant paid no consideration for

381 such real property, one hundred two per cent of the fair market value
382 for such real property established by the tax assessor of the municipality
383 for the assessment year in which such application was filed, and (3)
384 purchases and closes upon the sale of such real property not later than
385 one hundred twenty days after such municipality delivers notice to the
386 applicant pursuant to subdivision (1) of this subsection.

387 (b) Any municipality that elects to purchase real property identified
388 as an affordable housing development pursuant to this section shall
389 issue certificates of occupancy for not less than seventy-five per cent of
390 the affordable housing units proposed in the affordable housing
391 application not more than eight years after such municipality acquires
392 such real property.

393 (c) If a municipality fails to complete the development of affordable
394 housing units required under subsection (b) of this section within the
395 time prescribed by said subsection, such municipality shall pay an
396 amount equal to five per cent of the purchase price such municipality
397 paid to the applicant to each of (1) the applicant, and (2) the Treasurer,
398 for deposit into the Housing Trust Fund established pursuant to section
399 8-336o of the general statutes, as amended by this act.

400 Sec. 503. Subsection (a) of section 8-336o of the general statutes is
401 repealed and the following is substituted in lieu thereof (*Effective October*
402 *1, 2024*):

403 (a) There is established the "Housing Trust Fund" which shall be a
404 nonlapsing fund held by the Treasurer separate and apart from all other
405 moneys, funds and accounts. The following funds shall be deposited in
406 the fund: (1) Proceeds of bonds authorized by section 8-336n; (2) all
407 moneys received in return for financial assistance awarded from the
408 Housing Trust Fund pursuant to the Housing Trust Fund program
409 established under section 8-336p; (3) all private contributions received
410 pursuant to section 8-336p; [and] (4) to the extent not otherwise
411 prohibited by state or federal law, any local, state or federal funds
412 received pursuant to section 8-336p; and (5) payments by a municipality

413 to the Treasurer pursuant to subsection (c) of section 502 of this act.
414 Investment earnings credited to the assets of said fund shall become part
415 of the assets of said fund. The Treasurer shall invest the moneys held by
416 the Housing Trust Fund subject to use for financial assistance under the
417 Housing Trust Fund program."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2024</i>	8-30g
Sec. 502	<i>October 1, 2024</i>	New section
Sec. 503	<i>October 1, 2024</i>	8-336o(a)