



General Assembly

**Amendment**

January Session, 2023

LCO No. 9943



Offered by:  
SEN. FAZIO, 36<sup>th</sup> Dist.

To: Subst. Senate Bill No. 998

File No. 427

Cal. No. 240

(As Amended)

**"AN ACT ESTABLISHING A TAX ABATEMENT FOR CERTAIN  
CONSERVATION EASEMENTS."**

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

3 "Sec. 501. Subsections (a) to (k), inclusive, of section 8-30g of the  
4 general statutes are repealed and the following is substituted in lieu  
5 thereof (*Effective October 1, 2023*):

6 (a) As used in this section and section 8-30j:

7 (1) ["Affordable housing development" means a proposed housing  
8 development which is (A) assisted housing, or (B) a set-aside  
9 development] "Affordable housing application" means any application  
10 made to a commission in connection with an affordable housing  
11 development by a person who proposes to develop such affordable  
12 housing;

13 (2) ["Affordable housing application" means any application made to  
14 a commission in connection with an affordable housing development by  
15 a person who proposes to develop such affordable housing] "Affordable  
16 housing development" means a proposed housing development that is  
17 (A) assisted housing, or (B) a set-aside development;

18 (3) "Assisted housing" means housing [which] that is receiving, or  
19 will receive, financial assistance under any governmental program for  
20 the construction or substantial rehabilitation of low and moderate  
21 income housing, and any housing occupied by persons receiving rental  
22 assistance under chapter 319uu or Section 1437f of Title 42 of the United  
23 States Code;

24 (4) "Average prime offer rate" has the same meaning as provided in  
25 12 CFR 1026.35, as amended from time to time, effective annually on  
26 January first and applied for each calendar year;

27 [(4)] (5) "Commission" means a zoning commission, planning  
28 commission, planning and zoning commission, zoning board of appeals  
29 or municipal agency exercising zoning or planning authority;

30 (6) "Commissioner" means the Commissioner of Housing.

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

36 [(5)] (8) "Municipality" means any town, city or borough, whether  
37 consolidated or unconsolidated; and

38 [(6)] (9) "Set-aside development" means a development in which not  
39 less than thirty per cent of the dwelling units will be conveyed by deeds  
40 containing covenants or restrictions which shall require that, for at least  
41 forty years after the initial occupation of the proposed development,  
42 such dwelling units shall be sold or rented at, or below, prices which

43 will preserve the units as housing for which persons and families pay  
44 thirty per cent or less of their annual income, where such income is less  
45 than or equal to eighty per cent of the median income. In a set-aside  
46 development, of the dwelling units conveyed by deeds containing  
47 covenants or restrictions, a number of dwelling units equal to not less  
48 than fifteen per cent of all dwelling units in the development shall be  
49 sold or rented to persons and families whose income is less than or equal  
50 to sixty per cent of the median income and the remainder of the dwelling  
51 units conveyed by deeds containing covenants or restrictions shall be  
52 sold or rented to persons and families whose income is less than or equal  
53 to eighty per cent of the median income. [;

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

59 (8) "Commissioner" means the Commissioner of Housing.]

60 (b) (1) Any person filing an affordable housing application with a  
61 commission shall submit, as part of the application, an affordability plan  
62 which shall include at least the following: (A) Designation of the person,  
63 entity or agency that will be responsible for the duration of any  
64 affordability restrictions, for the administration of the affordability plan  
65 and its compliance with the income limits and sale price or rental  
66 restrictions of this chapter; (B) an affirmative fair housing marketing  
67 plan governing the sale or rental of all dwelling units; (C) a sample  
68 calculation of the maximum sales prices or rents of the intended  
69 affordable dwelling units; (D) a description of the projected sequence in  
70 which, within a set-aside development, the affordable dwelling units  
71 will be built and offered for occupancy and the general location of such  
72 units within the proposed development; and (E) draft zoning  
73 regulations, conditions of approvals, deeds, restrictive covenants or  
74 lease provisions that will govern the affordable dwelling units.

75 (2) The commissioner shall, within available appropriations, adopt  
76 regulations pursuant to chapter 54 regarding the affordability plan.  
77 Such regulations may include additional criteria for preparing an  
78 affordability plan and shall include: (A) A formula for determining rent  
79 levels and sale prices, including establishing maximum allowable down  
80 payments to be used in the calculation of maximum allowable sales  
81 prices; (B) a clarification of the costs that are to be included when  
82 calculating maximum allowed rents and sale prices; (C) a clarification  
83 as to how family size and bedroom counts are to be equated in  
84 establishing maximum rental and sale prices for the affordable units;  
85 and (D) a listing of the considerations to be included in the computation  
86 of income under this section.

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

93 (d) For any affordable dwelling unit that is rented as part of a set-  
94 aside development, if the maximum monthly housing cost, as calculated  
95 in accordance with subdivision [(6)] (9) of subsection (a) of this section,  
96 would exceed one hundred per cent of the Section 8 fair market rent as  
97 determined by the United States Department of Housing and Urban  
98 Development, in the case of units set aside for persons and families  
99 whose income is less than or equal to sixty per cent of the median  
100 income, then such maximum monthly housing cost shall not exceed one  
101 hundred per cent of said Section 8 fair market rent. If the maximum  
102 monthly housing cost, as calculated in accordance with subdivision [(6)]  
103 (9) of subsection (a) of this section, would exceed one hundred twenty  
104 per cent of the Section 8 fair market rent, as determined by the United  
105 States Department of Housing and Urban Development, in the case of  
106 units set aside for persons and families whose income is less than or  
107 equal to eighty per cent of the median income, then such maximum  
108 monthly housing cost shall not exceed one hundred twenty per cent of

109 such Section 8 fair market rent.

110 (e) For any affordable dwelling unit that is rented [in order] to comply  
111 with the requirements of a set-aside development, no person shall  
112 impose on a prospective tenant who is receiving governmental rental  
113 assistance a maximum percentage-of-income-for-housing requirement  
114 that is more restrictive than the requirement, if any, imposed by such  
115 governmental assistance program.

116 (f) Except as provided in subsections (k) and (l) of this section, any  
117 person whose affordable housing application is denied, or is approved  
118 with restrictions [which] that have a substantial adverse impact on the  
119 viability of the affordable housing development or the degree of  
120 affordability of the affordable dwelling units in a set-aside  
121 development, may appeal such decision pursuant to the procedures of  
122 this section. Such appeal shall be filed within the time period for filing  
123 appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and  
124 shall be made returnable to the superior court for the judicial district  
125 where the real property which is the subject of the application is located.  
126 Affordable housing appeals, including pretrial motions, shall be heard  
127 by a judge assigned by the Chief Court Administrator to hear such  
128 appeals. To the extent practicable, efforts shall be made to assign such  
129 cases to a small number of judges, sitting in geographically diverse parts  
130 of the state, so that a consistent body of expertise can be developed.  
131 Unless otherwise ordered by the Chief Court Administrator, such  
132 appeals, including pretrial motions, shall be heard by such assigned  
133 judges in the judicial district in which such judge is sitting. Appeals  
134 taken pursuant to this subsection shall be privileged cases to be heard  
135 by the court as soon after the return day as is practicable. Except as  
136 otherwise provided in this section, appeals involving an affordable  
137 housing application shall proceed in conformance with the provisions  
138 of section 8-8, 8-9, 8-28 or 8-30a, as applicable.

139 (g) Upon an appeal taken under subsection (f) of this section, the  
140 burden shall be on the commission to prove, based upon the evidence  
141 in the record compiled before such commission, that the decision from

142 which such appeal is taken and the reasons cited for such decision are  
143 supported by sufficient evidence in the record. The commission shall  
144 also have the burden to prove, based upon the evidence in the record  
145 compiled before such commission, that (1) (A) the decision is necessary  
146 to protect substantial public interests in health, safety or other matters  
147 which the commission may legally consider; (B) such public interests  
148 clearly outweigh the need for affordable housing; and (C) such public  
149 interests cannot be protected by reasonable changes to the affordable  
150 housing development, or (2) (A) the application which was the subject  
151 of the decision from which such appeal was taken would locate  
152 affordable housing in an area which is zoned for industrial use and  
153 which does not permit residential uses; and (B) the development is not  
154 assisted housing. If the commission does not satisfy its burden of proof  
155 under this subsection, the court shall wholly or partly revise, modify,  
156 remand or reverse the decision from which the appeal was taken in a  
157 manner consistent with the evidence in the record before it.

158 (h) Following a decision by a commission to reject an affordable  
159 housing application or to approve an application with restrictions  
160 [which] that have a substantial adverse impact on the viability of the  
161 affordable housing development or the degree of affordability of the  
162 affordable dwelling units, the applicant may, within the period for filing  
163 an appeal of such decision, submit to the commission a proposed  
164 modification of its proposal responding to some or all of the objections  
165 or restrictions articulated by the commission, which shall be treated as  
166 an amendment to the original proposal. The day of receipt of such a  
167 modification shall be determined in the same manner as the day of  
168 receipt is determined for an original application. The filing of such a  
169 proposed modification shall stay the period for filing an appeal from the  
170 decision of the commission on the original application. The commission  
171 shall hold a public hearing on the proposed modification if it held a  
172 public hearing on the original application and may hold a public  
173 hearing on the proposed modification if it did not hold a public hearing  
174 on the original application. The commission shall render a decision on  
175 the proposed modification not later than sixty-five days after the receipt

176 of such proposed modification, provided, if, in connection with a  
177 modification submitted under this subsection, the applicant applies for  
178 a permit for an activity regulated pursuant to sections 22a-36 to 22a-45,  
179 inclusive, and the time for a decision by the commission on such  
180 modification under this subsection would lapse prior to the thirty-fifth  
181 day after a decision by an inland wetlands and watercourses agency, the  
182 time period for decision by the commission on the modification under  
183 this subsection shall be extended to thirty-five days after the decision of  
184 such agency. The commission shall issue notice of its decision as  
185 provided by law. Failure of the commission to render a decision within  
186 said sixty-five days or subsequent extension period permitted by this  
187 subsection shall constitute a rejection of the proposed modification.  
188 Within the time period for filing an appeal on the proposed modification  
189 as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, the applicant  
190 may appeal the commission's decision on the original application and  
191 the proposed modification in the manner set forth in this section.  
192 Nothing in this subsection shall be construed to limit the right of an  
193 applicant to appeal the original decision of the commission in the  
194 manner set forth in this section without submitting a proposed  
195 modification or to limit the issues which may be raised in any appeal  
196 under this section.

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

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

203 (k) The affordable housing appeals procedure established under this  
204 section shall not be available if the real property which is the subject of  
205 the application is located in a municipality in which at least ten per cent  
206 of all dwelling units in the municipality are (1) assisted housing, (2)  
207 currently financed by Connecticut Housing Finance Authority  
208 mortgages, (3) subject to binding recorded deeds containing covenants

209 or restrictions which require that such dwelling units be sold or rented  
210 at, or below, prices which will preserve the units as housing for which  
211 persons and families pay thirty per cent or less of income, where such  
212 income is less than or equal to eighty per cent of the median income, (4)  
213 not deed restricted, but for which a projected loan amount equal to the  
214 appraised value of each such dwelling unit, as determined by the local  
215 tax assessor for the current grand list year, combined with the average  
216 prime offer rate, would result in a monthly mortgage payment not  
217 greater than thirty per cent of the annual income of an individual or  
218 family, provided (A) the income of such individual or family is not  
219 greater than eighty per cent of the median income, and (B) such  
220 mortgage payment is calculated on the basis of equal monthly principal  
221 and interest installments for the duration of a thirty-year fixed rate  
222 mortgage, (5) mobile manufactured homes located in mobile  
223 manufactured home parks or legally approved accessory apartments,  
224 which homes or apartments are subject to binding recorded deeds  
225 containing covenants or restrictions which require that such dwelling  
226 units be sold or rented at, or below, prices which will preserve the units  
227 as housing for which, for a period of not less than ten years, persons and  
228 families pay thirty per cent or less of income, where such income is less  
229 than or equal to eighty per cent of the median income, or [(5)] (6) mobile  
230 manufactured homes located in resident-owned mobile manufactured  
231 home parks. For the purposes of calculating the total number of  
232 dwelling units in a municipality, accessory apartments built or  
233 permitted after January 1, 2022, but that are not described in subdivision  
234 [(4)] (5) of this subsection, shall not be counted toward such total  
235 number. The municipalities meeting the criteria set forth in this  
236 subsection shall be listed in the report submitted under section 8-37qqq.  
237 As used in this subsection, "accessory apartment" has the same meaning  
238 as provided in section 8-1a, and "resident-owned mobile manufactured  
239 home park" means a mobile manufactured home park consisting of  
240 mobile manufactured homes located on land that is deed restricted, and,  
241 at the time of issuance of a loan for the purchase of such land, such loan  
242 required seventy-five per cent of the units to be leased to persons with  
243 incomes equal to or less than eighty per cent of the median income, and



244 either (A) forty per cent of said seventy-five per cent to be leased to  
 245 persons with incomes equal to or less than sixty per cent of the median  
 246 income, or (B) twenty per cent of said seventy-five per cent to be leased  
 247 to persons with incomes equal to or less than fifty per cent of the median  
 248 income.

249 Sec. 502. Subsection (f) of section 8-2o of the general statutes is  
 250 repealed and the following is substituted in lieu thereof (*Effective October*  
 251 *1, 2023*):

252 (f) Notwithstanding the provisions of subsections (a) to (d), inclusive,  
 253 of this section, the zoning commission or combined planning and  
 254 zoning commission, as applicable, of a municipality, by a two-thirds  
 255 vote, may initiate the process by which such municipality opts out of  
 256 the provisions of said subsections regarding allowance of accessory  
 257 apartments, provided such commission: (1) First holds a public hearing  
 258 in accordance with the provisions of section 8-7d on such proposed opt-  
 259 out, (2) affirmatively decides to opt out of the provisions of said  
 260 subsections within the period of time permitted under section 8-7d, (3)  
 261 states upon its records the reasons for such decision, and (4) publishes  
 262 notice of such decision in a newspaper having a substantial circulation  
 263 in the municipality not later than fifteen days after such decision has  
 264 been rendered. Thereafter, the municipality's legislative body or, in a  
 265 municipality where the legislative body is a town meeting, its board of  
 266 selectmen, by a two-thirds vote, may complete the process by which  
 267 such municipality opts out of the provisions of subsections (a) to (d),  
 268 inclusive, of this section. [ except that, on and after January 1, 2023, no  
 269 municipality may opt out of the provisions of said subsections.]

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2023</i>	8-30g(a) to (k)
Sec. 502	<i>October 1, 2023</i>	8-2o(f)