



# House of Representatives

General Assembly

**File No. 109**

February Session, 2024

Substitute House Bill No. 5335

*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 CONCERNING THE DEVELOPMENT OF MIDDLE HOUSING.***

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

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2 repealed and the following is substituted in lieu thereof (*Effective October*  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

4 (b) As used in this chapter and section 2 of this act:

5 (1) "Accessory apartment" means a separate dwelling unit that (A) is  
6 located on the same lot as a principal dwelling unit of greater square  
7 footage, (B) has cooking facilities, and (C) complies with or is otherwise  
8 exempt from any applicable building code, fire code and health and  
9 safety regulations;

10 (2) "Affordable accessory apartment" means an accessory apartment  
11 that is subject to binding recorded deeds which contain covenants or  
12 restrictions that require such accessory apartment be sold or rented at,  
13 or below, prices that will preserve the unit as housing for which, for a

14 period of not less than ten years, persons and families pay thirty per cent  
15 or less of income, where such income is less than or equal to eighty per  
16 cent of the median income;

17 (3) "As of right" or "as-of-right" means able to be approved in  
18 accordance with the terms of a zoning regulation or regulations and  
19 without requiring that a public hearing be held, a variance, special  
20 permit or special exception be granted or some other discretionary  
21 zoning action be taken, other than a determination that a site plan is in  
22 conformance with applicable zoning regulations;

23 (4) "Cottage cluster" means a grouping of at least four detached  
24 housing units, or live work units, per acre that are located around a  
25 common open area;

26 (5) "Live work unit" means a building or a space within a building  
27 used for both commercial and residential purposes by an individual  
28 residing within such building or space;

29 [(5)] (6) "Middle housing" means duplexes, triplexes, quadplexes,  
30 cottage clusters and townhouses;

31 [(6)] (7) "Mixed-use development" means a development containing  
32 both residential and nonresidential uses in any single building; and

33 [(7)] (8) "Townhouse" means a residential building constructed in a  
34 grouping of three or more attached units, each of which shares at least  
35 one common wall with an adjacent unit and has exterior walls on at least  
36 two sides.

37 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) Any zoning regulations  
38 adopted pursuant to section 8-2 of the general statutes may allow for the  
39 as-of-right development of middle housing on any lot that allows for  
40 residential use, commercial use or mixed-use development, provided  
41 such lot is served by a public sewage and water system.

42 (b) Any municipality that adopts zoning regulations that allow for  
43 the as-of-right development of middle housing as described in

44 subsection (a) of this section shall be awarded one-quarter housing unit-  
45 equivalent point pursuant to subdivision (6) of subsection (l) of section  
46 8-30g of the general statutes, as amended by this act, for each dwelling  
47 unit, as defined in section 47a-1 of the general statutes, for which a  
48 certificate of occupancy has been issued by the municipality.

49 Sec. 3. Subdivision (6) of subsection (l) of section 8-30g of the general  
50 statutes is repealed and the following is substituted in lieu thereof  
51 (*Effective October 1, 2024*):

52 (6) For the purposes of this subsection, housing unit-equivalent  
53 points shall be determined by the commissioner as follows: (A) No  
54 points shall be awarded for a unit unless its occupancy is restricted to  
55 persons and families whose income is equal to or less than eighty per  
56 cent of the median income, except that (i) unrestricted units in a set-  
57 aside development shall be awarded [one-fourth] one-quarter point  
58 each; and (ii) dwelling units in middle housing developed as of right  
59 pursuant to section 2 of this act shall be awarded one-quarter point each.  
60 (B) Family units restricted to persons and families whose income is  
61 equal to or less than eighty per cent of the median income shall be  
62 awarded one point if an ownership unit and one and one-half points if  
63 a rental unit. (C) Family units restricted to persons and families whose  
64 income is equal to or less than sixty per cent of the median income shall  
65 be awarded one and one-half points if an ownership unit and two points  
66 if a rental unit. (D) Family units restricted to persons and families whose  
67 income is equal to or less than forty per cent of the median income shall  
68 be awarded two points if an ownership unit and two and one-half points  
69 if a rental unit. (E) Elderly units restricted to persons and families whose  
70 income is equal to or less than eighty per cent of the median income shall  
71 be awarded one-half point. (F) A set-aside development containing  
72 family units which are rental units shall be awarded additional points  
73 equal to twenty-two per cent of the total points awarded to such  
74 development, provided the application for such development was filed  
75 with the commission prior to July 6, 1995. (G) A mobile manufactured  
76 home in a resident-owned mobile manufactured home park shall be  
77 awarded points as follows: One and one-half points when occupied by

78 persons and families with an income equal to or less than eighty per cent  
 79 of the median income; two points when occupied by persons and  
 80 families with an income equal to or less than sixty per cent of the median  
 81 income; and one-fourth point for the remaining units.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	8-1a(b)
Sec. 2	October 1, 2024	New section
Sec. 3	October 1, 2024	8-30g(l)(6)

**Statement of Legislative Commissioners:**

In Section 1(b)(3), "or "as-of-right"" was added for clarity.

**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 Savings	See Below	See Below

**Explanation**

The bill (1) permits municipal zoning regulations to allow as-of-right middle housing on certain lots if they meet specific criteria and (2) awards municipalities that adopt this regulation points toward a moratorium for each middle housing dwelling unit that is built.<sup>1</sup> This results in a potential savings to municipalities beginning in FY 25 for legal costs to the extent that more municipalities are awarded a moratorium.<sup>2</sup>

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of municipalities that are granted a moratorium.

<sup>1</sup> As of November 2023, three municipalities had an active moratorium granted under CGS 8-30g.

<sup>2</sup> Several municipalities reported spending up to \$215,000 on legal costs, appeals, and litigation related to CGS 8-30g projects within the past year.

**OLR Bill Analysis****sHB 5335****AN ACT CONCERNING THE DEVELOPMENT OF MIDDLE HOUSING.****SUMMARY**

This bill permits municipal zoning regulations to allow middle housing developments “as-of-right” on lots zoned for residential use, commercial use, or mixed-use development (if the lot is served by a public sewage and water system). It also awards any municipality that adopts this type of zoning regulation points towards a moratorium under the CGS § 8-30g affordable housing land use appeals procedure (“8-30g appeals procedure”) for each middle housing dwelling unit that is built.

Under the bill, a municipality is awarded 0.25 housing unit equivalent (HUE) points for each of these middle housing units for which the municipality issues a certificate of occupancy (see BACKGROUND). Under current law, HUE points are generally not awarded for market-rate units unless they are in housing developments with a specified percentage of other deed-restricted units meeting certain affordability requirements (these market-rate units are awarded 0.25 points each). Under the bill, middle housing units need not be subject to any affordability restrictions to qualify for HUE points.

Lastly, the bill makes technical and conforming changes. It defines “live work unit” to clarify existing law’s definition of “cottage cluster,” which is a group of at least four detached housing units or live work units (per acre) located around a common open area. Under the bill, a live work unit is a building, or space within it, that the occupant uses for both residential and commercial purposes.

By law, (1) middle housing is duplexes, triplexes, quadplexes,

townhouses, and cottage clusters; and (2) housing developed as-of-right can be approved if it complies with zoning regulations, without requiring a public hearing, variance, special permit or exception, or any other discretionary zoning action, except for a determination that a site plan conforms with the applicable regulations.

EFFECTIVE DATE: October 1, 2024

**BACKGROUND**

***Moratoria From 8-30g Appeals Procedure***

By law, a municipality is generally eligible for a temporary suspension of the 8-30g appeals procedure (i.e., a moratorium) each time it shows it has added a certain number of affordable housing units over the applicable time period (since July 1, 1990, for first moratoria). To be granted a moratorium, a municipality must achieve the greater of (1) 75 HUE points or (2) HUE points equaling more than 2% of their total housing stock, as determined by the most recent decennial census. However, the law provides an exception for certain municipalities. Under the exception, the 2% threshold drops to 1.5% for municipalities that have at least 20,000 dwelling units, adopt an affordable housing plan, and apply for a second or subsequent moratorium.

**COMMITTEE ACTION**

Housing Committee

Joint Favorable

Yea 15 Nay 0 (03/07/2024)