



House of Representatives

General Assembly

File No. 237

February Session, 2024

Substitute House Bill No. 5390

House of Representatives, April 3, 2024

The Committee on Planning and Development reported through REP. KAVROS DEGRAW of the 17th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING TRANSIT-ORIENTED COMMUNITIES.

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2 repealed and the following is substituted in lieu thereof (*Effective October*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" means able to be approved in accordance with the
18 terms of a zoning regulation or regulations and without requiring that
19 a public hearing be held, a variance, special permit or special exception
20 be granted or some other discretionary zoning action be taken, other
21 than a determination that a site plan is in conformance with applicable
22 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) As used in this section and
38 sections 3 and 4 of this act:

39 (1) "Discretionary infrastructure funding" means any grant, loan or
40 other financial assistance program administered by the state under the
41 provisions of sections 4-66c, 4-66h and 8-13m to 8-13x, inclusive, of the
42 general statutes, or any grant, loan or financial assistance program

43 managed by the Secretary of the Office of Policy and Management for
44 the purpose of transit-oriented development, as defined in section 13b-
45 79o of the general statutes;

46 (2) "Downtown area" means a central business district or other
47 commercial neighborhood area of a municipality that serves as a center
48 of socioeconomic interaction in the municipality, characterized by a
49 cohesive core of commercial and mixed-use buildings, often
50 interspersed with civic, religious and residential buildings and public
51 spaces, that are typically arranged along a main street and intersecting
52 side streets and served by public infrastructure;

53 (3) "Middle housing development" means a residential building
54 containing not fewer than two dwelling units but not greater than nine
55 such units, including, but not limited to, townhomes, duplexes,
56 triplexes, perfect sixes and cottage clusters;

57 (4) "Perfect six" means a three-story residential building with a central
58 entrance containing two dwelling units per story;

59 (5) "Qualifying bus transit community" means any municipality that
60 has not less than one regular bus service station operating not less than
61 five days a week within a transit-oriented district adopted by such
62 municipality, provided such transit-oriented district is of reasonable
63 size, as determined by the secretary in accordance with the provisions
64 of subsection (e) of this section, and (A) includes land of such
65 municipality located within a one-half-mile radius of any such station,
66 or (B) is located within a reasonable distance, as determined by the
67 secretary, of any other transit service, a commercial corridor or a
68 downtown area of such municipality;

69 (6) "Qualifying rapid transit community" means any municipality
70 that has not less than one rapid transit station or a planned rapid transit
71 station, contained within a transit-oriented district adopted by such
72 municipality, provided such transit-oriented district is of reasonable
73 size, as determined by the secretary in accordance with subsection (e) of
74 this section, and (A) includes land of such municipality located within a

75 one-half-mile radius of any such station, or (B) is located within a
76 reasonable distance, as determined by the secretary, of any other transit
77 service, a commercial corridor or the downtown area of such
78 municipality;

79 (7) "Qualifying transit-oriented community" means any municipality
80 that is a qualifying rapid transit community or qualifying bus transit
81 community;

82 (8) "Rapid transit station" means any public transportation station
83 serving any rail or rapid bus route;

84 (9) "Regular bus service station" means any fixed location where a bus
85 regularly stops for the loading or unloading of passengers along a
86 defined route operating on a fixed schedule;

87 (10) "Secretary" means the Secretary of the Office of Policy and
88 Management, or the secretary's designee;

89 (11) "Transit-oriented district" means a collection of parcels of land in
90 a municipality designated by such municipality and subject to zoning
91 criteria designed to encourage increased density of development,
92 including mixed-use development, and concentration of discretionary
93 infrastructure funding; and

94 (12) "Zoning commission" means any zoning commission, any
95 planning commission in a municipality that has adopted a planning
96 commission but not a zoning commission, or combined planning and
97 zoning commission.

98 (b) Any qualifying transit-oriented community shall be eligible for
99 prioritized discretionary infrastructure funding. To receive such
100 funding on a priority basis, any such community, or any municipality
101 that is not a qualifying transit-oriented community but has adopted a
102 resolution pursuant to subsection (c) of this section, shall submit an
103 application for such funding to the secretary in a form developed by the
104 secretary. The secretary shall make recommendations to the state
105 agency responsible for administering such funding and, if priority

106 funding is permitted for such funding, such agency may prioritize any
107 qualifying transit-oriented community or municipality that has adopted
108 such a resolution for the receipt of such funding over any municipality
109 that is not a qualifying transit-oriented community or that has not
110 adopted such a resolution, based on the secretary's recommendations.

111 (c) Any municipality that is not a qualifying transit-oriented
112 community shall be eligible for discretionary infrastructure funding on
113 a priority basis pursuant to this section if the legislative body of the
114 municipality adopts a resolution stating that such municipality intends
115 to enact zoning regulations that enable such municipality to become a
116 qualifying transit-oriented community. Such municipality shall enact
117 such zoning regulations not later than eighteen months after the
118 adoption of such resolution. If such municipality does not enact such
119 regulations within eighteen months after the adoption of such
120 resolution, unless the secretary grants an extension to such municipality
121 at the secretary's discretion, such municipality shall return any
122 discretionary infrastructure funding provided to such municipality on
123 a priority basis pursuant to this section and such municipality shall be
124 ineligible for discretionary infrastructure funding on a priority basis
125 until such municipality enacts zoning regulations that enable the
126 municipality to become a qualifying transit-oriented community.
127 Nothing in this section shall be construed to make a municipality that is
128 not a qualifying transit-oriented community ineligible for discretionary
129 infrastructure funding.

130 (d) The zoning commission of the municipality shall consult with the
131 inland wetlands agency of the municipality to establish the boundaries
132 of any transit-oriented district within the municipality. If any portion of
133 any such proposed district is located in an area over which such agency
134 exercises its authority, such commission shall collaborate with such
135 agency to determine whether any portion of such proposed district shall
136 allow for the as-of-right development of middle housing and mixed-use
137 developments.

138 (e) In determining whether a transit-oriented district is of reasonable

139 size, the secretary, in consultation with the zoning commission of the
140 municipality, shall (1) determine whether the area of such district is
141 adequate to support greater density of development in an equitable
142 manner, as determined by the secretary, considering the geographic
143 characteristics of the municipality; (2) consider municipal and regional
144 housing needs; and (3) not require the inclusion of the following lands
145 in any such district: (A) Special flood hazard areas designated on a flood
146 insurance rate map published by the National Flood Insurance Program,
147 (B) wetlands, as defined in section 22a-29 of the general statutes, (C) land
148 designated for use as a public park, (D) land subject to conservation or
149 preservation restrictions, as defined in section 47-42a of the general
150 statutes, (E) coastal resources, as defined in section 22a-93 of the general
151 statutes, (F) areas necessary for the protection of drinking water
152 supplies, and (G) areas designated as likely to be inundated during a
153 thirty-year flood event by the Marine Sciences Division of The
154 University of Connecticut pursuant to the division's responsibilities to
155 conduct sea level change scenarios pursuant to subsection (b) of section
156 25-68o of the general statutes. If deemed necessary by the zoning
157 commission to determine whether a transit-oriented district is of
158 reasonable size, such commission shall consult with the inland wetlands
159 agency of the municipality and any other municipal agency deemed
160 necessary by such commission to determine whether such district is of
161 reasonable size.

162 (f) Any qualifying transit-oriented community shall allow the
163 following developments as of right: (1) Middle housing developments;
164 (2) developments that contain ten or more dwelling units where not less
165 than thirty per cent of such units qualify as a set-aside development
166 pursuant to section 8-30g of the general statutes; and (3) developments
167 on land owned by (A) the municipality in which such land is located,
168 (B) the state, (C) any public housing authority, (D) any not-for-profit
169 entity, and (E) any religious organization, as defined in section 49-31k
170 of the general statutes, if such development is composed entirely of
171 units that qualify as a set-aside development pursuant to section 8-30g
172 of the general statutes and not less than fifty per cent of such units shall
173 be sold or rented at, or below, prices which will preserve the units as

174 housing for which persons and families pay thirty per cent or less of
175 their annual income, where such income is less than or equal to sixty per
176 cent of the area median income established by the United States
177 Department of Housing and Urban Development. Notwithstanding the
178 provisions of this subsection, if a proposed development is required to
179 have a public hearing by the inland wetlands agency of the
180 municipality, such proposed development must receive such public
181 hearing prior to such development's approval.

182 (g) Each qualifying transit-oriented community shall require that any
183 proposed development that contains ten or more dwelling units that are
184 not allowed as of right under subsection (f) of this section be subject to
185 (1) a deed restriction that requires, for not less than forty years after the
186 initial occupation of the proposed development, that a percentage of
187 dwelling units, as set forth in subsection (h) of this section, shall be sold
188 or rented at, or below, prices which will preserve the units as housing
189 for which persons and families will pay thirty per cent or less of their
190 annual income and where such income is less than or equal to eighty
191 per cent of the area median income established by the United States
192 Department of Housing and Urban Development; or (2) a contribution
193 agreement pursuant to subsection (i) of this section.

194 (h) The percentage of deed-restricted dwelling units required
195 pursuant to subdivision (1) of subsection (g) of this section shall be
196 determined based upon sales market typologies as described in the most
197 recent Connecticut Housing Finance Authority Housing Needs
198 Assessment:

199 (1) Fifteen per cent for any municipality designated High
200 Opportunity/Heating Market;

201 (2) Fifteen per cent for any municipality designated High
202 Opportunity/Cooling Market;

203 (3) Ten per cent for any municipality designated Low
204 Opportunity/Heating Market; and

205 (4) Five per cent for any municipality designated Low
206 Opportunity/Cooling Market.

207 (i) Any qualifying transit-oriented community may establish a fund
208 into which the developer of a proposed development that is not allowed
209 as of right under subsection (f) of this section may contribute funds in
210 lieu of granting a deed restriction required pursuant to subdivision (1)
211 of subsection (g) of this section. The amount and duration of such
212 contributions shall be determined by the secretary and any contribution
213 agreement entered into pursuant to this subsection shall be approved
214 by the secretary. Any municipality that establishes a fund pursuant to
215 this subsection shall utilize the proceeds of such fund solely to develop
216 affordable housing in the municipality.

217 (j) The secretary shall determine any municipality's compliance with
218 the provisions of this section. The secretary may consult with the
219 Commissioner of Housing to determine such compliance. Any
220 municipality that is not a qualifying rapid transit community or
221 qualifying bus transit community may be deemed a qualifying transit-
222 oriented community if the secretary determines that such municipality
223 has adopted a transit-oriented district that contains any rapid transit
224 station or regular bus service station and is of a reasonable size on or
225 before October 1, 2025.

226 (k) Each qualifying transit-oriented community shall be eligible for
227 additional funding pursuant to any program administered by the
228 secretary if such community implements additional zoning criteria,
229 including, but not limited to, higher density development, greater
230 affordability of housing units than is required by subsection (h) of this
231 section, the development of public land or public housing, the
232 implementation of programs to encourage homeownership
233 opportunities within such community and any additional criteria
234 determined by the secretary.

235 (l) No qualifying transit-oriented community shall adopt regulations
236 concerning any transit-oriented district that conflict with any guidelines
237 adopted by the secretary concerning parking requirements, lot size, lot

238 coverage, setback requirements, floor area ratio, height restrictions,
239 inclusionary zoning requirements, development impact fees or other
240 guidelines adopted by the secretary concerning the development of
241 housing in any such district, unless the secretary, in collaboration with
242 the qualifying transit-oriented community, approves such conflicting
243 regulations based on local factors identified by such community.

244 (m) Notwithstanding the provisions of subsection (b) of this section,
245 any qualifying transit-oriented community with one or more transit-
246 oriented districts that are located in priority funding areas, as defined in
247 section 16a-35c of the general statutes, shall be awarded discretionary
248 infrastructure funding by the agency administering any such funding at
249 a higher priority than a qualifying transit-oriented community without
250 such district located in such funding areas.

251 Sec. 3. (NEW) (*Effective from passage*) (a) There is established an
252 interagency council on housing development to advise and assist the
253 State Responsible Growth Coordinator in reviewing regulations,
254 developing guidelines and establishing programs to support the
255 responsible growth of housing in the state.

256 (b) The council shall consist of the following regular members: (1) The
257 State Responsible Growth Coordinator; (2) the Secretary of the Office of
258 Policy and Management, or the secretary's designee; (3) the
259 Commissioner of Housing, or the commissioner's designee; (4) the
260 Commissioner of Economic and Community Development, or the
261 commissioner's designee; (5) the Commissioner of Energy and
262 Environmental Protection, or the commissioner's designee; (6) the
263 Commissioner of Public Health, or the commissioner's designee; (7) the
264 Commissioner of Transportation, or the commissioner's designee; and
265 (8) the Chief Executive Officer of the Connecticut Housing Finance
266 Authority, or the chief executive officer's designee.

267 (c) In addition to the regular members set forth in subsection (b) of
268 this section, the council may consist of any ad hoc members that the
269 State Responsible Growth Coordinator determines would be necessary
270 to complete the work of the council.

271 (d) The chairperson of the council shall be the State Responsible
272 Growth Coordinator.

273 (e) The council shall convene not later than July 1, 2024, and meet not
274 less than once every six months and more often upon the call of the
275 chairperson, to:

276 (1) Review and evaluate the plans, programs, regulations and policies
277 of state or quasi-public agencies for opportunities to combine efforts and
278 resources of such agencies to increase housing development;

279 (2) Develop consistent reporting methods concerning data and
280 documentation related to housing development;

281 (3) Provide a forum to develop approaches to housing growth that
282 balance both needs for conservation and development, including the
283 need for additional housing and economic growth, the protection of
284 natural resources and the maintenance and support for existing
285 infrastructure;

286 (4) Review existing discretionary grant programs to make
287 recommendations to state or quasi-public agencies concerning the
288 adherence of such programs with the goals established in the state plan
289 of conservation and development adopted under chapter 297 of the
290 general statutes. Such recommendations shall include, but need not be
291 limited to, methods to increase the development of deed-restricted
292 housing in transit-oriented districts and middle housing, as defined in
293 section 8-1a of the general statutes, as amended by this act;

294 (5) Develop recommendations for municipalities concerning zoning
295 and land use policies designed to increase housing in such
296 municipalities. Such recommendations may include model ordinances,
297 regulations or bylaws that may be adopted by any municipality
298 pursuant to section 8-2 of the general statutes; and

299 (6) Develop guidelines concerning the adoption and development of
300 transit-oriented districts, which shall include, but need not be limited to,
301 (A) prioritizing mixed-use and mixed-income developments, (B)

302 increasing the availability of affordable housing, (C) ensuring proper
303 environmental considerations in the development of such districts, with
304 an emphasis on the analysis of any potential impacts on environmental
305 justice communities, as defined in section 22a-20a of the general statutes,
306 (D) increasing ridership on mass transit systems, (E) increasing the
307 feasibility of walking, biking and utilizing other means of mobility other
308 than motor vehicle travel, (F) reducing the need for motor vehicle travel,
309 (G) maximizing developable land, (H) increasing the economic viability
310 of development projects, and (I) reducing the length of time necessary
311 to approve applications for development.

312 (f) Not later than October 1, 2025, the coordinator shall submit a
313 report, in accordance with the provisions of section 11-4a of the general
314 statutes, to the joint standing committees of the General Assembly
315 having cognizance of matters relating to planning and development and
316 housing, concerning the recommendations and guidelines developed by
317 the coordinator pursuant to subdivisions (5) and (6) of subsection (e) of
318 this section and shall publish such recommendations and guidelines on
319 the Internet web site of the Office of Policy and Management.

320 (g) Not later than October 1, 2025, and annually thereafter, the
321 coordinator shall submit a report, in accordance with the provisions of
322 section 11-4a of the general statutes, to the joint standing committees of
323 the General Assembly having cognizance of matters relating to planning
324 and development and housing, concerning the recommendations of the
325 council.

326 Sec. 4. (NEW) (*Effective October 1, 2024*) There is established an
327 account to be known as the "public water and sewer rehabilitation or
328 expansion account" which shall be a separate, nonlapsing account
329 within the General Fund. The account shall contain any moneys
330 required by law to be deposited in the account. Moneys in the account
331 shall be expended by the Secretary of the Office of Policy and
332 Management for the purposes of rehabilitating or expanding public
333 water and sewerage infrastructure for any transit-oriented district
334 established by a municipality pursuant to section 2 of this act. Proceeds

335 from such account may be provided to any qualifying rapid transit
336 community, qualifying bus transit community or any owner of real
337 property in a development approved for such funding at the discretion
338 of the secretary located within a transit-oriented district.

339 Sec. 5. (NEW) (*Effective October 1, 2024*) The Secretary of the Office of
340 Policy and Management may establish, within available appropriations,
341 a program to provide grants to any regional council of governments for
342 the development of projects related to public transit infrastructure,
343 bicycle infrastructure or pedestrian infrastructure.

344 Sec. 6. Subsection (a) of section 8-169tt of the 2024 supplement to the
345 general statutes is repealed and the following is substituted in lieu
346 thereof (*Effective October 1, 2024*):

347 (a) As used in this section, "housing growth zone" means (1) any area
348 within a municipality in which applicable zoning regulations adopted
349 pursuant to section 8-2 are designed to facilitate substantial
350 development of new dwelling units consistent with subsection (c) of this
351 section, or (2) any transit-oriented district established by a municipality
352 pursuant to section 2 of this act. Any housing growth zone shall
353 encompass an entire development district and may include areas
354 outside such district.

355 Sec. 7. Subsection (f) of section 8-2o of the general statutes is repealed
356 and the following is substituted in lieu thereof (*Effective October 1, 2024*):

357 (f) Notwithstanding the provisions of subsections (a) to (d), inclusive,
358 of this section, the zoning commission or combined planning and
359 zoning commission, as applicable, of a municipality, by a two-thirds
360 vote, may initiate the process by which such municipality opts out of
361 the provisions of said subsections regarding the allowance of accessory
362 apartments, provided such commission: (1) First holds a public hearing
363 in accordance with the provisions of section 8-7d on such proposed opt-
364 out, (2) affirmatively decides to opt out of the provisions of said
365 subsections within the period of time permitted under section 8-7d, (3)
366 states [upon its] in the records of such commission the reasons for such

367 decision, and (4) publishes notice of such decision in a newspaper
 368 having a substantial circulation in the municipality not later than fifteen
 369 days after such decision has been rendered. Thereafter, the
 370 municipality's legislative body or, in a municipality where the
 371 legislative body is a town meeting, [its] such municipality's board of
 372 selectmen, by a two-thirds vote, may complete the process by which
 373 such municipality opts out of the provisions of subsections (a) to (d),
 374 inclusive, of this section, except that, on and after January 1, 2023, no
 375 municipality may opt out of the provisions of said subsections.

376 Sec. 8. Section 8-2o of the general statutes is amended by adding
 377 subsection (g) as follows (*Effective October 1, 2024*):

378 (NEW) (g) Notwithstanding any prior action of the municipality to
 379 opt out of the provisions of subsections (a) to (d), inclusive, of this
 380 section, pursuant to subsection (f) of this section, any owner of real
 381 property located within a transit-oriented district, as defined in section
 382 2 of this act, who has owned real property in the municipality for not
 383 fewer than three years may construct an accessory apartment as of right
 384 on such real property.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	8-1a(b)
Sec. 2	<i>October 1, 2024</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>October 1, 2024</i>	New section
Sec. 5	<i>October 1, 2024</i>	New section
Sec. 6	<i>October 1, 2024</i>	8-169tt(a)
Sec. 7	<i>October 1, 2024</i>	8-2o(f)
Sec. 8	<i>October 1, 2024</i>	8-2o(g)

Statement of Legislative Commissioners:

In Section 2(a)(9), "will regularly stop" was changed to "regularly stops" for accuracy; in Section 2(b), "on a priority basis" was added after "funding" for accuracy, "or municipality that has adopted such a resolution" was added after "community" for clarity, and in the last two lines "pursuant to subsection (c) of this section" was deleted for clarity;

in Section 2(e), in the first sentence, "of the municipality" was added after "commission" for clarity, and in the final sentence, "to determine whether such district is of reasonable size" was added after "commission" for clarity; in Section 2(f)(1), ", if such development contains nine or fewer dwelling units" was deleted for consistency with a defined term; in Section 2(f), in the final sentence, "in" was changed to "by" for accuracy; in Section 2(g), "that pay" was changed to "will pay" for clarity; in Section 2(i), "required" was added before "pursuant to" for clarity; in Section 2(m), "communities" was changed to "community" and "that are" was added before "located" for clarity; in Section 4, "a bus transit community" was changed to "qualifying bus transit community" for consistency with a defined term; in Section 7, Subsec. (g) was deleted for consistency with standard drafting conventions; and Section 8 was added for consistency with standard drafting conventions.

PD *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 \$
Policy & Mgmt., Off.	GF - Cost	173,000	170,000
Policy & Mgmt., Off.	GF - Cost	See Below	See Below
State Comptroller - Fringe Benefits ¹	GF - Cost	70,000	70,000

Note: GF=General Fund

Municipal Impact:

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

Explanation

The bill results in a potential revenue gain to various municipalities, a cost to the Office of Policy and Management (OPM), and a cost to the Office of the State Comptroller (OSC), beginning in FY 25 related to transit-oriented communities described below.

Office of Policy and Management

The bill requires OPM to: (1) determine if transit-oriented communities (TOCs) are compliant with certain requirements and meet the restrictions on reasonable size, (2) establish a separate, non-lapsing, public water and sewer rehabilitation or expansion account, and (3)

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.25% of payroll in FY 25.

establish a grant program for regional councils of government for certain transit-related infrastructure.

This results in a cost of approximately \$173,000 in FY 25 and \$170,000 in FY 26 to OPM for two additional staff and associated training and supplies to meet these requirements. There is also a corresponding cost of \$70,000 in both FY 25 and FY 26 to OSC for associated fringe benefits.

There is an additional cost to OPM beginning in FY 25 to fund both the public water and sewer rehabilitation or expansion account and potentially the grant program for regional councils of government. The bill does not specify a source of funds for the grants.

Municipalities

The bill: (1) establishes requirements for TOCs, (2) requires the communities to be prioritized for discretionary infrastructure funding, and (3) makes TOCs that adopt additional zoning criteria eligible for additional funding that OPM administers.² This may result in a potential revenue gain to various municipalities beginning in FY 25 to the extent they qualify for, or are prioritized for, discretionary infrastructure funding as a result of TOCs.

Municipalities that adopt a resolution stating they intend to enact zoning regulations that would qualify them for a TOC may still be prioritized for discretionary infrastructure funding. This may result in a potential revenue gain beginning in FY 25 to the extent that municipalities adopt this resolution.

There is also a potential revenue gain to municipalities beginning in FY 25 to the extent that they receive funds from the public water and sewer rehabilitation or expansion account.

The bill also requires developments with ten or more units located

² Discretionary infrastructure funding includes, but is not limited to, any source of funding that a state agency administers through a competitive process. This may include: the Urban Action Program, Small Town Economic Assistance Program, Main Street Investment Fund, and Incentive Housing Zone Program.

within a TOC to either deed restrict a percentage of the units for a certain time period or make payments to an affordable housing development fund established by the TOC. This results in a potential revenue gain to municipalities beginning in FY 25 to the extent developers choose to make payments to the fund. These funds must be used to develop affordable housing within the municipality.

Municipal Redevelopment Authority

The bill has no fiscal impact by modifying the definition of “housing growth zone” to include transit-oriented districts. As the Municipal Redevelopment Authority (MRDA) is tasked with stimulating and supporting transit-oriented developments under current law, there is not anticipated to be an increase in funding necessary for this provision. Currently, MRDA has an unallocated bond balance of \$60 million available.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to grants and funding awarded, and the amount of housing developer payments in lieu of deed restricted units.

OLR Bill Analysis**sHB 5390*****AN ACT CONCERNING TRANSIT-ORIENTED COMMUNITIES.*****SUMMARY**

This bill creates a framework in which a municipality's priority for receiving certain discretionary state funding may be tied to its designation as a qualifying transit-oriented community (TOC). A municipality generally becomes a TOC by establishing a transit-oriented district (or "district") that meets certain requirements, including containing a rapid transit station or bus station. TOCs must, among other requirements, allow certain multifamily and deed-restricted (i.e., affordable) housing developments throughout the municipality "as of right" (see BACKGROUND).

The bill also:

1. establishes an interagency council on housing development to advise and assist the Office of Responsible Growth coordinator;
2. establishes a public water and sewer rehabilitation or expansion account to fund water and sewer infrastructure projects for transit-oriented districts;
3. requires the Office of Policy and Management (OPM) secretary to establish, within available funding, a program providing grants to regional councils of government for public transit, bicycle, or pedestrian infrastructure projects (§ 5); and
4. makes transit-oriented districts, as established under the bill, housing growth zones for the purposes of the Connecticut Municipal Redevelopment Authority (under existing law, municipalities cannot receive certain financial assistance from the

authority until they enact approved housing growth zone regulations; see BACKGROUND) (§ 6).

The bill also makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2024, except the provision establishing the interagency council is effective upon passage.

§§ 1, 2 & 8 — PRIORITIZED FUNDING FOR TRANSIT-ORIENTED COMMUNITIES

The bill makes qualifying TOCs eligible for prioritized discretionary infrastructure funding (“discretionary funding”), which includes certain state grants, loans, and other financial assistance. A municipality generally becomes a TOC by establishing a transit-oriented district meeting certain requirements, as described below. Additionally, the bill requires TOCs to allow certain housing developments as of right and establish deed-restriction requirements for other developments not allowed as of right. It also restricts TOCs from adopting certain regulations for their districts.

The OPM secretary determines a municipality’s compliance with the bill’s requirements and, in doing so, may consult with the Department of Housing commissioner.

Discretionary Infrastructure Funding

Under the bill, to receive prioritized discretionary funding, TOCs (and municipalities that have adopted a resolution stating their intent to become one; see below), must apply to the OPM secretary in a form he sets. The secretary then makes recommendations to the agency that administers the funding. If the funding type is permitted to be prioritized, the agency may give these municipalities priority status over other applicants that are not TOCs (or have not adopted a resolution).

Additionally, the bill requires administering agencies to give higher priority for discretionary funding to TOCs with a transit-oriented district located in a priority funding area (i.e., areas designated in the

state Plan of Conservation and Development within which certain state-funded growth-related projects may generally be undertaken). In other words, it requires agencies to prioritize these priority funding area TOCs above other TOCs as well as municipalities that are not TOCs.

Under the bill, “discretionary infrastructure funding” means any grant, loan, or other financial assistance that (1) the state administers under the Urban Act Grant Program, Main Street Investment Fund, and Incentive Housing Zone Program or (2) OPM manages for transit-oriented development purposes (see BACKGROUND). The bill specifies that it does not make any municipalities ineligible for discretionary funding, even if they are not TOCs eligible for prioritized funding.

Bonus Funding. The bill makes TOCs eligible for additional funding under any program the OPM secretary administers if the TOC adopts additional zoning criteria (in addition to meeting all other TOC requirements discussed below), including (1) higher density development, (2) requiring greater housing unit affordability in certain larger proposed developments not allowed as of right than what the bill specifically requires, (3) developing public land or public housing, (4) implementing programs to encourage homeownership, and (5) other criteria the OPM secretary may set.

Qualifying for Prioritized Funding

Under the bill, a municipality is eligible for prioritized discretionary funding if it qualifies as a TOC or adopts a resolution stating its intent to become one. However, the OPM secretary may also deem a municipality a qualifying TOC if he determines that the municipality has a reasonably sized transit-oriented district containing a rapid transit station or regular bus service station by October 1, 2025.

Qualifying as a TOC. TOCs are generally municipalities that have adopted a reasonably sized, as determined by the OPM secretary, transit-oriented district (see *Transit-Oriented Districts*), containing at least one of the following:

1. a regular bus service station (i.e., bus stop) operating no less than five days per week or
2. a rapid transit station or a planned station (i.e., any public transportation station serving any rail or rapid bus route).

Additionally, the district must (1) encompass all the land within a one-half mile radius of these stations or (2) be located within a reasonable distance, as determined by the secretary, of any other transit service, a commercial corridor, or the municipality's downtown area (i.e., a central business district or other commercial area that, among other things, serves as a center of socioeconomic interaction).

Adopting a Resolution. A municipality that is not a qualifying TOC is still eligible for prioritized discretionary funding if its legislative body adopts a resolution stating it intends to enact zoning regulations enabling it to qualify. It must actually enact the regulations within 18 months after adopting the resolution. A municipality that fails to do so must return any prioritized discretionary funding it received, unless the OPM secretary grants an extension at his discretion, and is also ineligible for additional prioritized funding until it enacts these zoning regulations.

Requirements for Developments in TOCs

As-of-Right Developments. Qualifying TOCs must allow the following developments as of right (after an inland wetlands public hearing, if one is required) anywhere in the municipality:

1. middle housing developments with up to nine units;
2. developments with 10 or more units, at least 30% of which qualify as an 8-30g set-aside development (see BACKGROUND); and
3. developments, with any number of units, if they are (a) built on land owned by the municipality, the state, a public housing authority, a nonprofit, or a religious organization and (b)

composed entirely of units that qualify as 8-30g set-aside developments, with at least half the units priced affordably for renters or buyers earning 60% or less of the federally determined area median income (AMI) (i.e., for which these households would pay no more than 30% of their annual income).

Under the bill, “middle housing developments” generally include duplexes, triplexes, townhomes, and perfect sixes (three-story buildings with two units per story).

Developments Not Allowed As-of-Right. TOCs must require developers proposing developments with 10 or more units (unless allowed as of right as described above) to either (1) deed restrict a certain percentage of the units for 40 years after initial occupancy (see the table below) so they are affordable for renters or buyers earning no more than 80% of the AMI or (2) enter into a contribution agreement to make payments to a fund that the TOC may establish under the bill and use only to develop affordable housing in the municipality (“affordable housing development fund”).

Under the bill, the percentage of units that a developer must deed restrict varies with the strength of the area’s housing market and its quality of life (“opportunity”), as determined by the Connecticut Housing Finance Authority’s (CHFA) most recent Housing Needs Assessment. The table below shows the classifications and corresponding percentage of units that must be restricted under the bill.

Table: Deed-Restriction Requirements

<i>CHFA’s Census Tract Designation</i>	<i>Restricted Units</i>
High Opportunity/Heating Market	15%
High Opportunity/Cooling Market	15%
Low Opportunity/Heating Market	10%
Low Opportunity/Cooling Market	5%

If a town has established an affordable housing development fund, developers subject to these deed-restriction requirements can make payments to the fund instead of deed restricting units. The OPM

secretary determines the payment amounts and duration and must also approve the contribution agreements.

Accessory Apartments. Under the bill, a person who owns real property in a transit-oriented district, and has owned property in the municipality for at least three years, may build an accessory apartment as of right on his or her property. These owners may do so even if the municipality voted to opt out of the state law generally allowing accessory apartments as of right on lots with single-family homes in all municipalities. (It is unclear whether the property owner can build the accessory apartment only in the district or anywhere in the municipality.)

Under existing law, “accessory apartment” means a separate dwelling unit that (1) is located on the same lot as a principal dwelling unit of greater square footage; (2) has cooking facilities; and (3) complies with or is otherwise exempt from any applicable building code, fire code, and health and safety regulations.

Transit-Oriented Districts

Under the bill, a transit-oriented district is an area the municipality designates that is subject to zoning criteria designed to encourage increased development density (including mixed-use development) and a concentration of discretionary state investments.

Inland Wetlands Agency Consultation. A municipality’s zoning commission must consult with its inland wetlands agency when establishing the district’s boundaries. If the proposed district includes an area over which the agency has authority (e.g., wetlands), the commission must collaborate with the agency to determine whether as-of-right middle housing and mixed-use developments should be allowed in any part of the district. The zoning commission may also consult with the agency, and other town agencies, to determine whether the district is a reasonable size (see below).

Reasonable Size. To qualify as a TOC, a municipality’s transit-oriented district must be a reasonable size. Under the bill, the OPM

secretary, in consultation with the zoning commission, is responsible for determining whether a district meets this requirement. To do so, the secretary must (1) determine whether the area can equitably support greater development density, based on the municipality's geographic characteristics, and (2) consider the municipality's and region's housing needs.

When making its determination, the OPM secretary cannot require the following land types to be included in the transit-oriented district:

1. special flood hazard areas on the National Flood Insurance Program's flood insurance rate map;
2. wetlands, as defined in state law;
3. existing or planned public park land;
4. land subject to conservation or preservation restrictions (e.g., an easement);
5. coastal resources protected by the Coastal Management Act;
6. areas needed to protect drinking water supplies; and
7. areas likely to be inundated during a 30-year flood event, as shown in the sea level change scenarios UConn's Marine Sciences Division publishes.

Prohibited Regulations. The bill generally prohibits TOCs from adopting any regulations for their transit-oriented districts that conflict with any OPM guidelines on developing housing in these districts (e.g., parking and setback requirements, lot size and coverage, inclusionary zoning requirements, and development impact fees). However, the OPM secretary may approve conflicting regulations based on local factors the TOC identifies.

§ 3 — INTERAGENCY COUNCIL ON HOUSING DEVELOPMENT

The bill establishes an interagency housing development council to advise the Office of Responsible Growth (ORG) coordinator and help

her review regulations, develop guidelines, and establish programs to support responsible housing growth in the state.

Purpose

The council must first meet by July 1, 2024, and then at least every six months to:

1. evaluate state and quasi-public agencies' plans, programs, regulations, and policies for opportunities to combine their efforts and resources to increase housing development;
2. develop methods to consistently report and document housing development data;
3. develop approaches to housing growth that balance conservation needs (e.g., natural resources protection) and development needs (e.g., housing, economic growth, and infrastructure);
4. review whether discretionary state grant programs adhere to the state Plan of Conservation and Development's goals and make recommendations to agencies and quasi-public agencies, including on ways to increase deed-restricted developments in transit-oriented districts and middle housing;
5. recommend zoning and land use policies for municipalities to increase housing (e.g., model ordinances, regulations, and bylaws); and
6. create guidelines on adopting and developing transit-oriented districts, including prioritizing mixed-use and mixed-income developments, increasing affordable housing availability, environmental (particularly environmental justice) considerations, increasing mass transit ridership and other means of mobility (e.g., walking and biking) while reducing the need for motor vehicles, maximizing developable land, increasing developments' economic viability, and reducing the time needed to approve development applications.

Reporting Requirements

Beginning by October 1, 2025, the ORG coordinator must annually submit the council's recommendations to the Planning and Development and Housing committees. By the same date, the coordinator must also submit the council's zoning and land use policy recommendations and transit-oriented district guidelines, described above, to these legislative committees and post this information on OPM's website.

Members

In addition to the ORG coordinator (who serves as the chairperson), and any ad hoc members she determines are needed, the council consists of the following ex officio members or their designees:

1. OPM secretary,
2. Department of Housing commissioner,
3. Department of Economic and Community Development commissioner,
4. Department of Energy and Environmental Protection commissioner,
5. Department of Public Health commissioner,
6. Department of Transportation commissioner, and
7. CHFA chief executive officer.

§ 4 — PUBLIC WATER AND SEWER REHABILITATION OR EXPANSION ACCOUNT

The bill establishes a public water and sewer rehabilitation or expansion account within the General Fund. This separate, nonlapsing account must be funded with any moneys the law requires and the OPM secretary must use it to rehabilitate or expand public water and sewer infrastructure for transit-oriented districts established under the bill. The account's proceeds may go to TOCs or certain other property

owners in transit-oriented districts at the OPM secretary's discretion (presumably, property developers in transit-oriented districts that receive OPM approval for this funding).

BACKGROUND

As-of-Right Developments

By law, "as of right" means able to be approved without requiring (1) a public hearing; (2) a variance, special permit, or special exception; or (3) other discretionary zoning action, other than a determination that a site plan conforms with applicable zoning regulations.

MRDA Housing Growth Zones

The Municipal Redevelopment Authority (MRDA) is a quasi-public agency authorized to stimulate economic development and transit-oriented development, including by giving financial support and technical assistance to municipalities to develop "housing growth zones." These are areas around a central business district or passenger transit station in which local zoning regulations facilitate substantial new housing development (CGS § 8-169hh et seq., as amended by PA 23-204).

Transit-Oriented Development

By law, transit-oriented development is defined as developing residential, commercial, and employment centers within one-half mile or walking distance of public transportation facilities (including rail and bus rapid transit and services) that meet transit supportive standards for land uses, built environment densities, and walkable environments, in order to facilitate and encourage the use of transit services (CGS § 13b-79o).

8-30g Set-Aside Development

Under the affordable housing land use appeals procedure (referred to as "8-30g"), a set-aside development means a development in which, for at least 40 years after initial occupancy, at least 30% of the units are deed restricted. Specifically, at least (1) 15% of the units must be deed restricted to households earning 60% or less of the AMI or state median income (SMI), whichever is less, and (2) 15% of the units must be deed restricted to households earning 80% or less of the AMI or SMI,

whichever is less.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 12 Nay 8 (03/15/2024)