



General Assembly

Amendment

February Session, 2024

LCO No. 4748



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

To: Subst. House Bill No. 5335

File No. 109

Cal. No. 105

"AN ACT CONCERNING THE DEVELOPMENT OF MIDDLE HOUSING."

1 Strike section 3 in its entirety and renumber the remaining sections
2 and internal references accordingly

3 After the last section, add the following and renumber sections and
4 internal references accordingly:

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 Section 8-30g of the general statutes is repealed and the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

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

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

12 (2) "Affordable housing application" means any application made to
13 a commission in connection with an affordable housing development by

14 a person who proposes to develop such affordable housing;

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

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

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

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

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

46 of Housing and Urban Development; and

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

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

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

75 (c) Any commission, by regulation, may require that an affordable
76 housing application seeking a change of zone include the submission of
77 a conceptual site plan describing the proposed development's total

78 number of residential units and their arrangement on the property and
79 the proposed development's roads and traffic circulation, sewage
80 disposal and water supply.

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

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

104 (f) Except as provided in subsections (k), [and] (l) and (m) of this
105 section, any person whose affordable housing application is denied, or
106 is approved with restrictions which have a substantial adverse impact
107 on the viability of the affordable housing development or the degree of
108 affordability of the affordable dwelling units in a set-aside
109 development, may appeal such decision pursuant to the procedures of
110 this section. Such appeal shall be filed within the time period for filing

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

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

145 manner consistent with the evidence in the record before it.

146 (h) Following a decision by a commission to reject an affordable
147 housing application or to approve an application with restrictions which
148 have a substantial adverse impact on the viability of the affordable
149 housing development or the degree of affordability of the affordable
150 dwelling units, the applicant may, within the period for filing an appeal
151 of such decision, submit to the commission a proposed modification of
152 its proposal responding to some or all of the objections or restrictions
153 articulated by the commission, which shall be treated as an amendment
154 to the original proposal. The day of receipt of such a modification shall
155 be determined in the same manner as the day of receipt is determined
156 for an original application. The filing of such a proposed modification
157 shall stay the period for filing an appeal from the decision of the
158 commission on the original application. The commission shall hold a
159 public hearing on the proposed modification if it held a public hearing
160 on the original application and may hold a public hearing on the
161 proposed modification if it did not hold a public hearing on the original
162 application. The commission shall render a decision on the proposed
163 modification not later than sixty-five days after the receipt of such
164 proposed modification, provided, if, in connection with a modification
165 submitted under this subsection, the applicant applies for a permit for
166 an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive,
167 and the time for a decision by the commission on such modification
168 under this subsection would lapse prior to the thirty-fifth day after a
169 decision by an inland wetlands and watercourses agency, the time
170 period for decision by the commission on the modification under this
171 subsection shall be extended to thirty-five days after the decision of such
172 agency. The commission shall issue notice of its decision as provided by
173 law. Failure of the commission to render a decision within said sixty-
174 five days or subsequent extension period permitted by this subsection
175 shall constitute a rejection of the proposed modification. Within the time
176 period for filing an appeal on the proposed modification as set forth in
177 section 8-8, 8-9, 8-28 or 8-30a, as applicable, the applicant may appeal
178 the commission's decision on the original application and the proposed

179 modification in the manner set forth in this section. Nothing in this
180 subsection shall be construed to limit the right of an applicant to appeal
181 the original decision of the commission in the manner set forth in this
182 section without submitting a proposed modification or to limit the
183 issues which may be raised in any appeal under this section.

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

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

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

212 shall not be counted toward such total number. The municipalities
213 meeting the criteria set forth in this subsection shall be listed in the
214 report submitted under section 8-37qqq. As used in this subsection,
215 "accessory apartment" has the same meaning as provided in section 8-
216 1a, as amended by this act, and "resident-owned mobile manufactured
217 home park" means a mobile manufactured home park consisting of
218 mobile manufactured homes located on land that is deed restricted, and,
219 at the time of issuance of a loan for the purchase of such land, such loan
220 required seventy-five per cent of the units to be leased to persons with
221 incomes equal to or less than eighty per cent of the median income, and
222 either (A) forty per cent of said seventy-five per cent to be leased to
223 persons with incomes equal to or less than sixty per cent of the median
224 income, or (B) twenty per cent of said seventy-five per cent to be leased
225 to persons with incomes equal to or less than fifty per cent of the median
226 income.

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

241 (2) Such moratorium shall not apply to (A) affordable housing
242 applications for assisted housing in which ninety-five per cent of the
243 dwelling units are restricted to persons and families whose income is
244 less than or equal to sixty per cent of the median income, (B) other
245 affordable housing applications for assisted housing containing forty or

246 fewer dwelling units, or (C) affordable housing applications which were
247 filed with a commission pursuant to this section prior to the date upon
248 which the moratorium takes effect.

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

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

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

279 approval or rejection shall be accompanied by a written statement of the
280 reasons for approval or rejection, pursuant to the provisions of this
281 subsection. If the application is approved, the commissioner shall
282 promptly cause a certificate of affordable housing project completion to
283 be published in the Connecticut Law Journal. If the commissioner fails
284 to either approve or reject the application within such ninety-day
285 period, such application shall be deemed provisionally approved, and
286 the municipality may cause notice of such provisional approval to be
287 published in a conspicuous manner in a daily newspaper having general
288 circulation in the municipality, in which case, such moratorium shall
289 take effect upon such publication. The municipality shall send a copy of
290 such notice to the commissioner. Such provisional approval shall
291 remain in effect unless the commissioner subsequently acts upon and
292 rejects the application, in which case the moratorium shall terminate
293 upon notice to the municipality by the commissioner.

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

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

313 points if an ownership unit and two and one-half points if a rental unit.
314 (E) Elderly units restricted to persons and families whose income is
315 equal to or less than eighty per cent of the median income shall be
316 awarded one-half point. (F) A set-aside development containing family
317 units which are rental units shall be awarded additional points equal to
318 twenty-two per cent of the total points awarded to such development,
319 provided the application for such development was filed with the
320 commission prior to July 6, 1995. (G) A mobile manufactured home in a
321 resident-owned mobile manufactured home park shall be awarded
322 points as follows: One and one-half points when occupied by persons
323 and families with an income equal to or less than eighty per cent of the
324 median income; two points when occupied by persons and families with
325 an income equal to or less than sixty per cent of the median income; and
326 one-fourth point for the remaining units.

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

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

344 (9) A newly-constructed unit shall be counted toward a moratorium
345 when it receives a certificate of occupancy. A newly-restricted unit shall

346 be counted toward a moratorium when its deed restriction takes effect.

347 (10) The affordable housing appeals procedure shall be applicable to
348 affordable housing applications filed with a commission after a three-
349 year moratorium expires, except (A) as otherwise provided in
350 subsection (k) of this section, or (B) when sufficient unit-equivalent
351 points have been created within the municipality during one
352 moratorium to qualify for a subsequent moratorium.

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

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

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

372 Sec. 502. (NEW) (*Effective October 1, 2024*) (a) Upon the filing of an
373 affordable housing application, the municipality in which such
374 application was filed shall have the option to purchase the real property
375 identified as an affordable housing development in such application,
376 provided the municipality (1) notifies the applicant of the municipality's
377 election to exercise its purchase option pursuant to this section in

378 writing by certified mail not later than forty-five days after the
379 submission of the affordable housing application by the applicant, (2)
380 agrees to pay to the applicant a purchase price equal to one hundred
381 two per cent of the purchase price the applicant paid when the applicant
382 acquired the real property, or if the applicant paid no consideration for
383 such real property, one hundred two per cent of the fair market value
384 for such real property established by the tax assessor of the municipality
385 for the assessment year in which such application was filed, and (3)
386 purchases and closes upon the sale of such real property not later than
387 one hundred twenty days after such municipality delivers notice to the
388 applicant pursuant to subdivision (1) of this subsection.

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

395 (c) If a municipality fails to complete the development of affordable
396 housing units required under subsection (b) of this section within the
397 time prescribed by said subsection, such municipality shall pay an
398 amount equal to five per cent of the purchase price such municipality
399 paid to the applicant to each of (1) the applicant, and (2) the Treasurer,
400 for deposit into the Housing Trust Fund established pursuant to section
401 8-3360 of the general statutes, as amended by this act.

402 Sec. 503. Subsection (a) of section 8-3360 of the general statutes is
403 repealed and the following is substituted in lieu thereof (*Effective October*
404 *1, 2024*):

405 (a) There is established the "Housing Trust Fund" which shall be a
406 nonlapsing fund held by the Treasurer separate and apart from all other
407 moneys, funds and accounts. The following funds shall be deposited in
408 the fund: (1) Proceeds of bonds authorized by section 8-336n; (2) all
409 moneys received in return for financial assistance awarded from the

410 Housing Trust Fund pursuant to the Housing Trust Fund program
 411 established under section 8-336p; (3) all private contributions received
 412 pursuant to section 8-336p; [and] (4) to the extent not otherwise
 413 prohibited by state or federal law, any local, state or federal funds
 414 received pursuant to section 8-336p; and (5) payments by a municipality
 415 to the Treasurer pursuant to subsection (c) of section 502 of this act.
 416 Investment earnings credited to the assets of said fund shall become part
 417 of the assets of said fund. The Treasurer shall invest the moneys held by
 418 the Housing Trust Fund subject to use for financial assistance under the
 419 Housing Trust Fund program."

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