

General Assembly

Amendment

January Session, 2021

LCO No. 7717



Offered by:

SEN. KELLY, 21st Dist.

SEN. FORMICA, 20th Dist.

SEN. MINER, 30th Dist.

SEN. SAMPSON, 16th Dist.

To: Subst. Senate Bill No. **1024**

File No. 560

Cal. No. 326

"AN ACT CONCERNING ZONING AUTHORITY, CERTAIN DESIGN GUIDELINES, QUALIFICATIONS OF ZONING ENFORCEMENT OFFICERS AND CERTAIN SEWAGE DISPOSAL SYSTEMS."

- 1 Strike everything after the enacting clause and substitute the
- 2 following in lieu thereof:
- 3 "Section 1. Subsections (a) and (b) of section 8-30g of the general
- 4 statutes are repealed and the following is substituted in lieu thereof
- 5 (*Effective October 1, 2021*):
- 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;

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

10

11

12

13

14

15

16

17

18

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

- (3) "Assisted housing" means housing which is receiving, or will receive, financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing, and any housing occupied by persons receiving rental assistance under chapter 319uu or Section 1437f of Title 42 of the United States Code;
- 19 (4) "Commission" means a zoning commission, planning 20 commission, planning and zoning commission, zoning board of appeals 21 or municipal agency exercising zoning or planning authority;
- 22 (5) "Municipality" means any town, city or borough, whether 23 consolidated or unconsolidated;
 - (6) "Set-aside development" means a development in which not less than thirty per cent of the dwelling units [will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as are housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent of the median income. In a set-aside development, of the dwelling units [conveyed by deeds containing covenants or restrictions] that constitute such housing, a number of dwelling units equal to not less than fifteen per cent of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to sixty per cent of the median income and the remainder of the dwelling units [conveyed by deeds containing covenants or restrictions] that constitute such housing shall be sold or rented to persons and families whose income is less than or equal to eighty per cent of the median income;
- 41 (7) "Median income" means, after adjustments for family size, the

42 lesser of the state median income or the area median income for the area

- 43 in which the municipality containing the affordable housing
- 44 development is located, as determined by the United States Department
- 45 of Housing and Urban Development; and

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

- 46 (8) "Commissioner" means the Commissioner of Housing.
 - (b) (1) Any person filing an affordable housing application with a commission shall submit, as part of the application, an affordability plan which shall include at least the following: (A) Designation of the person, entity or agency that will be responsible [for the duration of any affordability restrictions, for the administration of the affordability plan and its compliance with the income limits and sale price or rental [restrictions] requirements of this chapter; (B) an affirmative fair housing marketing plan governing the sale or rental of all dwelling units; (C) a sample calculation of the maximum sales prices or rents of the intended affordable dwelling units; (D) a description of the projected sequence in which, within a set-aside development, the affordable dwelling units will be built and offered for occupancy and the general location of such units within the proposed development; and (E) draft zoning regulations, conditions of approvals, deeds [, restrictive covenants] or lease provisions that will govern the affordable dwelling units.
 - (2) The commissioner shall, within available appropriations, adopt regulations pursuant to chapter 54 regarding the affordability plan. Such regulations may include additional criteria for preparing an affordability plan and shall include: (A) A formula for determining rent levels and sale prices, including establishing maximum allowable down payments to be used in the calculation of maximum allowable sales prices; (B) a clarification of the costs that are to be included when calculating maximum allowed rents and sale prices; (C) a clarification as to how family size and bedroom counts are to be equated in establishing maximum rental and sale prices for the affordable units; and (D) a listing of the considerations to be included in the computation of income under this section.

Sec. 2. Subsections (k) to (m), inclusive, of section 8-30g of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(k) The affordable housing appeals procedure established under this section shall not be available if the real property which is the subject of the application is located in a municipality in which at least ten per cent of all dwelling units in the municipality are (1) assisted housing, (2) currently financed by Connecticut Housing Finance Authority mortgages, (3) [subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, (4) mobile manufactured homes located in mobile manufactured home parks or legally approved accessory apartments, which homes or apartments are [subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which, for a period of not less than ten years, housing for which persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, or (5) mobile manufactured homes located in resident-owned mobile manufactured home parks. The municipalities meeting the criteria set forth in this subsection shall be listed in the report submitted under section 8-37qqq. As used in this subsection, "accessory apartment" means a separate living unit that (A) is attached to the main living unit of a house, which house has the external appearance of a single-family residence, (B) has a full kitchen, (C) has a square footage that is not more than thirty per cent of the total square footage of the house, (D) has an internal doorway connecting to the main living unit of the house, (E) is not billed separately from such main living unit for utilities, and (F) complies with the building code and health and safety regulations, and "residentowned mobile manufactured home park" means a mobile manufactured home park consisting of mobile manufactured homes located on land

75

76

77

78

79

80

81

82

83

84

85

86

87

88 89

90

91

92 93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

[that is deed restricted, and, at the time of issuance of a loan for the purchase of such land, such loan required] where seventy-five per cent of the units are to be leased to persons with incomes equal to or less than eighty per cent of the median income, and either (i) forty per cent of said seventy-five per cent to be leased to persons with incomes equal to or less than sixty per cent of the median income, or (ii) twenty per cent of said seventy-five per cent to be leased to persons with incomes equal to or less than fifty per cent of the median income.

- (l) (1) Except as provided in subdivision (2) of this subsection, the affordable housing appeals procedure established under this section shall not be applicable to an affordable housing application filed with a commission during a moratorium, which shall commence after (A) a certification of affordable housing project completion issued by the commissioner is published in the Connecticut Law Journal, or (B) notice of a provisional approval is published pursuant to subdivision (4) of this subsection. Any such moratorium shall be for a period of four years, except that for any municipality that has (i) twenty thousand or more dwelling units, as reported in the most recent United States decennial census, and (ii) previously qualified for a moratorium in accordance with this section, any subsequent moratorium shall be for a period of five years. Any moratorium that is in effect on October 1, 2002, is extended by one year.
- (2) Such moratorium shall not apply to (A) affordable housing applications for assisted housing in which ninety-five per cent of the dwelling units are [restricted to] <u>for</u> persons and families whose income is less than or equal to sixty per cent of the median income, (B) other affordable housing applications for assisted housing containing forty or fewer dwelling units, or (C) affordable housing applications which were filed with a commission pursuant to this section prior to the date upon which the moratorium takes effect.
- (3) Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium.

141

142

143

144145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

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

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

6 of 15

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

- (5) For the purposes of this subsection, "elderly units" are dwelling units [whose occupancy is restricted by age] for occupants who meet certain age requirements, "family units" are dwelling units [whose occupancy is not restricted by age] for occupants of any age, and "resident-owned mobile manufactured home park" has the same meaning as provided in subsection (k) of this section.
- (6) For the purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded for a unit unless its occupancy is [restricted to] for persons and families whose income is equal to or less than eighty per cent of the median income, except that [unrestricted] any other units in a set-aside development shall be awarded one-fourth point each. (B) Family units [restricted to] for persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units [restricted to] for persons and families whose income is equal to or less than sixty per cent of the median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units [restricted to] for persons and families whose income is equal to or less than forty per cent of the median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) [Restricted family] Family units containing at least three bedrooms shall be awarded an additional one-fourth point. (F) Elderly units [restricted to] for persons and families whose income is equal to or less than eighty per cent of the

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

median income shall be awarded one-half point. (G) If at least sixty per cent of the total [restricted] units submitted by a municipality as part of an application for a certificate of affordable housing project completion are family units, any elderly units submitted within such application shall be awarded an additional one-half point. (H) [Restricted family] <u>Family</u> units located within an approved incentive housing development, as defined in section 8-13m, shall be awarded an additional one-fourth point. (I) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995. (J) A mobile manufactured home in a resident-owned mobile manufactured home park shall be awarded points as follows: One and one-half points when occupied by persons and families with an income equal to or less than eighty per cent of the median income; two points when occupied by persons and families with an income equal to or less than sixty per cent of the median income; and one-fourth point for the remaining units.

(7) Points shall be awarded only for dwelling units which (A) were newly-constructed units in an affordable housing development, as that term was defined at the time of the affordable housing application, for which a certificate of occupancy was issued after July 1, 1990, (B) [were newly subjected after July 1, 1990, to deeds containing covenants or restrictions which require that, for at least the duration required by subsection (a) of this section for set-aside developments on the date when such covenants or restrictions took effect, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as] are affordable housing for persons or families whose income does not exceed eighty per cent of the median income, (C) are located within an approved incentive housing development, as defined in section 8-13m, or (D) are located in a resident-owned mobile manufactured home park.

(8) Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after

July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit.

- (9) A newly-constructed unit shall be counted toward a moratorium when it receives a certificate of occupancy. [A newly-restricted unit shall be counted toward a moratorium when its deed restriction takes effect.]
- (10) The affordable housing appeals procedure shall be applicable to affordable housing applications filed with a commission after a three-year moratorium expires, except (A) as otherwise provided in subsection (k) of this section, or (B) when sufficient unit-equivalent points have been created within the municipality during one moratorium to qualify for a subsequent moratorium.
 - (11) The commissioner shall, within available appropriations, adopt regulations in accordance with chapter 54 to carry out the purposes of this subsection. Such regulations shall specify the procedure to be followed by a municipality to obtain a moratorium, and shall include the manner in which a municipality is to document the units to be counted toward a moratorium. A municipality may apply for a moratorium in accordance with the provisions of this subsection prior to, as well as after, such regulations are adopted.
 - (m) [The commissioner shall, pursuant to regulations adopted in accordance with the provisions of chapter 54, promulgate model deed restrictions which satisfy the requirements of this section.] A municipality may waive any fee which would otherwise be required for the filing of any long-term affordability deed restriction on the land records.
- Sec. 3. Subsection (l) of section 8-30g of the general statutes, as amended by section 4 of public act 17-170, is repealed and the following is substituted in lieu thereof (*Effective October 1*, 2022):
- 272 (l) (1) Except as provided in subdivision (2) of this subsection, the 273 affordable housing appeals procedure established under this section

246

247

248

255

256257

258

259

260

261

262

263

264265

266

267

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

- (2) Such moratorium shall not apply to (A) affordable housing applications for assisted housing in which ninety-five per cent of the dwelling units are [restricted to] <u>for</u> persons and families whose income is less than or equal to sixty per cent of the median income, (B) other affordable housing applications for assisted housing containing forty or fewer dwelling units, or (C) affordable housing applications which were filed with a commission pursuant to this section prior to the date upon which the moratorium takes effect.
- (3) Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium.
- (4) (A) The commissioner shall issue a certificate of affordable housing project completion for the purposes of this subsection upon finding that there has been completed within the municipality one or more affordable housing developments which create housing unit-equivalent points equal to (i) the greater of two per cent of all dwelling units in the municipality, as reported in the most recent United States decennial census, or seventy-five housing unit-equivalent points, or (ii) for any municipality that has (I) adopted an affordable housing plan in accordance with section 8-30j, (II) twenty thousand or more dwelling units, as reported in the most recent United States decennial census, and (III) previously qualified for a moratorium in accordance with this

section, one and one-half per cent of all dwelling units in the municipality, as reported in the most recent United States decennial census.

307

308

309

310

311

312

313

314

315

316

317318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

339

340

(B) A municipality may apply for a certificate of affordable housing project completion pursuant to this subsection by applying in writing to the commissioner, and including documentation showing that the municipality has accumulated the required number of points within the applicable time period. Such documentation shall include the location of each dwelling unit being counted, the number of points each dwelling unit has been assigned, and the reason, pursuant to this subsection, for assigning such points to such dwelling unit. Upon receipt of such application, the commissioner shall promptly cause a notice of the filing of the application to be published in the Connecticut Law Journal, stating that public comment on such application shall be accepted by the commissioner for a period of thirty days after the publication of such notice. Not later than ninety days after the receipt of such application, the commissioner shall either approve or reject such application. Such approval or rejection shall be accompanied by a written statement of the reasons for approval or rejection, pursuant to the provisions of this subsection. If the application is approved, the commissioner shall promptly cause a certificate of affordable housing project completion to be published in the Connecticut Law Journal. If the commissioner fails to either approve or reject the application within such ninety-day period, such application shall be deemed provisionally approved, and the municipality may cause notice of such provisional approval to be published in a conspicuous manner in a daily newspaper having general circulation in the municipality, in which case, such moratorium shall take effect upon such publication. The municipality shall send a copy of such notice to the commissioner. Such provisional approval shall remain in effect unless the commissioner subsequently acts upon and rejects the application, in which case the moratorium shall terminate upon notice to the municipality by the commissioner.

(5) For the purposes of this subsection, "elderly units" are dwelling units [whose occupancy is restricted by age] for occupants who meet

certain age requirements, "family units" are dwelling units [whose occupancy is not restricted by age] for occupants of any age, and "resident-owned mobile manufactured home park" has the same meaning as provided in subsection (k) of this section.

(6) For the purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded for a unit unless its occupancy is [restricted to] for persons and families whose income is equal to or less than eighty per cent of the median income, except that [unrestricted] any other units in a set-aside development shall be awarded one-fourth point each. (B) Family units [restricted to] for persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units [restricted to] for persons and families whose income is equal to or less than sixty per cent of the median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units [restricted to] for persons and families whose income is equal to or less than forty per cent of the median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) Elderly units [restricted tol for persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one-half point. (F) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995. (G) A mobile manufactured home in a resident-owned mobile manufactured home park shall be awarded points as follows: One and one-half points when occupied by persons and families with an income equal to or less than eighty per cent of the median income; two points when occupied by persons and families with an income equal to or less than sixty per cent of the median income; and one-fourth point for the remaining units.

(7) Points shall be awarded only for dwelling units which (A) were

341342

343344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

359

360

361 362

363

364

365

366

367

368

369

370

371

372

373

newly-constructed units in an affordable housing development, as that term was defined at the time of the affordable housing application, for which a certificate of occupancy was issued after July 1, 1990, (B) [were newly subjected after July 1, 1990, to deeds containing covenants or restrictions which require that, for at least the duration required by subsection (a) of this section for set-aside developments on the date when such covenants or restrictions took effect, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as] <u>are</u> affordable housing for persons or families whose income does not exceed eighty per cent of the median income, or (C) are located in a resident-owned mobile manufactured home park.

- (8) Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit.
- (9) A newly-constructed unit shall be counted toward a moratorium when it receives a certificate of occupancy. [A newly-restricted unit shall be counted toward a moratorium when its deed restriction takes effect.]
- (10) The affordable housing appeals procedure shall be applicable to affordable housing applications filed with a commission after a three-year moratorium expires, except (A) as otherwise provided in subsection (k) of this section, or (B) when sufficient unit-equivalent points have been created within the municipality during one moratorium to qualify for a subsequent moratorium.
- (11) The commissioner shall, within available appropriations, adopt regulations in accordance with chapter 54 to carry out the purposes of this subsection. Such regulations shall specify the procedure to be followed by a municipality to obtain a moratorium, and shall include the manner in which a municipality is to document the units to be counted toward a moratorium. A municipality may apply for a moratorium in accordance with the provisions of this subsection prior

to, as well as after, such regulations are adopted.

410

411

412

413

414

415

416

417

418

419

420

421

422

423

424

425

Sec. 4. Section 8-30h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

On and after January 1, 1996, the developer, owner or manager of an affordable housing development, developed pursuant to subparagraph (B) of subdivision (1) of subsection (a) of section 8-30g, that includes rental units shall provide annual certification to the commission that the development continues to be in compliance with [the covenants and deed restrictions required under] the provisions of said section. If the development does not comply with [such covenants and deed restrictions] the provisions of said section, the developer, owner or manager shall rent the next available units to persons and families whose incomes satisfy the requirements [of the covenants and deed restrictions] of said section until the development is in compliance. The commission may inspect the income statements of the tenants of the [restricted] units upon which the developer, owner or manager bases the certification. Such tenant statements shall be confidential and shall not be deemed public records for the purposes of the Freedom of Information Act, as defined in section 1-200.

- Sec. 5. Section 8-30i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):
- 428 Notwithstanding any provision of the general statutes or the bylaws 429 of a condominium unit owners' association, adopted under section 47-430 80, [or any affordable housing deed restriction] limiting the sales price 431 of housing subject to such provisions, [or restrictions,] an owner who 432 purchased such housing on or after July 1, 2004, but before July 15, 2004, 433 for an amount exceeding the amount specified in every such provision 434 [or restriction] may sell such housing for an amount not exceeding the 435 amount such owner paid to purchase the housing.
- Sec. 6. Subdivision (3) of subsection (a) of section 12-81bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(3) "Long term" means a time period no shorter in duration than [the minimum time period for affordability covenants or restrictions in deeds pursuant to subsection (a) of section 8-30g] forty years; and"

This act shall take effect as follows and shall amend the following		
sections:		
Section 1	October 1, 2021	8-30g(a) and (b)
Sec. 2	October 1, 2021	8-30g(k) to (m)
Sec. 3	October 1, 2022	8-30g(l)
Sec. 4	October 1, 2021	8-30h
Sec. 5	October 1, 2021	8-30i
Sec. 6	October 1, 2021	12-81bb(a)(3)

439

440