



General Assembly

Substitute Bill No. 6633

January Session, 2023



AN ACT CONCERNING A NEEDS ASSESSMENT AND FAIR SHARE PLANS FOR MUNICIPALITIES TO INCREASE AFFORDABLE HOUSING.

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

- 1 Section 1. (NEW) (*Effective July 1, 2023*) (a) As used in this section:
- 2 (1) "Affordable housing unit" means a dwelling unit conveyed by an
3 instrument containing a covenant or restriction that requires such
4 dwelling unit to be sold or rented at or below a price intended to
5 preserve such unit as housing for a low income household;
- 6 (2) "Commission", "zoning commission" or "zoning authority"
7 means a zoning commission, planning commission, planning and
8 zoning commission, zoning board of appeals or other municipal
9 agency exercising zoning or planning authority;
- 10 (3) "Commissioner" means the Commissioner of Housing, unless
11 otherwise specified;
- 12 (4) "Dwelling unit" means any house or building, or portion thereof,
13 which is occupied, is designed to be occupied, or is rented, leased or
14 hired out to be occupied, as a home or residence of one or more
15 persons;
- 16 (5) "Low income household" means a person or family with an
17 annual income less than or equal to eighty per cent of the state median

18 income, as determined by the United States Department of Housing
19 and Urban Development;

20 (6) "Very low income household" means a person or family with an
21 annual income less than or equal to fifty per cent of the state median
22 income, as determined by the United States Department of Housing
23 and Urban Development;

24 (7) "Extremely low income household" means a person or family
25 with an annual income less than or equal to thirty per cent of the state
26 median income, as determined by the United States Department of
27 Housing and Urban Development;

28 (8) "Interested party" means (A) a nonprofit organization that
29 represents low income households or addresses their housing needs,
30 or (B) a housing developer who seeks to construct housing
31 contributing to a municipality's fair share allocation if the intended or
32 proposed development (i) conforms with subdivision (3) or (6) of
33 subsection (a) of section 8-30g of the general statutes, revision of 1958,
34 revised to January 1, 2023, or (ii) includes not less than twenty per cent
35 of affordable housing units conveyed by deeds containing affordable
36 housing covenants or restrictions applying for at least forty years, or a
37 number of nonage-restricted affordable housing units equal to not less
38 than five per cent of all units in the development are sold or rented to
39 persons and families whose income is less than or equal to thirty per
40 cent of the lesser of state or area median income and the remainder of
41 the affordable housing units conveyed by deeds containing covenants
42 or restrictions are sold or rented to persons and families whose income
43 is less than or equal to eighty per cent of the lesser of state or area
44 median income, provided at least ten per cent of the deed-restricted
45 units in such housing have two or more bedrooms;

46 (9) "Median income" is the state median income, as determined by
47 the United States Department of Housing and Urban Development;

48 (10) "Multifamily housing" means a residential building that

49 contains three or more dwelling units;

50 (11) "Municipal fair share allocation" means the portion of the
51 minimum need for affordable housing units in a planning region, as
52 determined pursuant to subsection (b) of this section, that is allocated
53 to a municipality located within such planning region;

54 (12) "Municipal fair share goal" means the number of units each
55 municipality includes in its fair share plan, inclusive of additional
56 bonus points awarded, as described in subdivision (2) of subsection (c)
57 of this section;

58 (13) "Municipal fair share plan" means a municipality's plan and
59 updated zoning regulations and planning documents designed to
60 achieve its municipal fair share goal;

61 (14) "Planning region" means a planning region of the state, as
62 defined or redefined by the Secretary of the Office of Policy and
63 Management or the secretary's designee under the provisions of
64 section 16a-4a of the general statutes, except the Metropolitan and
65 Western planning regions shall be considered a single planning region;

66 (15) "Secretary" means the Secretary of the Office of Policy and
67 Management; and

68 (16) "Supportive housing" means affordable housing units available
69 to persons or families who qualify for assistance in accordance with
70 section 17a-485c of the general statutes.

71 (b) (1) Not later than July 1, 2024, the secretary, in consultation with
72 the Commissioners of Housing and Economic and Community
73 Development and, as may be determined by the secretary, experts,
74 advocates and organizations with expertise in affordable housing, fair
75 housing and planning and zoning, shall establish a methodology for
76 each municipality's fair share allocation by:

77 (A) Determining the need for affordable housing units in each

78 planning region; and

79 (B) Fairly allocating such need to the municipalities in each
80 planning region considering the duty of the state and municipalities to
81 affirmatively further fair housing pursuant to section 8-2 of the general
82 statutes and 42 USC 3608. Such methodology shall rely on data from
83 the Comprehensive Housing Affordability Strategy data set published
84 by the United States Department of Housing and Urban Development,
85 or from a similar source as may be determined by the secretary.

86 (2) The secretary shall ensure that the fair share allocation
87 methodology:

88 (A) Is designed with due consideration for the duty of the state and
89 each municipality to affirmatively further fair housing in accordance
90 with section 8-2 of the general statutes and 42 USC 3608;

91 (B) Relies on appropriate metrics of the minimum need for
92 affordable housing units in a planning region to ensure adequate
93 housing options, including the number of extremely low income
94 households in the planning region;

95 (C) Relies on appropriate factors for fairly allocating such need to
96 each municipality within each planning region, including a
97 municipality's compliance with the requirements of sections 8-2 and 8-
98 23 of the general statutes with regard to promoting housing choice and
99 economic diversity in housing, including housing for both low and
100 moderate income households, and encouraging the development of
101 housing which meets the identified housing needs and the
102 development of housing opportunities, including opportunities for
103 multifamily housing, for all residents of the municipality and the
104 planning region in which the municipality is located;

105 (D) Does not assign a fair share allocation to any municipality with
106 a federal poverty rate of twenty per cent or greater based on data
107 reported in the most recent United States decennial census or similar
108 source; and

109 (E) Increases the municipal fair share allocation of a municipality if
110 such municipality, when compared to other municipalities in the same
111 planning region, has:

112 (i) A greater dollar value of the ratable real and personal property,
113 as reflected by its equalized net grand list, calculated in accordance
114 with the provisions of section 10-261a of the general statutes, for
115 residential, commercial, industrial, public utility and vacant land;

116 (ii) A higher median income, based on data reported in the most
117 recent United States decennial census or similar source;

118 (iii) A lower percentage of its population that is below the federal
119 poverty threshold, based on data reported in such census or similar
120 source; or

121 (iv) A lower percentage of its population that lives in multifamily
122 housing, based on data reported in such census or similar source.

123 (3) (A) Not later than July 1, 2024, and every ten years thereafter, the
124 secretary, in consultation with the Commissioners of Housing and
125 Economic and Community Development, shall, using the
126 methodology established pursuant to this subsection, determine the
127 minimum need for affordable housing units for each planning region
128 and a municipal fair share allocation for each municipality within each
129 planning region.

130 (B) No municipal fair share allocation determined pursuant to
131 subparagraph (A) of this subdivision shall exceed twenty per cent of
132 the occupied dwelling units in such municipality.

133 (c) (1) Not later than July 1, 2024, the secretary, in consultation with
134 the Commissioners of Housing and Economic and Community
135 Development and, as may be determined by the secretary, experts,
136 advocates and organizations with expertise in affordable housing, fair
137 housing and planning and zoning, shall establish:

138 (A) A process by which each municipality shall be required to
139 develop, adopt and submit municipal fair share plans to the secretary
140 and the commissioner that set forth the new zoning regulations and
141 planning documents the municipality has adopted and other actions
142 the municipality will take to achieve its municipal fair share goal;

143 (B) The required contents and timing for submission of such plans,
144 including updated zoning regulations and planning documents;

145 (C) Requirements to ensure that each municipal fair share plan
146 provides for the creation of a sufficient supply of the different types of
147 deed-restricted affordable housing required for meeting its fair share
148 goal, including ensuring:

149 (i) Not less than fifty per cent of the units are affordable to very low
150 income households;

151 (ii) Not less than thirteen per cent of units are affordable to
152 extremely low income households;

153 (iii) Not more than fifty per cent of the units are affordable to
154 households with incomes above very low income but less than the low
155 income threshold;

156 (iv) Not less than twenty-five per cent of the units are rental units;

157 (v) Not more than twenty-five per cent of units are restricted by
158 occupant age;

159 (vi) Not less than fifty per cent of the units are unrestricted by
160 occupant age and include two or more bedrooms;

161 (vii) Not more than twenty per cent of the units are studios or one
162 bedroom; and

163 (viii) All units, regardless of sources of funding, are affirmatively
164 marketed in accordance with section 8-37ee of the general statutes and
165 associated regulations;

166 (D) Policies ensuring that no municipal fair share plan creates, in the
167 determination of the secretary, undue concentrations of households
168 below the federal poverty threshold in the applicable planning region;
169 and

170 (E) Policies ensuring that each municipal fair share plan provides
171 for the equitable distribution of affordable housing within the
172 municipality in accordance with section 46a-64c of the general statutes
173 and 42 USC 3601 to 3619, inclusive.

174 (2) In defining each municipality's obligation pursuant to this
175 section, the secretary shall include the ability of each municipality to
176 convert its municipal fair share allocation into a municipal fair share
177 goal represented by points wherein:

178 (A) Each affordable housing unit constitutes one point;

179 (B) Additional bonus points may be added for certain types of
180 housing units at a ratio conforming to the threshold requirements of
181 subparagraph (C) of subdivision (1) of this subsection, provided no fair
182 share goal shall fall below eighty per cent of the municipality's initial
183 fair share allocation;

184 (C) Only one bonus point shall be awarded per unit such that the
185 bonus points are not cumulative; and

186 (D) Bonus points shall be awarded as follows:

187 (i) Qualifying housing affordable to households at or below the
188 extremely low income threshold shall receive one additional point;

189 (ii) Qualifying units with two or more bedrooms shall receive one
190 additional point; and

191 (iii) Qualifying units that constitute supportive housing, as defined
192 in section 17a-485c of the general statutes, shall receive an additional
193 point.

194 (d) Not later than July 1, 2025, and every ten years thereafter, each
195 municipality shall prepare and adopt a municipal fair share plan that
196 creates a realistic opportunity for achieving the municipality's fair
197 share goal, in accordance with the process established pursuant to
198 subsection (c) of this section.

199 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) Each municipality shall meet
200 its fair share goals by issuing certificates of occupancy conforming to
201 the requirements of subparagraph (C) of subdivision (1) of subsection
202 (c) of section 1 of this act on the following schedule:

203 (1) By year three: Five per cent completion;

204 (2) By year five: Thirty per cent completion;

205 (3) By year seven: Sixty per cent completion; and

206 (4) By year ten: One hundred per cent completion.

207 (b) (1) Beginning on July 1, 2026, and annually thereafter, each
208 municipality shall submit a report to the Commissioner of Housing
209 documenting its progress toward meeting its fair share goal that
210 includes (A) the addresses of the units meeting its fair share goal, (B)
211 the income restrictions applicable to each unit, (C) relevant completed
212 or planned infrastructure expansion, and (D) the details of affirmative
213 marketing efforts, including copies of active affirmative marketing
214 plans for relevant developments; and (2) supporting documentation
215 for such reporting, which shall be made publicly available upon
216 request, excluding any redacted personally identifying information.

217 (c) Beginning on July 1, 2028, and annually thereafter, the
218 commissioner shall conduct random audits of at least ten per cent of
219 the municipal fair share plans to ensure that such plans comply with
220 the requirements of section 1 of this act.

221 (d) Not later than July 1, 2024, and periodically thereafter in the
222 discretion of the Secretary of the Office of Policy and Management, the

223 secretary, in consultation with the commissioner and, as may be
224 determined by the secretary, experts, advocates and organizations
225 with expertise in affordable housing, fair housing and planning and
226 zoning, shall publish and disseminate technical assistance materials to
227 aid each municipality in compliance with the requirements of this
228 section and shall arrange for the provision of technical assistance
229 briefings, trainings, webinars and such other guidance to each
230 municipality as the secretary deems necessary.

231 (e) If any municipality has not submitted a fair share plan to the
232 secretary in accordance with subsection (c) of section 1 of this act or
233 has not issued certificates of occupancy in accordance with subsection
234 (a) of this section, notwithstanding any other provision of the general
235 statutes, such municipality shall be subject to the following default
236 zoning:

237 (1) In any area where water and sewer infrastructure and capacity
238 are available or where water and sewer service can be provided by
239 extending existing lines at the developer's expense, the following uses
240 are permitted as of right: multifamily housing of not more than twenty
241 units per acre if (A) at least twenty per cent of the units are nonage-
242 restricted two or more bedroom units affordable to low income
243 households and deed restricted for forty years, or (B) ten per cent of
244 the units are nonage-restricted two or more bedroom units affordable
245 to very low income households and deed restricted for twenty years.

246 (2) In all other areas, the development of multifamily housing is as
247 of right subject to limitations on the number of units, density and other
248 aspects of the development required for any particular site by the
249 applicable provisions of chapter 368a of the general statutes and
250 associated public health regulations, with the greater of one unit or ten
251 per cent of units having two or more bedrooms, being affordable to
252 low income households, and being so deed restricted for forty years.

253 (f) When any municipality fails to submit a fair share plan to the
254 secretary in accordance with subsection (c) of section 1 of this act, or

255 when a fair share plan submitted by a municipality fails to create a
256 realistic opportunity for the municipality to attain its municipal fair
257 share allocation, any interested party may bring an action in the
258 Superior Court of the judicial district in which the municipality is
259 located to seek (1) a court order that the municipality issue a fair share
260 plan and updated zoning regulations that create a realistic opportunity
261 for the municipality to meet its municipal fair share allocation,
262 including through express agreements with developers for housing
263 development projects contributing to the municipality's total fair share
264 allocation; or (2) if a particular housing development conforming with
265 subparagraph (B) of subdivision (8) of section (a) of section 1 of this act
266 has been rejected by the municipality's zoning authority and an appeal
267 is brought by the developer, a court order permitting the development
268 unless the defendant demonstrates that the decision from which such
269 appeal is taken and the reasons cited for such decision are supported
270 by sufficient evidence in the record and the defendant has
271 demonstrated that (A) (i) the decision is necessary to protect
272 substantial public interests in health, safety or other matters which the
273 commission may legally consider; (ii) such public interests clearly
274 outweigh the need for affordable housing; and (iii) such public
275 interests cannot be protected by reasonable changes to the affordable
276 housing development, or (B) (i) the application which was the subject
277 of the decision from which such appeal was taken would locate
278 affordable housing in an area which is zoned for industrial use and
279 which does not permit residential uses; and (ii) the development is not
280 assisted housing. If the defendant does not satisfy its burden of proof
281 under this subsection, the court may wholly or partly revise, modify,
282 remand or reverse the decision from which the appeal was taken in a
283 manner consistent with the evidence in the record before it and, if the
284 plaintiff interested party prevails, the court may award additional
285 relief in accordance with section 46a-104 of the general statutes.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2023</i>	New section
Sec. 2	<i>July 1, 2023</i>	New section

Statement of Legislative Commissioners:

Sections 1(a)(8) and 2(e) were rephrased for clarity; and in Section 1(b)(2)(C), "multifamily dwellings" was changed to "multifamily housing" for consistency with the defined term.

HSG *Joint Favorable Subst. -LCO*