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Subject: HEARING: Bills enabling new litigation against municipalities and forcing cities/towns to build homes at public expense, among others
Date: Thursday, February 23, 2023 11:59:27 PM
Importance: High

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Dear Land Use Commissioners and Directors,

The General Assembly's Housing Committee will hold a hearing Tuesday at 11 AM on several bills that may be of interest to you. [Link to agenda, to submit written testimony, and to sign up to speak \(in person or zoom\)](#). These include "fair share" – which has been introduced the last two years and is back, first (and longest) in the list below. The bill would result in municipalities being sued and forced to build at public expense housing when the private sector does not do so, when a municipality does not meet its "fair share" allocation, which is not based on market demand or the wishes of state residents, but rather the determination of the executive branch, as informed by housing advocates and organizations. Fair share provides for a ten-year timetable for municipalities to meet their allocations; in prior years, the bill's advocates have indicated that they intend for up to 300,000 units to be constructed within this period (enough to house approximately 700,000 persons). In addition to lawsuits forcing public construction, municipalities that do not comply may be subject to "default zoning" overriding all local land use regulation, permitting up to 20 units per acre in much of the state. Note that "fair share" does not replace §8-30g but is in addition to it.

- [HB 6633](#), An Act Concerning A Needs Assessment And Fair Share Plans For Municipalities To Increase Affordable Housing. This bill is the return of "fair share":
 - Would require OPM to determine the need for affordable housing units in each planning region and allocating to each municipality the need to municipalities in each region.
 - Not market-driven approach (nor based on the desires of state residents) but central planning.
 - Municipalities with a poverty rate of 20+% would have no fair share.
 - Increases fair share assigned to municipalities based on grand list value, median income, lower poverty rate, lower percentage of residents in multifamily housing.
 - Caps fair share at 20% of the homes in a municipality
 - Recalculated every ten years.
 - Requires municipalities to adopt fair share plans
 - Must be adopted every 10 years

- Highly prescriptive:
 - Minimum of 50% of units affordable to households earning no more than 50% of state median income
 - Minimum of 13% of units affordable to those earning no more than 30% of SMI
 - Maximum of 50% of units affordable to households above 50% but less than 80% of SMI
 - Minimum of 25% of units are rentals
 - Maximum of 25% of units are age-restricted
 - Minimum of 50% of units are age-unrestricted and are 2+ bedroom
 - Maximum of 20% of units are studios or 1-bedroom
 - No adjustment for area median income
 - All units must be marketed in municipalities with high minority populations
 - Housing must be equitably distributed within the municipality
 - No plan may concentrate poverty
- Creates complex point system for municipalities to satisfy obligations
 - 1 point per affordable unit
 - Additional points for units meeting maximums/minimums above, provided no fair share goal falls below 80% of the initial municipal fair share allocation
 - Only one bonus point per unit
 - +1 point per household earning less than 30% of SMI
 - +1 point per unit with 2+ bedrooms
 - +1 point per supportive housing unit
- Compliance
 - Very fast timetable
 - 5% complete by year 3
 - 30% complete by year 5
 - 60% complete by year 7
 - 100% complete by year 10
 - Process begins anew at year 10
 - Compliance not based on ZONING but on ACTUAL UNITS receiving certificates of occupancy.
 - Certificates of occupancy must document affordability of units, numbers of bedrooms, age restriction, etc.
 - Municipalities must submit annual progress reports
 - Progress towards goals
 - Completed or planned infrastructure expansion
 - Documentation of advertising for new units
 - Random audits of compliance of 10% of municipalities every year
- Penalties for noncompliance
 - **Municipality that fails to submit a fair share plan loses zoning authority, instead replaced with “default zoning”**
 - Anywhere where water and sewer are available or can be built: multifamily housing by right at 20 units per acre, with at least 20% age-unrestricted 2+ bedroom units affordable to households making no more than 80% of SMI for 40 years or with 10% of the units age-unrestricted 2+ bedroom units affordable to households making no more than 50% of SMI for 20 years
 - In all other places, as-of-right multifamily limited in density only by health regulations,

with 10% of units being 2+ bedrooms, affordable to households making no more than 50% of SMI for 40 years

- **Municipality that fails to submit a fair share plan OR whose plan does not create a “realistic opportunity” may be sued by ANY housing nonprofit (e.g., Open Communities Alliance) or developer to obtain a court order to force the municipality to create a fair share plan and update its zoning regulations to create a realistic opportunity, including through “express agreements” with developers for housing development projects**
 - **If housing is not built by private sector, municipalities may be sued and forced by courts to build housing at public expense**
 - **Same parties may sue a municipality to obtain a court order permitting development if a zoning authority rejects a project unless the decision is necessary to project health, safety, or other matters (same standard as §8-30g)**
 - **Provides for the court to assess punitive damages, attorney's fees and court costs to the plaintiff**
- [HB 6781](#), An Act Addressing Housing Affordability For Residents In The State. The bill would:
 - Create civil penalties for violations of local regulations re safe and sanitary housing (e.g., dilapidated rentals).
 - Require housing authority commissioners to take HUD training; require housing authorities to share results of annual audits with DOH; and prohibit all landlords including housing authorities from considering evictions older than 5 years.
 - **Change §8-30j plans from affordable housing plans to plans to affirmatively further fair housing, meaning to a) develop additional affordable housing, b) overcome patterns of segregation, c) promote equity in housing and related community assets (addressing segregation based on a variety of classes), and foster inclusive communities from barriers; such plans would have to be approved by OPM, which would also create demographic and segregation datasets for each municipality.**
 - **Create a legislative task force to inventory sewer capacity and a plan to expand sewer capacity in accordance with the state PoCD (but not the local PoCD).**
 - Provide ½ point towards an §8-30g moratorium for duplexes, triplexes, quadplexes, cottage clusters, and townhouses that are built as of right within ¼ mile of any transit district (note – not a transit station but any municipality that has set up an independent transit district such as Norwalk Transit District or HART).
 - Create a common application for housing vouchers and rental payment subsidies to be used by all affordable housing programs in the state, including housing authorities.
 - Study how to improve the processing of such applications.
 - Require DOH to seek to expend all funds appropriated for rental assistance.
 - Increase the conveyance tax for institutional investors in single-family homes by ¼% at all tiers.
 - Direct state conveyance tax revenues in excess of \$180 million to a state housing Trust Fund.
 - Authorize state bonding for the conversion of hotels, malls, and office buildings to multifamily dwellings in nondistressed municipalities.
 - [HB 5326](#), An Act Concerning The Affordable Housing Appeals Process And Removing The Municipal Opt-Out Deadline For Accessory Apartments.
 - Allows all municipalities, including those that missed the January 1, 2023 deadline to opt out of

accessory apartment provisions under PA 21-29 (and thus set their standards). Note that the parking cap standards under PA 21-29 did not include an opt-out deadline.

- Counts naturally-occurring (i.e., not deed-restricted) affordable housing towards the 10% threshold under CGS §8-30g.
- [HB 6777](#), An Act Concerning Property Tax Abatements For Certain Senior-Owned Deed-Restricted Properties.
 - Would require municipalities to adopt ordinances to abate the property tax on single-family homes, where the owner is 65+, earns no more than the regional median income, and places an affordable housing deed restriction on the property such that the property may only be sold at a price affordable to households making no more than 80% of the regional median income. Such homes would count toward the 10% threshold under §8-30g, as well as 2 points each towards a moratorium; the abatement would continue for as long as the restriction is in effect. The restriction may be revoked only with significant penalty to the municipality; such penalties shall be used to build or improve affordable housing owned by the municipality. The ordinance may be suspended during when a moratorium is granted on the 10% threshold is met.

Should you have questions, please do not hesitate to contact me.

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