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## OLR Bill Analysis

### sSB 338

#### ***AN ACT CONCERNING HOUSING UNIT-EQUIVALENT POINTS FOR DEVELOPMENTS SUBJECT TO LITIGATION.***

#### **SUMMARY**

This bill amends the affordable housing land use appeals procedure (§ 8-30g) by limiting the circumstances in which a municipality can earn HUE (housing unit equivalent) points toward qualifying for a temporary suspension of the procedure (moratorium). Broadly, the limitation is based on whether dwellings that are eligible for HUE points were built following a successful appeal under § 8-30g.

Generally, a municipality becomes eligible for a four- or five-year moratorium from appeals taken under § 8-30g each time it shows it has added a certain number of dwelling units to its housing stock, measured in HUE points. The number of points required depends on factors such as the municipality's size and whether it adopted certain zoning regulations or has qualified for a moratorium before.

The bill prohibits municipalities from earning HUE points for dwelling units in a set-aside development (see *Set-Aside Development*, below) if:

1. the local land use commission rejected the application for the development or approved it with certain restrictions;
2. the developer appealed the decision to court under § 8-30g; and
3. the appeals process lasted more than six months and resulted in the court holding that the local commission did not satisfy its burden of proof (see *Burden of Proof in § 8-30g Appeals*, below).

(The bill does not specify what event triggers the beginning of the six-month period.)

EFFECTIVE DATE: October 1, 2026

## **BACKGROUND**

### ***Burden of Proof in § 8-30g Appeals***

In traditional land use appeals brought by a developer, the developer must convince the court that the municipality acted illegally or arbitrarily or abused its discretion. However, for affordable housing developments, § 8-30g instead places the burden of proof on municipalities to defend their decisions to (1) reject affordable housing development applications (such as for a set-aside development) or (2) approve them with restrictions that would have a substantial adverse impact on the project's viability or the affordability of income-restricted units.

### ***Set-Aside Development***

Generally, under § 8-30g, a "set-aside development" is a development in which, at least 40 years after initial occupancy, at least 30% of the units are deed restricted for low- and moderate- income families.

### ***Related Bills***

The Housing, Insurance and Real Estate, and Planning and Development committees reported favorably several bills affecting § 8-30g, including: HB 5362 (reduces the required affordability period for set-aside developments on municipal land, requires the court to stay appeals when a municipality applies for a moratorium, extends moratoria to align with housing growth plans, requires towns to report on affordable housing applications, and clarifies middle housing HUE point allocations); HB 5364 (redefines "set-aside development" to reduce required affordability periods and aligns HUE point allocations with them); sHB 5365 (modifies HUE point allocations, including for accessory apartments and certain deeply affordable housing); sHB 5376 (adds an additional ground for a local commission to defend its decision on an affordable housing application); and sHB 5395 (allocates HUE points to modular and prefabricated homes that don't otherwise qualify for points).

**COMMITTEE ACTION**

Housing Committee

Joint Favorable

Yea 12 Nay 7 (03/10/2026)