



Agency Legislative Proposal - 2015 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 092914_DOH_AdminHearings

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency:

Department of Housing (DOH)

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Lead agency division requesting this proposal: Legal Office

Agency Analyst/Drafter of Proposal: Amy Filotto/Katie Durand

Title of Proposal

An Act Concerning Administrative Hearings Conducted by the Department of Housing

Statutory Reference NEW legislation that will ideally be placed in C.G.S. sections 17b-816 and 17b-817, but uses the same language as DSS's fair hearings statutes, C.G.S. sections 17b-60 and 17b-61, with minor changes.

Proposal Summary

To clarify DOH's administrative hearing process as well as add specific authorization for a designated hearing officer to render a final decision.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- Reason for Proposal

In accordance with Public Act No. 13-234 DOH received several housing programs from the Department of Social Services (DSS) including the Security Deposit Guarantee Program (SDGP), the state Rental Assistance Program (RAP) and the federal Section 8 Housing Choice Voucher (HCV) Program. The responsibility for conducting the SDGP, RAP and HCV hearings was transferred to DOH earlier this year after an MOA between DOH and DSS expired. Mirroring DSS' fair hearings statutes (Conn. Gen. Statutes Sections 17b-60 and 17b-61) with minor alterations, this legislation will clarify the Commissioner's authority to designate a hearing officer among other provisions that outline the hearing process. It was an oversight that similar legislation was not included in P.A. 13-234 when these programs were transferred to DOH.



- **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Just DOH
Agency Contact (name, title, phone):
Date Contacted:

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? YES NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

None

State

None

Federal

None

Additional notes on fiscal impact

There is not a fiscal impact related to this legislative proposal.

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This legislation does not affect any policy or programmatic changes. It simply outlines DOH's current administrative hearing process as was transferred from DSS.



NEW - Title 17B. Social Services

Chapter 319uu Housing Assistance

§ 17b-816. Fair hearings by commissioner. Application

An aggrieved person authorized by law to request a fair hearing on a decision of the Commissioner of Housing or the conservator of any such person on his behalf may make application for such hearing in writing over his signature to the commissioner and shall state in such application in simple language the reasons why he claims to be aggrieved. Such application shall be mailed to the commissioner within sixty days after the rendition of such decision. The commissioner shall thereupon hold a fair hearing within thirty days from receipt thereof and shall, at least ten days prior to the date of such hearing, mail a notice, giving the time and place thereof to such aggrieved person. A reasonable period of continuance may be granted for good cause. The aggrieved person shall appear personally at the hearing, unless his physical or mental condition precludes appearing in person, and may be represented by an attorney or other authorized representative. A stenographic or mechanical record shall be made of each hearing, but need not be transcribed except (1) in the event of an appeal from the decision of the hearing officer or (2) if a copy is requested by the aggrieved person, in either of which cases it shall be furnished by the Commissioner of Housing without charge. The Commissioner of Housing and any person authorized by him to conduct any hearing under the provisions of this section shall have power to administer oaths and take testimony under oath relative to the matter of the hearing and may subpoena witnesses and require the production of records, papers and documents pertinent to such hearing. No witness under subpoena authorized to be issued by the provisions of this section shall be excused from testifying or from producing records, papers or documents on the ground that such testimony or the production of such records or other documentary evidence would tend to incriminate him, but such evidence or the records or papers so produced shall not be used in any criminal proceeding against him. If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to him by the commissioner or his authorized agent or to produce any records and papers pursuant thereto, the commissioner or his agent may apply to the superior court for the judicial district of Hartford or for the judicial district wherein the person resides, or to any judge of said court if the same is not in session, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such records and papers and, upon his refusal to do so, shall commit such person to a community correctional center until he testifies, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the commissioner or his agent may proceed with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the commissioner or under his authority and witnesses attending hearings conducted by him hereunder shall receive like fees and compensation as officers and witnesses in the courts of this state to be paid on vouchers of the commissioner on order of



the Comptroller.

Title 17B. Social Services

Chapter 319uu Housing Assistance

NEW - § 17b-817. Decision. Appeal. Extension of time limit for filing appeal

(a) Not later than sixty days after such hearing, the Commissioner of Housing or his designated hearing officer shall render a final decision based upon all the evidence introduced before him and applying all pertinent provisions of law, regulations and departmental policy, and such final decision shall supersede the decision made without a hearing, provided final definitive administrative action shall be taken by the commissioner or his designee within ninety days after the request of such hearing pursuant to section 17b-816. Notice of such final decision shall be given to the aggrieved person by mailing him a copy thereof within one business day of its rendition. Such decision after hearing shall be final except as provided in subsections (b) and (c) of this section.

(b) The applicant for such hearing, if aggrieved, may appeal therefrom in accordance with section 4-183. Appeals from decisions of said commissioner shall be privileged cases to be heard by the court as soon after the return day as shall be practicable.

(c) The commissioner may, for good cause shown by an aggrieved person, extend the time for filing an appeal to Superior Court beyond the time limitations of section 4-183, as set forth below:

(1) Any aggrieved person who is authorized to appeal a decision of the commissioner, pursuant to subsection (b) of this section, but who fails to serve or file a timely appeal to the Superior Court pursuant to section 4-183, may, as provided in this subsection, petition that the commissioner, for good cause shown, extend the time for filing any such appeal. Such a petition must be filed with the commissioner in writing and contain a complete and detailed explanation of the reasons that precluded the petitioner from serving or filing an appeal within the statutory time period. Such petition must also be accompanied by all available documentary evidence that supports or corroborates the reasons advanced for the extension request. In no event shall a petition for extension be considered or approved if filed later than ninety days after the rendition of the final decision. The decision as to whether to grant an extension shall be made consistent with the provisions of subdivision (2) of this subsection and shall be final and not subject to judicial review.

(2) In determining whether to grant a good cause extension, as provided for in this subsection, the commissioner, or his authorized designee, shall, without the necessity of further hearing, review and, as necessary, verify the reasons advanced by the petition in justification of the extension request. A determination that good cause prevented the filing of a timely appeal shall be issued in writing and shall enable the petitioner to serve and file an appeal within the time provisions of section 4-183, from the date of the decision granting an extension. The circumstances that precluded the petitioner from filing a



timely appeal, and which may be deemed good cause for purposes of granting an extension petition, include, but are not limited to: (A) Serious illness or incapacity of the petitioner which has been documented as materially affecting the conduct of personal affairs; (B) a death or serious illness in the petitioner's immediate family that has been documented as precluding the petitioner from perfecting a timely appeal; (C) incorrect or misleading information given to the petitioner by the agency, relating to the appeal time period, and shown to have been materially relied on by the petitioner as the basis for failure to file a timely appeal; (D) evidence that the petitioner did not receive notice of the agency decision; and (E) other unforeseen and unavoidable circumstances of an exceptional nature which prevented the filing of a timely appeal.