

Act Number:	09-118	
Bill Number:	817	
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Thank you. Thank you, Mr. President. Mr. President, would move that Senate Bill 897 as amended be referred to the Judiciary Committee.

THE CHAIR:

Motion to move the bill to the Judiciary. Seeing no objection, so ordered.

Mr. Clerk.

THE CLERK:

Calendar page 23, Calendar Number 138, File Number 86, Substitute for Senate Bill 817, AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM, favorable report of the Committees on higher -- Human Services, Judiciary and Planning and Development.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Good morning, Mr. President.

THE CHAIR:

Good morning, sir. How are you?

SENATOR DOYLE:

Good. I move acceptance of the joint committee's favorable report and passage of the bill.

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THE CHAIR:

Acting on approval and acceptance of the bill,
sir, would you like to remark further?

SENATOR DOYLE:

Yes. Thank you, Mr. President.

THE CHAIR:

Please proceed.

SENATOR DOYLE:

What the file copy does, it gives certain individuals that apply for rental assistance, or transitional rental assistance, or certain DSS Section 8 voucher programs, the right to have a hearing. Under current law these individuals do not have a right to utilize the Uniform Administrative Procedures Act, which actually allows people to go to Superior Court if they had a problem with the application.

That being said the Clerk does have an amendment, LCO 5933. Would the Clerk please call and I be allowed to summarize?

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5933, which will be designated Senate

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Amendment Schedule A. It is offered by Senator Doyle
of the 9th District, et al.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. First of all, I move
adoption of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR DOYLE:

Thank you, Mr. President. What this amendment
does is clarify a problem with the file copy. I
previously mentioned there was the right to appeal
Section 8, you know, DSS Section 8. That is contrary
to law and there is a comment by LCO saying we cannot
do it. So this section clarifies that the right to
appeal and the file copy really conforms just to RAP
T-RAP and not Section 8, because Section 8 really is
dealing with federal law and there's other appeal
procedures there. And I urge the chamber to adopt the
amendment.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Bill 817?

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Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I do rise in favor of this bill. I know that I did not support it at the Human Services Subcommittee level, but with these changes that Senator Doyle is giving us today, I believe it's something that we can move forward with. So I just want to mention that. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Again, will you remark on Senate Amendment A? Will you remark further on Senate A? If not, let me try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nays.

The ayes have it. Senate A is adopted.

Will you remark further on Senate Bill 817?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President, and I thank Senator

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Doyle and Senator Kane for putting together a bill that I think is going to increase the rights of individuals who are in affordable housing. But there is, Mr. President, a broader issue with affordable housing that I believe we need to address and I'd ask the Clerk to call LCO Number 6264.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 6264, which will designated Senate Amendment Schedule B. It is offered by Senator Debicella of the 21st District.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President one of the --

THE CHAIR:

Senator Debicella, do you move adoption sir?

SENATOR DEBICELLA:

Thank you, Mr. President. I do move adoption.

THE CHAIR:

Please proceed, sir.

SENATOR DEBICELLA:

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Mr. President, one of the issues that we deal with in affordable housing is actually how to increase the access to affordable housing here in Connecticut. And affordable housing doesn't necessarily mean public housing. It means housing that the middle class and working class can afford. And there has been a law on the books, Mr. President, that has blocked the expansion of affordable housing in Connecticut and that is what's known as Section 8-30g of the Connecticut State Statutes. Very simply, what this section of statute does is it allows the appeal by developers to court when they do not get their way with local zoning authorities.

What the amendment in front of you does today, Mr. President, is to strike Section 8-30g so that we may actually have an expansion of affordable housing in Connecticut. There are two approaches that we use in Connecticut to expanding affordable housing, the carrot and the stick. And the carrot is represented at its best by the Home Connecticut Act and the effort that's undergoing there to use incentives to municipalities to expand affordable housing. We have yet to see if it's going to be successful or not. It's still a new program, but it is moving forward and

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I applaud that effort.

However, the approach with the stick is 8-30g, which we currently have on the books today, which basically says that if a developer is denied by local zoning authority for condos or for development that they like, they may then go to court and a Superior Court judge may actually force a municipality to implement that affordable housing.

The only result of that has been failure, less than 1,000 units of affordable housing actually brought forward in the last 15 years. Because what happens is you end up in court where you're simply debating with the court and the municipality for years. It costs municipalities hundreds of thousands of dollars to actually fight these --

THE CHAIR:

I think someone's objecting to your conversation Senator DeBicella.

SENATOR DEBICELLA:

I accept it, Mr. President. That is --

THE CHAIR:

I just hope nobody in the circle starts doing that, personally.

SENATOR DEBICELLA:

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But that side of the argument may win, Mr.
President.

THE CHAIR:

Please proceed, sir. I'm sorry.

SENATOR DEBICELLA:

Mr. President, you end up in court for years around Section 8-30g battles, where it costs municipalities hundreds of thousands of dollars and at the end of the day, no additional affordable housing comes forward. Therefore, Mr. President, the amendment today strikes 8-30g from our statutes -- allows the Home Connecticut Act to try to do what we all want to accomplish, which is to expand affordable housing in Connecticut. And I urge adoption of the amendment.

THE CHAIR:

Thank you, sir.

The motion is on adoption of Senate Amendment B.
Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. Mr. President, I rise to oppose the amendment and I oppose the amendment because, while there a lot of arguments that have been asserted by Senator Debicella, I'm not sure that I

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would agree with those arguments. I think the real reason that we don't have the affordable that we need in the state of Connecticut at the present time is a lot of -- a lot based on the misconceptions regarding affordable housing and the resistance on the part of many communities toward the whole concept of affordable housing.

In the area of housing there are a lot of issues and challenges for which the solution, I think, is more units of affordable housing. And that is true whether you're regarding specific communities like the elderly, the disabled, young people, employees of some of the companies and firms in the state of Connecticut who just cannot afford the market rate -- market price of units of housing in proximity to their place of employment.

The solution for all of these communities is more units of affordable housing. And while the Home Connecticut proposal is certainly meritorious, the proponents and the champions of Home Connecticut have said that Home Connecticut will not work to its optimum unless the affordable housing appeals procedure remains in place.

What Home Connecticut will accomplish is,

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certainly, to take care of the issues that -- the issues in connection with a lack of opportunities in housing for young couples or recent college graduates or even employees of some of the companies that we're talking about. Supportive housing might meet the needs of the disabled, and assisted housing and other programs might need -- meet the needs of the elderly in the state of Connecticut.

What we're concerned about is the number of poor people that are struggling to find housing opportunities that are affordable and accessible. And the only program that's available to ease that particular challenge is the affordable housing appeals procedure, that's 8-30g, which is the subject of this amendment and which this amendment is trying to eliminate.

I think the program, if given the opportunity to work, if there is greater cooperation on the part of municipalities and developers under 8-30g, will go a long way working in combination with the Home Connecticut proposal to solve many of the housing challenges that are confronting us as a State.

And so, Mr. President, I vehemently oppose the amendment and I urge the circle to also reject this

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amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further? Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Would urge rejection of the amendment. Would ask for a roll call on the amendment.

THE CHAIR:

A roll call will be ordered, sir.

Any further discussion on Senate Amendment B? If not -- oh, Senator Fasano. Moving slow today.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, while I think 30 -- 8-30g has had some relevance, unfortunately, I think in practice it's been abused. And it's been abused because what happens in those towns that do not want to approve a subdivision, 8-30g has been used as a sword to say, unless you approve the subdivision we're going to go with more density and affordable or workforce housing. And planning and zoning commissions have turned and said, well if you're going to do that, I'll give you this or I'll give -- it becomes a negotiating tool, which I think

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is fundamentally wrong.

And if you look around, and you're in the industry and know how land use works, you'll see more often than not that's how 8-30g is used, not to necessarily get affordable housing. That's not what it's used, I'm going to say, 75 percent of the time for. It's used as a leverage to get your subdivision approved and as a leverage to say, if you don't give me this I'm going for that. And we've seen that time and time again. And I'm sure, around the circle, many of you have heard of those experiences and seen those experiences.

If we're going to do affordable housing, we need to put in economic incentives like we started to do with the bills that we passed last year, and Wallingford was the only town that was granted that program. And then the State turned around and said we're not going to give you the money. After putting in affordable housing, putting in the program -- Home Connecticut program, setting aside property for affordable and telling them, go ahead and do it, and the town does all that and says, okay. Under that deal, once we completed it and did our deal, give us some money, and the State says, sorry, we can't.

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That's how you wreck affordable housing.

A town that was willing to do it, the only town that went all the way to getting it accomplished, there are other towns on the -- on their way, which I assume, they'll probably back off, because not they're not going to see any money. That's how you get it accomplished. But 8-30g, as we have it today, is used more as a sword to achieve a purpose that it was not set in statute to achieve. Therefore, I support this amendment because this is the only way we're going to get this Legislature to rethink what it's doing and come up with something that's very meaningful for affordable housing. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Fasano.

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I too rise in support of the amendment and to follow up on Senator Fasano's comments. Many of the small towns that I represent labor long and hard to come up with planning and zoning regulations which reflect the desires of our communities to grow. And all of the time and effort, the hours, the thought is thrown out the window when

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an 8-30g appeal is brought.

Mr. President, for the communities that I represent there is no more pressing need than the creation of affordable housing and they are earnestly engaged in a process to create more affordable housing units for the citizens of these communities. Mr. President, 8-30g, as Senator Fasano alluded to, is not a constructive force in bringing us closer to that goal and quite frankly, it's an affront to the volunteers who serve on our land use boards who try so hard to develop regulations which are consistent with the vision a community has for itself and it's all for naught, Mr. President, when people bring these appeals as a threat in order to get what they want. So I urge support of the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Amendment B?
Will you remark further? If not -- oh, Senator Coleman. For the second time.

SENATOR COLEMAN:

Mr. President, just one further comment. I just wanted to follow up on the comments made by Senator Fasano and I respect his opinions and his comments

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very much, but it is significant that the Home Connecticut Program is in suspense and I would submit that that is further argument for the retention, or further justification for the retention of the affordable housing appeals procedure program.

It is in the opinion of all of us, I believe, that we are in some unfortunate circumstances as far as our fiscal situation is concerned, and it would be unfortunate, I agree, if the money that may have been allocated to the Home Connecticut Program is not forthcoming in order to fund some of the projects that some of the municipalities have indicated they want to proceed with.

That being the case, if anything, at a minimum, it would be premature in order to derail and eliminate the affordable housing program. And in my mind, that's just further justification and argument that this amendment should be rejected. And I hope that my colleagues will agree with me and will reject this amendment, Mr. President. Thank you.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Amendment B?
Senator Boucher.

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SENATOR BOUCHER:

Thank you, Mr. President. Mr. President, I do certainly support the underlying bill but I have to make a few comments with regards to the amendment and the experience that we've had in the southwestern part of Connecticut with regards to 8-30g. It is always on the top of conversations when environmental groups get together, when land use groups get together. In and of itself, it has had some very noble goals and a mission to increase the affordable housing stock in the state of Connecticut, but in reality, in our part of our state what we have found is not exactly that being the case. It has been used time and again for other purposes and I think that is why there's so much dissention about it.

There are too many examples, and now has become often times a rule, when a piece of property that has been rejected by planning and zoning goes down three, four, five times, the -- this particular legislation is used in a way to actually create debts housing at not an affordable level by the vast majority of it. And in fact, it's a wedge and has become a wedge issue. Too often, those pieces of property are actually very expensive and somewhat unaffordable by

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the very people that it's intended to help. And I think that's why there's some concern.

It also has had a real impact on the smaller communities, in particular, with regards to traffic, with regards to planning for where the affordable units could best be handled by local municipalities. It has put -- putting quite a bit of financial strain on them, as well. Although I do understand the very purpose, I think that so many blue ribbon commissions have been held in order to come to an agreement, a compromise, as to be able to change it somewhat, to make it a little more flexible, to keep in place, but allow it to be located, those particular units, located in a most advantageous location.

So I believe that this is probably why it comes up again. There is a legislator in the House that has, for years, been putting 30, 40 amendments on every housing bill that's come through just so that, maybe, even one small change or two could take place. Whether it's the counting of some ancillary units that are used as affordable in the towns to be counted towards the goal or even to discuss the actual legislation without actually removing it altogether.

So this is an opportunity to highlight that issue

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somewhat and also, to bring to the table that, hopefully in the future, there could be a attitude of compromise, of working together to discussing this in a way that could at least make some changes that would be beneficial to both sides.

With that being said, Mr. President, I stand to support the amendment. Thank you.

THE CHAIR:

Thank you, ma'am.

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President. I stand to support the amendment and thank my colleague, Senator DeBicella, for bringing it forward.

In the great city of Danbury we have struggled with 8-30g in an odd sort of way, a population where we have one of the highest per capita public housing availability. We just barely are over the threshold as called for in 8-30g for the percentage of housing available that is deemed affordable. And so even though our community leaders, many years ago, saw the wisdom in creating affordable housing and we have many to choose from, many units to choose from, it wasn't until two and a half years ago that we actually

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officially got over that threshold that saves us from the sword of 8-30g.

I will tell you, though, that some damage was done in the process where some projects that were not appropriate were built as a result of court settlements. And some neighboring communities are dealing with the same challenge. And I say so that the density bonus that is called for in 8-30j -- g for affordable housing projects creates a lot of challenges to a community's plan of conservation and development.

In fact, I submit to you that 8-30g, for the most part, flies in the face of reality of what a plan of conservation and development should be and could be. And so I urge adoption of this amendment and look forward to supporting it. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Amendment B? Will you remark further? If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all senators please return to the

chamber. An immediate roll call has been ordered in the Senate. Will all senators please return to the chamber.

THE CHAIR:

Have all senators voted? If all senators have voted, the machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment
Schedule B:

Total Number Voting	34
Those voting Yea	12
Those voting Nay	22
Those absent and not voting	2

THE CHAIR:

The Amendment fails.

Will you remark further on the bill as amended?
Senator Doyle.

SENATOR DOYLE:

Mr. President, if there's no objection I'd move
that this bill -- to the Consent Calendar.

THE CHAIR:

There is a motion on the floor to place the item on consent. Without objection, so ordered.

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Yes. Thank you, Mr. President. If the Clerk might move now to call the consent calendar, and read the items on that calendar and then call the calendar.

THE CHAIR:

Mr. Clerk, please call for a roll call vote on the consent calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the consent calendar. Will all senators please return to the chamber. Immediate roll call has been ordered in the Senate on the consent calendar. Will all senators please return to the chamber.

Mr. President, those items placed on the 1st Consent Calendar begin on calendar page 1, Calendar 647, Senate Resolution Number 27; calendar page 2, Calendar 648, Senate Joint Resolution Number 77; calendar page 5, Calendar 381, substitute for Senate Bill 1079; calendar page 22, Calendar Number 114 substitute for Senate Bill 894; calendar page 23, Calendar 138, substitute for Senate Bill 817; calendar 144, substitute for Senate Bill 849; calendar page 29, Calendar Number 274, Senate Bill 824; calendar page 31, Calendar 321, Senate Bill 271; calendar 323, Senate Bill 497; and calendar 365,

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Senate Bill 384; calendar page 32, Calendar 367,
substitute for Senate Bill 785; calendar page 37,
Calendar 490, Senate Bill 898; calendar page 40,
Calendar 556, Senate Bill 1061; calendar 558,
substitute for Senate Bill 1063; and calendar page 41,
Calendar 328, substitute for Senate Bill 814.

Mr. President, that completes those items placed on
the 1st Consent Calendar.

THE CHAIR:

Please call for the consent calendar. The
machine will be open. Oh, Senator Looney. Yes, sir.

SENATOR LOONEY:.

Yes. Mr. President, just for purpose of
clarification. I believed I had earlier marked on
calendar page 21, 2 items on the consent. Initially
we had removed -- placed calendar 103, but I believe
we also had Calendar 82 on page 21, Senate Bill 761.

THE CHAIR:

No, sir. Those are not noted here on our
calendar.

SENATOR LOONEY:

Okay. We'd like to place that item on the
consent calendar, Mr. President, calendar page 21,
Calendar 82, Senate Bill 761.

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THE CHAIR:

There's a motion to place that item on the consent here. Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

THE CLERK:

The Senate is now voting by roll call on the consent calendar. Will all senators please return to the chamber. The Senate is voting by roll call on the consent calendar. Will all senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar
Number 1.

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The consent calendar passes.

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Representative Larson in the affirmative. Will the Clerk please announce the tally?

THE CLERK:

House Bill Number 5021, as amended by House "A."

Total number voting 147

Necessary for passage 74

Those voting yea 98

Those voting nay 40

Absent not voting 4

SPEAKER DONOVAN:

The bill is amended as passed.

DEPUTY SPEAKER GODFREY:

Will the Clerk p

Please call Calendar 629,

THE CLERK:

On page 21, Calendar 629, substitute for Senate Bill Number 817, AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM TRANSITIONARY, RENTAL ASSISTANCE PROGRAM, AND SECTION 8 VOUCHER PROGRAM, favorable report of the House of the Committee on Planning and Development.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

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Thank you, Mr. Speaker.

Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the bill.
DEPUTY SPEAKER GODFREY:

Question is on acceptance of the Joint Committee's favorable report and passage of the bill

Remarks, sir

REP. HOLDER-WINFIELD (94th) (94th):

Yes, thank you, Mr. Speaker.

This bill gives individuals in a rental assistance program and transitory rental assistance program who feel they've been aggrieved of decisions by the Department of Social Services the ability or the right to a hearing in accordance with the Uniform Administrative Procedures Act.

Mr. Speaker, the Clerk is in possession of LCO 5933. I ask that he call the amendment and I be granted leave to summarize

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 5933, previously designated Senate Amendment Schedule "A".

Will would the Clerk please call the amendment.

THE CLERK:

LCO Number 5933, Senate Amendment Schedule "A"

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offered by Senator Doyle and Representative Walker.

DEPUTY SPEAKER GODFREY:

Gentleman seeks leave of the chamber to summarize. Is there objection? Hearing none, please proceed, Representative.

REP. HOLDER-WINFIELD (94th) (94th): Thank you, Mr. Speaker.

What this amendment -- Senate Amendment "A" does is it removes a provision that was in the original bill that would grant hearing for these individuals' appeals. It doesn't allow them to appeal programs that are administered by DSS, portion of the federal Section 8 program.

I move adoption.

DEPUTY SPEAKER GODFREY:

Questions on adoption of Senate Amendment Schedule "A".

Will you remark on Senate Amendment Schedule "A"? Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you, Mr. Speaker. A few questions to the proponent of the amendment, through you.

DEPUTY SPEAKER GODFREY: Please proceed, sir.

REP. CAFERO (142nd) (142nd):

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Thank you.

Through you, Mr. Speaker, to Representative Holder-Winfield, I didn't quite understand how this amendment changes the underlying bill.

Is it an addition thereto or actually changes what the intent of the underlying bill was?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Thank you, Mr. Speaker. The original bill had the rental assistance program, the transitory -- transitory rental assistance program and the federal Section 8.

What the amendment does is it removes the federal Section 8 part of the original bill from the bill as it would be amended.

DEPUTY SPEAKER GODFREY: Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you. Through you, Mr. Speaker, what was the purpose behind or the intent behind the amendment?

In other words, why would we want to do that?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

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Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

That was done in negotiations with DCS -- DSS.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Through you, Mr. Speaker. Did DSS give a rationale as to why they think it would be best for us to remove the Section 8 portion of the underlying bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Thank you, Mr. Speaker. Through you, Mr. Speaker. DSS, their objection was because they don't have total control of Section 8. So therefore, they felt that this was not a good thing to do.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you. Through you, Mr. Speaker, how would someone be -- what kind of decisions would be made whether it's for the underlying bill or -- and as

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amended by this amendment that a recipient, I guess, of these rental assistance funds could be aggrieved?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. To the Minority Leader, if you could clarify the question a little bit, I'm not sure what you're asking.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you.

Through you, Mr. Speaker, it appears that the purpose of this bill is to grant a hearing for certain people who might feel that they have been aggrieved by a decision.

And I'm asking through the Speaker if you could give an example of how such person could be aggrieved -- in other words, what kind of decisions are these hearings putting forth that one might want to, you know, make an appeal of or challenge

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

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Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Thank you, Mr. Speaker. Through you. That would be -- under the bill and under the amendment, those individuals would be individuals whose assistance is denied, modified or terminated.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you. Through you, Mr. Speaker, what would be some of the reasons currently in current law that one would be -- have their assistance denied, terminated or otherwise affected.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. There are many reasons, but I think the reason for doing the bill is because there is no guarantee of judicial review, which is the point of doing this, to make sure that there isn't the ability of DSS simply to deny you for any reason and therefore you have no way of contesting

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it.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you. Through you, Mr. Speaker, it's my understanding that these rental assistance programs work as follows: That somebody would qualify and that these are private homes and/or apartments that the owner thereof has qualified for receiving Section 8 and/or rental assistant tenants, and that their rent payment or a majority thereof are coming from the state government.

Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

And through you, Mr. Speaker, if DSS or some other authority made a decision to terminate the

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rental assistance, forcing an appeal as put forth by the amendment and the underlying bill, what happens to the rent payments during that period of appeal or hearing?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. I believe they're held by the agency.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

And therefore, through you, Mr. Speaker, during that time, would the landlord, if you will, the owner of the property, be deprived of receiving any rental for use and occupancy of the unit?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

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REP. CAFERO (142nd) (142nd):

Through you, Mr. Speaker, how long do you envision these hearings taking place, and would someone have a right to even appeal the decision of a hearing?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Currently, there is an informal process which may take place. I don't envision this taking any longer than the current process.

I believe that it would just codify it.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you. Through you, Mr. Speaker, can you give an example, if it you would, of a reason that rental assistance would be denied under our current law as contemplated by the underlying bill and the amendment?

Through you, Mr. Speaker.

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DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. There are various reasons, as I suggested earlier. A couple of actual examples would be should somebody happen to have someone who's in a home who does drugs or if they have more people than they are allowed to have.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you. Through you, Mr. Speaker. If a tenant of an apartment who was a recipient of rental assistance, let's say, was running a drug factory in an apartment or a place they were renting and DSS discovered it, say they were arrested and/or convicted, and decided to terminate their rental assistance, does this bill give them the right to a hearing to appeal that decision?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

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Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

And through you, Mr. Speaker, just to clarify your earlier answer, during that period of appeal or hearing, the landlord, who had nothing to do with their tenant having a drug factor, would be deprived compensation for the use and occupancy.

Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker, yes, I believe the period would be for 60 days.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you.

Well, through you, Mr. Speaker -- well, I shouldn't say "through you."

I thank the gentleman for his answers. Ladies and gentlemen of the chamber, I think first of all, as

an attorney, I believe if due process certainly the right for someone to appeal a decision is sort of engrained in our democracy.

We have a sort of unusual circumstance here, however, where potentially the so-called innocent bystander can be hurt. And what I mean by that is, if I'm a landlord and a property owner and I have entered into an agreement with the state to take Section 8 tenants or other rental assistant tenants, I am getting my payment from the state.

That's how I pay my mortgage as the owner.
That's how I pay my taxes as the owner.

And as some of you could imagine, a missed rent here or there might mean the difference between a missed mortgage payment or tax payment.

Also, under our current laws, we say that a person is not entitled to get that rental assistance if they violate some rules. One in particular that has been discussed is if they're involved in drug activity.

In my hypothetical, I talked about a tenant who might be running a drug factory out of the apartment. DSS has the right currently to stop those rental payments. This bill gives -- and the amendment that's

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before us gives them the right to appeal that decision.

That's all well and good, but in the 60 days or so that it might take to happen, the tenant's still in the building, in the apartment, and the landlord isn't getting any rent.

I would submit to you that under current practice, I presume a decision is made one way or the other, and either the tenant is out, allowing the landlord to re-rent the apartment, or rental assistance is continued.

This puts a delay in that process, potentially not to the detriment of the state, not to the detriment of the tenant, who potentially is a wrongdoer, but to the detriment of the innocent landlord, who may go two or three months without any rent payment.

And if the hearing -- well, let me ask, through you, Mr. Speaker, if it's decided after a hearing that the decision of DSS or whatever state body is upheld to withhold the rent but that decision is not confirmed for, say, 60 days, in your example, the tenant being there, based on your testimony, that period of time, would the state reimburse the landlord

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for that 60-day period where the landlord was out the money?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Through you, Mr. Speaker. Is there a process by which that would happen that's outlined in the bill or is the good gentleman referring to what is current practice?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. That is current practice -- that is -- it would follow current practice.

DEPUTY SPEAKER GODFREY:

Representative Cafero.

REP. CAFERO (142nd) (142nd):

Thank you, Mr. Speaker. I thank the gentleman for his answers.

DEPUTY SPEAKER GODFREY:

Thank you, Mr. Speaker, sir. The question is on the adoption of Senate Amendment Schedule "A".

Distinguished chair, ranking member of the Human Services Committee, Representative Gibbons.

REP. GIBBONS (150th):

Thank you, Mr. Speaker. Just to help clarify a little bit about what this amendment was -- was to do is currently people who have a need to have a hearing before DSS because of their rental apartments, they might either be having pets in the apartment that the landlord has objected to, they might be bringing in double the number of people that the apartment is allowed to have, or, as the Representative said before me, they might be dealing with drugs, or maybe they're just not maintaining the unit in the way they want to -- they're supposed to.

Previously, the landlord and DSS could request an informal hearing of the tenant, which would be brought before DSS. And what this bill or what this amendment attempts to do is to codify that hearing, make it more formal, make a judicial review, which I believe means

that the tenant can be bring an attorney. The landlord can bring an attorney as well.

And I think that these cases are usually dealt with fairly expeditiously. I don't believe they would take any more time to settle than is in current practice.

So while it might take two to three weeks or even a month to get a hearing, I'm sure the landlord in the end is not going to be out the rental money, even though it might be held.

And I'm sure if the landlord says that this hearing and the grievance process is taking two months and he can't afford to wait that long, there would be an agreement worked out so that the landlord could receive the rental assistance before then.

I think that this bill has gone through a lot of reiterations and a lot of help on both sides of the aisle, and I urge passage of the amendment.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, madam. Distinguished Chairman of the Human Services Committee, Representative Walker.

REP. WALKER (93rd):

Thank you, Mr. Speaker. Mr. Speaker, this bill

is important for making sure that all process -- judicial process, as many of the other speaker presented, are all equal.

If somebody's terminated from their food stamps, they go through judicial process. If somebody's terminated from their welfare payments, they go through judicial process.

All this does is bring this into the same alignment with the other process -- other process that goes on when one is questioning whether they should be receiving payments.

Many times when we have talked to many of the families out there, they have always wondered why they may be put out, why they're being terminated, and they quite get a complete answer. Many of them it's because the grandmother might be bringing in a grandchild who they now are responsible for, and they have been immediately terminated. Or a daughter who has come home because she has no other place to live.

And yes, there are times when there are error -- there is error, where maybe they might have been using drugs or something, and they should be terminated, and that does complete the process.

But it gives everybody a fair and balanced

approach to looking at how the system is and making sure that everybody's being heard.

So I think this is a good bill, and I ask everybody to support it. It is a -- an agreement between DSS and the legal aid services that are provided in Connecticut for many of the people that they represent.

So I thank you, sir.

DEPUTY SPEAKER GODFREY:

Thank you, madam. And once again, for the chamber's edification, the question is on the adoption of Senate Amendment Schedule "A".

Representative -- will you remark further on the adoption of Senate Amendment Schedule "A"?

If not, let me try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, nay. The ayes have it. The amendment
is adopted

Will you remark on the bill as amended?

Representative Bacchiochi.

REP. BACCHIOCHI (52nd): Thank you, Mr. Speaker. I

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like this bill, and I want to support it. I just have a couple of questions, through you, Mr. Speaker, to the proponent of the bill.

DEPUTY SPEAKER GODFREY:

Please frame your questions, ma'am.

REP. BACCHIOCHI (52nd):

I'm in the property management business, and I deal with federal subsidies every day, and frequently when a person loses their subsidy, it has nothing to do with the landlord. It has to do with the application process.

When they are recertified, facts have come up that would cause them to lose their subsidy. Generally that's a change in their household composition or a change in their income. The -- it's very seldom anything to do with the landlord.

So my question is -- I just want to clarify -- does the landlord ask for this review or does the tenant who has been rejected for some purpose ask for the review?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield,

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. This bill allows the person who is aggrieved, which would be the tenant, to ask for the judicial review.

DEPUTY SPEAKER GODFREY:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Yes, that's what I would understand it to be, that the tenant is rejected for some reason and they ask for a review of their certification to determine that they would or would not qualify.

But I heard testimony earlier that the landlords would be involved in this process, and I don't see how they fit in, if the proponent could explain that to me.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. I -- I did not testify about the landlords being involved in the process. The process is a process that involves the person aggrieved and DSS, who rendered the decision, so it's between those two bodies.

Through you, Mr. Speaker.

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DEPUTY SPEAKER GODFREY:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

So just as a point of clarification, the landlord would not necessarily even be notified that this review process was taking place with DSS or perhaps further through the judicial process with the court system.

The landlord would not play a role in this.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes, that is correct.

DEPUTY SPEAKER GODFREY:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. And I also want to confirm, it's my understanding that the RAP and the TRAP program, you have a contract with that landlord. And if you're rejected, RAP and TRAP continue to pay the rent to the landlord until that landlord has proper notification that 60 or 90 days down the road, the RAP or the TRAP will expire.

So the landlord wouldn't necessarily be out any money. This is more about providing judicial review for the tenant who has been rejected.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes, that is correct. I thank the gentlelady for her correction.

DEPUTY SPEAKER GODFREY:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. I think this is a very important bill. Frequently people are rejected from subsidy programs through no fault of their own, perhaps incorrect information was provided to the intake worker, or sometimes they're rejected for very valid reasons.

But at no point should that rejection just end at a DSS desk. I think the person has the right to move that forward.

But I think it should be important for many people to understand that the landlord would not necessarily be involved in this process, nor

necessarily should they be out of any rent.

I will be supporting bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

Gentlewoman from Naugatuck, Representative

Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

Mr. Speaker, a few questions to the proponent of the bill.

DEPUTY SPEAKER GODFREY:

Please frame your questions, madam.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I'm trying to understand the process here in how the landlord may be negatively affected as a result of this bill.

My question would be, as a landlord, if I were to rent to a tenant who has applied for rental assistance and has been awarded rental assistance, and for any violation of any provision that's been provided the DSS believes that it is correct to terminate that rental assistance, therefore the rental payments to the landlord would be stopped.

Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Not necessarily. And if the payments are stopped, the landlord also has the ability to appeal.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Through you, Mr. Speaker. On what basis would a landlord be appealing if the rental payments were to be stopped?

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. The -- DSS is supposed to continue paying the landlord.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

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Through you, Mr. Speaker. If, in fact, the tenant is in violation of its contract for the rental assistance and DSS terminates the payments, I'm still confused as to how DSS would be obligated to continue to make those payments to the landlord.

When is it that their obligation then stops?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. That happens when the tenant is actually removed from the premises. Until that point, the landlord is still enrolled in the program, and the payments are supposed to continue.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Through you, Mr. Speaker. When -- when it's represented that when the tenant is removed from apartment, is that when DSS terminates the rental payments or is that when the landlord is forced to bring upon an eviction process in order to remove the tenant?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. If the Representative could restate her question?

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, the obligation that DSS no longer has to pay the rental payments, it was represented it was when the tenant is removed from the property.

Is the tenant removed from the property meaning when DSS finds that they have rightfully terminated those rental payments or only after the landlord has to evict the tenant?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. It's when the tenant is actually removed from the property.

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DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I think this is very important for legislative intent and also the clarification on this bill, because this is putting a great burden on DSS if they have to actually pay the rental payment to the landlord while the landlord is in the process of evicting a tenant, as well as throughout the whole entire process of the hearing.

I'm going to kind of change the hypothetical a little bit here, that DSS terminates the payments. The tenant then appeals and asks for a hearing.

After the hearing, the tenant doesn't agree with DSS's opinion. Therefore, now the tenant has the ability to then appeal to the Superior Court.

For clarification purposes, throughout this entire process as I just described, is DSS still obligated to pay the rental payments to the landlord?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. I believe that is

correct, yes.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Again, just for legislative purposes, I just want to clarify, is that a yes, this they are obligated?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield, could you say "yes" a little louder for the gentlewoman?

REP. HOLDER-WINFIELD (94th) (94th):

Thank you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And it wasn't the volume, Mr. Speaker. Thank you, Mr. Speaker very much. It was the "believe, yes" versus the "yes."

I think it's very important to establish the legislative intent here.

Going back to the hypothetical, now that the tenant has actually put the process in court for a civil action and there are several months of that to

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go by before this hearing comes before a judge, and, in fact, in the court of law, the judge finds that the termination was correct, that DSS was correct and that the tenant is incorrect, but yet the tenant exercises his right to appeal this Superior Court's decision, does the tenant have the right to appeal that decision?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. The question is -- am I being asked if the tenant has a right to appeal the Superior Court?

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

Does the tenant have a right to appeal the Superior Court's decision to the appellate court?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker, to Representative Rebibmas, that is not a part of this bill.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Rebibmas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Mr. Speaker, for purposes of knowing when DSS's obligation for payments of the rental, how far it extends, unfortunately it is pertinent to this bill, because we're still talking about an action that's pending in a court of law, that DSS's responsibility is still to make those rental payments.

So again, the question would be, once the tenant appeals the Superior Court decision to the appellate court, he does have that right? And if so, is DSS still obligated to be making those rental payments during that process?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. No

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Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Mr. Speaker, because the tenant is still in possession of the property after the Superior Court's decision, and, in fact, the tenant does have the ability and the right to appeal to the appellate court, the tenant will still be in possession of the property.

Is it the understanding that -- when is it that the landlord has the right to initiate an eviction process to take the tenant out of the apartment?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. If there's a nonpayment of rent or a lapse in the present, yes.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Just for clarification purposes, so at the point and moment that the landlord stops receiving the rental payment from DSS, the landlord has the right to initiate an eviction action

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against that tenant; is that correct?

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. If DSS has cut off the payments before DSS is supposed to, the landlord has the ability to appeal.

If it's at the end of the process and there are no longer payments and a tenant chooses not to pay, then the landlord can evict.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I would just ask if the proponent could repute his answer. I don't think I understood it very well. I apologize.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Try it again, Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. If we are still in a process where DSS is obligated to continue paying, then the landlord can make an appeal.

If we're at the end of the process, which is the

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part that you are concerned about, I think, and the tenant could -- decides not to make payments on their own after DSS's obligation is fulfilled, then for lapse or nonpayment, the tenant can be evicted.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, just for clarification purposes, when exactly does DSS's responsibility stop in making those payments, so we can clarify when the landlord has the right to file that eviction action?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker, that would be at the end of this process, which includes the Superior Court and any of the other court cases we've been speaking about.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I think I'm still going

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to need clarification on that. The end of the Superior Court process, is that the Superior Court decision?

I would need clarification as to what "any other court cases" may mean.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker, the Representative could repeat?

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you. Through you, Mr. Speaker, I just wanted a clarification on what was stated in the fact that after the Superior Court's decision and any other court cases, I'm wondering what "any other court cases" may mean.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. If the Representative

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could repeat the question again.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, we're trying to clarify exactly when it is that the landlord would be able to file an eviction action against the tenant.

So is the final responsibility for DSS to be making those payments, waiting out this process after their hearing, after the Superior Court decision, after the appellate decision if the tenant chooses or decides to appeal to the appellate court?

And thereafter, we actually have Ben the Supreme Court. So we're trying to determine when is it -- how far is DCS -- DSS have to go to continue to pay those payments.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. DSS, their obligation continues as long as the tenant is still in the rental property.

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DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

And through you, Mr. Speaker, while this process is ongoing, when does the landlord have the legal right to file an eviction action against the tenants?

REP. HOLDER-WINFIELD (94th) (94th):

That would take place when a tenant does not continue to pay their share.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. So, Mr. Speaker, through you, DSS will continue to pay the rental assistance while there is any type of action pending in a court of law; is that correct?

Through you, Mr. Speaker.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Through you, Mr. Speaker. However, if there's a

portion that the tenant is responsible for paying for the rental payments, as soon as that tenant defaults in that payment, the landlord is able to file an eviction action against that tenant; is that correct?

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Through you, Mr. Speaker. The only problem with that situation is my understanding is the landlord cannot file an eviction action against the tenant so long as he is receiving rental payments.

And if he's receiving rental payments from DSS, therefore it precludes the landlord from filing an eviction action. Yet the landlord has to suffer, because the landlord is not receiving 100 percent of the rental agreement.

Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Holder-Winfield.

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REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Through you, Mr. Speaker, to the proponent of the bill, so, in fact, unfortunately, the landlord, if this process were to be appeal to the US Supreme Court, which we know we've been through the normal process of the judicial system, cases could take up to six to nine months on the superior level, we're talking about several years if this tenant -- this landlord would be obligated to maintain housing to this tenant less than the 100 percent rental agreement that was entered into at the very beginning of this tenancy.

Is that correct?

Through you, Mr. Speaker.

REP. HOLDER-WINFIELD (94th) (94th):

Through you, Mr. Speaker. Yes. I would say to the Representative that doing this would actually make us conform more with -- with what the Supreme Court has said in the past about the distinction of welfare payments and the right to a judicial review.

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Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I think the distinction here is a Housing Court and an eviction process that would be required. Unfortunately, it's one that isn't very expeditious in the court of law in our judicial system.

My concern is that a landlord would be precluded from re-renting this property. And when we talk about tenants having to pay a percentage, let us not -- anybody be misinformed. These percentages can be anywhere from -- let's say hypothetically that the rental property is \$500 a month.

This tenant -- his responsibility may be ten percent of the rental, which, again, might not be much, but this tenant's responsibility can also be 90 percent of that rental income.

Therefore, this landlord would be precluded from filing any eviction action, so long as this tenant saw fit to appeal the decision from the hearing to the Superior Court, then appeal the decision to the appellate court, and then he has a -- he or she has a

legal right to then appeal it to the Supreme Court.

And again, the landlord has no right to either enter into a contract with someone else, terminate the contract with the tenant. And unfortunately, again, it's a great financial burden on the landlord in all of these respects.

For this reason, although I do believe that the bill is well-intended, I think that we can also make this bill even better in the clarification of exactly where is it that the landlord has a right to exercise his rights to the landlord -- to receiving the rental payments that was contracted at the very beginning of this rental agreement.

So unfortunately, I will be opposing this bill.

Through you, Mr. Speaker, thank you very much to the proponent of the bill for all of his responses.

DEPUTY SPEAKER GODFREY:

Are you ready for the question? If so, staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call, members to the chamber. The House is voting by roll call. Members to the chamber.

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DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted?

If all the members have voted, the machine will be locked. The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

Senate Bill Number 817, as amended by Senate "A" in concurrence with the Senate.

Total number voting	146
Necessary for passage	74
Those voting yea	128
Those voting nay	10
Absent not voting	5

DEPUTY SPEAKER GODFREY:

The bill is amended as passed in concurrence with the Senate.

Mr. Clerk, will you kindly call Calendar 657.

THE CLERK:

On page 24, Calendar 657, substitute for Senate Bill Number 801, AN ACT CONCERNING THE FINANCIAL OF A SCHOOL APPLYING FOR RENEWAL OF AUTHORIZATION TO OPERATE AS A PRIVATE OCCUPATIONAL SCHOOL, favorable report of the Committee on Judiciary.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN
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that, with the budget that was presented to us, oversight was something that was eliminated. So this is going to be a very interesting agenda that will be played out with this type of oversight board and what is the requirement for oversight in the state and what degree we need to look at? Because I think oversight is important whether it be private or state. So I think this is going to set up a precedent, and I hope that we follow that precedent in important areas. Thank you for your testimony.

ATTY. GEN. BLUMENTHAL: I agree. Thank you.

SENATOR DOYLE: Any other questions for the Attorney General? Seeing none, thank you very much, Richard.

ATTY. GEN. BLUMENTHAL: Thank you.

SENATOR DOYLE: The next speaker is Raphy Podolsky. After Mr. Podolsky, Senator Prague. And I guess, then, we'll split it (inaudible.)

Mr. Podolsky, thank you.

RAPHAEL PODOLSKY: Thank you, Senator Doyle, Representative Walker, members of the committee. My name is Raphael Podolsky. I am a lawyer with the Legal Assistance Resource Center of Connecticut. We're part of Legal Aid Programs. We represent low-income people in a whole range of issues, one of which is housing, and I am here to speak in support of Senate Bill Number 817 -- 817, which deals with judicial review in the state rental assistance programs that are run by the Department of Social Services.

Essentially, what the bill does is it assures that there are -- there is a basic due process

in place in review of state rental assistance program decisions. The bill -- when you read the bill, it looks like it's a bill about hearings, but it's actually a bill about judicial review and the link up is that unless there's a statute or regulation that gives someone a right to a hearing, you cannot use the Administrative Procedures Act to take an appeal which is the way you would get into court if you were trying to challenge a decision.

The Department of Social Services regulations for the Rental Assistance Program and the TRAP program provide for what they call an informal conference, which is actually run like a hearing. So it's very much like --

So, to a large extent, DSS already does the hearings, but they're not called hearings. They're called something else and, as a result of that, it does not trigger the Uniform Administrative Procedure Act provisions. This bill makes it clear that that's what would happen.

This committee passed this bill last year. It went through four committees. It was passed overwhelmingly by the House. It got to the Senate very, very late in the session and was never taken up. So what I am hoping is that you will, again, move the bill forward this year and then go from there.

The reason that judicial review is so important is that it's way in which you correct legal errors by an agency in the way in which an agency knows that if -- that if - that somewhat is double-checking to make sure that there are no mistakes, and, then, from the -- from the -- from the client's point of view, it means there

is some avenue of recourse if the agency misinterprets the statute.

A judicial review is not a way of retrying the case. You don't get a new hearing. What you do is get a review on the papers of the original -- of the hearing that the state agency had, and a court can only overturn for either arbitrariness or misinterpretation of the law. So it's -- you don't get a lot of cases, but the existence of the cases helps make sure that the agency does its best to follow the law.

The bill is not a criticism of DSS. The bill is something that reflects what should be an automatic part of all of our procedures and, in fact, for most housing programs and for most DSS programs, there is such provision.

Last year when the bill was in Appropriations, there was an extensive discussion about whether there were any costs involved. They actually cost it out based on the likely number of appeals, and the determination was that there will be such a small number relative to over 11,000 fair hearings the DSS conducts that it's not going to have impact in terms of the number of staff. It's within that annual just -- there's always a little range as to how many cases they get.

Finally, in my written testimony, I ask if you can make a technical amendment which is just to make clear -- this is designed to deal with programs administered by DSS and that is the Rental Assistance Program, the Transitional Rental Assistance Program and that portion of the Section 8 program, which is federal, that the state administers, not the totality, not all the programs that are run by housing authorities

but just the one the DSS administers. They are all run through a single contractor, D'Amelia & Associates of Waterbury. And, so, by inserting that phrase, that portion of just to make clear that it is not addressing all Section 8 programs in the state.

I hope very much you would move this forward, and I appreciate the opportunity to testify. If I can answer any questions, I would be pleased to do that. Thank you.

SENATOR DOYLE: Thank you.

Any questions from the committee members?
Chairman Walker.

REP. WALKER: Thank you.

And thank you, Raphy, for only having one page.

RAPHAEL PODOLSKY: I tried to squeeze it in.

REP. WALKER: Thank you. In looking back at DSS's testimony, they said that they didn't support this because they felt that they have not -- you have not provided evidence that existing processes are not sufficient in protecting the rights. Can you address that?

RAPHAEL PODOLSKY: Well, I guess I would address it in two ways. The first is that in most administrative programs that involved individual rights, the ability to get to judicial review is a standard part of the program. If you are turned down, for example, for Medicaid or if you're turned down for -- or if you're cutoff of TFA, you have a right to a fair hearing. We don't have to ask the question, Is DSS being arbitrary or mean-spirited? The point is you

have the system because you are protecting individual rights. So part of that applies here. You're talking about a rent subsidy which people absolutely need to be able to stay in their apartment. So it is not a trivial benefit. It is an important benefit. Under the Security Deposit Guarantee Program you have a right to a fair hearing.

But, the second half of it is, once in a while, there are issues that arise in which there is a disagreement that the hearing officer concludes that the applicant is either ineligible or should be terminated or it might affect how -- what the degree of benefit is. The procedure DSS uses is you can have what they call a "desk review" by -- in DSS central office. So the step from -- the step now is to the desk review which is on the papers and a person in the department -- Mary Cattnach is the person -- will look it over. And, on occasion, she's reversed decisions. But, on many occasions, she does not reverse decisions, and, in some of those cases, there may be reason to believe that it's a misinterpretation of law.

I know that there was a case, the one of the Legal Aid people dealt with, in which there was a question as to how to count a lump sum payment. Did that count as income, all of that income for one single month, or is that something you spread out over a period of time, and there was a dispute as to what was the correct legal interpretation of how that should be applied. Well, that's what you have the courts for if someone believes that the agency makes a misinterpretation. I don't actually recall what happened in that particular case. But I am not suggesting there are a lot, and, as a result of that, I don't think there will be a

lot of cases that go to judicial review.

Last year there was a question with DSS as to whether they should buttress the existing hearing officer procedure a little, which means they would need to tape record them, or whether there should be a further appeal from the desk review to the fair hearing office. This bill allows DSS to decide which way they want to do it. I think DSS actually prefers to run the cases through the fair hearing office.

REP. WALKER: Very quickly, what would trigger off a judicial review on these cases?

RAPHAEL PODOLSKY: Under the Uniform Administrative Act, you must have exhausted your administrative remedies within the agency and then your claim must be won if either the agency has misinterpreted the law or has acted -- made a decision that is arbitrary.

REP. WALKER: Thank you. The interesting thing is we didn't get a comment from judicial -- from the Judiciary Department so it is very interesting so thank you.

RAPHAEL PODOLSKY: I don't think that it is going to have any significant impact on cases. I think the more appropriate agency that would comment would be the Department of Social Services. Thank you very much.

SENATOR DOYLE: Thank you. Any other questions?
Representative Butler.

Wait, Mr. Podolsky, another question, not so fast.

REP. BUTLER: Thank you, Mr. Chairman.

I just have one quick question. You mentioned that you're looking for this to apply to Section 8 programs. Does DSS administrate it, and you mentioned that that happens in Waterbury. Is Waterbury the only place?

RAPHAEL PODOLSKY: No, no, no. The way Section 8 is run in Connecticut is that the federal government, essentially, gives Section 8 vouchers to housing authorities but not all towns have housing authorities. So years and years ago, the Department of Social Services was designated as, quote, the housing authority, for those places that didn't have housing authorities. And when you add them all up, that's a lot of Section 8 vouchers. There's are over 5,000 vouchers they administer out of about 35,000 in the whole state, and so this bill -- and then they contract out with an organization in Waterbury, called D'Amelia & Associates --

REP. BUTLER: Okay.

RAPHAEL PODOLSKY: -- which administers the RAP Program, the TRAP Program and a Section 8 program for them. But the rest of those 30,000 Section 8s are run by housing authorities, and they get those vouchers directly from Washington.

This bill is intended only to deal with the programs that are administered by the Department of Social Services so that those 5,000-plus vouchers on Section 8 would be covered by this bill but the other 30,000 would not.

REP. BUTLER: Okay.

RAPHAEL PODOLSKY: I don't know -- and Waterbury is

not one of the people that is involved in the administration of the Section -- of the -- other than this consulting firm with the State Section 8 vouchers.

REP. BUTLER: Okay. I understand.

Thank you, Mr. Chairman.

SENATOR DOYLE: Thank you.

Representative Morris?

REP. MORRIS: Thank you, Mr. Chairman.

Raphy, would you know whether the benefits that a person would be allowed under this bill are similar to those that are available to the people that are in the federally run programs?

RAPHAEL PODOLSKY: The State Rental Assistance Program is similar. It's like -- sometimes -- it's like a baby Section 8 program. It's much smaller, but it uses similar standards. There are sometimes slight differences in what fair market rents are. There's a difference in the -- in the formula. If people on the Rental Assistance Program have to pay 40 percent of their income towards the rent, where on Section 8 you would usually pay 30 percent.

REP. MORRIS: No. The benefit I am talking about --

RAPHAEL PODOLSKY: I'm sorry.

REP. MORRIS: -- in terms of judicial review. Do you know whether those who are under federally run housing authorities and receiving Section 8 through those programs --

RAPHAEL PODOLSKY: How they -- no.

REP. MORRIS: -- whether they have similar judicial review or not?

RAPHAEL PODOLSKY: No. In Connecticut -- in some states they do. In Connecticut, they do not.

If you wanted to legally challenge -- to get to court on a Section 8 issue, say, rising from a housing authority, you would have to go into federal district court and you would have to bring essentially a civil rights action. It's very complicated. It makes it a much, much bigger kind of case because -- because Connecticut has not generally -- the Uniform Administrative Procedure Act does not apply to housing authorities, and Connecticut has not given a state judicial remedy for people in the Section 8 program.

REP. MORRIS: So, then, would it be fair to say then that under the federal program, they do have judicial review, it's just through a federal court?

RAPHAEL PODOLSKY: It's -- it wouldn't be called -- they have access to the courts.

REP. MORRIS: Right.

RAPHAEL PODOLSKY: They have access to the courts. It's not -- judicial review usually means what they call an appeal and it's not an appeal. You have to bring separate civil rights action --

REP. MORRIS: -- action.

RAPHAEL PODOLSKY: -- but it's a form of getting a judicial -- a judicial review of it, and it's

the same kind of standard. You have to show that the action was illegal not just that you thought they made a mistake. I mean, it has to be way more than that.

REP. MORRIS: Thank you.

SENATOR DOYLE: Any other questions from committee members? Seeing none, thank you.

RAPHAEL PODOLSKY: Thank you very much.

SENATOR DOYLE: Next up is Senator Prague. Is Senator Prague here? I don't see her.

Then I will try Elizabeth Brown. Liz here? Yes, she is.

And after Ms. Brown will be Steve Frayne.

ELIZABETH BROWN: Good afternoon, Senator Doyle, Representative Walker, and members of the committee. My name is Elizabeth Brown, and I appreciate the opportunity to testify this morning in favor of two bills. One would maximize federal Medicaid dollars and the other would establish a rapid re-housing program.

House Bill 6402, an act concerning maximization of Medicaid reimbursement for the state of Connecticut and federal medical assistance percentages. The commission supports this bill and recommends that additional federal health dollars be included in the review. Specifically, the commission serves on the Department of Public Health, Medical Home Advisory Committee established to oversee Title V federal funds for children with special health care needs. As chair of the subcommittee on financing, the commission reviewed national

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principles that we recommend be incorporated into such a process. We have taken into consideration the need to avoid additional costs or financial burden to either the state or the nursing homes, and we believe that this can be done by using the financial data that's already being submitted to the state on an annual basis by the nursing homes.

We've also submitted comments on this particular bill, and we are in the process of developing a more extensive memo on all of the financial oversight legislation that has been proposed this session. We'll provide that memorandum to the committee as soon as it's completed.

As I said, I have listed the recommendations that we suggest be included in the principles and the specific comments on this bill. Thank you for this opportunity to submit the comments, and I would be glad to answer any questions.

SENATOR DOYLE: Any comments from committee members? Seeing none, thank you.

MAG MORELLI: Thank you.

SENATOR DOYLE: Next up is Janice Chamberlain. Is Ms. Chamberlain here? I don't see her. Then Ady Barkan. Is Ady Barkan here?

A VOICE: Yeah (inaudible.)

SENATOR DOYLE: Okay. Thank you. After Ady is Carol Walter, then Susan Aranoff.

ADY BARKAN: Senator Doyle, Representative Walker, members of the committee, thank you for hearing me today. My name is Ady Barkan. I'm a student at Yale Law School, and I'm here on behalf of

SB817

Jerome Frank Legal Services Organization and the Landlord-Tenant Clinic.

We have been serving tenants who are being evicted for over 25 years in the New Haven Housing Court, and many of our clients are dependent on housing subsidies from the state of Connecticut. These are crucial subsidies that allow them to live in safe and comfortable homes, and, without these subsidies, they would be in pretty dire straights.

And, occasionally, the Department of Social Services tries to terminate those benefits for various reasons, and, I'm here, like Raphy Podolsky, to urge you to adopt Senate Bill 817, which would provide these individuals with judicial review.

I recently had a client whose subsidies were going to be terminated, and we went in for one of these informal conferences and evidence was submitted into the hearing officer that we thought legally shouldn't have been submitted. It was hearsay, and we didn't think it was appropriate, but we could not really raise that objection there because there would have been no opportunity for us to say it in front of a judge. There was no purpose in us objecting in the hearing. It would have only alienated the hearing officer, alienated DSS and, nevertheless, had she lost, had my client had her benefits terminated, it would have been a real problem for her and she wouldn't have had any recourse. And that's what actually alerted us to the fact that you have a bill in front of you. That's why we started doing research and found out that this is up. And so I wanted to encourage you to adopt it.

The Supreme Court of the United States has said that in cases, such as these, only a pretermination evidentiary hearing provided the recipient with procedural due process, and we think that Connecticut should adopt the hearing language which would indeed give judicial review and, of course, our own constitution, Section 10, says that all courts shall be open and every person for an injury done to him in his person or property, shall have due course of law. And so it's your duty and it's also your privilege, I think, to ensure that the values and the spirits of our state constitution are represented in our laws. And so even if a court wouldn't mandate this, I think it would be a noble act of the legislature to adopt these policies. It would give clients peace of mind during the hearing to know that if something goes wrong, if there's a legal question, if -- if -- or -- or in the very rare cases when there's a miscarriage of justice that they have recourse in the courts.

And, finally, as Raphy explained a few minutes ago, we don't think that there would be any costs associated with this. Thank you very much for the opportunity to testify. I am happy to take any questions.

SENATOR DOYLE: Thank you.

Any questions from committee members? Seeing none, thank you.

ADY BARKAN: Thanks for your time.

SENATOR DOYLE: The next speaker is Carol Walter, if she's here, and then Susan Aranoff, then Susan Yolen. Ms. Walter.

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Testimony Supporting
S.B. 817, Judicial review in state rental assistance programs
Testimony of Ady Barkan¹
To the Committee on Human Services
February 17, 2009

Distinguished members of the Human Services Committee,

I am testifying today on behalf of the Jerome Frank Legal Services Organization at Yale Law School. I am a student in the organization's Landlord Tenant Clinic, and as part of my education I represent tenants who are being evicted from their homes.

Our clinic has been representing our clients in the New Haven Housing Court for over 25 years. Many of our clients receive some kind of public housing subsidies – subsidies that make an enormous difference in their lives. Connecticut's rental assistance programs are an essential component of our state's social safety net, providing crucial help to families who could not otherwise afford safe or comfortable housing.

When the Department of Social Services decides to terminate a family's housing subsidy – generally because it believes the family has failed to abide by the program's requirements – state regulations require it to provide for an “informal conference” with an impartial hearing officer to adjudicate the termination decision.²

Recently, a client who I represented through the clinic was facing termination of her housing benefits. At the “informal conference,” the hearing officer accepted pieces of information that my supervisor³ and I believed should not have been admitted. My client had not violated the terms of the program, but because of the admission of hearsay evidence, she was at risk of irretrievably losing the vital funds that allow her to rent an apartment big enough to house her and her children.

Happily for my client, the case was resolved in our favor. But if we had lost, we would have had no recourse through the courts – even though we believe there was a legitimate question as to whether the hearing had been lawful.

State law provides for judicial review of decisions of “contested cases” involving hearings, but not for judicial review of these “informal conferences.”⁴ SB 817 would redefine these “informal conferences” as “hearings” and would thus facilitate judicial review of the agency's final decisions.

There are three powerful reasons for Legislature to grant judicial review to housing program termination hearings:

1. The United States Supreme Court has famously held that “when welfare is discontinued, only a pre-termination evidentiary hearing provides the recipient with procedural due process.”⁵ The

¹ This testimony was prepared through the Yale Law School Landlord Tenant Advocacy Clinic under the supervision of J.L. Pottenger, Jr.

² Conn Agencies Regs. § 17b-812-13

³ At the hearing, my supervisor was Francis X. Dineen, who has over fifty years experience providing legal aid in Connecticut.

⁴ C.G.S.A. § 4-166 (2)

⁵ Goldberg v. Kelly, 397 U.S. 254, 264 (1970)

informal conference currently mandated by state regulations does provide some important Constitutionally necessary due process. But because the regulations describe an "informal conference" rather than a "hearing," Connecticut residents do not currently have a right to judicial review.

The right to access our state courts is a cherished tradition in Connecticut. Section 10 of our Constitution says that "All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay."⁶ As the people's representatives, you have the duty and the privilege of ensuring that our state laws realize the values and the purpose of our Constitution. S.B. 817 is a fulfillment of the principles underlying that great document.

2. Judicial review will provide recipients with the peace of mind of knowing that they will not be unlawfully deprived of crucial housing support. If the hearing procedures are in violation of the law, or the hearing officer's decision is arbitrary or capricious, your constituents will be able to take their case to Superior Court, and a judge will decide whether the law was violated.

Connecticut law provides for such judicial review before the termination of other DSS benefits, including food stamps and Temporary Family Assistance. This bill would align the rental assistance programs with the other DSS programs.

3. This essential measure of fairness will not place a new burden on DSS and it will improve the quality of the hearing. In order to comply with the new law, the Department would need to make only one small change to its procedures: it would need to record the hearing on a tape recorder so that the discussion could later be transcribed for a court if necessary. This simple and extremely inexpensive measure will also provide the parties with the confidence that their words will not have been misunderstood or misrepresented and will give the hearing officer the ability to go back and listen to testimony again, slowly, if s/he needs to reexamine certain details.

In Connecticut, there is a well-known shortage of "affordable housing," and the DSS programs play a critical role in ameliorating that problem. This year, widespread foreclosures and a major recession are hurting our State's most vulnerable residents; it is the perfect opportunity for the legislature to enhance the basic due process provisions that will protect them from devastating miscarriages of justice.

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Legal Assistance Resource Center of Connecticut, Inc.

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S.B. 817 – Judicial review in state rental assistance programs

Human Services Committee public hearing – February 17, 2009

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL OF THE BILL

This bill codifies the right to a hearing in three rental assistance programs administered by the Department of Social Services -- RAP (Rental Assistance Program), T-RAP (Transitory Rental Assistance Program, and the DSS-administered portion of the Section 8 program). It does not affect any Section 8 programs operated independently by housing authorities. The practical effect of the bill is to guarantee the fundamental right to judicial review. This is particularly important, because the termination of a rental assistance certificate has an obviously serious impact on a family's ability to have a place to live. Judicial review is available in numerous other DSS-administered programs (such as TFA, food stamps, and Medicaid), including other housing programs (such as the Security Deposit Guarantee Program and the Eviction Prevention Program). Judicial review is our basic due process check on illegal or arbitrary action by state agencies.

Under existing DSS practice, program participants can get an informal hearing (called an "informal conference" in the DSS regulations), followed by a Central Office desk review. Under the Uniform Administrative Procedure Act, however, they are not eligible for judicial review unless a statute or regulation gives them the right to a "hearing." See C.G.S. 4-166(2).

This bill, by codifying the right to a hearing, assures the availability of judicial review. While it is anticipated that judicial review will be sought in very few cases, the existence of judicial review inherently has a positive effect on the decision-making process within agencies.

Last year, this bill was approved by this committee and passed the House overwhelmingly but reached the Senate late and was never taken up there before adjournment. We hope that the Human Services Committee will again move this bill forward and will see it through to final passage this year.

Requested technical amendment:

The bill is intended to apply only to the three rental assistance programs currently administered for DSS by the same contractor under the same rules and procedures. To make clear that the bill refers only to the portion of the Section 8 program that DSS administers, the underlined language should be inserted in I 6 of the bill:

“. pursuant to the portion of the federal Section 8 voucher program administered by the department ..”



TJ



Testimony Before the Human Services Committee

S. B. No. 853 (RAISED) AN ACT LIMITING LIABILITY FOR HOMEMAKERS AND COMPANIONS WHO TRANSPORT HOME CARE RECIPIENTS.

S. B. No. 872 (RAISED) AN ACT PROVIDING STATE-FUNDED MEDICAL COVERAGE TO CHILDREN IN THE CARE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

H. B. No. 6401 (RAISED) AN ACT CONCERNING THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

H. B. No. 6351 (RAISED) AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE HUMAN SERVICES STATUTES.

Proposed S. B. No. 346 AN ACT CONCERNING THE TRANSFER OF SOCIAL SERVICE PROGRAM ADMINISTRATION TO COMMUNITY PROVIDERS.

Proposed S. B. No. 528 AN ACT CONCERNING MEDICAID INCOME ELIGIBILITY REQUIREMENTS.

Proposed S. B. No. 634 AN ACT CONCERNING MEDICAID COVERAGE FOR MEDICATIONS USED TO SAFELY TREAT OPIOID ADDICTION.

Proposed S. B. No. 635 AN ACT REQUIRING HEALTH CARE PROVIDERS TO INFORM MEDICAID BENEFICIARIES CONCERNING THE USE OF MEDICATIONS FOR THE TREATMENT OF OPIOID DEPENDENCY.

Proposed H. B. No. 6146 AN ACT CONCERNING ELIGIBILITY LIMITS FOR MEDICARE SAVINGS PROGRAMS.

H. B. No. 6402 (RAISED) AN ACT CONCERNING MAXIMIZATION OF MEDICAID REIMBURSEMENT FOR THE STATE OF CONNECTICUT AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES (FMAP).

S. B. No. 817 (RAISED) AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.

S. B. No. 820 (RAISED) AN ACT CONCERNING THE ESTABLISHMENT OF A RAPID REHOUSING PROGRAM.

H. B. No. 6418 (RAISED) AN ACT CONCERNING TRANSFER OR DISCHARGE OF RESIDENTIAL CARE HOME PATIENTS.

H. B. No. 6416 (RAISED) AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS and S. B. No. 637 AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS

H. B. No. 6400 (RAISED) AN ACT CONCERNING THE STRENGTHENING OF NURSING HOME OVERSIGHT

*Kevin Loveland
David Parrella
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ConnPACE program, as a result of the newly eligible individuals qualifying for the Medicare Part D Low Income Subsidy, which would eliminate ConnPACE program costs related to pharmacy charges in the Medicare D "doughnut hole." However there would also be additional costs for the administration of these additional Medicare Savings Program cases.

Federal law prohibits the ConnPACE contractor from administering Medicaid program eligibility for the Medicare Savings Programs. Additional state staff would be required to determine the eligibility for those newly eligible under this proposal. The department would design the process to take advantage of the existing ConnPACE eligibility process, but despite this there would be additional costs of administration. In addition, there would be increased state costs related to providing these benefits to individuals who currently do not participate in the ConnPACE program. As a Medicaid entitlement the department cannot limit participation in the expanded Medicare Savings Programs to just those individuals participating in ConnPACE. The state could see a significant increase in participation related to individuals who drop their private Medicare supplemental insurance coverage in order to participate in this expanded coverage, especially if the existing assets tests and estate recovery provisions under the Medicare Savings Program are eliminated. Any analysis of the fiscal impact of this bill would have to consider the greater exposure the state would have from expanded roles in the Medicare Savings Program that would result in significant additional programmatic costs beyond the administrative costs, not just the potential savings in ConnPACE.

Finally, this bill proposes to amend the ConnPACE statute (17b-492) to provide for this coverage. This is not appropriate as this is not a ConnPACE program benefit, but rather a Medicaid benefit.

H. B. No. 6402 (RAISED) AN ACT CONCERNING MAXIMIZATION OF MEDICAID REIMBURSEMENT FOR THE STATE OF CONNECTICUT AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES (FMAP).

The Department is constantly investigating ways to maximize the State's Federal Medical Assistance Percentages, in collaboration with other state's Medicaid Programs and with the federal Centers for Medicare and Medicaid Services. The Department would be pleased to report on these efforts to the General Assembly.

S. B. No. 817 (RAISED) AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.

This bill would extend hearing rights under the Uniform Administrative Procedures Act to applicants and recipients of the department's state-funded housing subsidy programs as well as the federal Section 8 program. The department already has appeal procedures in its regulations for all of these programs that we believe are adequate to protect the rights of program participants. Advocates have not provided any evidence that these existing processes are not sufficient in protecting these rights. Expanding upon these appeal

processes will result in additional costs to the department and other housing authorities that administer the Section 8 Housing Choice Voucher program. In light of this, the department is opposed to this bill.

S. B. No. 820 (RAISED) AN ACT CONCERNING THE ESTABLISHMENT OF A RAPID REHOUSING PROGRAM.

This bill would establish a pilot program to rapidly re-house homeless families within available appropriations. The program would be administered by the Department of Social Services in consultation with the Department of Economic and Community Development and the Department of Children and Families.

The department has been in discussions with the Connecticut Coalition to End Homelessness, DECD and DCF for several months in reference to such pilot program. The Governor's FY2010-2011 biennial budget proposes a rapid rehousing initiative and, in order to do so, maintains existing housing/homeless funding to ensure sufficient appropriations to support the new program in the next biennial budget. The Department of Economic and Community Development would provide funding from its federal HOME Program funds for rental subsidies, DSS would modify its Beyond Shelter Programs to support the program model and the Department of Children and Families would use its flexible funding account to provide funds for an assessment and supports for DCF families who are homeless. The proposed model is based on approaches that have been used successfully in other states to rapidly move homeless families from homeless shelters to rental units in the community. While we do not believe that legislation is required, the department is committed to such a pilot program consistent with the Governor's proposed budget.

H. B. No. 6418 (RAISED) AN ACT CONCERNING TRANSFER OR DISCHARGE OF RESIDENTIAL CARE HOME PATIENTS.

Allowing a formally appointed advocate to represent a client in a hearing is acceptable providing the advocate is appropriately knowledgeable of the client's needs and expectations, and is able to effectively advocate for the same.

H. B. No. 6416 (RAISED) AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS and Proposed S. B. No. 637 AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS.

Currently, hospitals qualify for a disproportionate share adjustment to their Medicaid inpatient rate if their Medicaid inpatient utilization percentage (fee-for-service and managed care) is at least one standard deviation above the mean state-wide utilization percentage or low income utilization exceeds 25%. For the 2009 rate period (10/1/08-9/30/09), four hospitals qualified for the adjustment by having Medicaid utilization in excess of 17.9% (Bridgeport Hospital, John Dempsey, Saint Francis and Yale-New Haven).