

Housing Authorities

By: Shaun McGann, Legislative Analyst II
August 11, 2021 | 2021-R-0117

Issue

You asked for a summary of the statutes governing housing authorities in the state, including those (1) authorizing their creation, specifying their purpose, and detailing their governance through commissioners and (2) establishing commissioners' powers, responsibilities, and how they are chosen and removed. (This report updates OLR Report [2006-R-0555](#).)

Summary

State law establishes a housing authority in every municipality that (1) finds there is a specific need for one and (2) authorizes its existence, thus allowing the housing authority to operate. The law provides the housing authority with various powers, including the power to enter into contracts; make and repeal bylaws, rules, and regulations; and investigate housing conditions and the ways to improve those conditions in its area of operation. A housing authority's powers are vested in locally appointed commissioners who govern the authority. A certain number of commissioners must be "tenant commissioners," depending on the authority's total number of commissioners. The law specifies how commissioners are appointed, their responsibilities, and how and why they may be removed from office.

The law also requires housing authorities to assume financial liability for its commissioners and employees in certain legal situations and establishes provisions to avoid conflicts of interest.

Housing Authorities

Establishment

State law establishes a housing authority in every municipality. But a housing authority may only operate if the municipality's governing body declares by resolution that there is a need for the authority after finding there (1) are unsanitary or unsafe occupied apartments or homes in the municipality or (2) is a shortage of sanitary or safe affordable rental housing available to low- or moderate-income families ([CGS § 8-40](#)). In determining if housing is unsanitary or unsafe, the municipality may consider:

1. overcrowding;
2. the percentage of land coverage;
3. the light, air, space, and access available to occupants;
4. room size and arrangement;
5. sanitary facilities; and
6. fire hazards and other potential safety hazards.

The law also allows two or more municipalities' governing bodies to create a regional housing authority. Regional authorities act through a board of commissioners composed of two representatives, appointed for four years terms, from each participating municipality. (Currently, there are no regional housing authorities in the state, according to the Department of Housing.)

When the governing body of a municipality, other than a town, adopts a resolution to establish a housing authority, it must promptly notify the municipality's chief executive officer ([CGS § 8-41](#)).

Powers

A housing authority has all the powers necessary under the law to provide safe, sanitary affordable housing ([CGS § 8-44](#)). These include, among others, the power to:

1. sue and be sued, have perpetual succession, and enter into contracts;
2. make and repeal bylaws, rules, and regulations;
3. in its area of operation, (a) prepare, carry out, acquire, lease, and operate housing projects and (b) investigate housing conditions and ways to improve them;
4. construct, reconstruct, improve, alter, or repair, either directly or indirectly by offering loans or assistance to developers, any housing project or any part of a project;

5. convey or transfer (i.e., legally demise) any dwellings, houses, accommodations, lands, buildings, structures, or facilities included in a housing project;
6. establish and revise rents or charges;
7. (a) own, hold, and improve real or personal property; (b) buy, lease, or obtain options on it; or (c) acquire it, by gift, grant, bequest, devise or otherwise, following a public hearing that was advertised as required under the law;
8. insure its real or personal property or operations against risks or hazards and procure insurance guarantees from the federal government for debts secured by mortgages on any housing project property;
9. invest any funds held in reserves or sinking funds, or those not required for immediate disbursements;
10. (a) study where slum areas exist or where there is a shortage of decent, sanitary, and safe housing for low- and moderate-income families; (b) make related recommendations; and (c) cooperate with the municipality or the state to address these problems; and
11. promote the creation and preservation of housing for low-and moderate-income households, either directly or through an agency or instrumentality designated or appointed by the authority, by lending to developers or using proceeds from the sales of certain obligations.

By law, a housing authority's powers are vested in its commissioners, and an authority may delegate any of its powers and duties to one or more of its agents or employees ([CGS § 8-41](#)).

Commissioners

Appointment and Make-up

By law, a municipality's chief executive officer or town's governing body (i.e., appointing authority) appoints housing authority commissioners ([CGS § 8-41](#)). Commissioners (1) must be residents of the municipality or town where the housing authority is located and (2) cannot hold public office in the municipality for which the authority is created. Additionally, a specified number of commissioners must be "tenant commissioners." These commissioners must (1) reside in housing the authority owns or manages or (2) receive housing assistance under a housing program the authority administers (e.g., Section 8 recipients renting from private landlords).

Table 1 shows the maximum number of commissioners in towns and other municipalities, the appointing authority, and the selection method.

Table 1: Housing Authority Commissioners

Towns	<p>Governing body appoints five commissioners and may appoint two more as necessary to achieve compliance with federal rules and state law.</p> <p>If there are five commissioners, at least one must be a tenant commissioner who may be elected; if there are seven, at least two must be tenant commissioners who may be elected.</p>
Other municipalities where housing authority operates 3,000 or fewer units	<p>Chief executive officer appoints five commissioners and may appoint two more as necessary to achieve compliance with federal rules and state law.</p> <p>If there are five commissioners, at least one must be a tenant commissioner who may be elected; if there are seven, at least two must be tenant commissioners who may be elected.</p>
Other municipalities where housing authority operates more than 3,000 units	<p>Chief executive officer appoints five commissioners and may appoint two more.</p> <p>At least two must be tenant commissioners who may be elected.</p>

Tenant Organizations and Commissioners

Recognized Jurisdiction-Wide Tenant Organizations

The law allows tenants to establish a recognized jurisdiction-wide tenant organization. A housing authority must recognize a jurisdiction-wide tenant organization if it determines that (1) the governing board members were elected through a jurisdiction-wide election and (2) with one exception, it satisfies the U.S. Department of Housing and Urban Development (HUD) regulations for elected jurisdiction-wide resident councils. The exception allows tenants who receive state or federal assistance, not just those who receive federal assistance, to vote for, and be, jurisdiction-wide tenant organization members.

Tenant Commissioner Selection

By law, a housing authority must notify its tenants and any existing tenant organizations no later than 60 days before a tenant commissioner (1) appointment or (2) term expiration, whichever is sooner. This notice must include information on how tenants may petition for an election. Following this notice, tenants have up to 30 days to petition for an election. Ten percent of the tenants or 75, whichever is less, must sign the petition. At least 30 days before an election, the housing authority must provide written notice to all housing authority tenants. It must use its best efforts (in agreement with the recognized jurisdiction-wide tenant organization, to the extent practicable) to arrange for an impartial entity to administer the election. In the event of a dispute over election

procedures or results, the act specifies that anyone may petition the entity administering the election for a resolution.

If tenants do not petition for an election, the recognized jurisdiction-wide tenant organization, if any, must select the tenant commissioner according to its adopted by-laws. Among other things, the method may include (1) a fair election by authority tenants or (2) selection by the organization's governing board. If a tenant commissioner is not elected or chosen under the law's provisions within 90 days after the housing authority notice, then the appointing authority must make the appointment by considering tenants that any tenant organization suggests.

When a tenant commissioner is elected to a five-member board, in either a town or other municipality, the law authorizes the housing authority to set the qualifications for a second tenant commissioner to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) and (2) state minority representation requirements, which restrict the number of members of one political party who can serve on certain state and municipal boards and commissions.

Terms

The law sets commissioners' service terms. A municipality or town must designate the first commissioners to serve terms of one to five years. For authorities with five commissioners, only one commissioner's term can end each year. A commissioner's term begins on the first day of the month after his or her appointment date. After the first commissioners are in place, commissioners thereafter must be appointed annually to serve for five years. Any vacancy that occurs because a commissioner moves to another town, is removed from office, resigns, or dies must be filled for the remainder of the term.

If a municipality or town increases the number of housing authority commissioners, the governing body must, by resolution, establish five-year terms for each additional member.

Chair, Vice-Chair, Executive Director, and Employees

The appointing authority chooses a commissioner to be the housing authority's first chairman. When this position becomes vacant, the housing authority selects one of its commissioners to be chair. A chairman's term is three years. An authority must also select a vice chairman from its commissioners.

The law allows the housing authority to employ a secretary, who becomes the executive director, and technical experts and other officers, agents, and employees as necessary. Employees may be permanent or temporary and the housing authority must determine their qualifications, duties, and compensation. In municipalities with a civil service law, all appointments and promotions, except that of the secretary, must be based on examinations given and lists prepared under that law. The municipality's civil service law and regulations apply to the housing authority and its personnel.

The housing authority may also employ its own counsel and legal staff for the legal services it requires.

Quorum and Voting

Under the law, (1) three commissioners constitute a quorum if the authority consists of five commissioners and (2) four commissioners constitute a quorum if the authority consists of more than five commissioners. To take action, a majority of the commissioners who are present must vote, unless the authority's bylaws require a larger number.

Additional Requirements and Duties

After a commissioner has taken an oath as prescribed by law, a certificate of the appointment or reappointment must be filed with the town clerk. The certificate is proof of the commissioner's legal appointment.

A commissioner must hold office until his successor has been appointed and qualified. A commissioner, or any employee of the authority who handles its funds, must furnish an adequate bond.

Compensation

Commissioners serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred while performing their official duties.

Removal of a Commissioner

An appointing authority may remove a commissioner for inefficiency, neglect of duty, or misconduct in office ([CGS § 8-43](#)). The appointing authority must provide the commissioner the opportunity to be heard in person, or by counsel, before the removal. Additionally, the commissioner must receive a copy of the charges against him or her at least 10 days before the hearing. In the event of a commissioner's removal, a record of the proceedings, charges, and findings, must be filed in the town clerk's office.

Under the law, an appointing authority may subpoena any books, papers, records, accounts, contracts, deeds, regulations, or documents in the process of removing a commissioner. Anyone who willfully refuses to produce these materials is subject to a fine of up to \$5000, imprisonment up to six months, or both.

Legal Liability and Conflicts of Interest

Housing authorities must assume liability for its commissioners and full- or part-time staff for any financial loss and expense, including legal fees and costs, that arise from any claim, demand, suit, or judgment for alleged (1) negligence or (2) infringement of anyone's civil rights while a commissioner or employee is acting in an official capacity ([CGS § 8-41a](#)).

Additionally, the law seeks to avoid a conflict of interest with housing authority commissioners or employees by prohibiting them from acquiring interest in authority properties, requiring disclosure of any existing interests, and setting a grace period before a commissioner may be hired as an authority employee ([CGS § 8-42](#)).

Specifically, the law prohibits a housing authority commissioner or an executive or managerial employee from acquiring any interest, direct or indirect, (1) in any housing project or in any property included, or planned to be included, in any project and (2) in any contract or proposed contract for materials or services for any housing project. The law requires a commissioner or employee who owns or controls an interest, direct or indirect, in any property included or planned to be included in any housing project, to immediately disclose that fact, in writing, to the authority. The disclosure must be entered into the authority's minutes. Failure to disclose an interest constitutes misconduct in office (a removable offense). Occupying a housing authority unit or being enrolled in a housing authority assistance program for low-income families in private housing is not considered a conflict of interest.

The law prohibits a housing authority from employing anyone who served as one of its commissioners for at least two years after leaving office, with one exception. The law allows a housing authority that does not have an executive director to immediately hire (i.e., without the two-year grace period) a commissioner who served for more than 20 years for a housing authority.

SM:kl