



House of Representatives

General Assembly

File No. 463

January Session, 2001

Substitute House Bill No. 6690

House of Representatives, April 25, 2001

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING RECORDING FINAL ORDERS ON LAND RECORDS, OPEN BURNING, AND CONSERVATION EASEMENTS OR RESTRICTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) When an order issued by the Commissioner of
2 Environmental Protection to any person pursuant to section 22a-6, 22a-
3 6b, 22a-7, 22a-108 or 22a-363f of the general statutes to correct, abate or
4 penalize any violation of section 22a-32, 22a-92 or 22a-361 of the
5 general statutes or any certificate or permit issued under section 22a-6,
6 22a-6b, 22a-7, 22a-108, 22a-363f, 22a-32, 22a-92 or 22a-361 of the general
7 statutes becomes final, the commissioner shall cause a certified copy or
8 notice of the final order to be filed on the land records in the town in
9 which the land is located. Such certified copy or notice shall constitute
10 a notice to the owner's heirs, successors and assigns. When the order is
11 complied with or revoked, the commissioner shall issue a certificate
12 showing such compliance or revocation, which certificate the
13 commissioner shall cause to be recorded on the land records in the

14 town in which the order was previously recorded. A certified copy of
15 the certificate showing such compliance or revocation shall be sent to
16 the owner at the owner's last-known post office address.

17 Sec. 2. Section 22a-434 of the general statutes is repealed and the
18 following is substituted in lieu thereof:

19 When the commissioner issues [an] a final order to any person to
20 correct potential sources of pollution or to abate pollution, [he] the
21 commissioner shall cause a certified copy thereof to be filed on the
22 land records in the town wherein the land is located, and such order
23 shall constitute a notice to the owner's heirs, successors and assigns.
24 When the order has been fully complied with, the commissioner shall
25 issue a certificate showing such compliance, which certificate the
26 commissioner shall cause to be recorded on the land records in the
27 town wherein the order was previously recorded. A certified copy of
28 the certificate shall be sent to the owner of the land at [his] such
29 owner's last-known [post-office] post office address.

30 Sec. 3. Section 23-48 of the general statutes is repealed and the
31 following is substituted in lieu thereof:

32 Any person who kindles or directs another to kindle a fire in the
33 open air, without proper authorization from state or local authorities [,
34 which fire causes an injury to the person or damage to the property of
35 another] or any person who burns materials that are prohibited from
36 being burned by any provision of the general statutes, regulations of
37 state agencies or a local ordinance, shall be fined not more than two
38 hundred dollars or imprisoned not more than six months or both.

39 Sec. 4. Section 47-33h of the general statutes is repealed and the
40 following is substituted in lieu thereof:

41 Sections 47-33b to 47-33l, inclusive, shall not be applied to bar any
42 lessor or [his] successor of the lessor as a reversioner of [his] the right

43 to possession on the expiration of any lease or to bar or extinguish any
44 easement or interest in the nature of an easement, or any rights
45 granted, excepted or reserved by the instrument creating such
46 easement or interest, including any right for future use, if (1) the
47 existence of such easement or interest is evidenced by the location
48 beneath, upon or above any part of the land described in such
49 instrument of any pipe, valve, road, wire, cable, conduit, duct, sewer,
50 track, hole, tower or other physical facility and whether or not the
51 existence of such facility is observable, or to bar, extinguish or
52 otherwise affect any interest of the United States, of this state or any
53 political subdivision thereof, of any public service company as defined
54 in section 16-1 or of any natural gas company, or (2) such easement or
55 interest is a conservation restriction, as defined in section 47-42a, that
56 is held by a land trust or nonprofit organization.

ENV *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Minimal

Affected Agencies: Department of Environmental Protection,
Judicial Department

Municipal Impact: Minimal

Explanation

State and Municipal Impact:

Any increase in workload to the Department of Environmental Protection or municipalities due to filing of final orders on the land records in towns in which the land is located, is anticipated to be minimal and handled within normal budgetary resources. Any administrative savings due to requiring the filing of an order to correct potential sources of pollution or abate pollution only when it is a final order is anticipated to be very minimal. It is estimated it would eliminate under 12 filings a year.

Providing a fine of up to \$300, imprisonment for up to 6 months or both to anyone who burns materials that are prohibited from being burned under a state or local law, is anticipated to have a minimal revenue impact. Few fines have been collected for committing these types of offenses.

OLR BILL ANALYSIS

sHB 6690

AN ACT CONCERNING RECORDING FINAL ORDERS ON LAND RECORDS, OPEN BURNING, AND CONSERVATION EASEMENTS OR RESTRICTIONS.

SUMMARY:

This bill (1) requires certain Department of Environmental Protection (DEP) orders to be filed on the land records; (2) exempts conservation easements held by a land trust or nonprofit organization from certain provisions of the Marketable Title Act; and (3) subjects anyone who burns material prohibited from being burned under state or local law to a fine of up to \$200, imprisonment for up to six months, or both. The bill subjects a person to the same penalty if he kindles a fire, or directs someone to do so, without proper authorization from state or local authorities, even if it does not injure another person or damage another's property. Such actions that result in injury or property damage are already subject to this penalty.

EFFECTIVE DATE: October 1, 2001

FILING DEP ORDERS ON LAND RECORD

Under the bill, DEP must file orders (or copies of them) on the land record of the town where the affected property is located. The requirement applies to DEP orders to correct, abate, or penalize any violation of (1) the laws dealing with wetlands, dredging and structures in navigable waters, and areas near the coast that are subject to development restrictions and (2) any certificate or permit issued under these laws or the commissioner's general powers to enforce environmental laws. The notice or copy serves as notice to the owner's heirs, assignees, and successor.

When the order is complied with or revoked, DEP must issue a certificate to this effect. The certificate must be filed on the land record

and a copy sent to the owner's last known post office address.

CONSERVATION EASEMENTS

The Marketable Title Act requires that a property owner be able to document an unbroken chain of title to the land in order for the title to be marketable. Generally, easements on the land become invalid after 40 years if their holder does not re-record them on the land record. The law exempts easements for utility facilities from these provisions. The bill extends this exemption for easements, in the form of conservation restrictions, held by a land trust or nonprofit organization.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference
Yea 25 Nay 0

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0