



House of Representatives

File No. 808

General Assembly

January Session, 2001

(Reprint of File No. 463)

Substitute House Bill No. 6690
As Amended by House Amendment
Schedule "B"

Approved by the Legislative Commissioner
May 24, 2001

AN ACT CONCERNING RECORDING FINAL ORDERS ON LAND RECORDS AND CONSERVATION EASEMENTS.

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 Section 22a-434 of the general statutes is repealed and the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 47-33h of the general statutes is repealed and the
31 following is substituted in lieu thereof:

32 Sections 47-33b to 47-33l, inclusive, shall not be applied to bar any
33 lessor or [his] successor of the lessor as a reversioner of [his] the right
34 to possession on the expiration of any lease or to bar or extinguish any
35 easement or interest in the nature of an easement, or any rights
36 granted, excepted or reserved by the instrument creating such
37 easement or interest, including any right for future use, if (1) the
38 existence of such easement or interest is evidenced by the location
39 beneath, upon or above any part of the land described in such
40 instrument of any pipe, valve, road, wire, cable, conduit, duct, sewer,
41 track, hole, tower or other physical facility and whether or not the
42 existence of such facility is observable, or to bar, extinguish or
43 otherwise affect any interest of the United States, of this state or any
44 political subdivision thereof, of any public service company as defined
45 in section 16-1 or of any natural gas company, or (2) such easement or
46 interest is a conservation restriction, as defined in section 47-42a, that
47 is held by a land trust or nonprofit organization.

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

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.

House "B" eliminated the section of the bill concerning burning of materials and the associated potential minimal revenue impact due to fines.

OLR Amended Bill Analysis

sHB 6690 (as amended by House "B")*

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 and (2) exempts conservation easements held by a land trust or nonprofit organization from certain provisions of the Marketable Title Act.

*House Amendment "B" eliminates provisions of the bill imposing a \$200 fine, imprisonment of up to six months, or both for violations of certain open burning laws.

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 final 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.

Under the bill, when a final 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.

Under current law, DEP must file orders to correct water pollution on the land record. The bill limits this requirement to final orders.

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.

BACKGROUND

Legislative History

On May 2, the House referred the original bill (File 463) to the Planning and Development Committee, which reported it unchanged on May 9.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 25 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0

Planning and Development Committee

Joint Favorable Report

Yea 17 Nay 0