



Senate

General Assembly

File No. 602

January Session, 2005

Substitute Senate Bill No. 691

Senate, May 2, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES FOR CERTAIN CODE VIOLATIONS.

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

1 Section 1. Section 8-12 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) If any building or structure has been erected, constructed,
4 altered, converted or maintained, or any building, structure or land
5 has been used, in violation of any provision of this chapter or of any
6 bylaw, ordinance, rule or regulation made under authority conferred
7 hereby, any official having jurisdiction, in addition to other remedies,
8 may institute an action or proceeding to prevent such unlawful
9 erection, construction, alteration, conversion, maintenance or use or to
10 restrain, correct or abate such violation or to prevent the occupancy of
11 such building, structure or land or to prevent any illegal act, conduct,
12 business or use in or about such premises. Such regulations shall be
13 enforced by the officer or official board or authority designated

14 therein, who shall be authorized to cause any building, structure, place
15 or premises to be inspected and examined and to order in writing the
16 remedying of any condition found to exist therein or thereon in
17 violation of any provision of the regulations made under authority of
18 the provisions of this chapter or, when the violation involves grading
19 of land, the removal of earth or soil erosion and sediment control, to
20 issue, in writing, a cease and desist order to be effective immediately.
21 The owner or agent of any building or premises where a violation of
22 any provision of such regulations has been committed or exists, or the
23 lessee or tenant of an entire building or entire premises where such
24 violation has been committed or exists, or the owner, agent, lessee or
25 tenant of any part of the building or premises in which such violation
26 has been committed or exists, or the agent, architect, builder,
27 contractor or any other person who commits, takes part or assists in
28 any such violation or who maintains any building or premises in
29 which any such violation exists, shall be fined not less than [ten] one
30 hundred nor more than [one] five hundred dollars for each day that
31 such violation continues; but, if the offense is wilful, the person
32 convicted thereof shall be fined not less than [one] five hundred
33 dollars nor more than [two hundred and fifty] one thousand dollars
34 for each day that such violation continues, or imprisoned not more
35 than ten days for each day such violation continues or both; and the
36 Superior Court shall have jurisdiction of all such offenses, subject to
37 appeal as in other cases. Any person who, having been served with an
38 order to discontinue any such violation, fails to comply with such
39 order within ten days after such service, or having been served with a
40 cease and desist order with respect to a violation involving grading of
41 land, removal of earth or soil erosion and sediment control, fails to
42 comply with such order immediately, or continues to violate any
43 provision of the regulations made under authority of the provisions of
44 this chapter specified in such order shall be subject to a civil penalty
45 not to exceed two thousand five hundred dollars, payable to the
46 treasurer of the municipality. In any criminal prosecution under this
47 section, the defendant may plead in abatement that such criminal
48 prosecution is based on a zoning ordinance or regulation which is the

49 subject of a civil action wherein one of the issues is the interpretation
50 of such ordinance or regulations, and that the issues in the civil action
51 are such that the prosecution would fail if the civil action results in an
52 interpretation different from that claimed by the state in the criminal
53 prosecution. If the court renders judgment for such municipality and
54 finds that the violation was wilful, the court shall allow such
55 municipality its costs, together with reasonable attorney's fees to be
56 taxed by the court. The court before which such prosecution is pending
57 may order such prosecution abated if it finds that the allegations of the
58 plea are true.

59 (b) Any unpaid fine imposed by a municipality pursuant to the
60 provisions of subsection (a) of this section shall constitute a lien upon
61 the real estate against which the fine was imposed from the date of
62 such fine. Each such lien shall be continued, recorded and released in
63 the manner provided by the general statutes for continuing, recording
64 and releasing property tax liens. Each such lien shall take precedence
65 over all other liens filed after the effective date of this section and
66 encumbrances except taxes and may be enforced in the same manner
67 as property tax liens.

68 Sec. 2. Section 8-12a of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2005*):

70 (a) Any municipality may, by ordinance adopted by its legislative
71 body, establish penalties for violations of zoning regulations adopted
72 under section 8-2 or by special act. The ordinance shall establish the
73 types of violations for which a citation may be issued and the amount
74 of any fine to be imposed thereby and shall specify the time period for
75 uncontested payment of fines for any alleged violation under any such
76 regulation. No fine imposed under the authority of this section may
77 exceed [one] two hundred fifty dollars for each day a violation
78 continues. Any fine shall be payable to the treasurer of the
79 municipality.

80 (b) The hearing procedure for any citation issued pursuant to this
81 section shall be in accordance with section 7-152c except that no zoning

82 enforcement officer, building inspector or employee of the municipal
83 body exercising zoning authority may be appointed to be a hearing
84 officer.

85 (c) Any zoning enforcement officer who issues a citation pursuant to
86 an ordinance adopted under this section shall be liable for treble
87 damages in any civil action if the court finds that such citation was
88 issued frivolously or without probable cause.

89 (d) Any unpaid fine imposed by a municipality pursuant to the
90 provisions of subsection (a) of this section shall constitute a lien upon
91 the real estate against which the fine was imposed from the date of
92 such fine. Each such lien shall be continued, recorded and released in
93 the manner provided by the general statutes for continuing, recording
94 and releasing property tax liens. Each such lien shall take precedence
95 over all other liens filed after the effective date of this section and
96 encumbrances except taxes and may be enforced in the same manner
97 as property tax liens.

98 Sec. 3. Section 47a-53 of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2005*):

100 (a) Whenever any tenement, lodging or boarding house or any
101 building, structure, excavation, business pursuit, matter or thing in or
102 about such house or the lot on which it is situated, or the plumbing,
103 sewerage, drainage, lighting, paint or ventilation of such house, is, in
104 the opinion of the board of health or other enforcing agency, in a
105 condition which is or in its effect is dangerous or detrimental to life or
106 health, or whenever any tenement, lodging or boarding house in the
107 opinion of the board or enforcing agency, is in violation of the
108 provisions of section 19a-109, the board or other enforcing agency may
109 declare that the same, to the extent specified by the board or other
110 enforcing agency, is a public nuisance. The board or enforcing agency
111 may order such public nuisance to be removed, abated, suspended,
112 altered or otherwise remedied, improved or purified. The board of
113 health or other enforcing agency may also order or cause any tenement
114 house or part thereof, or any excavation, building, structure, sewer,

115 plumbing pipe, paint, passage, premises, ground, matter or thing in or
116 about a tenement, lodging or boarding house or the lot on which such
117 house is situated, to be purified, cleansed, disinfected, removed,
118 altered, repaired or improved.

119 (b) If any order of the board of health or other enforcing agency is
120 not complied with, or not so far complied with as the board or other
121 enforcing agency regards as reasonable, [within] not later than five
122 days after the service thereof, or within such shorter time as the board
123 or other enforcing agency designates, such order may be executed by
124 the board or other enforcing agency, through its officers, agents,
125 employees or contractors. The expense of executing such order,
126 including an amount not to exceed five per cent of the expense thereof
127 as a service charge and ten per cent of the expense thereof as a penalty
128 shall be collected from the owner by an action in the name of the city,
129 borough or town.

130 (c) Any unpaid amount imposed by an enforcing agency pursuant
131 to the provisions of subsection (b) of this section shall constitute a lien
132 upon the real estate against which the amount was imposed from the
133 date of such order. Each such lien shall be continued, recorded and
134 released in the manner provided by the general statutes for continuing,
135 recording and releasing property tax liens. Each such lien shall take
136 precedence over all other liens filed after the effective date of this
137 section and encumbrances except taxes and may be enforced in the
138 same manner as property tax liens.

139 Sec. 4. Section 47a-58 of the general statutes is repealed and the
140 following is substituted in lieu thereof (*Effective October 1, 2005*):

141 (a) Any enforcing agency may issue a notice of violation to any
142 person who violates any provision of this chapter or a provision of a
143 local housing code. Such notice shall specify each violation and specify
144 the last day by which such violation shall be corrected. The date
145 specified shall not be less than three weeks from the date of mailing of
146 such notice, provided that in the case of a condition, which in the
147 judgment of the enforcing agency is or in its effect is dangerous or

148 detrimental to life or health, the date specified shall not be more than
149 five days from the date of mailing of such notice. The enforcing agency
150 may postpone the last day by which a violation shall be corrected upon
151 a showing by the owner or other responsible person that he has begun
152 to correct the violation but that full correction of the violation cannot
153 be completed within the time provided because of technical
154 difficulties, inability to obtain necessary materials or labor or inability
155 to gain access to the dwelling unit wherein the violation exists.

156 (b) When the owner or other responsible person has corrected such
157 violation, he shall promptly, but not later than two weeks after such
158 correction, report to the enforcing agency in writing, indicating the
159 date when each violation was corrected. It shall be presumed that the
160 violation was corrected on the date so indicated, unless a subsequent
161 inspection by the enforcing agency again reveals the existence of the
162 condition giving rise to the earlier notice of violation.

163 (c) Any person who fails to correct any violation prior to the date set
164 forth in the notice of violation shall be subject to a cumulative civil
165 penalty of five dollars per day for each violation from the date set for
166 correction in the notice of violation to the date such violation is
167 corrected, except that in any case the penalty shall not exceed [five]
168 one hundred dollars per day nor shall the total penalty exceed seventy-
169 five hundred dollars. The penalty may be collected by the enforcing
170 agency by action against the owner or other responsible person or by
171 an action against the real property. An action against the owner may
172 be joined with an action against the real property.

173 (d) In addition to the penalties specified in this section the enforcing
174 agency may enforce the provisions of this chapter or a local housing
175 code by injunctive relief pursuant to chapter 916.

176 (e) Any unpaid penalty imposed by an enforcing agency pursuant
177 to the provisions of subsection (c) of this section shall constitute a lien
178 upon the real estate against which the penalty was imposed from the
179 date of such penalty. Each such lien shall be continued, recorded and
180 released in the manner provided by the general statutes for continuing,

181 recording and releasing property tax liens. Each such lien shall take
182 precedence over all other liens filed after the effective date of this
183 section and encumbrances except taxes and may be enforced in the
184 same manner as property tax liens.

185 Sec. 5. Subdivision (10) of subsection (c) of section 7-148 of the
186 general statutes is repealed and the following is substituted in lieu
187 thereof (*Effective October 1, 2005*):

188 (10) (A) Make all lawful regulations and ordinances in furtherance
189 of any general powers as enumerated in this section, and prescribe
190 penalties for the violation of the same not to exceed [one hundred] two
191 hundred fifty dollars, unless otherwise specifically provided by the
192 general statutes. Such regulations and ordinances may be enforced by
193 citations issued by designated municipal officers or employees,
194 provided the regulations and ordinances have been designated
195 specifically by the municipality for enforcement by citation in the same
196 manner in which they were adopted and the designated municipal
197 officers or employees issue a written warning providing notice of the
198 specific violation before issuing the citation;

199 (B) Adopt a code of ethical conduct;

200 (C) Establish and maintain free legal aid bureaus;

201 (D) Perform data processing and related administrative computer
202 services for a fee for another municipality;

203 (E) Adopt the model ordinance concerning a municipal freedom of
204 information advisory board created under subsection (f) of section 1-
205 205 and establish a municipal freedom of information advisory board
206 as provided by said ordinance and said section.

207 Sec. 6. Subsection (b) of section 51-164n of the general statutes is
208 repealed and the following is substituted in lieu thereof (*Effective*
209 *October 1, 2005*):

210 (b) Notwithstanding any provision of the general statutes, any

211 person who is alleged to have committed (1) a violation under the
212 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
213 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
214 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292, or 12-326g,
215 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section
216 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-
217 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-
218 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-
219 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or
220 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,
221 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)
222 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,
223 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b
224 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-
225 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,
226 14-153 or 14-163b, a first violation as specified in subsection (f) of
227 section 14-164i, section 14-219 as specified in subsection (e) of said
228 section, section 14-240, 14-249 or 14-250, subsection (a), (b) or (c) of
229 section 14-261a, section 14-262, 14-264, 14-267a, 14-269, 14-270, 14-275a,
230 14-278 or 14-279, subsection (e) of section 14-283, section 14-291, 14-
231 293b, 14-319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a,
232 subdivision (1), (2) or (3) of section 14-386a, section 15-33, subsection
233 (a) of section 15-115, section 16-256, 16-256e, 16a-15 or 16a-22,
234 subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145, 17a-149,
235 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-137 or 17b-734,
236 subsection (b) of section 17b-736, section 19a-30, 19a-33, 19a-39 or 19a-
237 87, subsection (b) of section 19a-87a, section 19a-91, 19a-105, 19a-107,
238 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-297, 19a-301,
239 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-425, 19a-502,
240 20-7a, 20-14, 20-158, 20-231, 20-257, 20-265 or 20-324e, subsection (a) of
241 section 20-341, section 20-341l, 20-597, 20-608, 20-610, 21-30, 21-38, 21-
242 39, 21-43, 21-47, 21-48, 21-63, 21-76a, 21a-21, 21a-25, 21a-26 or 21a-30,
243 subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63 or 21a-
244 77, subsection (b) of section 21a-79, section 21a-85, 21a-154, 21a-159,
245 21a-201, 21a-211, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36,

246 22-37, 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54,
247 22-61, 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-
248 318a, 22-320h, 22-324a, 22-326 or 22-342, subsection (b) or (e) of section
249 22-344, section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or
250 22a-246, subsection (a) of section 22a-250, subsection (e) of section 22a-
251 256h, subsection (a) of section 22a-381d, section 22a-449, 22a-461, 23-37,
252 23-38, 23-46 or 23-61b, subsection (a) or (b) of section 23-65, section 25-
253 37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-49, 26-54, 26-59, 26-61,
254 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128, 26-131, 26-132, 26-138,
255 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230, 26-294, 28-13, 29-6a, 29-
256 109, 29-161y, 29-161z, 29-198, 29-210, 29-243, 29-277, 29-316, 29-318, 29-
257 341, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15,
258 31-16, 31-18, 31-23, 31-24, 31-25, 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40,
259 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a)
260 or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b
261 or 31-134, subsection (i) of section 31-273, section 31-288, 36a-787, 42-
262 230, 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-
263 54, section 46a-59, 46b-22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16 or
264 53-133, subsection (a) or (b) of section 53-211, or section 53-212a, 53-
265 249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323,
266 53-331, 53-344 or 53-450, or (2) a violation under the provisions of
267 chapter 268, or (3) a violation of any regulation adopted in accordance
268 with the provisions of section 12-484, 12-487 or 13b-410, or (4) a
269 violation of any ordinance, regulation or bylaw of any town, city or
270 borough, except violations of building codes and the health code, for
271 which the penalty exceeds ninety dollars but does not exceed two
272 hundred fifty dollars, shall follow the procedures set forth in this
273 section.

274 Sec. 7. Section 51-164p of the general statutes is repealed and the
275 following is substituted in lieu thereof (*Effective October 1, 2005*):

276 (a) Notwithstanding any provision of any special act, local law or
277 the general statutes to the contrary, any violation of any ordinance,
278 regulation or bylaw of any town, city or borough, except violations of
279 building codes and the health code, for which the penalty does not

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: None

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
All Municipalities	Revenue Gain	Potential	Potential

Explanation

The bill increases various municipal fines and makes any unpaid fine imposed for a zoning violation, violations of housing sanitation laws and housing local codes a lien on the real estate against which the fine was imposed. Annual revenues under the bill are anticipated to be minimal in most cases.

OLR Bill Analysis

sSB 691

AN ACT CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES FOR CERTAIN CODE VIOLATIONS**SUMMARY:**

This bill increases, from \$100 to \$250, the maximum penalty a municipality may impose for violations of ordinances and regulations for which the statutes do not specify another penalty. The bill also increases the fines for various zoning violations.

By law, a person who does not correct a violation of housing sanitation law or local housing codes by the deadline specified in the violation notice is subject to a fine of \$5 per day per violation. The bill reduces the maximum aggregate fine that can be imposed per day from \$500 to \$100. The bill makes any unpaid fine imposed for a zoning violation or violations of housing sanitation laws and housing local codes a lien on the real estate against which the fine was imposed from the date the fine is ordered. The liens take precedence over all other liens and encumbrances filed on or after October 1, 2005 except taxes. The liens must be recorded, continued, and released the same way as property tax liens, and may be enforced in the same manner as property tax liens.

By law, violations of municipal ordinances, regulations, or bylaws with a penalty of up to \$90, other than building and health code violations, is an infraction. The bill makes such violations, where the fine is between \$90 and \$250, violations, but requires that they be processed through the Centralized Infractions Bureau.

EFFECTIVE DATE: October 1, 2005

PENALTIES FOR ZONING LAW VIOLATIONS

The bill increases the fine for initial violations of zoning laws from the current range of \$10 to \$100 for each day of the violation to \$100 to \$500. For willful violations, the bill increases the fine from the current range of \$100 to \$250 to a higher range of \$500 to \$1,000. By law, willful violations can also be punished by up to 10 days imprisonment

for each day of the violation.

By law, a municipality can adopt an ordinance establishing penalties for zoning regulations. The bill increases the maximum fine for violations of such ordinances from \$100 to \$250.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute Change of Reference

Yea 18 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 38 Nay 2