



Senate

General Assembly

File No. 170

January Session, 2009

Substitute Senate Bill No. 951

Senate, March 25, 2009

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NEIGHBORHOOD PROTECTION.

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

1 Section 1. (NEW) (*Effective October 1, 2009*) As used in this section
2 and section 2 of this act:

3 (1) "Registrant" means the owner of vacant residential property who
4 is required to register such property pursuant to section 2 of this act.

5 (2) "Registry" means the information maintained by each
6 municipality, pursuant to section 2 of this act, of vacant residential
7 properties held by registrants.

8 (3) "Residential property" means a one-to-four family dwelling.

9 (4) "Vacant" means uninhabited.

10 (5) "MERS" means the Mortgage Electronic Registration Systems.

11 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) Any person in whom title

12 to a residential property has vested after October 1, 2009, through a
13 foreclosure action pursuant to sections 49-16 to 49-19, inclusive, of the
14 general statutes or section 49-26 of the general statutes, shall register
15 such property with the town clerk of the municipality in which the
16 property is located or with MERS (1) no later than ten days after the
17 date title vests in such person if such residential property is vacant on
18 the date title vests, or (2) if such residential property becomes vacant
19 after title vests in such person as a result of an execution of ejectment
20 pursuant to section 49-22 of the general statutes, then no later than ten
21 days after the date on which such property becomes vacant.

22 (b) If the registration is with the municipality, it shall contain (1) the
23 name, address, telephone number and electronic mail address of the
24 registrant and, if the registrant is a corporation or an individual who
25 resides out-of-state, the name, address, telephone number and
26 electronic mail address of a direct contact in the state; and (2) the
27 name, address, telephone number and electronic mail address of the
28 local property maintenance company responsible for the security and
29 maintenance of the vacant residential property. The registrant shall
30 indicate on such registration whether it prefers to be contacted by first
31 class mail or electronic mail and the preferred addresses for such
32 communications. The registrant shall report any change in the
33 information provided on the registration no later than ten days
34 following the date of the change of information. At the time of
35 registration, the registrant shall pay a one-hundred-dollar fee to the
36 municipality. If the registration is with MERS, it shall contain the
37 information allowed on MERS, as amended from time to time.

38 (c) Registrants shall maintain vacant residential properties in a
39 manner comparable to neighborhood standards and registrants shall
40 (1) maintain landscaping on such properties; (2) remove or paint over
41 graffiti with an exterior paint that matches the existing color of the
42 structure being painted; and (3) replace broken windows.

43 (d) If the registrant fails to comply with the provision of subsection
44 (c) of this section, the municipality may issue a notice to the registrant

45 citing the conditions on such property that violate said subsection.
46 Such notice shall be sent by either first class mail or electronic mail, or
47 both, and shall be sent to the preferred address or addresses identified
48 on the registration. A copy of such notice shall be sent by first class or
49 electronic mail to the local property maintenance company identified
50 by the registrant on the registration as responsible for the security and
51 maintenance of the vacant residential property. Such notice shall also
52 comply with section 7-148gg of the general statutes.

53 (e) If the registrant does not repair such conditions after ten days
54 from the date on which the notice was mailed, the municipality may
55 enter such property for the purpose of repairing such conditions and
56 may fine the registrant for the actual cost of such repairs, provided
57 such municipality adopts a hearing procedure pursuant to section 7-
58 152c of the general statutes, as amended by this act, by which
59 procedure such fine shall be imposed.

60 (f) Any fines that remain unpaid and uncontested after sixty days
61 from the date on which the municipality issued notice of such fines to
62 the registrant shall be doubled. Unpaid fines shall constitute liens on
63 the residential property in accordance with section 7-148aa of the
64 general statutes, as amended by this act.

65 Sec. 3. Section 7-152c of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2009*):

67 (a) Any municipality as defined in subsection (a) of section 7-148
68 may establish by ordinance a citation hearing procedure in accordance
69 with this section. The Superior Court shall be authorized to enforce the
70 assessments and judgments provided for under this section.

71 (b) The chief executive officer of any such municipality shall appoint
72 one or more citation hearing officers, other than police officers or
73 employees or persons who issue citations, to conduct the hearings
74 authorized by this section.

75 (c) Any such municipality, at any time within twelve months from

76 the expiration of the final period for the uncontested payment of fines,
77 penalties, costs or fees for any citation issued (1) under any ordinance
78 adopted pursuant to section 7-148 or section 22a-226d, or (2) pursuant
79 to section 2 of this act, for an alleged violation thereof, shall send notice
80 to the person cited. Such notice shall inform the person cited: [(1)] (A)
81 Of the allegations against him and the amount of the fines, penalties,
82 costs or fees due; [(2)] (B) that he may contest his liability before a
83 citation hearing officer by delivering in person or by mail written
84 notice within ten days of the date thereof; [(3)] (C) that if he does not
85 demand such a hearing, an assessment and judgment shall be entered
86 against him; and [(4)] (D) that such judgment may issue without
87 further notice.

88 (d) If the person who is sent notice pursuant to subsection (c) of this
89 section wishes to admit liability for any alleged violation, he may,
90 without requesting a hearing, pay the full amount of the fines,
91 penalties, costs or fees admitted to in person or by mail to an official
92 designated by such municipality. Such payment shall be inadmissible
93 in any proceeding, civil or criminal, to establish the conduct of such
94 person or other person making the payment. Any person who does not
95 deliver or mail written demand for a hearing within ten days of the
96 date of the first notice provided for in subsection (c) of this section
97 shall be deemed to have admitted liability, and the designated
98 municipal official shall certify such person's failure to respond to the
99 hearing officer. The hearing officer shall thereupon enter and assess
100 the fines, penalties, costs or fees provided for by the applicable
101 ordinances and shall follow the procedures set forth in subsection (f) of
102 this section.

103 (e) Any person who requests a hearing shall be given written notice
104 of the date, time and place for the hearing. Such hearing shall be held
105 not less than fifteen days nor more than thirty days from the date of
106 the mailing of notice, provided the hearing officer shall grant upon
107 good cause shown any reasonable request by any interested party for
108 postponement or continuance. An original or certified copy of the
109 initial notice of violation issued by the issuing official or policeman

110 shall be filed and retained by the municipality, and shall be deemed to
111 be a business record within the scope of section 52-180 and evidence of
112 the facts contained therein. The presence of the issuing official or
113 policeman shall be required at the hearing if such person so requests.
114 A person wishing to contest his liability shall appear at the hearing
115 and may present evidence in his behalf. A designated municipal
116 official, other than the hearing officer, may present evidence on behalf
117 of the municipality. If such person fails to appear, the hearing officer
118 may enter an assessment by default against him upon a finding of
119 proper notice and liability under the applicable statutes or ordinances.
120 The hearing officer may accept from such person copies of police
121 reports, investigatory and citation reports, and other official
122 documents by mail and may determine thereby that the appearance of
123 such person is unnecessary. The hearing officer shall conduct the
124 hearing in the order and form and with such methods of proof as he
125 deems fair and appropriate. The rules regarding the admissibility of
126 evidence shall not be strictly applied, but all testimony shall be given
127 under oath or affirmation. The hearing officer shall announce his
128 decision at the end of the hearing. If he determines that the person is
129 not liable, he shall dismiss the matter and enter his determination in
130 writing accordingly. If he determines that the person is liable for the
131 violation, he shall forthwith enter and assess the fines, penalties, costs
132 or fees against such person as provided by the applicable ordinances of
133 the municipality.

134 (f) If such assessment is not paid on the date of its entry, the hearing
135 officer shall send by first class mail a notice of the assessment to the
136 person found liable and shall file, not less than thirty days or more
137 than twelve months after such mailing, a certified copy of the notice of
138 assessment with the clerk of a superior court facility designated by the
139 Chief Court Administrator together with an entry fee of eight dollars.
140 The certified copy of the notice of assessment shall constitute a record
141 of assessment. Within such twelve-month period, assessments against
142 the same person may be accrued and filed as one record of assessment.
143 The clerk shall enter judgment, in the amount of such record of
144 assessment and court costs of eight dollars, against such person in

145 favor of the municipality. Notwithstanding any provision of the
146 general statutes, the hearing officer's assessment, when so entered as a
147 judgment, shall have the effect of a civil money judgment and a levy of
148 execution on such judgment may issue without further notice to such
149 person.

150 (g) A person against whom an assessment has been entered
151 pursuant to this section is entitled to judicial review by way of appeal.
152 An appeal shall be instituted within thirty days of the mailing of notice
153 of such assessment by filing a petition to reopen assessment, together
154 with an entry fee in an amount equal to the entry fee for a small claims
155 case pursuant to section 52-259, at a Superior Court facility designated
156 by the Chief Court Administrator, which shall entitle such person to a
157 hearing in accordance with the rules of the judges of the Superior
158 Court.

159 Sec. 4. Section 7-148aa of the general statutes is repealed and the
160 following is substituted in lieu thereof (*Effective October 1, 2009*):

161 Any unpaid fine imposed by a municipality pursuant to the
162 provisions of (1) an ordinance regulating blight, adopted pursuant to
163 subparagraph (H)(xv) of subdivision (7) of subsection (c) of section 7-
164 148, or (2) section 2 of this act shall constitute a lien upon the real estate
165 against which the fine was imposed from the date of such fine. Each
166 such lien may be continued, recorded and released in the manner
167 provided by the general statutes for continuing, recording and
168 releasing property tax liens. Each such lien shall take precedence over
169 all other liens filed after July 1, 1997, and encumbrances except taxes
170 and may be enforced in the same manner as property tax liens.

171 Sec. 5. Section 49-73b of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2009*):

173 (a) Any municipality which has incurred expenses for the
174 inspection, repair, demolition, maintenance, removal or other
175 disposition of any real estate in order to secure such real estate or to
176 make it safe, [and] sanitary or in compliance with neighborhood

177 maintenance standards under any provision of the general statutes or
178 any municipal building, health, housing or safety codes or regulations
179 shall have the right to recover such expenses from the owner of the
180 real estate for which such expenses were incurred.

181 (b) The interest of each person in such real estate shall be subject to a
182 lien for the payment of such expenses, which lien shall take precedence
183 over any other encumbrance except municipal tax assessments on such
184 real estate. No such lien shall be valid, unless the municipality, within
185 thirty days after such work has ceased, files a certificate of such lien
186 and gives notice to the owner of the real estate in the same manner as
187 provided in section 49-34. Simultaneous with the filing, the
188 municipality shall make reasonable efforts to mail a copy of the
189 certificate by first class mail to the lienholder's current or last-known
190 address.

191 (c) The interest of each person in the proceeds of any policy
192 providing insurance coverage issued by an insurance company for a
193 loss to a covered residential or commercial structure, including any
194 policy written pursuant to the provisions of section 38a-670, shall be
195 subject to a lien on such proceeds for the expenses incurred by a
196 municipality pursuant to the provisions of subsection (a) of this
197 section, provided such municipality, within thirty days after such
198 work has ceased, files a certificate of such lien and gives notice to such
199 interested person in the same manner as provided in section 49-34.

200 (d) Any municipal lien filed pursuant to the provisions of this
201 section may be foreclosed in the same manner as a mortgage.

202 (e) Any certificate of lien filed pursuant to this section shall exist
203 from the fifteenth day succeeding the date of entry of such certificate in
204 the land records.

205 (f) Any municipal lien filed pursuant to this section may be
206 discharged or dissolved in the manner provided in sections 49-35a to
207 49-37, inclusive.

208 (g) Nothing in this section shall prevent an insured owner,
 209 mortgagee, assignee or other interested party from negotiating a
 210 dissolution of any such lien on the insurance proceeds, enabling the
 211 insurance company to disburse said proceeds.

212 (h) The provisions of this section shall not apply to policies on
 213 single-family or two-family dwellings, unless such dwellings are
 214 vacant residential properties owned by a registrant subject to section 2
 215 of this act.

216 Sec. 6. (NEW) (*Effective October 1, 2009*) Except as provided in
 217 section 2 of this act, no municipality shall regulate the property
 218 maintenance activities of a person who holds title or a mortgage to real
 219 property located within the state and obtained by foreclosure, except
 220 that nothing in this section shall prohibit a municipality from enacting
 221 or enforcing an ordinance or regulation that applies generally to all
 222 owners of real property within such municipality, without regard to
 223 how the owner acquired title. For purposes of this section, property
 224 maintenance activities include, but are not limited to, activities related
 225 to the repair, maintenance, restoration, alteration, removal or
 226 demolition of any part of real property.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	7-152c
Sec. 4	<i>October 1, 2009</i>	7-148aa
Sec. 5	<i>October 1, 2009</i>	49-73b
Sec. 6	<i>October 1, 2009</i>	New section

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Revenue Gain	Potential	Potential

Explanation

The bill could result in a revenue gain to municipalities. It requires vacant properties to be registered with the town clerk of the municipality in which it is located and to pay a \$100 registration fee.

The bill authorizes municipalities to enter foreclosed properties which are uninhabited in order to maintain the properties comparable to neighborhood standards. Under the bill, municipalities may fine the owner for actual costs and place liens on the properties for any unpaid fines. Any fines that are unpaid or uncontested after 60 days must be doubled.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 951*****AN ACT CONCERNING NEIGHBORHOOD PROTECTION.*****SUMMARY:**

This bill imposes property maintenance standards on anyone who obtains title to a one-to-four family dwelling by strict foreclosure or foreclosure by sale, if the property is uninhabited.

The bill creates a registration system for tracking such owners and properties and, if an owner violates the bill's maintenance standards, allows a municipality to repair such a property and fine the owner for actual costs. The bill also allows the municipality to place a lien on the property for unpaid fines.

Outside of these requirements, the bill prohibits municipalities from otherwise regulating the property maintenance activities of a person who obtained title by foreclosure. This includes, but is not limited to, the repair, maintenance, restoration, alteration, removal or demolition of any part of real property. However, municipalities can enact or enforce ordinances or regulations that apply generally to all property owners.

EFFECTIVE DATE: October 1, 2009

PROPERTY MAINTENANCE STANDARDS

The bill requires a registrant to meet two property maintenance standards after he or she acquires the property. The registrant must maintain it in a manner comparable to neighborhood standards (which the bill does not specify.) Additionally, the person must (1) maintain landscaping on such properties; (2) remove or paint over graffiti with an exterior paint that matches the existing color of the structure; and (3) replace broken windows.

REGISTRATION

The properties must be registered with the town clerk of the municipality in which they are located or with the Mortgage Electronic Registration Systems (MERS) (see BACKGROUND). The deadline for doing this depends on when the property becomes vacant. If the property is vacant on the day title vests, then it must be registered within 10 days of that date. If the property becomes vacant after title vests due to an execution of ejectment, then it must be registered within 10 days after the property becomes vacant. The bill specifies no deadline for properties that are vacated after title vests for reasons other than execution of ejection.

If the registration is with the municipality, the registrant must pay a \$100 fee and provide (1) the registrants name, address, telephone number, and electronic mail address (contact information) and, if the registrant is a corporation or an individual who resides out-of-state, the contact information for a direct contact; and (2) the contact information for the local property maintenance company responsible for the security and maintenance of the vacant residential property. (The bill does not explicitly require registrants to hire property management companies.) The registrant must indicate whether it prefers to be contacted by first class or electronic mail and the preferred addresses for such communications and must report any changes in the registration information within 10 days following the date of the change. Those registering with MERS must provide the information it requires.

DUE PROCESS

If the registrant violates the bill's maintenance requirements, the municipality can issue a notice to the person citing the conditions that violate the bill. The notice must be sent by first class or electronic mail, or both, and must be sent to the preferred address or addresses identified on the registration. A copy of the notice must be sent by first class or electronic mail to the identified local property maintenance company. The notice must also meet the same standards as notices to remedy a health, housing, or safety code violation.

If the registrant does not repair such conditions within 10 days from the date the notice was mailed, the municipality can enter the property to repair the conditions and may fine the registrant for the actual cost of such repairs, as long as it adopts the statutory procedure for hearing citations.

Any fines that remain unpaid and uncontested after 60 days from the date the municipality issued notice of the fines to the registrant must be doubled. Unpaid fines constitute liens on the property in the same way as unpaid fines for violations of municipal blight ordinances. This means each lien may be continued, recorded and released in the manner the statutes provide for continuing, recording, and releasing property tax liens; it takes precedence over all other liens filed after July 1, 1997 and encumbrances except taxes and may be enforced in the same manner as property tax liens.

The bill allows the municipality to use another existing lien mechanism. This mechanism allows the municipality to recover the expenses it incurred for the inspection, repair, demolition, removal, or other disposition of any real estate to secure it or to make it safe and sanitary. Unlike the lien mechanism for blight, this approach allows the municipality to place a lien on any insurance policy associated with the property. Under current law, the insurance provision does not apply to single or two family dwellings, but the bill expands it to include these dwellings if they are vacant foreclosure properties as discussed above.

BACKGROUND

Mortgage Electronic Registration Systems

According to its website, MERS is an online system, created by the real estate finance industry, that “simplifies the way mortgage ownership and servicing rights are originated, sold and tracked.”

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/10/2009)