



House of Representatives

General Assembly

File No. 220

January Session, 2013

Substitute House Bill No. 6481

House of Representatives, March 27, 2013

The Committee on Planning and Development reported through REP. ROJAS of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ENFORCEMENT PROTECTION FOR NONCONFORMING STRUCTURES.

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

1 Section 1. Subsection (a) of section 8-13a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2013*):

4 (a) (1) When a building or other structure is so situated on a lot that
5 it violates a zoning regulation of a municipality [which] that prescribes
6 the location of such a building or structure in relation to the
7 boundaries of the lot or when a building or structure is situated on a
8 lot that violates a zoning regulation of a municipality [which] that
9 prescribes the minimum area of the lot, and when such building or
10 structure has been so situated for three years without the institution of
11 an action to enforce such regulation, such building or structure shall be
12 deemed a nonconforming building or structure in relation to such
13 boundaries or to the area of such lot, as the case may be. For purposes

14 of this section, "structure" has the same meaning as in the zoning
 15 regulations for the municipality in which the structure is located or, if
 16 undefined by such regulations, "structure" means any combination of
 17 materials, other than a building, that is affixed to the land, including,
 18 without limitation, signs, fences, walls, pools, patios, tennis courts and
 19 decks.

20 (2) A property owner shall bear the burden of proving that a
 21 structure qualifies as a nonconforming structure pursuant to
 22 subdivision (1) of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	8-13a(a)

PD *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:** None**Explanation**

The bill, which allows structures built in violation of zoning regulations to be deemed nonconforming under the same circumstances as buildings, has no fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6481*****AN ACT CONCERNING ENFORCEMENT PROTECTION FOR NONCONFORMING STRUCTURES.*****SUMMARY:**

This bill allows structures built in violation of zoning regulations to be deemed nonconforming under the same circumstances as buildings. This means a structure that (1) violates setback requirements or (2) sits on a lot in violation of minimum lot area requirements is classified as a nonconforming structure if the applicable zoning regulations are not enforced within the first three years of the violation. The bill places the burden of proving that a structure, but not a building, has been nonconforming for three years on the property owner.

The bill allows towns to define "structure" in their zoning regulations. If not defined locally, the bill defines "structure" as any combination of materials, other than a building, that is affixed to land. The definition includes signs, fences, walls, pools, patios, tennis courts, and decks.

EFFECTIVE DATE: October 1, 2013

BACKGROUND***Nonconforming Buildings***

CGS § 8-13a does not define "building." However, several cases have interpreted the term in the context of § 8-13a (e.g., *Wright v. Zoning Board of Appeals*, 22 Conn. L. Rptr. 76 (1998) (holding a fenced-in generator on a concrete slab is not a building under § 8-13a); *Kershaw v. Danbury Zoning Board of Appeals*, 21 Conn. L. Rptr. 43 (1998) (holding an open deck is not a building under § 8-13a)).

Under case law, the burden of proving a building was

nonconforming for the statutory period is on the property owner (*Friedson v. Westport*, 181 Conn. 230, 234-35 (1980)).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)