

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

363 Main Street, Suite 301 ❖ Hartford, Connecticut 06106
phone (860) 616-4472 ❖ cell (860) 836-6355 ❖ RPodolsky@LARCC.org

Testimony of Raphael L. Podolsky

Housing Committee public hearing – February 17, 2015

S.B. 889 – Urban Revitalization Program

SUPPORT

The Urban Revitalization Pilot Program was enacted in 2012 to foster neighborhood revitalization and stabilization by facilitating the renovation of one- to four-family homes in distressed areas, with a priority on creating home ownership. This bill converts the pilot into an on-going program. We believe that, both because of the strategic importance of this program for urban neighborhood revitalization, it is appropriate at this time to convert it to an on-going program.

S.B. 891 – DOH fair hearings

SUPPORT

As part of the creation of the Department of Housing, a number of Department of Social Services housing programs regarding individual applicants were transferred to DOH. These include the Rental Assistance Program, the Security Deposit Guarantee Program, and the Rent Bank Program. Due process requires that persons receiving individual benefits through governmental programs have the right to a hearing to dispute an unfavorable decision, such as denial of an application or termination from the program. This bill copies C.G.S. 17b-60, the DSS fair hearing statute, into the DOH statutes.

S.B. 892 – Incentive housing zones

SUPPORT

This bill makes a number of changes to the Incentive Housing Zone program. We support Sections 3 and 4, which convert the building permit payment under the act from \$2,000 per unit to \$150,000 per development and require that the funds be used for infrastructure improvements within the IHZ. We have, however, some concerns about Section 2, which expands the waiver authority of the Commissioner of Housing. We suggest that the Housing Committee look at this section more closely and perhaps put some limits on the extent to which the Commissioner can waive the density and affordability requirements for IHZs.

H.B. 6147 – Affordable housing, smart growth, and historic districts **OPPOSE**

Smart growth principles, which are reflected in Connecticut law as planning elements under C.G.S. 8-23, are guidelines for promoting municipal development. We support that concept. They are not, however, mandated for all development, nor are they intended as a strait-jacket on development. It is a goal for affordable housing development, as it is for all other development, that smart growth principles be followed; and indeed they are. But, as with other development, it must be recognized that those guidelines sometimes must yield to greater needs. This bill would inappropriately turn guidelines into absolute requirements for affordable housing only. In addition, it should be noted that C.G.S. 8-30g

applies only to planning and zoning commissions and does not apply to appeals from decisions of historic district commission.

H.B. 6461 – Data collection and analysis of affordable housing **SUPPORT**

The bill would improve fair housing data gathering and reporting requirements under C.G.S. 8-37aa and 8-37bb. We support efforts to examine housing programs so as to better understand the extent to which they promote housing diversity.

H.B. 6462 – Rental assistance pilot mobility program **SUPPORT**

Rental assistance certificates are “mobile” in the sense that they can be used in any town where the certificate holder can find an apartment within the maximum permitted rent. As a result, they have the inherent capacity to help diversify suburban areas. Many urban renters, however, may not appreciate the benefits of participation in such programs. Mobility programs help open people to new opportunities. We have long supported a particular type of regional mobility pilot -- the idea of a program targeted to households that are already participating in a regional school mobility program so as to help them afford to live in the town where their children are attending school. Not only would such a program focus such a pilot program on those who have already shown interest in linking to another community, but it would convert that family to an in-district resident and open a slot in regional school programs to an additional family.

H.B. 6651 – Responsibility for properties in foreclosure **SUPPORT**

Items #1 and #2 of this bill are already existing law. See C.G.S. 7-148ii, which requires the registration with the town of residential properties in foreclosure, including contact information with the lender. Existing law, however, does not require a foreclosing lender to assume any responsibility for the property until after the foreclosure has been completed and title has been transferred to the lender. If the owner of the property effectively abandons the property, as sometimes happens, this creates a gap in which no one is maintaining the property and there is in practice no one against whom the town can enforce anti-blight requirements. This is a particular problem if the property is vacant and has proven to be devastating in some neighborhoods in urban areas. The property owner cannot be found and the foreclosing party cannot be required to do anything. In contrast, the New Jersey Creditor Responsibility Act, 46 NJ Statute Sec. 10B-51(b) provides:

If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable State or local code, the local public officer, municipal clerk, or other authorized municipal official shall notify the creditor, which shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or municipal ordinance.

Connecticut should adopt this statute.

H.B. 6755 – Eminent domain for school construction

SUPPORT

The underlying principle of this bill is that a person whose property is taken by eminent domain for school construction should not receive less in compensation from the town that takes the property than the amount at which that town was assessing the property for tax purposes. This seems quite reasonable.

H.B. 6757 – Confidentiality in rental housing programs

AMEND

This bill is misdrafted and should be substantially revised before it is passed. It appears that, like S.B. 891, it is the result of the transfer to the Department of Housing of DSS programs serving individual clients who have procedural rights. As drafted, however, this bill has not been modified to apply to DOH rather than DSS. It simply copies parts of C.G.S. 17b-90, which applies to all DSS programs (e.g., child support collection), not just its housing programs, without recognizing that the confidentiality issues are different.

H.B. 6759 -- Bedbugs

SUPPORT WITH AMENDMENT

This bill makes explicit what is implicit in Connecticut law -- that it is the responsibility of landlords to promptly treat for bedbug infestations and the responsibility of tenants to prepare the apartment for treatment if they reasonably can do so. It is our understanding that H.B. 6759 is intended to have the same content as the bill approved by the Housing Committee last year. It is, however, missing a critical sentence. We have some concerns about the bill, but we are willing to support the bill as a compromise between landlord and tenant interests as long as the missing sentence is restored.

H.B. 6759 correctly approaches bedbug infestations as a public health issue, not as a matter of assigning fault, and therefore makes clear that bedbug infestations must be promptly exterminated by the landlord. As a practical matter, only the landlord can do actual extermination, both because he has the resources and because the tenant has no right to enter any other tenant's apartment. It is well known that bedbugs travel easily, and their presence in any apartment does not necessarily mean that they were brought there by the tenant. Our principal concern with the bill is that it allows tenants to be charged for preparing the apartment for treatment if they cannot do so without help. In reality, numerous tenants will need help, because apartment preparation can involve heavy moving and extensive removal of possessions. Because such assistance is now often provided without charge as a matter of course, it is essential that the statute make clear that a rent-paying tenant cannot be evicted for inability to pay an apartment preparation surcharge. That is the sentence that should be restored from last year's bill. More specifically, we request that the following minor changes to H.B. 6759 be considered:

- * No eviction: The following sentence should be restored from the 2014 bill: “A tenant's failure to make any payment required pursuant to a repayment schedule shall not be the basis for a summary process action initiated pursuant to chapter 832 of the general statutes.” This restoration is essential.
- * Repayment period: The six-month repayment period should be increased to 12 months and there should be some assurance that charges will not exceed actual out-of-pocket costs..

- * Effective treatment: In l. 36, the word “effectively” should be inserted before “treat” to match it to l. 33. In l. 39, the phrase “shall treat” should be inserted. In l. 112, it should be clear that a tenant can request a copy of the last treatment certificate.
- * Removal of property: The prohibition on removal of property without landlord consent in l. 76-81 should be reviewed for reasonableness.

H.B. 6762 – Foreclosure Mediation Program

SUPPORT

The Foreclosure Mediation Program (FMP) was created in 2008 in response to the foreclosure crisis. The program partially levels the playing field between banks and homeowners by providing in-court mediation in foreclosures against owners of owner-occupied one- to four-family houses. The program has proved to be both an enormous success and a national model. The Judicial Branch recently reported that, since 2008, more than 21,000 cases have been mediated, that about 85% of those cases were settled through mediation, and that more than 80% of the settled cases resulted in the homeowner being able to stay in the home, largely through loan modifications. Preservation of homeownership is beneficial not only for the individual homeowner. It also helps prevent communities from the consequences of property abandonment and helps the lender avoid non-performing mortgages which harm its own financial status. The program is scheduled to sunset on June 30, 2016.

Although it was the foreclosure crisis that generated the program, there is no good reason to terminate the program at any time. While the number of cases requiring mediation may rise or fall as the economy changes (and the number of foreclosures still remains high), in-court mediation will remain essential to protect homeowners whenever they face a foreclosure. Connecticut’s two other major in-court mediation systems – housing mediation for landlord-tenant cases and Family Relations Office mediation in family cases, both of which are highly successful and highly regarded – are long-standing, permanent parts of the judicial system and not based on the existence of a “crisis.” The General Assembly has extended the FMP three times already. It is now time to recognize that the need for the program is on-going, that it is a program that has met all reasonable tests for success, and it should be made permanent.