



Senate

General Assembly

File No. 529

January Session, 2017

Substitute Senate Bill No. 922

Senate, April 11, 2017

The Committee on Planning and Development reported through SEN. CASSANO, S. of the 4th Dist. and SEN. LOGAN of the 17th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING TEMPORARY HEALTH CARE STRUCTURES.

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

- 1 Section 1. (NEW) (*Effective October 1, 2017*) (a) For the purposes of
2 this section:
- 3 (1) "Caregiver" means a relative, legal guardian or health care agent
4 who is responsible for the unpaid care of a mentally or physically
5 impaired person.
- 6 (2) "Mentally or physically impaired person" means a person who
7 requires assistance, as certified in writing by a physician licensed in
8 this state, with two or more activities of daily living, including, but not
9 limited to, bathing, dressing, grooming, eating, meal preparation,
10 shopping, housekeeping, transfers, bowel and bladder care, laundry,
11 communication, self-administration of medication and ambulation.
- 12 (3) "Temporary health care structure" means a transportable

13 residential structure that provides an environment in which a
14 caregiver may provide care for a mentally or physically impaired
15 person and that (A) is primarily assembled at a location other than the
16 site of installation, (B) has one occupant who is the mentally or
17 physically impaired person, (C) is not larger than five hundred gross
18 square feet, (D) is not placed on or attached to a permanent
19 foundation, and (E) complies with the applicable provisions of the
20 State Building Code, Fire Safety Code and Public Health Code.

21 (b) A temporary health care structure shall be allowed as an
22 accessory use in any single-family residential zoning district on a lot
23 zoned for single-family detached dwellings that is owned by a
24 caregiver or mentally or physically impaired person and used as his or
25 her residence. Such structures shall comply with all setback
26 requirements, coverage limits and maximum floor area ratio
27 limitations that apply to accessory structures in such zoning district as
28 of October 1, 2017.

29 (c) No person shall install a temporary health care structure without
30 first obtaining a permit from the municipality in which the structure
31 will be installed, for which the municipality may charge a fee not to
32 exceed two hundred fifty dollars and an annual permit renewal fee not
33 to exceed one hundred dollars. The municipality shall not be required
34 to hold a public hearing on the permit application and shall either
35 approve or deny the permit not later than fifteen business days after
36 the permit application is submitted to the municipality by the
37 applicant. The municipality shall not deny the permit if the applicant
38 provides proof of compliance with this section. The applicant shall
39 send notice of the permit application, by certified or registered mail, to
40 each person appearing of record as an owner of property which abuts
41 the property upon which the temporary health care structure is
42 proposed to be installed. The notice shall be sent not later than three
43 business days after the permit application is submitted to the
44 municipality by the applicant.

45 (d) The municipality may require a temporary health care structure

46 installed pursuant to this section to be accessible to emergency vehicles
47 and be connected to private water or septic systems or to water, sewer
48 and electric utilities that serve the primary residence.

49 (e) Not more than one temporary health care structure shall be
50 installed on a lot zoned for a single-family detached dwelling.

51 (f) No signage advertising or otherwise promoting the existence of
52 the temporary health care structure shall be permitted either on the
53 exterior of the structure or elsewhere on the lot.

54 (g) Following issuance of such permit, the municipality may require
55 that the applicant provide written evidence of compliance with this
56 section as long as the temporary health care structure remains on the
57 property. Evidence of compliance may be obtained through an
58 inspection by the municipality of the temporary health care structure
59 at reasonable times convenient to the caregiver.

60 (h) Any temporary health care structure installed pursuant to this
61 section shall be removed not later than one hundred twenty days after
62 the mentally or physically impaired person no longer occupies the
63 structure or no longer qualifies as a mentally or physically impaired
64 person. Upon issuance of the permit authorizing such structure, the
65 municipality may require the applicant to post a bond in an amount
66 not exceeding fifty thousand dollars to ensure compliance with this
67 subsection.

68 (i) The municipality may revoke a permit issued pursuant to
69 subsection (c) of this section if the permit holder violates any provision
70 of this section.

71 (j) A municipality, by vote of its legislative body or, in a
72 municipality where the legislative body is a town meeting, by vote of
73 the board of selectmen, may opt out of the provisions of this section
74 and the provision of subsection (a) of section 8-2 of the general
75 statutes, as amended by this act, regarding authorization for the
76 installation of temporary health care structures, provided the zoning

77 commission or combined planning and zoning commission of the
78 municipality: (1) First holds a public hearing in accordance with the
79 provisions of section 8-7d of the general statutes on such proposed opt-
80 out, (2) affirmatively decides to opt out of the provisions of said
81 sections within the period of time permitted under section 8-7d of the
82 general statutes, (3) states upon its records the reasons for such
83 decision, and (4) publishes notice of such decision in a newspaper
84 having a substantial circulation in the municipality not later than
85 fifteen days after such decision has been rendered.

86 Sec. 2. Subsection (a) of section 8-2 of the general statutes is repealed
87 and the following is substituted in lieu thereof (*Effective October 1,*
88 *2017*):

89 (a) The zoning commission of each city, town or borough is
90 authorized to regulate, within the limits of such municipality, the
91 height, number of stories and size of buildings and other structures;
92 the percentage of the area of the lot that may be occupied; the size of
93 yards, courts and other open spaces; the density of population and the
94 location and use of buildings, structures and land for trade, industry,
95 residence or other purposes, including water-dependent uses, as
96 defined in section 22a-93, and the height, size and location of
97 advertising signs and billboards. Such bulk regulations may allow for
98 cluster development, as defined in section 8-18. Such zoning
99 commission may divide the municipality into districts of such number,
100 shape and area as may be best suited to carry out the purposes of this
101 chapter; and, within such districts, it may regulate the erection,
102 construction, reconstruction, alteration or use of buildings or
103 structures and the use of land. All such regulations shall be uniform
104 for each class or kind of buildings, structures or use of land throughout
105 each district, but the regulations in one district may differ from those
106 in another district, and may provide that certain classes or kinds of
107 buildings, structures or uses of land are permitted only after obtaining
108 a special permit or special exception from a zoning commission,
109 planning commission, combined planning and zoning commission or
110 zoning board of appeals, whichever commission or board the

111 regulations may, notwithstanding any special act to the contrary,
112 designate, subject to standards set forth in the regulations and to
113 conditions necessary to protect the public health, safety, convenience
114 and property values. Such regulations shall be made in accordance
115 with a comprehensive plan and in adopting such regulations the
116 commission shall consider the plan of conservation and development
117 prepared under section 8-23. Such regulations shall be designed to
118 lessen congestion in the streets; to secure safety from fire, panic, flood
119 and other dangers; to promote health and the general welfare; to
120 provide adequate light and air; to prevent the overcrowding of land; to
121 avoid undue concentration of population and to facilitate the adequate
122 provision for transportation, water, sewerage, schools, parks and other
123 public requirements. Such regulations shall be made with reasonable
124 consideration as to the character of the district and its peculiar
125 suitability for particular uses and with a view to conserving the value
126 of buildings and encouraging the most appropriate use of land
127 throughout such municipality. Such regulations may, to the extent
128 consistent with soil types, terrain, infrastructure capacity and the plan
129 of conservation and development for the community, provide for
130 cluster development, as defined in section 8-18, in residential zones.
131 Such regulations shall also encourage the development of housing
132 opportunities, including opportunities for multifamily dwellings,
133 consistent with soil types, terrain and infrastructure capacity, for all
134 residents of the municipality and the planning region in which the
135 municipality is located, as designated by the Secretary of the Office of
136 Policy and Management under section 16a-4a. Such regulations shall
137 also promote housing choice and economic diversity in housing,
138 including housing for both low and moderate income households, and
139 shall encourage the development of housing which will meet the
140 housing needs identified in the state's consolidated plan for housing
141 and community development prepared pursuant to section 8-37t and
142 in the housing component and the other components of the state plan
143 of conservation and development prepared pursuant to section 16a-26.
144 Zoning regulations shall be made with reasonable consideration for
145 their impact on agriculture, as defined in subsection (q) of section 1-1.

146 Zoning regulations may be made with reasonable consideration for the
147 protection of historic factors and shall be made with reasonable
148 consideration for the protection of existing and potential public surface
149 and ground drinking water supplies. On and after July 1, 1985, the
150 regulations shall provide that proper provision be made for soil
151 erosion and sediment control pursuant to section 22a-329. Such
152 regulations may also encourage energy-efficient patterns of
153 development, the use of solar and other renewable forms of energy,
154 and energy conservation. The regulations may also provide for
155 incentives for developers who use passive solar energy techniques, as
156 defined in subsection (b) of section 8-25, in planning a residential
157 subdivision development. The incentives may include, but not be
158 limited to, cluster development, higher density development and
159 performance standards for roads, sidewalks and underground facilities
160 in the subdivision. Such regulations may provide for a municipal
161 system for the creation of development rights and the permanent
162 transfer of such development rights, which may include a system for
163 the variance of density limits in connection with any such transfer.
164 Such regulations may also provide for notice requirements in addition
165 to those required by this chapter. Such regulations may provide for
166 conditions on operations to collect spring water or well water, as
167 defined in section 21a-150, including the time, place and manner of
168 such operations. No such regulations shall prohibit the operation of
169 any family child care home or group child care home in a residential
170 zone. No such regulations shall prohibit the use of receptacles for the
171 storage of items designated for recycling in accordance with section
172 22a-241b or require that such receptacles comply with provisions for
173 bulk or lot area, or similar provisions, except provisions for side yards,
174 rear yards and front yards. No such regulations shall unreasonably
175 restrict access to or the size of such receptacles for businesses, given
176 the nature of the business and the volume of items designated for
177 recycling in accordance with section 22a-241b, that such business
178 produces in its normal course of business, provided nothing in this
179 section shall be construed to prohibit such regulations from requiring
180 the screening or buffering of such receptacles for aesthetic reasons.

181 Such regulations shall not impose conditions and requirements on
 182 manufactured homes having as their narrowest dimension twenty-two
 183 feet or more and built in accordance with federal manufactured home
 184 construction and safety standards or on lots containing such
 185 manufactured homes which are substantially different from conditions
 186 and requirements imposed on single-family dwellings and lots
 187 containing single-family dwellings. Such regulations shall not impose
 188 conditions and requirements on developments to be occupied by
 189 manufactured homes having as their narrowest dimension twenty-two
 190 feet or more and built in accordance with federal manufactured home
 191 construction and safety standards which are substantially different
 192 from conditions and requirements imposed on multifamily dwellings,
 193 lots containing multifamily dwellings, cluster developments or
 194 planned unit developments. Such regulations shall not prohibit the
 195 continuance of any nonconforming use, building or structure existing
 196 at the time of the adoption of such regulations. Such regulations shall
 197 not provide for the termination of any nonconforming use solely as a
 198 result of nonuse for a specified period of time without regard to the
 199 intent of the property owner to maintain that use. Unless such town
 200 opts out, in accordance with the provisions of subsection (j) of section 1
 201 of this act, such regulations shall not prohibit the installation of
 202 temporary health care structures for use by mentally or physically
 203 impaired persons in accordance with the provisions of section 1 of this
 204 act if such structures comply with the provisions of said section. Any
 205 city, town or borough which adopts the provisions of this chapter may,
 206 by vote of its legislative body, exempt municipal property from the
 207 regulations prescribed by the zoning commission of such city, town or
 208 borough; but unless it is so voted municipal property shall be subject
 209 to such regulations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	New section
Sec. 2	October 1, 2017	8-2(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:

Municipalities	Effect	FY 18 \$	FY 19 \$
Various Municipalities	Potential Revenue Gain	Minimal	Minimal
Various Municipalities	Potential Cost	Less than \$2,500	Less than \$2,500

Explanation

There is a potential revenue gain resulting from the bill, which requires individuals pay a \$250 permit fee and a \$100 renewal fee to install and retain temporary health care structures. Any potential revenue gain would vary by how many temporary structures are installed within a municipality.

There is also a potential cost to municipalities resulting from the bill providing a process to opt out of the bill's provisions. In order to opt out, towns must have a public hearing, and publish notice of the decision in a local newspaper. The cost of the public hearing and newspaper posting, which is anticipated to be less than \$2,500, would only be incurred by towns that decide to opt out.

The Out Years

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

OLR Bill Analysis**sSB 922****AN ACT CONCERNING TEMPORARY HEALTH CARE STRUCTURES.****SUMMARY**

This bill establishes conditions under which property owners may place temporary health care structures on residential property to care for individuals with qualifying mental or physical impairments. It prohibits municipal zoning regulations from barring such structures unless the municipality follows a specified process to opt out of the bill's requirements.

Under the bill, unless a municipality opts out of the requirement, it must allow the structures as an accessory use in any single-family residential zoning district on a lot (1) zoned for single-family detached homes, (2) owned by a caregiver or "mentally or physically impaired person," and (3) used as his or her residence. The structures must comply with (1) all setback requirements, coverage limits, and maximum floor area ratio limitations applying to accessory structures in the zone as of October 1, 2017 and (2) the applicable provisions of the building, fire, and public health codes. They must be removed within 120 days after the qualifying individual no longer occupies the structure or qualifies to occupy it.

The bill establishes various requirements for the structures, including a maximum size of 500 square feet and a maximum occupancy of one qualifying occupant, and a permit approval process for individuals seeking to install one. It authorizes municipalities to oversee and enforce the bill's requirements, including allowing them to inspect the structures, at reasonable times convenient to the caregiver, to ensure compliance.

EFFECTIVE DATE: October 1, 2017

MUNICIPAL OPT OUT

The bill allows municipalities, by vote of their legislative bodies (or board of selectmen if the legislative body is a town meeting), to opt out of the bill's provisions requiring them to authorize temporary health care structures. To do so, the municipality's zoning or combined planning and zoning commission must:

1. first hold a public hearing on the proposed opt-out, subject to the standard notice and timeframes for such hearings;
2. affirmatively decide to opt out within the statutory time limit (generally within 65 days of the hearing's completion);
3. state in the record the reasons for its decision; and
4. publish notice of the decision within 15 days in a newspaper that has substantial circulation in the municipality.

REQUIREMENTS FOR TEMPORARY HEALTH CARE STRUCTURES

Qualifying Occupants, Caregivers, and Structures

The bill defines a "mentally or physically impaired person" as someone who a Connecticut-licensed physician has certified in writing as requiring assistance with two or more daily living activities, including bathing, dressing, grooming, eating, meal preparation, shopping, housekeeping, transfers, bowel and bladder care, laundry, communication, ambulation, and self-administration of medication.

Under the bill, a caregiver is a relative, legal guardian, or health care agent responsible for the unpaid care of a mentally or physically impaired person.

Temporary health care structures are mobile residential structures in which a caregiver can provide care for the impaired person. The structures may not be placed on or attached to a permanent foundation and must be:

1. primarily assembled at a location other than the installation site,
2. have one occupant who is the mentally or physically impaired person,
3. 500 gross square feet or less, and
4. in compliance with the applicable provisions of the State Building Code, Fire Safety Code, and Public Health Code.

Only one temporary health care structure may be installed on a lot zoned for a single-family detached home. Municipalities may require the structures to be accessible to emergency vehicles and connected to private water or septic systems or water, sewer, and electric utilities serving the primary residence.

The bill prohibits any signage advertising or promoting the structure on the property or structure's exterior.

Application and Approval Process

Individuals seeking to install a temporary health care structure must receive a permit from the municipality in which it will be installed. Applicants must send notice of the permit application, by certified or registered mail, to abutting property owners no later than three business days after submitting the application.

Municipalities may charge fees of up to \$250 for initial permits and \$100 for annual permit renewals. Municipalities are not required to hold a public hearing on permit applications. They must approve or deny a permit within 15 business days after its submission, but they cannot deny a permit if the applicant provides proof of compliance with the bill.

Oversight and Enforcement

The bill authorizes municipalities to:

1. require permittees to provide written evidence of compliance with the bill for as long as the structure remains on the property;

2. inspect the structures, at reasonable times convenient to the caregiver, to ensure compliance;
3. require permittees to post a bond of up to \$50,000 to ensure compliance; and
4. revoke a permit if the permittee violates any of the bill's requirements.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/24/2017)