



House of Representatives

General Assembly

File No. 595

February Session, 2018

Substitute House Bill No. 5560

House of Representatives, April 19, 2018

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE AUTHORITY OF THE COURT TO ENFORCE ZONING REGULATIONS.

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 Section 8-12 of the general statutes is repealed and the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, 2018*):

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 dollars
30 or more than one hundred dollars for each day that such violation
31 continues; but, if the offense is wilful, the person convicted thereof
32 shall be fined not less than one hundred dollars or more than two
33 hundred fifty dollars for each day that such violation continues, or
34 imprisoned not more than ten days for each day such violation
35 continues not to exceed a maximum of thirty days for such violation,
36 or both; and the Superior Court shall have jurisdiction of all such
37 offenses, subject to appeal as in other cases. Any person who, having
38 been served with an order to discontinue any such violation, fails to
39 comply with such order within ten days after such service, or having
40 been served with a cease and desist order with respect to a violation
41 involving grading of land, removal of earth or soil erosion and
42 sediment control, fails to comply with such order immediately, or
43 continues to violate any provision of the regulations made under
44 authority of the provisions of this chapter specified in such order shall
45 be subject to a civil penalty not to exceed two thousand five hundred
46 dollars, payable to the treasurer of the municipality. In any criminal
47 prosecution under this section, the defendant may plead in abatement
48 that such criminal prosecution is based on a zoning ordinance or
49 regulation which is the subject of a civil action wherein one of the

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

59 (b) In addition to the civil penalties imposed pursuant to subsection
 60 (a) of this section, the Superior Court may impose a minimum fine of
 61 one thousand dollars against any person who violates any provision of
 62 the regulations made under authority of the provisions of this chapter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	8-12

JUD *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:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows the court to impose a \$1,000 fine for violating zoning regulations and results in a potential minimal revenue gain. In FY 17 there were 24 violations of the provision but all cases were dismissed. Penalties under the current provision has not been imposed since FY 12.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

OLR Bill Analysis**sHB 5560*****AN ACT CONCERNING THE AUTHORITY OF THE COURT TO ENFORCE ZONING REGULATIONS.*****SUMMARY**

This bill authorizes the Superior Court to impose a minimum fine of \$1,000 for violating zoning regulations adopted pursuant to the municipal zoning powers statutes (CGS §§ 8-1 to -13a). The bill specifies that the court may impose the fine in addition to the civil penalties CGS § 8-12 establishes.

Under CGS § 8-12, a court may impose civil and criminal penalties for zoning violations. The civil penalties are:

1. a fine of up to \$2,500 for (a) failing to abate a violation within 10 days of receiving a discontinuance order; (b) failing to immediately comply with a cease and desist order concerning grading, earth removal, soil erosion, or sediment control; or (c) continuing to violate zoning regulations cited in an order; and
2. a \$10 to \$100 fine per day that a violation continues.

(In addition to court-imposed fines, municipalities may impose fines of up to \$150 per day for zoning violations, if the fines are established by ordinance (CGS § 8-12a).)

EFFECTIVE DATE: October 1, 2018

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 4 (04/03/2018)