



Senate

General Assembly

File No. 532

January Session, 2021

Substitute Senate Bill No. 868

Senate, April 20, 2021

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

AN ACT CONCERNING REGULATION OF COMMUNITY RESIDENCES.

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

1 Section 1. Section 8-3e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) As described in this section, community residences do not include
4 any (1) private for-profit health care facility, or (2) health care facility
5 that receives no funding from the Department of Mental Health and
6 Addiction Services. As used in this section, "health care facility" has the
7 same meaning as provided in section 19a-630.

8 [(a)] (b) No zoning regulation shall treat the following in a manner
9 different from any single family residence: (1) Any community
10 residence that houses six or fewer persons with intellectual disability
11 and necessary staff persons and that is licensed under the provisions of
12 section 17a-227, (2) any child-care residential facility that houses six or

13 fewer children with mental or physical disabilities and necessary staff
14 persons and that is licensed under sections 17a-145 to 17a-151, inclusive,
15 (3) any community residence that houses six or fewer persons receiving
16 mental health or addiction services and necessary staff persons paid for
17 or provided by the Department of Mental Health and Addiction
18 Services and that has been issued a license by the Department of Public
19 Health under the provisions of section 19a-491, if a license is required,
20 or (4) any residence that provides licensed hospice care and services to
21 six or fewer persons, provided such residence is (A) managed by an
22 organization that is tax exempt under Section 501(c)(3) of the Internal
23 Revenue Code of 1986, or any subsequent corresponding internal
24 revenue code of the United States, as from time to time amended; (B)
25 located in a city with a population of more than one hundred thousand
26 and within a zone that allows development on one or more acres; (C)
27 served by public sewer and water; and (D) constructed in accordance
28 with applicable building codes for occupancy by six or fewer persons
29 who are not capable of self-preservation.

30 [(b) Any] (c) In the case of an entity that at the time of establishment
31 was so established as a community residence or child-care residential
32 facility, any resident of a municipality in which such [a community
33 residence or child-care residential facility] an entity is located may, with
34 the approval of the legislative body of such municipality, petition (1) the
35 Commissioner of Developmental Services to revoke the license of such
36 [community residence] entity on the grounds that such [community
37 residence] entity is not in compliance with the provisions of any general
38 statute or regulation concerning the operation of [such] community
39 residences, if applicable to such entity at the time of such petition, (2)
40 the Commissioner of Children and Families to revoke the license of such
41 [child-care residential facility] entity on the grounds that such [child-
42 care residential facility] entity is not in compliance with the [provision]
43 provisions of any general statute or regulation concerning the operation
44 of [such] child-care residential [facility] facilities, if applicable to such
45 entity at the time of such petition, or (3) the Commissioner of Mental
46 Health and Addiction Services to withdraw funding from such
47 [community residence] entity on the grounds that such [community

48 residence] entity is not in compliance with the provisions of any general
49 statute or regulation adopted thereunder concerning the operation of [a
50 community residence] community residences, if applicable to such
51 entity at the time of such petition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	8-3e

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 makes clarifying changes to the definition of "community residence" for zoning purposes. This has no fiscal impact as it makes no change to the cost of administering or enforcing any zoning ordinance.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 868*****AN ACT CONCERNING REGULATION OF COMMUNITY RESIDENCES.*****SUMMARY**

This bill specifies that community residences (i.e., certain group homes for adults with disabilities) do not include health care facilities that (1) are private and for-profit or (2) receive no Department of Mental Health and Addition Services (DMHAS) funding. By law, zoning regulations may not treat community residences differently than single-family homes (see BACKGROUND).

The bill defines “health care facilities” to include mental health, substance abuse treatment, and other facilities that may require a Certificate of Need (CON), including their parent companies and subsidiaries (see BACKGROUND). In doing so, the bill allows zoning regulations to impose more restrictive requirements on these facilities than they impose on community residences or single-family homes.

By law, any resident of a municipality in which a community or child-care residence is located may petition, with the municipal legislative body’s approval, certain state agencies to revoke the residence’s license (or funding, in the case of community residences) for not operating in compliance with statutes or regulations.

The bill expands this authorization to cover entities that were initially established as a community residence or child-care residential facility, provided the resident’s petition is based on noncompliance with laws applicable at the time of the petition (e.g., entities established as community residences that are health care facilities under the bill, but only if they are noncompliant with relevant health care facility laws or regulations).

EFFECTIVE DATE: October 1, 2021

BACKGROUND

Covered Community-Based Residences

By law, zoning regulations must treat as single-family residences certain community-based residences that house six or fewer individuals, excluding staff; specifically:

1. Department of Children and Families (DCF)-licensed child-care residences for children with mental or physical disabilities;
2. Department of Developmental Services (DDS)-licensed community residences for adults with intellectual disabilities; and
3. Department of Public Health (DPH)-licensed community residences in which adults receive mental health or addiction services paid for or provided by DMHAS.

Zoning regulations must also treat as single-family residences DPH-licensed inpatient hospice facilities that house six or fewer individuals and meet certain requirements (e.g., are managed by a nonprofit and located in a city with more than 100,000 residents and in a zone allowing development on one or more acres). These hospice facilities are not subject to resident petitioning, though.

Residents of municipalities in which residences are located, after receiving approval from the municipal legislative body, may petition the commissioner of (1) DDS to revoke the community residence's license, (2) DCF to revoke a child-care residential facility's license, or (3) DMHAS to withdraw a community residence's funding.

Health Care Facilities and Certificates of Need

Generally, Connecticut law requires health care facilities to apply for a CON from the Office of Health Strategy's Health Systems Planning Unit when they propose to (1) establish a new facility or provide new services, (2) change ownership, (3) purchase or acquire certain

equipment, or (4) terminate certain services (CGS § 19a-638).

These health care facilities include mental health and substance abuse treatment facilities, facilities eligible for reimbursement under Medicare or Medicaid, hospitals, and any other facility that requires a CON, as well as their parent companies, subsidiaries, affiliates, and joint ventures (CGS § 19a-630).

Related State and Federal Laws

Numerous federal laws provide protections for individuals with disabilities that apply regardless of any conflicting state law or municipal regulation, including the Americans with Disabilities Act (ADA), the Fair Housing Act (FHA), and the Rehabilitation Act of 1973.

These laws prohibit municipalities from imposing restrictions or conditions on group housing for persons with disabilities that are not imposed on housing for those without disabilities and require municipalities to make reasonable changes in zoning and other rules to provide equal housing opportunities for people with disabilities.

Under these laws, people with disabilities include people (1) with a mental illness, developmental disability, or physical impairment or (2) recovering from addiction to alcohol or an illegal drug.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 5 (03/31/2021)