



General Assembly

Amendment

January Session, 2021

LCO No. 9545



Offered by:

REP. CURREY, 11 th Dist.	SEN. OSTEN, 19 th Dist.
REP. MCCARTHY VAHEY, 133 rd Dist.	REP. ACKERT, 8 th Dist.
SEN. ANWAR, 3 rd Dist.	REP. HALL, 59 th Dist.
REP. FOSTER, 57 th Dist.	REP. DOUCETTE, 13 th Dist.
REP. ROJAS, 9 th Dist.	REP. HAYES, 51 st Dist.
SEN. CHAMPAGNE, 35 th Dist.	REP. MICHEL, 146 th Dist.
REP. DELNICKI, 14 th Dist.	REP. GREEN, 55 th Dist.
REP. VAIL, 52 nd Dist.	REP. NUCCIO, 53 rd Dist.
SEN. CASSANO, 4 th Dist.	SEN. MCCRORY, 2 nd Dist.
REP. WINKLER, 56 th Dist.	SEN. CABRERA, 17 th Dist.
REP. LUXENBERG, 12 th Dist.	

To: Subst. House Bill No. 6646

File No. 550

Cal. No. 394

"AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 29-265d of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) Any owner of a residential building who has obtained a written
6 evaluation from a professional engineer licensed pursuant to chapter

7 391 indicating that the foundation of such residential building was made
8 with defective concrete may provide a copy of such evaluation to the
9 assessor and request a reassessment of the residential building by the
10 assessor. Not later than ninety days after receipt of a copy of such
11 evaluation, or prior to the commencement of the assessment year next
12 following, whichever is earlier, the assessor, member of the assessor's
13 staff or person designated by the assessor shall inspect the residential
14 building and adjust its assessment to reflect its current value. Such
15 reassessment may be appealed pursuant to section 12-111. Any
16 reassessment under this section shall apply [for five assessment years,
17 notwithstanding the provisions of section 12-62] until the next
18 reevaluation becomes effective or the concrete foundation is repaired or
19 replaced, and the assessor, member of the assessor's staff or person
20 designated by the assessor adjusts the assessment of the residential
21 building, whichever is earlier.

22 (b) Notwithstanding the provisions of section 12-62, any property
23 that has had its assessment adjusted pursuant to subsection (a) of this
24 section shall be assessed during each revaluation cycle to reflect its
25 current value.

26 [(b)] (c) An owner of a residential building that has obtained a
27 reassessment pursuant to this section shall notify the assessor if the
28 concrete foundation is repaired or replaced. [during the five assessment
29 years for which the reassessment is effective.] Such notification shall be
30 made in writing within thirty days of the repair or replacement of the
31 concrete foundation. Not later than ninety days after receipt of such
32 notification, or prior to the commencement of the assessment year next
33 following, whichever is earlier, the assessor, member of the assessor's
34 staff or person designated by the assessor shall inspect the residential
35 building and adjust its assessment to reflect its current value.

36 Sec. 2. Subdivision (2) of subsection (b) of section 38a-91vv of the
37 general statutes is repealed and the following is substituted in lieu
38 thereof (*Effective July 1, 2021*):

39 (2) Establish a board of directors who shall serve in a volunteer
40 capacity. The membership of the board of directors shall include, but
41 need not be limited to, a real estate agent or broker, two owners of
42 residential buildings who have concrete foundations that have
43 deteriorated due to the presence of pyrrhotite, a chief executive or such
44 chief executive's designee of a municipality in which residential
45 buildings with concrete foundations that have deteriorated due to the
46 presence of pyrrhotite are located, an individual with professional
47 investment experience and currently registered as an investment
48 adviser pursuant to title 36b, the executive directors of the Capitol
49 Region Council of Governments and the Northeastern Connecticut
50 Council of Governments or such executive directors' designees and
51 representatives from the insurance and banking industries, who shall
52 not have professional relationships with any bank or insurance
53 company that has a financial interest in residential buildings subject to
54 the provisions of this section and sections 7-374b, 8-441, 8-442, 8-443, 8-
55 444, subparagraph (B) of subdivision (20) of subsection (a) of section 12-
56 701 and section 29-265f. The speaker, the minority leader of the House
57 of Representatives, the president pro tempore of the Senate and the
58 Senate Republican president pro tempore shall each appoint a member
59 of the General Assembly as a nonvoting, ex-officio member of the board
60 of directors. The Governor shall appoint two members to the board of
61 directors, one of whom shall be appointed as a nonvoting, ex-officio
62 member. It shall not constitute a conflict of interest for a member of the
63 board of directors, who is the owner of a residential building which has
64 a concrete foundation that has deteriorated due to the presence of
65 pyrrhotite, or the spouse or dependent child of such member, to apply
66 for or receive assistance from the captive insurance company
67 established under this section, to repair or replace such concrete
68 foundation, provided such member shall abstain from deliberation,
69 action or vote by the board of directors in specific respect to such
70 member's application or the application of such spouse or dependent
71 child;

72 Sec. 3. Subsection (i) of section 38a-91vv of the general statutes is

73 repealed and the following is substituted in lieu thereof (*Effective July 1,*
74 *2021*):

75 (i) The captive insurance company shall continue [until June 30, 2022,
76 or] until its existence is terminated by law. Upon the termination of the
77 existence of the company, all its right and properties shall pass to and
78 be vested in the state of Connecticut.

79 Sec. 4. (*Effective July 1, 2021*) Not later than January 1, 2023, the captive
80 insurance company established pursuant to section 38a-91vv of the
81 general statutes, as amended by this act, shall submit a report, in
82 accordance with the provisions of section 11-4a of the general statutes,
83 to the joint standing committees of the General Assembly having
84 cognizance of matters relating to insurance and planning and
85 development. Such report shall include, but not be limited to, an
86 analysis of the extent of the damage caused to concrete foundations in
87 nonresidential buildings in the state due to the presence of pyrrhotite in
88 such concrete.

89 Sec. 5. Section 8-446 of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective July 1, 2021*):

91 (a) There is established an account to be known as the "Healthy
92 Homes Fund" which shall be a separate, nonlapsing account within the
93 General Fund. The account shall contain any moneys required by law to
94 be deposited in the account. Moneys in the account shall be expended
95 by the Department of Housing for the purposes of:

96 (1) Funding of not more than one million dollars, from remittances
97 transferred pursuant to section 38a-331 for the period beginning January
98 1, 2019, and ending December 31, 2019, shall be remitted to the
99 Department of Economic and Community Development to be used for
100 grants-in-aid to homeowners with homes located in the immediate
101 vicinity of the West River in the Westville section of New Haven and
102 Woodbridge for structurally damaged homes due to subsidence and to
103 homeowners with homes abutting the Yale Golf Course in the Westville
104 section of New Haven for damage to such homes from water infiltration

105 or structural damage due to subsidence; [and]

106 (2) Funding a program, and any related administrative expense, to
107 reduce health and safety hazards in residential dwellings in
108 Connecticut, including, but not limited to, lead, radon and other
109 contaminants or conditions, through removal, remediation, abatement
110 and other appropriate methods. For purposes of this subdivision,
111 "administrative expense" means any administrative or other cost or
112 expense incurred by the Department of Housing in carrying out the
113 provisions of this section, including, but not limited to, the hiring of
114 necessary employees and entering into necessary contracts; and

115 (3) Funding of not more than one hundred seventy-five thousand
116 dollars, from remittances transferred pursuant to section 38a-331 for the
117 period beginning January 1, 2021, and ending December 31, 2021, shall
118 be remitted to the captive insurance company established pursuant to
119 section 38a-91vv, as amended by this act, to be used for the research and
120 development of the report described in section 4 of this act and any
121 related administrative expense. Such sum shall not be considered in
122 calculating the total funds allocated or made available to the captive
123 insurance company used for administrative or operational costs
124 pursuant to section 38a-91vv, as amended by this act.

125 (b) The Department of Housing shall notify the Department of Public
126 Health not later than thirty days after the deposit of remittances in the
127 Healthy Homes Fund pursuant to subdivision (2) of subsection (c) of
128 section 38a-331. Not later than thirty days after the deposit of
129 remittances pursuant to subdivision (2) of subsection (c) of section 38a-
130 331, the Department of Public Health shall notify each municipal health
131 department in the state annually regarding funds available pursuant to
132 the Healthy Homes Fund established pursuant to subsection (a) of this
133 section.

134 (c) Not later than January 1, 2020, and annually thereafter, the
135 Commissioner of Housing shall report to the joint standing committees
136 of the General Assembly having cognizance of matters relating to

137 housing, planning and development and appropriations and the
138 budgets of state agencies, in accordance with section 11-4a, regarding
139 the status of the Healthy Homes Fund established pursuant to this
140 section and all moneys deposited into and expended by the Department
141 of Housing pursuant to said account. Any such report may be submitted
142 electronically.

143 Sec. 6. Subdivision (28) of subsection (b) of section 1-210 of the general
144 statutes is repealed and the following is substituted in lieu thereof
145 (*Effective July 1, 2021*):

146 (28) Any [documentation provided to or obtained] records
147 maintained or kept on file by an executive branch agency or public
148 institution of higher education, including documentation [provided]
149 prepared or obtained prior to May 25, 2016, relating to claims of or
150 testing for faulty or failing concrete foundations in residential buildings
151 [by the owners of such residential buildings,] and documents or
152 materials prepared by an executive branch agency or public institution
153 of higher education relating to such [documentation, for seven years
154 after the date of receipt of the documentation or seven years after May
155 25, 2016, whichever is later] records.

156 Sec. 7. Section 29-265e of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective July 1, 2021*):

158 Any documentation provided to or obtained by an executive branch
159 agency, including documentation provided or obtained prior to May 25,
160 2016, relating to claims of faulty or failing concrete foundations in
161 residential buildings by the owners of such residential buildings, and
162 documents prepared by an executive branch agency relating to such
163 documentation, shall be maintained as confidential by such agency. [for
164 not less than seven years after the date of receipt of the documentation
165 or seven years after May 25, 2016, whichever is later.]

166 Sec. 8. (NEW) (*Effective July 1, 2021*) (a) For the purposes of this
167 section, "qualified geologist" means a geologist certified by the
168 American Institute of Professional Geologists, licensed by the National

169 Association of State Boards of Geology or certified or licensed by
170 another organization deemed suitable by the State Geologist.

171 (b) (1) Not later than January 1, 2022, the operator of any quarry
172 established on or before July 1, 2021, that produces aggregate for use in
173 concrete intended for use or sale shall prepare a geological source report
174 and provide such report to the State Geologist and Commissioner of
175 Energy and Environmental Protection. Such report shall be prepared in
176 a form and manner prescribed by the commissioner, and shall include,
177 but need not be limited to, (A) the mining, processing, storage and
178 quality control methods utilized by such operator, (B) a description of
179 the characteristics of the aggregate to be excavated at such quarry,
180 which shall be prepared by a qualified geologist, (C) a description of the
181 products to be produced by such quarry, (D) a copy of the results of an
182 inspection of face material and geologic log analysis completed by a
183 qualified geologist, and (E) analyses of core samples, completed by a
184 qualified geologist, unless such quarry is active and has a satisfactory
185 performance history as determined by the commissioner. Not later than
186 January 1, 2026, and every four years thereafter, such operator shall
187 update such report and provide such updated report to the State
188 Geologist and commissioner.

189 (2) The operator of any quarry established after July 1, 2021, that
190 intends to produce aggregate for use in concrete intended for use or sale
191 shall prepare a geological source report, described in subdivision (1) of
192 this subsection, and provide such report to the State Geologist and
193 commissioner prior to offering such aggregate for use or sale. Such
194 operator shall update such report every four years thereafter and
195 provide such updated report to the State Geologist and commissioner.

196 (3) Not later than January 1, 2022, and annually thereafter, the
197 operator of each quarry that produces aggregate for use in concrete
198 intended for use or sale shall provide such quarry's operations plan to
199 the State Geologist and commissioner.

200 Sec. 9. (NEW) (*Effective July 1, 2021*) (a) Except as provided in

201 subsection (c) of this section, not later than July 1, 2022, and not less than
202 annually thereafter, the operator of each quarry that sells or provides
203 aggregate intended for use in concrete, shall submit a written report to
204 the Commissioner of Energy and Environmental Protection and the
205 State Geologist, containing the results of a third-party test of the sulfur
206 content of such aggregate. Such test shall be conducted by a third-party
207 certified or accredited to conduct testing in accordance with American
208 Society for Testing Materials standard C33/C33M, Standard
209 Specification for Concrete Aggregates. Such certification or
210 accreditation shall be provided by the International Organization for
211 Standardization, United States Army Corps of Engineers, American
212 Association of State Highway and Transportation Officials,
213 International Accreditation Service or a similar organization.

214 (b) Each test conducted pursuant to subsection (a) of this section shall
215 include:

216 (1) The performance of a rapid total sulfur test on a ten-pound sample
217 of aggregate by any of the following means: (A) X-ray fluorescence
218 analysis, (B) purge and trap gas chromatography analysis, (C) analysis
219 by combustion furnace, or (D) other technology deemed at least as
220 accurate by the State Geologist. Representative samples shall be
221 collected and managed in accordance with American Society for Testing
222 and Materials standard D75/D75M, Standard Practice for Sampling
223 Aggregates, reduced to a size appropriate for laboratory testing and
224 pulverized for analysis;

225 (2) If the total sulfur content of the sample in per cent by mass is less
226 than one per cent and equal to or greater than one-tenth per cent, the
227 performance of x-ray diffraction, magnetic susceptibility or
228 petrographic analyses to determine the presence and relative
229 abundance of pyrrhotite in the sample; and

230 (3) If the results of the test conducted pursuant to this section reveal
231 that pyrrhotite is present in the sample, a petrographic analysis based
232 on American Society for Testing and Materials standards C295,

233 Standard Guide for Petrographic Examination of Aggregates for
234 Concrete, and C294, Standard Descriptive Nomenclature for
235 Constituents of Concrete Aggregates, shall be conducted to determine
236 the acceptance and use of the aggregate.

237 (c) If the results of the test conducted pursuant to this section reveal
238 that the total sulfur content of the sample in per cent by mass is less than
239 one-tenth per cent, an operator may sell or provide such aggregate for
240 use in concrete for a period of four years beginning on the date of receipt
241 of such test results and shall not be required to submit a report pursuant
242 to subsection (a) of this section during such period.

243 (d) If the results of the test conducted pursuant to this section reveal
244 that the total sulfur content of the sample in per cent by mass is equal to
245 or greater than one per cent, an operator shall not sell or provide such
246 aggregate for use in concrete.

247 (e) If the results of the test performed pursuant to this section reveal
248 that the total sulfur content of the sample in per cent by mass is less than
249 one per cent and equal to or greater than one-tenth per cent and (1) no
250 pyrrhotite is present, an operator may sell or provide such aggregate for
251 use in concrete for a period of one year beginning on the date of receipt
252 of such test results; and (2) pyrrhotite is present, an operator shall not
253 sell or provide such aggregate in a manner inconsistent with the
254 acceptance and use indicated by the results of a petrographic analysis
255 undertaken pursuant to this section or requirement or restriction
256 established by the Commissioner of Energy and Environmental
257 Protection pursuant to subsection (f) of this section.

258 (f) The Commissioner of Energy and Environmental Protection, in
259 consultation with the State Geologist, may, if the results of the test
260 performed pursuant to this section reveal that the total sulfur content of
261 the sample in per cent by mass is less than one per cent and equal to or
262 greater than one-tenth per cent and pyrrhotite is present, (1) require the
263 operator of the quarry to conduct additional testing, including but not
264 limited to a mortar bar expansion test pursuant to American Society for

265 Testing and Materials standard C1293, Standard Test Method for
 266 Determination of Length Change of Concrete Due to Alkali-Silica
 267 Reaction, or C227, Standard Test Method for Potential Alkali Reactivity
 268 of Cement-Aggregate Combinations; and (2) implement restrictions on
 269 the sale or use of aggregate from such quarry in concrete.

270 (g) The Commissioner of Energy and Environmental Protection may
 271 adopt regulations, in accordance with chapter 54 of the general statutes,
 272 to implement the provisions of this section. Such regulations shall
 273 include, but not be limited to, definitions for the terms "rapid total sulfur
 274 test", "x-ray fluorescence analysis", "purge and trap gas chromatography
 275 analysis", "analysis by combustion furnace", "x-ray diffraction",
 276 "magnetic susceptibility analysis", "petrographic analysis" and "mortar
 277 bar expansion test."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	29-265d
Sec. 2	<i>July 1, 2021</i>	38a-91vv(b)(2)
Sec. 3	<i>July 1, 2021</i>	38a-91vv(i)
Sec. 4	<i>July 1, 2021</i>	New section
Sec. 5	<i>July 1, 2021</i>	8-446
Sec. 6	<i>July 1, 2021</i>	1-210(b)(28)
Sec. 7	<i>July 1, 2021</i>	29-265e
Sec. 8	<i>July 1, 2021</i>	New section
Sec. 9	<i>July 1, 2021</i>	New section