



House of Representatives

File No. 638

General Assembly

February Session, 2024

(Reprint of File No. 440)

Substitute House Bill No. 5272
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 1, 2024

**AN ACT CONCERNING THE ENFORCEMENT OF REQUIREMENTS
IMPOSED BY CERTAIN MUNICIPAL APPROVALS AND THE NEW
HOME CONSTRUCTION GUARANTY FUND.**

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

1 Section 1. Subsection (m) of section 8-3 of the 2024 supplement to the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2024*):

4 (m) (1) Notwithstanding the provisions of this section, any site plan
5 approval made under this section prior to July 1, 2011, that has not
6 expired prior to July 12, 2021, except an approval made under
7 subsection (j) of this section, shall expire not less than fourteen years
8 after the date of such approval and the commission may grant one or
9 more extensions of time to complete all or part of the work in connection
10 with such site plan, provided no approval, including all extensions,
11 shall be valid for more than nineteen years from the date the site plan
12 was approved.

13 (2) Notwithstanding the provisions of this section, any site plan
14 approval made under this section on or after July 1, 2011, but prior to
15 June 10, 2021, that did not expire prior to March 10, 2020, except an
16 approval made under subsection (j) of this section, shall expire not less
17 than fourteen years after the date of such approval and the commission
18 may grant one or more extensions of time to complete all or part of the
19 work in connection with such site plan, provided no approval, including
20 all extensions, shall be valid for more than nineteen years from the date
21 the site plan was approved.

22 (3) For the purposes of this subdivision, "incomplete work" means
23 any physical improvement required by the site plan approval that is
24 incomplete due to a suspension in construction, and "business" means a
25 sole proprietorship, trust, corporation, limited liability company, union,
26 association, firm, partnership or other organization or group of persons.
27 The zoning enforcement officer may initiate an enforcement action
28 pursuant to section 8-12, as amended by this act, against a business
29 required to complete work in connection with a site plan approval if (A)
30 such approval has not expired, (B) work required pursuant to such
31 approval has been suspended before completion and the zoning
32 enforcement officer determines the business has no intent to resume
33 such work within a reasonable time period, and (C) (i) the zoning
34 enforcement officer determines that the incomplete work creates a
35 condition constituting a public health or safety hazard, or (ii) the zoning
36 enforcement officer has received and verified a complaint from one or
37 more property owners alleging damage to persons or property resulting
38 from the public health or safety hazard caused by such incomplete
39 work.

40 Sec. 2. Section 8-12 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective October 1, 2024*):

42 (a) If (1) any building or structure has been erected, constructed,
43 altered, converted or maintained, or any building, structure or land has
44 been used, in violation of any provision of this chapter or of any bylaw,
45 ordinance, rule or regulation made under authority conferred [hereby]

46 by this chapter, or (2) the suspension of work required in connection
47 with an approval granted by the municipality creates a condition
48 constituting a public health or safety hazard, or causes damage to
49 persons or property, as set forth in (A) subdivision (3) of subsection (m)
50 of section 8-3, as amended by this act, (B) subdivision (3) of subsection
51 (e) of section 8-26c, as amended by this act, or (C) subsection (d) of
52 section 22a-44, as amended by this act, any official having jurisdiction,
53 in addition to other remedies, may institute an action or proceeding to
54 prevent such unlawful erection, construction, alteration, conversion,
55 maintenance or use or to restrain, correct or abate such violation or
56 public health or safety hazard or to prevent the occupancy of such
57 building, structure or land or to prevent any illegal act, conduct,
58 business or use in or about such premises. [Such regulations]

59 (b) Any bylaw, ordinance, rule or regulation made under authority
60 conferred by this chapter shall be enforced by the officer or official board
61 or authority designated therein, who shall be authorized to cause any
62 building, structure, place or premises to be inspected and examined and
63 to order in writing the remedying of any condition found to exist therein
64 or thereon in violation of any provision of the regulations made under
65 the authority of the provisions of this chapter or, when the violation
66 involves grading of land, the removal of earth or soil erosion and
67 sediment control, to issue, in writing, a cease and desist order to be
68 effective immediately.

69 (c) The owner or agent of any building or premises where a violation
70 of any provision of such [regulations] bylaw, ordinance, rule or
71 regulation has been committed or exists, or the lessee or tenant of an
72 entire building or entire premises where such violation has been
73 committed or exists, or the owner, agent, lessee or tenant of any part of
74 the building or premises in which such violation has been committed or
75 exists, or the agent, architect, builder, contractor or any other person
76 who commits, takes part or assists in any such violation or who
77 maintains any building or premises in which any such violation exists,
78 shall be fined not less than ten dollars or more than one hundred dollars
79 for each day that such violation continues; but, if the offense is wilful,

80 the person convicted thereof shall be fined not less than one hundred
81 dollars or more than two hundred fifty dollars for each day that such
82 violation continues, or imprisoned not more than ten days for each day
83 such violation continues not to exceed a maximum of thirty days for
84 such violation, or both; and the Superior Court shall have jurisdiction of
85 all such offenses, subject to appeal as in other cases.

86 (d) Any person who, having been served with an order to discontinue
87 any such violation, fails to comply with such order within ten days after
88 such service, or having been served with a cease and desist order with
89 respect to a violation involving grading of land, removal of earth or soil
90 erosion and sediment control, fails to comply with such order
91 immediately, or continues to violate any provision of [the regulations]
92 any bylaw, ordinance, rule or regulation made under authority of the
93 provisions of this chapter specified in such order shall be subject to a
94 civil penalty not to exceed two thousand five hundred dollars, payable
95 to the treasurer of the municipality.

96 (e) In any criminal prosecution under this section, the defendant may
97 plead in abatement that such criminal prosecution is based on a zoning
98 ordinance or regulation which is the subject of a civil action wherein one
99 of the issues is the interpretation of such ordinance or regulations, and
100 that the issues in the civil action are such that the prosecution would fail
101 if the civil action results in an interpretation different from that claimed
102 by the state in the criminal prosecution. If the court renders judgment
103 for such municipality and finds that the violation was wilful, the court
104 shall allow such municipality its costs, together with reasonable
105 attorney's fees to be taxed by the court. The court before which such
106 prosecution is pending may order such prosecution abated if it finds
107 that the allegations of the plea are true.

108 Sec. 3. Section 8-12a of the general statutes is repealed and the
109 following is substituted in lieu thereof (*Effective October 1, 2024*):

110 (a) Any municipality may, by ordinance adopted by its legislative
111 body, establish penalties for violations of zoning regulations adopted

112 under section 8-2 or by special act, or for violations of (1) subdivision (3)
113 of subsection (m) of section 8-3, as amended by this act, (2) subdivision
114 (3) of subsection (e) of section 8-26c, as amended by this act, or (3)
115 subsection (d) of section 22a-44, as amended by this act. The ordinance
116 shall establish the types of violations for which a citation may be issued
117 and the amount of any fine to be imposed thereby and shall specify the
118 time period for uncontested payment of fines for any alleged violation
119 under any such regulation. No fine imposed under the authority of this
120 section may exceed one hundred fifty dollars for each day a violation
121 continues. Any fine imposed pursuant to this section shall be payable to
122 the treasurer of the municipality.

123 (b) The hearing procedure for any citation issued pursuant to this
124 section shall be in accordance with section 7-152c except that no zoning
125 enforcement officer, building inspector or employee of the municipal
126 body exercising zoning authority may be appointed to be a hearing
127 officer.

128 Sec. 4. Subsection (e) of section 8-26c of the general statutes is
129 repealed and the following is substituted in lieu thereof (*Effective October*
130 *1, 2024*):

131 (e) (1) Notwithstanding the provisions of this section, any
132 subdivision approval made under this section prior to July 1, 2011, that
133 has not expired prior to July 12, 2021, shall expire not less than fourteen
134 years after the date of such approval and the commission may grant one
135 or more extensions of time to complete all or part of the work in
136 connection with such subdivision, provided no subdivision approval,
137 including all extensions, shall be valid for more than nineteen years
138 from the date the subdivision was approved.

139 (2) Notwithstanding the provisions of this section, any subdivision
140 approval made under this section on or after July 1, 2011, but prior to
141 June 10, 2021, that did not expire prior to March 10, 2020, shall expire
142 not less than fourteen years after the date of such approval and the
143 commission may grant one or more extensions of time to complete all or

144 part of the work in connection with such subdivision, provided no
145 subdivision approval, including all extensions, shall be valid for more
146 than nineteen years from the date the subdivision was approved.

147 (3) For the purposes of this subdivision, "incomplete work" means
148 any physical improvement required by the subdivision plan approval
149 that is incomplete due to a suspension in construction, and "business"
150 means a sole proprietorship, trust, corporation, limited liability
151 company, union, association, firm, partnership or other organization or
152 group of persons. The zoning enforcement officer may initiate an
153 enforcement action pursuant to section 8-12, as amended by this act,
154 against a business required to complete work in connection with a
155 subdivision plan approval if (A) such approval has not expired, (B)
156 work required pursuant to such approval has been suspended before
157 completion and the zoning enforcement officer determines the business
158 has no intent to resume such work within a reasonable time period, and
159 (C) (i) the zoning enforcement officer determines that incomplete work
160 creates a condition constituting a public health or safety hazard, or (ii)
161 the zoning enforcement officer has received and verified a complaint
162 from one or more property owners alleging damage to persons or
163 property resulting from the public health or safety hazard caused by
164 such incomplete work.

165 Sec. 5. Section 22a-44 of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective October 1, 2024*):

167 (a) If the inland wetlands agency or its duly authorized agent finds
168 that any person is conducting or maintaining any activity, facility or
169 condition [which] that is in violation of sections 22a-36 to 22a-45,
170 inclusive, or of the regulations of the inland wetlands agency, the
171 agency or its duly authorized agent may issue a written order, by
172 certified mail, to such person conducting such activity or maintaining
173 such facility or condition to cease immediately such activity or to correct
174 such facility or condition. [Within] Not more than ten days [of] after the
175 issuance of such order, the agency shall hold a hearing to provide the
176 person an opportunity to be heard and show cause why the order

177 should not remain in effect. The agency shall consider the facts
178 presented at the hearing and within ten days of the completion of the
179 hearing notify the person by certified mail that the original order
180 remains in effect, that a revised order is in effect, or that the order has
181 been withdrawn. The original order shall be effective upon issuance and
182 shall remain in effect until the agency affirms, revises or withdraws the
183 order. The issuance of an order pursuant to this section shall not delay
184 or bar an action pursuant to subsection (b) of this section. The agency
185 may file a certificate of such order in the office of the town clerk of the
186 town in which the land is located and the town clerk shall record such
187 certificate on the land records of such town. Such certificate shall be
188 released upon compliance with such order. The commissioner may
189 issue orders pursuant to sections 22a-6 to 22a-7, inclusive, concerning
190 an activity, facility or condition (1) [which] that is in violation of said
191 sections 22a-36 to 22a-45, inclusive, if the municipality in which such
192 activity, facility or condition is located has failed to enforce its inland
193 wetlands regulations, or (2) for which an approval is required under
194 sections 22a-36 to 22a-45, inclusive, and for which such approval has not
195 been obtained.

196 (b) Any person who commits, takes part in, or assists in any violation
197 of any provision of sections 22a-36 to 22a-45, inclusive, including
198 regulations adopted by the commissioner and ordinances and
199 regulations promulgated by municipalities or districts pursuant to the
200 grant of authority herein contained, shall be assessed a civil penalty of
201 not more than one thousand dollars for each offense. Each violation of
202 said sections shall be a separate and distinct offense, and, in the case of
203 a continuing violation, each day's continuance thereof shall be deemed
204 to be a separate and distinct offense. The Superior Court, in an action
205 brought by the commissioner, municipality, district or any person, shall
206 have jurisdiction to restrain a continuing violation of said sections, to
207 issue orders directing that the violation be corrected or removed and to
208 assess civil penalties pursuant to this section. All costs, fees and
209 expenses in connection with such action shall be assessed as damages
210 against the violator together with reasonable attorney's fees which may

211 be allowed, all of which shall be awarded to the commissioner,
212 municipality, district or person which brought such action. All penalties
213 collected pursuant to this section shall be used solely by the
214 Commissioner of Energy and Environmental Protection (1) to restore
215 the affected wetlands or watercourses to their condition prior to the
216 violation, wherever possible, (2) to restore other degraded wetlands or
217 watercourses, (3) to inventory or index wetlands and watercourses of
218 the state, or (4) to implement a comprehensive training program for
219 inland wetlands agency members.

220 (c) Any person who wilfully or knowingly violates any provision of
221 sections 22a-36 to 22a-45, inclusive, shall be fined not more than one
222 thousand dollars for each day during which such violation continues or
223 be imprisoned not more than six months or both. For a subsequent
224 violation, such person shall be fined not more than two thousand dollars
225 for each day during which such violation continues or be imprisoned
226 not more than one year or both. For the purposes of this subsection,
227 "person" shall be construed to include any responsible corporate officer.

228 (d) For the purposes of this subdivision, "incomplete work" means
229 any physical improvement required by the inland wetlands approval
230 that is incomplete due to a suspension in construction, and "business"
231 means a sole proprietorship, trust, corporation, limited liability
232 company, union, association, firm, partnership or other organization or
233 group of persons. The authorized agent of the inland wetlands agency,
234 or where no such agent has been appointed, the zoning enforcement
235 officer, may initiate an enforcement action pursuant to section 8-12, as
236 amended by this act, against a business required to complete work in
237 connection with an inland wetland approval if (1) such approval has not
238 expired, (2) work required pursuant to such approval has been
239 suspended before completion and the agent, or the zoning enforcement
240 officer if no such agent has been appointed, determines the business has
241 no intent to resume such work within a reasonable time period, and (3)
242 (A) the agent, or the zoning enforcement officer if no such agent has
243 been appointed, determines that the incomplete work creates a
244 condition constituting a public health or safety hazard, or (B) the agent,

245 or the zoning enforcement officer if no such agent has been appointed,
246 has received and verified a complaint from one or more property
247 owners alleging damage to persons or property resulting from the
248 public health or safety hazard caused by such incomplete work.

249 Sec. 6. Section 20-417a of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective from passage*):

251 As used in this section and sections 20-417b to 20-417j, inclusive:

252 (1) "Certificate" means a certificate of registration issued under
253 section 20-417b;

254 (2) "Commissioner" means the Commissioner of Consumer
255 Protection or any person designated by the commissioner to administer
256 and enforce this section and sections 20-417b to 20-417j, inclusive;

257 (3) "Completion" means the stage of construction of a new home in
258 which the new home construction contractor is in receipt of the
259 certificate of occupancy for such new home issued by the municipality
260 in which such new home is constructed;

261 (4) "Consumer" means the buyer or prospective buyer, or the buyer's
262 or prospective buyer's heirs or designated representatives, of any new
263 home or the owner of property on which a new home is being or will be
264 constructed regardless of whether such owner obtains a building permit
265 as the owner of the premises affected pursuant to section 29-263;

266 [(3)] (5) "Contract" means any agreement between a new home
267 construction contractor and a consumer for the construction or sale of a
268 new home or any portion of a new home prior to occupancy;

269 [(4)] (6) "Engage in the business" means that the person engages in
270 the business for the purpose of compensation or profit;

271 (7) "New home" means any newly constructed (A) single-family
272 dwelling unit, (B) dwelling consisting of not more than two units, or (C)
273 unit, common element or limited common element in a condominium,

274 as defined in section 47-68a, or in a common interest community, as
275 defined in section 47-202;

276 [(5)] (8) "New home construction contractor" means any person who
277 contracts with a consumer to construct or sell a new home or any portion
278 of a new home prior to occupancy;

279 [(6) "New home" means any newly constructed (A) single-family
280 dwelling unit, (B) dwelling consisting of not more than two units, or (C)
281 unit, common element or limited common element in a condominium,
282 as defined in section 47-68a, or in a common interest community, as
283 defined in section 47-202;]

284 [(7)] (9) "Person" means one or more individuals, partnerships,
285 associations, corporations, limited liability companies, business trusts,
286 legal representatives or any organized group of persons; and

287 [(8) "Consumer" means the buyer or prospective buyer, or the buyer's
288 or prospective buyer's heirs or designated representatives, of any new
289 home or the owner of property on which a new home is being or will be
290 constructed regardless of whether such owner obtains a building permit
291 as the owner of the premises affected pursuant to section 29-263; and

292 (9) "Completion" means the stage of construction of a new home in
293 which the new home construction contractor is in receipt of the
294 certificate of occupancy for such new home issued by the municipality
295 in which such new home is constructed.]

296 (10) "Proprietor" means an individual who (A) has an ownership
297 interest in a business entity that holds or has held a certificate issued
298 under section 20-417b, and (B) has been found by a court of competent
299 jurisdiction to have violated any provision of this chapter related to the
300 conduct of a business entity holding a certificate or that has held a
301 certificate issued under section 20-417b within the two years of the
302 effective date of entering into a contract with a consumer harmed by the
303 actions of such business entity or the owner of such business entity.

304 Sec. 7. Section 20-417i of the general statutes is repealed and the
305 following is substituted in lieu thereof (*Effective from passage*):

306 (a) The commissioner shall establish and maintain the New Home
307 Construction Guaranty Fund.

308 (b) Each person who receives a certificate pursuant to sections 20-
309 417a to 20-417j, inclusive, as amended by this act, shall pay a fee of two
310 hundred forty dollars annually to the New Home Construction
311 Guaranty Fund. Such fees shall be payable with the fee for an
312 application for a certificate or renewal of a certificate.

313 (c) (1) For fiscal years commencing on or after July 1, 2003, payments
314 received under subsection (b) of this section shall be credited to the New
315 Home Construction Guaranty Fund until the balance in the fund equals
316 [seven] six hundred fifty thousand dollars. Annually, if the balance in
317 the fund exceeds [seven] six hundred fifty thousand dollars, the first
318 [three] four hundred thousand dollars of the excess shall be deposited
319 in the consumer protection enforcement account established in section
320 21a-8a. On June 1, 2004, and each June first thereafter, if the balance in
321 the fund exceeds [seven] six hundred fifty thousand dollars, the excess
322 shall be deposited in the General Fund.

323 (2) Any money in the New Home Construction Guaranty Fund may
324 be invested or reinvested in the same manner as funds of the state
325 employees retirement system and the interest arising from such
326 investments shall be credited to the fund.

327 (d) Whenever a consumer obtains a binding arbitration decision, a
328 court judgment, order or decree against or regarding any new home
329 construction contractor holding a certificate or who has held a certificate
330 under sections 20-417a to 20-417j, inclusive, as amended by this act, or
331 against a proprietor, within two years of the date [of entering] such
332 contractor entered into the contract with the consumer, for loss or
333 damages sustained by reason of any violation of the provisions of
334 sections 20-417a to 20-417j, inclusive, as amended by this act, by a person
335 holding a certificate under said sections, such consumer may, upon the

336 final determination of, or expiration of time for taking, an appeal in
337 connection with any such decision, judgment, order or decree, apply to
338 the commissioner for an order directing payment out of the New Home
339 Construction Guaranty Fund of the amount, not exceeding [thirty] fifty
340 thousand dollars, unpaid upon the decision, judgment, order or decree
341 for actual damages and costs taxed by the court against such contractor
342 or proprietor, exclusive of punitive damages. The application shall be
343 made on forms provided by the commissioner and shall be
344 accompanied by a copy of the decision, court judgment, order or decree
345 obtained against the new home construction contractor or proprietor
346 together with a statement signed and sworn to by the consumer,
347 affirming that the consumer has: (1) Complied with all the requirements
348 of this subsection; (2) obtained a decision, judgment, order or decree
349 stating the amount of the decision, judgment, order or decree and the
350 amount owing on the decision, judgment, order or decree at the date of
351 application; and (3) made a good faith effort to satisfy any such decision,
352 judgment, order or decree in accordance with the provisions of chapter
353 906, which effort may include causing to be issued a writ of execution
354 upon such decision, judgment, order or decree, [but] provided the
355 officer executing the same has made a return showing that no bank
356 accounts or personal property of such contractor liable to be levied upon
357 in satisfaction of the decision, judgment, order or decree could be found,
358 or that the amount realized on the sale of them or of such of them as
359 were found, under the execution, was insufficient to satisfy the actual
360 damage portion of the decision, judgment, order or decree or stating the
361 amount realized and the balance remaining due on the decision,
362 judgment, order or decree after application on the decision, judgment,
363 order or decree of the amount realized, except that the requirements of
364 this subdivision shall not apply to a judgment, order or decree obtained
365 by the consumer in small claims court. A true and attested copy of such
366 executing officer's return, when required, shall be attached to such
367 application. Whenever the consumer satisfies the commissioner or the
368 commissioner's designee that it is not practicable to comply with the
369 requirements of subdivision (3) of this subsection and that the consumer
370 has taken all reasonable steps to collect the amount of the decision,

371 judgment, order or decree or the unsatisfied part of the decision,
372 judgment, order or decree and has been unable to collect the same, the
373 commissioner or the commissioner's designee may, in the
374 commissioner's or the commissioner's designee's discretion, dispense
375 with the necessity for complying with such requirement. No application
376 for an order directing payment out of the fund shall be made later than
377 two years from the final determination of, or expiration of time for
378 taking, an appeal of such decision, court judgment, order or decree and
379 no such application shall be for an amount in excess of [thirty] fifty
380 thousand dollars.

381 (e) Upon receipt of such application together with such copy of the
382 decision, court judgment, order or decree, statement and, except as
383 otherwise provided in subsection (d) of this section, true and attested
384 copy of the executing officer's return, the commissioner or the
385 commissioner's designee shall inspect such documents for their veracity
386 and upon a determination that such documents are complete and
387 authentic and that the consumer has not been paid, the commissioner
388 shall order payment out of the New Home Construction Guaranty Fund
389 of the amount not exceeding [thirty] fifty thousand dollars unpaid upon
390 the decision, judgment, order or decree for actual damages and costs
391 taxed by the court against the contractor or proprietor, exclusive of
392 punitive damages.

393 (f) [Beginning] (1) During the period beginning on October 1, 2000,
394 and ending on the date immediately preceding the effective date of this
395 section, whenever a consumer is awarded an order of restitution against
396 any new home construction contractor for loss or damages sustained as
397 a result of any violation of the provisions of sections 20-417a to 20-417j,
398 inclusive, as amended by this act, by a person holding a certificate or
399 who has held a certificate under said sections within two years of the
400 date of entering into the contract with the consumer, in [(1)] (A) a
401 proceeding brought by the commissioner pursuant to subsection [(h)] (i)
402 of this section or subsection (d) of section 42-110d, [(2)] (B) a proceeding
403 brought by the Attorney General pursuant to subsection (a) of section
404 42-110m, or subsection (d) of section 42-110d, or [(3)] (C) a criminal

405 proceeding pursuant to section 20-417e, such consumer may, upon the
406 final determination of, or expiration of time for taking, an appeal in
407 connection with any such order of restitution, apply to the
408 commissioner for an order directing payment out of the New Home
409 Construction Guaranty Fund of the amount not exceeding [thirty] fifty
410 thousand dollars unpaid upon the order of restitution. The
411 commissioner may issue such order upon a determination that the
412 consumer has not been paid.

413 (2) Beginning on the effective date of this section, whenever a
414 consumer is awarded an order of restitution against any new home
415 construction contractor or proprietor for loss or damages sustained as a
416 result of any violation of the provisions of sections 20-417a to 20-417j,
417 inclusive, as amended by this act, by a person holding a certificate or
418 who has held a certificate under said sections within two years of the
419 date such contractor entered into the contract with the consumer, in (A)
420 a proceeding brought by the commissioner pursuant to subsection (i) of
421 this section or subsection (d) of section 42-110d, (B) a proceeding
422 brought by the Attorney General pursuant to subsection (a) of section
423 42-110m or subsection (d) of section 42-110d, or (C) a criminal
424 proceeding pursuant to section 20-417e, such consumer may, upon the
425 final determination of, or expiration of time for taking, an appeal in
426 connection with any such order of restitution, apply to the
427 commissioner for an order directing payment out of the New Home
428 Construction Guaranty Fund of the amount not exceeding fifty
429 thousand dollars unpaid upon the order of restitution. The
430 commissioner may issue such order upon a determination that the
431 consumer has not been paid.

432 (g) Whenever the commissioner orders payment to a consumer out
433 of the New Home Construction Guaranty Fund based upon a decision,
434 judgment, order or decree of restitution, the contractor and proprietor
435 shall be liable for the resulting debt to the New Home Construction
436 Guaranty Fund.

437 [(g)] (h) Before the commissioner may issue any order directing

438 payment out of the New Home Construction Guaranty Fund to a
439 consumer pursuant to subsection (e) or (f) of this section, the
440 commissioner shall first notify the new home construction contractor of
441 the consumer's application for an order directing payment out of the
442 fund and of the new home construction contractor's right to a hearing
443 to contest the disbursement in the event that such contractor or
444 proprietor has already paid the consumer. Such notice shall be given to
445 the new home construction contractor not later than fifteen days after
446 receipt by the commissioner of the consumer's application for an order
447 directing payment out of the fund. If the new home construction
448 contractor requests a hearing, in writing, by certified mail not later than
449 fifteen days after receiving the notice from the commissioner, the
450 commissioner shall grant such request and shall conduct a hearing in
451 accordance with the provisions of chapter 54. If the commissioner does
452 not receive a written request for a hearing by certified mail from the new
453 home construction contractor on or before the fifteenth day from the
454 contractor's receipt of such notice, the commissioner shall conclude that
455 the consumer has not been paid, and the commissioner shall issue an
456 order directing payment out of the fund for the amount not exceeding
457 [thirty] fifty thousand dollars unpaid upon the judgment, order or
458 decree for actual damages and costs taxed by the court against the new
459 home construction contractor or proprietor, exclusive of punitive
460 damages, or for the amount not exceeding [thirty] fifty thousand dollars
461 unpaid upon the order of restitution.

462 [(h)] (i) The commissioner or the commissioner's designee may
463 proceed against any new home construction contractor holding a
464 certificate or who has held a certificate under sections 20-417a to 20-417j,
465 inclusive, as amended by this act, within two years of the effective date
466 of entering into the contract with the consumer, for an order of
467 restitution arising from loss or damages sustained by any consumer as
468 a result of any violation of the provisions of said sections 20-417a to 20-
469 417j, inclusive, by the contractor or proprietor. Any such proceeding
470 shall be held in accordance with the provisions of chapter 54. In the
471 course of such proceeding, the commissioner or the commissioner's

472 designee shall decide whether to (1) exercise the powers specified in
473 section 20-417c, (2) order restitution arising from loss or damages
474 sustained by any consumer as a result of any violation of the provisions
475 of sections 20-417a to 20-417j, inclusive, as amended by this act, and (3)
476 order payment out of the New Home Construction Guaranty Fund.
477 Notwithstanding the provisions of chapter 54, the decision of the
478 commissioner or the commissioner's designee shall be final with respect
479 to any proceeding to order payment out of the fund and the
480 commissioner and the commissioner's designee shall not be subject to
481 the requirements of chapter 54 as such requirements relate to an appeal
482 from any such decision. The commissioner or the commissioner's
483 designee may hear complaints of all consumers submitting claims
484 against a single new home construction contractor in one proceeding.

485 [(i)] (j) No application for an order directing payment out of the New
486 Home Construction Guaranty Fund shall be made later than two years
487 from the final determination of, or expiration of time for, an appeal in
488 connection with any judgment, order or decree of restitution, and no
489 such application shall be for an amount in excess of [thirty] fifty
490 thousand dollars.

491 [(j)] (k) In order to preserve the integrity of the New Home
492 Construction Guaranty Fund, the commissioner, in the commissioner's
493 sole discretion, may order payment out of the fund of an amount less
494 than the actual loss or damages incurred by the consumer or less than
495 the order of restitution awarded by the commissioner or the Superior
496 Court. In no event shall any payment out of the fund be in excess of
497 [thirty] fifty thousand dollars for any single claim by a consumer.

498 [(k)] (l) If the money deposited in the New Home Construction
499 Guaranty Fund is insufficient to satisfy any duly authorized claim or
500 portion of a claim, the commissioner shall, when sufficient money has
501 been deposited in the fund, satisfy such unpaid claims or portions of
502 claims not exceeding [thirty] fifty thousand dollars, in the order that
503 such claims or portions of claims were originally determined.

504 [(l)] (m) Whenever the commissioner has caused any sum to be paid
505 from the New Home Construction Guaranty Fund to a consumer, the
506 commissioner shall be subrogated to all of the rights of the consumer up
507 to the amount paid plus reasonable interest, and prior to receipt of any
508 payment from the fund, the consumer shall assign all of the consumer's
509 right, title and interest in the claim up to such amount to the
510 commissioner, and any amount and interest recovered by the
511 commissioner on the claim shall be deposited in the fund.

512 [(m)] (n) If the commissioner orders the payment of any amount as a
513 result of a guaranty fund claim against a new home construction
514 contractor or proprietor, the commissioner shall determine if such
515 contractor is possessed of assets liable to be sold or applied in
516 satisfaction of the claim on the New Home Construction Guaranty
517 Fund. If the commissioner discovers any such assets, the commissioner
518 may request that the Attorney General take any action necessary for the
519 reimbursement of the fund.

520 [(n)] (o) If the commissioner orders the payment of an amount as a
521 result of a guaranty fund claim against a new home construction
522 contractor, the commissioner may, after notice and hearing in
523 accordance with the provisions of chapter 54, revoke the certificate of
524 such contractor and such contractor shall not be eligible to receive a new
525 or renewed certificate until such contractor has repaid such amount in
526 full, plus interest from the time such payment is made from the New
527 Home Construction Guaranty Fund, at a rate to be in accordance with
528 section 37-3b, except that the commissioner may, in the commissioner's
529 sole discretion, permit a new home construction contractor to receive a
530 new or renewed certificate after such contractor has entered into an
531 agreement with the commissioner whereby such contractor agrees to
532 repay the fund in full in the form of periodic payments over a set period
533 of time. Any such agreement shall include a provision providing for the
534 summary suspension of any and all certificates held by the new home
535 construction contractor if payment is not made in accordance with the
536 terms of the agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024</i>	8-3(m)
Sec. 2	<i>October 1, 2024</i>	8-12
Sec. 3	<i>October 1, 2024</i>	8-12a
Sec. 4	<i>October 1, 2024</i>	8-26c(e)
Sec. 5	<i>October 1, 2024</i>	22a-44
Sec. 6	<i>from passage</i>	20-417a
Sec. 7	<i>from passage</i>	20-417i

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 25 \$	FY 26 \$
Consumer Protection, Dept.	New Home Construction Guaranty Fund - Various	See Below	See Below
Consumer Protection, Dept.	Consumer Protection Enforcement Account - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 25 \$	FY 26 \$
All Municipalities	Potential Revenue Gain	See Below	See Below

Explanation

The bill makes various changes regarding the expiration of land use approvals and the New Home Construction Guaranty Fund resulting in the impact described below.

Sections 1-5: allow municipalities to take enforcement action when certain zoning regulations are violated regarding incomplete work. This results in a potential revenue gain to municipalities beginning in FY 25 to the extent that fines are imposed by zoning enforcement officers.

Sections 6-7 makes various changes to the New Home Construction Guaranty Fund and the Consumer Protection Enforcement account

resulting in the following impacts.

1. The cap on the New Home Construction Guaranty Fund¹ (NHCGF) is reduced from \$750,000 to \$650,000 resulting in a potential revenue loss to the fund to the extent future revenues exceed the cap.
2. The excess transfer from NHCGF to the Consumer Protection Enforcement account is increased from \$300,000 to \$400,000 resulting in a potential revenue gain to the extent excess funding is transferred.²
3. The maximum payment per claim from the NHCGF is increased from \$30,000 to \$50,000 and consumers are allowed to make claims against the fund if a judgement is awarded against a proprietor³ resulting in a potential cost to the fund depending on the number and size of future claims.
4. New home construction contractors and proprietors are held liable for the resulting debt to the fund resulting in a potential revenue gain to the NHCGF to the extent violations occur and contractors and proprietors repay the Fund.

House "A" strikes the underlying bill and its associated fiscal impact resulting in the impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of claims paid by the fund.

¹The New Home Construction Guaranty Fund can reimburse consumers who are unable to collect for losses resulting from work performed by a registered new home builder. Homeowners may be eligible to receive up to \$30,000 from the fund if certain criteria are met.

²In FY 23 there were two restitution claims paid from the fund totaling \$60,000 and \$101,000 was transferred to the Consumer Protection Enforcement Account.

³Current law only allows for payments from the fund for judgments against construction companies.

OLR Bill Analysis**sHB 5272 (as amended by House "A")******AN ACT CONCERNING THE EXPIRATION OF CERTAIN LAND USE APPROVALS AND THE NEW HOME CONSTRUCTION GUARANTY FUND.*****SUMMARY**

This bill allows zoning enforcement officers (ZEOs) to take enforcement action against a business that suspends work required by an unexpired site plan, subdivision, or inland wetlands approval. Under the bill, the ZEO may generally do so if he or she determines the business has no intent to resume the work within a reasonable time period and (1) finds the incomplete work creates a public health or safety hazard or (2) receives a complaint alleging it caused personal or property damage. The bill appears to treat these businesses like violators of zoning regulations by allowing the (1) ZEO to pursue certain enforcement actions that apply to zoning violations (e.g., written orders and civil fines under CGS § 8-12) and (2) municipality to fine violators (up to \$150 per day) if it adopts an ordinance to do so.

Separately, the bill expands eligibility for the New Home Construction Guaranty Fund. It allows consumers to recuperate money from the fund for judgments awarded against certain individuals with an ownership interest in a new home construction company who violated certain laws. It also makes these individuals and contractors liable for consumer payouts from the fund that result from a judgment against them.

With respect to the home guaranty fund, the bill also (1) increases, from \$30,000 to \$50,000 per claim, the maximum amount consumers may recuperate from the fund and (2) lowers, from \$750,000 to \$650,000, the fund's annual cap. It correspondingly increases (from \$300,000 to \$400,000) the funds exceeding this cap that must be annually transferred into the Consumer Protection Enforcement Account. Existing law

requires any remaining excess to be transferred into the General Fund.

Lastly, the bill makes technical and conforming changes.

*House Amendment "A" primarily (1) eliminates the underlying bill's provisions allowing local land use authorities to move up certain approvals' expiration dates; (2) adds the provisions allowing ZEOs to take enforcement actions against businesses suspending required work; and (3) in provisions on the guaranty fund, replaces references to individuals with financial or operational control of a new home construction company with references to, and requirements for, "proprietors."

EFFECTIVE DATE: October 1, 2024, except the provision on site plan approvals is effective July 1, 2024, and the guaranty fund provisions are effective upon passage.

§§ 1-5 — BUSINESSES SUSPENDING WORK REQUIRED BY CERTAIN LAND USE APPROVALS

Enforcement Actions Under State Zoning Law

State law authorizes municipal zoning officials (e.g., ZEOs) to enforce zoning regulations. This authority includes instituting actions and other proceedings to (1) prevent unlawful construction, alterations, or use; (2) restrain, correct, or abate zoning violations; or (3) prevent occupancy of violative buildings or land or other illegal acts in or on them. CGS § 8-12 specifies that these enforcement actions and proceedings include issuing written orders to remedy conditions that violate zoning regulations and seeking civil and criminal penalties in Superior Court (see BACKGROUND).

The bill expands the reasons for which zoning officials may initiate enforcement actions under CGS § 8-12 to include addressing public health or safety hazards related to suspended work required in connection with certain land use approvals. It specifically authorizes ZEOs (or authorized agents of an inland wetlands agency, as applicable) to take enforcement actions against "businesses" that suspend work required by unexpired site plan, subdivision (with less than 400 units), or inland wetlands approvals.

Under the bill, a ZEO or authorized agent may take enforcement action if he or she determines the business has no intent to resume the work within a reasonable time period and (1) finds the incomplete work (i.e., physical improvements that the approval required but that are incomplete due to construction being suspended) creates a public health or safety hazard or (2) receives and verifies a property owner's complaint alleging these hazards caused personal or property damage. (It is unclear if the suspended work must be the direct cause of the damage and whether a ZEO is authorized to make this determination, or if a property owner need only allege it. Additionally, the bill does not specify how a ZEO must determine a business's intent or what constitutes a "reasonable time" to resume work.)

While the bill appears to apply the enforcement actions authorized under CGS § 8-12 (which apply only to zoning violations) to the work suspensions described above, it is unclear if the bill establishes these work suspensions as zoning violations.

Under the bill, a business is a sole proprietorship, trust, corporation, limited liability company, union, association, firm, partnership, or other organization or group of people.

Municipal Citations

Under existing law, any municipality may establish, by ordinance, penalties for violations of its zoning regulations. The bill additionally allows municipalities to establish penalties related to violations of enforcement actions the bill authorizes (i.e., against businesses that suspend work required by a site plan, subdivision, or inland wetlands approval, as described above). It is unclear what would constitute a "violation" in the context of the bill's authorization for ZEOs to institute enforcement actions.

Under existing law and the bill, the ordinance must establish the types of violations for which a citation may be issued and the amount of any fine to be imposed (up to \$150 for each day the violation continues), which are payable to the municipality's treasurer. By law, these citations may be contested through a municipal hearing procedure and appealed to Superior Court.

§§ 6 & 7 — NEW HOME CONSTRUCTION GUARANTY FUND

Under current law, a consumer who is awarded a judgment (e.g., a binding arbitration decision, court judgment, order, or decree) against a registered new home construction contractor but is unable to satisfy the judgment (i.e., get payment from the contractor) may apply to the Department of Consumer Protection (DCP) to instead recuperate the judgment amount (up to a specified maximum) from the New Home Construction Guaranty Fund. (New home construction contractors annually pay into this fund when renewing their registrations.)

Under the bill, consumers may also recuperate money from the fund if the judgment was awarded against certain individuals with an ownership interest in a new home construction company who have been found by a court to have violated certain laws (i.e., “proprietors”).

More specifically, to qualify as a “proprietor,” the person must meet two criteria. First, he or she must have an ownership interest in a new home construction company that is currently, or was previously, registered by DCP. Second, he or she must have been found by a court to have violated the state’s new home construction contractor laws for the company’s conduct. The company must either be currently registered as a new home construction company or have been registered within two years before it entered into the contract with the consumer harmed by the company’s or owner’s actions.

The bill makes consumers awarded a judgement against a proprietor eligible for funds from the New Home Construction Guaranty Fund subject to the same conditions and requirements the law sets for consumers with a judgment against a contractor. For example, among other things, the consumer:

1. must apply in writing to DCP within two years of the judgment being finalized;
2. is eligible to receive payment from the fund (up to \$50,000 under the bill) for the actual damages and costs he or she was awarded by the court (excluding punitive damages) and minus any amount already recovered; and

3. must affirm that he or she has made a good faith effort to satisfy the judgment by following statutory post-judgment procedures.

Additionally, the bill makes new home construction contractors and proprietors liable for consumer payouts from the New Home Construction Guaranty Fund that result from a judgment against them.

BACKGROUND

Penalties Under CGS § 8-12

By law, a municipality's zoning enforcement authority may issue written orders to remedy conditions in a building or premises that violate zoning regulations. The authority may also issue cease and desist orders for violations involving the grading of land, the removal of soil, or soil erosion or sediment control.

CGS § 8-12 subjects a person to a civil penalty of up to \$2,500 if he or she (1) has been served with a written order and fails to comply with it within 10 days, (2) has been served with a cease and desist order and fails to comply immediately, or (3) continues to violate the provision of the regulation specified in the order. In addition, the court can grant the municipality injunctive relief if a person subject to an order does not comply with it.

In addition to these penalties for violating an order, a violation of the underlying regulations is subject to civil and criminal penalties. Ordinarily, violations are subject to a court-imposed fine of between \$10 and \$100 per day. However, if the violation is willful, the violator is subject to a fine of between \$100 and \$250 per day, imprisonment of up to 10 days for each day of the violation (up to a maximum of 30 days), or both. A willful violator may also be responsible for the municipality's costs and attorney's fees.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/22/2024)

Appropriations Committee

Joint Favorable

Yea 53 Nay 0 (04/22/2024)