



House of Representatives

General Assembly

File No. 419

February Session, 2024

Substitute House Bill No. 5475

House of Representatives, April 10, 2024

The Committee on Planning and Development reported through REP. KAVROS DEGRAW of the 17th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE DEVELOPMENT OF HOUSING,
CHALLENGES TO CERTAIN DECISIONS OF MUNICIPAL AGENCIES,
AND THE CONVERSION OF VACANT NURSING HOMES INTO
MULTIFAMILY HOUSING.***

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

1 Section 1. Section 22a-19 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2024*):

3 (a) (1) In any administrative, licensing or other proceeding, and in
4 any judicial review thereof made available by law, except as provided
5 in subsection (c) of this section, the Attorney General, any political
6 subdivision of the state, any instrumentality or agency of the state or of
7 a political subdivision thereof, any person, partnership, corporation,
8 association, organization or other legal entity may intervene as a party
9 on the filing of a verified pleading asserting that the proceeding or
10 action for judicial review involves conduct which has, or which is
11 reasonably likely to have, the effect of unreasonably polluting,

12 impairing or destroying the public trust in the air, water or other natural
13 resources of the state.

14 (2) The verified pleading shall contain specific factual allegations
15 setting forth the nature of the alleged unreasonable pollution,
16 impairment or destruction of the public trust in air, water or other
17 natural resources of the state and should be sufficient to allow the
18 reviewing authority to determine from the verified pleading whether
19 the intervention implicates an issue within the reviewing authority's
20 jurisdiction. For purposes of this section, "reviewing authority" means
21 the board, commission or other decision-making authority in any
22 administrative, licensing or other proceeding or the court in any judicial
23 review.

24 (b) In any administrative, licensing or other proceeding, the agency
25 shall consider the alleged unreasonable pollution, impairment or
26 destruction of the public trust in the air, water or other natural resources
27 of the state and no conduct shall be authorized or approved which does,
28 or is reasonably likely to, have such effect as long as, considering all
29 relevant surrounding circumstances and factors, there is a feasible and
30 prudent alternative consistent with the reasonable requirements of the
31 public health, safety and welfare.

32 (c) (1) For the purposes of this subsection, (A) "residential building
33 permit application" means any building permit application submitted
34 in connection with the proposed construction or renovation of a
35 structure that contains one or more dwelling units, and (B) "dwelling
36 unit" has the same meaning as provided in section 47a-1.

37 (2) No person, partnership, corporation, association, organization or
38 other legal entity may intervene as a party on the filing of a verified
39 pleading in any administrative proceeding, or in any judicial review
40 thereof pursuant to this section, if such proceeding or review concerns
41 a residential building permit application unless such person,
42 partnership, corporation, association, organization or other legal entity
43 owns real property that abuts or is within a radius of one hundred feet
44 of any portion of the land subject to such permit application.

45 Sec. 2. Subsection (b) of section 8-3 of the 2024 supplement to the
46 general statutes is repealed and the following is substituted in lieu
47 thereof (*Effective October 1, 2024*):

48 (b) Such regulations and boundaries shall be established, changed or
49 repealed only by a majority vote of all the members of the zoning
50 commission, except as otherwise provided in this chapter. In making its
51 decision the commission shall take into consideration the plan of
52 conservation and development, prepared pursuant to section 8-23, and
53 shall state on the record its findings [on] concerning the consistency of
54 the proposed establishment, change or repeal of such regulations and
55 boundaries with such plan. If a protest against a proposed change is
56 filed at or before a hearing with the zoning commission, signed by the
57 owners of twenty per cent or more of the area of the lots included in
58 such proposed change, [or of the lots within five hundred feet in all
59 directions of the property included in the proposed change,] such
60 change shall not be adopted except by a vote of two-thirds of all the
61 members of the commission.

62 Sec. 3. (NEW) (*Effective October 1, 2024*) (a) Notwithstanding any
63 provision of chapter 440 of the general statutes, the legislative body of
64 any municipality may, after consultation with the inland wetlands
65 agency of such municipality established pursuant to section 22a-42 of
66 the general statutes and holding a public hearing, adopt an ordinance
67 identifying an area or areas of such municipality as (1) having existing
68 commercial or retail uses and having water, sewer and other
69 infrastructure adequate to support increased development in such area
70 or areas, or (2) being appropriate for increased development under such
71 municipality's plan of conservation and development. Such ordinance
72 may provide that any proposed development in such area or areas need
73 not be approved by the inland wetlands agency of such municipality,
74 provided any such development shall be subject to a soil erosion and
75 sediment control plan, as defined in section 22a-327 of the general
76 statutes, approved by the agency designated to grant such approvals by
77 the municipality.

78 (b) Any ordinance adopted by a municipality pursuant to this section
79 shall be reviewed by such municipality not less than once every seven
80 years to determine if the area or areas identified in such ordinance
81 continue to meet the criteria set forth in subsection (a) of this section.

82 Sec. 4. (NEW) (*Effective October 1, 2024*) (a) For the purposes of this
83 section, (1) "as of right" has the same meaning as provided in subsection
84 (b) of section 8-1a of the general statutes, (2) "dwelling unit" has the same
85 meaning as provided in section 47a-1 of the general statutes, (3)
86 "multifamily housing" has the same meaning as provided in section 8-
87 13m of the general statutes, and (4) "nursing home" has the same
88 meaning as provided in section 19a-490 of the general statutes.

89 (b) Any zoning regulations adopted by a municipality pursuant to
90 section 8-2 of the general statutes shall allow for the conversion of any
91 nursing home into multifamily housing as of right, provided (1) such
92 nursing home is a freestanding facility, and (2) the owner of such
93 nursing home has declared, in writing to the municipality, that such
94 nursing home has been vacant for a period of not less than ninety days
95 immediately preceding the submission of the as of right permit
96 application to the planning commission, zoning commission or
97 combined planning and zoning commission of the municipality.

98 (c) The as-of-right permit application and review process for the
99 approval of the conversion of a nursing home into multifamily housing
100 shall require that a decision on any such application be rendered not
101 later than sixty-five days after receipt of such application by the
102 planning commission, zoning commission or combined planning and
103 zoning commission, except an applicant may consent to one or more
104 extensions of not more than an additional sixty-five days or may
105 withdraw such application.

106 Sec. 5. Subsection (c) of section 4b-21 of the general statutes is
107 repealed and the following is substituted in lieu thereof (*Effective October*
108 *1, 2024*):

109 (c) (1) Not later than thirty days after receipt of such notification from

110 the secretary, the following agencies shall determine and notify the
111 secretary in writing if the land, improvement or interest serves the
112 following needs: [(1)] (A) The Commissioner of Economic and
113 Community Development, whether it can be used or adapted for
114 economic development or exchanged for property that can be used for
115 economic development; [(2)] (B) the Commissioner of Transportation,
116 whether it can be used for transportation purposes; [(3)] (C) the
117 Commissioner of Energy and Environmental Protection, whether it can
118 be used for open space purposes or to otherwise support the
119 department's mission; [(4)] (D) the Commissioner of Agriculture,
120 whether it can be used for farming or agricultural purposes; [(5)] (E) the
121 Commissioner of Veterans Affairs, whether it can be used for veterans'
122 housing; [(6)] (F) the Commissioner of Children and Families, whether
123 it can be used to support the department's mission; [(7)] (G) the
124 Commissioner of Developmental Services, whether it can be used to
125 support the department's mission; [(8)] (H) the Commissioner of
126 Administrative Services, whether it can be used to house state agencies
127 or can be leased; and [(9)] (I) the Commissioner of Housing, whether it
128 can be used as an emergency shelter or transitional living facility for
129 homeless persons, or used for the construction, rehabilitation or
130 renovation of housing for persons and families of low and moderate
131 income.

132 (2) Not later than thirty days after receipt of such notification from
133 the secretary [, any] pursuant to subdivision (1) of this subsection: (A)
134 Any state agency, department or institution that is interested in utilizing
135 the land, improvement or interest shall submit a plan to the secretary
136 that sets forth the proposed use for the land, improvement or interest
137 and a budget and timetable for such use, and (B) if the Commissioner of
138 Housing determines that the land, improvement or interest may be used
139 for the construction, rehabilitation or renovation of housing for persons
140 and families of low and moderate income, the commissioner shall
141 submit a plan to the secretary for any such use of the land, improvement
142 or interest that includes a budget and timetable for any such use.

143 (3) If one or more agencies, departments or institutions submit a plan

144 for such land, improvement or interest to the secretary [within such
 145 thirty-day period] as specified in subdivision (2) of this subsection, the
 146 secretary shall analyze such agency, department or institution plan or
 147 plans and determine whether custody and control of the land,
 148 improvement or interest shall be transferred to one of such agencies,
 149 departments or institutions, in which case the agency, department or
 150 institution having custody of the land, improvement or interest shall
 151 make such transfer, provided if the Commissioner of Housing submits
 152 a plan for the use of such land, improvement or interest for the
 153 construction, rehabilitation or renovation of housing for persons and
 154 families of low and moderate income, the secretary shall prioritize the
 155 review of the commissioner's plan and grant the transfer of the land,
 156 improvement or interest to the commissioner unless the secretary states
 157 in writing any reason why such transfer is not feasible.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	22a-19
Sec. 2	October 1, 2024	8-3(b)
Sec. 3	October 1, 2024	New section
Sec. 4	October 1, 2024	New section
Sec. 5	October 1, 2024	4b-21(c)

Statement of Legislative Commissioners:

In Section 1(c)(2), "or review" was added after "such proceeding" for accuracy, and "identified in" was changed to "subject to" for accuracy; and in Section 3(a)(2), "in" was changed to "under" for clarity.

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:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Department of Housing	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 25 \$	FY 26 \$
All Municipalities	Potential Cost	See Below	See Below
All Municipalities	See Below	See Below	See Below

Explanation

The bill results in potential costs for municipalities and increases the likelihood that the Department of Housing (DOH) will incur a cost, beginning in FY 25.

The bill allows municipalities to adopt an ordinance to exempt certain developments from inland wetlands agency reviews. There is a potential cost to municipalities as the bill requires them to hold a public hearing prior to adopting the ordinance. There is no impact to municipalities that choose not to adopt this ordinance.

The bill requires municipalities that exercise their zoning powers under the statutes to allow nursing homes that meet certain criteria to be converted to multifamily housing as of right. Any impact to municipalities is dependent on the number of facilities and changes to

the value of the facilities that are converted.¹

The bill requires DOH, beginning October 1, 2024, to develop a detailed plan for creating affordable housing from surplus state property when appropriate parcels become available for review, whether or not the agency is interested in utilizing the property itself. As under current law when the agency is interested in utilizing the property for that purpose, DOH will incur costs of approximately \$50,000 per parcel for an environmental review and other inspections by consultants. By removing DOH choice, the bill makes it more likely that DOH will incur the \$50,000 cost when a suitable parcel of surplus state property is available. However, no parcels have been suitable in at least the past five years.²

The Out Years

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

¹This may result in a grand list increase or decrease to municipalities. Any grand list impact is dependent on how a building is valued before and after a conversion.

²DOH reviews surplus state property to assess its suitability for developing affordable housing approximately twice a month.

OLR Bill Analysis**sHB 5475*****AN ACT CONCERNING THE DEVELOPMENT OF HOUSING, CHALLENGES TO CERTAIN DECISIONS OF MUNICIPAL AGENCIES, AND THE CONVERSION OF VACANT NURSING HOMES INTO MULTIFAMILY HOUSING.*****SUMMARY**

This bill narrows the applicability of certain land use procedures. Specifically, it:

1. eliminates individuals' and organizations' standing to intervene, under the Connecticut Environmental Protection Act, in proceedings on residential building permit applications unless they own real property that abuts, or is within 100 feet of, the land that is the subject of the application;
2. narrows who may file a protest petition on changes to zoning regulations or district boundaries; and
3. allows municipalities to adopt ordinances identifying certain areas that could support increased development and exempting developments in those areas from inland wetlands agency approval requirements.

Separately, the bill also facilitates certain proposals to convert unused properties to housing by requiring:

1. municipalities to allow vacant nursing homes to be converted to multifamily housing as of right and
2. the Office of Policy and Management to prioritize Department of Housing proposals to develop low and moderate income housing on state land that another agency no longer needs.

EFFECTIVE DATE: October 1, 2024.

§ 1 — CONNECTICUT ENVIRONMENTAL PROTECTION ACT INTERVENORS

The Connecticut Environmental Protection Act states that there is a public trust in the state's air, water, and other natural resources (see BACKGROUND). It allows any person, corporation, organization, or other legal entity to intervene in proceedings on, or judicial reviews of, conduct that could unreasonably (1) pollute or damage the state's natural resources or (2) destroy certain historic structures or landmarks (CGS §§ 22a-19 & -19a).

Under the bill, if the proceeding or review is about a residential building permit application (i.e., to construct or renovate a residential structure), individuals and organizations may only intervene if they own real property that abuts, or is within 100 feet from, the land the application is about.

Under existing law, unchanged by the bill, parties seeking to intervene must file a verified (i.e., sworn to) pleading that makes specific, factual allegations.

§ 2 — PROTEST PETITIONS ON ZONING CHANGES

By law, a zoning commission cannot vote on a proposal to establish or change a zoning regulation or district boundary until it holds a public hearing on it. Generally, the proposal is adopted if a simple majority of the zoning commission members vote in favor of it. However, the threshold is raised to a two-thirds majority vote if a valid protest petition is filed at or before the public hearing.

Under current law, to be valid, a protest petition may be signed by the owners of at least 20% of (1) the area of the lots included in the proposed change or (2) the lots within 500 feet in all directions of the property included in the proposed change. The bill eliminates the latter option.

§ 3 — ORDINANCES TO EXEMPT CERTAIN DEVELOPMENTS FROM INLAND WETLANDS AGENCY REVIEW

The bill allows municipalities, through their legislative bodies, to adopt ordinances identifying one or more areas in their respective municipality that (1) have commercial or retail uses and adequate water,

sewer, and other infrastructure to support increased development or (2) are appropriate for increased development under the municipality's plan of conservation and development. The ordinances may specify that proposals for developments in identified areas do not need inland wetlands agency approval if they have erosion and sediment control plans that the municipality or soil and water conservation district, as applicable, has approved.

The bill requires each legislative body to consult with its inland wetlands agency and hold a public hearing before adopting the ordinance, and to review the ordinance at least every seven years to see if the identified area still meets the bill's requirements. It allows them to adopt these ordinances even if they conflict with the state laws governing wetlands and watercourses.

§ 4 — CONVERSIONS OF NURSING HOMES TO MULTIFAMILY HOUSING ALLOWED AS OF RIGHT

The bill requires municipalities that exercise their zoning powers under the statutes (rather than a special act) to allow eligible nursing homes to be converted to multifamily housing as of right. To be eligible, the nursing home must (1) be a freestanding facility and (2) have been vacant for at least 90 days before the conversion application was submitted to the planning, zoning, or combined planning and zoning commission ("commission"). The nursing home's owner must declare in writing to the municipality that the nursing home meets the bill's vacancy requirement.

The bill requires the commission to review and decide on each as-of-right conversion application within 65 days after receiving it, but the applicant may agree to extensions, up to an additional 65 days, or withdraw its application.

By law, "as of right" means housing can be approved if it complies with zoning regulations, without requiring a public hearing, variance, special permit or exception, or any other discretionary zoning action, except for a determination that a site plan conforms with the applicable regulations.

§ 5 — SURPLUS STATE PROPERTY AS LOW AND MODERATE INCOME HOUSING

By law, the Office of Policy and Management secretary must notify state agencies (including departments and institutions) when state-owned land is available (CGS § 4b-21(b)). If an agency determines it can use the land for an agency-specific purpose, which the law sets for each agency, it must notify the secretary in writing within 30 days after receiving the notification and submit a plan for the land's use.

If multiple agencies submit plans, under current law, the secretary must analyze the plans and determine whether the land should be transferred to one of them. Under the bill, the secretary must prioritize any Department of Housing (DOH) plan that proposes using it to construct, rehabilitate, or renovate housing for people with low and moderate incomes. It requires the secretary to grant the transfer to the DOH or state in writing any reason why the transfer is not possible.

Unchanged by the bill, DOH may also submit plans to use land for an emergency shelter or transitional living facility for homeless people, but the bill does not require the secretary to prioritize these plans.

BACKGROUND

Connecticut Environmental Protection Act

The state's 1971 Environmental Protection Act (otherwise known as the Connecticut Environmental Protection Act) states that (1) there is a public trust in the state's air, water, and other natural resources; (2) each person is entitled to the protection of these resources; and (3) it is in the public interest to provide everyone with an adequate remedy to protect these resources from unreasonable pollution, impairment, or destruction (CGS § 22a-15).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 12 Nay 8 (03/22/2024)