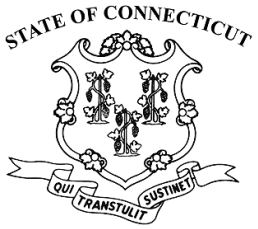

Substitute House Bill No. 6646

Public Act No. 21-120

AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS.

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

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 Section 29-265d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any owner of a residential building who has obtained a written evaluation from a professional engineer licensed pursuant to chapter 391 indicating that the foundation of such residential building was made with defective concrete may provide a copy of such evaluation to the assessor and request a reassessment of the residential building by the assessor. Not later than ninety days after receipt of a copy of such evaluation, or prior to the commencement of the assessment year next following, whichever is earlier, the assessor, member of the assessor's staff or person designated by the assessor shall inspect the residential building and adjust its assessment to reflect its current value. Such reassessment may be appealed pursuant to section 12-111. Any reassessment under this section shall apply **[**for five assessment years, notwithstanding the provisions of section 12-62.**]** until the next revaluation becomes effective or the concrete foundation is repaired or replaced, and the assessor, member of the assessor's staff or person designated by the assessor adjusts the assessment of the residential building, whichever is earlier.

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

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

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

(2) Establish a board of directors who shall serve in a volunteer capacity. The membership of the board of directors shall include, but need not be limited to, a real estate agent or broker, two owners of residential buildings who have concrete foundations that have deteriorated due to the presence of pyrrhotite, a chief executive or such chief executive's designee of a municipality in which residential buildings with concrete foundations that have deteriorated due to the presence of pyrrhotite are located, an individual with professional investment experience and currently registered as an investment adviser pursuant to title 36b, the executive directors of the Capitol Region Council of Governments and the Northeastern Connecticut Council of Governments or such executive directors' designees and representatives from the insurance and banking industries, who shall not have professional relationships with any bank or insurance

company that has a financial interest in residential buildings subject to the provisions of this section and sections 7-374b, 8-441, 8-442, 8-443, 8-444, subparagraph (B) of subdivision (20) of subsection (a) of section 12-701 and section 29-265f. The speaker, the minority leader of the House of Representatives, the president pro tempore of the Senate and the Senate Republican president pro tempore shall each appoint a member of the General Assembly as a nonvoting, ex-officio member of the board of directors. The Governor shall appoint two members to the board of directors, one of whom shall be appointed as a nonvoting, ex-officio member. It shall not constitute a conflict of interest for a member of the board of directors, who is the owner of a residential building which has a concrete foundation that has deteriorated due to the presence of pyrrhotite, or the spouse or dependent child of such member, to apply for or receive assistance from the captive insurance company established under this section, to repair or replace such concrete foundation, provided such member shall abstain from deliberation, action or vote by the board of directors in specific respect to such member's application or the application of such spouse or dependent child;

Sec. 3. Subsection (i) of section 38a-91vv of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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

Sec. 4. (*Effective July 1, 2021*) Not later than January 1, 2023, the captive insurance company established pursuant to section 38a-91vv of the general statutes, as amended by this act, shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having

cognizance of matters relating to insurance and planning and development. Such report shall include, but not be limited to, an analysis of the extent of the damage caused to concrete foundations in nonresidential buildings in the state due to the presence of pyrrhotite in such concrete.

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

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

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

(2) Funding a program, and any related administrative expense, to reduce health and safety hazards in residential dwellings in Connecticut, including, but not limited to, lead, radon and other contaminants or conditions, through removal, remediation, abatement and other appropriate methods. For purposes of this subdivision, "administrative expense" means any administrative or other cost or expense incurred by the Department of Housing in carrying out the provisions of this section, including, but not limited to, the hiring of

necessary employees and entering into necessary contracts; and

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

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

(c) Not later than January 1, 2020, and annually thereafter, the Commissioner of Housing shall report to the joint standing committees of the General Assembly having cognizance of matters relating to housing, planning and development and appropriations and the budgets of state agencies, in accordance with section 11-4a, regarding the status of the Healthy Homes Fund established pursuant to this section and all moneys deposited into and expended by the Department of Housing pursuant to said account. Any such report may be submitted electronically.

Sec. 6. Subdivision (28) of subsection (b) of section 1-210 of the general

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

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

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

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

Sec. 8. (NEW) (*Effective July 1, 2021*) (a) For the purposes of this section, "qualified geologist" means a geologist certified by the American Institute of Professional Geologists, licensed by the National Association of State Boards of Geology or certified or licensed by another organization deemed suitable by the State Geologist.

(b) (1) Not later than January 1, 2022, the operator of any quarry established on or before July 1, 2021, that produces aggregate for use in

concrete intended for use or sale shall prepare a geological source report and provide such report to the State Geologist and Commissioner of Energy and Environmental Protection. Such report shall be prepared in a form and manner prescribed by the commissioner, and shall include, but need not be limited to, (A) the mining, processing, storage and quality control methods utilized by such operator, (B) a description of the characteristics of the aggregate to be excavated at such quarry, which shall be prepared by a qualified geologist, (C) a description of the products to be produced by such quarry, (D) a copy of the results of an inspection of face material and geologic log analysis completed by a qualified geologist, and (E) analyses of core samples, completed by a qualified geologist, unless such quarry is active and has a satisfactory performance history as determined by the commissioner. Not later than January 1, 2026, and every four years thereafter, such operator shall update such report and provide such updated report to the State Geologist and commissioner.

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

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

Sec. 9. (NEW) (*Effective July 1, 2021*) (a) Except as provided in subsection (c) of this section, not later than July 1, 2022, and not less than annually thereafter, the operator of each quarry that sells or provides aggregate intended for use in concrete, shall submit a written report to

the Commissioner of Energy and Environmental Protection and the State Geologist, containing the results of a third-party test of the sulfur content of such aggregate. Such test shall be conducted by a third-party certified or accredited to conduct testing in accordance with American Society for Testing Materials standard C33/C33M, Standard Specification for Concrete Aggregates. Such certification or accreditation shall be provided by the International Organization for Standardization, United States Army Corps of Engineers, American Association of State Highway and Transportation Officials, International Accreditation Service or a similar organization.

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

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

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

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

Concrete, and C294, Standard Descriptive Nomenclature for Constituents of Concrete Aggregates, shall be conducted to determine the acceptance and use of the aggregate.

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

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

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

(f) The Commissioner of Energy and Environmental Protection, in consultation with the State Geologist, may, if the results of the test performed pursuant to this section reveal that the total sulfur content of the sample in per cent by mass is less than one per cent and equal to or greater than one-tenth per cent and pyrrhotite is present, (1) require the operator of the quarry to conduct additional testing, including but not

limited to a mortar bar expansion test pursuant to American Society for Testing and Materials standard C1293, Standard Test Method for Determination of Length Change of Concrete Due to Alkali-Silica Reaction, or C227, Standard Test Method for Potential Alkali Reactivity of Cement-Aggregate Combinations; and (2) implement restrictions on the sale or use of aggregate from such quarry in concrete.

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

Approved July 6, 2021