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## OLR Bill Analysis

**sHB 6963 (as amended by House "A")\***

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

#### **SUMMARY**

This bill allows zoning enforcement officers (ZEOs) to take enforcement action against businesses that either (1) suspend work required by an unexpired site plan, subdivision (with less than 400 units) plan, or inland wetlands approval or (2) make improvements that do not conform to the plan's or approval's specifications.

Under the bill, the ZEO may generally take certain enforcement actions if he or she determines the business has no intent to resume the work within a reasonable time period and the incomplete or nonconforming work creates a public health or safety hazard. These enforcement actions include (1) imposing fines (up to \$150 per day) that the bill authorizes municipalities to adopt by ordinance and (2) those existing law sets for zoning violations under CGS § 8-12, including civil penalties and imprisonment (see BACKGROUND).

Separately, the bill expands eligibility for the New Home Construction Guaranty Fund. Under existing law, a consumer may recoup money from the fund for uncollectable judgments against a new home construction contractor for losses or damages they caused. The bill additionally allows consumers to do so for these uncollectable judgments against a proprietor (an individual who has an ownership interest in the new home construction company).

For the home guaranty fund, the bill also (1) increases, from \$30,000 to \$50,000 per claim, the maximum amount consumers may recoup 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 expands what constitutes a violation under the bill to include improvements that do not conform with site plans, subdivision plans, or inland wetlands approvals. It also makes (1) any required but incomplete (or nonconforming) work a violation, rather than only allowing enforcement in cases of incomplete physical improvements, and (2) additional minor and technical changes.

EFFECTIVE DATE: October 1, 2025

#### **§§ 1-4 — INCOMPLETE OR NONCONFORMING WORK REQUIRED BY CERTAIN LAND USE APPROVALS**

##### ***Enforcement via Statutory Penalties in CGS § 8-12***

Under certain circumstances, the bill makes it a violation of the law for a business to leave improvements on a project unfinished if the work is required by an unexpired site plan, subdivision (with less than 400 units) plan, or inland wetlands approval. It similarly makes it a violation for a business to construct an improvement that does not conform to these plans' or approvals' specifications. Specifically, the bill makes the suspended or nonconforming work a violation if the municipal ZEO or the inland wetlands agency's agent, as applicable, determine that the:

1. business has suspended its efforts to complete work needed to meet the plan's or approval's requirements,
2. business has no intent to resume the required work within a reasonable time, and
3. incomplete or nonconforming work creates a public health or safety hazard.

If the ZEO or agent determines a violation exists, the bill authorizes him or her to take enforcement action against the business. He or she may pursue any enforcement action available under the law on enforcing zoning regulations (CGS § 8-12), including issuing written

orders to remedy conditions that violate zoning regulations and seeking civil and criminal penalties in Superior Court (see BACKGROUND).

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.

***Enforcement via Municipal Citations Authorized by CGS § 8-12a***

Under existing law, any municipality may establish, by ordinance, penalties for violations of its zoning regulations. The bill additionally allows municipalities to establish penalties for businesses that engage in the violation described above (by suspending work or completing nonconforming work and creating a public health or safety hazard).

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.

**§§ 5 & 6 — NEW HOME CONSTRUCTION GUARANTY FUND**

Under current law, a consumer who is awarded a judgment (e.g., a binding arbitration decision or a court judgment, order, or decree) against a registered new home construction contractor but is unable to obtain payment from the contractor (satisfy the judgement), may apply to the Department of Consumer Protection (DCP) to instead recoup 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, beginning October 1, 2025, consumers may also recoup 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 (“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 increases, from \$30,000 to \$50,000, the maximum award payable from the fund. It 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. may receive payment from the fund for the actual damages and costs he or she was awarded by the court (excluding punitive damages), minus any amount already recovered; and
3. must affirm that he or she made a good faith effort to satisfy the judgment by following statutory post-judgment procedures.

Additionally, the bill makes conforming changes to make 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 on a property that violate zoning regulations. The authority may also issue cease-and-desist orders for violations involving the land grading, soil removal, 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 specific regulation identified 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.

***Related Bill***

sSB 1357 (File 569), §§ 10 & 11, favorably reported by the General Law committee, also (1) expands when a person may recover from the fund to include circumstances involving a proprietor and (2) increases the maximum guaranty fund award to \$50,000.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea    19    Nay   0    (03/21/2025)