PA 23-33—sHB 6892
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING MUNICIPAL BLIGHT ORDINANCES AND THE FINE FOR LITTERING

SUMMARY: This act makes several changes in laws related to blight, littering, and related conditions, generally expanding the options for penalizing people who litter or create or maintain blighted or unsafe conditions. Among other things, the act:

1. expands the communities in which abandoned and blighted property receiverships can be used, by including any community with at least 15,000 people;
2. broadly expands state and local authority to regulate blight to include regulating blighted commercial properties, not just residential ones;
3. increases the maximum daily penalties municipalities can assess for blight under their general powers, from $100 to $1,000, for repeat offenders in a 12-month period;
4. increases the maximum state littering fine from $199 to $500;
5. eliminates certain notice requirements to lienholders when a municipality remediates, or orders remediation of, certain property maintenance-related violations; and
6. when a municipal authority requests a rent receivership, eliminates a requirement that mortgagees and lienholders participate in proceedings to determine whether a receiver should be appointed.

The act also expands the enterprise zone program's goal of eliminating housing blight to include eliminating any blight (§ 5). By law, the enterprise zone program offers various tax incentives and other benefits to businesses that start up or improve real property in areas designated as enterprise zones.
EFFECTIVE DATE: October 1, 2023

§ 1 — ABANDONED AND BLIGHTED PROPERTY RECEIVERSHIPS

Existing law provides a judicial process to appoint a receiver to rehabilitate and dispose of abandoned properties in municipalities with populations of at least 35,000. This act lowers the population threshold, making the process available in any municipality with at least 15,000 people.

Under existing law, the Superior Court may appoint a receiver for a residential, commercial, or industrial building if its owner fails to maintain it as applicable municipal codes require. Lienholders and individuals and entities with development capacity may seek to be appointed as the receiver and, once appointed, are granted the power to rehabilitate the property under a court-approved plan. Once the

property is rehabilitated, the court may approve its sale, free of any encumbrances; any sale proceeds must be distributed as required by law (CGS § 8-169aa).

§§ 2-4 & 7 — STATE AND LOCAL ENFORCEMENT OF BLIGHT VIOLATIONS

The act broadly expands state and local authority to regulate blight to include regulating blighted commercial properties. It also (1) increases the municipally-imposed civil penalties for blight ordinance violations from a daily maximum of $100 to $1,000 under certain circumstances and (2) allows municipalities to correct violations without providing notice and an opportunity for correction if a property is cited at least three times in 12 months.

The act also eliminates the option to pay the state blight fine (up to $250 per day) through the Superior Court's Centralized Infractions Bureau, which processes payments or not guilty pleas for committing infractions or violations.

The act also makes a conforming change (§ 3).

Locally Imposed Civil Penalty & Remediation (§ 2)

The municipal powers law (CGS § 7-148) specifically authorizes municipalities to adopt housing blight ordinances that can be enforced through (1) civil penalties; (2) a state blight fine; (3) municipal remediation actions; or (4) imposing a special assessment, which becomes a lien on the property. The act expands local authority under the municipal powers law as it relates to blight, as described below.

Notice. The act eliminates prior law's requirement for municipalities to give occupants, in addition to a blighted residential property's owner, notice and an opportunity to correct a violation before the municipality takes further enforcement action. Thus, under the act, only owners must be notified.

Commercial Blight. The act authorizes these municipal blight ordinances to also regulate blighted commercial property. It generally extends existing law's housing blight enforcement options to commercial blight cases, except for the provisions on special assessments for blighted housing. (These provisions allow municipalities, under certain circumstances, to impose a special assessment on blighted housing to cover blight enforcement and remediation costs. Unpaid assessments are a lien on the residential property, similar to a tax lien (CGS § 7-148ff).)

Civil Penalty. The act eliminates the minimum municipally assessed civil penalty ($10 per day) and increases the maximum daily penalty (previously $100) to:

1. $150 for occupied property;
2. $250 for vacant property; and
3. $1,000 for any property if it is a third or subsequent violation occurring within a 12-month period.

The act specifies that a violation may be counted toward this three-violation threshold if the municipality previously issued a violation notice and (1) determined that the conditions creating the violation were previously resolved or (2) 120 days have passed since the violation notice was given and the conditions have not been

resolved. A third violation may also be established if there are three conditions, each constituting a violation, simultaneously on the property.

The act's maximum penalties apply to both housing and commercial blight. As under existing law, municipalities cannot assess these penalties unless they have adopted a citation hearing procedure.

Remediation. Existing law allows a municipality, in its blight ordinance, to designate an agent with the right to enter property, but not a dwelling or other structure, during reasonable hours to remediate blighted conditions. The act extends this municipal authority to include commercial property (if local ordinances set applicable blight standards).

Under prior law, remediation action could be taken only after notice and an opportunity to correct a violation had been given. The act eliminates the notice and correction opportunity requirement if there have been at least three blight violations at the same property in a 12-month period, allowing municipalities to take immediate remediation action under these circumstances. Existing law generally allows a municipality to recover its costs to remedy blight on a property from the property owner (e.g., CGS § 49-73b).

State Blight Fine (§§ 4 & 7)

Existing law sets a state blight fine for violating municipal blight ordinances. The act correspondingly allows the state to impose this fine when the violations relate to blighted commercial properties. By law, this fine is capped at $250 per day and is only imposed:

1. for willful violations;
2. after notice of the violation and a reasonable opportunity to correct it has been given to the owner and occupants; and
3. if, for each day the fine is imposed, an actual inspection of the property is made to confirm the violation still exists.

The act eliminates the option of paying the state blight fine through the Centralized Infractions Bureau.

§ 6 — INCREASED STATE FINE FOR LITTERING

State law prohibits littering on public land or public property, in state waters, or on private property not owned by the litterer (CGS § 22a-250(a)). Under prior law, a violator was subject to a fine of up to $199. The act raises the maximum fine to $500. Under existing law, half of the fine must be paid to the state and the other half to the municipality in which the fine was issued, unless it was issued by a Department of Energy and Environmental Protection (DEEP) conservation officer or patrolman, in which case it is paid to DEEP. Existing law also allows municipalities to impose, after conducting a hearing, a separate administrative penalty of up to $500 for disposing of litter that is furniture, an automobile or automobile part, a large appliance, tires, bulky or hazardous waste, or similar material.

Under existing law, a person who litters on public land (e.g., a state or municipal

park) must also pay a surcharge equal to half the fine. Thus, under the act, the maximum surcharge rises to $250. Under existing law, the surcharge must be paid to the municipality where the arrest was made, unless the arrest was made by a DEEP conservation officer or patrolman, in which case it is paid to DEEP.

By law, municipalities may adopt an ordinance imposing a fine of up to $1,000 for violating the state littering law and authorizing municipal police officers and other people to issue citations to enforce it (CGS § 22a-226d).

By law, "litter" includes any discarded, used, or unconsumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or combination thereof, that is not deposited in a litter receptacle (CGS § 22a-248).

§ 8 — NOTICE REQUIREMENTS TO LIENHOLDER

The act eliminates certain requirements to notify lienholders when a municipality remediates, or orders remediation of, certain property maintenance-related violations.

Under prior law, a blanket provision required municipalities to notify a lienholder about any notice or order to a property owner to dispose of real estate or make it safe and sanitary. Municipalities had to similarly inform lienholders when they (1) incurred costs to dispose of the property or make it safe and sanitary or (2) recorded a lien for these costs on the land records. The act eliminates these broadly applicable notice requirements for lienholders if the notice is about making property safe and sanitary but not about disposing of it. The act's provisions generally do not change other existing notice requirements in the law or local codes and regulations (see § 9, below).

By law, certain municipal property maintenance-, housing-, and health-related fines, expenses, charges, and penalties that remain unpaid may become a lien on the violator's property (see, e.g., CGS §§ 7-148aa & 47a-58).

§ 9 — TENEMENT RENT RECEIVERSHIP PROCEEDINGS

Existing law allows courts to establish a rent receivership after finding that certain conditions affecting health or safety exist in a tenement (i.e., a building with at least three rental units, see below). If established, the rent receiver uses the property's rental income to pay for correcting the cited conditions or reimburse the municipality for correcting them (CGS § 47a-56d).

Under the act, when a municipal authority (as opposed to the tenants) requests a rent receivership, mortgagees and lienholders do not need to participate in proceedings to determine whether a receiver should be appointed; only property owners must respond. By law and unchanged by the act, notice of the proceeding must be served on mortgagees and lienholders (CGS § 47a-56b).

The act correspondingly eliminates a requirement that the municipality, when applying for a hearing on the matter, provide proof that correction orders were served on mortgagees and lienholders (see also § 8, above).

By law, a "tenement house" is any house or building, or portion of it, rented to

be occupied, or arranged or designed to be occupied, or occupied, as the home or residence of three or more families, living independently, doing their cooking on the premises, and having a common right in the halls, stairways, or yards (CGS § 47a-50).

BACKGROUND

Related Act

PA 23-207, § 3, allows municipalities to set civil penalties of up to $2,000, payable by rental property owners, for each violation of local rules on maintaining safe and sanitary housing.