



House of Representatives

General Assembly

File No. 440

February Session, 2024

Substitute House Bill No. 5272

House of Representatives, April 11, 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 EXPIRATION OF CERTAIN LAND USE 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2 general statutes is repealed and the following is substituted in lieu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 from passage*):

4 (m) (1) Notwithstanding the provisions of this section, any site plan
5 approval made under this section [prior to July 1, 2011] on or before June
6 10, 2021, that has not expired [prior to] on or before July 12, 2021, except
7 an approval made under subsection (j) of this section or as provided in
8 subdivision (2) of this subsection, shall expire not less than fourteen
9 years after the date of such approval and the commission may grant one
10 or more extensions of time to complete all or part of the work in
11 connection with such site plan, provided no approval, including all
12 extensions, shall be valid for more than nineteen years from the date the

13 site plan was approved.

14 (2) Notwithstanding the provisions of this section, a commission that
15 has granted any site plan approval [made] under this section [on or after
16 July 1, 2011, but prior to June 10, 2021, that did not expire prior to March
17 10, 2020, except an approval made under subsection (j) of this section,
18 shall expire not less than fourteen years after the date of such approval
19 and the commission may grant one or more extensions of time to
20 complete all or part of the work in connection with such site plan,
21 provided no approval, including all extensions, shall be valid for more
22 than nineteen years from the date the site plan was approved] on or
23 before June 10, 2021, that has not expired on or before July 12, 2021, may,
24 by affirmative vote of the commission, set an earlier date upon which
25 such approval shall expire, provided the commission (A) holds a public
26 hearing on such proposed earlier date in accordance with the provisions
27 of section 8-7d, and (B) finds that (i) because of incomplete or
28 substandard work undertaken in connection with the site plan
29 approval, a condition exists that poses a significant hazard to the public,
30 or (ii) no work required in connection with the site plan approval has
31 been performed in the previous five years.

32 Sec. 2. Subsection (e) of section 8-26c of the general statutes is
33 repealed and the following is substituted in lieu thereof (*Effective from*
34 *passage*):

35 (e) (1) Notwithstanding the provisions of this section, any
36 subdivision approval made under this section [prior to July 1, 2011] on
37 or before June 10, 2021, that has not expired [prior to] on or before July
38 12, 2021, except as provided in subdivision (2) of this subsection, shall
39 expire not less than fourteen years after the date of such approval and
40 the commission may grant one or more extensions of time to complete
41 all or part of the work in connection with such subdivision, provided no
42 subdivision approval, including all extensions, shall be valid for more
43 than nineteen years from the date the subdivision was approved.

44 (2) Notwithstanding the provisions of this section, a commission that
45 has granted any subdivision approval [made] under this section [on or

46 after July 1, 2011, but prior to June 10, 2021, that did not expire prior to
47 March 10, 2020, shall expire not less than fourteen years after the date of
48 such approval and the commission may grant one or more extensions of
49 time to complete all or part of the work in connection with such
50 subdivision, provided no subdivision approval, including all
51 extensions, shall be valid for more than nineteen years from the date the
52 subdivision was approved] on or before June 10, 2021, that has not
53 expired on or before July 12, 2021, may, by affirmative vote of the
54 commission, set an earlier date upon which such approval shall expire,
55 provided the commission (A) holds a public hearing on such proposed
56 earlier date in accordance with the provisions of section 8-7d, and (B)
57 finds that (i) because of incomplete or substandard work undertaken in
58 connection with the approval, a condition exists that poses a significant
59 hazard to the public, or (ii) no work required in connection with the
60 approval has been performed in the previous five years.

61 Sec. 3. Subsection (c) of section 8-26g of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective from*
63 *passage*):

64 (c) (1) Notwithstanding the provisions of this section, for any
65 subdivision of land for a project consisting of four hundred or more
66 dwelling units and approved [prior to July 1, 2011] on or before June 10,
67 2021, that has not expired [prior to] on or before July 12, 2021, except as
68 provided in subdivision (2) of this subsection, any person, firm or
69 corporation making such subdivision shall complete all work in
70 connection with such subdivision not later than the date nineteen years
71 after the date of approval of the plan for such subdivision. The
72 commission's endorsement of approval on the plan shall state the date
73 on which such nineteen-year period expires.

74 (2) Notwithstanding the provisions of this section, a commission that
75 has granted approval for any subdivision of land for a project consisting
76 of four hundred or more dwelling units [and approved on or after July
77 1, 2011, but prior to June 10, 2021, that did not expire prior to March 10,
78 2020, any person, firm or corporation making such subdivision shall

79 complete all work in connection with such subdivision not later than the
80 date nineteen years after the date of approval of the plan for such
81 subdivision. The commission's endorsement of approval on the plan
82 shall state the date on which such nineteen-year period expires] on or
83 before June 10, 2021, that has not expired on or before July 12, 2021, may,
84 by affirmative vote of the commission, set an earlier date upon which
85 such approval shall expire, provided the commission (A) holds a public
86 hearing on such proposed earlier date in accordance with the provisions
87 of section 8-7d, and (B) finds that (i) because of incomplete or
88 substandard work undertaken in connection with the approval, a
89 condition exists that poses a significant hazard to the public, or (ii) no
90 work required in connection with the approval has been performed in
91 the previous five years.

92 Sec. 4. Subsection (g) of section 22a-42a of the general statutes is
93 repealed and the following is substituted in lieu thereof (*Effective from*
94 *passage*):

95 (g) (1) Notwithstanding the provisions of subdivision (2) of
96 subsection (d) of this section, any permit issued under this section [prior
97 to July 1, 2011] on or before June 10, 2021, that has not expired [prior to]
98 on or before July 12, 2021, except as provided in subdivision (2) of this
99 subsection, shall expire not less than fourteen years after the date of such
100 approval. Any such permit shall be renewed upon request of the permit
101 holder unless the agency finds that there has been a substantial change
102 in circumstances that requires a new permit application or an
103 enforcement action has been undertaken with regard to the regulated
104 activity for which the permit was issued, provided no such permit shall
105 be valid for more than nineteen years.

106 (2) Notwithstanding the provisions of subdivision (2) of subsection
107 (d) of this section, an inland wetlands agency that has issued any permit
108 [issued] under this section on or [after July 1, 2011, but prior to June 10,
109 2021, that did not expire prior to March 10, 2020, shall expire not less
110 than fourteen years after the date of such approval] before June 10, 2021,
111 that has not expired on or before July 12, 2021, may, by affirmative vote

112 of such agency, set an earlier date upon which such permit shall expire,
113 provided the agency (A) holds a public hearing on such proposed earlier
114 date in accordance with the provisions of section 8-7d, and (B) finds that
115 (i) because of incomplete or substandard work undertaken in
116 connection with the permit, a condition exists that poses a significant
117 hazard to the public, or (ii) no work required in connection with the
118 permit has been performed in the previous five years. Any such permit
119 shall be renewed upon request of the permit holder unless the agency
120 finds that there has been a substantial change in circumstances that
121 requires a new permit application or an enforcement action has been
122 undertaken with regard to the regulated activity for which the permit
123 was issued, provided no such permit shall be valid for more than
124 nineteen years.

125 Sec. 5. Subsection (c) of section 8-3c of the general statutes is repealed
126 and the following is substituted in lieu thereof (*Effective from passage*):

127 (c) (1) Notwithstanding the provisions of subsections (a) and (b) of
128 this section, any special permit or special exception approval made
129 under this section [prior to July 1, 2011] on or before June 10, 2021, that
130 has not expired [prior to] on or before July 12, 2021, except as provided
131 in subdivision (2) of this subsection, and that specified a deadline by
132 which all work in connection with such approval is required to be
133 completed, shall expire not less than nineteen years after the date of such
134 approval and the commission may grant one or more extensions of time
135 to complete all or part of the work in connection with such special
136 permit or special exception.

137 (2) Notwithstanding the provisions of subsections (a) and (b) of this
138 section, a commission that has granted any special permit or special
139 exception approval [made] under this section on or [after July 1, 2011,
140 but prior to June 10, 2021, that did not expire prior to March 10, 2020,
141 and that specified a deadline by which all work in connection with such
142 approval is required to be completed, shall expire not less than nineteen
143 years after the date of such approval and the commission may grant one
144 or more extensions of time to complete all or part of the work in

145 connection with such special permit or special exception] before June 10,
146 2021, that has not expired on or before July 12, 2021, may, by affirmative
147 vote of the commission, set an earlier date upon which such permit or
148 approval shall expire, provided the commission (A) holds a public
149 hearing on such proposed earlier date in accordance with the provisions
150 of section 8-7d, and (B) finds that (i) because of incomplete or
151 substandard work undertaken in connection with the permit or
152 approval, a condition exists that poses a significant hazard to the public,
153 or (ii) no work required in connection with the permit or approval has
154 been performed in the previous five years.

155 Sec. 6. Subsection (b) of section 8-26e of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective from*
157 *passage*):

158 (b) (1) Notwithstanding the provisions of subsection (a) of this
159 section, any special permit or special exception approval made under
160 this section [prior to July 1, 2011] on or before June 10, 2021, that has not
161 expired [prior to] on or before July 12, 2021, and that specified a deadline
162 by which all work in connection with such approval is required to be
163 completed, except as provided in subdivision (2) of this subsection, shall
164 expire not less than nineteen years after the date of such approval and
165 the commission may grant one or more extensions of time to complete
166 all or part of the work in connection with such special permit or special
167 exception.

168 (2) Notwithstanding the provisions of subsection (a) of this section, a
169 commission that has granted any special permit or special exception
170 approval [made] under this section on or [after July 1, 2011, but prior to
171 June 10, 2021, that did not expire prior to March 10, 2020, and that
172 specified a deadline by which all work in connection with such approval
173 is required to be completed, shall expire not less than nineteen years
174 after the date of such approval and the commission may grant one or
175 more extensions of time to complete all or part of the work in connection
176 with such special permit or special exception] before June 10, 2021, that
177 has not expired on or before July 12, 2021, may, by affirmative vote of

178 the commission, set an earlier date upon which such permit or approval
179 shall expire, provided the commission (A) holds a public hearing on
180 such proposed earlier date in accordance with the provisions of section
181 8-7d, and (B) finds that (i) because of incomplete or substandard work
182 undertaken in connection with the permit or approval, a condition exists
183 that poses a significant hazard to the public, or (ii) no work required in
184 connection with the permit or approval has been performed in the
185 previous five years.

186 Sec. 7. Section 8-3k of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective from passage*):

188 (a) (1) Notwithstanding the provisions of any special act, any site
189 plan, subdivision or permit approval by a zoning commission, planning
190 commission, combined planning and zoning commission, zoning board
191 of appeals or inland wetlands agency pursuant to the provisions of any
192 such special act that occurred [prior to July 1, 2011] on or before June 10,
193 2021, and that has not expired [prior to] on or before July 12, 2021, except
194 as provided in subdivision (2) of this subsection, shall expire not less
195 than fourteen years after the date of such approval and such
196 commission, board or agency, as applicable, may grant one or more
197 extensions of time to complete all or part of the work in connection with
198 such approval, provided no approval, including all extensions, shall be
199 valid for more than nineteen years from the date the site plan,
200 subdivision or permit was initially approved.

201 (2) Notwithstanding the provisions of any special act, a zoning
202 commission, planning commission, combined planning and zoning
203 commission, zoning board of appeals or inland wetlands agency that
204 has approved any site plan, subdivision or permit [approval by a zoning
205 commission, planning commission, combined planning and zoning
206 commission, zoning board of appeals or inland wetlands agency]
207 pursuant to the provisions of any such special act [that] when such
208 approval occurred on or [after July 1, 2011, but prior to July 10, 2021,
209 and that did not expire prior to March 10, 2020, shall expire not less than
210 fourteen years after the date of such approval and such commission,

211 board or agency, as applicable, may grant one or more extensions of
212 time to complete all or part of the work in connection with such
213 approval, provided no approval, including all extensions, shall be valid
214 for more than nineteen years from the date the site plan, subdivision or
215 permit was initially approved] before June 10, 2021, and has not expired
216 on or before July 12, 2021, may, by affirmative vote of the zoning
217 commission, planning commission, combined planning and zoning
218 commission, zoning board of appeals or inland wetlands agency, set an
219 earlier date upon which such approval shall expire, provided such
220 commission, board or agency (A) holds a public hearing on such
221 proposed earlier date in accordance with the provisions of section 8-7d,
222 and (B) finds that (i) because of incomplete or substandard work
223 undertaken in connection with the approval, a condition exists that
224 poses a significant hazard to the public, or (ii) no work required in
225 connection with the approval has been performed in the previous five
226 years.

227 (b) (1) Notwithstanding the provisions of any special act, any special
228 permit or special exception approval by a zoning commission, planning
229 commission, combined planning and zoning commission, zoning board
230 of appeals or inland wetlands agency pursuant to the provisions of any
231 such special act that occurred [prior to July 1, 2011] on or before June 10,
232 2021, that has not expired [prior to] on or before July 12, 2021, and that
233 specified a deadline by which all work in connection with such approval
234 is required to be completed, except as provided in subdivision (2) of this
235 subsection, shall expire not less than nineteen years after the date of
236 such approval and such commission, board or agency, as applicable,
237 may grant one or more extensions of time to complete all or part of the
238 work in connection with such special permit or special exception
239 approval.

240 (2) Notwithstanding the provisions of any special act, a zoning
241 commission, planning commission, combined planning and zoning
242 commission, zoning board of appeals or inland wetlands agency that
243 has approved any special permit or special exception [approval by a
244 zoning commission, planning commission, combined planning and

245 zoning commission, zoning board of appeals or inland wetlands
246 agency] pursuant to the provisions of any such special act [that] when
247 such approval occurred on or [after July 1, 2011, but prior to June 10,
248 2021, that did not expire prior to March 10, 2020, and that specified a
249 deadline by which all work in connection with such approval is required
250 to be completed, shall expire not less than nineteen years after the date
251 of such approval and such commission, board or agency, as applicable,
252 may grant one or more extensions of time to complete all or part of the
253 work in connection with such special permit or special exception
254 approval] before June 10, 2021, and has not expired on or before July 12,
255 2021, may, by affirmative vote of the zoning commission, planning
256 commission, combined planning and zoning commission, zoning board
257 of appeals or inland wetlands agency, set an earlier date upon which
258 such approval shall expire, provided such commission, board or agency
259 (A) holds a public hearing on such proposed earlier date in accordance
260 with the provisions of section 8-7d, and (B) finds that (i) because of
261 incomplete or substandard work undertaken in connection with the
262 approval, a condition exists that poses a significant hazard to the public,
263 or (ii) no work required in connection with the approval has been
264 performed in the previous five years.

265 Sec. 8. Section 20-417a of the general statutes is repealed and the
266 following is substituted in lieu thereof (*Effective October 1, 2024*):

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

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

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

273 (3) "Contract" means any agreement between a new home
274 construction contractor and a consumer for the construction or sale of a
275 new home or any portion of a new home prior to occupancy;

276 (4) "Controlling participant" means an individual who exercises day-
277 to-day financial or operational control of a business entity that is a new
278 home construction contractor;

279 [(4)] (5) "Engage in the business" means that the person engages in
280 the business for the purpose of compensation or profit;

281 [(5)] (6) "New home construction contractor" means any person who
282 contracts with a consumer to construct or sell a new home or any portion
283 of a new home prior to occupancy;

284 [(6)] (7) "New home" means any newly constructed (A) single-family
285 dwelling unit, (B) dwelling consisting of not more than two units, or (C)
286 unit, common element or limited common element in a condominium,
287 as defined in section 47-68a, or in a common interest community, as
288 defined in section 47-202;

289 [(7)] (8) "Person" means one or more individuals, partnerships,
290 associations, corporations, limited liability companies, business trusts,
291 legal representatives or any organized group of persons;

292 [(8)] (9) "Consumer" means the buyer or prospective buyer, or the
293 buyer's or prospective buyer's heirs or designated representatives, of
294 any new home or the owner of property on which a new home is being
295 or will be constructed regardless of whether such owner obtains a
296 building permit as the owner of the premises affected pursuant to
297 section 29-263; and

298 [(9)] (10) "Completion" means the stage of construction of a new home
299 in which the new home construction contractor is in receipt of the
300 certificate of occupancy for such new home issued by the municipality
301 in which such new home is constructed.

302 Sec. 9. Subsections (c) to (n), inclusive, of section 20-417i of the general
303 statutes are repealed and the following is substituted in lieu thereof
304 (*Effective July 1, 2024, and effective for fiscal years commencing on or after*
305 *July 1, 2024*):

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

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

320 (d) Whenever a consumer obtains a binding arbitration decision, a
321 court judgment, order or decree against or regarding any new home
322 construction contractor holding a certificate or who has held a certificate
323 under sections 20-417a to 20-417j, inclusive, as amended by this act, or
324 against or regarding any controlling participant, within two years of the
325 date [of entering] such contractor entered into the contract with the
326 consumer, for loss or damages sustained by reason of any violation of
327 the provisions of sections 20-417a to 20-417j, inclusive, as amended by
328 this act, by a person holding a certificate under said sections, such
329 consumer may, upon the final determination of, or expiration of time for
330 taking, an appeal in connection with any such decision, judgment, order
331 or decree, apply to the commissioner for an order directing payment out
332 of the New Home Construction Guaranty Fund of the amount, not
333 exceeding [thirty] fifty thousand dollars, unpaid upon the decision,
334 judgment, order or decree for actual damages and costs taxed by the
335 court against such contractor or controlling participant, exclusive of
336 punitive damages. The application shall be made on forms provided by
337 the commissioner and shall be accompanied by a copy of the decision,
338 court judgment, order or decree obtained against the new home
339 construction contractor or controlling participant together with a

340 statement signed and sworn to by the consumer, affirming that the
341 consumer has: (1) Complied with all the requirements of this subsection;
342 (2) obtained a decision, judgment, order or decree stating the amount of
343 the decision, judgment, order or decree and the amount owing on the
344 decision, judgment, order or decree at the date of application; and (3)
345 made a good faith effort to satisfy any such decision, judgment, order or
346 decree in accordance with the provisions of chapter 906 which effort
347 may include causing to be issued a writ of execution upon such decision,
348 judgment, order or decree but the officer executing the same has made
349 a return showing that no bank accounts or personal property of such
350 contractor liable to be levied upon in satisfaction of the decision,
351 judgment, order or decree could be found, or that the amount realized
352 on the sale of them or of such of them as were found, under the
353 execution, was insufficient to satisfy the actual damage portion of the
354 decision, judgment, order or decree or stating the amount realized and
355 the balance remaining due on the decision, judgment, order or decree
356 after application on the decision, judgment, order or decree of the
357 amount realized, except that the requirements of this subdivision shall
358 not apply to a judgment, order or decree obtained by the consumer in
359 small claims court. A true and attested copy of such executing officer's
360 return, when required, shall be attached to such application. Whenever
361 the consumer satisfies the commissioner or the commissioner's designee
362 that it is not practicable to comply with the requirements of subdivision
363 (3) of this subsection and that the consumer has taken all reasonable
364 steps to collect the amount of the decision, judgment, order or decree or
365 the unsatisfied part of the decision, judgment, order or decree and has
366 been unable to collect the same, the commissioner or the commissioner's
367 designee may, in the commissioner's or the commissioner's designee's
368 discretion, dispense with the necessity for complying with such
369 requirement. No application for an order directing payment out of the
370 fund shall be made later than two years from the final determination of,
371 or expiration of time for taking, an appeal of such decision, court
372 judgment, order or decree and no such application shall be for an
373 amount in excess of [thirty] fifty thousand dollars.

374 (e) Upon receipt of such application together with such copy of the

375 decision, court judgment, order or decree, statement and, except as
376 otherwise provided in subsection (d) of this section, a true and attested
377 copy of the executing officer's return, the commissioner or the
378 commissioner's designee shall inspect such documents for their veracity
379 and upon a determination that such documents are complete and
380 authentic and that the consumer has not been paid, the commissioner
381 shall order payment out of the New Home Construction Guaranty Fund
382 of the amount not exceeding [thirty] fifty thousand dollars unpaid upon
383 the decision, judgment, order or decree for actual damages and costs
384 taxed by the court against the contractor or controlling participant,
385 exclusive of punitive damages.

386 (f) Beginning October 1, 2000, whenever a consumer is awarded an
387 order of restitution against any new home construction contractor, or a
388 controlling participant, for loss or damages sustained as a result of any
389 violation of the provisions of sections 20-417a to 20-417j, inclusive, as
390 amended by this act, by a person holding a certificate or who has held a
391 certificate under said sections within two years of the date [of entering]
392 such contractor entered into the contract with the consumer, in (1) a
393 proceeding brought by the commissioner pursuant to subsection [(h)] (i)
394 of this section or subsection (d) of section 42-110d, (2) a proceeding
395 brought by the Attorney General pursuant to subsection (a) of section
396 42-110m or subsection (d) of section 42-110d, or (3) a criminal
397 proceeding pursuant to section 20-417e, such consumer may, upon the
398 final determination of, or expiration of time for taking, an appeal in
399 connection with any such order of restitution, apply to the
400 commissioner for an order directing payment out of the New Home
401 Construction Guaranty Fund of the amount not exceeding [thirty] fifty
402 thousand dollars unpaid upon the order of restitution. The
403 commissioner may issue such order upon a determination that the
404 consumer has not been paid.

405 (g) Whenever the commissioner orders payment to a consumer out
406 of the New Home Construction Guaranty Fund based upon a decision,
407 judgment, order or decree of restitution against a controlling
408 participant, both such controlling participant and the new home

409 construction contractor who entered into a contract with such consumer
410 shall be liable for the resulting debt to the New Home Construction
411 Guaranty Fund.

412 [(g)] (h) Before the commissioner may issue any order directing
413 payment out of the New Home Construction Guaranty Fund to a
414 consumer pursuant to subsection (e) or (f) of this section, the
415 commissioner shall first notify the new home construction contractor or
416 controlling participant of the consumer's application for an order
417 directing payment out of the fund and of the new home construction
418 contractor's or controlling participant's right to a hearing to contest the
419 disbursement in the event that such contractor or controlling participant
420 has already paid the consumer. Such notice shall be given to the new
421 home construction contractor not later than fifteen days after receipt by
422 the commissioner of the consumer's application for an order directing
423 payment out of the fund. If the new home construction contractor
424 requests a hearing, in writing, by certified mail not later than fifteen
425 days after receiving the notice from the commissioner, the
426 commissioner shall grant such request and shall conduct a hearing in
427 accordance with the provisions of chapter 54. If the commissioner does
428 not receive a written request for a hearing by certified mail from the new
429 home construction contractor on or before the fifteenth day from the
430 contractor's receipt of such notice, the commissioner shall conclude that
431 the consumer has not been paid, and the commissioner shall issue an
432 order directing payment out of the fund for the amount not exceeding
433 [thirty] fifty thousand dollars unpaid upon the judgment, order or
434 decree for actual damages and costs taxed by the court against the new
435 home construction contractor or controlling participant, exclusive of
436 punitive damages, or for the amount not exceeding [thirty] fifty
437 thousand dollars unpaid upon the order of restitution.

438 [(h)] (i) The commissioner or the commissioner's designee may
439 proceed against any new home construction contractor holding a
440 certificate or who has held a certificate under sections 20-417a to 20-417j,
441 inclusive, as amended by this act, within two years of the effective date
442 of entering into the contract with the consumer, or a controlling

443 participant, for an order of restitution arising from loss or damages
444 sustained by any consumer as a result of any violation of the provisions
445 of said sections 20-417a to 20-417j, inclusive, by the contractor or
446 controlling participant. Any such proceeding shall be held in accordance
447 with the provisions of chapter 54. In the course of such proceeding, the
448 commissioner or the commissioner's designee shall decide whether to
449 (1) exercise the powers specified in section 20-417c, (2) order restitution
450 arising from loss or damages sustained by any consumer as a result of
451 any violation of the provisions of sections 20-417a to 20-417j, inclusive,
452 as amended by this act, and (3) order payment out of the New Home
453 Construction Guaranty Fund. Notwithstanding the provisions of
454 chapter 54, the decision of the commissioner or the commissioner's
455 designee shall be final with respect to any proceeding to order payment
456 out of the fund and the commissioner and the commissioner's designee
457 shall not be subject to the requirements of chapter 54 as such
458 requirements relate to an appeal from any such decision. The
459 commissioner or the commissioner's designee may hear complaints of
460 all consumers submitting claims against a single new home construction
461 contractor in one proceeding.

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

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

475 [(k)] (l) If the money deposited in the New Home Construction

476 Guaranty Fund is insufficient to satisfy any duly authorized claim or
477 portion of a claim, the commissioner shall, when sufficient money has
478 been deposited in the fund, satisfy such unpaid claims or portions of
479 claims not exceeding [thirty] fifty thousand dollars, in the order that
480 such claims or portions of claims were originally determined.

481 [(l)] (m) Whenever the commissioner has caused any sum to be paid
482 from the New Home Construction Guaranty Fund to a consumer, the
483 commissioner shall be subrogated to all of the rights of the consumer up
484 to the amount paid plus reasonable interest, and prior to receipt of any
485 payment from the fund, the consumer shall assign all of the consumer's
486 right, title and interest in the claim up to such amount to the
487 commissioner, and any amount and interest recovered by the
488 commissioner on the claim shall be deposited in the fund.

489 [(m)] (n) If the commissioner orders the payment of any amount as a
490 result of a claim against a new home construction contractor, or a
491 controlling participant, the commissioner shall determine if such
492 contractor or controlling participant is possessed of assets liable to be
493 sold or applied in satisfaction of the claim on the New Home
494 Construction Guaranty Fund. If the commissioner discovers any such
495 assets, the commissioner may request that the Attorney General take
496 any action necessary for the reimbursement of the fund.

497 [(n)] (o) If the commissioner orders the payment of an amount as a
498 result of a claim against a new home construction contractor, or a
499 controlling participant, the commissioner may, after notice and hearing
500 in accordance with the provisions of chapter 54, revoke the certificate of
501 such contractor and such contractor shall not be eligible to receive a new
502 or renewed certificate until such contractor has repaid such amount in
503 full, plus interest from the time such payment is made from the New
504 Home Construction Guaranty Fund, at a rate to be in accordance with
505 section 37-3b, except that the commissioner may, in the commissioner's
506 sole discretion, permit a new home construction contractor to receive a
507 new or renewed certificate after such contractor has entered into an
508 agreement with the commissioner whereby such contractor agrees to

509 repay the fund in full in the form of periodic payments over a set period
 510 of time. Any such agreement shall include a provision providing for the
 511 summary suspension of any and all certificates held by the new home
 512 construction contractor if payment is not made in accordance with the
 513 terms of the agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	8-3(m)
Sec. 2	<i>from passage</i>	8-26c(e)
Sec. 3	<i>from passage</i>	8-26g(c)
Sec. 4	<i>from passage</i>	22a-42a(g)
Sec. 5	<i>from passage</i>	8-3c(c)
Sec. 6	<i>from passage</i>	8-26e(b)
Sec. 7	<i>from passage</i>	8-3k
Sec. 8	<i>October 1, 2024</i>	20-417a
Sec. 9	<i>July 1, 2024, and effective for fiscal years commencing on or after July 1, 2024</i>	20-417i(c) to (n)

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 \$
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 Cost	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 1-7: (1) establish an approval process under which land use boards may shorten the deadline for developers to complete certain ongoing projects before seeking reapproval the local land use boards, and (2) change date ranges specified in current law during which land use approvals qualify for an extended timeframe.

The sections result in a potential cost to municipalities beginning in FY 25 to the extent they go through the approval process to shorten the deadline for developers to complete certain projects as they must hold a public hearing as part of this process.

Section 8-9 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 controlling participant³ resulting in a potential cost to the fund depending on the number and size of future claims.
4. New home construction contractors and controlling participants are held liable for the restitution payments made to consumers, resulting in a potential revenue gain to the NHCGF to the extent violations occur and contractors and

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.

controlling participants repay the Fund.

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.

OLR Bill Analysis

sHB 5272

AN ACT CONCERNING THE EXPIRATION OF CERTAIN LAND USE APPROVALS AND THE NEW HOME CONSTRUCTION GUARANTY FUND.

SUMMARY

This bill establishes a hearing process for local land use authorities to shorten the amount of time developers have to complete certain ongoing land use projects that were approved during specified date ranges. Under current law, these approvals' expiration dates were automatically extended, generally to at least 14 years after the date they were approved. The bill also changes the covered approval date ranges specified in current law and, in doing so, appears to automatically reverse extensions granted for certain approvals.

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 financial or operational control of a new home construction company that violated certain laws (rather than only for judgments against the construction company). It 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.

EFFECTIVE DATE: Upon passage, except the guaranty fund provisions are generally effective July 1, 2024, and applicable to fiscal years starting on or after that date.

§§ 1-7 — LAND USE APPROVAL EXPIRATION DATES***Extended Project Completion Deadlines***

By law, when a planning or zoning commission, combined planning and zoning commission, or an inland wetlands agency (“land use authority”) operating under the statutes approves a project, it must set an expiration date that falls within the timeframes the law specifies. Consequently, a developer must complete the project before that date or resubmit it to the local commission or agency for approval. However, current law gives developers more time to complete certain ongoing projects without seeking reapproval from the applicable land use authority (generally at least 14 years or 19 years, as applicable).

These extended timeframes for certain land use approvals are based on (1) the approval type (e.g., site plans, subdivisions, wetlands permits, and special permits and exceptions) and (2) if the approval was still in effect on specified dates (which depends on when the approval was granted). Specifically, the extension in current law applies to certain approvals made:

1. before July 1, 2011, and that had not expired on July 12, 2021, and
2. between July 1, 2011, and June 9, 2021, and that did not expire before March 10, 2020. (It is unclear if approvals granted after March 10, 2020 (through June 9, 2021), could be considered unexpired on that date. (These extended timeframes were established in 2021; see BACKGROUND.)

The bill changes these qualifying dates to cover approvals made on or before June 10, 2021, that were unexpired on July 12, 2021 (see below).

The bill also establishes a process for land use authorities to set an earlier expiration date for these approvals, despite the extended deadlines. The table below shows the existing extended deadlines for the land use approvals subject to the bill’s provisions.

Table: Extended Deadlines for Land Use Approvals Subject to Bill

Land Use Approval	Required Expiration Dates	Bill §
Site plan approvals (except for residential projects with 400 or more units or commercial projects of 400,000 square feet or more)	At least 14 years after approval (and up to 19 years, if extended)	§ 1
Subdivisions (projects with fewer than 400 dwelling units)	At least 14 years after approval (and up to 19 years, if extended)	§ 2
Subdivisions (projects with 400 or more dwelling units)	19 years after approval	§ 3
Wetlands permits	At least 14 years after approval (and up to 19 years, if extended)	§ 4
Special permits and special exceptions (including those approved by a municipality exercising land use powers under a special act)	19 years after approval	§§ 5, 6 & 7(b)
Site plans, subdivisions, or permits approved by a municipality exercising land use powers under a special act	At least 14 years after approval (and up to 19 years, if extended)	§ 7(a)

Hearings to Move Up Expiration Date

Under the bill, to set an earlier expiration date, a land use authority must hold a public hearing that complies with procedural requirements set in law. It may vote in favor of setting an earlier expiration date for an approval if it finds that the work in connection with the approval (1) is incomplete or substandard, creating a condition that poses a significant hazard to the public, or (2) has not been done at all in the last five years.

Automatically Shortened Expiration Dates

The bill changes the covered approval periods for extended project completion deadlines as described above. It appears that, by changing the covered periods, the bill automatically revokes certain extensions granted under current law. Under current law, certain approvals were extended if they were unexpired on March 10, 2020. Under the bill, those same approvals would need to have still been in effect on July 12, 2021,

to be extended. It is unclear what the effect would be on an approval that was extended under current law but no longer qualifies under the bill (i.e., whether the approval's original expiration date would apply, even if that date has passed).

§§ 8 & 9 — 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 a person who exercises day-to-day financial or operational control of a business entity that is a new home construction contractor (i.e., a "controlling participant"). The company must either be currently registered as a new home construction company or have been registered within two years of entering into a contract with a consumer harmed by the company.

The bill makes consumers awarded a judgement against a controlling participant 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 controlling participants liable for consumer payouts from the New Home Construction Guaranty Fund that result from a judgment against the controlling participant.

BACKGROUND

Executive Order Tolling Expirations

In May 2020 (during the emergencies declared due to COVID-19), the governor signed EO 7JJ, which delayed the expiration date of various land use approvals if the approval-holder was not in violation of the approval’s conditions on March 10, 2020. In 2021, similar extensions were codified into law (PA 21-34, §§ 3-9, and PA 21-163).

Related Bill

sSB 201, §§ 8 & 9, reported favorably by the General Law Committee, also contains provisions allowing consumers to recuperate money from the New Home Construction Guaranty Fund if they are unable to satisfy a judgment against an individual associated with a new home construction contractor. However, under this bill, the individual (i.e., “proprietor”) must have (1) an ownership interest in the construction company and (2) been found guilty of violating the state’s new home construction contractor laws for the company’s conduct.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/22/2024)