

# Planning and Development Committee

## JOINT FAVORABLE REPORT

**Bill No.:** HB-5272

AN ACT CONCERNING THE EXPIRATION OF CERTAIN LAND USE

**Title:** APPROVALS AND THE NEW HOME CONSTRUCTION GUARANTY FUND.

**Vote Date:** 3/22/2024

**Vote Action:** Joint Favorable Substitute

**PH Date:** 2/28/2024

**File No.:**

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### SPONSORS OF BILL:

Planning and Development Committee

### REASONS FOR BILL:

This bill intends to strengthen the New Home Construction Guaranty Fund (Fund). This program allows consumers harmed by fraudulent or illegal activity by a New Home Construction Contractor (NHCC) to recover their financial losses from the Fund. The amount that consumers are eligible to receive from the Fund has not been increased since the inception of the Fund in 1999. Over the last 25 years, construction costs have increased dramatically, leaving the Fund underutilized. By increasing the potential payout amount to \$50,000 per new home construction contract, the DCP can provide greater relief to those harmed by the actions of NHCCs.

### SUBSTITUTE LANGUAGE:

Creates a definition of “controlling participant” in Sec. 8 and uses the defined term in lieu of each instance of “an individual that has an ownership interest in a business entity or association that is a new home construction contractor” in Sec. 9.

### RESPONSE FROM ADMINISTRATION/AGENCY:

[Office of the Attorney General, Attorney General, William Tong:](#)

He expresses his support for the passage of this bill. The Office of the Attorney General has filed criminal charges against Sunlight Construction Inc. owner William Ferrigno, charging the Simsbury developer with five counts of failing to refund very large deposits on homes that he never built. Ferrigno collected deposits ranging from \$40,000 to \$175,000 for the construction

of new homes in Avon, Burlington, and Simsbury. Ferrigno never built the homes, and never returned the deposits. In some instances, Ferrigno never even owned the land he was claiming to sell. The New Home Construction Guaranty Fund can reimburse consumers who are unable to collect for losses resulting from work performed by a new home builder. To alleviate some concerns raised by the Home Builders and Remodelers Association of Connecticut, he would respectfully request that the Committee revise section 8(g) and provides example language in his testimony. He concludes by stating that DCP has proposed a parallel change to the Home Improvement Guaranty Fund (Sec. 20-432) in Section 3 of House Bill No. 5236, which is being considered by the General Law Committee. The Office of the Attorney General supports making this parallel change to the HIGF.

**[Department of Consumer Protection, Commissioner, Bryan Cafferelli:](#)**

He states that the language used in this bill permits DCP to pay out from the Fund based on a criminal action taken by the Office of the Attorney General against a NHCC. He expresses that the Attorney General pursues criminal cases against individual owners of a NHCC business registrant based on their involvement in the illegal activity of the business. Unfortunately, the law currently requires the DCP to hold an additional administrative proceeding to allow the harmed consumers access to the Fund, despite the fact that the criminal case addressed the activity of the individual and the business entity. He explains that this adds significant operational burden on the DCP and delays restitution to the consumer. The change in section 8 of this bill would eliminate these operational burdens and delays.

**NATURE AND SOURCES OF SUPPORT:**

**[Connecticut Chapter of the American Planning Association, Government Relations Officer, John Guskowski:](#)**

CCPA supports this Raised Bill, with some reservations. He would offer two minor suggestions to accompany the consideration of this Raised Bill:

- 1) That a provision be added to ensure that the owner/developer of the approved project under re-consideration be notified prior to the hearing via certified mail
- 2) That following passage of this Bill, the General Assembly's staff work with OPM, CCM, COST, and other municipal stakeholders to ensure that Zoning Commissions are fully aware of the revisions to these expiration timeframes, as the numerous changes in recent years have created a need for clarity and explanation.

**[Town of Newton, Director of Community Development, John Voket:](#)**

He expresses that having been involved in two situations where a consumer was ripped off by an unscrupulous contractor and considering the escalation in contractor labor rates and materials costs, he supports this bill.

**[Home Builders and Remodelers Association of Connecticut, Home Builder, Robert Wiedenmann:](#)**

He states that he is supportive of the desire to protect homeowners, but he does have some concerns for the way this bill provides protections. Proposed changes in Section 1-7 allow the permitting commission or agency to set an earlier date for the expiration of various approvals.

This is presumed to force the completion of work under these approvals. He asks what the result would be if the work is not completed prior to the newly set expiration date. He adds that proposed changes to section 8 relate to the New Home Construction Guaranty Fund. He states that it decreases the funding available for payout to harmed homeowners. It increases the funding to DCP for administration of the fund. He concludes by stating that an individual with an ownership interest may be held liable for the reimbursement of funds paid out of the New Home Construction Guarantee Fund, and someone with a minority interest could be held responsible for the entire amount due for reimbursement to the fund.

**Venkata Nagiseti, Resident of CT:**

She shares her personal experience of what she believes is a criminal cause disguised as a real estate transaction. With legal advice, she made the decision to take out a 100 thousand HELOC loan on my current home and transferred \$180,000 to Sunlight Construction for a cash deposit on a home she was looking to purchase. The next year, the house was listed for sale by Toll Brothers and was sold to another party. She expresses that she is seeking justice not just for herself but for all those who have fallen victim to such fraudulent practices.

**NATURE AND SOURCES OF OPPOSITION:**

None expressed.

**NATURE AND SOURCES OF GENERAL COMMENTS**

**Home Builders and Remodelers Association of Connecticut, CEO, Jim Perras:**

The HRBA of CT appreciates the intent of this bill, but they have several concerns regarding potential unintended consequences that may negatively impact housing production. These include:

- Increased uncertainty for developers
- Subjectivity in determining "incomplete or substandard work"
- Potential delay in housing projects
- Chilling effect on construction companies and individual owners
- Potential for legal challenges and disputes

The HRBA of CT is supportive of section 8 of the bill. He concludes by stating that the HBRA would like to work with the Committee on additional language that could expand those eligible to access the fund, and for what for what purpose, to those homeowners belonging an association whose association assesses additional costs to its members for unfinished or defective work done to association common property.

**Reported by: Ashley Orser**

**Date: 3/27/2024**