

Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-388		6862	4	3	2
<u>Committee Pages:</u> <ul style="list-style-type: none"> • <i>General Law</i> 479-482 				<u>House Pages:</u> <ul style="list-style-type: none"> • 2582- 2584 	<u>Senate Pages:</u> <ul style="list-style-type: none"> • 2212- 2213

H-113

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 6
2503-3010**

Wednesday, May 12, 1971 81.

Mr. Speaker, someone has torn my Calendar apart, but I do recall this Bill had been requested to be passed retaining, and I so move.

MR. SPEAKER:

The Chair would...the Clerk has called Calendar No. 780. The Chair has no notation of any motion up until this point as to pass retaining, or otherwise. Does the gentleman cares to advance the motion to retain the matter at this time?

CARL R. AJELLO, JR.:

Yes, sir. I wasn't mistaken, although I have on other occasions, I'll admit.

MR. SPEAKER:

Is there objection? Hearing none, the matter will be retained.

THE CLERK:

Calendar No. 781, H.B. No. 6862, an Act concerning non-conforming use where building so situated on lot as to violate regulation.

HERBERT V. CAMP, JR.:

The Clerk has an Amendment.

MR. SPEAKER:

The question's on acceptance and passage. The Clerk has an Amendment. Will the Clerk please read House Amendment Schedule "A".

THE CLERK:

House "A", offered by Mr. Camp, of the 163rd. In Line 8 delete "one" and insert "three".

EFE

Wednesday, May 12, 1971 82.

HERBERT V. CAMP, JR.:

EFH

Mr. Speaker, on the Amendment. This Amendment...in speaking about the Amendment, I have to speak about the Bill. This is not one of the weightier Bills to come before the Session this time. What the Bill would do and what the law now says is that if you have a non-conforming use in a house being too close to a setback line or being too close to a side lot line, that if that non-conforming use has been in existence for five years, that without a complaint from the town, that it's deemed to be a non-conforming use, and that the town cannot afterwards complain. The Bill in your file would change the five-year requirement to a one-year requirement. The Amendment, which I submitted, splits the difference and puts it at three years. The purpose of the Amendment is to give the towns a little additional time to act. It's been my experience in the Legislature that we don't have very many one-year statutes, and I don't see any very good reason for having a one-year statute in this case. In effect, when a person builds a building, it's up to them to make the building correct. This Bill protects them at some point. The point is when do they get the protection. I think the rest of the people in the town are entitled to the protection of zoning, and that they should have at least a period of several years in which to challenge a building that is built erroneously.

MR. SPEAKER:

Will you remark further on House Amendment Schedule "A". If not, the question is on adoption of House Amendment Schedule "A". All those in favor will indicate by saying "aye".

Wednesday, May 12, 1971 83.

Opposed. The Chair is in doubt. Question is on adoption of House Amendment Schedule "A". All those in favor will indicate by saying "aye". Opposed. The Amendment is adopted. Will you remark further on the main motion...acceptance and passage of the Bill as amended by House Amendment Schedule "A".

HERBERT V. CAMP, JR.:

Mr. Speaker, I'm surprised. That I didn't report out the Bill. As a matter of fact, I think you did, Mr. Speaker. But I would move adoption of the Bill as amended by House Amendment Schedule "A". I think that we've spoken on the Bill already.

MR. SPEAKER:

Will you remark further on the Bill. If not, the question is on acceptance of the Joint Committee's favorable report and passage of the Bill as amended by House Amendment Schedule "A". All in favor indicate by saying "aye". Opposed. The Bill is passed.

THE CLERK:

Page 12...

CARL R. AJELLO, JR.:

Mr. Speaker, may I break in at this point to correct an oversight that occurred earlier. The last item on Page 11 was referred to the Committee on Appropriations as a result of a motion that I made. Subsequent to that, the Chairman of the Committee on Education has pointed out to the Leaders on both sides of the aisle that there was no requirement that it be before the Committee on Appropriations. No funds are required. Therefore, I would move at this time to reconsider our previous action in

S-80
CONNECTICUT
GENERAL ASSEMBLY

SENATE

PROCEEDINGS
1971

VOL.14
PART 5
1921-2435

May 20, 1971

Page 16

THE CHAIR:

Shall we pass this, Senator, whatever you wish? There being no objection the Senate will stand in recess until approximately 6 O'Clock.

THE SENATE AT 5:13 P.M., RECESSED

AFTER RECESS

The senate was called to order, after recess, at 9:25 P.M., the President in the Chair.

SENATOR CALDWELL:

Mr. President, going to the Calendar, in addition to the matters which I indicated to take up earlier, this afternoon, may we take up the following: on page 3, Cal. 621; on page 7, Cal. 707 and 714; on page 8, Cal. 731; on page 9, Cal. 736 and 737; on page 10, may we place on the Foot Cal. 743, may we take up Cal. 749 and 750; on page 12, may we take up Cal. 764 and 767 and on page 16, may we take up Cal. 792. If any of these matters are single starred may we take them up under suspension of the rules?

THE CHAIR:

There being no objection, the rules will be suspended concerning any single starred items.

SENATOR CALDWELL:

If I haven't previously mentioned it may all other double starred items be passed retaining their place. At this time, Mr. President, I'd like to move for the acceptance of the committee's favorable report and the passage of the following Calendar Numbers: 707, 714, 736, 749, 750, 767 and 38.

1484, 6494, 1226, 6862, 6895, 1562

THE CHAIR:

Senator, would you move for suspension of the rules, for that purpose?

May 20, 1971

Page 17

SENATOR CALDWELL:

I will so move, Mr. President.

THE CHAIR:

There being no objection, so-ordered. Is there any objection to the motion of the Majority Leader?

THE CLERK:

No objection, but the Clerk would remark that Cal. 736 he has an amendment.

SENATOR CALDWELL:

May that be withdrawn from my motion, then?

THE CHAIR:

That will be withdrawn from the motion and considered separately.

If there is no objection, before the vote, the Chair would comment briefly it is a very salutary move. The rules provide for a consent calendar, on page 73 of the Senate Rules. Rule 38, which is a little more orderly process for this purpose. That is, matters are actually printed on the consent calendar and the procedure to object and get it off. And the Chair, is very hopeful not telling you how to run your circle, but, having sat up here since January 6, if we get into the major business which lies ahead of us, between now and the June 6 date and we will use the Rule 38 to actually create a consent calendar. All those in favor of the passage of the bills, as described by the Majority Leader, signify by saying, "aye". Opposed, "nay". The ayes have it. All said bills are passed.

THE CLERK:

Clerk has been informed that Senate Joint Resolution No. 92 has been in deed, typed in.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW**

**PART 2
297-629**

1971

7
RSW
FRIDAY

GENERAL LAW

MARCH 12, 1971

Association of Home Builders attended a meeting in which the United States Government representatives chided the state of Connecticut and those within the state of Connecticut because of the fact that they haven't utilized 235 and 236 provisions of their F.H.A. Housing Code, and the reason for that is very simple, it is just impossible to build within those codes in large areas in the state of Connecticut because the cost of land is so unduly large that you can't come in within the unit prices which F.H.A. will authorize. I submit that the present zoning practices within the small towns are both shortsighted and unjust, and therefore urge upon this Committee the adoption of H.B. 6854 and 6855. #6854 is specific as to lot size, #6855 sets forth a set of criteria which should be used by the towns in adopting zoning ordinances. Thank you, Mr. Chairman

Rep. Willard: Before I call the next speaker, I call attention to the fact that there is a sign-up sheet there for speakers and we are following that order, so if you want to speak, will you kindly put your name on that list, and we will pick that one up after we have gone through this list. The next speaker will be Mr. Thomas Gallivan.

Mr. Thomas Gallivan: Mr. Chairman, I am appearing here before your Committee on behalf of the Real Property section of the Connecticut Bar Association. I wish to speak in favor of H. B. #6858. H. B. #6862 and H. B. #5157. H. B. #6858 the Real Property Section considers one of the most important bills to be submitted to your Committee. In view of the court decisions of our Supreme Court and I have particular reference to the Dooley case, it has been ruled that planning commissions have no authority to act upon existing subdivisions, those already in existence whether they're illegally, properly made. The net result is that many people own homes in subdivisions that were illegally built without proper approval or in failure to follow all the rules of the particular planning commission. The net effect of those decisions as these property owners have access to no agency to get it approved or acted upon, and the titles to these properties have been left unmarketable, and its an atrocious situation. I have been personally involved in three different subdivisions around the state. Furthermore, the Supreme Court has ruled that planning commissions have no authority to determine whether or not a division of land is or is not a subdivision, or is or is not a resubdivision. Only a court can do that, so that the net effect of these decisions have been that there is a large factor that should be filled in so that the planning commission can act on these particular situations.

8
RSW
FRIDAY

GENERAL LAW

MARCH 12, 1971

H. B. #6858 does just that. It broadens Section 826, the enabling statute that gives the planning commission the authority, it has by providing that they can act upon existing subdivisions whether illegally made or otherwise, and that they can arrive at such decisions concerning these subdivisions as it feels the public purpose requires. It also authorizes planning commissions to determine in a particular case whether a division of land is or is not a subdivision within the meaning of the local regulations. The passage of this bill would serve a great public purpose. H. B. #6862 is an amendment to existing statute, the existing statute was passed, I believe, in the 1967 Session of the Legislature, and it provides a statute of limitations of 5 years as regards existing buildings that violate zoning regulations as regards the location of a building upon a lot. We have found that 5 years is much too long. What the effect of the bill does is that up to 5 years, the title is really rendered unmarketable in view of this statute, that people say in view of the statute it means that a town can, and well might, bring the action. It's proposed that that limitation period be reduced to one year in line with so many of the state statutes of limitation on the theory that if a town has not moved in on an existing building that violates zoning regulations as regards location, now this is only location on the lot, within one year then the home owner, the owner of the building should be permitted to have a marketable title and be permitted to transfer that property or mortgage that property after a year. Certainly a year is time enough for the public body to move. As regards H. B. #5157, that is a bill which amends in many respects the existing Unit Ownership Act, and it amends it in two respects; one, from a house-keeping standpoint, the existing Unit Ownership Act was a bill drafted by the F.H.A., basically much of its phraseology doesn't conform to Connecticut customs in its recording of filing requirements. For instance, one of the provisions of the existing bill is that the town clerk index condominiums under the name of the buildings in the grant laws index, an impossibility and a lot of nonsense. Many of the amendments that we propose are those kind of housekeeping. However, there are other basic amendments that arise out of this situation, and I notice that the bill that you read, Mr. Chairman, into the record, takes up one of those phases. The Unit Ownership Act that all people are endeavoring to work under today was designed for a vertical apartment house. All its provisions presuppose that when the unit is built, it will be one unit and that will be it, there will be no other units, you're talking about an apartment house. Experience has

shown us that in Connecticut, builders have not adopted vertical apartment house as the condominium. What they have done is they have gone into town houses and garden type apartments. The net effect is that the entire building or buildings, all buildings, are not built at once, they are built in stages, and therefore it is almost impossible to make that kind of a condominium adhere to this act because you're talking about giving unit values, giving names, sizes, etc. of units that are not yet built and may not be built, or built at a time when you don't have any concept of what the value of those units might be. That's the second situation governed by this proposed bill. The Committee, Real Property Section Executive Committee, felt that this bill was so important that we prepared a very detailed analysis which I will submit to the Committee rather than endeavoring to take care of the amendments through an oral presentation. I think the Committee will be able to do the bill greater justice with the written analysis. However, I would be glad to answer any questions.

Rep. Willard: I have one question. Your comments regarding the Dooley case, aren't those matters customarily handled by validating acts periodically each Session?

Mr. Gallivan: No, not as regards subdivisions. No, there has never been any.....

Rep. Willard: It wouldn't be that...I know there are situations if they are not filed properly within the 90 days, and things like that.....

Mr. Gallivan: We took care of that...no, we took care of publication errors in publication for all zoning commissions, zoning boards of appeals as well, but this particular phase we have not.

Rep. Willard: Well, let me just ask you, do you feel that a bill would be necessary, or that it could be incorporated in a standard validating act which are passed each Session?

Mr. Gallivan: It should be, and it's contemplated this year, or will be to take care of the past, because I know three subdivisions where the people are stymied. It's a fantastic situation, the whole Bar is scared to death of it. The only way you're going to do it is by giving the planning commission the power that it should have had all the time.

Mr. Elmer Lowden: May I ask one question? Just as a matter of information. I am very familiar with that 5 year limitation on zoning violations, but we had a little trouble with a shorter period in the 1967 or 1969 Session. Do you recall what the trouble was, I think we aimed for a 2 year

10
RSW
FRIDAY

GENERAL LAW

MARCH 12, 1971

statute rather than....

Mr. Gallivan: I think you perhaps are referring to the bill that was passed in '69 dealing with violation of private land use restrictions, which was a two year period, and that was passed by both the Senate and the House in the last Session. It was vetoed by the Governor. There is another bill in one year, reducing that to one year on the theory that the Governor at that time had very poor advice and didn't realize the implications of the necessity of making marketable those houses that are rendered unmarketable because of violations, but that was a two year period.

Mr. Lowden: Well, the bills are similar and I may have....

Mr. Gallivan: Yes, they are, but one is public, one is zoning, and the other is private land use restrictions, right.

Rep. Willard: Thank you. Doris McLellan?

Doris McLellan: Good morning, I'm the Planning Administrator for the Town of Stratford. As you can note from what I signed there, I am in favor of quite a few of the bills. I guess they were all put in by an interim committee. There are a lot of questions I have on them. I would like to see you standardize all the sections regarding when a petition is filed, you have 60 days to hear it. I don't know how you came up with 65 days, but if you're going to fix 65 days through all the sections, which would regard planning and zoning, board of zoning appeals, and the Section 14-55, 14-322, and 21-19, I believe it is.. 21-17 regarding motor vehicle hearings. If you're going to give a petitioner 65 days to, or the board or commission 65 days in which to hear the petition, you're giving them 65 days to act on it and 65 days extension, I think all the sections that are involved in it should all be standardized. There are a lot of different things in the regulations right now, one is you have 90 days to hear it, 60 days to act on it; another one has a reasonable time to hear it; another one is to grant a reasonable extension. Under motor vehicle, you have to have advertise it three times at least seven days before instead of the way the other ones are, no more than 15 or less than 10, and not less than 2. I am also in favor of the chairman appointing alternates. I could tell you if you want to know exactly which section I am referring to, but there are a couple of sections that have to do with the chairman appointing alternates. At this point, its pretty difficult if a disqualified member isn't present...well, thats disqualification, but if a member is absent, the chairman should be able to appoint because its pretty difficult to get a commission or a board member to put it in writing if they are not there,