

# 40:49-5

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005                    **CHAPTER:** 269

**NJSA:** 40:49-5 (Increases maximum fine for first violation of municipal ordinance)

**BILL NO:** A3732 (Substituted for S2891)

**SPONSOR(S):** Diegnan and others

**DATE INTRODUCED:** January 13, 2005

**COMMITTEE:**                **ASSEMBLY:** Housing and Local Government

**SENATE:**        Community and Urban Affairs

**AMENDED DURING PASSAGE:**        Yes

**DATE OF PASSAGE:**                **ASSEMBLY:** June 27, 2005

**SENATE:**        December 15, 2005

**DATE OF APPROVAL:**                January 5, 2006

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (1st reprint enacted)

**A3732**

**[SPONSOR'S STATEMENT](#):** (Begins on page 3 of original bill)                    [Yes](#)

**COMMITTEE STATEMENT:**                                 **[ASSEMBLY:](#)**                    [Yes](#)

**[SENATE:](#)**                    [Yes](#)

**FLOOR AMENDMENT STATEMENT:**                                 No

**LEGISLATIVE FISCAL ESTIMATE:**                                 No

**S2891**

**[SPONSOR'S STATEMENT](#):** (Begins on page 4 of original bill)                    [Yes](#)

**COMMITTEE STATEMENT:**                                 **ASSEMBLY:**                    No

**[SENATE:](#)**                    [Yes](#)

**FLOOR AMENDMENT STATEMENT:**                                 No

**LEGISLATIVE FISCAL ESTIMATE:**                                 No

**VETO MESSAGE:**     No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**     No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

IS 12/14/07

P.L. 2005, CHAPTER 269, *approved January 5, 2006*  
Assembly, No. 3732 (*First Reprint*)

1 **AN ACT** concerning fines for violations of municipal ordinances and  
2 amending R.S.40:49-5 <sup>1</sup>and P.L.1950, c.210<sup>1</sup>.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. R.S.40:49-5 is amended to read as follows:

8 40:49-5. The governing body may prescribe penalties for the  
9 violation of ordinances it may have authority to pass, by one or more  
10 of the following: imprisonment in the county jail or in any place  
11 provided by the municipality for the detention of prisoners, for any  
12 term not exceeding 90 days; or by a fine not exceeding [~~\$1,250~~  
13 \$2,000]; or by a period of community service not exceeding 90 days.

14 The governing body may prescribe that for the violation of any  
15 particular ordinance at least a minimum penalty shall be imposed which  
16 shall consist of a fine which may be fixed at an amount not exceeding  
17 \$100.

18 The governing body may prescribe that for the violation of an  
19 ordinance pertaining to unlawful solid waste disposal at least a  
20 minimum penalty shall be imposed which shall consist of a fine which  
21 may be fixed at an amount not exceeding \$2,500 or a maximum  
22 penalty by a fine not exceeding \$10,000.

23 The court before which any person is convicted of violating any  
24 ordinance of a municipality shall have power to impose any fine, term  
25 of imprisonment, or period of community service not less than the  
26 minimum and not exceeding the maximum fixed in such ordinance.

27 Any person who is convicted of violating an ordinance within one  
28 year of the date of a previous violation of the same ordinance and who  
29 was fined for the previous violation, shall be sentenced by a court to  
30 an additional fine as a repeat offender. The additional fine imposed by  
31 the court upon a person for a repeated offense shall not be less than  
32 the minimum or exceed the maximum fine fixed for a violation of the  
33 ordinance, but shall be calculated separately from the fine imposed for  
34 the violation of the ordinance.

35 Any municipality which chooses not to impose an additional fine  
36 upon a person for a repeated violation of any municipal ordinance may  
37 waive the additional fine by ordinance or resolution.

38 Any person convicted of the violation of any ordinance may, in the  
39 discretion of the court by which he was convicted, and in default of the  
40 payment of any fine imposed therefor, be imprisoned in the county jail

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AHO committee amendments adopted May 2, 2005.

1 or place of detention provided by the municipality, for any term not  
2 exceeding 90 days, or be required to perform community service for  
3 a period not exceeding 90 days.

4 <sup>1</sup>Any municipality that chooses to impose a fine in an amount  
5 greater than \$1,250 upon an owner for violations of housing or zoning  
6 codes shall provide a 30-day period in which the owner shall be  
7 afforded the opportunity to cure or abate the condition and shall also  
8 be afforded an opportunity for a hearing before a court of competent  
9 jurisdiction for an independent determination concerning the violation.  
10 Subsequent to the expiration of the 30-day period, a fine greater than  
11 \$1,250 may be imposed if a court has not determined otherwise or,  
12 upon reinspection of the property, it is determined that the abatement  
13 has not been substantially completed.<sup>1</sup>

14 (cf: P.L.2003, c.231, s.6)

15  
16 <sup>2</sup>2. Section 2-4 of P.L. 1950, c. 210 (C.40:69A-29) is amended to  
17 read as follows:

18 2-4. Each municipality governed by an optional form of  
19 government pursuant to this act shall, subject to the provisions of this  
20 act or other general laws, have full power to:

21 (a) Organize and regulate its internal affairs, and to establish, alter,  
22 and abolish offices, positions and employments and to define the  
23 functions, powers and duties thereof and fix their terms, tenure and  
24 compensation;

25 (b) Adopt and enforce local police ordinances of all kinds and  
26 impose one or more of the following penalties: fines not exceeding  
27 ~~[\$1,250]~~ \$2,000 or imprisonment for any term not exceeding 90 days,  
28 or a period of community service not exceeding 90 days for the  
29 violation thereof; prescribe that for the violation of particular  
30 ordinances at least a minimum penalty shall be imposed which shall  
31 consist of a fine which may be fixed at an amount not exceeding \$100;  
32 prescribe that for the violation of an ordinance pertaining to unlawful  
33 solid waste disposal at least a minimum penalty shall be imposed which  
34 shall consist of a fine which may be fixed at an amount not exceeding  
35 \$2,500 or a maximum penalty by a fine not exceeding \$10,000; to  
36 construct, acquire, operate or maintain any and all public  
37 improvements, projects or enterprises for any public purpose, subject  
38 to referendum requirements otherwise imposed by law, and to exercise  
39 all powers of local government in such manner as its governing body  
40 may determine;

41 (c) Sue and be sued, to have a corporate seal, to contract and be  
42 contracted with, to buy, sell, lease, hold and dispose of real and  
43 personal property, to appropriate and expend moneys, and to adopt,  
44 amend and repeal such ordinances and resolutions as may be required  
45 for the good government thereof;

46 (d) Exercise powers of condemnation, borrowing and taxation in

1 the manner provided by general law.

2 Any person who is convicted of violating an ordinance within one  
3 year of the date of a previous violation of the same ordinance and who  
4 was fined for the previous violation, shall be sentenced by a court to  
5 an additional fine as a repeat offender. The additional fine imposed by  
6 the court upon a person for a repeated offense shall not be less than  
7 the minimum or exceed the maximum fine fixed for a violation of the  
8 ordinance, but shall be calculated separately from the fine imposed for  
9 the violation of the ordinance.

10 Any municipality which chooses not to impose an additional fine  
11 upon a person for a repeated violation of any municipal ordinance may  
12 waive the additional fine by ordinance or resolution.

13 Any municipality that chooses to impose a fine in an amount greater  
14 than \$1,250 upon an owner for violations of housing or zoning codes  
15 shall provide a 30-day period in which the owner shall be afforded the  
16 opportunity to cure or abate the condition and shall also be afforded  
17 an opportunity for a hearing before a court of competent jurisdiction  
18 for an independent determination concerning the violation.  
19 Subsequent to the expiration of the 30-day period, a fine greater than  
20 \$1,250 may be imposed if a court has not determined otherwise or,  
21 upon reinspection of the property, it is determined that the abatement  
22 has not been substantially completed.<sup>1</sup>

23 (cf:P.L.2003, c.231, s.7)

24

25 <sup>1</sup>[2.] 3.<sup>1</sup> This act shall take effect immediately.

26

27

28

29

30 Increase maximum fine for first violation of municipal ordinance.

# ASSEMBLY, No. 3732

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JANUARY 13, 2005

**Sponsored by:**

**Assemblyman PATRICK DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman BRIAN P. STACK**

**District 33 (Hudson)**

**Assemblyman FREDERICK SCALERA**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Co-Sponsored by:**

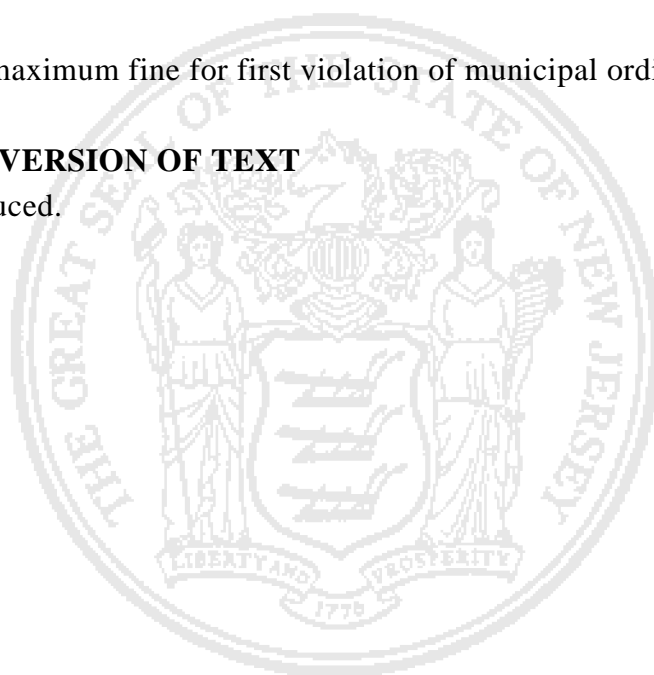
**Assemblymen Egan and Barnes**

**SYNOPSIS**

Increase maximum fine for first violation of municipal ordinance.

**CURRENT VERSION OF TEXT**

As introduced.



A3732 DIEGNAN, STACK

2

1 AN ACT concerning fines for violation of municipal ordinances and  
2 amending R.S.40:49-5.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. R.S.40:49-5 is amended to read as follows:

8 40:49-5. The governing body may prescribe penalties for the  
9 violation of ordinances it may have authority to pass, by one or more  
10 of the following: imprisonment in the county jail or in any place  
11 provided by the municipality for the detention of prisoners, for any  
12 term not exceeding 90 days; or by a fine not exceeding **[\$1,250]**  
13 \$2,000; or by a period of community service not exceeding 90 days.

14 The governing body may prescribe that for the violation of any  
15 particular ordinance at least a minimum penalty shall be imposed which  
16 shall consist of a fine which may be fixed at an amount not exceeding  
17 \$100.

18 The governing body may prescribe that for the violation of an  
19 ordinance pertaining to unlawful solid waste disposal at least a  
20 minimum penalty shall be imposed which shall consist of a fine which  
21 may be fixed at an amount not exceeding \$2,500 or a maximum  
22 penalty by a fine not exceeding \$10,000.

23 The court before which any person is convicted of violating any  
24 ordinance of a municipality shall have power to impose any fine, term  
25 of imprisonment, or period of community service not less than the  
26 minimum and not exceeding the maximum fixed in such ordinance.

27 Any person who is convicted of violating an ordinance within one  
28 year of the date of a previous violation of the same ordinance and who  
29 was fined for the previous violation, shall be sentenced by a court to  
30 an additional fine as a repeat offender. The additional fine imposed by  
31 the court upon a person for a repeated offense shall not be less than  
32 the minimum or exceed the maximum fine fixed for a violation of the  
33 ordinance, but shall be calculated separately from the fine imposed for  
34 the violation of the ordinance.

35 Any municipality which chooses not to impose an additional fine  
36 upon a person for a repeated violation of any municipal ordinance may  
37 waive the additional fine by ordinance or resolution.

38 Any person convicted of the violation of any ordinance may, in the  
39 discretion of the court by which he was convicted, and in default of the  
40 payment of any fine imposed therefor, be imprisoned in the county jail  
41 or place of detention provided by the municipality, for any term not  
42 exceeding 90 days, or be required to perform community service for

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**Matter underlined thus is new matter.**

1 a period not exceeding 90 days.

2 (cf: P.L.2003, c.231, s.6)

3

4 2. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill amends R.S.40:49-5 to increase from \$1,250 to \$2,000 the  
10 maximum fine that can be imposed for the first violation of a municipal  
11 ordinance. The maximum fine was last changed in 2001, when it  
12 increased from \$1,000 to \$1,250.



ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3732**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 2, 2005

The Assembly Housing and Local Government Committee reports favorably, with committee amendments Assembly Bill No. 3732.

This bill, as amended, amends R.S.40:49-5 to increase from \$1,250 to \$2,000 the maximum fine that can be imposed for the first violation of a municipal ordinance. The maximum fine was last changed in 2001, when it increased from \$1,000 to \$1,250.

The bill, as amended by the committee, requires a municipality, prior to imposing a fine greater than \$1,250 upon an owner for violations of housing or zoning codes, to provide a 30-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

The bill, as amended, would also apply to fines imposed by municipalities functioning under the Faulkner Act.

Committee amendments

The committee amended the bill to add a period of thirty days under which to allow an owner to cure a violation prior to an increased fine being imposed by a municipality for a housing or zoning code violation. The amendments also amend the statute applicable to Faulkner Act municipalities and adjust the monetary penalties which may be imposed by those municipalities for housing or zoning code violations.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3732**

**STATE OF NEW JERSEY**

DATED: DECEMBER 1, 2005

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 3732 (1R).

This bill would amend the laws governing municipal fines to increase the maximum fine that may be imposed for the first violation of a municipal ordinance from \$1,250 to \$2,000. The maximum fine was last changed in 2001, when it was increased from \$1,000 to \$1,250.

Under the bill, prior to imposing a fine in an amount greater than \$1,250 upon an owner for violations of housing or zoning codes a municipality would be required to provide a 30-day period in which the owner would be afforded: 1) an opportunity to cure or abate the condition and 2) an opportunity for a judicial hearing for an independent determination concerning the violation. Once the 30-day period has run, a municipality could impose a fine greater than \$1,250 if the abatement has not been substantially completed unless a court has determined otherwise.

**SENATE, No. 2891**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED DECEMBER 1, 2005

**Sponsored by:**  
**Senator RONALD L. RICE**  
**District 28 (Essex)**

**SYNOPSIS**

Increase maximum fine for first violation of municipal ordinance.

**CURRENT VERSION OF TEXT**

As introduced.



**S2891 RICE**

2

1 **AN ACT** concerning fines for violations of municipal ordinances and  
2 amending R.S.40:49-5 and P.L.1950, c.210.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. R.S.40:49-5 is amended to read as follows:

8 40:49-5. The governing body may prescribe penalties for the  
9 violation of ordinances it may have authority to pass, by one or more  
10 of the following: imprisonment in the county jail or in any place  
11 provided by the municipality for the detention of prisoners, for any  
12 term not exceeding 90 days; or by a fine not exceeding [~~\$1,250~~  
13 \$2,000]; or by a period of community service not exceeding 90 days.

14 The governing body may prescribe that for the violation of any  
15 particular ordinance at least a minimum penalty shall be imposed which  
16 shall consist of a fine which may be fixed at an amount not exceeding  
17 \$100.

18 The governing body may prescribe that for the violation of an  
19 ordinance pertaining to unlawful solid waste disposal at least a  
20 minimum penalty shall be imposed which shall consist of a fine which  
21 may be fixed at an amount not exceeding \$2,500 or a maximum  
22 penalty by a fine not exceeding \$10,000.

23 The court before which any person is convicted of violating any  
24 ordinance of a municipality shall have power to impose any fine, term  
25 of imprisonment, or period of community service not less than the  
26 minimum and not exceeding the maximum fixed in such ordinance.

27 Any person who is convicted of violating an ordinance within one  
28 year of the date of a previous violation of the same ordinance and who  
29 was fined for the previous violation, shall be sentenced by a court to  
30 an additional fine as a repeat offender. The additional fine imposed by  
31 the court upon a person for a repeated offense shall not be less than  
32 the minimum or exceed the maximum fine fixed for a violation of the  
33 ordinance, but shall be calculated separately from the fine imposed for  
34 the violation of the ordinance.

35 Any municipality which chooses not to impose an additional fine  
36 upon a person for a repeated violation of any municipal ordinance may  
37 waive the additional fine by ordinance or resolution.

38 Any person convicted of the violation of any ordinance may, in the  
39 discretion of the court by which he was convicted, and in default of the  
40 payment of any fine imposed therefor, be imprisoned in the county jail  
41 or place of detention provided by the municipality, for any term not  
42 exceeding 90 days, or be required to perform community service for  
43 a period not exceeding 90 days.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**S2891 RICE**

1        Any municipality that chooses to impose a fine in an amount greater  
2 than \$1,250 upon an owner for violations of housing or zoning codes  
3 shall provide a 30-day period in which the owner shall be afforded the  
4 opportunity to cure or abate the condition and shall also be afforded  
5 an opportunity for a hearing before a court of competent jurisdiction  
6 for an independent determination concerning the violation.  
7 Subsequent to the expiration of the 30-day period, a fine greater than  
8 \$1,250 may be imposed if a court has not determined otherwise or,  
9 upon reinspection of the property, it is determined that the abatement  
10 has not been substantially completed.

11 (cf: P.L.2003, c.231, s.6)

12

13        2. Section 2-4 of P.L.1950, c.210 (C.40:69A-29) is amended to  
14 read as follows:

15        2-4. Each municipality governed by an optional form of  
16 government pursuant to this act shall, subject to the provisions of this  
17 act or other general laws, have full power to:

18        (a) Organize and regulate its internal affairs, and to establish, alter,  
19 and abolish offices, positions and employments and to define the  
20 functions, powers and duties thereof and fix their terms, tenure and  
21 compensation;

22        (b) Adopt and enforce local police ordinances of all kinds and  
23 impose one or more of the following penalties: fines not exceeding  
24 ~~[\$1,250]~~ \$2,000 or imprisonment for any term not exceeding 90 days,  
25 or a period of community service not exceeding 90 days for the  
26 violation thereof; prescribe that for the violation of particular  
27 ordinances at least a minimum penalty shall be imposed which shall  
28 consist of a fine which may be fixed at an amount not exceeding \$100;  
29 prescribe that for the violation of an ordinance pertaining to unlawful  
30 solid waste disposal at least a minimum penalty shall be imposed which  
31 shall consist of a fine which may be fixed at an amount not exceeding  
32 \$2,500 or a maximum penalty by a fine not exceeding \$10,000; to  
33 construct, acquire, operate or maintain any and all public  
34 improvements, projects or enterprises for any public purpose, subject  
35 to referendum requirements otherwise imposed by law, and to exercise  
36 all powers of local government in such manner as its governing body  
37 may determine;

38        (c) Sue and be sued, to have a corporate seal, to contract and be  
39 contracted with, to buy, sell, lease, hold and dispose of real and  
40 personal property, to appropriate and expend moneys, and to adopt,  
41 amend and repeal such ordinances and resolutions as may be required  
42 for the good government thereof;

43        (d) Exercise powers of condemnation, borrowing and taxation in  
44 the manner provided by general law.

45        Any person who is convicted of violating an ordinance within one  
46 year of the date of a previous violation of the same ordinance and who

1 was fined for the previous violation, shall be sentenced by a court to  
2 an additional fine as a repeat offender. The additional fine imposed by  
3 the court upon a person for a repeated offense shall not be less than  
4 the minimum or exceed the maximum fine fixed for a violation of the  
5 ordinance, but shall be calculated separately from the fine imposed for  
6 the violation of the ordinance.

7 Any municipality which chooses not to impose an additional fine  
8 upon a person for a repeated violation of any municipal ordinance may  
9 waive the additional fine by ordinance or resolution.

10 Any municipality that chooses to impose a fine in an amount greater  
11 than \$1,250 upon an owner for violations of housing or zoning codes  
12 shall provide a 30-day period in which the owner shall be afforded the  
13 opportunity to cure or abate the condition and shall also be afforded  
14 an opportunity for a hearing before a court of competent jurisdiction  
15 for an independent determination concerning the violation.  
16 Subsequent to the expiration of the 30-day period, a fine greater than  
17 \$1,250 may be imposed if a court has not determined otherwise or,  
18 upon reinspection of the property, it is determined that the abatement  
19 has not been substantially completed.

20 (cf: P.L.2003, c.231, s.7)

21  
22 3. This act shall take effect immediately.

23  
24  
25 STATEMENT

26  
27 This bill amends R.S.40:49-5 to increase from \$1,250 to \$2,000 the  
28 maximum fine that can be imposed for the first violation of a municipal  
29 ordinance. The maximum fine was last changed in 2001, when it  
30 increased from \$1,000 to \$1,250.

31 The bill requires a municipality, prior to imposing a fine greater  
32 than \$1,250 upon an owner for violations of housing or zoning codes,  
33 to provide a 30-day period in which the owner shall be afforded the  
34 opportunity to cure or abate the condition and shall also be afforded  
35 an opportunity for a hearing before a court of competent jurisdiction  
36 for an independent determination concerning the violation. Subsequent  
37 to the expiration of the 30-day period a fine greater than \$1,250 may  
38 be imposed if a court has not determined otherwise or, upon  
39 reinspection of the property, it is determined that the abatement has  
40 not been substantially completed.

41 The bill would also apply to fines imposed by municipalities  
42 operating under the Optional Municipal Charter Law, P.L.1950, c.210  
43 (C.40:69A-1 et seq.), commonly referred to as the Faulkner Act.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2891**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 1, 2005

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2891.

This bill would amend the laws governing municipal fines to increase the maximum fine that may be imposed for the first violation of a municipal ordinance from \$1,250 to \$2,000. The maximum fine was last changed in 2001, when it was increased from \$1,000 to \$1,250.

Under the bill, prior to imposing a fine in an amount greater than \$1,250 upon an owner for violations of housing or zoning codes a municipality would be required to provide a 30-day period in which the owner would be afforded: 1) an opportunity to cure or abate the condition and 2) an opportunity for a judicial hearing for an independent determination concerning the violation. Once the 30-day period has run, a municipality could impose a fine greater than \$1,250 if the abatement has not been substantially completed unless a court has determined otherwise.