

Office of Legislative Research
Connecticut General Assembly



Real Estate



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NOTICE TO READERS

This report provides brief highlights of new laws affecting real estate enacted during the 2008 regular and special session. Each summary indicates the public act (PA) or special act (SA) number and effective date.

Not all provisions of the acts are included here. Complete summaries of all 2008 public acts will be available when OLR's Public Act Summary book is published; some are already on OLR's website (www.cga.ct.gov/olr/OLRPASums.asp).

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, House Clerk's Office, or General Assembly's website (www.cga.ct.gov/).

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Condominium Sales

PA 08-173 (§ 2) allows a condominium unit owner who purchased his or her unit between July 1, 2004 and July 15, 2004 for more than an amount specified in any law, condominium association bylaw, or affordable housing deed restriction that limits the sale price, to sell it for an amount that does not exceed his or her purchase price.
EFFECTIVE DATE: Upon passage (June 12, 2008).

Department of Agriculture Statutes

PA 08-13 expands the definition of (1) farm products to include all those resulting from the practice of farming or agriculture and (2) “Connecticut Grown” to include all farm products that have a traceable origin in Connecticut.

It also expands the entities eligible for the agricultural viability matching grant to include: groups of municipalities, regional planning agencies, councils of governments, councils of elected officials, and other groups of municipalities with a regional inter-local agreement. Eligible projects for the grant include (1) local capital projects to foster agricultural viability, including farmers markets and processing facilities, and (2) the development and implementation of agriculturally

friendly land use regulations and local farmland protection strategies.

EFFECTIVE DATE: Upon passage (April 29, 2008)

Environmental Justice Communities, Storage of Asbestos-Containing Material

PA 08-94 requires applicants seeking a new or expanded permit, certificate, or siting approval for certain facilities (an “affecting facility”) in an environmental justice community from the Department of Environmental Protection (DEP) or the Connecticut Siting Council to (1) file and receive approval of a meaningful public participation plan, including an informal public meeting, with DEP or the Siting Council and (2) consult with officials of the town or towns where the facility will be located or expanded to evaluate the need for a community environmental benefit agreement.

Under the act, DEP and the Siting Council must wait at least 60 days after the informal public meeting to act on the applicant's request. The act specifies that any municipality, owner, or developer may enter into a community benefit agreement in connection with an affecting facility.

The act also restricts where people or government agencies may place, store, dispose of, or deposit certain asbestos-containing materials.

EFFECTIVE DATE: January 1, 2009, except for the provision concerning asbestos-containing materials, which is effective October 1, 2008.

Farmland Preservation, Brownfields, and Open Space

PA 08-174 caps the state contribution for the purchase of development rights in the Farmland Preservation Grant Program at \$20,000 per acre. It authorizes the agriculture commissioner to establish a community farms program for the preservation of farmland that is not eligible for the grant program. Under the community farms program, the commissioner may purchase up to 100% of development rights or purchase such rights jointly with a municipality.

The act divides the generic, multipurpose brownfield clean-up and redevelopment program into separate grant and loan programs targeting different eligible developers. The grant program is open to municipalities, local and regional development authorities, and nonprofit developers. The loan program is open to these entities and for-profit developers. The act specifies maximum grant and loan amounts, eligibility criteria, and loan terms and conditions, which include investigating and remediating the property.

It expands the circumstances under which a municipality can enter and investigate or assess contaminated property, specifies

the extent to which it is immune from liability when it does so, requires the municipality to notify the owner before entering the property, and sets narrow grounds under which the owner can appeal the municipality's intention to do so.

It reestablishes the Brownfields Task Force and requires it to recommend additional brownfield remediation options to the legislature by January 1, 2009.

The act exempts land from local property taxes if it is held by a nonprofit corporation and preserved as open space.

EFFECTIVE DATE: Upon passage (June 13, 2008), with the exemption for open space land applying to assessment years starting on or after October 1, 2007, and except for the new limits on the state's contribution in the Farmland Preservation Grant Program, which are effective October 1, 2008.

Hazardous Waste Program and Disclosures, Norwalk River Watershed, and Cleaning Products

PA 08-186 makes numerous changes. It allows DEP to approve solid waste demonstration projects under certain conditions and requires it, within available appropriations, to award a grant to the Norwalk Public Works Department to study portions of the Norwalk River watershed and develop a watershed and flood management plan for it.

The act deems a home seller and real estate licensee to have fully satisfied any duty to disclose environmental matters concerning properties, other than the home that is the subject of the contract, to a prospective purchaser if a seller provides written notice to the prospective purchaser, before or when entering a contract, of the availability of information on environmental matters from the U.S. Environmental Protection Agency, the National Response Center, the Defense Department, and third-party providers. The act specifies that it does not impose liability on a seller or real estate licensee who does not disclose the required information.

Existing law prohibits the use of cleaning products in state-owned buildings unless they meet certain guidelines or environmental standards. The act excludes from this restriction products for which these guidelines or standards have not been established, or which are otherwise excluded from them. EFFECTIVE DATE: Upon passage (June 12, 2008), except for the provisions on hazardous waste definitions, demonstration projects, and written notice about environmental matters, which are effective October 1, 2008.

Influencing Real Estate Appraisals

PA 08-176 (§§ 81 & 82) prohibits mortgage brokers, real estate brokers, and real estate

salespersons from influencing residential real estate appraisals. This includes refusing or intentionally failing to (1) pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price or (2) refer a homebuyer to a mortgage broker or lender based solely on the fact that the mortgage broker or lender uses an appraiser who has provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

EFFECTIVE DATE: July 1, 2008

Inland Wetlands Agency Reports

PA 08-38 restores a requirement that zoning commissions and planning commissions, respectively, “give due consideration” to inland wetlands agency reports when reviewing, for a regulated wetlands area, (1) a site plan to help determine the conformity of a proposed building, use, or structure with specific zoning regulations and (2) applications and plans for subdivisions and re-subdivisions.

EFFECTIVE DATE: Upon passage (May 7, 2008)

Open Space and Watershed Grant Program

PA 08-124 allows open space and watershed grant program applicants to use other state funds as matching grants. It specifies that they may use other

state and federal funds to fund up to 70% of their projects. Prior law required them to match the grant with their own funds.

The open space and watershed grant program provides grants to (1) municipalities and nonprofit land organizations to acquire land or permanent interests (e.g., easements) in it, (2) water companies (including municipal utilities) to acquire land that protects drinking water supplies, and (3) distressed municipalities and targeted investment communities to restore or protect open space land they already own.

EFFECTIVE DATE: Upon passage (June 2, 2008)

Public Housing Pilot Program, Low- and Moderate-Income Housing Tax Abatement

PA 08-10 allows the economic and community development commissioner to continue reimbursing municipalities for property tax abatements and exemptions granted to low- and moderate-income housing. It does so by changing provisions specifying the circumstances under which she must end these reimbursements, which are authorized under two statutory programs.

One program allows municipalities to abate property taxes on privately-owned multifamily housing if the owner agrees to keep the rents affordable for low- and moderate-income people. Under prior law,

the commissioner could reimburse municipalities for these abatements for up to 40 consecutive years. The act eliminates this sunset provision.

The other program exempts public housing authorities (PHA) from paying property taxes on moderate rental housing projects they developed with state funds. Prior law allowed the commissioner to reimburse municipalities for the revenue loss as long as the PHAs owned the projects. Under the act, she may continue reimbursing a project after a public or private entity acquired and redeveloped it with her approval.

EFFECTIVE DATE: July 1, 2008

Real Estate Conveyance Tax

SB 1001, June Special Session, extends the expiration date of the basic 0.25% municipal real estate conveyance tax rate for two years, until July 1, 2010. This extension also maintains the maximum 0.5% municipal option rate allowable in 18 eligible towns for the same period.

EFFECTIVE DATE: Upon passage (June 16, 2008)

Regional Planning Organizations

PA 08-182 expands the capacity for state and regional planning. It requires the Office of Policy and Management secretary to (1) rank the state's policies for developing and conserving land and (2) track the extent to which

the state's principles for managing growth are being implemented. It also requires the secretary to reassess the boundaries of the state's planning regions at least once every 20 years and change them if necessary. By law, towns within these regions may form regional planning bodies. The act gives them largely the same powers and duties, and refers to them collectively, as regional planning organizations (RPOs).

The act requires municipal zoning commissions to notify RPOs about projects that could affect a region, as determined in regulations the secretary must adopt, and specifies a procedure for doing so.

The act expands the range of projects eligible for regional performance incentive grants, which are currently available for delivering an existing municipal service on a regional basis. It extends eligibility to new services that are not being provided anywhere in the region. It also drops the requirement that proposed projects increase local purchasing power or lower tax rates but requires the secretary to give priority to those that do. EFFECTIVE DATE: October 1, 2008 except, for the changes affecting the regional performance incentive grants, which take effect July 1, 2008.

Responsible Lending and Economic Security

PA 08-176 specifically authorizes the Connecticut

Housing Finance Authority (CHFA) to (1) continue the CT FAMILIES refinancing program and (2) implement mortgage refinancing and emergency mortgage assistance programs (EMAP). It allows CHFA to develop and implement a program for it to purchase foreclosed state property and turn the property into supportive and affordable housing. The act requires WorkPlace, Inc., in conjunction with the other regional workforce development boards and the one-stop centers, to establish a mortgage crisis job training program.

The act requires the chief court administrator to establish a foreclosure mediation program in each judicial district by July 1, 2008. It establishes a number of requirements for mortgage loans (mainly for nonprime loans) and for mortgage professionals making those loans.

It makes a number of additional regulatory changes, including increasing bond requirements for lenders and brokers. It also combines first and second mortgage professionals and makes a number of changes to the National Mortgage Licensing requirements adopted under PA 07-156. It establishes a commission on nontraditional loans and home equity lines of credit.

EFFECTIVE DATE: July 1, 2008, except for the CT FAMILIES program, state assistance for EMAP, foreclosure mediation program, and nontraditional

mortgage commission provisions, which are effective on passage (June 12, 2008).

Solid Waste Facilities Located Near Housing Developments

PA 08-173 (§ 1) bars the DEP commissioner from permitting a solid waste facility to be built or operated on land whose boundary is within 150 feet of property where there is a housing development owned by a housing authority, unless the commissioner determines the facility does not pose a threat to (1) the environment of the surrounding geographic area or (2) public safety. It exempts from this prohibition (1) permits to build or operate a solid waste facility issued on or before September 30, 2008 and (2) the renewal of these permits. EFFECTIVE DATE: October 1, 2008.

State Property Conveyances

SA 08-8 makes numerous conveyances of state property. EFFECTIVE DATE: Upon passage (June 12, 2008)

Uniform Real Property Electronic Recording Act

PA 08-56, with respect to documents eligible to be recorded in municipal land records, authorizes town clerks to (1) receive, index, store, archive, transmit, and provide access to electronic documents; (2) convert into electronic form paper

documents accepted for recording; (3) accept electronically any fee or tax they are authorized to collect; and (4) agree with federal and other state and local officials on (a) procedures or processes to facilitate the electronic satisfaction of prior conditions on recording and prior approvals by other officials, and (b) the electronic payment of fees and taxes.

The act requires town clerks who exercise the authority the act grants to (1) comply with regulations the State Librarian adopts under the act and (2) continue to accept paper documents and place entries for both types of documents in the same index.

EFFECTIVE DATE: October 1, 2009

Working Group to Study Private Water Well Issues

PA 08-184 (§ 51) requires the Department of Public Health, in consultation with the Departments of Environmental Protection and Consumer Protection, to convene a working group to study and make legislative recommendations (1) to ensure that property owners of new construction with a private water supply well as the source of drinking water are assured of an adequate water supply that meets current potability standards and (2) concerning the installation of replacement water supply wells on properties where there is insufficient area to meet

the current separation distances as specified in the regulations of Connecticut state agencies. The working group must report, by July 1, 2009, its legislative recommendations to the Public Health, Environment, and General Law committees.
EFFECTIVE DATE: Upon passage (June 12, 2008)

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