



Senate

General Assembly

File No. 243

January Session, 2001

Substitute Senate Bill No. 1395

Senate, April 11, 2001

The Committee on Insurance and Real Estate reported through SEN. BOZEK of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING COMMERCIAL REAL ESTATE BROKERAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 (NEW) (a) If a landlord or tenant in a commercial real estate
2 transaction enters into an agreement pursuant to subsection (b) or (c)
3 of section 20-325a of the general statutes for the payment of
4 compensation, or the promise of payment, to a real estate broker in
5 consideration for brokerage services rendered in connection with the
6 consummation of a written lease, then notwithstanding any provision
7 of law under which such compensation may otherwise be considered
8 the personal obligation of the original landlord or tenant specifically
9 named in the written lease, the agreement shall constitute a binding
10 contractual obligation of such landlord or tenant, as the case may be,
11 and the landlord's or tenant's grantees, successors and assigns. Upon
12 any sale, transfer, assignment or other disposition, including, but not
13 limited to, any such disposition by reason of the enforcement of a
14 mortgage, lien, deed to secure debt or other security instrument of a
15 landlord's interest in real property or upon any sale, assignment,

16 transfer or other disposition of a tenant's leasehold interest, the
17 succeeding party shall be bound for all obligations under such
18 agreement accruing after the sale, transfer, assignment or other
19 disposition with the same effect as if such succeeding party had
20 expressly assumed the landlord's or tenant's obligations relating to the
21 written agreement if: (1) The real estate broker has complied with the
22 provisions of subsections (b) to (d), inclusive, of this section; (2) the
23 succeeding party assumes the benefits of the tenancy; and (3) the
24 agreement has not been waived in writing by the real estate broker.

25 (b) A real estate broker shall be entitled to the protections afforded
26 by this section only upon the broker's recording a notice of commission
27 rights in the land records in the office of the town clerk in the town in
28 which the real property or leasehold interest is located not later than
29 thirty days after the execution of the lease or the tenant's occupancy of
30 the leased premises, whichever is later. The notice of commission
31 rights shall (1) be filed before conveyance of the real property, (2) be
32 signed by the real estate broker or by a person expressly authorized to
33 sign on behalf of the broker, and (3) be in substantially the following
34 form:

35 NOTICE OF COMMISSION RIGHTS

36 The undersigned licensed Connecticut real estate broker does
37 hereby publish this NOTICE OF COMMISSION RIGHTS to establish
38 that the lease referenced below was procured by a real estate broker
39 pursuant to a written brokerage commission agreement providing for
40 the payment or promise of payment of compensation for brokerage
41 services.

42 Owner:

43 Landlord:

44 Tenant:

45 Lease date:

46 Lease term:

47 Project or building name (if any):

48 Real estate broker name

49 Address

50 Telephone number

51 Real estate license number

52 (c) Not later than thirty days after the real estate broker receives
53 final payment of commissions due under the written brokerage
54 commission agreement, the real estate broker shall provide the owner,
55 tenant or mortgagee a statement, in a form suitable for recording on
56 the land records, that indicates that the broker's commission rights are
57 terminated.

58 (d) Notwithstanding any provision of this section, nothing in this
59 section shall be construed to create a lien on the real property that is
60 the subject of the lease.

Statement of Legislative Commissioners:

In subsection (a), "compensation agreement" was changed to "agreement" for consistency with the statutes, and "the landlord's or tenant's grantees" was substituted for "their respective grantees" for grammatical consistency; and subsection (c) was rewritten and reorganized for accuracy.

INS **JOINT FAVORABLE SUBST.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: None

Municipal Impact: None

OLR Bill Analysis

sSB 1395

AN ACT CONCERNING COMMERCIAL REAL ESTATE BROKERAGE.

SUMMARY:

This bill establishes a notice requirement and permits a real estate broker who enters into a commission agreement with a landlord or tenant in a commercial lease transaction to enforce the agreement against the landlord, tenant or any of their grantees, successors, and assignees after the property's sale, transfer, assignment, or other disposition.

The bill requires a "notice of commission rights" to be in a certain form, recorded on the land records within a certain period of time, and signed by the broker or his authorized agent. It also requires that certain conditions be satisfied before a notice of commission rights is binding on any landlord, tenant or their grantees, successors, or assignees after disposition of the property.

Finally, the bill specifies that the notice of commission rights may not be construed as a lien on the property.

EFFECTIVE DATE: October 1, 2001

COMPENSATION AGREEMENT

The bill specifies that a commission agreement between a landlord or tenant and a broker, under which the landlord or tenant agrees or promises to pay the broker for services rendered in connection with a written commercial lease, is a binding contractual obligation on the landlord, tenant, and their grantees, successors, and assignees if (1) the broker satisfies the requirements for recording a notice of commission right; (2) upon the sale, transfer, or other disposition of the property, the succeeding party assumes the benefits of the tenancy; and (3) the broker does not waive the commission agreement in writing. It

specifies that the contractual obligation under the commission agreement applies to the succeeding party after a sale, transfer, assignment, or enforcement of a mortgage, lien, or deed to secure a debt or other security instrument of a landlord's interest in the property or the sale, transfer, assignment, or other disposition of a tenant's leasehold interest.

Binding Contractual Obligation

The bill specifies that the commission agreement constitutes a binding contractual obligation of the landlord or tenant and their respective grantees, successors, and assignees, notwithstanding any provision that would otherwise consider the agreement the personal obligation of the original landlord or tenant named in the lease.

NOTICE OF COMMISSION RIGHTS

The bill requires the broker to record the notice of commission rights on the land records in the town clerk's office where the property or leasehold is located within 30 days after the lease is signed or the tenant's occupancy, whichever is later, and at any time before the property is conveyed.

To terminate commission rights, the bill requires the broker to provide the owner, tenant, or mortgagee with a statement suitable for recording on the land records within 30 days after receiving a final commission payment due under the written commission agreement.

Commission Rights Form

The bill requires the notice of commission rights form to contain the owner, landlord, or tenant's name; the date and lease term; the project or building name; the real estate broker's name, address, and telephone, and license number. It must also contain the following statement:

"The undersigned licensed Connecticut real estate broker does hereby publish this NOTICE OF COMMISSION RIGHTS to establish that the lease referenced below was procured by a real estate broker pursuant to a written brokerage commission agreement providing for the

payment or promise of compensation for brokerage services.”

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0