



**Senate Bill No. 1085**

**Public Act No. 05-190**

**AN ACT CONCERNING BUFFERS TO INLAND WETLANDS AREAS AND CONCERNING APPLICATION OF THE CONVEYANCE TAX TO LAND CLASSIFIED AS FARM LAND, FOREST LAND OR OPEN SPACE LAND.**

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

Section 1. (NEW) (*Effective from passage*) Property required as a buffer pursuant to any permit issued by an inland wetlands agency under regulations adopted under section 22a-42a of the general statutes shall be assessed at a value equal to the value of such property if it were an inland wetland or watercourse area.

Sec. 2. Section 12-107a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

It is hereby declared [(a)] (1) that it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, [(b)] (2) that it is in the public interest to prevent the forced conversion of farm land, forest land and open space

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land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land and open space land, and [(c)] (3) that the necessity in the public interest of the enactment of the provisions of sections 12-107b to 12-107e, inclusive, as amended by this act, and section 12-504f, as amended by this act, is a matter of legislative determination.

Sec. 3. Subsection (b) of section 12-107c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

(b) An application for classification of land as farm land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to [12-504e] 12-504f, inclusive, as amended by this act, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

Sec. 4. Subsection (g) of section 12-107d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

(g) A report issued by a certified forester pursuant to subsection (c) of this section shall be on a form prescribed by the State Forester and shall set forth a description of the land, a description of the forest growth upon the land, a description of forest management activities recommended to be undertaken to maintain the land in a state of

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proper forest condition and such other information as the State Forester may require as measures of forest stocking, distribution and condition and shall include the name, address and certificate number of the certified forester and a signed, sworn statement that the certified forester has determined that the land proposed for classification conforms to the standards of forest stocking, distribution and condition established by the State Forester. An application to an assessor for classification of land as forest land shall be made upon a form prescribed by such assessor and approved by the Commissioner of Environmental Protection and shall set forth a description of the land and the date of the issuance of the certified forester's report and a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504e, inclusive, as amended by this act. The certified forester's report shall be attached to and made a part of such application. No later than October first, such application shall be submitted to the assessor.

Sec. 5. Section 12-107e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

(a) The planning commission of any municipality in preparing a plan of conservation and development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

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(b) An owner of land included in any area designated as open space land upon any plan as finally adopted may apply for its classification as open space land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if the assessor determines that there has been no such change, said assessor shall classify such land as open space land and include it as such on the grand list. An application for classification of land as open space land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of section 12-504a to [12-504e] 12-504f, inclusive, as amended by this act, and such other information as the assessor may require to aid in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as open space land within the time limit prescribed in subsection (b) of this section and in the manner and form prescribed in said subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial by an assessor of any application for the classification of land as open space land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the

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doings of assessors or boards of assessment appeals.

Sec. 6. Section 12-504a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

(a) If at any time there is a change of ownership for any property that is classified as farm land pursuant to section 12-107c, as amended by this act, forest land pursuant to section 12-107d, as amended by this act, or open space land pursuant to section 12-107e, as amended by this act, a revised application shall be filed with the assessor pursuant to said sections 12-107c, 12-107d and 12-107e.

[(a)] (b) Any land which has been classified by the record owner thereof as open space land pursuant to section 12-107e, as amended by this act, if sold or transferred by him within a period of ten years from the time he first caused such land to be so classified, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to the tax imposed under sections 12-494 to 12-504, inclusive. Said conveyance tax shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year following the date of such classification; (2) nine per cent if sold within the second year following the date of such classification; (3) eight per cent if sold within the third year following the date of such classification; (4) seven per cent if sold within the fourth year following the date of such classification; (5) six per cent if sold within the fifth year following the date of such classification; (6) five per cent if sold within the sixth year following the date of such classification; (7) four per cent if sold within the seventh year following the date of such classification; (8) three per cent if sold within the eighth year following the date of such classification; (9) two per cent if sold within the ninth year following the date of such classification; and (10) one per cent if sold within the tenth year following the date of such classification. No

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conveyance tax shall be imposed on such record owner by the provisions of sections 12-504a to 12-504f, inclusive, as amended by this act, following the end of the tenth year after the date of such classification by [such] the record owner or person acquiring title to such land or causing such land to be so classified.

[(b)] (c) Any land which has been classified by the record owner thereof as farm land pursuant to section 12-107c, as amended by this act, or as forest land pursuant to section 12-107d, as amended by this act, if sold or transferred by him within a period of ten years from the time he acquired title to such land or from the time he first caused such land to be so classified, whichever is earlier, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to the tax imposed under sections 12-494 to 12-504, inclusive. Said conveyance tax shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year of ownership by such record owner; (2) nine per cent if sold within the second year of ownership by such record owner; (3) eight per cent if sold within the third year of ownership by such record owner; (4) seven per cent if sold within the fourth year of ownership by such record owner; (5) six per cent if sold within the fifth year of ownership by such record owner; (6) five per cent if sold within the sixth year of ownership by such record owner; (7) four per cent if sold within the seventh year of ownership by such record owner; (8) three per cent if sold within the eighth year of ownership by such record owner; (9) two per cent if sold within the ninth year of ownership by such record owner; and (10) one per cent if sold within the tenth year of ownership by such record owner. No conveyance tax shall be imposed by the provisions of sections 12-504a to 12-504f, inclusive, as amended by this act, following the end of the tenth year of ownership by [such] the record owner or person acquiring title to such land or causing such land to be so classified.

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Sec. 7. Section 12-504c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

The provisions of section 12-504a, as amended by this act, shall not be applicable to the following: [(a)] (1) Transfers of land resulting from eminent domain proceedings; [(b)] (2) mortgage deeds; [(c)] (3) deeds to or by the United States of America, state of Connecticut or any political subdivision or agency thereof; [(d)] (4) strawman deeds and deeds which correct, modify, supplement or confirm a deed previously recorded; [(e)] (5) deeds between husband and wife and parent and child when no consideration is received, except that a subsequent nonexempt transfer by the grantee in such cases shall be subject to the provisions of said section 12-504a as it would be if the grantor were making such nonexempt transfer; [(f)] (6) tax deeds; [(g)] deeds releasing any property which is a security for a debt or other obligation; [(h)] (7) deeds of foreclosure; [(8)] deeds of partition; [(i)] (9) deeds made pursuant to a merger of a corporation; [(j)] (10) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the capital stock of such subsidiary; [(k)] (11) property transferred as a result of death [by devise or otherwise] when no consideration is received and in such transfer the date of acquisition or classification of the land for purposes of sections 12-504a to 12-504f, inclusive, as amended by this act, whichever is earlier, shall be the date of acquisition or classification by the decedent; [(l)] (12) deeds to any corporation, trust or other entity, of land to be held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, provided such corporation, trust or other entity has received a determination from the Internal Revenue Service that contributions to it are deductible under applicable sections of the Internal Revenue Code; [(m)] (13) land subject to a covenant specifically set forth in the deed transferring title

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to such land, which covenant is enforceable by the town in which such land is located, to refrain from selling, transferring or developing such land in a manner inconsistent with its classification as farm land pursuant to section 12-107c, as amended by this act, forest land pursuant to section 12-107d, as amended by this act, or open space land pursuant to section 12-107e, as amended by this act, for a period of not less than eight years from the date of transfer, if such covenant is violated the conveyance tax set forth in this chapter shall be applicable at the rate multiplied by the market value as determined by the assessor which would have been applicable at the date the deed containing the covenant was delivered and, in addition, the town or any taxpayer therein may commence an action to enforce such covenant; [and (n)] (14) land the development rights to which have been sold to the state under chapter 422a; and (15) deeds to or from any limited liability company when the grantors or grantees are the same individuals as the principals or members of the limited liability company. If [such] action is taken under subdivision (13) of this section by [such] a taxpayer, such action shall commence prior to the ninth year following the date of the deed containing such covenant and the town shall be served as a necessary party.

Sec. 8. Section 12-504d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

Any person aggrieved by the imposition of a tax under the provisions of sections 12-504a to 12-504f, inclusive, as amended by this act, may appeal therefrom as provided in sections 12-111, [and] 12-112 and 12-118. If the time for appealing to the board of assessment appeals has passed, the taxpayer may appeal at the next regularly scheduled meeting.

Sec. 9. Section 12-504e of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

Any land which has been classified by the owner as farm land pursuant to section 12-107c, as amended by this act, as forest land pursuant to section 12-107d, as amended by this act, or as open space land pursuant to section 12-107e, as amended by this act, if changed by him, within a period of ten years of his acquisition of title, to use other than farm, forest or open space, shall be subject to said conveyance tax as if there had been an actual conveyance by him, as provided in sections 12-504a and 12-504b, as amended by this act, at the time he makes such change in use, [and classification. Said conveyance tax schedule shall apply to fair market values as determined by the assessor under the provisions of section 12-63 for all other property.] For the purposes of this section: (1) The value of any such property shall be the fair market value thereof as determined by the assessor in conjunction with the most recent revaluation, and (2) the date used for purposes of determining such tax shall be the date on which the use of such property is changed, or the date on which the assessor becomes aware of a change in use of such property, whichever occurs first.

Sec. 10. Section 12-504h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after July 1, 2005*):

Any such classification of farm land pursuant to section 12-107c, as amended by this act, forest land pursuant to section 12-107d, as amended by this act, or open space land pursuant to section 12-107e, as amended by this act, shall be deemed personal to the particular owner who requests and receives such classification and shall not run with the land. Any such land which has been classified by [the] a record owner [as farm land pursuant to section 12-107c, as forest land

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pursuant to section 12-107d, or as open space land pursuant to section 12-107e] shall remain so classified without the filing of any new application subsequent to such classification, notwithstanding the provisions of said sections 12-107c, 12-107d and 12-107e, until either of the following shall occur: (1) The use of such land is changed to a use other than that described in the application for the existing classification by said record owner, or (2) such land is sold or transferred by said record owner. Upon the sale or transfer of any such property, the classification of such land as farm land pursuant to section 12-107c, as amended by this act, forest land pursuant to section 12-107d, as amended by this act, or open space land pursuant to section 12-107e, as amended by this act, shall cease as of the date of sale or transfer. In the event that a change in use of any such property occurs, the provisions of section 12-504e, as amended by this act, shall apply in terms of determining the date of change and the classification of such land as farm land pursuant to section 12-107c, as amended by this act, forest land pursuant to section 12-107d, as amended by this act, or open space land pursuant to section 12-107e, as amended by this act, shall cease as of such date.

Sec. 11. Section 12-504f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

The tax assessor shall file annually, not later than sixty days after the assessment date, with the town clerk a certificate for any land which has been classified as farm land pursuant to section 12-107c, as amended by this act, as forest land pursuant to section 12-107d, as amended by this act, or as open space land pursuant to section 12-107e, as amended by this act, which certificate shall set forth the date of the initial classification and the obligation to pay the conveyance tax imposed by this chapter. Said certificate shall be recorded in the land records of such town. Any such classification of land shall be deemed personal to the particular owner who requests such classification and

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shall not run with the land. The town clerk shall notify the tax assessor of the filing in the land records of the sale of any such land. Upon receipt of such notice the tax assessor shall inform the new owner of the tax benefits of classification of such land as farm land, forest land or open space land.

Approved July 1, 2005