



Senate

General Assembly

File No. 62

February Session, 2008

Senate Bill No. 275

Senate, March 20, 2008

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE MARKETING AND SALE OF OUT-OF-STATE PROPERTY.

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

1 Section 1. Section 20-329b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) Unless the method of disposition is adopted for the purpose of
4 the evasion of the provisions of sections [20-329a] 20-329b to 20-329m,
5 inclusive, as amended by this act, or the provisions of the federal
6 Interstate Land Sales Full Disclosure Act, said sections shall not apply
7 to: (1) The making of any offer or disposition of any subdivision or lot,
8 parcel, unit or interest in any subdivision (A) by a purchaser of any
9 subdivision lot, parcel or unit for the purchaser's own account in a
10 single or isolated transaction, (B) to any person who is engaged in the
11 business of the construction of residential, commercial or industrial
12 buildings, other than any lot, parcel, unit or interest in any
13 subdivision, for disposition, (C) pursuant to the order of any court in
14 this state, [or] (D) by any government or government agency, or (E) the

15 making of any offer or disposition of any improved land on which
16 there is a residential, commercial, condominium or industrial building,
17 or the sale or lease of land under a contract obligating the seller or
18 lessor to erect such building thereon not later than two years from the
19 date of the contract; (2) any offer or disposition of any evidence of
20 indebtedness secured by way of any mortgage or deed of trust of real
21 estate; (3) securities or units of interest issued by an investment trust
22 regulated under the laws of this state; (4) cemetery lots; or (5) the
23 leasing of apartments, offices or stores, or the leasing of similar space
24 within any apartment building, commercial building or industrial
25 building.

26 (b) The commission may from time to time, pursuant to regulations
27 adopted by the Commissioner of Consumer Protection pursuant to
28 chapter 54, with the advice and assistance of the commission, exempt
29 any subdivision from any of the provisions of sections 20-329a to 20-
30 329m, inclusive, if the commission finds that the enforcement of said
31 sections, with respect to such subdivision or lots, parcels, units or
32 interests in such subdivision, is not necessary in the public interest and
33 for the protection of purchasers by reason of the small amount
34 involved or the limited character of the offering, or because such
35 property has been registered and approved pursuant to the laws of
36 any other state.

37 (c) Any subdivision which has been registered under the federal
38 Interstate Land Sales Full Disclosure Act shall be exempt from the
39 provisions of section 20-329d, except for the narrative description of
40 the promotional plan for the disposition of the subdivided lands and
41 copies of all advertising material which has been prepared for public
42 distribution by any means of communications, required under
43 subdivision (2) of said section, upon the filing with the commission of
44 a copy of an effective statement of record filed with the Secretary of
45 Housing and Urban Development together with a filing fee of three
46 hundred dollars for each subdivision covered by such effective
47 statement of record. The fee for filing a consolidation or an additional
48 number of lots not included in the initial filing shall be three hundred

49 dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	20-329b

INS *Joint Favorable*

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 chamber thereof for any purpose:

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***The Out Years******State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 275****AN ACT CONCERNING THE MARKETING AND SALE OF OUT-OF-STATE PROPERTY****SUMMARY:**

This bill excludes from the statutes regulating the sale in Connecticut of land outside of Connecticut:

1. the making of any offer or disposition of any improved land on which there is a residential, commercial, condominium, or industrial building or
2. the sale or lease of land under a contract requiring the seller or lessor to erect a building on it within two years from the date of the contract.

By doing so, it eliminates from these transactions certain licensing requirements, advertising restrictions, penalties, and buyer protections, including the right to receive certain information about the property, revoke the contract, and have deposit money kept in escrow and returned in case of a breach.

But the bill specifies that it does not exclude such activities if the method of disposing the land is adopted to evade these laws.

The principal requirements, restrictions, penalties, and protections that the bill eliminates for transactions involving out-of-state land are summarized below.

EFFECTIVE DATE: October 1, 2008

REQUIREMENTS UNDER CURRENT LAW THAT THE BILL ELIMINATES

Service of Process and Posting of a Bond (CGS § 20-329c)

The law prohibits the offering or disposition in Connecticut of any out-of-state subdivision or a lot, parcel, unit, or interest in any subdivision until the person or broker:

1. has appointed in writing the secretary of the state to be his or her agent for service of process for as long as any liability remains outstanding against him or her in Connecticut;
2. posted with the Real Estate Commission a bond, in favor of the state with a surety company authorized to do business in Connecticut, in whatever amount the commission determines; and
3. has received a license from the commission.

The law subjects violators to a fine of \$1,000 to \$5,000.

The law allows anyone aggrieved by an act of the principal named in such bond to proceed on such bond against the principal or surety to recover damages.

Submission of Documents and Promotional and Advertising Material to the Real Estate Commission (CGS § 20-329d)

By law any person or broker proposing to offer or dispose of any out-of-state subdivision, lot, parcel, unit, or other real estate interest in Connecticut must first submit to the commission:

1. whatever details the commission may require by regulation, including a prospectus, property report, or offering statement embodying all the terms relative to the offering and disposition;
2. a narrative description of the promotional plan for the disposition of the subdivided lands and copies of all advertising material prepared for public distribution by any means of communications;
3. a completed license application; and

4. a \$300 filing fee for each subdivision to be disposed of or offered.

Commission Investigation (CGS § 20-329e)

Before the commission issues any license, the Department of Consumer Protection must fully investigate all submitted information and may physically examine, investigate, or inspect any subdivision that is the subject of the application. The applicant must pay all reasonable commission expenses and the commission is prohibited from issuing a license until the expenses have been fully paid.

Issuance of License (CGS § 20-329f)

Upon successful examination, the commission must license the applicant, who must pay a licensing fee. A license is valid for one year and may be renewed annually upon payment to the commission of a renewal fee.

Restrictions on Commission Members (CGS § 20-329j)

The law prohibits commission members, or any association, firm, or corporation with which a member is associated from:

1. acting as a broker of a subdivision or a lot, parcel, unit, or interest in a subdivision or
2. offering or disposing of a subdivision or a lot, parcel, unit, or interest in a subdivision that is required to be approved by law.

Immunity for Advertising Media (CGS § 20-329k)

The law specifies that the owners, publishers, licensees, or operators, of any newspaper, magazine, visual or sound radio broadcasting station, or network of stations or their agents or employees are not liable for any advertising or the contents of advertisement of any subdivision or lot, parcel, or unit in a subdivision.

Deposits Must be Placed in Escrow Accounts (CGS § 20-329n)

The law requires that the seller or lessor deposit into an escrow account in a bank doing business in Connecticut all moneys a

purchaser or lessee pays or advances, or whatever portion of it the commission determines is sufficient to protect his or her interests.

This money must remain in escrow until:

1. a proper and valid release is obtained for it;
2. the owner, sub-divider, purchaser, or lessee has defaulted under their contract and the commission or a court has made a determination as to its disposition ; or
3. the owner, sub-divider, seller, or lessor orders it returned to the purchaser or lessee.

Advertising Restrictions (CGS § 20-329g)

The law prohibits any person or broker from:

1. referring to the commission or to any commission member or employee in offering or disposing in Connecticut any subdivision or a lot, parcel, or unit in a subdivision or
2. making any representation that the commission or any state official, department, or employee has inspected, approved, or otherwise passed upon the property.

Violators are subject to a fine of \$1,000 to \$5,000.

Rights of Purchasers (CGS § 20-329h(a))

The law requires that a subdivision or a lot, parcel, unit, or interest in any subdivision must be disposed of through a broker. But a broker may employ any salesperson for the specific purpose of offering or disposing of, on behalf of such broker and under contract to such broker, any lot, parcel, unit, or interest in any subdivision. Before any offering or disposition the broker's name must be filed with the commission.

Mandatory Disclosure to Buyers (CGS § 20-239h(b))

The law requires that the broker or a salesperson give a purchaser a

clearly identified copy of the prospectus, property report, or offering statement before executing any contract to dispose of such property. The broker or salesperson must obtain from the purchaser a signed receipt for the copy. If a contract for disposition will be entered into, the receipt must be kept in the broker's files for seven years and is subject to inspection by the commission. Upon termination of such broker or salesperson's employment with the developer, all such records must be turned over within 30 days to the developer and the developer must keep them for the seven year period.

Purchaser's Right to Revoke Contract (CGS § 20-239h(c))

A purchaser who did not receive the prospectus, property report, or offering statement may revoke any contract within 72-hours after he or she signs it, or after he or she receives the prospectus, property report or offering statement, whichever is later. But the contract or agreement may stipulate that the right to revoke does not apply if the purchaser:

1. has received the prospectus, property report, or offering statement and inspected the subdivision before signing the contract or agreement, and
2. acknowledges by signature that he or she has made such inspection and has read and understood the prospectus, property report, or offering statement.

Any revocation must be in writing in a form the commission prescribes and must be communicated to the broker within the 72-hour time period.

The law requires the brokers to immediately return, without any deductions, any money the purchaser paid under the revoked contract or agreement.

Penalties (CGS § 20-329j)

Any broker or salesperson that violates any provision of this law faces a license suspension or revocation for a period the commission deems justified.

BACKGROUND***Related Law******Subdivision Defined (CGS § 20-329a(7))***

For purposes of the laws dealing with the disposition of out-of-state land the law defines a “subdivision” as any improved or unimproved land or tract of land located outside Connecticut, which is divided or proposed to be divided into five or more lots, parcels, units, including time-share units, or interests for the purpose of disposition, at any time as part of a common promotional plan. Any land that is under common ownership or which is controlled by a single developer or a group of developers acting in concert, is contiguous in area, and is designated or advertised as a common unit or known by a common name, shall be presumed, without regard to the number of lots, parcels, units, or interests covered by each individual offering, to be part of a common promotional plan.

Related Bill

On March 13th the Insurance and Real Estate Committee reported out sSB 490, which regulates the sale of time shares and thus would affect the sale of out-of-state time shares.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (03/06/2008)