

Office of Legislative Research
Connecticut General Assembly



TOWN CLERKS



By: Kristin Sullivan, Principal Analyst

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NOTICE TO READERS

This report provides brief highlights of new laws (public acts) affecting town clerks passed during the 2011 regular session.

Not all provisions of the acts are included. Complete summaries of all 2011 public acts will be available in the fall when OLR's Public Act Summary book is published; most are already on OLR's webpage: <http://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, the House Clerk's Office, or the General Assembly's website: www.cga.ct.gov.

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ELECTIONS

Campaign Finance Statements

By law, town clerks are the filing repository for campaign finance statements from certain political committees (known as PACs) and municipal office candidates. **PA 11-48 (§§ 286-301)** eliminates duplicative filing requirements, expands the list of items and services that are not considered contributions, and changes reporting requirements. Among other things, the act:

1. eliminates the requirement that town committees file copies of reports with the applicable town clerk (they already file with the State Elections Enforcement Commission (SEEC));
2. eliminates the requirement that slate committees for the office of justice of the peace file a duplicate report with the SEEC (they already file with the applicable town clerk);
3. expands contribution exemptions for, among other things, slate cards, food sold by a town committee, and de minimis campaign activities (e.g., posting or displaying the name or names of one or more candidates at a town fair, county fair, local festival, or similar gathering by a party committee); and

4. requires slate or town committees financing a candidate for chief executive officer of a town, city, or borough to indicate in their campaign finance statements whether a person contributing over \$400 in the aggregate has, or is associated with, a business that has a contract valued at over \$5,000 with the town, city, or borough.

EFFECTIVE DATE: January 1, 2012 and applicable to primaries and elections held on or after that date, except the provisions on duplicate campaign finance statements are effective upon passage.

Contingency Planning

PA 11-46 establishes procedures to address issues that may arise at polling places during a primary or election. Namely, it requires registrars of voters, in consultation with town clerks, to develop a municipal emergency contingency plan addressing, for example, ballot shortage solutions. After the local legislative body approves the plan, it must remain on file with the town clerk until it is amended.

No later than 31 days before an election or 21 days before a primary, the act requires registrars of voters and town clerks to jointly certify to the secretary the number of ballots

they ordered for each polling place. If registrars and clerks do not submit this certification, the act requires them to order one ballot for each registered voter. The act allows registrars and clerks to jointly, for good cause, apply to the secretary of the state for a waiver from the certification requirements.

EFFECTIVE DATE: Upon passage

Preparation for and Conduct of Primaries and Elections

PA 11-173 makes changes to election laws affecting voter registry lists, election officials, voting equipment and polling places, and post-election procedures. Among other things, the act authorizes towns to publish joint notices of elections and primaries in a newspaper with a general circulation in those towns. It also eliminates the requirement that town clerks submit to the secretary of the state a list of offices to be filled at regular state elections, but retains the requirement for municipal elections.

EFFECTIVE DATE: Upon passage, except the provision concerning joint notices of elections and primaries is effective July 1, 2011.

Voter Registry Lists.

Concerning voter registry lists, the act generally eliminates processing deadlines and duplication requirements rendered obsolete as a result of the centralized voter registration

system. For example, it eliminates the deadline by which the preliminary registry list must be completed and provided to town clerks, and instead requires it to be available in the registrars of voters' office.

Nominations. The act expands the information that minor parties must include in the list of nominations that they file with the secretary of the state or town clerk, whichever applies. Specifically, it requires the certification to include not only a list of nominated candidates, but also (1) their names as they authorize them to appear on the ballot, (2) their signature, (3) their full address, and (4) the office and district for which each is nominated.

Ballots. The act maintains the requirement that town clerks prepare and print absentee ballots, including those for a referendum. But it authorizes registrars of voters to provide comments to clerks before the ballots are printed concerning the content and form.

Transfer of Duties to Registrars of Voters. The act transfers several election-related duties from town clerks to registrars of voters, generally conforming law to practice. For example, it requires registrars of voters, instead of town clerks, to (1) submit sample ballots to the secretary of the state for approval and provide them to each polling place and (2) provide ballots for an adjourned primary resulting from a tie vote. The act requires

the secretary to direct registrars, rather than town clerks, to cancel an adjourned primary when one of the candidates withdraws or become disqualified. It similarly transfers most responsibilities town clerks had with respect to a recanvass to registrars of voters, including maintaining possession of the voting tabulator keys.

The act requires the secretary of the state to send (1) the explanatory text for proposed constitutional amendments to registrars, not just town clerks and (2) posters explaining these amendments to registrars, rather than clerks. It also makes registrars responsible for displaying the posters at polling places and other required locations.

Technical and Minor Changes

PA 11-20 (1) makes technical, minor, and conforming changes to reflect the change from lever to optical scan voting machines (i.e., tabulators) and (2) repeals provisions and procedures rendered obsolete by the change in voting technology. Concerning town clerks, the act, among other things:

1. conforms statute to practice by transferring certain duties from town clerks to registrars of voters (e.g., prepare and furnish supplies before an election) (§ 13) and
2. requires town clerks to file notice of a primary for

municipal office or town committee members with the secretary of the state within three business days after receiving it from the registrars of voters (§ 26).

EFFECTIVE DATE: Upon passage

GOVERNMENT ADMINISTRATION

Legislative Documents

PA 11-150 makes several changes to reduce state agencies' paper usage. With respect to town clerks, the act eliminates a requirement that the secretary of the state distribute to town clerks printed copies of each public act that takes effect upon passage (§ 29). It also allows the House and Senate clerks, at the request of a municipal chief executive officer, to send municipalities electronic rather than printed legislative bulletins and record indexes (§ 2).

EFFECTIVE DATE: Upon passage for the provision on public acts distribution and July 1, 2011 for the provision on legislative bulletins and record indexes.

Registrar of Vital Statistics

PA 11-242 (§§ 6 & 7) requires a town's newly elected or appointed registrar of vital statistics (i.e., town clerk) to notify the Department of Public Health (DPH) commissioner in writing within 10 days after taking office. The town's first

selectman or chief elected official must notify DPH of any vacancy within 10 days after it occurs. The registrar of vital statistics must notify DPH in writing within 10 days after appointing an assistant registrar or a vacancy occurring.

EFFECTIVE DATE: October 1, 2011

RECORDS

Birth and Fetal Death Records and Certificates

PA 11-242 (§§ 4, 5 & 8) adds conservators of the person appointed for such person to those who can obtain a certified copy of birth and fetal death records and certificates less than 100 years old. It also removes title examiners' ability to obtain these records.

The act defines "foundling" as (1) a child of unknown parents or (2) an infant voluntarily surrendered in a hospital. Except for an infant voluntarily surrendered in the hospital, if the foundling is later identified and a birth certificate is obtained, the act requires that the birth certificate be substituted for the report of foundling.

It also requires a hospital to prepare a report of foundling for any infant voluntarily surrendered in the facility. If a birth certificate has already been filed in the state birth registry, the report must substitute for the original birth certificate, which must be sealed and confidentially

filed with DPH. The original birth certificate cannot be released, except upon a court order.

EFFECTIVE DATE: October 1, 2011

Environmental Use Restrictions

An environmental use restriction (EUR) is an easement that a property owner records in the municipal land records and that prohibits specific uses or activities at a property that could harm human health and the environment. The law prohibits an owner from recording an EUR unless other parties with an interest in the property accept the restriction. **PA 11-141 (§ 12)** allows the Department of Environmental Protection commissioner to waive some of the requirements for recording EURs and releasing parties from them.

Specifically, the act requires the commissioner to waive the requirement that the owner obtain subordination agreements from parties whose interest in the land creates no conditions that the EUR prohibits. It also distinguishes between permanent and temporary releases and allows the commissioner to grant temporary ones without requiring the owner to remediate all or part of the property. The owner must still record the release in the land records, unless the commissioner waives this requirement, which he may do if the activity is

“sufficiently limited in scope or duration.”

EFFECTIVE DATE: Upon passage

Estate Tax Lien Release Certificates

By law, a person who does not owe, or who has paid, the estate tax receives a certificate releasing the lien on his or her interest in real property in the estate. Probate courts issue lien release certificates for estates below the estate tax threshold that do not owe estate tax.

PA 11-6 (§§ 84-87) lowers the estate tax threshold from \$3.5 million to \$2 million for estates of those who die on or after January 1, 2011 and makes a conforming change in requirements for releasing real estate tax liens. **PA 11-61 (§ 39)** validates probate court lien release certificates issued and recorded in town records where the property is located before May 4, 2011 (PA 11-6’s effective date) for estates of those who died on or after January 1, 2011, and whose Connecticut taxable estates were valued at between \$2 million and \$ 3.5 million.

EFFECTIVE DATE: Upon passage and applicable to estates of those dying on or after January 1, 2011.

Foreclosure Registration Requirements

PA 11-201 (§§ 13-15) makes changes in several laws affecting banking and housing, including foreclosure. Among other things, the act requires anyone who commences a foreclosure action concerning a subject property to register the property with the town clerk in the municipality where the property is located. They must pay a land record filing fee and the municipality must maintain the registration separate from the land records.

The act requires anyone taking title to a subject property after foreclosure to register with the town clerk within 15 days of absolute title vesting in the person. It eliminates the option of registering with the Mortgage Electronic Registration Systems (MERS). If the registering owner was also the plaintiff in the foreclosure action, the person must update its prior registration rather than registering anew.

Prior law required those who register with a municipality, but not with MERS, to pay a \$100 fee to the municipality. The act instead requires all registrants (including foreclosure plaintiffs updating their prior registration) to pay to the municipality a land record filing fee.

The act permits a municipality to issue a notice for violations of state laws or municipal ordinances on property repair or maintenance only for registrations after title has vested

following foreclosure (including updated registrations by those previously registered as plaintiffs). It also makes other changes regarding these notices.

EFFECTIVE DATE: October 1, 2011

Real Estate Conveyance Deeds

PA 11-206 allows execution of the deed in a real estate conveyance if the signer's acknowledgment is made in conformance with the Uniform Acknowledgment Act (Chapter 6 of the Connecticut General Statutes) or the Uniform Recognition of Acknowledgments Act (Chapter 8). It provides these alternatives to the requirement that the signer acknowledge that the execution of the deed is his or her "free act and deed." By expanding deed acknowledgment options, the act reduces defective acknowledgments and thus deeds suffering from conveyance defects whose validity can be challenged for up to two years after the deed is recorded (CGS § 47-36aa).

EFFECTIVE DATE: October 1, 2011

Uniform Commercial Code Transaction Records

PA 11-108 makes changes in Article 9 of the Uniform Commercial Code, which deals with a creditor's contractual lien interest in a debtor's personal property that secures payment or other performance by the debtor.

Among other things, the act (1) changes how a debtor's name is recorded on a financing statement, (2) changes the name of a "correction statement" that a debtor can file claiming that a financing statement against him or her was unauthorized to an "information statement," and (3) allows secured parties to file these statements when they believe a record was filed by someone not entitled to do so.

EFFECTIVE DATE: July 1, 2013

TAXES AND FEES

Land Use Document Recording Fee

PA 11-48 (§ 133) makes permanent a \$10 increase (from \$30 to \$40) in the land use document recording fee that was scheduled to expire July 1, 2011. In making the fee permanent, the act requires municipalities to remit \$36 of each \$40 fee to the state and retain \$4, as prior law required. The law imposes the fee to fund historic preservation, affordable housing, open space preservation, and agricultural programs and specifies how the fee revenue must be allocated among these purposes.

EFFECTIVE DATE: July 1, 2011

Real Estate Conveyance Tax

PA 11-6 (§ 102) makes the base municipal real estate conveyance tax of 0.25% permanent. Under prior law, the

municipal real estate conveyance tax was scheduled to expire on July 1, 2011. The act also increases state real estate conveyance tax rates by 0.25%.

EFFECTIVE DATE: July 1, 2011, and applicable to conveyances occurring on or after that date.

Veterans Death Certificate Fee

PA 11-49 waives the \$20 fee for one certified copy of a veteran's death certificate when the deceased veteran's spouse, child, or parent requests a copy. By law, anyone age 18 or older may pay \$20 for a copy of a death certificate from the municipality where the death occurred or DPH's State Office of Vital Records.

EFFECTIVE DATE: October 1, 2011

MISCELLANEOUS

Windsor Special Taxing District

SA 11-8 allows voters in Windsor to form special taxing districts to finance roads, sewers, and other infrastructure for new development and pay for the services needed to support them. The act delineates the districts' geographic boundaries, but the districts come into existence only if the voters approve their formation.

The districts must have five directors. At the districts' organizational meetings, the voters must elect four directors and Windsor's town council appoints one. The voters must elect a president, vice-president, treasurer, and clerk from among the directors.

Each district clerk must comply with the same reporting requirements that apply to statutory district clerks. By law, a district clerk must report to the town clerk. The initial report must list the officers and describe the district's organization and finances and be accompanied by a copy of the district's charter or the special act establishing it.

EFFECTIVE DATE: July 1, 2011