



# Acts Affecting Real Estate

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June 5, 2018 | 2018-R-0139

## Notice to Readers

This report provides summaries of new laws (public acts) and a resolution affecting real estate enacted and adopted during the 2018 regular session. OLR's other Acts Affecting reports, including Acts Affecting Housing and Acts Affecting Insurance, are, or will soon be, available on OLR's website: <https://www.cga.ct.gov/olr/actsaffecting.asp>.

Each summary indicates the public act (PA) number and effective date. Not all provisions of the acts are included. The report does not include vetoed acts unless the veto was overridden.

Complete summaries of Public Acts are, or will soon be, available on OLR's website: <https://www.cga.ct.gov/olr/olrsums.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: <http://www.cga.ct.gov>.

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## **Abandoned Cemetery Lots**

A new law changes the procedure that towns and mutual nonstock cemetery associations or corporations use to recover burial plots for which assessed charges remain unpaid. Among other things, it reduces, from 10 to one, the minimum number of years that assessments on a burial plot must remain unpaid before a cemetery association may sell the plot's unused portion ([PA 18-87](#), effective July 1, 2018 and applicable to contracts entered into on or after that date).

## **Agricultural Land Preservation**

By law, the agriculture commissioner, with State Properties Review Board approval, may purchase or receive as a gift the fee simple title of an agricultural real property or the personal property related to it. Prior law required him to sell the property as soon as practicable, but keep its development rights. A provision in a new law also allows the commissioner to sell the development rights, in addition to the property, if the purchaser is a municipality or nonprofit organization that preserves agricultural land ([PA 18-181](#), § 5, effective October 1, 2018).

## **Brownfield Remediation and Redevelopment**

Remediating and redeveloping environmental contaminated property (i.e., brownfields) poses major legal and financial hurdles for developers. This session, the legislature modified several programs and laws that provide financial aid and tax incentives to these developers. The new law making these modifications (1) gives them more time to repay state brownfield remediation loans, extending the loan term from 20 to 30 years; (2) requires recipients of state remediation grants to remediate the brownfield under specified state liability relief programs; and (3) allows municipalities to grant property tax abatements to people and entities proposing to acquire and remediate a brownfield (i.e., prospective purchasers), as they may already do so with respect to current owners.

The new law also broadens the conditions under which a land use tool can be used to control activities that could potentially expose people to contamination. It allows the tool – Notice of Activity and Use Limitation or NAUL– to be used on a property where a bank or another prior holder of interest holds an interest that allows activities the NAUL otherwise prohibits ([PA 18-85](#), effective October 1, 2018, except the loan program repayment period extension takes effect July 1, 2018, and is applicable to loans issued on or after that date).

## **Classifying Farm Land under the PA 490 Program**

A new law requires tax assessors to approve applications to classify as farm land any land that meets the farm land criteria under the PA 490 program, even if the parcel or portion thereof does not meet municipal zoning regulation standards concerning minimum acreage requirements for residential or agricultural parcels. Under the PA 490 program, property classified as farm land must be assessed at its current use value, rather than its fair market value ([PA 18-176](#), effective October 1, 2018, and applicable to assessment years beginning on or after that date).

## **Constitutional Amendment Protecting State Real Property**

The legislature adopted a resolution proposing a constitutional amendment that, with limited exceptions, prohibits the legislature from enacting legislation requiring a state agency to sell, transfer, or otherwise dispose of real property or an interest in real property to non-state entities.

The ballot designation to be used when the amendment is presented at the general election is:

"Shall the Constitution of the State be amended to require (1) a public hearing and the enactment of legislation limited in subject matter to the transfer, sale or disposition of state-owned or state-controlled real property or interests in real property in order for the General Assembly to require a state agency to sell, transfer or dispose of any real property or interest in real property that is under the custody or control of the agency, and (2) if such property is under the custody or control of the Department of Agriculture or the Department of Energy and Environmental Protection, that such enactment of legislation be passed by a two-thirds vote of the total membership of each house of the General Assembly?"

The question will appear on the November 6, 2018 general election ballot. If a majority of those voting on the amendment in the general election approves it, the amendment will become part of the state constitution (SJR 35).

## **Continuing a Nonconforming Use, Building, or Structure**

A new law prohibits municipal zoning authorities from requiring a special permit or special exception for the continuance of a nonconforming use, building, or structure (i.e., a property use that legally exists at the time a zoning restriction prohibiting or limiting it is adopted) (PA [18-132](#), effective July 1, 2018).

## **Crumbling Concrete Foundations, Subsidence, and Lead Abatement**

Two new acts establish funds to assist (1) homeowners with concrete foundations damaged by the presence of pyrrhotite, (2) certain homeowners in New Haven and Woodbridge with structural damage from subsidence or water infiltration, and (3) Department of Housing lead abatement activities. The money comes from a \$12 surcharge on the named insured under certain homeowners insurance policies issued over the next 11 years. Of the total surcharge collected, 85% is transferred to the Crumbling Concrete Foundations Assistance Fund to assist homeowners with crumbling foundations and 15% must be used to assist homeowners with subsidence, water infiltration, or lead abatement ([PA 18-160](#), effective January 1, 2019 for the insurance surcharge provisions and upon passage for the subsidence, water infiltration, and lead abatement provisions; [PA 18-179, § 4](#), effective January 1, 2019).

## **Delinquent Sewer Assessment Payments and Foreclosures**

A new law institutes a one year delay for foreclosure actions on liens held by water pollution control authorities (WPCAs). It also requires municipalities served by a Public Utilities Regulatory Authority (PURA)-regulated private water company with a population of at least 100,000 to adopt ordinances that (1) restrict foreclosure proceedings for past due sewer fees, (2) lower the interest rate on such fees, (3) limit a WPCA assignee's ability to purchase a foreclosed property, and (4) set financial guidelines that trigger foreclosure for nonpayment.

This new law also requires PURA to establish a program to regulate the charges, assessments, and lien processes of the WPCAs located in these municipalities. It (1) sets a \$4 annual surcharge for the customers in these municipalities to help pay for the program and (2) requires a report to the legislature on the program's status and any recommendations for legislation ([PA 18-174](#), effective July 1, 2018).

## **Digital Property Records**

A new law requires municipalities that possess or contract for services to create or maintain a digital parcel file (e.g., property boundaries) to annually, by May 1, transmit the file to their regional council of government (COG) or, for towns that are not COG members, to the Office of Policy and Management (OPM). It specifies the minimum information these digital parcel files must include. The law also requires each COG, starting by July 1, 2019, to annually submit to the OPM Secretary and the Planning and Development Committee a report that lists each non-compliant and exempt municipality ([PA 18-175, § 6](#), effective upon passage).

## **Law and Ordinance Coverage**

Under a new law, homeowners insurance policies that do not use the standard fire insurance form must cover, up to a limit specified in the policy, repair or reconstruction costs incurred due to laws or ordinances (e.g., the increased cost of repair required to bring a property into compliance with the building code) ([PA 18-105](#), effective July 1, 2019).

## **Lienholder Payoff Statement**

By law, a judgment lien secures the unpaid amount of any money judgment and may be placed on any real property of the debtor by recording it on the land records in the town where the property lies ([CGS § 52-380a](#)). A new law creates a process by which a judgment lienholder may provide a payoff statement to a debtor, the debtor's attorney, or current owner of the property subject to the lien. The new law requires a judgment lienholder or the lienholder's attorney to provide a written payoff statement within a specified time period after receiving a written request for it ([PA 18-70](#), effective October 1, 2018).

## **Mortgages**

### ***Credit Union Loans and Investments***

A new law expands credit union authority to (1) make residential mortgage loans and (2) invest in real estate and improvements. It allows credit unions to make mortgage loans secured by a member's one-to-four family personal residence, even if it is not his or her primary residence. And it allows credit unions to invest up to 20%, rather than 5% as allowed under prior law, of their total asset value in real estate and improvements without approval from the banking commissioner ([PA 18-117](#), effective October 1, 2018).

### ***Foreclosure Mediation Program***

The legislature passed a law eliminating the requirement that a mortgagor (i.e., debtor) participating in the state's foreclosure mediation program who is represented by counsel attend the first mediation session in person ([PA 18-53](#), effective October 1, 2018).

### ***Reverse Mortgages***

A new law expands the counseling and certification requirements for reverse mortgages, a type of mortgage that allows homeowners to convert accumulated home equity into liquid assets. Among other things, the law requires prospective applicants, or their representatives, to receive counseling from a federal Housing and Urban Development-approved agency before a reverse mortgage lender may accept a final loan application or assess any related fees. It also requires lenders to receive

and store a signed certification from the applicant stating that the counseling requirements were met. Failure to meet the law's counseling and certification requirements is a violation of the state's unfair trade practices law ([PA 18-38](#), effective October 1, 2018).

## **Probate Court Fee for Removal of Deceased Tenant's Possessions from Rental Property**

A new law makes changes in various unrelated laws that govern probate court operations. Among other things, the new law establishes a \$150 filing fee for a landlord seeking to remove a deceased tenant's possessions from a rental property ([PA 18-45, § 2](#), effective January 1, 2019).

## **Property Tax Credit for Donating to Community Supporting Organizations**

A new law allows municipalities to provide a property tax credit to eligible residential property taxpayers who donate to a municipally approved charitable nonprofit that is organized exclusively to support municipal spending on programs and services (i.e., a "community supporting organization"). The municipality's legislative body must annually approve the credit and determine its amount, which may not exceed the lesser of the amount of property tax owed or 85% of the taxpayer's donation ([PA 18-49, § 10](#), effective July 1, 2018).

## **Residential Disclosure Report**

A new law (1) codifies the residential disclosure report home sellers must provide to purchasers and (2) expands what must be included in it. Prior law required the Department of Consumer Protection to prescribe the form through regulations. Additionally, the new law specifies the format for the report's template (e.g., it must fit on certain size pages and have at least nine-point font) ([PA 18-179, § 1](#), effective July 1, 2018).

## **Service of Process in Eminent Domain-Related Proceedings**

A new law allows the Department of Transportation (DOT) commissioner to serve process to the designated agent of a person who has an interest of record in land involved in an eminent domain-related proceeding. By law, the commissioner must give notice of the assessed damages to each person who has an interest of record in the land ([PA 18-62](#), effective October 1, 2018).

## **State Highway Right-of-Way Encroachment Permit Application Fees**

The FY 18-19 budget act limited the DOT commissioner's authority to charge fees for state highway right-of-way encroachment permit (SHRWE) applications to cover only those from open-air theaters, shopping centers, and other developments generating large volumes of traffic (i.e., major traffic generators). SHRWE applications concern a wide range of uses, including sidewalk construction, sign installation, and shrubbery planting. A new law restores the DOT commissioner's authority to adopt regulations to charge reasonable fees for all SHRWE applications, not only for those from major traffic generators ([PA 18-167, § 2](#), effective October 1, 2018).

## **Transporting Certain Housing Structures**

A new law requires DOT to establish a one-year pilot program to allow vehicles to transport motor homes, modular homes, house trailers, and certain sectional houses on limited access highways (other than I-95) during daylight hours from 10 a.m. to 2 p.m. on Mondays through Thursdays ([PA 18-167, § 10](#), effective upon passage).

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