OLR Bill Analysis

SB 320 (File 364, as amended by Senate "A")*

AN ACT CONCERNING REAL ESTATE CLOSINGS AND ATTORNEYS AND LAW FIRMS PREFERRED BY MORTGAGE LENDERS.

SUMMARY

This bill requires anyone conducting a real estate closing to be a Connecticut-admitted attorney in good standing (i.e., the attorney cannot be disqualified from practicing law due to resignation, disbarment, being placed on inactive status, or suspended). (Presumably, the bill does not prevent an individual from representing himself or herself.)

Under the bill, a “real estate closing” is a closing for the following:

1. a mortgage loan, excluding a home equity line of credit or other loan that is secured by real property in the state but does not require the issuance of a lender’s or mortgagee’s title insurance policy or

2. any transaction where consideration is paid to change ownership of real property.

The bill makes violating this provision the unauthorized practice of law. Under existing law, the unauthorized practice of law is generally a (1) class D felony or (2) if the person is admitted in another jurisdiction, a class C misdemeanor. A class C misdemeanor is punishable by up to three months imprisonment, a fine of up to $500, or both; a class D felony is punishable by up to five years imprisonment, a fine of up to $5,000, or both.

Under the Connecticut Practice Book, giving advice to or representing someone, including drafting legal documents, in a real estate transaction constitutes the practice of law (Connecticut Practice
Book §§ 2-44(a)(3) & (5)).

*Senate Amendment “A” (1) requires an individual conducting a closing, rather than an individual representing a party’s legal interests in a real estate transaction, to be an attorney and (2) eliminates a provision in the underlying bill prohibiting mortgage lenders from inducing or requiring a borrower to use specific attorneys or law firms (e.g., preferred attorney lists).

EFFECTIVE DATE: October 1, 2019

COMMITTEE ACTION
Insurance and Real Estate Committee

Joint Favorable
Yea 20  Nay 0 (03/14/2019)

Judiciary Committee

Joint Favorable
Yea 38  Nay 0 (04/30/2019)