



**PA 24-70**—sSB 435

*Government Administration and Elections Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING THE DESIGNATION OF FARM LAND AND  
OPEN SPACE LAND AND REVISIONS TO THE CONNECTICUT ENTITY  
TRANSACTIONS ACT**

**SUMMARY:** This act makes the following prima facie evidence of land being classified as “farm land” or “open space land” for the state’s PA 490 program and qualifying for the program’s reduced property tax rate:

1. an advisory opinion from the Department of Agriculture (DoAg) commissioner stating that land is “farm land” or “open space land” or
2. inspection and approval by the DoAg commissioner or his designee of an agricultural or farming operation, place, establishment, or facility.

The act also specifies that DoAg inspection and approval is prima facie evidence that a farming operation constitutes agriculture or farming for purposes of excluding them from being deemed a nuisance for things like odor, noise, or dust.

Lastly, the act makes changes to the Connecticut Entity Transactions Act (CETA), which concerns cross-entity transactions such as mergers, conversions, domestications, and interest exchanges. It:

1. eliminates bans on certain corporations, associations, cooperatives, and entities from participating in transactions covered by CETA;
2. specifies that qualified foreign entities (i.e., those whose internal affairs are not governed by Connecticut law but are authorized to transact business in the state) do not need to appoint the secretary of the state as their agent for service of process when a merger, conversion, or domestication takes effect (these entities elect their agent for service when filing with the secretary of the state to do business); and
3. makes minor and conforming changes, including (a) clarifying that business corporations subject to CETA include all corporations with capital stock governed by state law; (b) replacing references for certain document filings by referring to “certificates” instead of “statements,” conforming to terminology in other statutes (such as certificates of merger, abandonment, and domestication); and (c) specifying that CETA does not limit the attorney general’s authority under other laws and that it is a court order, not one from the attorney general, that will allow for disposal of charitable purpose property in keeping with charitable asset laws and legal principles.

**EFFECTIVE DATE:** July 1, 2024, except that the CETA provisions are effective October 1, 2024.

**PA 490 PROGRAM**

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By law, the PA 490 program allows certain land classifications, including “farm land” and “open space land,” to be assessed at their current use value, rather than their fair market value (CGS § 12-63). “Current use value” refers to what the land is worth as it is actually used; “fair market value” refers to what the land may be worth on the open market (i.e., its highest and best use). Someone seeking PA 490 classification to have land taxed at this reduced rate must apply to the local assessor, who then determines if the land qualifies.

The act makes an advisory opinion from the DoAg commissioner stating that the land is “farm land” or “open space land” or his (or his designee’s) inspection and approval of an agricultural or farming operation, place, establishment, or facility prima facie evidence that the land meets the program’s classification requirements (see BACKGROUND). Generally, prima facie evidence is evidence that will establish a fact or sustain a judgment unless there is contradictory evidence.

Existing law allows the commissioner to issue an advisory opinion about a land’s classification under PA 490 if a municipality, state agency, tax assessor, or landowner requests one (CGS § 22-4c(4)).

### CETA — PARTICIPATING ENTITIES & TRANSACTIONS

The law prohibits certain business entities from participating in transactions covered by CETA. The act eliminates this ban for the following entities:

1. business corporations formed under a special act;
2. cooperative associations formed under chapter 595;
3. cooperative marking corporations formed under chapter 596;
4. electric cooperative corporations formed under chapter 597;
5. worker cooperative corporations formed under chapter 599a;
6. nonprofit and not-for-profit corporations;
7. nonstock corporations formed under chapter 602;
8. unincorporated nonprofit associations;
9. cooperatives;
10. business trusts or statutory trust entities; and
11. any person with a separate legal existence or the power to acquire an interest in real property in its own name other than (a) an individual; (b) a testamentary, inter vivos, or charitable trust, but not a business trust, statutory trust entity, or similar trust; (c) an association or relationship that is not a partnership solely by reason of the law of another jurisdiction; (d) a decedent’s estate; or (e) a government, a governmental subdivision, agency, or instrumentality or a quasi-governmental instrumentality.

Under prior law, CETA also generally did not affect (1) conversions, mergers, consolidations, interest exchanges, divisions, or other CETA transactions between or among entities of the same type or (2) these same actions involving a domestic entity organized to provide professional services and a different domestic entity (unless they provided the same services). The act removes this exemption for conversions, consolidations, divisions, and other CETA transactions (i.e., keeping mergers and interest exchanges) between same-type entities. For entities providing

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professional services, it broadens when CETA affects transactions by (1) eliminating the consolidation and division exemptions and (2) applying it to those in which the converted, surviving, acquired, or domestic entity's organic law allows it to provide the same services.

### BACKGROUND

#### *PA 490: Farm Land and Open Space Land*

By law, for the PA 490 program, "farm land" is any tract or tracts of land, including woodland, wasteland, and underwater farmlands for aquaculture, constituting a farm unit. In determining whether land is farm land, a tax assessor must consider, among other things, the (1) total acreage, (2) portion being used for agricultural practices, (3) land's productivity, (4) gross income derived from the land, (5) nature and value of related equipment, and (6) extent to which farm land tracts are contiguous (CGS §§ 12-107b & -107c).

A property qualifies as "open space" if it is in an area that a municipality's planning commission designated as open space in its plan of conservation and development. The commission may designate the area as open space if it would (1) maintain and enhance natural or scenic resources; (2) protect streams or water supplies; (3) promote soil conservation; (4) enhance the value of parks, forests, other open spaces, public recreation, or historic sites; or (5) promote orderly development (CGS §§ 12-107b & -107e).