
OLR Bill Analysis

sSB 435

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

SUMMARY

This bill makes the following prima facie evidence of land being classified as “farm land” or “open space land” for the state’s 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 bill also specifies that this inspection and approval is prima facie evidence that a farming operation constitutes “agriculture” and “farming,” as under the state’s general definition for those terms, for excluding these practices from being deemed a nuisance due to things like odor, noise, or dust.

Lastly, the bill makes the following changes to the Connecticut Entity Transactions Act (CETA), which concerns cross-entity transactions (e.g., mergers, consolidations, conversions, domestications, interest exchanges):

1. eliminating bans on certain corporations, associations, cooperatives, and entities from participating in transactions covered by CETA;
2. specifying 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; and

3. making minor and conforming changes, including (a) clarifying that business corporations subject to CETA are corporations with capital stock and governed by state law; (b) replacing references for certain document filings by referring to “certificates” instead of “statements” (e.g., 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 accordance 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

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). When someone seeks 490 classification to have land taxed at this reduced rate, they must apply to the local assessor and the assessor determines if the land qualifies.

The bill 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). 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

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

1. business corporations formed under special act;
2. cooperative associations formed under chapter 595;
3. cooperative marketing 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, other than permitted entities, 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, with the exception of 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 any other jurisdiction; (d) a decedent's estate; or (e) a government, a governmental subdivision, agency, or instrumentality or quasi-governmental instrumentality.

Under current law, CETA also does not apply to (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. The bill removes from this exemption (1) conversions, consolidations, and other CETA transactions involving entities of the same type (i.e., keeping mergers and interest exchanges) and (2) consolidations and divisions involving domestic entities that provide professional 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, total acreage; the portion being used for agricultural practices; the land’s productivity; gross income derived from the land; the nature and value of related equipment; and the 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).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/22/2024)