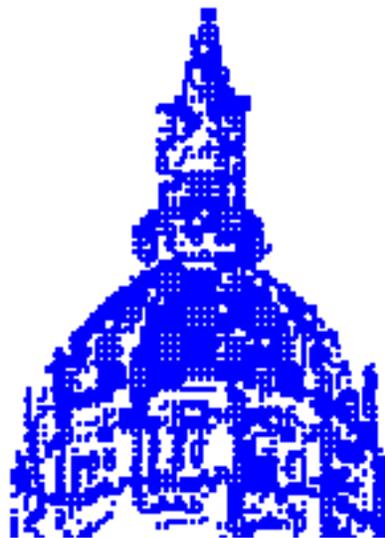


2001  
ACTS AFFECTING  
BUSINESS

Office of Legislative Research



Prepared for members of the

Connecticut General Assembly

by

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2001-R-0536

July 26, 2001

## Table of Contents

<b>Notice to Readers</b>	4
<b>BUSINESS FILING REQUIREMENTS</b>	<b>5</b>
Amnesty for Foreign Limited Liability Companies and Foreign Corporations	5
Filing Requirements for Limited Liability Companies	5
<b>COMMERCIAL TRANSACTIONS</b>	<b>5</b>
Secured Transactions	5
<b>CONSUMER PROTECTION</b>	<b>5</b>
Protecting Purchasers of Home Heating Oil	5
Abusive Home Loan Lending Prevention	6
Requiring Landlords to Provide a Receipt for Cash Payments	6
Disclosure of Cigarette Dealers' Names	6
Penalty for Selling Loose Cigarettes	6
Minors Prohibited from "Point and Shoot" Video Games-VETOED	7
<b>ECONOMIC DEVELOPMENT</b>	<b>7</b>
Financing Brownfield Remediation and Information Technology	7
Extending CDA's Tax Incremental Financing Program	7
Urban and Industrial Sites Reinvestment Program	7
Privatized Public Records	8
Penalties for False Statements on Financial Assistance Applications	8
Industrial Classification Systems	8
<b>EMPLOYEE AND WORKFORCE DEVELOPMENT</b>	<b>8</b>
Information Technology Loan Reimbursement program	8
Performance Measures for Workforce Development Boards	9
Vocational-Technical (V-T) School Business Outreach	9
Strategies and Programs for IT Workforce Needs	9
Career Ladder Programs for Critical Employment Areas	10
New Requirements for Employment One-Stop Centers	10
<b>EMPLOYEES: RIGHTS, HEALTH INSURANCE, AND WORKERS' COMPENSATION</b>	<b>11</b>
Time to Appeal Workers' Compensation Decisions	10
Mental Disability and Marital Status Discrimination	11
Breastfeeding in the Workplace	11
Prohibiting Immigrant labor Employment Exploitation	11
Workers' Compensation Commission Assessment	11
Employer Retention of Employee Medical Records	12
Willful Misconduct in Unemployment Compensation	12
Direct payment of Prescription Medication for Workers' Compensation Claimants	12
Mileage Reimbursement for Workers' Compensation Claimants	12
Appeals for Disputed Second Injury Fund Assessments	13

<b>ENERGY</b>	<b>13</b>
Forecast of Electric Supply and Demand	13
<b>ENVIRONMENT</b>	<b>13</b>
Changes to the Transfer Act	13
Regulating Hazardous Substances	14
Moratorium on Asphalt Plants	14
Water Diversion Reporting Requirements	14
Water Utility Penalty Appeals and Provision of Educational Material	14
Water Planning Council Created	15
Protection of Connecticut's Aquaculture Industry	15
Permitting Fishing Pound Nets	15
Clean Air Standards for Power Plants-VETOED	16
<b>INSURANCE AND REAL ESTATE</b>	<b>16</b>
Real Estate Appraisers and Nonresident Applicants	16
CLHIGA Act Revisions	16
Surety Requirements for Certain Government Projects	17
Real Estate Brokers and Business Organizations	17
Licensing of Insurance Producers	17
Commission Agreements for Real Estate Brokers	18
<b>LAND USE</b>	<b>18</b>
Mediation of Appeals of Planning and Zoning Commission Decisions	18
<b>TAX CHANGES: EXEMPTIONS, ABATEMENTS, CREDITS, AND OTHER CHANGES</b>	<b>18</b>
Alternative Fuel Exemptions	18
Alternative-Fuels Sales Tax	18
Propane Gas Used in Motor Vehicles	19
Property Tax Abatements, Fixed Assessments and Exemptions	19
Fixed Assessments on New Power Plants	19
Standardizing Property Tax Abatement Schedules	19
Exemptions Administrative Review Process	19
Exemption Provisions for Manufacturing Machinery and Equipment	20
Farm Machinery Exemption	20
Sales Tax Exemptions	20
Fuel Cell Technology Exemption	20
Tax Credits	21
HMO HUSKY Tax Credit Increase	21
Tax Credit for Computer Equipment Provider to Higher Education Institutions	21
R&D Tax Credit Cash Refunds	21
Insurance Reinvestment Fund Tax Credits and Credit Repayment Exemption	21
Insurance Guaranty Fund Credit Refunds and Transfers	22
Other Incentives and Changes	22
Single-Factor Apportionment for Financial Services Companies	22
Corporation Tax Returns	22
Corporation Tax Returns for Affiliated Companies	23
Petroleum Products Tax Threshold	23
Electronic Tax Payments	23

## NOTICE TO READERS

In its 2001 regular session and June Special Session, the General Assembly enacted new laws and changed existing programs of particular interest to Connecticut's businesses. This report provides brief highlights of acts that affect the business community generally and those that affect specific industries, such as insurance companies, heating-oil dealers, and financial services companies. We do not discuss any of the bond authorizations found in PA 01-7 or any acts that direct funds to an individual project.

These summaries are in lay terms and are not intended to be legal interpretations. We encourage readers to obtain the full text of acts that interest them from the Connecticut State Library or the House Clerk's Office. Complete summaries of all public acts passed during the 2001 session will be available in early fall when OLR's Public Act Summary book is published or via our web page ([www.cga.state.ct.us/olr](http://www.cga.state.ct.us/olr)).

## **BUSINESS FILING REQUIREMENTS**

### ***Amnesty for Foreign Limited Liability Companies and Foreign Corporations***

This act allows out-of-state limited liability companies (LLCs) and corporations doing business in Connecticut without, respectively, a registration certificate or certificate of authority to register or get a certificate without being subject to the monthly penalty for failing to do so. The penalty is \$165 for each month or part of a month. (PA 01-81, effective July 1, 2001)

### ***Filing Requirements for Limited Liability Companies***

Under prior law, LLC organizers had to file with the secretary of the state the original signed copy of any document, including articles of organization, required by law to be filed. In lieu of the original, this act permits the secretary to allow LLC organizers to (1) file and sign these documents electronically or (2) file copies of them. (PA 01-188, effective October 1, 2001)

## **COMMERCIAL TRANSACTIONS**

### ***Secured Transactions***

This act deals with security interests created by contracts in personal property or fixtures that secure payment or other

performance that the debtor is obligated to make. Property subject to the security interest is collateral. An example is when someone buys furniture and the seller keeps an interest in the furniture as collateral until the buyer pays the entire purchase price.

The act retains the basic structure of prior law but expands its scope, adds certain types of personal property collateral excluded from prior law, modifies some definitions, and adds new definitions. As under prior law, the act sets out the requirements for a security interest to attach to the collateral (the moment when the security interest becomes enforceable). It also delineates the requirements for perfecting a security interest and priority among security interests when more than one party has an interest in a piece of collateral. (PA 01-132, effective October 1, 2001)

## **CONSUMER PROTECTION**

### ***Protecting Purchasers of Home Heating Oil***

This act requires all retail home heating-oil dealers to:

1. register each year with the Department of Consumer Protection (DCP) starting October 1, 2001;
2. have at least \$1 million of insurance coverage for potential environmental damage resulting from fuel

- oil spills they cause; and
3. put in writing any home heating-oil contracts that offer a guaranteed-price plan, and clearly disclose their terms or conditions.

The act also (1) allows DCP to revoke or suspend the registration of retail home heating-oil dealers; (2) makes violating the act an unfair trade practice; and (3) authorizes the DCP commissioner to adopt implementing regulations, including regulations regarding license suspension or revocation administrative hearings. **(PA 01-46, effective July 1, 2001)**

### ***Abusive Home Loan Lending Prevention***

This act requires lenders to make certain disclosures to prospective borrowers seeking high-cost home loans, including the interest rate and the consequences of mortgaging a home. It prohibits lenders from including certain loan provisions or from taking certain actions with respect to such loans, like charging unwarranted or excessive fees or providing incomplete information.

The act prohibits lenders from charging a fee for the first payoff statement requested each year, except when it is delivered on an expedited basis under an agreement with the borrower. **(PA 01-34, effective October 1, 2001)**

### ***Requiring Landlords to Provide a Receipt for Cash Payments***

This act requires landlords to provide written receipts for cash rent payments. Prior law required such receipts only if the tenant asked for them. **(PA 01-44, effective October 1, 2001)**

### ***Disclosure of Cigarette Dealers' Names***

This act allows the revenue services commissioner to disclose each licensed cigarette dealer's name and where the dealer may sell cigarettes. Under prior law, the information was confidential.

The act also makes it clear that cigarette manufacturers not participating in the tobacco master settlement agreement must make escrow fund payments by April 15 of the year following the sale year for cigarettes sold in Connecticut. **(PA 01-2, effective upon passage)**

### ***Penalty for Selling Loose Cigarettes***

This act allows the revenue services commissioner to impose a civil penalty on cigarette dealers and distributors who sell cigarettes in any form other than in sealed packages of 20 or more. The penalty is \$50 for a first offense, \$250 for a second, and \$500 for a third or subsequent offense. The fine is in addition to existing penalties. **(PA 01-6,**

**June Special Session (JSS),**  
effective July 1, 2001).

***Minors Prohibited from “Point  
and Shoot” Video Games –  
VETOED***

This act would have required the DCP commissioner to fine business owners who allow minors to play video games with “violent point and shoot video simulators.” Fines would have been up to \$1,000 for each violation, and the attorney general could have filed suit to collect them. **(PA 01-54)**

**ECONOMIC DEVELOPMENT**

***Financing Brownfield  
Remediation and Information  
Technology***

This act allows the Connecticut Development Authority (CDA) or its subsidiaries to issue bonds on behalf of towns for information technology and brownfield remediation projects. CDA and its subsidiaries can approve projects for financing until June 30, 2005. CDA, its subsidiaries, or the towns are liable for these bonds, which can be repaid with the project's income and revenue, including incremental property tax revenue and payments in lieu of taxes. **(PA 01-179, effective October 1, 2001)**

***Extending CDA's Tax  
Incremental Financing  
Program***

This act extends CDA's Tax Increment Financing Program for four years, through July 1, 2005. Under this program, CDA can issue bonds to finance a project if it can generate enough incremental sales, admission, and dues tax revenue to repay the debt service on the bonds. The act also extends the time period during which CDA can issue bonds for the proposed Steel Point project in Bridgeport for two years, until January 1, 2005. The bonds cannot exceed \$120 million or 20% of the projected costs. **(PA 01-210, effective July 1, 2001)**

***Urban and Industrial Sites  
Reinvestment Program***

Under this act, taxpayers investing any amount in eligible environmental remediation and urban site reinvestment projects through community development entities (CDEs) qualify for state business tax credits. The CDE must have been created to receive federal “new markets tax credits” in exchange for investing in community development projects. (The credits were authorized under the Consolidated Appropriations Act of 2001, Pub. L. No. 106-554, Sec. 121). By law, taxpayers can also qualify for credits if they invest funds directly in an eligible project or through a

state-registered fund. (**PA 01-9, JSS**, effective July 1, 2001)

### ***Privatized Public Records***

This act subjects the records and meetings of businesses, organizations, and individuals to Freedom of Information Act (FOIA) requirements on disclosure and openness if these entities are deemed the functional equivalent of a public agency. The act does not define "functional equivalence" or establish standards for determining it, but the state Supreme Court established standards in *Board of Trustees of Woodstock Academy et al. v. Freedom of Information Commission et al.* (**PA 01-16**, effective October 1, 2001)

### ***Penalties for False Statements on Financial Assistance Applications***

Under this act, quasi-public agencies must require anyone who requests financial assistance from them to sign the application or other document the agencies use to make their decisions under the statutory penalty of false statement. The penalty is imprisonment for up to one year, a maximum \$2,000 fine, or both.

The act applies to the following agencies: CDA, Connecticut Innovations, Inc., Connecticut Housing Authority, Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Resource

Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Coastline Port Authority, Capital City Economic Development Authority, and the Connecticut Lottery Corporation. (**PA 01-184**, effective October 1, 2001)

### ***Industrial Classification Systems***

This act makes uniform the criteria under which businesses in specific classes of two different national classification systems qualify for enterprise zone benefits. Under current law, businesses in specified Standard Industrial Classification (SIC) groups must demonstrate a strong performance in exporting goods or services in order to qualify for benefits, while businesses in specified North American Industrial Classification System (NAICS) groups do not. The act places the former requirement on businesses in the specified NAICS groups. (**PA 01-6, JSS**, effective July 1, 2001)

### **EMPLOYEE AND WORKFORCE DEVELOPMENT**

#### ***Information Technology Loan Reimbursement Program***

This act restricts the state's pilot High Technology Student Loan Reimbursement Program to students who meet eligibility requirements for the pilot Information Technology Scholarship Program, that is,

those who enrolled in an information technology-related degree or certificate program at a Connecticut public or private higher education institution during FY 2000-01.

It allows students to receive reimbursements if they are employed (1) by any state company, not just an electronic commerce or information-technology-intensive company registered or otherwise qualified by the Department of Economic and Community Development (DECD) and (2) in any information-technology-related job, not just an information-technology-intensive occupation as verified by the DECD commissioner and identified in the Connecticut Employment and Training Commission's (CETC) strategic plan. **(PA 01-1, JSS,** effective July 1, 2001)

### ***Performance Measures for Workforce Development Boards***

This act requires regional workforce development boards to submit annual reports to the Office of Workforce Competitiveness (OWC) beginning October 1, 2001, detailing how workforce programs and activities funded by monies distributed to and overseen by them are performing. The reports must identify: (1) providers and their performance; (2) program costs and activities; (3) occupational skill types; (4) the number, gender, and race of people participating in and

completing the programs and activities; (5) the number, gender, and race of people entering unsubsidized employment after completing a program or activity, and (6) the number and earnings of those who remain in such employment six months later. **(PA 01-97,** effective October 1, 2001)

### ***Vocational-Technical (V-T) School Business Outreach***

This act requires each V-T school director to meet with business community members in the school's geographic area to develop a plan to assess workforce needs and modify the school's curriculum to address the needs. **(PA 01-173,** effective July 1, 2001)

### ***Strategies and Programs for IT Workforce Needs***

This act creates programs and strategies to address Connecticut's information technology (IT) and workforce needs. It requires CETC to suggest to the General Assembly's Workforce Development Committee ways to (1) form a compact to identify areas of IT skills development, (2) fund and operate a Digital Strategic Fund (DSF), and (3) use DSF money to address the "digital divide" (the disparity between those with access to technology and those without). It also requires DECD to create a campaign to make electronic and IT businesses more visible.

Finally, OWC, certain agency commissioners and education leaders, the Office of Policy and Management (OPM) secretary, and representatives of the economic clusters must evaluate programs at the community-technical colleges and vocational-technical schools and recommend ways to improve them to better meet the needs of business and industry. **(PA 01-193**, effective July 1, 2001)

### ***Career Ladder Programs for Critical Employment Areas***

This act requires the OWC, with the Department of Labor's (DOL) assistance, to submit annual reports to the governor and various legislative committees. The reports must include DOL's forecast of workforce shortages in occupations in the state for the next two- and five-year periods. It must also recommend ways to generate enough workers to meet identified workforce needs. **(PA 01-170**, effective October 1, 2001)

### ***New Requirements for Employment One-Stop Centers***

This act requires each one-stop job center to include a local community action agency and an opportunities industrialization center as one-stop partners, subject to the approval of the regional workforce development board and the local area's chief elected officials. "Local areas" are the local workforce investment

areas designated under the federal Workforce Investment Act. The act requires each one-stop center to give eligible people using it access to these partners' programs and activities. These new partners are in addition to the current federally required partners. **(PA 01-146**, effective October 1, 2001)

### **EMPLOYEES: RIGHTS, HEALTH INSURANCE, AND WORKERS' COMPENSATION**

#### ***Time to Appeal Workers' Compensation Decisions***

This act increases, from 10 to 20 days, the time that a party has to appeal to the Workers' Compensation Review Board regarding a workers' compensation commissioner's:

1. award;
2. decision on a motion;
3. order requiring an employee's prior employer or its insurer who is found liable for part of the employee's compensation to reimburse an initially liable employer or insurer;
4. decision in an occupational lung disease claim;
5. decision on whether an employee's injury is a permanent vocational disability; and
6. decision imposing a penalty on an employer, insurer, or party for certain violations of the Workers' Compensation Act. **(PA 01-22**, effective October 1,

2001)

### ***Mental Disability and Marital Status Discrimination***

This act makes it illegal to discriminate based on marital status or mental disability in state vocational guidance, job training, counseling, education, and apprenticeship programs, among others. Under the act, a person has a mental disability if he has a record of, or is regarded as having, one or more mental disorders as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders" (known as the "DSM-IV"). (**PA 01-28**, effective October 1, 2001)

### ***Breastfeeding in the Workplace***

This act allows employees to express breast milk or breastfeed at their workplace during their meal or break period. It requires employers to make reasonable efforts to provide a room or other location close to the work area (other than a toilet stall) for the employee to express her milk in private. The act covers all employers, including the state and municipalities. "Reasonable efforts" are those that do not impose significant difficulty or expense taking into account the business' size, financial resources, and operational nature and structure.

The act also prohibits employers from discriminating

against employees who choose to express milk or breastfeed at work. (**PA 01-182**, effective October 1, 2001)

### ***Prohibiting Immigrant Labor Employment Exploitation***

This act requires the labor commissioner to produce printed material on the rights of immigrant laborers or those who lack proficiency in English. The material must be in Spanish and French, and the commissioner can include other languages spoken by immigrant laborers. The material must address rights under state law on state contracts (such as hours and wages in public works contracts), wages, and unemployment compensation. The commissioner must provide the information to anyone who applies for unemployment compensation benefits or wants to enforce compliance with the wage and state contract laws. He must prevent people from illegally taking advantage of immigrant and other laborers because of lack of information about their rights, their credulity, or their lack of proficiency in English. (**PA 01-147**, effective October 1, 2001)

### ***Workers' Compensation Commission Assessment***

For FY 2001-02 and FY 2002-03, the act increases the maximum annual employer assessment for the Workers' Compensation Commission

(WCC) budget from 4% to 4.5% of employers' workers' compensation expenses for the prior year. It lowers the cap back to 4% for FY 2003-04 and thereafter. Under prior law, the cap was 5% for FY 2000-01 and 4% for FY 2001-02 and thereafter.

By law, the WCC budget is financed through a special assessment that the state treasurer levies on private-sector employers and those towns that do not insure their workers' compensation liability through an interlocal risk management agency. Each employer's assessment is based on its workers' compensation-related expenses in the previous calendar year, up to the established cap. (**PA 01-9, JSS**, effective July 1, 2001)

### ***Employer Retention of Employee Medical Records***

This act extends the time an employer must keep a former employee's medical records from one to three years after the employee's termination. (**PA 01-55**, effective October 1, 2001)

### ***Willful Misconduct in Unemployment Compensation***

By law, employees fired for willful misconduct are ineligible for unemployment compensation. Previously, a claimant fired for willful misconduct based on absence could be denied benefits if he was absent "without notice" on three separate instances

within 18 months. This act requires instead that such absences be either without good cause or without notice to the employer that the employee could reasonably have provided under the circumstances. (**PA 01-37**, effective October 1, 2001)

### ***Direct Payment of Prescription Medication for Workers' Compensation Claimants***

This act requires employers, their workers' compensation insurers, or any other entity acting on behalf of the employer or insurer to pay pharmacists directly for prescriptions related to employees' work-related injuries. It requires employers that provide workers' compensation medical benefits through a managed care plan to identify all participating pharmacies.

The act also specifically requires employers that become aware of an employee's work-related injury to provide whatever prescription drugs a physician or surgeon deems necessary. Employers are already required to provide whatever "medical and surgical aid or hospital and nursing service a physician or surgeon deems necessary." That requirement has been interpreted to include prescription drugs. (**PA 01-85**, effective January 1, 2002)

### ***Mileage Reimbursement for Workers' Compensation Claimants***

This act increases, from 15

cents to the federal mileage reimbursement rate (currently 34.5 cents), the amount per mile employers must reimburse workers' compensation recipients when they use their own vehicles to go to and from medical appointments. (**PA 01-33**, effective October 1, 2001)

### ***Appeals for Disputed Second Injury Fund Assessments***

This act allows employers, or private insurance carriers or interlocal risk management agencies acting on behalf of employers, to appeal the state treasurer's decisions about Second Injury Fund assessments to Superior Court. It also allows the attorney general, at the treasurer's request, to get an injunction requiring employers or insurers or interlocal risk management agencies acting on their behalf to comply with the fund's reporting requirements. (**PA 01-40**, effective October 1, 2001)

## **ENERGY**

### ***Forecast of Electric Supply and Demand***

This act expands the types of entities that must provide forecasts to the Connecticut Siting Council regarding electric supply and demand, but it reduces the forecast period from 20 to 10 years. Under prior law, the reporting requirement applied to any entity that generates electric power in the

state, other than certain nonutility generators. (By law, entities that buy power from the nonutility generators must provide information regarding them.)

The act requires the nonutility generators to report. But it limits the requirement to generators (utility and nonutility) with more than one megawatt of capacity. (Commercial power plants generally have a capacity of several hundred megawatts.) The act also extends the reporting requirement to any entity that transmits or distributes power. (**PA 01-144**, effective October 1, 2001)

## **ENVIRONMENT**

### ***Changes to the Transfer Act***

This act extensively amends the Transfer Act, which regulates the sale or other transfer of (1) property where hazardous waste was generated or processed and (2) dry cleaners and certain other businesses. It changes the definition of "establishments" under the Transfer Act to, among other things, include properties where off-site generated waste is processed and adds an exemption for waste produced by the remediation of contaminated sediment or groundwater. (**PA 01-204**, effective October 1, 2001)

### ***Regulating Hazardous Substances***

This act specifies that federal regulations governing hazardous waste will replace parallel state regulations either (1) by July 1, 2002, or (2) when the state environmental protection commissioner adopts the regulations (To do this he must publish notice of his intention to adopt the federal regulations by January 1, 2002 and must submit them to the secretary of the state by June 30, 2002). (**PA 01-204**, effective October 1, 2001)

### ***Moratorium on Asphalt Plants***

This act extends, from July 1, 2001 to July 1, 2004, the moratorium on the environmental protection commissioner granting permits for asphalt plants. But it allows him to issue permits that will improve the environmental performance of an existing plant. It also allows him to issue permits for replacement plants, so long as they improve environmental performance or improve air quality. (**PA 01-204**, effective October 1, 2001)

### ***Water Diversion Reporting Requirements***

This act requires companies, municipalities, and other entities that withdraw substantial amounts of water from wells or surface waters to inform DEP

about their water diversions. It has different reporting requirements for entities that (1) registered their diversions with DEP before July 1, 1983 as required by law; (2) were eligible to register but did not do so; and (3) were not eligible to register and therefore were required to obtain a DEP permit for their diversions, but failed to do so. The reporting requirements for registrants do not apply to fossil fuel power plants that meet certain conditions.

An entity that fails to file the data required by the act may be subject to civil penalties. The data must be reported by July 1, 2002. (**PA 01-202**, effective upon passage)

### ***Water Utility Penalty Appeals and Provision of Educational Material***

This act requires water utilities to notify local health directors when they appeal a civil penalty imposed by the Department of Public Health (DPH). It entitles the directors to participate in administrative proceedings and judicial appeals regarding these violations. This provision applies to any privately or publicly owned water utility that serves two or more consumers (premises) or 25 or more individuals on a regular basis.

The act requires DPH to develop, within available resources and in consultation with water suppliers, educational material on the sources and

health effects of lead and copper. The act requires any utility that serves 250 or more consumers or 1,000 or more individuals to provide their residential customers with this material annually, without charge, starting July 1, 2002. (**PA 01-185**, effective October 1, 2001)

### ***Water Planning Council Created***

This act establishes the Water Planning Council to address issues involving water companies, water resources, and the future of the state's drinking water supply. The council consists of the chairperson of the Public Utility Control Authority, the public health and environmental protection commissioners, and the OPM secretary, or their designees. The act requires the council to study specified issues in consultation with representatives of water companies, municipalities, environmental and agricultural groups, and other water users.

The council must report its preliminary findings and proposed legislation by January 1, 2002 to several legislative committees, and submit its final recommendations to them by January 1, 2003. (**PA 01-177**, effective October 1, 2001)

### ***Protection of Connecticut's Aquaculture Industry***

In this act, the legislature finds that the state's aquaculture is an integral part of its

environmental resources and provides an irreplaceable economic and recreational asset to its citizens. The act declares that it is state policy to protect the state's aquaculture resources to the maximum reasonable extent. It requires the Connecticut Siting Council, when considering the environmental impact of building or modifying energy and telecommunications facilities, to determine whether they conflict with state policies regarding aquaculture. (**PA 01-120**, effective July 1, 2001)

### ***Permitting Fishing Pound Nets***

This act requires additional procedural steps before the DEP commissioner can authorize the erection of a pound net, fish weir, or similar fishing structure that was not used before the act passed. A pound net is a fish trap that uses a long net to direct fish through a check valve into an enclosure.

Under prior law, the commissioner could use an expedited process to issue certificate of permission for a range of activities. The act prohibits him from issuing certificates for the above fishing structures. Instead, it allows him to issue a permit for such structures only under the law that governs the placement of structures in navigable, tidal, and coastal waters. Unlike the certificate of permission, this permit requires the applicant to publish a newspaper notice and notify various public officials and

others. (**PA 01-98**, effective upon passage)

### ***Clean Air Standards for Power Plants – VETOED***

Recently adopted Department of Environmental Protection (DEP) regulations impose tighter air emission standards on the state's older fossil fuel power plants. This act would have eliminated emissions credit trading as a way for these plants to meet the regulation's stage two sulfur dioxide standards as of December 31, 2004, approximately two years after the standard goes into effect under the regulations. But it would have added another option (a tonnage cap) as of this date. It would require plant owners to submit a plan to DEP by July 1, 2002, showing how they would comply with the standards and indicating if they would use the tonnage option.

The act would allow, and in certain cases require, DEP to suspend the stage two standards if there is a shortfall in electricity supply. The act would supersede a provision in the regulations that allows the DEP commissioner to waive the standards for a plant that normally meets them by burning low sulfur fuel if he finds there is an emergency shortage in the supply of such fuel. (**PA 01-107**)

## **INSURANCE AND REAL ESTATE**

### ***Real Estate Appraisers and Nonresident Applicants***

The law recognizes four appraiser-licensing classifications: certified, limited, licensed, and provisional. Beginning September 30, 2003, this act eliminates the licensed appraiser classification and prohibits issuing or renewing this license beginning October 1, 2003.

The act specifies that a person licensed in another state as a real estate appraiser or real estate broker or salesperson may be licensed in Connecticut without examination on a reciprocal basis. (**PA 01-100**, effective October 1, 2001)

### ***CLHIGA Act Revisions***

This act revises the laws governing the Connecticut Life and Health Insurance Guaranty Association (CLHIGA) to identify (1) who and what types of policies and contracts are covered and (2) the circumstances under which coverage is afforded insurers who become financially impaired or insolvent. It updates the statutes by (1) covering new life insurance products with investment features; (2) modifying coverage limitations, restrictions, and exclusions; (3) simplifying the provisions that trigger coverage; and (4) broadening the association's authority.

Specifically, the act:

1. changes the criteria that determine which owners, payees, beneficiaries, and assignees of unallocated and structured settlement annuities are covered and adds certain types of funding agreements and annuities to the list of covered products;
2. adds rules for determining people covered in different states to avoid duplicate coverage and which state's statute to use to determine the existence and limits of coverage; and
3. sets limits on coverage of rate of return in life insurance products with equity-index features and excludes coverage for certain claims. (**PA 01-67**, effective October 1, 2001)

### ***Surety Requirements for Certain Government Projects***

By law, any state or municipal construction contract worth over \$50,000 must require the contractor to furnish a bond to guarantee payment to subcontractors providing labor or material. The requirement applies to contracts for constructing, altering, or repairing state or municipal buildings or public work projects.

This act prohibits contracts for constructing, altering, or repairing state or municipal buildings or public work projects, or contracting officers, from requiring a bond from a specific

surety, agent, broker, or producer. (**PA 01-21**, effective October 1, 2001)

### ***Real Estate Brokers and Business Organizations***

This act adds real estate brokers and insurance producers to the list of professions that may offer their services through a professional service corporation or limited liability company. By law, people licensed to offer the same professional service to the public may form and become shareholders of a for-profit professional corporation or form a limited liability company to offer such services. (**PA 01-157**, effective October 1, 2001)

### ***Licensing of Insurance Producers***

This act revises the licensing requirements for individuals and businesses seeking to sell insurance in Connecticut and satisfies federal Financial Modernization Act of 1999 requirements. It eliminates barriers to licensing nonresident insurance producers here by establishing reciprocity with other states and requiring the use of a uniform application form. It revises the requirements and qualifications to obtain a resident license, adds to the list of people exempt from licensing, and expands the grounds for disqualifying individuals from obtaining or maintaining a license.

The act also (1) revises the

process of appointing producers that act on behalf of an insurer; (2) adds certain producer reporting requirements; (3) exempts bail bond and title insurance from its provisions; and (4) makes several other changes. (**PA 01-113**, effective September 1, 2002)

### ***Commission Agreements for Real Estate Brokers***

This act permits a real estate broker who enters into a commission agreement with a landlord or tenant in a commercial lease transaction to enforce the agreement against the landlord, tenant, or any of their grantees, successors, and assignees after the property's sale, transfer, assignment, or other disposition.

The act requires the broker to provide "notice of commission rights" in a certain form, recorded in the land records within a specified period, and signed by the broker or his authorized agent. It also requires that certain conditions be satisfied before a notice of commission rights is binding on any landlord, or tenant, or their grantees, successors, or assignees after disposition of the property. (**PA 01-88**, effective October 1, 2001)

### **LAND USE**

#### ***Mediation of Appeals of Planning and Zoning Commission Decisions***

This act allows parties to resolve disputes involving land-use decisions or locally cited violations of state dumping laws through mediation instead of litigation. They can do this for appeals from decisions of zoning commissions, planning commissions, combined planning and zoning commissions, zoning boards of appeals, historic district commissions, and the Connecticut and Niantic rivers gateway commissions.

A party must first file an appeal to Superior Court before mediation can be tried. All parties must agree to the mediation, but a party can withdraw from it at any time. (**PA 01-47**, October 1, 2001)

### **TAX CHANGES: EXEMPTIONS, ABATEMENTS, CREDITS, AND OTHER CHANGES**

#### ***Alternative Fuel Exemptions***

##### ***Alternative-Fuels Sales Tax***

— This act extends for six months, from January 1, 2002 to June 30, 2002, the sales and use tax exemptions for:

1. new vehicles running exclusively on natural gas or electricity;
2. new vehicles running exclusively on propane, if they meet federal or state emission standards under the federal Clean Air Act;
3. equipment used to convert vehicles to run exclusively on natural gas, electricity, or propane or to run on

- one of those fuels and any other fuel; and
4. equipment used in, or as part of, a compressed natural gas filling or electric recharging station for alternative-fuel vehicles. (**PA 01-6, JSS**, effective July 1, 2001)

***Propane Gas Used in Motor Vehicles*** – The act temporarily reinstates an exemption from the petroleum products gross earnings tax for earnings from the sale of propane for use in gas-powered vehicles. The exemption applies to first sales in the state during FY 2001-02 by petroleum products refiners and distributors. The previous exemption expired December 31, 1999.

The act also extends for six months, from January 1, 2002 to June 30, 2002, the expiration of an exemption from the utility gross earnings tax for income from sales of propane for use in gas-powered vehicles. The exemption applies to private and municipal gas utilities. (**PA 01-6, JSS**, effective July 1, 2001)

### ***Property Tax Abatements, Fixed Assessments And Exemptions***

***Fixed Assessments on New Power Plants*** — The act allows any municipality to treat a power plant that completes construction after July 1, 1998 as though the plant were located in an enterprise zone and used for commercial or retail

purposes. It thus allows the municipality's legislative body to fix the property taxes and assessments on the plant's real and personal property both during and after the construction period. This may occur despite the enterprise zone law's requirement that towns fix property taxes and assessments only after the property is improved. (**PA 01-9, JSS**, effective July 1, 2001)

***Standardizing Property Tax Abatement Schedules*** — This act standardizes the schedule under which towns may abate the property taxes for different types of real estate projects and personal property in a manufacturing facility. The schedule bases the abatement amount and time period on minimum threshold values a property must meet. Besides standardizing the schedule, the act reduces one of the threshold values and changes the abatement amount from a fixed rate to a ceiling. (**PA 01-125**, effective October 1, 2001, except non-property tax provisions effective upon passage.)

***Exemption Administrative Review Process*** — This act creates a uniform procedure through which people and businesses (i.e., claimants) can appeal decisions made by the OPM secretary affecting their eligibility for benefits under several state-funded, locally administered property tax exemption and relief programs.

It applies to programs reimbursing towns for tax exemptions for commercial vehicles and manufacturing facilities, machinery, and equipment. It requires claimants to ask the OPM secretary to reconsider a decision before they can request a hearing. Prior law allowed them to request a hearing when first notified about changes affecting their benefits. (PA 01-6, JSS, effective July 1, 2001)

**Exemption Provisions for Manufacturing Machinery and Equipment** — This act makes the following changes related to property taxes on manufacturing machinery and equipment:

1. gives companies manufacturing pharmaceutical, medicinal chemical, and botanical products an extra five years to continue receiving the 80% property tax exemption on machinery and equipment installed in a manufacturing facility. These companies qualify for the extension if (A) they employ at least 1,000 new people and (B) the economic development commissioner approves a five-year extension for the facility's real property;
2. defines "related business" in order to determine what machinery and equipment are not eligible for the exemption for new and newly acquired machinery

and equipment when they are transferred from one business to its related business. Under the act related business includes (A) a corporation, LLC, partnership, association, or trust the taxpayer controls; (B) such an entity, or an individual, that controls the taxpayer; (C) an entity controlled by an individual or entity the taxpayer controls; or (D) a member of the same controlled group as the taxpayer. (PA 01-6, JSS, effective July 1, 2001)

**Farm Machinery Exemption** — By law, towns must exempt farm machinery worth \$100,000 or less, other than motor vehicles, from property taxes. This act allows town legislative bodies to exempt farm machinery worth up to an additional \$100,000. (PA 01-6, JSS, effective July 1, 2001, applicable to assessment years beginning October 1, 2001.)

### **Sales Tax Exemptions**

**Fuel Cell Technology Exemption** — This act eliminates the sales and use tax on material, tools, fuel, machinery, and equipment purchased for use or consumption at, or stored by, fuel-cell manufacturing facilities. It defines "fuel cell" as a device that directly or indirectly produces electricity from hydrogen or hydrocarbon fuel

through a noncombustive, electro-chemical process. (**PA 01-6, JSS**, effective July 1, 2001)

### **Tax Credits**

#### **HMO HUSKY Tax Credit**

**Increase** — The act increases the tax credit for HMOs providing health coverage for children under the HUSKY programs from \$55 to \$73.50 per child. The credit counts against the HMOs' net direct subscriber tax and applies to income years starting on and after January 1, 2001. (**PA 01-6, JSS**, effective July 1, 2001, applicable to income years beginning January 1, 2001.)

#### **Tax Credit For Computer Equipment Provided To Higher Education Institutions**

— A new act doubles, from \$2 million to \$4 million, the total sales and use tax credit a certain qualified company may take against taxes owed for computer equipment. The credit amount equals the resources the company provides to a Connecticut college or university for buildings and classrooms, computer equipment, or computer programs used for business instruction related to workforce development or electronic commerce. Under prior law and the act, to be eligible, a company must (1) be selected by the commissioner of higher education and (2) have a permit to pay sales tax directly to the revenue services commissioner. (**PA 01-6, JSS**, effective July 1, 2003)

#### **R&D Tax Credit Cash**

**Refunds** — The act changes how the state accounts for payments to companies for their unused research and development (R&D) tax credits. Under the act, the payments are considered refunds, but the taxpayer receives the same amount as under prior law. By law, a qualifying company that is unable to take advantage of R&D tax credits in any year because it has no tax liability for that year can either carry the credit forward or exchange it for a cash payment of 65% of the amount of the credit. (**PA 01-6, JSS**, effective July 1, 2001)

**Insurance Reinvestment Fund Tax Credits and Credit Repayment Exemptions** — This act eliminates premium, corporation, and personal income tax credits for investments in Connecticut-based insurance companies made after December 31, 2015 through state-registered investment funds. As under current law, investments must be made through funds formed on or after July 1, 2000.

By law, an investor must repay tax credits for investments in Connecticut-based insurance companies if the company fails to employ at least 25% of its total workforce in new jobs in Connecticut. The act also allows investors to continue to receive credits and exempts them from repayment requirements even if the share of the insurer's Connecticut workforce employed

in new jobs falls below 25% of its total workforce, as long as it maintains the same regular, full-time employment levels in Connecticut while the credit applies. (**PA 01-6, JSS**, effective July 1, 2001)

***Insurance Guaranty Fund  
Credit Refunds and Transfers***

— This act revises the refund provisions of PA 00-170 that allow insurance companies to take credits against premium tax for assessments paid to the Connecticut Insurance Guaranty Association (CIGA) and the Connecticut Life and Health Insurance Guaranty Association (CLHIGA). PA 00-170 requires insurers to take credits over five years at 20% of the assessment per year and to repay credits if either guaranty association refunds the assessment.

The act makes several changes. Instead of requiring an insurer to pay the state 100% of any refund, it requires repayment only for the credits the insurer has already taken. It prohibits an insurer from taking a credit for any part of an assessment that has already been refunded. And it applies the 1% per month interest penalty if insurers fail to repay credits after a CLIGA refund within 45, rather than 30, days after the association mails the refund.

PA 00-170 allows insurers to transfer guaranty association credits to affiliates. This act states that such a transfer does not affect the insurer's obligation

to repay credits when it receives a refund. It also specifies that a transferee can only use the transferred credits to offset its own premium tax liability. (**PA 01-6, JSS**, effective July 1, 2001, transfer provisions applicable to calendar years beginning January 1, 2001.)

***Other Incentives and Changes***

***Single-Factor Apportionment for Financial Services Companies*** — The law generally requires financial services companies to use receipts as the single factor in apportioning net income for the state corporation tax. This act imposes a deadline by which a multi-state financial services company must petition the revenue services commissioner to be either included or excluded from the requirement. The petition deadline is 60 days before the due date, including extensions, of the return to which the petition applies. The commissioner must grant or deny the petition before the due date. (**PA 01-6, JSS**, effective July 1, 2001, applicable to income years beginning January 1, 2001 for petitions filed beginning October 1, 2001.)

***Corporation Tax Returns*** — This act changes the due date for corporation tax returns from the first day of the fourth month after the end of the company's income year to the first day of the month after its federal return for the same year is due, excluding

extensions. For companies that do not have to file a federal return, the act establishes the first day of the month after the end of its income year as the filing deadline.

By law, when the DRS commissioner grants an extension for filing a final corporation tax return, the company must pay the tax shown on its tentative return. If the difference between that amount and the amount shown on its final return is 10% or less and the company pays the final amount when it files its final return, there is no penalty. The act specifies that, in order to avoid a penalty, a taxpayer must submit its final return and payment by the extended due date. **(PA 01-6, JSS, effective July 1, 2001, applicable to income years beginning January 1, 2001.)**

***Corporation Tax Returns for Affiliated Companies*** —

This act requires the deadline for affiliated companies to petition DRS to use an alternate method of determining their combined tax to be counted back from any extension of the due date for their combined return. As under current law, the deadline is 60 days before the return's due date. **(PA 01-6, JSS, effective July 1, 2001, applicable to income years beginning January 1, 2001 for petitions filed beginning October 1, 2001.)**

***Petroleum Products Tax Threshold*** — This act reduces the threshold for a company that is not a petroleum refiner or distributor to pay the petroleum products tax from more than \$100,000 worth of petroleum products imports per quarter to more than \$3,000. The tax is payable on the consideration the company gives for the petroleum products it imports that exceed the threshold. **(PA 01-6, JSS, effective July 1, 2001, applicable to quarterly periods beginning October 1, 2001.)**

***Electronic Tax Payments*** — Under this act, a tax payment made voluntarily by electronic funds transfer is considered timely if the transfer is initiated on or before the due date, even if the funds are not credited to the DRS-designated bank account until later. **(PA 01-6, JSS, effective July 1, 2001, applicable to payments required to be made beginning July 1, 2001.)**

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