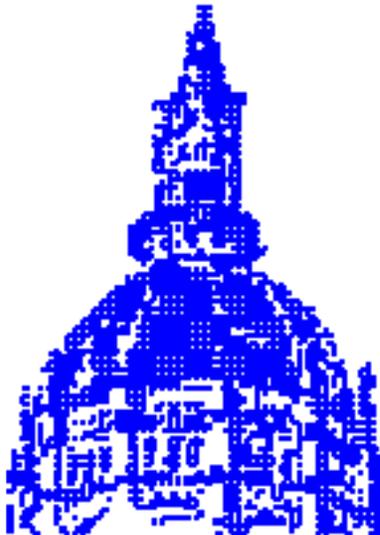


Office of Legislative Research
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2004 ACTS AFFECTING REAL ESTATE



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NOTICE TO READERS

This report provides brief highlights of public acts affecting real estate enacted during the 2004 regular and special sessions.

Not all provisions of the acts are included; readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's office, or the General Assembly's website (<http://www.cga.state.ct.us/default.asp>). Complete summaries of all public acts passed in 2004 will be available in the fall when OLR's *Public Act Summary* book is published; some are now available on the OLR website (<http://www.cga.state.ct.us/olr/publicactsummaries.asp>)

All acts summarized here are effective October 1, 2004, unless otherwise noted.

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INFORMATION DISCLOSURES

Disclosing Nonmaterial Facts

A new law prohibits lawsuits against a real estate owner or agent for failing to disclose a “nonmaterial fact concerning real property”, which is a fact, set of facts, or circumstance surrounding real estate, that: (1) an occupant is or has been infected with a disease on the list of reportable diseases issued by the public health commissioner pursuant to law or (2) the property was at any time suspected to have been the site of a death or felony. The law also eliminates the ban against suits brought for failing to disclose that a property was psychologically impacted. **(PA 04-39)**

Nondisclosure of Tenant Information

A new law prohibits any entity that buys all or a portion of a housing authority’s housing project from publicly disclosing a tenant’s Social Security or bank account number. It also prohibits a housing authority from disclosing this information to anyone, except the purchaser of a housing project that the housing authority owns, without the tenant’s permission. Violators can be fined up to \$200. **(PA 04-119, effective upon passage)**

Notice of Contamination

A new law requires the owner of a contaminated parcel of land, who has notified the Department of Environmental Protection as required by law, to post a notice of contamination in a conspicuous place on the affected property and in his place of business (if applicable) no later than five days after an activity begins that increases the likelihood of human exposure to known contaminants. Activities requiring posting include construction, demolition, significant soil disruption, or utilities installation. Landowners who fail to post the notices must pay a civil penalty of \$100 per day for violations. **(PA 04-134)**

Flood Hazard Disclosure

A new law requires residential property condition reports to disclose information about flood hazards. These reports already must include information about lead, radon, subsurface sewage disposal, and other environmental information the consumer protection commissioner believes would interest buyers. By law, people offering residential real estate for sale, exchange, or lease must give prospective buyers the report before completing the transaction. **(PA 04-144)**

REAL ESTATE BROKERS

Commercial Brokerage Agreements

A new law sets conditions and requirements under which real estate brokers and salespeople licensed by other states, but not Connecticut, can handle commercial real estate transactions here. It also prohibits the out-of-state broker or salesperson from touring Connecticut commercial real estate with a prospective buyer. **(PA 04-83)**

Real Estate Broker Liens

A new law permits a real estate broker or his authorized agent, instead of just the broker, to sign a claim for a lien for the amount of his commission or compensation. A broker can claim a lien if he is unable to give the notice to the prospective buyer or tenant because, after due diligence and reasonable effort, he cannot learn his identity. **(PA 04-131)**

PROPERTY INTERESTS

Municipal Conservation Easements

A new law specifies that the state, or any of its political subdivisions, may establish a conservation or preservation restriction on land it owns, in the same way the law already allows

certain government bodies, charitable corporations, and trusts to establish them. **(PA 04-96, effective upon passage)**

Conveying Real Property to a Nonprofit

A new law requires any deed or other instrument that conveys an interest in real estate to a nonprofit landholding organization to be signed by a duly authorized officer of the organization to indicate the organization's acceptance. A conveyance includes a conservation restriction or easement. A violation of the law is an unfair or deceptive trade practice, punishable by a \$500 civil penalty. **(PA 04-114)**

Recording Deeds and Contracts

A new law (1) authorizes town clerks to record a certified copy of a deed or other instrument affecting real estate in their town, when the original was recorded in another town and (2) allows someone who has a contract to buy real estate to obtain a purchaser's lien on it by recording on the land records of the town where the property is located a notice of contract rather than the contract itself. **(PA 04-132)**

Condo Voting Requirements

A new law clarifies certain voting requirements in condominiums and other common interest communities concerning the use of units and common elements. **(PA 04-132)**

Mortgages

For mortgages executed and recorded after September 30, 2004, a new law increases from \$1,000 to \$5,000 the maximum amount a mortgagee (lender) can add to the mortgage debt for advancements for repairs, alterations, or improvements. **(PA 04-132)**

Subdivisions

A new law modifies the exemption for lots shown on an approved residential subdivision plan from subsequent changes in the town's zoning regulations or zoning map. It extends the provision to cover lots on approved resubdivision plans. Any construction on an improved lot covered by a plan must conform to zoning changes adopted after the lot is improved. A lot is considered improved once a building permit has been issued and a foundation has been completed under the permit. The requirement also applies if any existing structure on the lot is demolished. **(PA 04-210, effective upon passage)**

Sale of Land Next to a Water Supply

A new law authorizes the public health commissioner to allow a water company to sell class I land (land generally adjacent to water supplies) to a private nonprofit landholding conservation company if he does not permit the company to abandon a source it does not currently use or need. **(PA 04-2, May 11 Special Session)**

COURT-RELATED REQUIREMENTS

Service of Process for Land Use Appeals

By law, service of process in most civil actions against a town, city, or borough board, commission, department, or agency is made by serving two copies on the town, city, or borough clerk. The clerk keeps one copy and forwards the other to the affected board, commission, department, or agency. A new law requires that service of process be made in the same manner for appeals to the Superior Court from decisions of a (1) municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals, inland

wetlands agency, or other land use board or commission or (2) a municipal chief elected official or his designee for certain littering or dumping violations. **(PA 04-78)**

Partition Actions

By law, the Superior Court may order the sale of property owned by two or more people or entities, followed by a division of the proceeds, when one of the owners asks it to do so and the court determines it will promote the owners' interests. A new law gives the court an additional option, allowing it to divide the property equitably among some of the owners and order the payment of just compensation to the other owner or owners who have only a minimal ownership interest in the property if it will better promote the owners' interests. **(PA 04-93)**

Condemnation Proceedings

A new law requires the Department of Transportation (DOT) commissioner, rather than a Superior Court clerk, to notify landowners when the DOT has initiated condemnation proceedings affecting their land. **(PA 04-127)**

Evictions

A new law allows landlords to file eviction suits against week-to-week tenants and discharged farm workers, servants, and

other employees occupying employer-provided housing three days after giving them notice to quit the premises. **(PA 04-127)**

New Milford Property Disputes

A new law permits civil plaintiffs to file suit in the Danbury judicial district, rather than in Litchfield only, in cases in which any party resides or the property subject to the suit is located in New Milford. **(PA 04-127)**

TAXES

Employee Relocation Conveyance Tax

With some exceptions, a property seller must pay a real estate conveyance tax when he conveys the property deed to the buyer. This new law exempts employer and relocation company resales of residential property acquired through employee relocation plans from the tax if the resale occurs within six months after the date the employee conveyed the property to the employer or relocation company. **(PA 04-154**, effective July 1, 2004, and applicable to conveyances on or after that date)

Residences Sold for over \$800,000

By law, the state real estate conveyance tax rate on the sale of a home is 0.5% on the first \$800,000 of the sale price and 1% on any part of the price above that amount. This new law requires the tax to be calculated based on the home's aggregate sale price, regardless of how many deeds or other documents the seller uses to convey it to the buyer. **(PA 04-201**, effective upon passage)

Municipal Real Estate Conveyance Tax

A new law (1) extends the expiration date of a temporary increase in the municipal real estate conveyance tax rate from 0.11% to 0.25% from July 1, 2004 to July 1, 2005 and (2) makes permanent an option allowing 18 towns to add 0.25% to the municipal tax rate. Under prior law, all higher rates were scheduled to expire on July 1, 2004. The 18 towns are: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham. **(PA 04-216**, effective upon passage)

Tax Relief for Forest Owners

By law, the "490 Program" provides farm, forest, and open-space landowners with tax relief to reduce the financial pressure to convert their property to other uses. Property is assessed at its current use value, rather than its market value. A new law makes several changes in this tax relief program for owners of eligible forestland. For example, it eliminates the requirement that landowners apply to the state forester or that he render an opinion on the number and density of trees and their condition. Instead, it requires the Department of Environmental Protection to adopt, by June 1, 2006, regulations setting forest stocking, distribution, and condition standards. The state forester can adopt interim standards. Under the law, land contiguous to a forestland tract owned by the same person can be classified as forestland only if it meets the new standards. **(PA 04-115**, effective July 1, 2004)

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