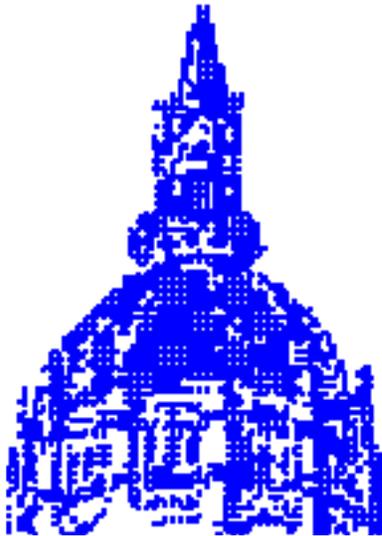


Office of Legislative Research
Connecticut General Assembly



OLR

ACTS AFFECTING REAL ESTATE



Janet Kaminski, Associate Attorney
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NOTICE TO READERS

This report provides brief highlights of new laws (public acts) affecting real estate enacted during the 2005 regular and June 2005 special legislative sessions.

Not all provisions of the acts are included here. Complete summaries of all public acts passed in 2005 will be available in the fall when OLR's *Public Act Summary* book is published and are available now on the OLR website: <http://www.cga.ct.gov/olr/OLRPASumsER.asp>

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.ct.gov/>

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BROKERS

A new law eliminates the requirement that every member or officer of a corporation, association, or partnership that holds a broker's license who actively participates in its brokerage business be licensed as a real estate broker. It thus permits licensed real estate salespersons to be owners, members, partners, and officers of real estate brokerages. The act specifies that a limited liability company (LLC) may be granted a real estate broker's license and requires that brokers own or control at least 51% of the corporation, partnership, or LLC that is licensed as a broker.

The new law requires each corporation, LLC, or partnership that wants a real estate broker license to apply to the Real Estate Commission in whatever manner the Consumer Protection Department prescribes. It also requires corporations, LLCs, and partnerships that have real estate broker licenses to (1) designate at least one licensed real estate broker to be in charge of the brokerage business and (2) notify the commission of any change in the designation within 30 days after it becomes effective.

It reduces, from \$2,000 to \$1,000, the maximum fine the commission may impose on a corporation or partnership that

engages in real estate business without a license, and it establishes a maximum fine of \$1,000 on an LLC that does so.

(PA 05-115, effective October 1, 2005)

CIVIL UNIONS

A new law authorizes same sex couples to enter into civil unions, granting them the same legal benefits, protections, and responsibilities as married couples. The rights the law extends to civil union partners may derive under statute, administrative regulations or court rules, policy, common law, or any other source of civil law. Generally, these include title, tenure, descent and distribution, intestate succession, wills, survivorships, or other incidents of the acquisition, ownership, or transfer (during life or at death) of real or personal property and state and municipal taxation, among others.

(PA 05-10, effective October 1, 2005)

COMMISSIONS

A new law requires a principal, when a contract with a sales representative terminates, to pay the sales representative (1) all commissions due under the contract on or before the termination's effective date by the later of the date set by the contract or 30 days after the

termination date and (2) all commissions due after the termination date by the date specified in the contract but not later than 30 days after they become due under the contract. A business relationship between a sales representative and a principal may terminate by the action of either party or by operation of the contract's terms.

The law gives sales representatives the right to sue for certain violations and specifies that its provisions are in addition to other legal remedies available to a sales representative.

It also includes provisions on suits between principals and sales representatives, voided contract provisions, and the legal implication of accepting a partial commission. It exempts from its provisions a licensed real estate salesperson who has a claim for payment of commission or compensation against a real estate broker with whom he is affiliated.

(PA 05-166, effective upon passage)

CONSERVATION

Conservation And Development Plans

A new law makes many changes in the requirements and processes for preparing state, regional, and local land-use plans. It requires the State Plan of Conservation and Development (Plan of C&D) to target

development funding. It requires regional planning agencies to revise their existing plans of development by July 1, 2008 and at least once every 10 years. It modifies the process for adopting these plans and requires them to (1) identify any inconsistencies with six growth management principles, which are included in the current state Plan of C&D and (2) note on the record any inconsistencies with that plan and the reasons for them. It expands the contents of local plans of C&D, requires them to address specified growth management principles, modifies the process for adopting the plans, and establishes a process under which anyone may request plan changes.

(PA 05-205, effective July 1, 2005)

Enforcement of Conservation and Preservation Restrictions

A new law prohibits anyone from filing a permit application with a state or local land use agency, a local building official, or director of health, relating to property that is subject to a conservation or preservation restriction, unless the applicant shows proof that he provided written notice of the application to the restriction holder at least 60 days before filing the application. It creates a process for allowing permit work, disapproving the permit if the restriction holder proves the work does not comply with the

restriction, and reversing permit approval when an applicant fails to provide notice.

The law specifies that the attorney general may bring an action in Superior Court to enforce public interest in conservation and preservation restrictions.

(PA 05-124, effective October 1, 2005, except for the attorney general provision, which is effective July 1, 2005)

CONSUMER CREDIT LENDERS AND TRANSACTIONS

A new law allows the banking commissioner to impose a civil penalty or issue a cease and desist order against first and secondary mortgage licensees and registrants who commit fraud, misappropriate funds, or in any way intentionally fail to disclose, to anyone entitled to such information, any of the material facts related to a mortgage loan transaction. The act also allows the commissioner to take such action when a registrant fails to perform an agreement with a borrower.

It requires the commissioner to consider a renewal application for a first or secondary mortgage loan lender, first or secondary mortgage correspondent lender, sales finance company, small loan lender, or consumer collection agency license, filed after the filing deadline but accompanied by a \$100 late fee as timely and sufficient.

The law prohibits federal credit unions from discriminating

in making certain types of loans, and subjects them to existing provisions regarding pending loan applications submitted by a United States armed forces reservist or National Guard member who is called to active duty before the lender makes a decision about the application.

It also requires the banking commissioner to specify the mortgage-related forms that may be used in some instances.

(PA 05-46, effective October 1, 2005)

CONTAMINATED PROPERTY

Special Contaminated Property Remediation and Insurance Fund

A new law expands the purposes for which Special Contaminated Property Remediation and Insurance Fund (SCPRIF) loans can be used. Under prior law, SCPRIF provided loans to towns, businesses, and developers only to assess sites and demolish structures in preparation for remediation and development. Now these entities may use the loans to remediate contaminated property. The Department of Economic and Community Development commissioner may extend the periods for repaying these loans.

It eliminates the requirement that towns with remediated property pay a portion of the related property tax revenue into SCPRIF.

(PA 05-285, effective upon passage)

Third-Party Liability

A new law relieves a property owner of liability, except to a state or the federal government, for costs or damages resulting from pollution that occurred or existed before he took title to the property, if (1) in the Department of Environmental Protection (DEP) commissioner's determination, the owner did not pollute state waters; (2) the owner did not create any other pollution or source of pollution; (3) the owner is not affiliated with the person responsible for the pollution; and (4) the commissioner has approved pollution investigation and remediation reports. Thus, an owner would no longer be liable to a municipality for its costs under these circumstances.

The law requires a property owner to send to adjoining landowners (1) notice he is going to investigate or remediate his property, and (2) the investigation and remediation reports.

It specifies when an owner may be found liable for pollution, and imposes a civil penalty on a property owner affiliated with a person responsible for polluting his property.

An innocent landowner who complies with the act cannot be held liable to the state for costs or damages in an amount greater than that for which he would be

liable under a lien imposed against his property. These provisions are in addition to the protections already provided to innocent landowners.

(PA 05-90, effective October 1, 2005)

DEVELOPMENTS NEAR LARGE LAKES

A new law repeals, as of October 1, 2006, a law that bars certain developments within 2,000 feet of a lake that is larger than 500 acres. Under the current law, municipal zoning regulations cannot permit the construction of structures, accessory structures, or improvements having a total area of 12,000 square feet in such areas. It significantly restricts the scope of the law until October 1, 2006.

(PA 05-283, effective upon passage except for the repealer, which is effective October 1, 2006)

FEES

Bank's Application Fee for Real Estate Acquisition

A new law eliminates the \$500 fee the banking commissioner receives for investigating or processing applications from banks or credit unions seeking to acquire, or improve existing, real estate for a branch or limited branch office.

(PA 05-39, effective upon passage)

Condominium Document Fee

A new law increases, from \$75 to \$125, the maximum fee an association may charge its unit owners for preparing the resale certificate and other documents the law requires unit owners to provide purchasers. The law requires the association to establish a fee that reflects the actual printing, photocopying, and related costs to prepare the certificate and related material.

It requires the association to itemize the actual printing, photocopying, and related costs and provide an itemized list to the unit owner with the certificate and documents. It allows the association to charge an additional fee of up to \$10 for furnishing the certificate and all required documents to the unit owner within three business days after it receives a written request.

The law specifies that the association may not include in the regular or expedited fee costs for services provided by an attorney or paralegal.

(PA 05-125, effective October 1, 2005)

Document-Recording Fee

A new law creates new farmland preservation programs and institutes a \$30 document-recording fee to fund these and several existing programs, including affordable housing, open space acquisition, and historic preservation. Towns collect the fee for each document

they record in their land records. The state receives \$26 of the \$30 fee, town clerks keep \$1, and \$3 goes to the town's general revenue to fund local capital improvement projects.

(PA 05-228, effective July 1, 2005)

(PA 05-3, JSS, changes the effective date to October 1, 2005.)

HOUSING TRUST FUND PROGRAM

A new law establishes the Housing Trust Fund Program and requires DECD to develop and administer it. The program must:

1. encourage the creation of housing for homeownership at a cost that makes it affordable for low- and moderate-income people, meaning they pay no more than 30% of their gross household income for it;
2. promote the rehabilitation, preservation, and production of quality, well-designed rental and ownership housing affordable for these people;
3. maximize the leveraging of state and federal funds by encouraging private-sector investment in housing developments that receive assistance;
4. encourage housing that maximizes residents' housing choices;
5. enhance economic opportunity for low- and

- moderate-income people and their families;
6. promote (a) application of efficient land use that uses existing infrastructure and (b) conservation of open spaces; and encourage the development of housing that aids community revitalization.

Financial assistance under the program may be in the form of (1) no-interest and low-interest loans, (2) loan guarantees, (3) grants, and (4) appraisal gap and other similar financing necessary to make rent or home prices affordable. Any financial assistance must supplement existing loan and tax credit programs available under state and federal law and grants, loans, or financial assistance from any nonprofit or for-profit entity.

Financial assistance for the development of quality rental and ownership housing for low- and moderate-income people is available to:

1. nonprofit entities;
2. municipalities and municipal developers;
3. housing authorities;
4. the Connecticut Housing Finance Authority;
5. community development financial institutions;
6. businesses that have as one of their purposes the construction, financing, acquisition, rehabilitation, or operation of affordable housing, including (a) corporations incorporated

or authorized to do business by law and (b) any partnership, limited partnership, limited liability company, joint venture, sole proprietorship, trust, or association; or

7. any combination of these.

In each fiscal year that the Housing Trust Fund has funds available for distribution, the DECD commissioner must allocate \$300,000 from it for matching grants dedicated to funding purchases of primary residences for people participating in the state's Individual Development Account (IDA) Program.

The law creates a Housing Trust Fund Program Advisory Committee that must meet at least semi-annually and advise the commissioner on (1) the administration, management, and objectives of the Housing Trust Fund Program and (2) the development of regulations, procedures, and rating criteria for the program.

(PA 05-5, JSS, §§ 16 – 22, effective July 1, 2005, except for the provision establishing the Housing Trust Fund Advisory, which is effective upon passage)

LANDLORDS

A new law allows towns to require nonresident owners of rental property, or their agents, to maintain their current residential addresses on file in the town where the property is

located. The property owner or agent must maintain the residential address on file whether the rental property is occupied or vacant. The owner or agent must inform the town when his residential address changes.

If the nonresident owner or agent fails to file his address, the address to which the municipal tax assessor mails the property tax bills for the property is deemed to be his current residential address under the act.

When the state or a town serves orders for certain reasons to an owner or agent who is required to file his residential address under the act, that action is sufficient proof of service in any subsequent criminal or civil action against him for failure to comply with the orders.

Any town may, by ordinance, establish a civil penalty for noncompliance with the address reporting requirement. The amount of the penalty may not exceed \$250 for the first violation and \$1,000 for subsequent violations. Anyone who is assessed a civil penalty may appeal to the Superior Court.

(PA 05-223, effective October 1, 2005, except for the provision on establishing a penalty for noncompliance with the address reporting requirement, which is effective upon passage)

LOCATION OF REAL ESTATE COURSES

A new law authorizes the consumer protection commissioner, with the Real Estate Commission's advice and assistance, to adopt regulations relating to the approval of schools offering courses in real estate principles and practice and related subjects and the content of such courses or programs. The act specifies that the regulations may not require that a course be given in a classroom location approved for such use by a local fire marshal if it is conducted in a hotel, restaurant, or other public building, or a place of public assembly.

A "place of public assembly" means a structure where 50 or more people assemble to discuss and act upon matters in which they have a common interest; transact business; conduct religious services; or attend a recreational, entertainment, or education event. The term includes churches, chapels, meetinghouses, auditoriums, assembly halls, theaters, and sports complexes.

(PA 05-48, effective October 1, 2005)

MUNICIPAL WATER AUTHORITIES

A new law gives municipal water authorities a wide range of powers, including the ability to (1) acquire real and personal property by purchase, gift, or

condemnation and (2) sell and lease property that it no longer needs, including, under narrow conditions, class I and II water company land (land located close to water supply sources such as reservoirs). An authority's property is exempt from property taxes, but it must make equivalent payments in lieu of taxes (PILOTs).

(PA 05-5, JSS, §§ 24 and 25, effective upon passage)

PURCHASE OF AGRICULTURAL PROPERTY

A new law reinstates the program under which the agriculture commissioner purchases title to real and personal agricultural property without any conditions or restrictions on the sale (i.e., purchase of fee simple title).

(PA 05-228, effective July 1, 2005)

(PA 05-3, JSS, changes the effective date to October 1, 2005.)

SALE OF UTILITY PROPERTY

A new law requires that any sale or other disposition of real property that is an essential part of a utility regulated by the Department of Public Utility Control (DPUC) be done by public auction or other public sale procedure. (Such dispositions require DPUC approval.) The law gives DPUC the authority to allow the utility to use an alternative sale process if it makes a finding of good cause.

The law requires that there be notice of the auction or sale at least once per week in the two weeks before the auction or sale. The notice must run in a newspaper with substantial circulation in the county where the property is located. The utility must give DPUC evidence that it provided the notice.

(PA 05-1, JSS, effective July 1, 2005)

SHELTON ECONOMIC DEVELOPMENT CORPORATION

A new law requires the Department of Economic and Community Development commissioner to revise the assistance agreement with the Shelton Economic Development Corporation, so that:

1. the parcel of land identified in Phase I of the agreement is designated for open space purposes;
2. the parcel of land identified in Phase II is designated for economic development; and
3. the state, Shelton, and their agents and assigns are held harmless with respect to the designations.

(PA 05-285, effective upon passage)

STATE PROPERTY INTERESTS

Housing Persons with Mental Retardation

A new law imposes a moratorium from July 1, 2005 to

June 30, 2007 on selling, leasing, or transferring state-owned property currently used to house people with mental retardation. A previous moratorium, which applied to property that housed people with mental illness and people with mental retardation, ended on July 1, 2004. The new moratorium does not apply to any agreement to sell, lease, or transfer property entered into before May 11, 2005.

(PA 05-70, effective upon passage)

Flood Management and Stream Channel Encroachment

By law, the Department of Environmental Protection (DEP) commissioner regulates state agency actions affecting floodplains and coordinates, analyzes, and monitors floodplain management activities of state and local agencies. A new law limits the commissioner's ability to regulate proposed state actions, including those that affect natural or man-made storm drainage facilities, to those located on property the commissioner determines is under state control.

A "proposed state action" is (1) an individual activity or sequence of activities proposed by a state department, institution, or agency; (2) any state or federal grant or loan proposed to fund a project that affects land use; or

(3) a proposed transfer of state-owned real property.

The new law also:

1. eliminates a requirement that the DEP commissioner afford the opportunity for a public hearing in certain cases involving state agency activities in a floodplain, but requires a hearing if 25 people request it;
2. authorizes the commissioner to conditionally approve state agency (a) actions in a floodplain and (b) exemptions from the floodplain approval process;
3. permits certain operations and uses in a stream encroachment channel as of right; and
4. modifies the notification and comment process for general permits for minor activities within stream channel encroachment lines.

(PA 05-174, effective October 1, 2005)

State Land Conveyances

A new law authorizes conveyances of state land to (1) the towns of Cheshire, Haddam, New Britain, and Sprague and (2) Charter Oak Health Center, Inc.; Barry T. Pontolillo; Goodwin College; Shiloh Baptist Church; Heritage Land Preservation Trust, Inc.; Matthew Ramos; and

Nutmeg Housing Development Corporation.

It authorizes property exchanges with Thomas S. Charis and Dom Delvecchio, and the towns of Branford and Westbrook.

The law revises existing provisions and conditions on state property conveyances to Edward H. Dzwilewski and in the towns of Norwich, Franklin, Manchester, Middletown, Newtown, Meriden, Plainville, and Bethel. It repeals previous conveyances to Trumbull, New Britain, Westbrook, Middletown, and Enfield.

It (1) validates the sale, transfer, and conveyance of property by the Wallingford Housing Authority to Ridgeland Road, LLC; (2) allows the town of Plainville to exchange two parcels of land that it received in a conveyance from the Department of Environmental Protection (DEP) pursuant to SA 95-25; and (3) returns to Chandler B. Saint property that he conveyed to the state on December 30, 1999.

It also requires the DEP commissioner to pay for surveying two parcels of land that PA 04-186 required him to accept in an exchange with the town of Voluntown.

(PA 05-279, effective upon passage)

Government Administration

Grant Payments to Towns.

A new law modifies the deadlines that the OPM secretary, the

comptroller, and the treasurer must meet when processing certain grant payments to towns. Generally, it (1) gives the OPM secretary 15 additional calendar days to certify to the comptroller the amount due and (2) decreases from 15 calendar to five business days the time that the comptroller has to draw an order on the treasurer. The grant payments are for loss of property tax revenue due to property tax exemptions for:

1. up to \$1,000 of the assessed value of property owned by totally disabled persons;
2. low-income elderly and totally disabled homeowners and renters under the “circuit breaker” and tax freeze programs;
3. manufacturing facilities in distressed municipalities, targeted investment communities or enterprise zones, and exempt property of service facilities;
4. the property of private colleges and general hospitals; and
5. state-owned real property, reservation land held in trust by the state for an Indian tribe, municipally-owned airports, and land taken into trust by the federal government for the Mashantucket Pequot Tribal Nation.

(PA 05-287, effective upon passage)

Transfer of State Property.

The law requires a state agency, department, or institution that sells state-owned property to first notify in writing the state senator and state representative of the district in which the land is located of the state's intention to sell the land.

(PA 05-287, effective upon passage)

Public Works. The public works commissioner may acquire property or provide design and construction services in the event that a public or special act authorizes the state to acquire real property or build, improve, repair, or renovate any facility. The law expands the definition of "user agency" to include the agency for which a project is being undertaken, not just the agency requesting the project.

(PA 05-287, effective upon passage)

TAXES

Municipal Real Estate Conveyance Tax

A new law extends the 0.25% municipal real estate conveyance tax rate for two years, until July 1, 2007. Under prior law, the rate was scheduled to drop to 0.11% on July 1, 2005.

The act also allows the 18 towns that, under prior law, had an option to add a flat 0.25% to their basic municipal conveyance tax rate, to add any lower percentage up to 0.25%. The 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 05-268, effective upon passage)

Property Tax Amnesty for Service Members' Spouses

A new law allows municipalities, by ordinance, to waive interest for one year on property tax or tax installment payable by any eligible spouse of a service member for real property assessed on the 2003 grand list. The waiver applies to any state resident who lives with, and is the spouse of, a U.S. Armed Forces member, including guard members and reservists, called to active service for military operations authorized by the President entailing military action in Iraq and who is serving in the Middle East on the final day that the tax or tax installment payment is due.

(PA 05-3, JSS, § 9, effective upon passage)

Property Tax Exemption for Housing Seasonal Agricultural Workers

A new law extends the existing property tax exemption for agricultural buildings to those housing seasonal agricultural employees. The exemption is for

up to \$100,000 of assessed value.

(PA 05-228, effective upon passage and applicable to assessment years beginning on or after October 1, 2005)

(PA 05-3, JSS, changes the effective date to October 1, 2005.)

Succession, Estate, and Gift Taxes

The law appropriating funds for state agencies and programs and estimating state revenues for FYs 06 and 07, among other things, eliminates the succession tax and replaces the former gift tax. It establishes new estate and gift taxes for deaths occurring and gifts made on or after January 1, 2005, if the estate or gift value exceeds \$2 million. It imposes corporation tax surcharges for the 2006 and 2007 tax years, and reconstitutes a committee to review changes in business tax policy and corporation tax credits. The law also reduces a scheduled increase in the property tax credit against the income tax.

(PA 05-251, §§ 66 – 70 & 113, effective upon passage and applicable to gifts made, and to estates of people who die, on or after January 1, 2005. The elimination of the former gift tax applies to calendar years beginning on or after January 1, 2005. The succession tax elimination applies to estates of those who die on or after January 1, 2005. The expanded estate tax return filing

requirement is effective upon passage.)

Succession Tax. PA 05-251 eliminates succession tax liability for estates of those who die on or after January 1, 2005. Another new law makes conforming changes by eliminating succession tax filing, appeal, and real property lien release requirements and procedures for such estates.

(PA 05-3, JSS, §§ 50 – 53, effective upon passage and the conforming changes apply to estates of those who die on or after January 1, 2005)

Estate Taxes in Effect During 2004. Connecticut had two estate taxes in 2004. One was the regular estate tax, which applied to estates of more than \$1.5 million. The other was a temporary, higher estate tax that applied to taxable estates of more than \$1 million of people who died between July 1, 2004 and December 31, 2004. A new law reconciles these taxes by specifying that the regular estate tax does not apply to resident and nonresident estates subject to the temporary estate tax.

(PA 05-3, JSS, § 54, effective upon passage)

Filing Requirements for New Estate Tax. For taxable estates of more than \$2 million, a new law requires the estate representative to file the estate tax return with the DRS commissioner and file a copy with the probate court in the district where the decedent lived when he died or, if the decedent

was a nonresident, with the probate court where his Connecticut real or tangible personal property is located.

For taxable estates of \$2 million or less, the law requires estate representatives to file returns with the probate court in the district where the decedent lived, or if a nonresident estate, in the probate court district where the estate's Connecticut property is located and not with the DRS commissioner. The probate judge for the district where the return is filed must review it and issue a written opinion to the representative if he determines the estate is not subject to the estate tax.

The law also requires each probate court to report to the DRS commissioner, in a form the commissioner may prescribe, concerning the estate tax returns filed with it during each calendar quarter. Courts must file the reports by the last day of the month immediately following the end of each calendar quarter, starting with the quarter ending September 30, 2005.

(PA 05-3, JSS, § 55, effective upon passage)

Probate Court Costs for Settling an Estate. A new law changes the starting point for calculating the probate court costs for settling an estate to either the gross estate for succession tax purposes or the Connecticut taxable estate for estate tax purposes under the PA 05-251, whichever is greater. Since PA 05-251 eliminates the

succession tax for estates of those dying on or after January 1, 2005, the act, in effect, establishes the Connecticut taxable estate as the basis for probate costs. PA 05-5, June Special Session, subsequently revised this provision to restore the gross estate for estate tax purposes as an alternative starting point, if it is greater than the other two.

(PA 05-3, JSS, § 56, effective upon passage and applicable to estates of those who die on or after January 1, 2005)

Estate Tax Lien Releases.

By law, a person who does not owe, or who has paid, the estate tax receives a certificate releasing the lien on his interest in real property in the estate. Prior law allowed either DRS or the probate court where the decedent lived or where the property is located to issue the certificate. A new law requires probate courts to issue all lien release certificates for taxable estates of \$2 million or less.

(PA 05-3, JSS, § 57, effective upon passage)

Applicability of Estate and Gift Taxes to Civil Unions. The statutory provisions of the estate and gift taxes apply to state-recognized civil union parties as if federal tax law also recognized the civil union. Connecticut tax laws incorporate federal tax provisions by reference and require taxpayers to use those provisions to calculate their state tax. The requirement starts with

taxes owed for 2006 and thereafter.

(PA 05-3, JSS, § 58, effective upon passage and applicable to tax years starting, gifts made, and estates of those who die, on or after January 1, 2006)

Wetland Buffers and the "490" Program

A new law makes many changes to the "490" program, in which eligible farm, forest, or open space land is assessed based on its current use, rather than its full market value. Among other things, the law modifies when a land transaction or use change incurs a conveyance tax.

If an inland wetland agency permit requires that land serve as a buffer (thereby subjecting it to development restrictions), a municipality must assess the land as though it were wetlands.

(PA 05-190, the wetland provision is effective upon passage and the 490 program provisions are effective July 1, 2005)

VALIDATING CERTAIN CONVEYANCES

A new law validates a recorded mortgage, lease, release, assignment, or other document conveying or otherwise affecting a real estate interest from a fiduciary to himself recorded before January 2, 1997 unless someone has initiated a legal proceeding to set aside the transfer and recorded a *lis*

pendens notice on the land records within 10 years after the document was recorded. (A *lis pendens* is a notice filed on the land records, which advises that a lawsuit affecting real estate is pending against the owner of that property. Once recorded, it serves as notice to anyone who subsequently acquires any interest in the property and binds him to the lawsuit's outcome.)

Under prior law, a recorded notice of *lis pendens* was invalid and did not constitute constructive notice of the lawsuit unless the person recording the notice served a true and attested copy of it on the property owner within 30 days after recording it. The new law eliminates the requirement to serve a copy of the *lis pendens* in foreclosure actions. Thus, a recorded notice of *lis pendens* involving a foreclosure of a mortgage or other lien would be valid and bind those who subsequently acquire an interest in the property even if the foreclosing party did not serve the property owner with a copy of the *lis pendens*.

The law requires the party that recorded the *lis pendens* notice to file a copy of the papers showing that the notice was served on the property owner with the clerk of the court in which the lawsuit that affects the property is pending. The act requires the clerk to include a copy in the court record.

The law also validates certain actions and activities regarding:

1. property tax exemption in the cities of Bloomfield, Branford, East Hartford, Hartford, Milford, and Norwich and

2. subdivision plan or maps in New Fairfield.
(PA 05-247, effective October 1, 2005)