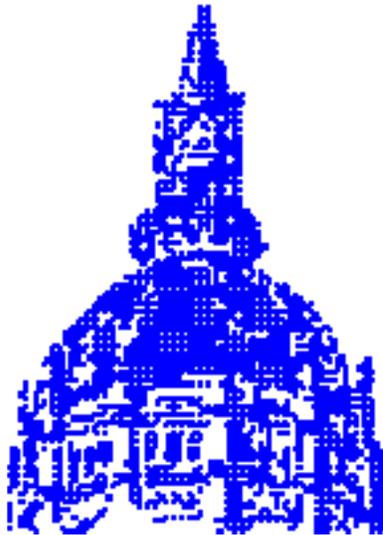


Office of Legislative Research  
Connecticut General Assembly



**OLR ACTS AFFECTING**

**REAL ESTATE**



Janet L. Kaminski, Associate Legislative Attorney  
2007-R-0487  
August 17, 2007

## **NOTICE TO READERS**

This report provides brief highlights of new laws affecting real estate enacted during the 2007 regular and special session. Each summary indicates the public act (PA) number and effective date.

Not all provisions of the acts are included here. Complete summaries of all 2007 public acts will be available in the fall when OLR's Public Act Summary book is published; some are already on OLR's webpage (<http://www.cga.ct.gov/olr/OLRPASums.asp>).

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, House Clerk's Office, or General Assembly's website (<http://www.cga.ct.gov/>).

## Table of Contents

<b>BROWNFIELDS .....</b>	<b>4</b>
<b>EMINENT DOMAIN.....</b>	<b>4</b>
Takings for Public Use and Economic Development.....	4
Deteriorated Land; Property Rights Ombudsman .....	6
<b>FARMLAND PRESERVATION .....</b>	<b>6</b>
Bonds; Advisory Board .....	6
Agricultural Land Acquisition Loans .....	7
<b>HOUSING FINANCE AUTHORITY .....</b>	<b>7</b>
<b>INSURANCE.....</b>	<b>7</b>
Condominiums .....	7
Guaranty Association.....	8
Storm Damage Mitigation.....	8
<b>LEAD REMEDIATION AND MANAGEMENT .....</b>	<b>9</b>
<b>MOBILE MANUFACTURED HOME.....</b>	<b>9</b>
<b>MORTGAGES.....</b>	<b>9</b>
National Licensing System .....	9
Real Estate Closings.....	10
Request for Payoff Statement .....	11
Unfair or Deceptive Acts.....	11
<b>OPEN SPACE GRANTS .....</b>	<b>11</b>
<b>PLANNING AND ZONING.....</b>	<b>11</b>
Subdividing Wetlands .....	11
Zoning Appeals .....	12
<b>REALTOR LICENSURE AND FEES .....</b>	<b>12</b>
<b>SALE OF TOWN PROPERTY .....</b>	<b>12</b>
Hearings .....	12
Hearing Exceptions .....	13
<b>STATE PROPERTY TRANSFERS REPEALED .....</b>	<b>13</b>
<b>TAXES .....</b>	<b>13</b>
Commercial Lobstering; 490 Program.....	13
Land Conservation Tax Abatement.....	14
Municipal Conveyance Tax.....	14
Municipal Lien for Aged or Disabled Tax Relief.....	14
Municipal Lien for Overdue Tax .....	14
Solar Energy Tax Exemption; CRRR leased land.....	15
Unimproved Land.....	15
<b>TRANSACTIONS .....</b>	<b>15</b>
Presence of Hunting Grounds.....	15
Subdivisions .....	16

## **BROWNFIELDS**

**PA 07-233** expands the state's capacity to clean up and redevelop contaminated property (i.e., brownfields). It establishes a new program to finance these activities and authorizes the Department of Economic and Community Development (DECD) to administer it. It allows the Connecticut Development Authority to guarantee bank loans and issue bonds on behalf of towns for redeveloping brownfields. The act allows tax assessors to reduce the value of contaminated business property when owners agree to remediate it.

The act gives property owners more latitude when voluntarily cleaning up contaminated properties. It expands the role of licensed environmental professionals in overseeing that process and specifies procedures for documenting, verifying, and auditing their work. The act also broadens the conditions under which the Department of Environmental Protection (DEP) commissioner can enter into covenants not to sue with parties that agree to remediate contaminated sites according to DEP standards. It also makes it easier for state agencies to develop contaminated property in floodplains.

The act establishes a pilot program for identifying brownfields in areas where the Office of Policy and Management secretary recommends targeting state development dollars. It reestablishes the Brownfields Task Force and requires it to recommend additional brownfield remediation options to the legislature by February 1, 2008.

The act expands Office of Brownfield Remediation and Development's (OBRD) duties and makes it a unit of DECD. It also increases the number of towns OBRD must select for the Brownfields Pilot Program from four to five.

EFFECTIVE DATE: July 1, 2007

## **EMINENT DOMAIN**

### ***Takings for Public Use and Economic Development***

**PA 07-141** makes many changes to the laws towns must follow when taking property to be developed and used for roads, parks, and schools (i.e., public uses) or apartments, stores, and factories (i.e., economic development). The act prohibits towns from taking property if the goal is primarily to increase tax revenue. It also eliminates their authority to take property for economic development under the municipal powers statutes.

By law, towns must prepare plans showing how they intend to develop the property they plan to acquire or take. The act requires these plans to include more information, analyses, and findings about the need to take specific properties. It also requires towns to review and approve plans every 10 years and adds more steps to the planning process.

By law, towns may implement the plans by acquiring, preparing, assembling, and transferring parcels. The act adds more steps to the taking process. It requires towns to hold a public hearing on each taking and state why it is necessary. It requires town legislative bodies to approve each taking under a Chapter 132 or 588l plan by a two-thirds vote. The act allows property owners to ask the Superior Court to enjoin takings if the town or agency failed to follow the correct statutory procedure. It gives towns a minimum of 10 years to complete a taking.

The act specifies how towns must compensate owners when taking their property for economic development. The act explicitly requires them to determine value based on two independent appraisals. The act changes the procedure the court must follow when reviewing a town's offer of compensation for economic development and other takings. The changes include

allowing a tax judge, in addition to a judge trial referee, to review the statement of compensation and allowing the parties to use the offer of compromise statute, which provides a procedure to offer to settle a case. The act also increases relocation benefits when towns take property for economic development to compensate owners for being displaced.

The act establishes a right of first refusal for owners whose property was taken. If a town decides that it cannot use the property as intended or for a public purpose, it must offer the property for sale back to the original owner. The town must do this before offering to sell the property to anyone else.

The act makes it an unfair trade practice for anyone to represent they have eminent domain power when negotiating to acquire a property unless they are an appointed or elected official of a public agency with that power.

Lastly, the act requires the Department of Transportation (DOT) commissioner to pay relocation benefits when acquiring a billboard and specifies how to determine the benefit amounts. **(PA 07-207** requires him to do so only if it does not conflict with federal

law.) It allows billboard owners and others receiving relocation benefits from DOT to appeal the benefit amounts to the State Property Review Board.

EFFECTIVE DATE: Various

### ***Deteriorated Land; Property Rights Ombudsman***

**PA 07-207** specifies the criteria towns must use to determine if an area is deteriorated or deteriorating. By law, towns may designate an area for redevelopment if it is deteriorated, deteriorating, substandard, or detrimental to the community's safety, health, morals, or welfare. The designation allows them to prepare and implement plans for acquiring and improving land so that it can be developed for public or private purposes.

By law, towns may acquire property by eminent domain using specified procedures. A town must notify the court about the amount it offered for the property and the owner may appeal that offer. The act specifies conditions under which the court must refer the town's offer to the property rights ombudsman, who must review it and report back to the court. The law already allows the court to refer the statement to a trial judge referee.

Lastly, the act requires the ombudsman to study whether it is feasible to base relocation benefits on the unique gains or losses of operating a business at a specific location (i.e., good will). It limits the study's scope to situations when a town takes a property for private economic development. The ombudsman must report his findings and recommendations to the legislature by January 1, 2008.

EFFECTIVE DATE: Upon passage for the business good will study; October 1, 2007 for the remaining provisions and applicable to plans prepared and appeals started on or after that date

### **FARMLAND PRESERVATION**

#### ***Bonds; Advisory Board***

**PA 07-162** requires the State Bond Commission to vote on whether to issue, at certain times and when available, bonds that the legislature approved for agricultural land preservation programs but the commission has not allocated.

The act creates a 12-member Farmland Preservation Advisory Board to help the agriculture department with its purchase of development rights program and other efforts to preserve agricultural lands.

EFFECTIVE DATE: July 1, 2007

### ***Agricultural Land Acquisition Loans***

**PA 07-131** requires the agriculture commissioner to administer a program that provides eligible municipalities with loans to purchase agricultural land. The act provides that municipalities (1) are eligible for the loan if they provide at least 20% of the purchase price for the land and (2) may apply for it on a form the commissioner prescribes. Under the act, the loan term cannot exceed five years and is not subject to interest.

EFFECTIVE DATE: July 1, 2007

### **HOUSING FINANCE AUTHORITY**

**PA 07-234** requires the Connecticut Housing Finance Authority (CHFA) to use at least 10% of its annual private activity bond allocation for multifamily residential housing in calendar year 2008 and at least 15% in each subsequent year. By law, 60% of the private activity bonds that are issued must be allocated to CHFA.

The act also requires CHFA's board of directors to review and analyze the authority's multifamily housing goals and programs to determine how it

can increase production and promote preservation of multifamily housing, including housing for households with incomes (1) less than 50% of the area median and (2) less than 25% of the area median. The board must also review the use of private activity bonds in conjunction with 4% federal tax credits and report its findings and recommendations to the Planning and Development and Housing committees by January 1, 2008.

EFFECTIVE DATE: July 1, 2007

### **INSURANCE**

#### ***Condominiums***

**PA 07-68** requires condominium associations governed by the Common Interest Ownership Act to maintain flood insurance if (1) the property is located in a flood hazard area, as defined and determined by the National Flood Insurance Act and (2) the unit owners, by vote, require it. By law, common expenses for these common interest communities include the cost of repairing and replacing any portion of the common interest community that exceeds the insurance proceeds from the insurance the association must provide by law. The act specifies that common expenses also include any excess resulting from any applicable insurance deductible.

The act imposes similar requirements for condominiums governed by the Condominium Act. For these condominiums, the requirement applies only if the condominium instruments or unit owners' vote requires it. The act imposes this requirement on the association acting through its board of directors, managing agent, or other authorized agent. The act requires, instead of authorizes, them to provide other types of insurance, including workers' compensation, directors' indemnity, and specialized policies covering lands or improvements in which the unit owners' association has or shares ownership or other rights, if the condominium instruments or unit owners' vote requires it.

Under prior law, premiums for insurance that the law requires the condominium associations governed by the Condominium Act to provide had to be treated as common expenses. This act allows the condominium instruments to instead assess the cost of the insurance coverage against the units in proportion to risk.

EFFECTIVE DATE: October 1, 2007

### ***Guaranty Association***

**PA 07-21** increases the coverage limit for the Connecticut Insurance Guaranty Association from \$300,000 to \$400,000 for

claims arising under policies of property and casualty insurers determined insolvent on or after October 1, 2007. By law, the association pays the full amount of workers' compensation claims.

EFFECTIVE DATE: October 1, 2007

### ***Storm Damage Mitigation***

**PA 07-77** prohibits an insurer from refusing to issue or renew a homeowners insurance policy solely because a person has not installed permanent storm shutters on his or her home to mitigate loss from hurricanes and severe storms. It requires an insurer to offer an actuarially sound premium discount to homeowners who install permanent storm shutters or impact-resistant glass for loss mitigation purposes.

The act authorizes the insurance commissioner to (1) establish and adopt regulations for a Coastal Market Assistance Program (CMAP) to help coastal-area residents obtain homeowners insurance and (2) require an insurer that does not issue or renew a homeowners policy to tell the homeowner about CMAP in writing.

EFFECTIVE DATE: Upon passage, except for the insurer prohibition and premium discount provisions, which are

effective January 1, 2008. (**PA 07-4**, June Special Session (JSS), changes the effective date of the insurer prohibition to July 1, 2007.)

## **LEAD REMEDIATION AND MANAGEMENT**

**PA 07-2**, JSS (§§ 54-56 & 60), permits owners of dwellings with toxic lead levels occupied by children under age six to remediate the dangerous materials. (The law requires abatement or management of the materials.) It defines remediation as the use of interim controls, including paint stabilization, spot point repair, dust control, specialized cleaning, and mulching soil. The act requires the public health department to establish requirements and procedures for lead testing, remediation, and management of toxic materials.

The act permits the local or district health director to order the responsible party to correct cracked, chipped, blistered, flaking, peeling, or loose lead-based paint on exposed interior surfaces in rented one- or two-family houses, mobile homes, apartment buildings and boarding houses. It also permits the health director to order a property owner to remediate any nuisance (including lead paint, plumbing, sewerage, and ventilation) they find on the owner's property. Under prior law, they could order only

abatement. The act extends nuisance law provisions to owners or occupants ordered to remediate a nuisance.

The act applies federal Occupational Health and Safety Administration standards for lead-related work, to the extent they apply to employers and employees, to lead abatement, removal, remediation, management, and other activities conducted under the act's provisions.

EFFECTIVE DATE: October 1, 2007

## **MOBILE MANUFACTURED HOME**

**PA 07-43** specifies that replacing a mobile manufactured home in a mobile manufactured home park with one that has the same or different dimensions does not constitute an expansion of a nonconforming use, if the home is built in compliance with federal mobile manufactured home construction and safety standards.

EFFECTIVE DATE: Upon passage

## **MORTGAGES**

### ***National Licensing System***

**PA 07-156** allows the banking commissioner to participate in the national mortgage licensing system. It (1) requires mortgage

originators to be licensed rather than registered; (2) allows the system to process mortgage lender, broker, and originator licenses in Connecticut and receive and maintain related records; and (3) makes a number of conforming changes regarding confidentiality, criminal history record checks, and license fees. The act defines the national mortgage licensing system as the system that the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators will implement under a uniform mortgage licensing project. The system is expected to be fully operational by 2008.

The act requires the banking commissioner to submit to the Banks Committee three consecutive annual reports, including financial statements of the State Regulatory Registry, LLC, on the licensing system. Each financial statement must cover a 12-month period. Each report must be submitted within 10 days after the commissioner receives the financial statement.

EFFECTIVE DATE: September 30, 2008

### ***Real Estate Closings***

**PA 07-91** requires first and second mortgage loan proceeds to be paid when the loan is consummated or, in the case of a loan where the mortgagor has the right to rescind the transaction

within three days under Regulation Z, at the end of this period. Under prior law, proceeds had to be paid when the loan was executed or at the termination of the rescission period. The act allows the lender to pay the loan proceeds to any person specified in the settlement agreement or any written agreement, as well as to the mortgagor or his attorney as allowed under prior law. The law allows funds to be paid by certified bank or cashier's check or by wire transfer.

The act repeals requirements specifically for first and second mortgage loan proceeds paid by wire transfer. Specifically, prior law required these proceeds to be transferred to the bank that holds the mortgagor's attorney's account in a timely manner, but no later than the scheduled time and date of closing or, if there is a right to rescind, by the disbursement date. For second mortgages, the requirement only applied to loans to finance the acquisition or initial construction of the mortgagor's principal dwelling. The law also specifically allowed the commissioner to suspend, revoke, or refuse to renew a license for failure to comply. The commissioner can still take these actions generally for any violation of the banking laws.

EFFECTIVE DATE: October 1, 2007

## ***Request for Payoff Statement***

**PA 07-210** authorizes a mortgagor's attorney to make a written request for a payoff statement directly to the mortgagee if the request (1) is in connection with a default on the mortgage and (2) contains representations that the person requesting the payoff statement is the mortgagor's attorney and the mortgagor has authorized the request.

By law, a mortgagee, upon written request of the mortgagor (or the mortgagor's attorney or other authorized agent), must provide a written payoff statement to the person requesting it on or before the date specified in such request, if the request date is at least 10 business days after the date the mortgagee received the written request.

EFFECTIVE DATE: October 1, 2007

## ***Unfair or Deceptive Acts***

**PA 07-118** prohibits first and second mortgage lenders and brokers from engaging in any unfair or deceptive act or practice, as defined in the act, when soliciting a mortgage secured by residential property in Connecticut if the solicitation is based in any way on a mortgage trigger lead. It makes a violation of its provisions an unfair or deceptive trade practice under

the Connecticut Unfair Trade Practices Act.

EFFECTIVE DATE: October 1, 2007

## **OPEN SPACE GRANTS**

**PA 07-131** increases grant ceilings for, and makes adjustments to, the Open Space and Watershed Acquisition Grant Program. By law, grants under the program are capped at certain percentages of a desired property's fair market value. The act increases those percentages. It also increases, from 2% to 5%, the percentage of grant funds that the environmental protection department may use for certain administrative expenses related to the program.

EFFECTIVE DATE: July 1, 2007

## **PLANNING AND ZONING**

### ***Subdividing Wetlands***

**PA 07-102** requires a planning commission to accept an application it has received to subdivide or resubdivide land regulated as an inland wetland or watercourse by a local wetland agency, and process it on the commission's schedule set in existing law. By law, the commission must consider the wetland agency's report in making its decision. The act requires the commission, if it imposes terms and conditions

that are not consistent with the wetland agency's final decision, to state its reasons for being so on the record.

The act imposes the same requirements on zoning commissions when they act on site plan applications that are also subject to a wetlands agency jurisdiction.

EFFECTIVE DATE: October 1, 2007

### ***Zoning Appeals***

**PA 07-60** allows an appeal of a zoning decision on a special permit or special exception to go to the Superior Court for the judicial district where the property is located, notwithstanding any right to appeal the decision to the local zoning board of appeals.

EFFECTIVE DATE: October 1, 2007

### **REALTOR LICENSURE AND FEES**

**PA 07-214** requires the Real Estate Commission to authorize, and the consumer protection department to issue, an annual renewal of a real estate broker's license if one of two conditions are met: the brokerage (1) was licensed on September 30, 2005 or (2) changes the designated real estate broker.

The act eliminates the \$5 annual fee imposed on real estate broker or salesperson applicants for licensure to maintain eligibility to retake the licensing examination. It also eliminates the \$25 fee for a duplicate license.

EFFECTIVE DATE: July 1, 2007

### **SALE OF TOWN PROPERTY**

#### ***Hearings***

**PA 07-218** requires towns to hold a public hearing on a proposed sale, lease, or transfer of certain town land or buildings. A town must hold the hearing before giving final approval to a transaction. This requirement applies to property whose fair market value exceeds \$10,000 or lease renewals that would change how a property is used. It also applies whenever the town proposes to sell parkland, open spaces, or playgrounds, regardless of the land's fair market value.

The town must publish at least two hearing notices in a newspaper serving the town and conspicuously post a sign on the subject property.

EFFECTIVE DATE: October 1, 2007

## ***Hearing Exceptions***

**PA 07-251** broadens the exceptions to a public hearing requirement for towns established in PA 07-218 before giving final approval to the sale, lease, or transfer of town land or buildings. It excepts the sale, lease, or transfer of real property the municipality acquires by foreclosure from the requirement. PA 07-218 already excepts the following situations from the hearing requirement: (1) sales of property, other than parkland, open space, or a playground, whose fair market value is \$10,000 or less and (2) lease renewals when the property's use does not change.

EFFECTIVE DATE: October 1, 2007

## **STATE PROPERTY TRANSFERS REPEALED**

**PA 07-232** repeals three previously authorized transfers of Department of Transportation property that were not consummated because the designated recipient chose not to acquire the property. The parcels are in Sprague, Milford, and Meriden.

EFFECTIVE DATE: Upon passage

## **TAXES**

### ***Commercial Lobstering; 490 Program***

**PA 07-127** provides a property tax break for certain licensed commercial lobstermen by treating portions of waterfront property they own and use for lobstering as “490 program” land. Under the 490 program, farm, open space, and forest land is assessed at its current use value for property tax purposes.

The act defines “maritime heritage land” as the portion of waterfront real property that a licensed commercial lobster fisherman owns and uses for commercial lobstering. It excludes buildings the lobsterman does not use exclusively for commercial lobstering. The lobsterman must have earned at least 50% of total federal adjusted gross income in the prior tax year from commercial lobster fishing.

By law, a conveyance tax is imposed on land in the 490 program when (1) its use classification changes or (2) it is sold or transferred within 10 years of its classification (with certain exceptions). The act extends the same conveyance tax penalty, as well as other 490 program provisions, to property classified as maritime heritage land.

The act also adds a municipal option for an additional 50% commercial property tax break for land classified as maritime heritage land.

EFFECTIVE DATE: July 1, 2007

### ***Land Conservation Tax Abatement***

**PA 07-170** allows towns, with their legislative bodies' approval, to abate a nonprofit land conservation organization's taxes or interest on delinquent taxes that were due and unpaid before it acquired property.

EFFECTIVE DATE: Upon passage and applicable to assessment years beginning October 1, 2007.

### ***Municipal Conveyance Tax***

**PA 07-1**, JSS (§ 128), extends the 0.25% municipal real estate conveyance tax rate for one year, until July 1, 2008. Under prior law, the rate was scheduled to drop from 0.25% to 0.11% on July 1, 2007.

EFFECTIVE DATE: July 1, 2007

### ***Municipal Lien for Aged or Disabled Tax Relief***

**PA 07-251** reduces the lien amount a town can place on a property receiving local-option property tax relief for property

owners over age 65 or permanently disabled. By law, the town providing the property tax relief may file a lien on the property if the owner is receiving (1) the optional property tax relief, (2) tax relief from two other programs for the elderly and disabled, and (3) the combined relief exceeds 75% of the owner's property tax liability. Prior law required the lien to be equal to the total amount of tax relief. Under the act, the lien must be equal to the amount of the tax relief that exceeds 75% of the property tax liability.

EFFECTIVE DATE: October 1, 2007

### ***Municipal Lien for Overdue Tax***

**PA 07-99** increases, from one to two years after property tax becomes due on real property, the time period that a municipality has a "silent (unrecorded) lien" on the property under CGS § 12-172 for the taxes. It thus makes this provision consistent with CGS § 12-175, which gives a tax collector two years from the tax due date to file a certificate on the land records to continue the lien.

EFFECTIVE DATE: October 1, 2007, and applicable to liens filed on or after that date.

***Solar Energy Tax Exemption;  
CRRA leased land***

**PA 07-255** eliminates a property tax exemption expiration date. Municipalities may exempt active, passive, and hybrid solar energy heating and cooling systems from property taxes for 15 years after they are installed. Such exemptions were formerly allowed only for (1) active systems installed on or after October 1, 1976 and before October 1, 2006 and (2) passive and hybrid systems installed on or after April 20, 1977 and before October 1, 2006. The act eliminates the October 1, 2006 expiration dates, thus allowing more recently installed systems to be eligible for exemptions. The exemption applies to the difference between what the assessed valuation of the property would be with a conventional heating and cooling system and what it is when equipped with a solar system.

The act also allows a municipality to tax certain property owned by the Connecticut Resources Recovery Authority (CRRA) and leased to someone else. It requires the lessee to pay the tax. Under prior law, all CRRA property was exempt from local property taxes.

EFFECTIVE DATE: July 1, 2007

***Unimproved Land***

**PA 07-154** defines unimproved land, for purposes of the commercial real estate conveyance tax, as farm, forest, or open space.

EFFECTIVE DATE: July 1, 2007

**TRANSACTIONS**

***Presence of Hunting Grounds***

**PA 07-214** establishes a means by which certain residential property sellers and real estate licensees may notify buyers how to discover if hunting or shooting sports regularly take place in the area. Specifically, it allows an owner of property on which hunting or shooting sports regularly take place to place the property location on a list kept by the town clerk, but provides that it may not be construed to impose liability on the property owner for failing to enter the property on the list. The act requires town clerks to keep the list available to the public for inspection and post a notice of its availability in the clerk's office in the area where land records are kept.

The act provides, in connection with the sale of a one-to-four family residential property, that if a seller provides written notice to the purchaser, before or on entering into the contract, that a list of local

properties on which hunting or shooting sports regularly takes place may be available in the town clerk's office, then the seller and the real estate licensee are deemed to have fully satisfied any duty to disclose the presence of such properties, even if (1) the list is not available in the town clerk's office or (2) there is an error, omission, or inaccuracy in the list.

EFFECTIVE DATE: July 1, 2007

### ***Subdivisions***

**PA 07-182** subjects anyone who "transfers title" to any lot subdivided based on a planning commission's conditional subdivision approval before receiving its final approval to a \$1,000 fine for each title transferred. Thus, it permits a person to enter a contract to sell such a lot or offer it for sale, but not close on the sale until receiving final approval. (Prior law subjected anyone who "sells or offers for sale" such a lot to a fine of up to \$500 for each lot sold or offered for sale.)

The act also gives the buyer of a lot that is subject to conditional subdivision approval a limited right to rescind the sale contract within three days of receiving notice of the planning commission's final approval. The buyer may rescind the contract if the final approval includes new amendments or conditions that

he or she finds unacceptable. Both the final approval and the rescission must be in writing.

EFFECTIVE DATE: July 1, 2007

JLK:ts