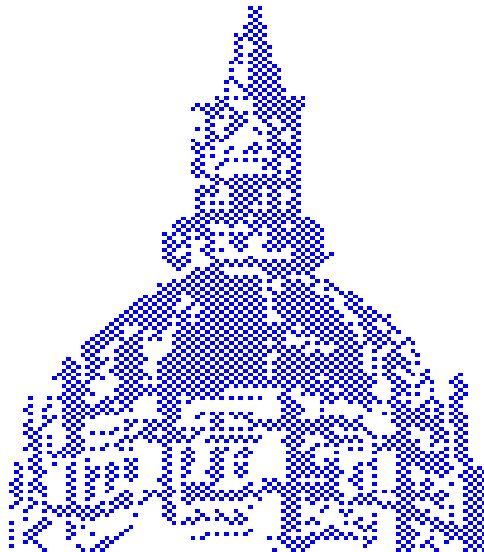


Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

REAL ESTATE



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NOTICE TO READERS

This report provides brief highlights of new laws affecting real estate enacted during the 2013 regular session. Each summary indicates the public act (PA) number and effective date. In some cases, these acts have other effective dates for their provisions that are not related to real estate.

Not all provisions of the acts are included here. Complete summaries of all 2013 public acts will be available when OLR publishes its Public Act Summary book; some are already on OLR's website (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 (www.cga.ct.gov/).

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**BLIGHT AND PUBLIC
NUISANCES**

Municipal Blight Task Force

PA 13-132 establishes a 15-member task force to study procedural problems in addressing blight at the municipal level. The task force must draft model municipal blight ordinances and propose legislation to help municipalities address blight more effectively.

EFFECTIVE DATE: Upon passage

Public Nuisances

PA 13-174 broadens the circumstances in which the nuisance abatement law applies by adding various firearm-related offenses and other crimes and certain municipal ordinance violations to the list of violations that can trigger the law. The act makes other changes including lowering the state's burden of proof.

Under the public nuisance abatement law, the state can file civil suits seeking various forms of relief when there are three or more arrests, or three or more arrest warrants indicating a pattern of criminal activity, for specified offenses at a property within the last year. Among other things, the law allows courts to order the property closed until the nuisance is eliminated.

EFFECTIVE DATE: October 1, 2013

**CONTAMINATED PROPERTY
CLEAN-UP**

Brownfield Funding

The bond act (**PA 13-229**, §§ 13 & 32) authorizes \$20 million for FY 14 and \$10 million for FY 15 for the Department of Economic and Community Development (DECD) for brownfield remediation and redevelopment projects. It also authorizes \$5 million for both FYs 14 and 15 for Department of Energy and Environmental Protection (DEEP) for grants to identify, investigate, contain, remove, or mitigate contaminated urban industrial sites.

EFFECTIVE DATE: July 1, 2013 for the FY 14 authorization and July 1, 2014 for the FY 15 authorization

Brownfields Programs

PA 13-308 makes many changes to the state's brownfield programs and related environmental laws. Among other things, the new law separates the existing DECD brownfield grant and loan program. It consolidates brownfield funds into a separate, nonlapsing account in the General Fund. It also establishes a new DEEP-administered brownfield liability program for municipalities.

The new law changes the standards for determining whether DEEP must be notified when technical environmental professionals or property owners become aware of pollution causing a significant environmental hazard and the requirements for further investigation, mitigation, and monitoring. It also establishes a new form of an environmental use restriction, called a notice of activity and use limitation, to be used and recorded in cases of certain releases.

EFFECTIVE DATE: July 1, 2013

Underground Storage Tank Petroleum Clean-Up Program

The state's underground storage tank petroleum clean-up program, for a certain time, provides reimbursement for investigation and remediation costs incurred from releases of petroleum from underground storage tanks. State law provides a system for paying claims, but the program is being phased-out.

PA 13-247 modifies the (1) circumstances under which program funds are redistributed among categories of participants and (2) status of entities that obtained an assignment of a claim before July 1, 2012, potentially advancing the date by which they will be paid.

EFFECTIVE DATE: Upon passage

Private Transfer Fees

PA 13-229 bans private transfer fees on and after June 24, 2013. A "private transfer fee" is, with some exceptions, a fee or charge payable (1) upon the conveyance and subsequent conveyance of an interest in real property located in Connecticut or (2) for the right to make or accept the conveyance. Under the act, anyone aggrieved by a private transfer fee imposed on or after June 24, 2013 may sue for damages in Superior Court.

For any private transfer fee obligation in existence as of June 24, 2013, the act requires the obligation to be (1) disclosed in any future sale contract and (2) recorded in the town's land records by December 31, 2013. The act also specifies how real property can become unencumbered by an existing obligation.

EFFECTIVE DATE: Upon passage

COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM (C-PACE)

The law requires the Clean Energy Finance and Investment Authority (CEFIA) to establish this program for qualifying commercial properties, including multifamily buildings with five or more units. Under the program, owners of such property in participating municipalities may finance energy improvements by paying a special assessment on

the participant's property tax bill. PA 13-116 adds (1) district heating and cooling and (2) solar thermal or geothermal system projects to the types of energy improvements that may be financed under the program. Under the act, a district heating and cooling system is a local system consisting of a pipeline or network providing hot water, chilled water, or steam from one or more sources to multiple buildings. By law, energy efficiency and renewable energy improvements are already eligible for the program.

By law, the assessment on a property that participates in the C-PACE program is backed by a lien on the property. Under prior law, the municipality had to place a notice on the land records indicating that the assessment and lien are anticipated once the improvements are completed. PA 13-298 (§§ 42-43) alternatively allows CEFIA to levy the benefit assessment and file the lien on the land records based on the improvements' estimated costs before or once they are completed. To the extent that assessments are paid in installments and an installment is late, the lien may be foreclosed to the extent of any unpaid installments and related penalties, interest, and fees. If the lien is foreclosed, the lien survives the foreclosure judgment to the extent of any unpaid installments secured by

the lien that were not the subject of the foreclosure judgment.

EFFECTIVE DATE: Upon passage (both acts)

CONVEYANCES

Conveyance Forms

PA 13-87 requires that a document conveying land include the grantee's current mailing address. Under the act, failure to include the grantee's current mailing address in a document that affects any interest in real property in the state is considered an insubstantial defect. By law, any such document is as valid as if the address had been included.

EFFECTIVE DATE: October 1, 2013

FORECLOSURES

PA 13-136 makes numerous changes in the Judicial Branch's foreclosure mediation program, including:

1. identifying the program's objectives and expanding its scope to include short sales and deeds in lieu of foreclosure as options;
2. extending the program for two years, to June 30, 2014, for foreclosure actions with return dates of July 1, 2008 through June 30, 2009;
3. establishing a pre-mediation process and requiring the delivery and exchange of specified

- information during this period;
4. establishing new requirements for when to end or extend the mediation period, including requiring the mediator to file a report with the court after each mediation session indicating whether the parties will benefit from further mediation; and
 5. requiring the chief court administrator to submit summaries of the mediator reports to the Banks Committee by February 14, 2014 and February 14, 2015.

The act also establishes expedited foreclosure procedures for vacant and abandoned properties.

EFFECTIVE DATE: July 15, 2013

LAND USE

Agricultural Development Rights

PA 13-59 expands the allowable uses for municipal agricultural land preservation funds. Specifically, it allows a municipality to use the funds to acquire an agricultural land owner's rights to build any residence or farm structure on agricultural land. It also explicitly allows the municipality to accept these rights as a gift.

By law, a municipality may establish an "agricultural land preservation fund" to acquire the

development rights of, and preserve, agricultural land. "Development rights" are the agricultural land owner's rights to develop, build on, sell, lease, or improve the land for uses that make the land no longer agricultural. But they do not include the owner's rights to build residences for people directly incidental to farm operation and other farm structures, among other things.

EFFECTIVE DATE: Upon passage

Farmland Preservation

PA 13-104 modifies the state's community farms and farmland preservation programs, under which the state purchases development rights to certain agricultural land. By law, the Department of Agriculture (DoAg) administers these programs.

The act generally applies requirements for acquiring development rights to land under the Farmland Preservation Program to the Community Farms Program. Among other things, it:

1. requires the DoAg commissioner to file a notice of acquisition of the land's development rights,
2. provides a procedure to remove the restriction on development,
3. allows the commissioner to enter into partnerships with nonprofit organizations and

- municipalities to buy development rights, and
4. allows special terms when buying development rights with federal funds under an agreement with the U.S. Department of Agriculture.

The act also expands the development rights that a municipality may jointly own with the state under the Farmland Preservation Program if the municipality pays part of the purchase price for the rights. Prior law restricted a municipality's ownership to the development rights of the land within its borders. The act removes this restriction, thus allowing a municipality to jointly own all of the purchased development rights, even if part of the land is outside its borders. It correspondingly applies the expanded purchase rights to the Community Farms Program.

EFFECTIVE DATE: Upon passage

Nonconforming Structures

PA 13-9 allows structures built in violation of zoning regulations to be deemed nonconforming under the same circumstances as buildings. This means a structure that (1) violates setback requirements or (2) sits on a lot in violation of minimum lot area requirements is a nonconforming structure if the applicable zoning regulations are not enforced within the first three years of the violation. The act places the burden of proving

that a structure, but not a building, is nonconforming on the property owner.

The act allows towns to define "structure" in their zoning regulations. If not defined locally, the act defines "structure" as any combination of materials, other than a building, that is affixed to land. The definition includes signs, fences, walls, pools, patios, tennis courts, and decks.

EFFECTIVE DATE: October 1, 2013

LANDLORD-TENANT

Electronic Payments

For residential leases or rental agreements executed on or after October 1, 2013, **PA 13-87** prohibits landlords from requiring that rent or security deposits be paid by electronic funds transfer. The act defines "electronic funds transfer" as a funds transfer initiated through an electronic terminal, telephone, computer, or magnetic tape that orders, instructs, or authorizes a financial institution to debit or credit an account. It does not include any transfer originated by check, draft, or similar paper instrument.

EFFECTIVE DATE: October 1, 2013

Sexual Assault Victims

PA 13-214 makes a number of changes to the domestic violence and sexual assault laws. Among other things, the act permits a sexual assault victim to terminate a rental agreement without penalty under some circumstances.

EFFECTIVE DATE: October 1, 2013

LIABILITY

PA 13-231 requires DEEP to preserve and maintain Connecticut's portion of the New England National Scenic Trail. It authorizes (1) DEEP to acquire land for the trail, including rights-of-way and easements and (2) other agencies to transfer land to DEEP. It specifies that the primary trail use is as a foot path, but that other uses may be permitted if they do not substantially interfere with this purpose. It gives immunity from liability to a person who grants a trail right-of-way across his or her property, except for willful or wanton misconduct.

EFFECTIVE DATE: Upon passage

MISCELLANEOUS

Historic Properties

PA 13-181 authorizes municipalities to adopt ordinances to protect the historic or architectural character of properties and districts that are listed on, or being considered for

listing on, the state or national register of historic places.

EFFECTIVE DATE: October 1, 2013

Mortgage Recording Fees

PA 13-184 (1) increases the fees a “nominee of a mortgagee” must pay to town clerks when recording certain documents, including warranty deeds, quitclaim deeds, mortgage deeds, or mortgage assignments, and (2) specifies how the fee revenue must be allocated between the state and municipality.

Under the act, a “nominee of a mortgagee” is any person who (1) serves as mortgagee for a mortgage loan that is registered on a national electronic database that tracks changes in mortgage servicing and ownership interests in residential mortgage loans on behalf of its members and (2) is a nominee or agent for the promissory note's owner or the note's subsequent buyer, transferee, or owner.

EFFECTIVE DATE: July 15, 2013

Smoke Detectors

PA 13-272, with exceptions, requires a seller, before transferring title to a one- or two-family dwelling for which a new occupancy building permit was issued before October 1, 2005, to give the buyer an affidavit certifying that the (1) permit was issued on or after October 1, 1985 or (2) dwelling is equipped

with smoke detection and warning equipment (smoke detectors) complying with the act. The affidavit must also certify that the building (1) is equipped with carbon monoxide (CO) detection and warning equipment complying with the act or (2) does not pose a risk of CO poisoning because the building does not have a fuel-burning appliance, fireplace, or attached garage. A transferor who fails to provide the affidavit must credit the transferee with \$250 at the closing.

EFFECTIVE DATE: January 1, 2014

Stormwater Authority Tax Liens

PA 13-222 subjects charges from any municipal stormwater authority that are more than 30 days overdue to interest at the same rate the municipality's tax collector charges for delinquent property taxes (1.5% per month or part of a month or 18% per year). Under the act, any unpaid authority charge is a lien on the property against which it is levied, running from the date it became delinquent. The lien may be continued, recorded, and released like a property tax lien.

EFFECTIVE DATE: October 1, 2013

PROPERTY TAX

Assessment Decrease Phase-ins

PA 13-204 eliminates a municipality's authority to phase in all or part of the decreases in real property assessments after a property revaluation. Prior law gave municipalities the option to do so, using methods comparable to those the law allows for phasing in increases in property values.

EFFECTIVE DATE: July 1, 2013, and applicable to assessment years beginning on or after October 1, 2013

Assessment of Apartments in Capital City Economic Development District

PA 13-184 (§ 96) requires Hartford to assess all apartments with four or more units that the Capital Region Development Authority constructs or converts in the statutorily designated Capital City Economic Development District the same way it assesses residential property with three or fewer units throughout the city. In doing so, it lowers the apartment property's assessment ratio. For the 2013 assessment year, it lowers the assessment ratio from 60% to 29.2% (with an additional adjustment of between 0% and 5% to reflect the growth in property tax revenue).

EFFECTIVE DATE: July 1, 2013, and applicable to assessment years starting on or after October 1, 2013

Land Value Tax Pilot Program

PA 13-247 (§ 329) expands, from one to three, the number of municipalities that, under an OPM pilot program, can develop a plan for taxing land at a higher rate than buildings (i.e., land value tax). It also modifies the program's requirements and extends the deadline for submitting final plans to the legislature.

EFFECTIVE DATE: October 1, 2013

Mashantucket/Mohegan Property Revaluation

PA 13-138 requires certain Mohegan and Mashantucket Pequot property to be revalued every five years. It applies to real property (1) designated within the 1983 settlement boundary and taken into trust by the federal government for the Mashantucket Pequots before June 8, 1999 and (2) taken into trust by the federal government for the Mohegans at any time. Prior law exempted this property from revaluation.

PA 12-1, June 12 Special Session, made this land eligible for a state payment in lieu of taxes (PILOT) grant equal to 45% of the property taxes that would have been paid on the land and phased in the payment over five

years. By law, PILOT grants are based on a property's assessed value as of the prior October 1. Thus, by requiring the Mohegan and Mashantucket property to be revalued, the act also ties the land's PILOT grant to its revalued assessment.

EFFECTIVE DATE: July 1, 2013 and applicable to assessment years starting on or after October 1, 2013 for these provisions

Property Tax Collection

PA 13-276 makes numerous changes in the municipal tax collection statutes, including (1) allowing tax collectors to deny a refund if a taxpayer is delinquent in other taxes or has other debt, (2) modifying the time limit for municipalities to give property tax refunds under certain circumstances, and (3) modifying the order in which tax collectors must apply property tax payments.

EFFECTIVE DATE: October 1, 2013

Property Tax Incentives for Certain Development Projects

PA 13-246 expands a municipality's authority to fix or defer property tax assessments on certain development projects.

The law allows municipalities to fix the tax assessment for a range of real estate development projects and bases the period for doing so on the value of the improvements. The act

decreases, from \$25,000 to \$10,000, the minimum cost of projects eligible for a three year fixed assessment. It also expands the uses for which municipalities may fix assessments to include mixed-use developments.

Other statutes allow municipalities to defer an increased property tax assessment on property located in a designated rehabilitation area if the property is being rehabilitated or constructed for certain uses. Under prior law, the rehabilitation area could include all or part of a municipality that is deteriorated; deteriorating; substandard; or detrimental to the safety, health, welfare, or general economic well-being of the community. The act specifies that only one or more properties in a rehabilitation area need to meet these criteria to be considered a rehabilitation area.

EFFECTIVE DATE: October 1, 2013

Renewable Energy Exemption

PA 13-61 (1) exempts from the property tax certain renewable energy sources installed on or after January 1, 2014 and (2) allows municipalities to abate the property taxes for renewable energy sources installed between January 1, 2010 and December 31, 2013.

For assessment years starting on or after October 1, 2014, the act exempts from the property

tax renewable energy sources installed on or after January 1, 2014. The exempt property must (1) be for energy generation or displacement for commercial or industrial purposes; (2) not produce more energy than the location will need; and (3) be a (a) Class I renewable energy source (e.g., solar or wind power), (b) Class II renewable hydropower facility, or (c) solar thermal (e.g., solar heated water) or geothermal renewable energy source.

The exemption begins one year earlier in New Haven and applies to the same renewable energy sources installed as early as January 1, 2010.

For the same renewable energy sources installed between January 1, 2010 and December 31, 2013, the act allows other municipalities to abate up to 100% of the property taxes in assessment years starting on or after October 1, 2013. The exemption must be approved by the municipality's legislative body, or, if the legislative body is a town meeting, the board of selectmen.

Once approved, the exemption does not need to be renewed unless the renewable energy source is altered in a way that requires a building permit.

EFFECTIVE DATE: Upon passage and applicable to assessment years starting on or after October 1, 2013

Surviving Spouse Abatement

PA 13-204 allows municipalities to extend a property tax abatement program for surviving spouses of police officers or firefighters killed in the line of duty to surviving spouses of emergency medical technicians killed in the line of duty. By law, municipalities may establish the program, by ordinance, to abate all or part of property taxes due on an eligible spouse's principal residence.

EFFECTIVE DATE: October 1, 2013

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