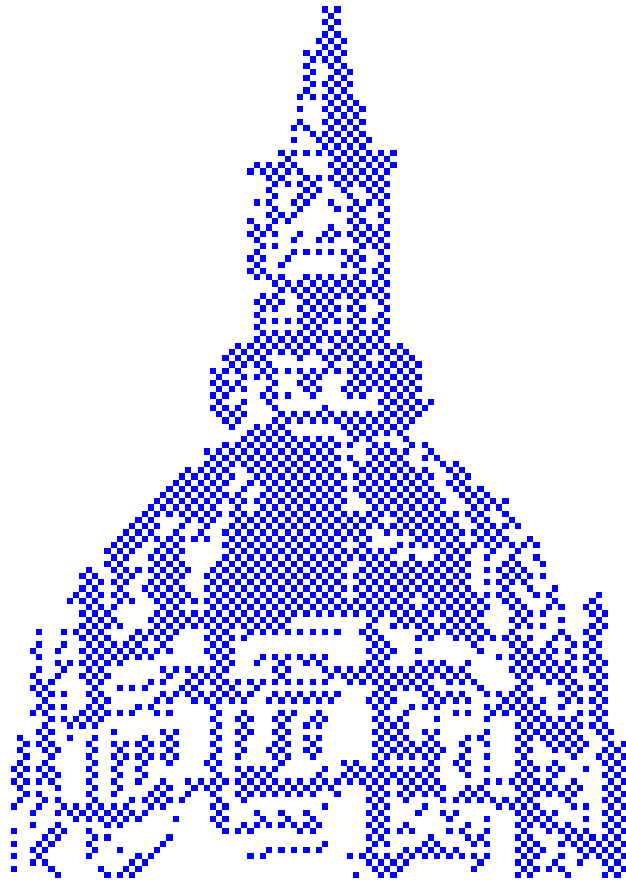




ACTS AFFECTING REAL ESTATE



2015-R-0165

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July 31, 2015

NOTICE TO READERS

This report provides highlights of new laws (public acts) affecting real estate enacted during the 2015 legislative session. In each summary, we indicate the public act (PA) number.

Not all provisions of the acts are included here. Complete summaries of all 2015 public acts are available on OLR's webpage: <http://cga.ct.gov/olr/olrsums.asp>.

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

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ADVERSE POSSESSION

A new law prevents land subject to a conservation restriction held by a nonprofit land-holding organization from being acquired by adverse possession.

Connecticut law recognizes adverse possession as a way to acquire title to property. Adverse possession is accomplished by an open, visible, exclusive, and uninterrupted possession of land for 15 years. The law also recognizes the right to acquire a right-of-way or other easement by continuous, uninterrupted use of someone else's land for 15 years.

([PA 15-211](#), § 30, effective October 1, 2015)

BROKER LICENSURE REQUIREMENTS

A new law changes the education requirements for an initial real estate broker license. Specifically, it requires a license applicant to successfully complete a 15-hour course in real estate legal compliance and a 15-hour course in real estate brokerage principles and practices, instead of a 30-hour course in real estate appraisal and another 30-hour course prescribed by the Real Estate Commission. In addition, it requires an applicant to also complete two 15-hour elective courses prescribed by the commission, unless the applicant has successfully completed at least 20 real estate transactions in the previous five years.

([PA 15-98](#), effective July 1, 2016)

BROWNFIELD REMEDIATION

A new law makes programmatic changes in several Department of Economic and Community Development (DECD) brownfield remediation programs. Among other things, it adds new components to the Municipal Brownfield Grant program, which provides grants to municipalities and economic development agencies for assessing and remediating contaminated property. One allows DECD to make additional grants needed to complete an ongoing project. The other allows DECD to make grants for preparing comprehensive plans to remediate and redevelop multiple brownfields.

The act also increases maximum loan amounts under the Brownfield Loan Program from \$2 million per year for up to two years to \$4 million per year for an unlimited number of years. The program finances investigation, assessment, and remediation costs.

The act makes it easier for developers that acquire brownfields they did not contaminate to participate in DECD's program that protects them from liability to the state and third parties. It does so by specifying that the duty to investigate the property's prior ownership and use is tied to the standards that are in effect when they acquire the property.

Lastly, the act expands the range of brownfields DECD can remediate and market to include those the state owned and transferred to other parties. It allows DECD to select these brownfields for its brownfields priority list.

([PA 15-193](#), effective July 1, 2015)

HIGHWAY DISCONTINUANCE

The law generally allows town selectmen to discontinue all or part of a highway, private way, or land dedicated to such use with approval by a majority vote at a regular or special town meeting. A new law requires the selectmen to notify owners of certain abutting properties before meeting to take final action on a proposed discontinuance. If the discontinuance is approved, the act requires them to (1) notify the property owners of the discontinuance by mail and (2) record certain information on the land records.

The act allows a property owner aggrieved because he or she did not receive the required meeting notice to apply to the Superior Court for relief within 120 days after the discontinuance notice is recorded on the land records. It reduces, from eight months to 120 days, the period during which a person aggrieved by a discontinuance may appeal to the Superior Court.

([PA 15-147](#), effective October 1, 2015 and applicable to discontinuances proposed to take effect on or after that date)

INHERITANCE AND ESTATES

A new law prohibits someone convicted of certain crimes from inheriting or receiving part of an estate from the victim. This applies when a conviction as a principal or accessory of the crime is final and when the conviction is for 1st or 2nd degree larceny, 1st degree abuse of an elderly, blind, or disabled person or person with intellectual disabilities, or a similar crime in another jurisdiction. The act also prohibits someone from inheriting or receiving part of an estate if he or she would have been found guilty of one of these crimes, as a principal or accessory, if he or she had survived, as determined by the Superior Court by a preponderance of the evidence in an action brought by an interested person.

Prior law contained a specific provision about joint tenancy with right of survivorship (where two or more people jointly own the property and the survivor takes full ownership). The act limits the rule to ownership of real property and creates a new rule for personal property.

Previously, if someone was convicted of certain specified crimes (e.g., murder with special circumstances, murder, felony murder, arson murder, or 1st degree manslaughter with or without a firearm) and owned property with the deceased in joint tenancy with right of survivorship, the person and the deceased became tenants in common when the conviction was final. (Tenants

in common is where each owns an interest that can be transferred and the interest does not end when the person dies.) The act limits this rule to joint tenancies with right of survivorship involving real property. It also applies this rule to people convicted of 1st or 2nd degree larceny or 1st degree abuse.

([PA 15-236](#), § 4, effective October 1, 2015)

LEASING LIGHTHOUSE BOTTOMLANDS

A new law expands the Department of Energy and Environmental Protection commissioner's authority to lease, or otherwise allow the occupancy of, submerged lands under or associated with lighthouses in order to preserve these structures pursuant to the National Historic Lighthouse Preservation Act (NHLPA). Prior law limited this authority to the Penfield Reef Lighthouse, off Fairfield's coast. The act extends it to include any lighthouse in Connecticut waters.

Under the act, the leases must be (1) for 30 years and subject to renewal if the lighthouse is sold under the NHLPA or (2) coterminous with the lighthouse's lease. They must also ensure consistency with the state's coastal management law and other state interests such as preserving historic structures, public education, and allowing reasonable public access when a nonprofit organization is the lessee. The act specifies that lessees

must obtain the local, state, or federal permits required to build new structures or appurtenances on the submerged lands.

([PA 15-35](#), effective upon passage)

MORTGAGE SERVICERS

Existing law requires mortgage servicers, with some exceptions, to obtain a license from the banking commissioner. Under certain circumstances, a new law allows Connecticut-licensed mortgage correspondent lenders to act as mortgage servicers for residential mortgage loans they make without obtaining a mortgage servicer license. Specifically, they may do so during the loan's 90-day holding period if they are operating from a licensed main or branch office.

The act requires these correspondent lenders to follow the law's requirements for mortgage servicers when performing this role, including recordkeeping and disclosure requirements, complying with federal law and fee schedule restrictions, and avoiding prohibited acts. But the act does not require them to meet the surety and fidelity bond and errors and omissions coverage requirements for mortgage servicers.

([PA 15-53](#), §§ 1-3, effective upon passage)

PARTITION OF HEIRS' PROPERTY

A new law creates procedures governing certain actions to partition real property owned by multiple parties as tenants in common. A partition action happens when a party (cotenant) seeks to physically divide the property into separate parcels.

Under the act, when a cotenant files an action to partition property, the court must (1) determine if the property is heirs' property based on the act's criteria and determine its fair market value and (2) follow the act's procedures for partitioning it instead of those in prior law. The act's procedures allow cotenants to buy all of the interests of cotenants seeking to sell the property in the partition action. If all of those interests are purchased, the court reallocates interest in the property. If no cotenant elects to buy the interests, the court must partition the property by (1) selling it (partition by sale) or (2) physically dividing it into separate parcels (partition in kind), depending on the circumstances the act specifies.

The act also abolishes restrictions on land conveyances which exist when a person obtains the land through a "fee tail" provision of a will or deed. It allows the person holding land in "fee tail" to convey ownership when and to whom he or she chooses, instead of requiring that ownership pass upon his or her death to his or her descendants, who may then convey it as they choose. A

person holds land in "fee tail" when the deed or will which conveyed the land specifically states that the conveyance is to a person "and the heirs of his or her body."

([PA 15-234](#), effective October 1, 2015)

PROPERTY TAX BASE REVENUE SHARING PROGRAM

A new law authorizes councils of government (COG), with the unanimous approval of their member municipalities, to establish a property tax base revenue sharing program under which the municipalities in their planning regions (1) tax commercial and industrial (C&I) property at a composite mill rate, based in part on the average mill rate in their regions, and (2) share up to 20% of the property tax revenue generated by the growth in their C&I property tax bases since 2013, which the act designates as the base year.

It allows COG to establish the program beginning with the 2015 assessment year and, for those doing so, requires municipalities to begin, on or after January 1, 2017, annually remitting revenue sharing payments by February 1, for redistribution.

([PA 15-244](#), §§ 211-215, effective October 1, 2015 and applicable to assessment years beginning on and after that date)

PROPERTY TAX CREDIT REDUCED

Beginning in the 2016 income year, a new law reduces, from \$300 to \$200, the maximum property tax credit against the personal income tax. It also reduces, in two steps, the adjusted gross income threshold at which the maximum property tax credit starts to phase out. By law, the percent of property tax paid that can be taken as a credit declines as income increases until it completely phases out.

([PA 15-244](#), § 70, effective July 1, 2015 and applicable to income years beginning on and after January 1, 2015)

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