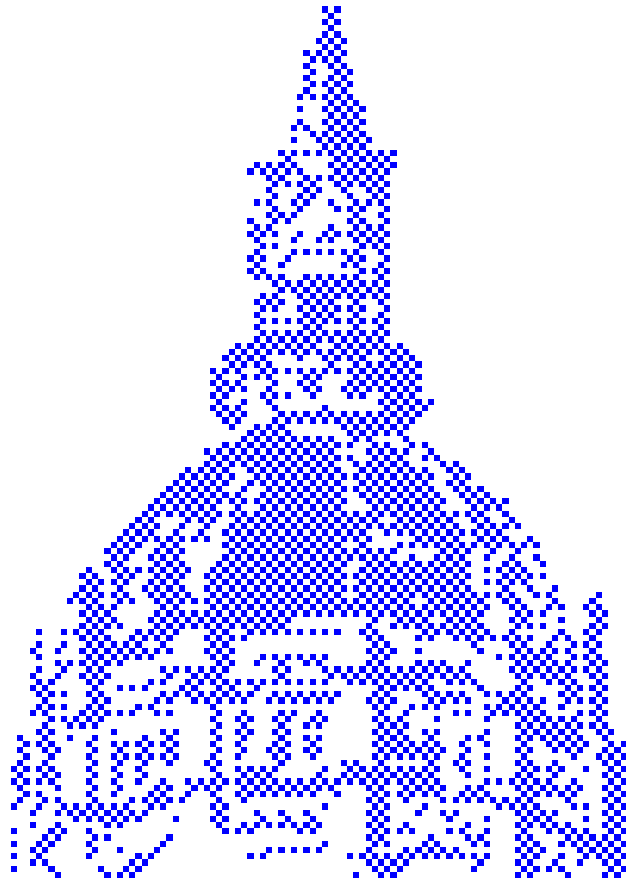




## ACTS AFFECTING REAL ESTATE



2016-R-0115

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June 21, 2016



## **NOTICE TO READERS**

This report summarizes laws passed during the 2016 regular and May special sessions affecting real estate. In each summary, we indicate the Public Act (PA) or Special Act (SA) number. We do not include vetoed public acts, unless the legislature overrode the governor's veto.

Not all provisions of the acts are included. Complete summaries of all 2016 Public Acts will be available on OLR's webpage: <http://www.cga.ct.gov/olr>.

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/default.asp>).

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## **CONSUMER PROTECTION**

### ***Heating Fuel Contracts***

Under prior law, heating fuel contracts had to allow a consumer to purchase the tank and associated equipment within five years after the contract began. A new law instead allows consumers the option of making the purchase at any point during the contract at a commercially reasonable price ([PA 16-69](#), effective July 1, 2016).

### ***Home Improvement Services***

The legislature passed a law applying several requirements to people who perform certain residential property repair or remediation work. The new law requires anyone performing water, fire, or storm restoration or mold remediation to register as a home improvement contractor. It also requires any contract for repair, remediation, or mitigation work relating to a claim under a personal or commercial risk insurance policy to comply with the home improvement law's required contract content requirements. It requires disclosures to these insureds regarding their right to waive their right to cancel contracts for work performed on an emergency basis. Lastly, the new law eliminates an exemption for people performing work covered by the home improvement law from providing the insured with a written notice of the work to be

completed and its cost ([PA 16-35](#), effective January 1, 2017).

## **GRANTS AND AID**

### ***Renters' Rebate Program Grants***

A new law requires the Office of Policy and Management (OPM) secretary to reduce Renters' Rebate Program grants as necessary to keep within available appropriations. If reductions are made, they must be implemented by a percentage reduction to all grants ([PA 16-3, May Special Session \(MSS\)](#), § 82, effective July 1, 2016).

### ***Tax Freeze Program Reimbursements***

A new law requires OPM to proportionately reduce reimbursements it issues to municipalities under the Tax Freeze Program if appropriations for the program are less than the amount required for full reimbursements (the program has been closed to new applicants since 1979) ([PA 16-3, MSS](#), § 81, effective July 1, 2016).

## **MORTGAGES AND FORECLOSURES**

### ***Expedited Foreclosure Working Group***

A new law requires the Banking Committee, within available appropriations and in consultation with representatives of state agencies, financial institutions, mortgage servicers, attorneys with experience in foreclosure law, and municipalities, to

convene a working group by October 1, 2016 to recommend methods to expedite foreclosures of abandoned properties. The working group must submit its findings to the committee by January 1, 2017 ([PA 16-65](#), § 93, effective July 1, 2016).

### ***Foreclosures***

A new law makes several changes to foreclosure procedures. For example, it creates a new process as an alternative to foreclosure whereby a court may enter a judgment of loss mitigation allowing (1) certain underwater mortgages to be modified without a junior lienholder's consent or (2) the mortgagor (borrower) to satisfy his or her obligation by conveying the property using a transfer agreement. It also makes changes to the (1) foreclosure mediation program, including authorizing mediators to excuse certain parties from mediation sessions for good cause and (2) foreclosure by market sale process, including allowing a mortgagee, under certain circumstances, to file a motion for judgment of foreclosure by market sale ([PA 16-65](#), §§ 73-92, effective October 1, 2016).

### ***Mortgage Servicer Escrow Accounts***

A new law requires a mortgage servicer holding a mortgagor's funds in escrow for taxes and insurance premiums to keep certain records of each escrow account's handling for at least five years after last servicing the

account. It also requires servicers to deposit or invest escrow funds in one or more segregated deposit or trust accounts and reconcile the accounts monthly ([PA 16-65](#), § 8, effective July 1, 2016).

### ***Mortgage Servicers Placing Insurance on Mortgaged Property***

A new law changes when a mortgage servicer is prohibited from placing hazard, homeowners, or flood insurance on mortgaged property. Instead of prohibiting it when the servicer knows or has reason to know the mortgagor has an effective insurance policy, the new law prohibits it when the servicer knows or should have known of the mortgagor's policy ([PA 16-65](#), § 46, effective October 1, 2016).

### ***Protections for Tenants of Foreclosed Property***

A new law makes permanent certain protections for tenants of foreclosed homes that were set to expire December 31, 2017. Under these protections, for foreclosures involving federally-related mortgage loans or any residential property occupied by a Section 8 tenant, the immediate successor in interest takes the property subject to the (1) lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency administering the program ([PA 16-65](#), §§ 43-44, effective October 1, 2016).

## **PROPERTY TAXES AND FEES**

### ***Assessing Commercial Property Based on Net Profits***

Municipalities assess most real and personal property based on a property's fair market value, but a 2015 pilot program allows up to five municipalities to assess up to three business properties based on the net profits of their owners and tenants, if they agree to this assessment method. A new law allows the participating municipalities to assess all commercial property based on net profits if their owners and tenants agree ([PA 16-3, MSS](#), § 31, effective October 1, 2016).

### ***Fee Liens in Estate Settlement Probate Matters***

Under existing law, an unpaid estate settlement probate fee is a lien in favor of the state on any in-state real property included in the basis for fees. A new law specifies that the lien applies only to estates of individuals who died on or after January 1, 2015. It also specifies the circumstances under which the lien is unenforceable against a bona fide purchaser or a qualified encumbrancer and specifies the conditions under which a person can claim either status ([PA 16-65](#), § 64, effective July 1, 2016).

### ***Fees for Recordings***

A new law allows state marshals and other authorized persons to collect a reasonable fee for any recording (e.g., lis pendens) for which a recording fee is

not otherwise prescribed by law. A lis pendens, a written notice that a lawsuit has been filed concerning the title to or interest in a real property, is recorded on the land records of the municipality where the real property is located ([PA 16-64](#), effective October 1, 2016).

### ***Property Tax Exemption for Real Estate Signs***

A new law exempts from the property tax signs placed on properties indicating that the properties are for sale or lease ([PA 16-3, MSS](#), § 203, effective July 1, 2016).

## **PUBLIC SAFETY AND ZONING**

### ***Concrete Foundations***

The legislature passed a law establishing requirements related to residential and commercial concrete foundations. Among other things, it (1) adds requirements for obtaining a certificate of occupancy for a new structure; (2) requires municipalities, at an owner's request, to revalue residential properties with foundation problems; and (3) requires the Department of Consumer Protection (DCP) to investigate the causes of concrete foundation failure and report findings to the legislature ([PA 16-45](#), generally effective on passage and applicable to assessment years beginning on or after October 1, 2016, except the DCP report provision is effective July 1, 2016 and the certificates of occupancy provision is effective October 1, 2016).

### ***Demolition Waiting Period***

A new law generally prohibits, in municipalities that impose a waiting period before granting a demolition permit for a building or structure, a permit applicant from taking any action toward demolition (e.g., site remediation or asbestos abatement) during that time ([PA 16-9](#), effective October 1, 2016).

### ***Temporary Health Care Structures Zoning Task Force***

The legislature passed a law establishing a task force to study the zoning of temporary health care structures and develop a model zoning ordinance for such dwellings. These small, cottage-like dwellings (1) allow a caregiver to provide care to an individual who has a mental or physical impairment and (2) arrive at the installation site primarily pre-assembled ([SA 16-5](#), effective on passage).

## **MISCELLANEOUS**

### ***Bed Bug Infestations in Residential Rental Properties***

The legislature passed a law establishing a framework to identify and treat bed bug infestations in residential rental properties, including public housing but excluding detached, single family homes. It sets separate duties and responsibilities for landlords and tenants, including notice, inspection, and treatment requirements. It also gives landlords and tenants remedies when the other party fails to comply

with these duties and responsibilities ([PA 16-51](#), effective October 1, 2016).

### ***Farm Link Program and Farm Viability Matching Grants***

A new law requires the Department of Agriculture (DoAg) to expand the Farm Link program, which links farmers and agricultural land owners who want to sell their farm or land with people who want to start or expand an agricultural business. The new law opens the program to farmers and agricultural land owners who want to lease or transfer their farm or land. It also requires DoAg to conduct outreach to farmers and land owners and perform on-site investigations of land enrolled in the program. In addition, the new law expands the purposes for which DoAg's farm viability matching grants may be used to include developing and implementing programs and services to promote farm and farmland access and farm transfers. Farm viability grants are available to nonprofit agricultural organizations, municipalities, groups of municipalities, and regional councils of government ([PA 16-107](#), effective on passage).

### ***Inheritance Rights in Certain Cases***

Existing law prohibits defendants found guilty of certain crimes from inheriting or receiving part of the victim's estate. A new law extends these prohibitions to defendants found not guilty by reason of mental disease or defect. It also adds two crimes to

those covered by the prohibitions: 2nd degree manslaughter and 2nd degree manslaughter with a firearm ([PA 16-168](#), effective October 1, 2016).

### ***Notice of Housing Discrimination Laws***

Under a new law, the Commission on Human Rights and Opportunities must create a one-page disclosure form on housing discrimination and federal and state fair housing laws. Anyone offering to sell, lease with the option to buy, or exchange a residential property with at least two units must, at the time of closing, attach to the agreement a copy of the disclosure form, signed by the prospective purchaser ([PA 16-16](#), effective on passage).

### ***Real Estate Guaranty Fund***

A new law eliminates (1) "trickery" as a cause of action for recovering from the Real Estate Guaranty Fund and (2) a requirement that the Real Estate Commission automatically revoke a real estate broker's or salesperson's license when a judgment is entered against him or her ([PA 16-117](#), §§ 1 & 2, effective July 1, 2016).

### ***State Real Property Inventory***

A new law moves, from March 15 to July 1, the deadline for the OPM secretary to annually submit to the Appropriations and Government Administration and Elections committees an inventory of real property owned by the state or leased

by a state agency ([PA 16-180](#), § 1, effective on passage).

### ***Title to Real Property and Related Matters***

A new law makes various changes concerning title to real property and related matters. For example, it specifies that unrecorded disclaimers of certain real property interests are effective against people with actual knowledge of the disclaimer. It validates any conveyance of interest in land made to a trust itself, rather than to the trustee. It also makes minor or clarifying changes concerning affidavits related to real estate, certain mortgage releases, mechanic's liens, and real property judgment liens arising from small claims cases ([PA 16-194](#), effective October 1, 2016).

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