



# ***Legislative Review/2015***

## **Realtor<sup>®</sup> Edition**

### ***Connecticut***

*To Our Realtor Friends:*

Since its founding in 1965, CATIC<sup>®</sup> has produced a *Legislative Review* for its agents following each session of the Connecticut General Assembly. In 1990, we began producing a separate *Realtor Edition* of the *Legislative Review*, tailored to meet the specific concerns of Realtors. The *Realtor Edition* has been used since that time as a component of the educational activities administered by the Connecticut Association of Realtors<sup>®</sup>.

We are pleased to continue this tradition with the following on-line summary of legislative enactments from the 2015 session of the Connecticut General Assembly. With the assistance of the Connecticut Association of Realtors we have selected 24 acts which we feel are of special interest to Realtors.

We hope that you find this material helpful and informative in your continuing efforts to keep current on new laws that affect your business.

Very truly yours,

[Colleen Danehy Lindroos](#)

CATIC

Legal Publications Manager

## Special Acts

### [Special Act 4, An Act Concerning the Retention Schedule for Land Use and Development Records](#)

This Special Act provides that the State Librarian shall submit a report detailing the findings, recommendations and conclusions of the advisory committee on Municipal Records Retention Schedule M10: Land Use and Development. The report shall be submitted to the General Assembly's Planning and Development Committee, on or before January 1, 2016. *Effective June 19, 2015.*

## Public Acts

### [Public Act 21, An Act Concerning the Commercial Property Assessed Clean Energy Program](#)

This act makes revisions to the Commercial Property Assessed Clean Energy Program (C-PACE), allowing third-party capital providers to participate in the program by providing loans directly to property owners who are participating in the program. The program provides financing for energy efficiency or renewable energy improvements on certain commercial and industrial properties in participating municipalities.

The property owner repays the cost of the improvements through an assessment on the subject property. The assessment, together with interest, fees and any penalties, constitutes a lien against the qualifying commercial property, which lien shall take precedence over all other liens and encumbrances except a lien for municipal real estate taxes. *Effective June 4, 2015.*

### [Public Act 48, An Act Concerning Revisions to the Connecticut Business Corporation Act, the Uniform Limited Partnership Act and the Connecticut Limited Liability Company Act](#)

This act makes a number of revisions to the business corporation statutes, covering matters such as proxies, shareholder agreements, qualifications for directors, indemnification of directors, and the reinstatement of a limited liability company or limited liability partnership that has been dissolved due to the failure to maintain a statutory agent for service of process or the failure to file its annual report. *Effective October 1, 2015.*

### [Public Act 53, An Act Concerning Mortgage Correspondent Lenders, the Small Loan Act, Virtual Currencies and Security Freezes on Consumer Credit Reports](#)

This act amends the statutes that govern mortgage servicers and mortgage correspondent lenders, covering matters such as licensing, recordkeeping, fidelity bonds and insurance coverage. The act also addresses small loans and the maximum interest rate that can be charged, virtual currency and money transmission, and security freezes on consumer credit reports. *Effective, generally, on June 19, 2015, with some provisions effective October 1, 2015.*

**[Public Act 57, An Act Establishing Tax Increment Financing Districts](#)**

Existing law allows municipalities to use tax increment financing to finance economic development projects, but under narrower conditions than those that are established in this new act. The act allows a municipality's legislative body to establish a tax increment district within the municipal boundaries in accordance with the act's requirements. Those requirements include certain criteria for designating and establishing such a district. The municipality's legislative body shall adopt a master plan for the district, including a financial plan that defines the costs and revenue sources required to accomplish that master plan. *Effective October 1, 2015.*

**[Public Act 60, An Act Making Minor and Technical Changes to Department of Consumer Protection Statutes](#)**

Sections 5 and 6 of this act concern, respectively, the New Home Construction Guaranty Fund and the Home Improvement Guaranty Fund. The act revises the process for applying for reimbursement of losses caused by a new home contractor or home improvement contractor. The act also increases, from \$5,000 to \$10,000, the amount that the Commissioner of Consumer Protection may order a respondent to pay a consumer under the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110d. *Effective October 1, 2015, with sections 5 and 6 applicable to orders and decrees entered on or after said date.*

**[Public Act 66, An Act Concerning a Long Island Sound Blue Plan and Resource and Use Inventory](#)**

This act establishes an advisory committee to assist the Commissioner of Energy and Environmental Protection in developing a plan to preserve and protect Long Island Sound. The Commissioner and the advisory committee shall collect information and data regarding the natural resources and uses of the Sound, and shall establish the state's goals and set priorities for ensuring the protection of the Sound for the benefit of the public. *Effective July 1, 2015.*

**[Public Act 68, An Act Validating the Action of a Municipal Assessor, Extending the Filing Deadline for Certain Property Tax Exemptions and Concerning Notice Requirements for Zoning Applicants](#)**

Section 1 of this act validates Naugatuck's 2014 grand list, despite the tax assessor's failure to meet statutory deadlines for publishing it. The section also extends the time when hearings may be held with respect to the assessment of any property included on that grand list.

Section 2 of the act amends Conn. Gen. Stat. § 8-7d(a), relative to the notice that is provided to property owners when certain municipal land use commissions plan to hold a public hearing relative to adjacent property. As unamended, the statute provides that the adjacent owners shall be determined based on information contained on the property tax map or on the last-

completed grand list as of the date the notice is mailed. The amended statute adds the following: “a title search or any other additional method of identifying persons who own land that is adjacent to the land that is the subject of the hearing shall not be required.”

The remainder of the act extends the statutory deadlines for taxpayers in Durham, North Branford, and Windsor to file claims for certain property tax exemptions. *Effective June 19, 2015.*

#### **Public Act 95, An Act Concerning Municipal Plans of Conservation and Development**

Conn. Gen. Stat. § 8-23 provides that municipalities must update their plans of conservation and development every ten years in order to remain eligible for discretionary state funding. Prior law temporarily waived this requirement for updates that were due after July 1, 2010. This new act reinstates the requirement as of July 1, 2016. The act also revises the content of the municipal plan relative to the identification of areas served by existing sewerage systems, areas where such systems are planned, and areas where they are to be avoided. *Effective June 22, 2015.*

#### **Public Act 98, An Act Concerning Licensure Requirements for Real Estate Brokers**

Conn. Gen. Stat. § 20-314 sets forth the licensure requirements for real estate brokers. This act amends the statute to change the education requirements for the initial license. The act also provides that the Real Estate Commission may waive some of those education requirements if the applicant has successfully completed at least twenty real estate transactions within the five years immediately preceding the date of application. *Effective July 1, 2016.*

#### **Public Act 119, An Act Concerning Freedom of Association in Public Housing**

This act prohibits municipalities and entities who operate state or federally funded public housing projects from barring tenants from using common facilities or community rooms for political activities. Political activity includes events organized in the interests of a political party or candidate for office, the circulating or signing of petitions, community political meetings, campaigning, and expressing opinions about candidates and political or social issues. *Effective July 1, 2015.*

#### **Public Act 124, An Act Extending the Foreclosure Mediation Program**

This act makes numerous changes to the foreclosure mediation program, including an extension of the program until July 1, 2019. Matters covered by the act include the scope of the program, the information that the mortgagee must provide to the mediator and the mortgagor, the timing of the pre-mediation meeting, and deadlines imposed on the process. The program is now applicable to “permitted successors in interest,” defined, generally, as those named as a defendant in the foreclosure action with a return date on or after October 1, 2015 who are either (1) the former spouse of a decedent mortgagor who acquired sole title to the property

by virtue of a transfer from the decedent-mortgagor's estate or by virtue of the death of the decedent where title was held as joint tenants or tenants in the entirety, or (2) the spouse or former spouse of a mortgagor or former mortgagor where the transfer resulted from a court decree dissolving the marriage, or a legal separation or property settlement agreement incidental to such a decree or separation agreement. *Effective July 1, 2015.*

**Public Act 147, An Act Concerning the Discontinuance of Highways and Private Ways by Municipalities**

Conn. Gen. Stat. § 13a-49 allows the selectmen of any town, upon approval by a majority vote at any regular or special town meeting, to discontinue any highway or private way, in whole or in part. Section 1 of this act amends the statute to require the selectmen to notify owners of certain abutting properties before they meet to take final action on a discontinuance. If the town discontinues all or any portion of the highway or private way, the selectmen shall provide written notice of the discontinuance to the same persons to whom notice was sent concerning the meeting, and record a notice of the discontinuance or partial discontinuance on the land records. The statute is further amended to provide that any person aggrieved by a discontinuance under the statute shall have 120 days after notice of discontinuance is recorded to apply to the superior court for relief. Any owner of property who is aggrieved by the failure to receive the meeting notice may apply to the superior court for relief within 120 days after notice of discontinuance is recorded. The amended statute sets forth a number of defenses that may be asserted by the town to excuse the failure to provide notice.

Section 2 of the act amends Conn. Gen. Stat. § 13a-62 to reduce, from eight months to 120 days, the time in which a person aggrieved by the doings of the selectmen in laying out a highway map may appeal to the superior court. *Effective October 1, 2015, with section 1 applicable to discontinuances or partial discontinuances proposed to take effect on or after said date.*

**Public Act 156, An Act Concerning the Municipal Tax Collection Statutes**

This act makes several changes to the municipal tax collection statutes. Section 1 amends Conn. Gen. Stat. § 12-144b to provide that the municipality shall follow written instructions from a party liable for taxes on more than one property as to which property or properties a specific payment shall be applied. The statute is also amended to remove the requirement that tax collectors apply payments for outstanding personal or real property taxes to recording fees related to the taxpayer's delinquency.

Section 3 (Conn. Gen. Stat. § 12-146a) allows municipalities and district health departments to withhold or revoke any business license or permit they have issued if the licensee or permit holder is delinquent for at least one year in paying water, sewer, or sanitation charges levied by a water pollution control authority, the municipality, or any constituent municipality of the district health department. The statute already provides similar authority as to delinquent taxes.

Sections 5 and 6 amend Conn. Gen. Stat. §§ 12-157 and 12-158, concerning tax sales. Revisions made to those statutes cover matters such as the content of the notice sent to the taxpayer before the sale; the rules governing published notice, and notice to interested parties, after the sale; the redemption period; and the content of the tax collector's deed. [Editor's Note: Section 47 of Public Act 5 of the June Special Session amends section 6, concerning the content of the tax collector's deed, to remove the requirement that the deed specify that the property may be subject to *state* liens.] *Effective October 1, 2015.*

**[Public Act 184, An Act Concerning the Failure to File for Certain Tax Exemptions, the Extension of Certain Tax Credits and Development Programs, Exemptions from Certain Financial Assistance and Admissions Tax Requirements, and Validations](#)**

Section 7 amends Conn. Gen. Stat. § 12-63h, concerning a pilot program in which participating municipalities can tax land at a higher rate than buildings, rather than taxing both at the same rate. (The Land Value Taxation Pilot Program) The act gives participating municipalities more time to comply with one of the procedural requirements of the program, and provides that a participating municipality is ineligible for subsequent selection to participate in the pilot program. *Effective, generally, July 1, 2015, with some provisions effective July 2, 2015.*

**[Public Act 186, An Act Concerning Public Information Meetings Regarding Telecommunication Towers](#)**

Conn. Gen. Stat. § 16-50/ concerns public information meetings that are held on applications with the Siting Council relative to telecommunication towers. The act amends the statute to provide that the applicant shall pay all administrative expenses associated with this meeting. *Effective October 1, 2015.*

**[Public Act 193, An Act Concerning the Remedial Action and Redevelopment Municipal Grant Program, the Targeted Brownfield Development Loan Program and the Remediation of State-Owned and Formerly State-Owned Brownfields](#)**

This act makes changes to a number of brownfield remediation programs managed by the Department of Economic and Community Development. Matters covered by the act include financial support for the municipal brownfield grant program, increased loan amounts under the brownfield loan program, the expansion of the Department's priority list of eligible property to include property that was formerly owned by the state, and an easing of the standards that determine whether a bona fide prospective purchaser may participate in the Department's program that protects developers from liability to the state and to third parties for cleaning up brownfields. *Effective July 1, 2015.*

**Public Act 194, An Act Concerning the Encouragement of Local Economic Development and Access to Residential Renewable Energy**

This act makes a number of changes to the state's residential solar investment program, which offers financial incentives in order to encourage the purchasing or leasing of solar systems for residential properties.

The act also standardizes certain steps in the municipal permitting process for installing residential solar systems. Each municipality shall, by January 1, 2016, incorporate residential solar systems into their building permit application process, or use a residential solar system permit application supplement. Within thirty days after receiving the application the municipality shall inform an applicant for such a system whether the permit is approved or disapproved. The act specifies that nothing in this new statute shall authorize any person to alter any home or structure that is located within a historic district. *Effective July 2, 2015, except that the permitting provision (section 3) is effective October 1, 2015.*

**Public Act 211, An Act Concerning Revisions to the Criminal Justice Statutes, and Concerning the Psychiatric Security Review Board, Domestic Violence, Condominium Associations and Depositions of Persons Living Out-of-State**

Most of this act concerns various criminal matters, and is not related to real property practice. Of interest, however, are the following sections. Sections 25, 26 and 27 concern common interest communities. Section 25 amends Conn. Gen. Stat. § 47-239a, concerning the termination of certain master associations and the transfer of their assets to a new nonstock corporation. The statute is amended to apply this process to common interest communities of not less than 400 units *but not more than 600 units*. Sections 26 and 27 concern executive board actions and allow executive boards to act by not less than two-thirds consent, in lieu of meeting. The statute continues to require executive boards to meet at least twice a year.

Also of interest is section 30, which amends Conn. Gen. Stat. § 47-27. As unamended the statute provides, *inter alia*, that no length of possession, use or occupancy of land belonging to a nonprofit land-holding organization shall create or continue any right in or to that land. The amended statute now also provides that no such right shall accrue as to land that is subject to a conservation restriction held by a nonprofit land-holding organization. *Effective, generally, October 1, 2015, with section 25 effective June 30, 2015, sections 26 and 27 effective October 1, 2015, and section 30 effective October 1, 2015.*

**Public Act 15-229, An Act Delaying a Municipal Tax Revaluation Deadline and Concerning Municipal Reserve Funds**

Most of this act concerns the authority that a municipality has to create a reserve fund to cover certain expenses. The act provides that such a reserve fund may be created to include the costs of property tax revaluations. *These sections of the act are effective October 1, 2015.*

Section 1 of the act allows the town of North Stonington, with the approval of its legislative body, to delay a revaluation scheduled for 2015 until the 2016 assessment. *Effective July 7, 2015, except as noted above.*

**Public Act 234, An Act Concerning the Adoption of the Uniform Partition of Heirs' Property Act and Estates Given in Fee Tail**

The bulk of this act concerns the adoption of the Uniform Partition of Heirs' Property Act, a product of the National Conference of Commissioners on Uniform State Laws. These sections of the act set forth separate procedures that the court is to follow if an action to partition real property is brought and the subject property is "heirs' property." If the property is not heirs' property, the court must follow existing law for a partition action.

Section 15 of the act concerns estates given in fee tail. Conn. Gen. Stat. § 47-3 currently provides that "Each estate, given in fee tail, shall be an absolute estate in fee simple to the issue of the first donee in tail." As amended, the statute will now read, "Each estate given in fee tail shall be an absolute estate in fee simple to the named grantee." *Effective October 1, 2015.*

**Public Act 235, An Act Concerning Revisions to Various Connecticut Banking Statutes**

This act makes numerous unrelated changes to various banking statutes. The bulk of the act (sections 1 through 23) makes several revisions to the Connecticut Truth-in-Lending Act (TILA) to make it substantially similar to the federal TILA and its related regulations. *These sections are effective August 1, 2015.*

Other matters covered by the act include the Banking Commissioner's enforcement authority, recordkeeping and reporting requirements imposed on credit unions and banks, the consumer collection statutes, and bonding requirements imposed on mortgage lenders and brokers. *Effective as noted above, with other sections effective July 7, 2015 and October 1, 2015.*

**Public Act 240, An Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act**

This act adopts the "Connecticut Uniform Power of Attorney Act," based upon a product of the National Conference of Commissioners on Uniform State Laws. The new act covers matters such as the agent's authority, duties and liabilities; the execution of a power of attorney; the appointment of a conservator; and the probate court's review of an agent's conduct. Section 4 of the act provides that a power of attorney created under the new uniform act is durable, unless the document expressly provides that it is terminated by the incapacity of the principal.

The act repeals Conn. Gen. Stat. §§ 1-42 through 1-56 (statutory short form power of attorney), §§1-56h through 1-56k (springing power of attorney), and § 45a-562 (durable power of attorney). *Effective July 1, 2016.*



**Public Act 5, June Special Session, An Act Implementing Provisions of the State Budget for the Biennium Ending June 30, 2017, Concerning General Government, Education, Health and Human Services and Bonds of the State**

This very lengthy act is the so-called “budget implementer.” Of particular interest are the sections of the act that address probate court fees, sections 447, *et seq.* The act raises various fees, establishes a number of new fees, and eliminates the cap on maximum fees for settling an estate of a decedent who died on or after January 1, 2015. *These sections are generally effective July 1, 2015, with some provisions effective January 1, 2016.*

Section 454 of the act ***establishes a lien in favor of the state upon any real property located in the state that is included in the basis for fees of the estate of a deceased person. The new statute provides:***

Sec. 454. (NEW) (*Effective July 1, 2015*) (a) The fees imposed under subsections (b), (c) and (d) of section 45a-107 of the general statutes, as amended by this act, shall be a lien in favor of the state of Connecticut upon any real property located in this state that is included in the basis for fees of the estate of a deceased person, from the due date until paid, with interest that may accrue in addition thereto, except that such lien shall not be valid as against any lienor, mortgagee, judgment creditor or bona fide purchaser until notice of such lien is filed or recorded in the town clerk's office or place where mortgages, liens and conveyances of such property are required by statute to be filed or recorded.

(b) The Probate Court for the district in which the decedent resided on the date of his or her death or, if the decedent died a nonresident of this state, for the district within which real estate or tangible personal property of the decedent is situated, shall issue a certificate of release of lien for any such real property not later than ten days after receipt of payment in full of such fee and interest thereon. The court may issue a certificate of release of lien for any such real property, or portion thereof, if the court finds that the fee and interest thereon has not been fully paid but that payment is adequately assured. A certificate of release of lien may be recorded in the office of the town clerk within which such real property is situated, and such certificate shall be conclusive proof that the fees have been paid and such lien discharged.

The establishment of this lien raises concerns when a pending transaction involves property being sold after a decedent's death. The term “bona fide purchaser” will most likely be construed as it is in the estate tax lien statute, § 12-398(d) read in conjunction with § 12-35b. In other words, one who has “actual, implied, or constructive notice of any tax delinquency” cannot be a bona fide purchaser. If the purchaser of the subject property knows that the owner has died, then the purchaser has notice of the tax liability. Because the lien section relates to

section 448 establishing the new fees, the lien applies to fees for all proceedings in the settlement of the estate of a decedent who dies on or after January 1, 2015.

There is some uncertainty as to the intent of the legislation in terms of its scope. The issue is: what estates and what real property, based on either date of death or status of probate file, are covered by the lien. There was no draft bill made public and there were no public hearings or other public input on any proposed language, thus the statute as written is susceptible of varying interpretations. Hopefully, there will be clarification provided by amendment to the statute during the next session of the legislature.

Section 57 concerns fire sprinkler systems in rented dwelling units. The act provides that when renting any dwelling unit, the landlord of such unit shall include notice in the rental agreement as to the existence or nonexistence of an operative fire sprinkler system in the unit. The notice shall be no less than twelve-point typeface of a uniform font. If there is such a system, the rental agreement shall provide further notice as to the last date of maintenance and inspection. *This section is effective October 1, 2015.*

Sections 73, *et seq.*, concern discriminatory practices in violation of Conn. Gen. Stat. § 46a-58. Section 73 adds a new factor to the list contained in the statute, discrimination based on mental disability. The immediately following sections make various changes to the process for making a discriminatory practice complaint. *These sections are effective October 1, 2015.*

Section 500 of the act extends the statutory deadline for taxpayers in Milford to file claims for certain property tax exemptions. *This section is effective July 1, 2015.*