



General Assembly

Amendment

February Session, 2024

LCO No. 5046



Offered by:

SEN. MARONEY, 14th Dist.

REP. D'AGOSTINO, 91st Dist.

To: Subst. Senate Bill No. 201

File No. 156

Cal. No. 121

(As Amended by Senate Amendment Schedule "A")

**"AN ACT CONCERNING THE ATTORNEY GENERAL'S
RECOMMENDATIONS REGARDING PRICE DISCLOSURE,
SERVICE AGREEMENTS, THE NEW HOME CONSTRUCTION
GUARANTY FUND AND THE CONNECTICUT UNFAIR TRADE
PRACTICES ACT."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2024*) For the purposes of this
4 section and sections 2 to 6, inclusive, of this act:

5 (1) "Person" has the same meaning as provided in section 1-79 of the
6 general statutes;

7 (2) "Record" means to present any instrument to a town clerk for
8 placement in the land records pursuant to section 7-24 of the general
9 statutes;

10 (3) "Rerecord" means to present any previously recorded instrument
11 to a town clerk for placement in the land records pursuant to section 7-
12 24 of the general statutes;

13 (4) "Residential real property" means one-family to four-family
14 residential real estate located in this state;

15 (5) "Real estate listing agreement" means any contract under which a
16 real estate listing provider agrees to provide any real estate listing to any
17 person in connection with any sale of residential real property;

18 (6) "Real estate listing provider" means any person who (A) is a party
19 to a real estate listing agreement, and (B) provides, or agrees to provide,
20 any real estate listing under the real estate listing agreement; and

21 (7) "Unfair real estate listing agreement" means any real estate listing
22 agreement that (A) is entered into on or after July 1, 2024, (B) does not
23 require the real estate listing provider who is a party to such agreement
24 to perform any part of the real estate listing pursuant to such agreement
25 within the one-year period immediately following the date on which the
26 parties to such agreement entered into such agreement, and (C) (i)
27 purports to run with the land or bind future owners of interests in the
28 residential real property that is the subject of such agreement, (ii) allows
29 for any assignment of any right to provide the real estate listing under
30 such agreement without first providing notice to, and obtaining consent
31 from, the owner of the residential real property that is the subject of such
32 agreement, or (iii) purports to create any lien or encumbrance upon, or
33 other security interest in, the residential real property that is the subject
34 of such agreement.

35 Sec. 2. (NEW) (*Effective July 1, 2024*) (a) No real estate listing provider
36 shall enter into any unfair real estate listing agreement with any person
37 who holds any interest in residential real property.

38 (b) No unfair real estate listing agreement shall be enforceable.

39 (c) A violation of subsection (a) of this section shall be deemed an

40 unfair or deceptive trade practice under subsection (a) of section 42-110b
41 of the general statutes.

42 Sec. 3. (NEW) (*Effective July 1, 2024*) No person shall record or
43 rerecord, or cause to be recorded or rerecorded, any unfair real estate
44 listing agreement or any notice or memorandum thereof. If any such
45 agreement, notice or memorandum is recorded or rerecorded, such
46 agreement, notice or memorandum shall not be deemed to provide
47 actual or constructive notice to an otherwise bona fide purchaser or
48 creditor of the residential real property that is the subject of such
49 agreement. Notwithstanding the provisions of section 7-24 of the
50 general statutes, a town clerk may refuse to receive any unfair real estate
51 listing agreement, or any notice or memorandum thereof, for recording
52 or rerecording.

53 Sec. 4. (NEW) (*Effective July 1, 2024*) (a) Not later than July 31, 2024,
54 each real estate listing provider who entered into a real estate listing
55 agreement on or before June 30, 2024, shall rerecord such agreement,
56 and record notice of such agreement, with the town clerk of the town in
57 which the residential real property that is the subject of such agreement
58 is located if such agreement (1) purports to run with the land or bind
59 future holders of interests in such residential real property, (2) allows
60 for any assignment of any right to provide the real estate listing under
61 such agreement without first providing notice to, and obtaining consent
62 from, the owner of such residential real property, or (3) purports to
63 create any lien or encumbrance upon, or other security interest in, such
64 residential real property.

65 (b) Each notice recorded pursuant to subsection (a) of this section
66 shall include (1) the title "Notice of Real Estate Listing Agreement"
67 printed in not less than fourteen-point bold type, (2) a legal description
68 of the residential real property that is the subject of the real estate listing
69 agreement, (3) the amount of the fee specified in the real estate listing
70 agreement or the method by which such fee shall be calculated, (4) the
71 date or circumstances under which the obligation set forth in the real
72 estate listing agreement shall expire, (5) the name, address and

73 telephone number of the real estate listing provider, and (6) if the real
74 estate listing provider is (A) an individual, the notarized signature of
75 the individual, or (B) an entity, the notarized signature of an authorized
76 officer or employee of the entity.

77 (c) If a real estate listing provider fails to rerecord any real estate
78 listing agreement pursuant to subsection (a) of this section, and record
79 a notice of such agreement pursuant to subsections (a) and (b) of this
80 section, on or before July 31, 2024, such agreement shall be void and
81 unenforceable and any interest in the residential real property that is the
82 subject of such agreement may be conveyed free and clear of such
83 agreement.

84 Sec. 5. (NEW) (*Effective July 1, 2024*) (a) If any unfair real estate listing
85 agreement or notice or memorandum thereof is recorded or rerecorded,
86 any person who holds an interest in the residential real property that is
87 the subject of such agreement or the Attorney General may petition the
88 Superior Court for an order declaring such agreement to be void and
89 unenforceable. Such petition shall include (1) the address of such
90 residential real property, (2) the name, address and telephone number
91 of the real estate listing provider who is a party to such agreement, (3)
92 the name and address of each person who is known to hold an interest
93 in such residential real property, and (4) the name of the town, and the
94 volume and page number of the land records, where such agreement,
95 notice or memorandum is recorded or rerecorded.

96 (b) Upon filing a petition under subsection (a) of this section, the
97 petitioner shall provide reasonable notice to the Attorney General and
98 all persons who hold an interest in the residential real property
99 disclosing that the petitioner has filed such petition with the court. The
100 petitioner shall append to the petitioner's complaint a statement
101 certifying that the petitioner has provided such reasonable notice. Such
102 statement shall include the names of such other persons, if known, the
103 nature of their interests in such residential real property and the manner
104 in which the petitioner provided such reasonable notice. If the petitioner
105 fails to provide such reasonable notice, the court may direct the

106 petitioner to provide such reasonable notice and certify to the court that
107 the petitioner has provided such reasonable notice.

108 (c) In reviewing a petition filed under subsection (a) of this section,
109 the court may only consider evidence as to whether the real estate listing
110 provider recorded or rerecorded, or caused to be recorded or
111 rerecorded, an unfair real estate listing agreement or a notice or
112 memorandum thereof. The court may issue an order declaring such
113 agreement, notice or memorandum to be void and unenforceable upon
114 a showing that such agreement, notice or memorandum does not
115 comply with the provisions of sections 1 to 6, inclusive, of this act. Such
116 order shall include the volume and page number of the land records
117 where such agreement, notice or memorandum is recorded or
118 rerecorded, and shall direct the town clerk of the town in which the
119 residential real property is located to discharge the recording or
120 rerecording of such agreement, notice or memorandum as void and
121 unenforceable.

122 (d) If any unfair real estate listing agreement or notice or
123 memorandum thereof is recorded or rerecorded, any person with an
124 interest in the residential real property that is the subject of such
125 agreement may recover such actual damages, costs and attorney's fees
126 as may be proven against the real estate listing provider who recorded
127 or rerecorded such agreement, notice or memorandum or caused such
128 agreement, notice or memorandum to be recorded or rerecorded. Such
129 actual damages, costs and attorney's fees shall be in addition to, and not
130 in lieu of, any damages, costs and attorney's fees awarded in any action
131 brought under chapter 735a of the general statutes for a violation of
132 subsection (a) of section 2 of this act.

133 Sec. 6. (NEW) (*Effective July 1, 2024*) Any real estate listing provider
134 who records or rerecords, or causes to be recorded or rerecorded, any
135 unfair real estate listing agreement or any notice or memorandum
136 thereof, including, but not limited to, any such agreement, notice or
137 memorandum recorded before July 1, 2024, and assigns such real estate
138 listing provider's rights under such agreement shall, not later than thirty

139 days after the date of such assignment, provide notice of such
140 assignment to (1) any person who holds any interest in the residential
141 real property that is the subject of such agreement, (2) the town clerk of
142 the town in which the residential real property that is the subject of such
143 agreement is located, and (3) the Attorney General.

144 Sec. 7. Section 42-110j of the general statutes is repealed and the
145 following is substituted in lieu thereof (*Effective from passage*):

146 In the administration of this chapter, the commissioner may accept
147 an assurance of voluntary compliance with respect to any method, act
148 or practice deemed in violation of this chapter from any person alleged
149 to be engaged or to have been engaged in such method, act or practice.
150 Such assurance may include an amount as restitution to aggrieved
151 persons and for investigative costs. No such assurance of voluntary
152 compliance shall be considered an admission of violation for any
153 purpose. Matters thus closed may at any time be reopened by the
154 commissioner for further proceedings in the public interest. In the event
155 of any violation of the terms of an assurance of voluntary compliance
156 accepted under this section, the commissioner may proceed as provided
157 in sections 42-110d and 42-110e or may request that the Attorney
158 General apply in the name of the state to the Superior Court for relief
159 from such violation consistent with section 42-110m, as amended by this
160 act.

161 Sec. 8. Subsection (a) of section 42-110m of the general statutes is
162 repealed and the following is substituted in lieu thereof (*Effective from*
163 *passage*):

164 (a) Whenever the commissioner has reason to believe that any person
165 has been engaged or is engaged in an alleged violation of any provision
166 of this chapter said commissioner may proceed as provided in sections
167 42-110d and 42-110e or may request the Attorney General to apply in
168 the name of the state of Connecticut to the Superior Court for an order
169 temporarily or permanently restraining and enjoining the continuance
170 of such act or acts or for an order directing restitution and the

171 appointment of a receiver in appropriate instances, or both. Proof of
 172 public interest or public injury shall not be required in any action
 173 brought pursuant to section 42-110d, section 42-110e or this section.
 174 Such action may include an application to enforce any term of an
 175 assurance of voluntary compliance accepted under section 42-110j, as
 176 amended by this act. The court may award the relief applied for or so
 177 much as it may deem proper including reasonable attorney's fees,
 178 accounting and such other relief as may be granted in equity. In such
 179 action the commissioner shall be responsible for all necessary
 180 investigative support.

181 Sec. 9. Subsection (b) of section 42-110o of the general statutes is
 182 repealed and the following is substituted in lieu thereof (*Effective from*
 183 *passage*):

184 (b) In any action brought under section 42-110m, as amended by this
 185 act, if the court finds that a person is wilfully using or has wilfully used
 186 a method, act or practice prohibited by section 42-110b, the Attorney
 187 General, upon petition to the court, may recover, on behalf of the state,
 188 a civil penalty of not more than five thousand dollars for each violation.
 189 For purposes of this subsection, a wilful violation occurs when: [the] (1)
 190 The party committing the violation knew or should have known that his
 191 conduct was a violation of section 42-110b; or (2) a person violates the
 192 terms of an assurance of voluntary compliance accepted under section
 193 42-110j, as amended by this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024</i>	New section
Sec. 2	<i>July 1, 2024</i>	New section
Sec. 3	<i>July 1, 2024</i>	New section
Sec. 4	<i>July 1, 2024</i>	New section
Sec. 5	<i>July 1, 2024</i>	New section
Sec. 6	<i>July 1, 2024</i>	New section
Sec. 7	<i>from passage</i>	42-110j
Sec. 8	<i>from passage</i>	42-110m(a)

Sec. 9	<i>from passage</i>	42-110o(b)
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