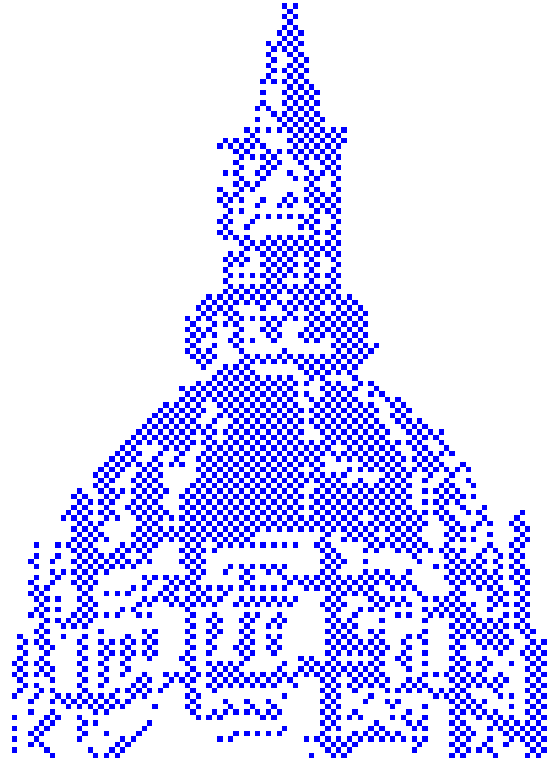




## ACTS AFFECTING REAL ESTATE



2014-R-0167

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## **NOTICE TO READERS**

This report provides highlights of new laws (public acts) affecting real estate enacted during the 2014 regular legislative session. It excludes acts the governor vetoed. In each summary, we indicate the public act (PA) number.

Not all provisions of the acts are included here. Complete summaries of all 2014 public acts are available on OLR's webpage:

<http://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 the General Assembly's website:

<http://www.cga.ct.gov/>.

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## **ECONOMIC DEVELOPMENT**

### ***Brownfield Remediation and Development***

This new law gives property owners investigating and remediating contaminated property more options for complying with the Department of Energy and Environmental Protection's (DEEP) requirements for completing these tasks. It allows those participating in DEEP's voluntary cleanup program to submit interim verifications, signifying that a site was remediated according to department standards, except for groundwater undergoing long-term remediation and monitoring. It allows participants to submit interim or final verifications for part of a site instead of waiting until the entire site is remediated. The new law also exempts more property from the Transfer Act ([PA 14-88](#), effective upon passage).

### ***Connecticut Aerospace Reinvestment Act***

A new law creates a program that compensates large manufacturers proposing industrial reinvestment projects (IRP) for unused state research and development tax credits. A manufacturer qualifies for compensation if it meets specified criteria and agrees to spend at least \$100 million over five years on an IRP, which may consist of activities ranging from constructing new

manufacturing plants to hiring and training employees ([PA 14-2](#), effective upon passage).

Under another new law, any environmental impact evaluation completed for the Rentschler Field Development is deemed to include any planned, proposed, or state-certified IRP under [PA 14-2](#) ([PA 14-217](#), § 226, effective upon passage).

### ***Enterprise Zones***

A new law requires the Department of Economic and Community Development (DECD) commissioner to approve enterprise zones in Wallingford and Thomaston. Businesses in enterprise zones receive certain benefits, including property and real estate conveyance tax exemptions for developing facilities and a 10-year corporation business tax credit for newly formed businesses ([PA 14-217](#), § 177, effective July 1, 2014).

### ***Heritage Parks***

This new law allows the DEEP commissioner to designate or alter a heritage park without (1) getting approval from the affected municipalities' legislative bodies and (2) appointing a board to advise him on the park's boundaries, name, and theme ([PA 14-43](#), effective upon passage).

## ***Surplus State Property***

A new law requires the DECD commissioner, instead of the housing commissioner, to notify the Office of Policy and Management (OPM) secretary whether surplus state property can be (1) used or adapted for economic development or (2) exchanged for property that could be used for that purpose ([PA 14-129](#), effective upon passage).

## **PROPERTY LAW**

### ***Foreclosure by Market Sale***

By law, in a foreclosure proceeding involving real property, the court may issue a judgment of (1) foreclosure by sale or (2) strict foreclosure. A new law adds another option for certain residential properties, called “foreclosure by market sale,” which is a court-approved sale on the open market upon the mortgagee’s request and with the mortgagor’s consent. The act limits this option to the first mortgage on a one- to four-family residential property that is the mortgagor’s principal residence ([PA 14-84](#) as amended by [PA 14-217](#), §§ 207 and 249, effective January 1, 2015).

### ***Landowner Liability for Maple-Sugaring***

Under certain conditions, a new law gives landowners immunity from civil liability for injuries sustained by people they invite or permit on their land, without charge, to engage in

maple-sugaring activities. The immunity applies only if the people are engaging in maple-sugaring on behalf of a nonprofit organization or corporation for its own use or for distribution to other nonprofit organizations or corporations. The immunity applies to injuries arising from use of the land or engaging in maple-sugaring activities ([PA 14-18](#), effective October 1, 2014).

### ***Private Easements and Rights-of-Way***

A new law requires the owner of a one- to four-family residential property located in Connecticut, who uses a private easement or right-of-way to access his or her property (i.e., the “benefited property”), to be responsible for the cost to maintain (including snow removal), repair, or restore any damage to the easement or right-of-way. The act makes the owner of a benefited property who damages, directly or indirectly, any portion of the easement or right-of-way, solely responsible for repairing or restoring the portion he or she damaged ([PA 14-67](#), effective October 1, 2014).

### ***Property Acquisitions by the State***

A new law makes minor changes to the laws on certain property acquisitions by the state. It allows the state, through the Department of Administrative Services (DAS) and with the governor’s and OPM

secretary's approval, to accept real property, interests in real property, and other rights in land or water or interests in such rights by gift, devise, or exchange. It also allows the DAS commissioner to purchase or acquire real property, interests in real property, and other rights in land or water or interests in such rights on behalf of any state agency not authorized to make the purchase or acquisition itself ([PA 14-112](#), effective upon passage).

### ***Running Bamboo***

This law prohibits people from having "running bamboo" (i.e., bamboo in the genus *Phyllostachys*, including yellow-groove bamboo) on their property within 40 feet of abutting property or a public right of way. Violators are subject to a \$100 fine, and each day of a continuing violation is a separate offense. The act also declares running bamboo that grows beyond a person's property boundaries a nuisance ([PA 14-100](#), effective upon passage).

## **REAL ESTATE PROFESSIONALS AND RELATED COMPANIES**

### ***Financial Services Companies***

A new law makes numerous changes regarding financial services companies. Among other things, it (1) renames "mortgage servicing companies" as "mortgage servicers"; (2) modifies who is subject to licensure; (3) expands the scope of

services subject to licensure; (4) adds new licensing, application, fee, bonding, and recordkeeping requirements; (5) specifies standards of conduct for servicers; and (6) provides the commissioner with the authority to conduct investigations and examinations and take enforcement actions against violators. It also narrows the scope of the exemption from mortgage loan originator licensure that applies to certain attorneys and establishes a task force to study the reverse mortgage industry. The task force must report its findings and recommendations to the Banks and Aging committees by January 1, 2015 ([PA 14-89](#), various effective dates).

### ***Mortgage Servicers***

A new law makes several changes related to mortgage servicers. Among other things, it:

1. expands the licensure and bond requirements for businesses that make residential mortgage loans or act as mortgage lenders, mortgage correspondent lenders, or mortgage brokers that engage the services of mortgage loan originators to act on their behalf;
2. expands licensure requirements for debt negotiators who are also mortgage loan originators;

3. excludes from the laws governing nonprime home loans, single family mortgages insured or guaranteed by the Federal Department of Housing and Urban Development under federal law and regulations; and
4. requires a mortgagee to provide a certificate of good standing to a mortgagor who has completed the foreclosure mediation program and met certain other requirements ([PA 14-7](#), various effective dates).

### ***Real Estate Appraisers***

A new law makes several changes to the real estate appraiser and appraisal management company laws. Among other things, it requires real estate appraisal schools to be registered with the Connecticut Real Estate Appraisal Commission and their courses to be approved by the Department of Consumer Protection commissioner. It also eliminates the maximum number of times an applicant can take a test for a certification or provisional license within one year of paying the application fee ([PA 14-52](#), effective July 1, 2014).

## **TAXES**

### ***490 Program and Certain Property Tax Exemptions***

A new law makes procedural changes to the "490 program," in which eligible farm, forest, open space, and maritime heritage land is assessed for

property tax purposes based on its current use, rather than its full market value. The act also:

1. allows municipalities to exempt all horses and ponies from local property taxes, regardless of their use;
2. expands the mandatory property tax exemption for farm machinery; and
3. extends the application deadline for property tax exemptions for farm machinery, horses, and buildings for farmers granted an extension to submit their personal property tax declarations ([PA 14-33](#), effective October 1, 2014, and applicable to assessment years starting on or after that date).

### ***Certain Homeowners and Businesses***

A new law authorizes several tax relief measures for homeowners and businesses in specific areas. It requires municipal property tax abatements and state income tax exemptions in two census blocks in Hartford that meet specified homeownership criteria until homeownership rates reach specified levels. It also establishes a pilot program under which municipalities may offer to tax commercial businesses based on their net profits instead of the fair market value of the buildings they occupy. The act allows Hartford to provide property tax relief to residents who own and reside in their homes by keeping the



assessment ratio for their homes lower than the ratio for nonowner-occupied residences. Lastly, the act changes how the Hartford assessor must measure the change in the city's total tax levy between the current and prior fiscal year when adjusting the assessment ratio between one- to three-unit dwellings and apartments with four or more units ([PA 14-174](#), various effective dates).

### ***Historic Agricultural Structures***

This new law allows municipalities to establish, by ordinance, a property tax incentive program to encourage the preservation of certain historic agricultural structures that are at least 75 years old and meet other criteria. Under the program, a property owner agrees to offer a municipality a preservation easement for the historic structure for up to 10 years in exchange for a property tax break. The new law provides a mechanism for terminating easements under specified conditions and authorizes municipalities to penalize property owners who do not comply with their easement agreements ([PA 14-101](#), effective upon passage).

### ***Historic Homes***

Existing law caps the aggregate amount of tax credits for rehabilitating historic homes at up to \$3 million per year. A new law requires the DECD commissioner to reserve annually 70% of that amount for rehabilitating historic homes in the 24 municipalities

designated as "regional centers" in the state's current five-year plan of conservation and development ([PA 14-217](#), § 139, effective July 1, 2015).

### ***Historic Structures***

This new law sunsets two DECD programs that provide tax credits to people and business entities for rehabilitating certain historic structures. It creates a new, broader program that contains elements of the existing programs, but retains the current tax credit amounts. The credits are applied against the insurance premium, corporation business, air carrier, railroad company, cable and satellite TV, and hospital taxes ([PA 14-217](#), §§ 165-168, effective July 1, 2014 and applicable to income years starting on or after January 1, 2014).

### ***Property Tax Exemptions***

A new law requires owners claiming the property tax exemption for manufacturing or biotechnology machinery and equipment to annually file a request for the exemption by November 1 ([PA 14-183](#), effective October 1, 2014).

### ***Real Property Held in Trust***

Existing law authorizes municipalities to provide property tax relief to qualifying homeowners who are elderly or have disabilities for real property they own and occupy as their principal residence. A new law allows

municipalities to also offer the tax relief to qualifying residents who are elderly or have disabilities and occupy, as their principal residence, property held in trust for them ([PA 14-124](#), effective October 1, 2014, and applicable to assessment years starting on and after that date).

### ***Renewable Energy Systems***

A new law limits property tax exemptions for solar thermal (e.g., solar heated water) and geothermal energy systems to the difference between the value of the property with the installed system and the value of the property with only the conventional portion of the system. By law, these property tax exemptions have certain restrictions and apply to (1) single-family and two- to four-unit multifamily residential property, (2) farms, and (3) commercial or industrial property ([PA 14-94](#), §§ 56 & 57, effective upon passage and applicable to assessment years starting on and after October 1, 2014).

### ***Revaluation Delay***

A new law authorizes municipalities to delay a revaluation scheduled to be implemented in the 2013 or 2014 assessment year until, at the latest, the 2015 assessment year. It allows a similar delay for municipalities phasing in assessment increases from an earlier revaluation ([PA 14-19](#), § 2, effective upon passage).

### ***Sewer Assessment Appeals***

A new law allows municipalities to adopt an ordinance authorizing their boards of assessment appeals to hear appeals of municipal sewer system benefit assessments (i.e., sewer charges not related to a customer's usage) ([PA 14-183](#), effective October 1, 2014).

### ***Tax Study***

A new law requires the Finance, Revenue and Bonding Committee chairpersons to convene a panel of experts to study the state's overall state and local tax structure. The panel must (1) consider and evaluate options to modernize tax policy, structure, and administration and (2) organize itself into subcommittees on personal income taxes, business taxes, consumer taxes, and property taxes. The panel must convene by August 1, 2014 and, by January 1, 2015, report to the governor and the Finance, Revenue and Bonding Committee on its findings and recommendations ([PA 14-217](#), § 137, effective upon passage).

## **MISCELLANEOUS**

### ***Common Interest Ownership Act***

This new law makes various revisions to the Common Interest Ownership Act and related laws affecting condominiums and other common interest communities. Among other things, it (1) provides for the

termination of certain master associations and transfer of their assets to new nonstock corporations, upon the consent of 25% of the unit owners; (2) extends certain unit owner voting requirements to votes conducted without a meeting; (3) adds to the information a unit owner must include in the resale certificate when selling a unit; and (4) doubles the maximum fine, from \$500 to \$1,000, for certain criminal acts regarding community association management services ([PA 14-215](#), various effective dates).

### ***Exemption from Affordable Housing Land Use Appeals Procedure***

A new law suspends the affordable housing land use appeals procedure from January 1, 2014 through December 31, 2014 in any municipality where (1) at least 6% of the housing stock is classified as affordable and (2) the planning and zoning commission (a) approved an affordable housing development application on or after November 1, 2013; (b) denied an application and the application was the subject of an appeal that was pending as of April 1, 2014; and (c) was considering an application as of April 15, 2014. The suspension applies to filed applications and pending appeals ([PA 14-217](#), § 222, effective upon passage).

### ***Lands of Public Use and Benefit***

A new law authorizes the DEEP commissioner to designate department-owned lands as “lands of public use and benefit,” which includes land used for conservation, public enjoyment, or recreational purposes, or activities to improve or maintain these purposes. It requires the commissioner to establish, by January 1, 2015, a publicly accessible geographic information map system and database that has a public use and benefit land registry. Lastly, the new law allows the DEEP and agriculture commissioners to place conservation or preservation restrictions on any lands their departments own ([PA 14-169](#), effective upon passage).

### ***Property and Casualty Insurance***

This new law bars insurers from refusing to issue or renew a homeowner’s insurance policy solely because the insured failed to (1) install any type of storm shutters on a residential dwelling, rather than just permanent shutters, or (2) have storm shutters on the premises of the dwelling. It also (1) extends the deadline for filing a suit or action to recover a claim under a standard fire insurance policy from 18 to 24 months after a loss and (2) allows certain insurers to provide flood insurance on a less-than-statewide basis ([PA 14-175](#), various effective dates).

### ***Savin Farm Preservation***

A new law authorizes the agriculture commissioner to place a conservation or preservation restriction on the state's "Savin Farm" property in Lebanon. A conservation or preservation restriction on the farm may (1) conserve the property for agricultural use and (2) enable the commissioner to lease, permit, or license any part of the farm to one or more people or entities to engage in agriculture ([PA 14-80](#), effective upon passage).

### ***Security Deposit Guarantee Program***

By law, the Department of Housing (DOH), through its Security Deposit Guarantee Program, must provide security deposit guarantees to financially eligible people living in emergency housing or receiving a government rental subsidy. A new law requires the DOH commissioner to prioritize providing these guarantees to eligible veterans ([PA 14-217](#), § 72, effective July 1, 2014).

### ***Smoke and Carbon Monoxide (CO) Detectors***

By law, before transferring title to a one- or two-family dwelling that was

issued a new occupancy building permit before October 1, 2005, the transferor must give the transferee an affidavit certifying that the (1) (a) permit was issued on or after October 1, 1985 or (b) building is equipped with smoke detectors and (2) building is either (a) equipped with CO detectors or (b) does not pose a risk of CO poisoning because it does not have a fuel-burning appliance, fireplace, or attached garage. Under a new law, the affidavit does not constitute a warranty beyond the transfer of title. For residences requiring an affidavit, the new law eliminates a prohibition on the smoke and CO detectors exceeding the standards under which they were tested and approved ([PA 14-219](#), effective July 1, 2014).

### ***State Marshal Fees Related to Evictions***

This new law increases the maximum hourly rate state marshals receive, from \$75 to \$100 per hour, for removing a tenant, an occupant, and their possessions in an eviction proceeding ([PA 14-87](#), effective October 1, 2014).

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