

CONNECTICUT

2008 STATE LEGISLATIVE TOPICS

II. A.

[Public Act 08-38, An Act Concerning Inland Wetlands Agency Reports](#)

This act amends Conn. Gen. Stat. §§ 8-3(g) and 8-26, concerning the actions of zoning boards and planning boards, respectively, to provide that in making decisions such boards shall "give due consideration" to the report of the inland wetlands agency. In 2007 the words "give due consideration" were removed from the statutes and replaced with a requirement that the boards "consider" the inland wetlands report. This new act thus restores the previous wording of the statutes. The summary of the act prepared by the General Assembly's Office of Legislative Research, and appended to the act, states that to "consider" is to think with care upon a matter, while Black's Law Dictionary defines "due consideration" as "the degree of attention properly paid to something, as the circumstances merit." *Effective May 7, 2008.*

V. C.

[Public Act 08-43, An Act Concerning Continuation of Water Liens](#)

This act amends Conn. Gen. Stat. § 7-239 to extend from one to two years the time that a lien for delinquent municipal water rates and charges runs before it must be continued by the filing of a certificate with the town clerk. This change makes the continuation of water liens identical to the continuation of sewer liens (Conn. Gen. Stat. § 7-254). *Effective October 1, 2008.*

IV. N.

[Public Act 08-56, An Act Adopting the Uniform Real Property Electronic Recording Act](#)

This act adopts the Uniform Real Property Electronic Recording Act, a product of the National Conference of Commissioners on Uniform State Laws. The act provides that the State Librarian shall establish a Real Property Electronic Recording Advisory Committee, in accordance with the standards of membership set forth in the act. Included among the membership shall be three attorneys experienced in real estate law, three town clerks representing municipalities of varying sizes, an individual experienced in mortgage banking, an individual experienced in the business of title insurance, a title searcher and a licensed real estate broker.

The State Librarian, in consultation with the Public Records Administrator and the Advisory Committee, shall adopt regulations implementing the act's provisions. In adopting these regulations the State Librarian shall consider certain specified criteria, including security measures to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering. The act provides that a town clerk who implements electronic recording shall do so in accordance with any such regulations.

A town clerk who implements electronic recording must continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index. *Effective October 1, 2009.*

IX. B.

[Public Act 08-58, An Act Concerning Reinstatement Payment Statements](#)

This act amends Conn. Gen. Stat. § 49-10a, concerning payoff statements, by extending the statute to cover reinstatement payment statements, defined as "a statement setting forth the total sum owed by a mortgagor to a

mortgagee, which, if paid, will cause the loan to be reinstated, provided any other contractual conditions for reinstatement are satisfied."

The statute is also revised to shorten the time frame for providing the statement, from ten business days to seven business days. The statute continues to provide that there shall be no fee or charge assessed for the first statement requested within a calendar year, unless the mortgagor or authorized agent requests expedited delivery of the statement and agrees to pay an additional fee for such expedited delivery.

The act specifies that it does not create an obligation on the part of the mortgagee to provide a reinstatement payment statement if a right to cure the payment default and reinstate the mortgage loan does not exist under the mortgage loan documents or at law. *Effective October 1, 2008.*

II.B.

[Public Act 08-173, An Act Concerning the Permitting of Solid Waste Facilities Located Near Housing Developments and the Sale of Certain Housing](#)

Section 1 of this act provides that the Commissioner of Environmental Protection shall not issue a permit for the construction or operation of a solid waste facility located or proposed to be constructed on a parcel of real property, the boundary of which is located within 150 feet of a parcel of property containing a housing development owned by a housing authority, unless the Commissioner determines that there is no threat to the environment of the surrounding geographic area or to public safety. The new provision shall not apply to a permit issued on or before September 30, 2008, or to the renewal of such a permit.

Section 2 of the act appears to be a legislative response to a particular constituent's need. The Section provides that notwithstanding any provision of the General Statutes, or any condominium bylaws, or any affordable housing deed restriction limiting the sales price of housing, an owner who purchased such housing on or after July 1, 2004, but before July 15, 2004, for an amount exceeding the amount specified in such provision or restriction, may sell such housing for an amount not exceeding the amount such owner paid to purchase the housing. *Effective October 1, 2008, except that Section 2 is effective June 12, 2008.*

IX. D.

[Public Act 08-176, An Act Concerning Responsible Lending and Economic Security](#)

This lengthy act addresses the growing number of mortgages which are under foreclosure, or at risk of being foreclosed. The material set forth below briefly summarizes the provisions of the act. The first four Sections of the act concern various programs run by the Connecticut Housing Finance Authority (CHFA), expanding its CT Families Program, creating a new loan program titled "Homeowner's Equity Recovery Opportunity" (HERO), revising the limitations placed on uninsured CHFA mortgages, and authorizing the development of a program to purchase foreclosed property and turn it into supportive and affordable housing.

The act requires the Chief Court Administrator to establish a foreclosure mediation program in each Judicial District, by July 1, 2008. The program is available to owner-occupants of one-to-four family residential property located in Connecticut, which property is encumbered by a mortgage, with the owner-occupants the borrowers under the loan secured by said mortgage. If a foreclosure action is brought against such property by the lender who holds the mortgage, with a return date on or after July 1, 2008, the complaint must include a copy of the notice of the availability of foreclosure mediation, and a foreclosure mediation request form, both forms to be as prescribed by the Chief Court Administrator. If the property owner requests mediation, the Court will notify all appearing parties. No judgment of foreclosure may be entered if a borrower has submitted a timely request for mediation and the mediation period has not expired. The mediation shall be conducted by foreclosure mediators, who may refer mortgagors to community-based resources, when appropriate, and to the various mortgage assistance programs that are available. The foreclosure mediation program will expire on July 1, 2010.

The act also amends the existing statutes providing emergency mortgage assistance, Conn. Gen. Stat. §§ 8-265cc, *et seq.* The program is expanded to accommodate one-to-four family owner-occupied homes (specifically including single-family units in a common interest community), rather than just one-to-two family homes. Standards for determining whether the borrower is facing financial hardship are expanded to include borrowers facing a significant increase in the periodic payments for a mortgage, or facing other circumstances such as a divorce, loss of support payments, uninsured damage to the home, or incurred medical or burial expenses. The statutes are further amended to give the borrower sixty days notice (rather than thirty) of the right to have a conference with the lender, or a meeting with a credit counseling agency, to attempt to resolve the default.

Sections 21 through 30, inclusive, establish a number of requirements for mortgage loans, especially nonprime loans, and for mortgage professionals making those loans. These provisions apply to mortgage applications received on or after August 1, 2008. "Nonprime" loans are defined as follows: any loan or extension of credit, excluding an open-end line of credit or reverse mortgage transaction, where the borrower is a natural person; the proceeds are to be used primarily for personal family or household purposes; the loan is secured by a mortgage on a one-to-four family owner-occupied residence; the principal amount of the loan does not exceed the amounts set forth in the act; the loan is not a CHFA loan; and the interest rate charged falls within the mathematical formula set forth in the act. Lenders making nonprime loans must follow the parameters set forth in the act, including a requirement that the lender must reasonably believe, at the time when the loan is consummated, that the borrower will be able to make the scheduled payments and pay the related taxes and insurance. The act also alters substantive rights and obligations of the parties with respect to loan terms and litigation rights.

The act requires mortgage brokers to make reasonable good faith efforts to secure a mortgage that is in the borrower's reasonable best interests, considering all of the circumstances, such as rates, points, charges, costs and product type. This provision of the act applies to all first and second mortgages on one-to-four family owner-occupied residential property, regardless of whether the loan is or is not a nonprime loan. Other matters covered by the act include the licensing requirements imposed on mortgage brokers, bonding and recordkeeping requirements for brokers and lenders, mortgage trigger leads, and prepaid finance charges in secondary loans.

The act establishes a Commission on Nontraditional Loans and Home Equity Lines of Credit. The Commission is charged with gathering certain specified statistical information concerning the mortgage lending market in Connecticut, focusing on nontraditional loans and home equity lines of credit that pose a high risk of default or foreclosure. The Commission shall submit a report to the General Assembly's Banks Committee, setting forth its findings and recommendations.

Sections 81 and 82 concern undue influence placed on real estate appraisals by mortgage brokers, real estate brokers and real estate salespersons. Examples of undue influence include failing to pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price; refusing or failing to utilize an appraiser or refer an appraiser; and encouraging others not to utilize an appraiser, all based solely on the fact that the appraiser provided such an appraisal. Violations shall be subject to the actions and penalties set forth