



Legislative Bulletin

Connecticut

August 2017

The following material highlights a number of new acts enacted during the 2017 session of the Connecticut General Assembly. Legislation of particular interest includes PA 91, concerning powers of attorney; PA 99, filing a false record/conveyances to and from a trust; PA 108, business corporations and limited liability companies; PA 170, affordable housing; PA 176, closure of open building permits; and PA 224, the legislative response to the *Limberger* case.

Please note that as of this writing the General Assembly has not yet adopted the state's two-year budget. We will of course advise you of any relevant legislation that is subsequently enacted.

If you have questions or need assistance, please contact either [Colleen Danehy Lindroos](#) or [Richard Hogan](#), in our Rocky Hill office.

Public Acts

[Public Act 1, An Act Establishing An Independent Consumer Advocate for Metropolitan District of Hartford County Consumers](#)

This act establishes a new consumer advocate to advocate for and represent customers of the Metropolitan District Commission. Matters to be within the advocate's purview include rates, water quality, water supply, and wastewater service quality. The advocate shall be a member of the Connecticut bar, with private legal experience in public utility law and policy.

The act also makes a number of revisions to the various special acts that have been enacted over the years concerning the District's charter, including expanding the circumstances under which a special emergency budget may be adopted, and expanding the purposes for which bonds and notes may be issued. The act also requires the Office of Policy and Management to withhold certain municipal grant payments to MDC member municipalities that fail to pay their sewer use assessments to the District. *Effective May 16, 2017.*

[Public Act 7, An Act Concerning Conservator Accountability](#)

This act makes a number of revisions to the statutes that govern conservators, including a new provision that allows the Probate Court Administrator to order audits of conservator accounts, whether on a random basis or on the basis of other criteria that the Administrator deems effective in deterring and detecting fiduciary malfeasance. The act sets

forth the obligations of a conservator whose account is to be the subject of an audit and the process that shall be followed.

The act also requires the Probate Court Administrator to adopt standards of practice to provide guidance to court-appointed conservators in the performance of their duties. When determining whether a conservator has breached a fiduciary duty, the Probate Court may consider evidence of a conservator's failure to adhere to the provisions of these standards of practice. *Effective at varying times, with the audit provisions effective on January 1, 2018, and compliance with the standards of practice sections effective July 1, 2018.*

[Public Act 22, An Act Concerning the Possessions of Deceased Tenants](#)

Conn. Gen. Stat. § 47a-11d addresses the landlord's options when seeking to regain possession of a rental unit when the sole tenant of the unit has died. Public Act 22 amends the statute to modify the process that shall be followed, covering matters such as notification to the deceased tenant's emergency contact or next of kin, if known, the filing of a probate court affidavit, removal of the deceased tenant's belongings, and the sale of those belongings at public auction. *Effective October 1, 2017.*

[Public Act 26, An Act Concerning Debit Card Fraud and Penalties for Collection of Rental Payments on Foreclosed Properties](#)

The bulk of this act amends the statutes governing credit card crimes to include crimes that use debit cards. Section 7 of the act concerns foreclosures, and provides that if a previous mortgagor of foreclosed property continues to collect rental payments on such property after passage of the mortgagor's law day, with no right to do so, such mortgagor shall be subject to the statutes that govern larceny. *Effective October 1, 2017.*

[Public Act 38, An Act Concerning Lead Generators of Residential Mortgage Loans](#)

This lengthy act establishes a new license category for "lead generators," persons who, for expectation of compensation or gain, sell, assign, or otherwise transfer one or more leads for a residential mortgage loan; generate or augment one or more leads for another person; or direct a consumer to another person for a residential mortgage loan, by performing marketing services, including, but not limited to, online marketing, direct response marketing, or telemarketing. The act contains provisions concerning matters such as licensing requirements, exemptions, record keeping, disciplinary actions, and prohibited actions. The act also makes a number of technical and conforming changes to the banking statutes. *Effective, generally, October 1, 2017, with the lead generator licensing provisions effective January 1, 2018.*

[Public Act 39, An Act Clarifying the Continuation of Nonconforming Uses, Buildings or Structures](#)

Conn. Gen. Stat. § 8-2(a) sets forth the authority given to the zoning commission to regulate the use of land in matters such as the height of structures, the number of stories, the percentage of the lot that may be occupied, and the location and use of buildings. Public Act 39 amends the statute to add the following language:

Such regulations shall not terminate or deem abandoned a nonconforming use, building or structure unless the property owner of such use, building or structure voluntarily discontinues such use, building or structure and such discontinuance is accompanied by an intent to not reestablish such use, building or structure. The demolition or deconstruction of a nonconforming use, building or structure shall not by itself be evidence of such property owner's intent to not reestablish such use, building or structure.

Effective July 1, 2017.

[Public Act 50, An Act Revising the Uniform Fraudulent Transfer Act](#)

Conn. Gen. Stat. § 52-552i sets forth a number of transfers and obligations that are not voidable under the Uniform Fraudulent Transfer Act. The statute is revised to provide that a transfer or obligation relative to an institution of higher education is not voidable if the transfer was made or obligation incurred by a parent or guardian on behalf of a minor or adult child in furtherance of the child's undergraduate education. *Effective October 1, 2017.*

[Public Act 65, An Act Concerning a Municipal Option Property Tax Exemption for Gold Star Parents and Spouses](#)

This act allows a municipality, with the approval of its legislative body, to provide a property tax exemption to a parent or surviving spouse of a service member killed in action while performing active military duty with the United States armed forces. This exemption would be in addition to any other property tax exemption to which the Gold Star parent or spouse is entitled, and is subject to income eligibility requirements. *Effective October 1, 2017, and applicable to assessment years commencing on or after that date.*

[Public Act 66, An Act Concerning the Department of Public Health's Recommendations Regarding Lead Prevention Initiatives and Asbestos Training](#)

This act makes a number of changes to the statutes governing lead and asbestos professionals, covering matters such as statutory terminology, the application process, certification, and disciplinary actions. *Effective July 1, 2017.*

[Public Act 77, An Act Making Changes to Department of Consumer Protection Statutes and Banning Certain Automated Ticket Purchasing Software](#)

Most of this lengthy act does not concern real property law, but the following sections may be of interest. Section 4 amends § 20-312 of the General Statutes, explicitly allowing limited liability partnerships to operate as real estate brokerage businesses in the state. The revised statute also addresses the required filing with the Real Estate Commission setting forth the name of at least one licensed real estate broker who is in charge of the brokerage business. As revised, the statute provides that the designated person may instead be *qualified to be licensed* as a real estate broker.

Section 6 of the act concerns the Department of Consumer Protection's guaranty funds, and allows the Commissioner to revoke, suspend, or deny any department license or registration when the licensee or registrant owes money to any guaranty fund or account maintained or used by the department. These guaranty funds and accounts include the Home Improvement Guaranty Fund, the New Home Construction Guaranty Fund, the Connecticut Health Club Guaranty Fund, the Real Estate Guaranty Fund, and the Privacy Protection Guaranty and Enforcement Account.

Section 12 of the act expands the Commissioner's authority to reinstate lapsed credentials for a license, permit, certification, or registration, without the need for re-examination.

Section 16 of the act allows new home contractors to renew their registrations within six months after a certificate has expired, with the renewal fee charged on a prorated basis, depending on the application date for such renewal. *Effective at various times, with the sections reviewed above effective July 1, 2017.*

[Public Act 78, An Act Concerning Civil Penalty Regulations of the Department of Energy and Environmental Protection and the Deadline for Certain Reports Under the Paint Stewardship Program](#)

Conn. Gen. Stat. § 22a-6b sets forth the Department of Energy and Environmental Protection Commissioner's authority to levy civil penalties. The act expands this authority to encompass situations where the owner of any high or significant hazard dam or similar structure fails to comply with § 22a-411a. That statute provides that such owner shall develop and implement an emergency action plan, which shall be filed with the department and with the chief executive officer of any municipality that might be affected in the event of an emergency. The plan must be updated every two years. *Effective June 27, 2017.*

[Public Act 87, An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System](#)

This act makes a number of unrelated revisions to various criminal statutes. Of interest is section 1, which amends Conn. Gen. Stat. § 19a-343, concerning state actions to abate a public nuisance. The statute is amended to add the following to the list of activities that can be the basis for such an abatement action: the sale or delivery of alcohol to a minor.

Section 4 extends by ten years the period in which someone can enforce a court order that an offender pay financial restitution to a victim. Currently § 53a-28a provides for a ten-year period, and the revision extends this to twenty years.

Section 5 concerns larceny in the second degree, § 53a-123. The statute is amended to include the taking of certain property from a conserved person. *Effective, generally, October 1, 2017.*

[Public Act 91, An Act Adopting the Connecticut Uniform Recognition of Substitute Decision-Making Documents Act and Revising the Connecticut Uniform Power of Attorney Act](#)

Sections 1 through 10 of this act adopt the "Uniform Recognition of Substitute Decision-Making Documents Act," a product of the National Conference of Commissioners on Uniform State Laws. The law is designed to promote the portability and usefulness of substitute decision-making documents for property, health care, and personal care, without regard to whether the documents were created within or outside of the relevant jurisdiction.

The remainder of the act concerns powers of attorney. [**Editor's Note:** We have posted templates for the revised power of attorney forms to our website. Log on to the Agent page at www.CATIC.com, and see the forms on the left side. ("Sample Statutory Forms Authorized by the CT Uniform Power of Attorney Act") That link also contains a memo explaining the new forms.]

Section 11 amends Conn. Gen. Stat. § 1-351(a), concerning the authority of an agent under a power of attorney. That statute, as un-amended, lists a number of activities that can be performed by the agent on behalf of the principal *only if* the power of attorney expressly grants that authority. The amendment to the statute eliminates the current (a)(5), "delegate authority granted under the power of attorney," (*see the following paragraph*), and adds new language concerning the authority to access the principal's digital information and the power to act with respect to any intellectual property interests.

Section 11 also amends § 1-351(c) to provide that if the power of attorney grants the agent the authority to perform all acts that the principal could perform, this general authority shall permit the agent to authorize another person to exercise that authority.

Section 12 of the act amends § 1-352, which sets out templates for the short and long form power of attorney. Revisions to the forms broaden the list of powers that the documents may grant or deny, and cover matters such as

the designation of a conservator of the principal's estate, authority over the principal's digital information and intellectual property, and delegation of authority. The revised statute states that an agent may not use the principal's property to benefit the agent or any dependent of the agent, except to the extent that the principal has included such authority in the document. The statute, as amended, continues to provide that §§ 1-350 through 1-353b shall not be construed to bar the use of any other or different power of attorney desired by the parties concerned.

Section 13 of the act concerns the probate court's determination as to whether to reinstate the authority of any agent under a power of attorney, when that authority had been previously limited or suspended by the court because of a conservatorship. *Sections 1 through 10 are effective October 1, 2017, and applicable to a substitute decision-making document created before, on, or after that date. The remainder of the act is effective July 1, 2017.*

Public Act 99, An Act Concerning Court Operations, Victim Services, Fraudulent Filings and Transfers of an Interest in Real Property to a Trust

This lengthy act makes a number of unrelated revisions to various statutes. Of interest are the following: Section 46 concerns the filing of a false record against real or personal property, when the person filing the document knows, or reasonably should know, that it is false and intends to defraud, deceive, injure or harass another. Such a filing shall be a class D felony. *This section of the act is effective January 1, 2018.*

Section 47 amends Conn. Gen. Stat. § 42a-9-518 to provide that a person identified in any record filed under §§ 42a-9-501 through 42a-9-526 may petition the court to invalidate a record when such record was falsely filed or amended. Sections 48 and 49 of the act provide further information on such a petition. *These sections of the act are also effective on January 1, 2018.*

Section 50 of the act revises and clarifies § 47-36bb of the General Statutes, which was implemented in the 2016 legislative session to address situations where a conveyance was made to a trust, rather than to the trustee. The statute now makes it clear that for title purposes, the trustees of the trust and "the trust," which is not a legal entity capable of holding title to real property, may be treated interchangeably. This will have the effect of greatly reducing transactional glitches that would otherwise result from improper transfers of title to "the trust." The revised statute also requires that the town clerk index transfers by a trustee or by "the trust" in the names of all persons whose names appear in an instrument as "trustee" and in the name of "the trust." *Section 50 is effective October 1, 2017.* Other issues covered by the act include the venue for housing matters and the collection of financial obligations relative to victim restitution. *Effective at varying times, and as noted above.*

Public Act 108, An Act Concerning Limited Liability Companies and Business Corporations

This lengthy act makes a number of revisions to the statutes that govern business corporations and limited liability companies. Matters concerning business corporations cover such things as standards for director liability, the ratification and validation of certain defective actions, a process for a merger or share exchange without shareholder approval, and revisions to the content of the certificate of incorporation.

Sections 25 through 42 of the act amend the Connecticut Uniform Limited Liability Company Act, which was enacted in 2016 (Public Act 16-97). Changes made to the statutes include a replacement of the term "certificate of good standing" with the term "certificate of legal existence," the setting of a deadline for a merging LLC to amend or abandon the merger, and revisions concerning the filing requirements for foreign limited liability companies. *Effective at varying times, with the business corporation changes effective October 1, 2017, and the LLC changes effective July 1, 2017.*

[Public Act 120, An Act Protecting the Interests of Consumers Doing Business with Financial Planners](#)

This act concerns “financial planners,” defined by the act as “a person offering individualized financial planning or investment advice to a consumer for compensation where such activity is not otherwise regulated by state or federal law.” The act provides that no financial planner shall intimate that he or she has any special training, education, or experience in advising or serving senior citizens, without meeting certain education requirements under Conn. Gen. Stat. § 36b-4. Upon request, the financial planner shall disclose to a consumer whether or not the planner has a fiduciary duty to such consumer for each recommendation the financial planner makes. The term “fiduciary duty” is defined as “a duty to act with prudence in the best interests of a consumer with undivided loyalty to such consumer.”

The act also provides that the Banking Commissioner shall provide on the department’s website links to certain educational materials and information concerning financial planning requirements and practices. *Effective July 5, 2017.*

[Public Act 126, An Act Concerning Municipal Foreclosure Actions on Tax Liens and Liens on Blighted Real Estate](#)

This act provides that an action to foreclose a tax lien (Conn. Gen. Stat. § 12-181) or a lien on blighted real estate (§7-148aa) brought by a municipality on or after the act’s effective date “shall be privileged with respect to assignment for trial.” *Effective January 1, 2018.*

[Public Act 127, An Act Concerning Discriminatory Practices Against Veterans, Leaves of Absence for National Guard Members, Application for Certain Medicaid Programs and Disclosure of Certain Records to Federal Military Law Enforcement](#)

Most of this act concerns veterans, and amends various statutes that prohibit discriminatory practices to add veteran status to the lists contained therein. These statutes prohibit discriminatory practices on the basis of matters such as religion, national origin, alienage, color, race, sex, and gender identity. Areas covered by these statutes include employment, public accommodations, housing, and credit. The act also extends employment protections for national guard members who take time off work during regular working hours to perform ordered military duty. *Effective October 1, 2017.*

[Public Act 136, An Act Concerning Probate Court Operations](#)

This act makes a number of unrelated changes to the statutes that govern probate court operations. Matters covered by the act include regional children’s probate courts, liquidation of structured settlements in cases involving conservatorship or guardianship, plenary and limited guardians, and asset management by guardians.

Section 9 amends Conn. Gen. Stat. § 45a-106a, concerning probate fees, to provide for a \$225 filing fee as of January 1, 2018, for the following: Approval of the transfer of structured settlement payment rights; and, with respect to a power of attorney, filings to: (A) compel an account by an agent, (B) review the conduct of an agent, (C) construe the power of attorney, and (D) mandate acceptance of the power of attorney. A fee of \$150 is established to register a conservator of the person or conservator of the estate order from another state. *Effective, generally, on October 1, 2017, with some sections, including section 9, effective January 1, 2018.*

[Public Act 137, An Act Protecting Personal Information of Members of the Armed Forces and Veterans](#)

Conn. Gen. Stat. § 42-471 sets forth requirements regarding the safeguarding of personal information. Public Act 137 amends the statute to expand the definition of personal information, so that it includes any military identification

information such as a selective service number, military identification number, discharge document, military identification card, or military retiree identification card. *Effective October 1, 2017.*

[Public Act 146, An Act Concerning the Department of Public Health's Various Revisions to the Public Health Statutes](#)

This lengthy act makes numerous revisions to the public health statutes, covering many matters that do not relate to a real property practice. Of interest, however, are the following sections. Section 15 amends Conn. Gen. Stat. § 19a-37, concerning private wells. The statute as amended provides definitions for private well, public well, well for semipublic use, and water supply well, and revises the requirement that an environmental laboratory that tests the water quality of a semipublic or private residential well in connection with a home's sale shall report the results to the Department of Public Health and the local health department within 30 days after completing the test. The statute also addresses the delivery of bulk water to a premises supplied by a private well or well for semipublic use in situations where there is a water supply shortage.

Section 16 of the act concerns the location of crematories, and provides that on and after July 1, 2017, no new crematory shall be located within 500 feet of any residential structure or land for residential purposes, unless such structure or land is owned by the owner of the crematory.

Section 30 amends Conn. Gen. Stat. § 22a-430 to increase the size of subsurface disposal systems over which the Department of Public Health, rather than the Department of Energy and Environmental Protection, has jurisdiction. *Effective at varying times, with section 15 effective October 1, 2017, section 16 effective July 1, 2017, and section 30 effective July 1, 2017.*

[Public Act 147, An Act Concerning State Taxation and Collection, Tax Gap Compliance, Tax Preparers and Facilitators, Changes to the Tax and Related Statutes, A Mental Health Community Investment Account and Municipal Bonds](#)

This very lengthy act makes numerous tax law changes, most of which are unrelated to a real property practice. Of interest, however, are the following. Section 1 of the act (*effective July 1, 2018*), changes the order in which the Department of Revenue Services Commissioner must apply partial tax payments. The statute (§12-39h) currently states that partial payments shall be applied first to any penalties, then to interest on the tax, and then to the tax itself. As of July 1, 2018, the Commissioner shall apply the partial payment first to the penalties, then to the tax itself, and then to interest on the tax.

Section 10 of the act amends § 12-35(b), concerning the issuance of a tax warrant by the DRS on the intangible personal property of a delinquent taxpayer, with service on a third person, such as a bank, who possesses the property or is obligated with respect to it. The statute as amended will allow the warrant to further include an order to such third person to continually deliver all intangible property that is due and that becomes due to the person who owes the tax, during the following 180 days or until the tax is fully paid, whichever is earlier. *This section of the act is effective July 1, 2017.*

Sections 15 through 18 establish a regulatory structure for most tax preparers and facilitators, with some exemptions, and also prohibit a number of actions by *anyone* who provides tax preparation services, including those who are otherwise exempt from the remainder of the provisions in those sections. Section 16(e) of the act sets forth the exemptions, which include attorneys and those engaged in providing tax preparation services under the supervision of an attorney. Beginning on January 1, 2019, no person, unless exempt under section 16(e) of the act, shall engage in the business of, solicit business as, or advertise as furnishing tax preparation services unless such person has been issued a tax preparer permit or a facilitator permit by the Commissioner of Revenue Services. Section 15 of the act sets forth a number of prohibited actions, all of which are applicable to anyone who provides tax preparation

services, regardless of whether the person (e.g., an attorney) is otherwise exempt from the permit requirement. *Sections 15 through 18 are generally effective October 1, 2018, with the prohibited actions section effective October 1, 2017, and the permit provisions applicable beginning on January 1, 2019.*

Sections 24 and 25 amend Conn. Gen. Stat. §§12-222 and 12-242d, to extend the deadline for filing corporation business tax returns, which varies depending upon whether the corporation must file a corresponding federal return. *These sections are effective July 7, 2017, and applicable to income years commencing on or after January 1, 2017.*

Section 36 amends Conn. Gen. Stat. § 12-711(b)(6), concerning Connecticut income tax on gains or losses from the sale or disposition of a nonresident's interest in an entity that owns certain real property in Connecticut. The act amends the statute to provide that the entity may own this property *directly or indirectly*. *This section is effective July 7, 2017.*

Section 38 amends Conn. Gen. Stat. § 12-727, concerning the deadline by which certain employers and payers must annually file informational returns with the DRS for personal income tax purposes. The act changes the annual filing deadline from the last day of February to January 31. *This section is effective July 7, 2017, and applicable to taxable years commencing on or after January 1, 2017.*

Section 39 concerns the ability of the Commissioner of Revenue Services to waive all or part of a penalty assessed under Title 12 of the General Statutes. The act provides that generally the Commissioner shall not consider any waiver request that is received more than one year from the date a notice of such penalty was first sent to the person on whom the penalty was imposed. *This section is effective July 1, 2017, and applicable to waiver requests received on or after that date.*

[Public Act 155, An Act Concerning Temporary Health Care Structures](#)

This act establishes conditions under which property owners may place “temporary health care structures” on residential property in order to provide care for a mentally or physically ill person. Such a structure shall be allowed as an accessory use in any single-family residential zoning district on a lot zoned for single-family detached dwellings that is owned by a caregiver or the impaired person and used as his or her residence. The status of the cared-for person as impaired shall be certified in writing by a physician licensed in Connecticut, and such writing shall indicate that the person requires assistance with two or more activities of daily living, as specified in the act. Detail is set forth concerning the various requirements for the structures. Any such structure shall be removed not later than 120 days after the impaired person no longer occupies the structure or no longer qualifies as a mentally or physically impaired person. The act provides a means for municipalities to opt out of the act's provisions. *Effective October 1, 2017.*

[Public Act 169, An Act Concerning Disclosures by Real Estate Brokers and Real Estate Salespersons in Commercial Transactions and Notices of Commission Rights](#)

Section 1 of this act repeals and replaces Conn. Gen. Stat. § 20-325d, which concerns the timing of the disclosure that a real estate broker or salesperson must make to a prospective purchaser or lessee as to whom the agent or salesperson represents. The statute currently provides that the disclosure must be at the beginning of the first personal meeting concerning the prospective purchaser's or lessee's specific needs, with no need for the disclosure if the prospective purchaser or lessee is represented by another broker or salesperson.

Public Act 169 provides for a different timing schedule depending upon whether the subject property is residential or commercial. If residential (one-to-four family residential) the disclosure shall be at the beginning of such first personal meeting concerning the prospective purchaser's or lessee's specific needs or at the beginning of the first personal meeting with the seller or lessor concerning the seller's or lessor's real property. If the property is

commercial (other than a one-to-four family residence) then the disclosure shall be before the prospective purchaser or lessee signs the purchase contract or lease. The statute continues to provide that the disclosure shall be signed by the prospective purchaser or lessee and attached to any offer or agreement to purchase or lease signed by the prospective purchaser or lessee.

Section 2 of the act amends Conn. Gen. Stat. § 20-325k(b), concerning a real estate broker's filing of a notice of commission rights in the land records. As amended, the statute provides that the notice shall be recorded within 60 days after the execution of the lease, the tenant's occupancy, or the rent commencement date specified in the lease, whichever is later. *Effective January 1, 2018.*

[Public Act 170, An Act Concerning the Affordable Housing Land Use Appeals Procedure](#)

This act makes a number of revisions to the state's affordable housing land use appeals procedure, Conn. Gen. Stat. § 8-30g. The act was vetoed by the Governor but that veto was overridden by the General Assembly at its special session held on July 24, 2017.

Section 1 of the act makes several changes to the criteria for determining whether a municipality can qualify for a moratorium from the affordable housing land use appeals process. The act expands the unit types that count toward the moratorium, establishes "bonus" housing points for certain unit types, lowers the minimum number of "housing equivalent unit points" needed by smaller municipalities to qualify for a moratorium, and lowers the minimum number of points for larger municipalities that have previously qualified for a moratorium and have adopted an affordable housing plan. Moratoriums granted to certain larger municipalities shall last for five years, rather than four.

Section 2 of the act provides that, at least once every five years, each municipality shall prepare or amend and adopt an affordable housing plan for the municipality. Such plan shall specify how the municipality intends to increase the number of affordable housing developments within the municipality. Following adoption of the plan, in accordance with the act's provisions, the municipality shall regularly review and maintain such plan and adopt any amendments as deemed necessary.

Section 4 of the act further amends Conn. Gen. Stat. § 8-30g, *effective October 1, 2022*, in order to "sunset" some of the provisions of the statute as amended by section 1, removing the language concerning bonus points, the lowered threshold for smaller municipalities, and properties located within an approved incentive housing development. *Effective, generally, July 24, 2017, upon the General Assembly's override of the Governor's veto, with section 4 effective October 1, 2022.*

[Public Act 171, An Act Concerning the Provision of Essential Service by Landlords](#)

Conn. Gen. Stat. § 47a-13 allows tenants to procure reasonable substitute housing if a landlord fails to provide required essential services such as heat, hot water, and electricity, and the failure is not caused by conditions beyond the landlord's control. The act amends subsection (a) of the statute to provide that the tenant can procure this substitute housing if the landlord has failed to supply the service within 48 hours of the breach, rather than two business days.

The statute continues to allow the tenant to elect to procure reasonable amounts of the essential service during the period of the landlord's noncompliance, and deduct the actual and reasonable cost of such service from the rent. The statute also continues to provide that if the landlord committed the same breach within the last six months for the same essential service, the tenant is allowed to procure the substitute housing immediately. If the breach is willful, the tenant may terminate the rental agreement and recover funds as set forth in the statute. Other portions of the

statute are also unchanged, including provisions concerning the abatement of rent and the tenant's recovery of the actual costs of any substitute housing. *Effective October 1, 2017.*

[Public Act 176, An Act Concerning the Closure of Certain Building Permits](#)

This act legislatively closes open building permits that are more than nine years old on one-family and two-family properties. The act amends Conn. Gen. Stat. § 29-265, which provides that a municipality cannot require the removal or alteration of any single-family dwelling because of a missing building permit or certificate of occupancy six years after the improvements are completed, except as may be necessary for the safety of life or property. Public Act 176 amends the statute to add a new subsection (c), which, in part, provides the following:

Nine years from the date of issuance of a building permit issued pursuant to section 29-263 for construction or alteration of a one-family dwelling, two-family dwelling or structure located on the same parcel as a one-family dwelling or two-family dwelling, for which construction or alteration a certificate of occupancy, as defined in the regulations adopted pursuant to section 29-252, has not been issued by the building official, such building permit shall be deemed closed. Following such nine-year period, no enforcement action based upon work commenced or completed pursuant to an open building permit shall be commenced....

Note that the new language applies to one-family and two-family dwellings and any structure located on the same parcel as the dwelling. The act provides that the term "structure" has the same meaning as in the zoning regulations for the subject municipality, or, if undefined by the regulations, the term shall mean any combination of materials that is affixed to the land, including, but not limited to, a shed, garage, sign, fence, wall, pool, patio, tennis court or deck. *Effective October 1, 2017.*

[Public Act 182, An Act Concerning Remedies in Lawsuits Against Property Owners by Subcontractors and the Release of Retainage Withheld in Private Construction Contracts](#)

Section 1 of this act amends Conn. Gen. Stat. § 42-158j, concerning the contents of private-sector construction contracts, as defined in § 42-158i. The act revises the statute as it relates to the owner's obligation to pay amounts due, to add language concerning subcontractors and suppliers who are in a direct contractual relationship with the contractor. The act further provides that all amounts due from the owner shall be limited to the amount owed to the contractor by the owner for work performed under the contract at the date that notice is provided to the owner. The act also adds a defense to the requirement that a party escrow funds that are demanded by the subcontractor or supplier, which new defense consists of the fact that the funds so demanded are not then due under the owner's contract with the contractor.

Section 2 of the act amends § 42-158k, concerning an owner's payment of any retainage. The act provides that all retainage shall be paid by the owner not later than 30 days after the issuance of a certificate of final completion by the owner or the owner's authorized representative, or not later than 30 days after the equivalent written acceptance of the construction project work by the owner. *Effective October 1, 2017, as to section 1, and July 1, 2017, as to section 2.*

[Public Act 189, An Act Concerning American Legion State Fund Commission Transparency and Municipal Option Property Tax Exemptions for Certain Veterans](#)

Section 1 of this act concerns the dissemination of information gathered by the Treasurer as custodian and trustee of the Soldiers, Sailors and Marines Fund. Generally speaking, such information shall be considered public and subject to disclosure under the Freedom of Information Act, other than (with some exceptions) the personal information of

any individual who makes a gift, bequest, or donation to the fund, or is an applicant for, or a recipient of, aid from the fund.

The remainder of the act concerns municipal option property tax exemptions for certain veterans. Any municipality, with the approval of its legislative body, may provide a property tax exemption to certain veterans who do not qualify for certain other veteran property tax exemptions. The act establishes application requirements and procedures. The act also increases the income eligibility thresholds for existing tax exemptions for disabled veterans. *Effective, generally, October 1, 2017 and applicable to assessment years commencing on or after that date, and, as to section 1, on July 10, 2017.*

[Public Act 193, An Act Requiring a Criminal Conviction for Certain Offenses Before Assets Seized in a Lawful Arrest or Lawful Search May Be Forfeited in a Civil Proceeding](#)

This act makes revisions to the statutes that govern civil forfeiture of property seized in connection with certain criminal offenses. (Conn. Gen. Stat. §54-33g, *et seq.*) Under the act, property may be seized during a lawful arrest or a lawful search *that results in arrest*. The act also provides that the court shall hold a hearing on the state’s petition for forfeiture no more than two weeks after the criminal proceeding that occurred as a result of the arrest has been nolledd, dismissed, or otherwise disposed of. The petition shall be denied, and the property returned, if the criminal proceeding does not result in a plea of guilty or nolo contendere, a guilty verdict after trial to a forfeiture-eligible offense, or a dismissal resulting from the completion of a pretrial diversionary program. The statute retains its current language providing that if such property is subject to a bona fide mortgage, assignment of lease or rent, lien or security interest, such forfeited property shall not be disposed of or destroyed in violation of the rights of the holder of that interest. *Effective October 1, 2017.*

[Public Act 201, An Act Concerning the Commercial Property Assessed Clean Energy Program](#)

This act makes a number of revisions to the “Green Bank” and its Commercial Property Assessed Clean Energy Program (C-PACE). This program provides financing for energy efficient or renewable energy improvements on certain commercial properties in participating municipalities. The property owner who has received financing assistance repays the costs of the improvements through an assessment on the property, which assessment is backed by a lien that takes precedence over all other liens except municipal tax liens, subject to the consent of existing mortgage holders.

Changes made to the program by way of Public Act 201 include an expansion of the purposes for which C-PACE financing may be provided, a renaming of the lien as a “benefit assessment lien,” and the addition of language providing that liens for payment that become due in the future will survive a foreclosure of any delinquent liens or a foreclosure based on delinquent property taxes. *Effective October 1, 2017.*

[Public Act 214, An Act Concerning the Creation of Connecticut Brownfield Land Banks, Revisions to the Brownfield Remediation and Revitalization Program and Authorizing Bonds of the State for Brownfield Remediation and Development Programs](#)

This act establishes a framework for organizing and operating local nonprofit land banks to acquire and remediate brownfields and sell the remediated property for redevelopment. “Connecticut brownfield land banks,” as defined in section 1 of the act, must be established for the purposes of acquiring, retaining, remediating, and selling brownfields in the state for the benefit of municipalities. Other purposes shall be educating government officials, community leaders, economic development agencies, and nonprofit organizations on best practices for redeveloping brownfields. The entity must apply to the Department of Economic and Community Development for certification, in accordance with section 2 of the act. Section 4 of the act sets forth the broad contractual, financial, and development powers that are given to Connecticut brownfield land banks. Those powers, however, specifically do not include the power to

take property by eminent domain. The remainder of the act covers matters such as tax exemptions and abatements, the acquisition and disposition of property, environmental site assessments, transfer act exemptions, liability protection, and audits by the Department of Energy and Environmental Protection. *Effective July 1, 2017.*

[Public Act 224, An Act Concerning Revisions to Various Provisions of the General Statutes](#)

Section 3 of this act addresses the recent Connecticut Supreme Court case, *The Neighborhood Association, Inc. v. Limberger*, 321 Conn. 29 (2016), in which the Court held that a common interest community's standard foreclosure policy was a "rule" within the meaning of CIOA rather than an internal business operating procedure, and thus its adoption was subject to CIOA's procedural requirements for rules. This act revises the definition of rule, to remove a reference to Conn. Gen. Stat. § 47-261b, which is the statute that the Court relied on in determining that the board needed to give unit owners notice of its intention to adopt a rule and the opportunity to comment. The act further amends the definition of the term "rule" in § 47-202 by stating that it "regulates conduct occurring within the common interest community or the use, maintenance, repair, replacement, modification or appearance of the common interest community." [Editor's Note: Please contact one of CATIC's underwriters for assistance should you have a transaction with a "Limberger" issue.] *Effective October 1, 2017.*

[Public Act 233, An Act Concerning Secured and Unsecured Lending](#)

This lengthy act addresses the state's banking laws, covering matters such as education requirements for licensees, prohibited actions, the development and enforcement of policies and procedures designed to achieve compliance with statutory requirements, and reporting requirements. Section 25 concerns prohibited actions by, *inter alia*, debt adjusters and debt negotiators. Those prohibited activities include employing any scheme, device, or artifice to defraud or mislead any person in connection with a debt negotiation, engaging in any unfair or deceptive practice toward any person in connection with a debt negotiation, failing to truthfully account for funds belonging to a debtor or mortgagor, making false statements, obtaining property by fraud or misrepresentation, and failing to establish, enforce and maintain policies and procedures in order to ensure compliance with applicable laws and regulations. [Editor's Note: Although section 9, as set forth in this act, is stated as effective October 1, 2017, section 24 of Public Act 236 provides that section 9 of PA 233 shall instead take effect on July 1, 2018.] *Effective, generally, October 1, 2017.*

[Public Act 236, An Act Concerning the Department of Banking's Enforcement Authority, the Issuance of Certain Reports, Requiring the Return of Certain Portions of Security Deposits and Making Minor Revisions to the Banking Statutes](#)

This act makes a number of revisions to various unrelated provisions in the banking statutes. Of interest are the following. Section 2 amends Conn. Gen. Stat. § 36a-457b to increase, from 20 years to 25 years, the maximum maturity period that state credit unions can establish for second mortgages and "manufactured home" loans. Section 13, *effective October 1, 2017*, concerns money transmission licensees and provides that they shall establish an anti-money-laundering program, in accordance with the particulars set forth in the act. Section 16 authorizes the Banking Commissioner to impose a fine of up to \$100,000 per violation in the event any person has engaged, directly or indirectly, in a dishonest or unethical practice. The section sets out the relevant notice requirements and the hearing procedure that shall be followed.

Section 17 of the act amends Conn. Gen. Stat. § 47a-21, which provides that, in the case of a tenant sixty-two years of age or older, a landlord shall not demand a security deposit in an amount that exceeds one month's rent. As amended by Public Act 236, the statute now provides that if a tenant becomes sixty-two years of age after paying a security deposit that exceeds one month's rent, the landlord shall return the excess funds upon the tenant's request. *Section 17 is effective October 1, 2017.*

Section 18 establishes a task force to study methods to prevent the issuance of mortgages to persons with excessive blight fines or who have violated nuisance abatement laws.

Section 20 provides that the Department of Housing and the Department of Banking shall conduct a study concerning the development of a lead abatement interest rate reduction program designed to provide interest rate subsidies to owners who have experienced difficulty obtaining financing to abate lead due to the high cost of such abatement, the failure to meet underwriting criteria, the decreased market value of an affected home, or personal financial circumstances. *Effective, generally, on July 11, 2017, and as noted above.*

[Public Act 240, An Act Concerning the Failure to File for Certain Grand List Exemptions, the Community Housing Land Bank and Land Trust Program and the Tax Revaluation Deadline for the Town of Orange](#)

Section 1 of this act excuses the failure to file the required applications for a grand list exemption in the city of Danbury for the 2013 and 2014 grand lists. If any such affected person files the necessary applications in accordance with the act's provisions, the assessor shall approve the exemptions and reimburse the taxpayer. Section 2 has a similar provision, as to the city of New Britain, as does section 3, relative to the town of Berlin.

Section 4 allows certain nonprofits to convey title or transfer interests in real property related to low and moderate income housing. (Conn. Gen. Stat. § 8-214d) The proceeds from any such transfer shall be deposited into the Community Housing Land Bank and Land Trust Fund.

Section 5 concerns the town of Orange, allowing a delay of one year for a revaluation scheduled for October 1, 2017, provided the delay is approved by the town's legislative body. *Effective July 1, 2017, as to sections 1, 2, and 3, effective October 1, 2017, as to section 4, and effective July 11, as to section 5.*