



OLR RESEARCH REPORT

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2009 ACTS AFFECTING BUSINESS

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This report summarizes acts affecting businesses the legislature passed during the 2009 regular and special sessions. We will add summaries of the special session laws when that session ends.

We did not summarize all provisions of each act. Consequently, we encourage readers to obtain full texts of the acts that interest them online at www.cga.ct.gov or from the Connecticut State Library or the House Clerk's Office. A detailed analysis of all 2009 laws will be available this fall when OLR publishes its public act summary book. Completed analyses are currently at our webpage (www.cga.state.ct.us/olr).

BUSINESS LAW AND PRACTICE

Unclaimed Deposits

Among other things, a new law requires entities collecting deposits on returnable bottles to pay any unclaimed deposits to the state on a quarterly basis (**PA 09-1**, § 15, effective April 1, 2009 and the quarterly payment provision applicable to periods starting on or after December 1, 2008).

Construction Contractor Disclosures

A new law requires new home construction and improvement contractors to disclose every type of business that they owned, held shares in, or participated in as members or partners within the past five years ([PA 09-18](#), effective July 1, 2009).

Terminating Utility Service

Under a new law, residential building owners must give utilities and heating fuel dealers access to meters and other facilities located on their premises or face sanctions if they do not ([PA 09-31](#), effective July 1, 2009).

Agent for Service of Process for Out-Of-State Businesses

A new law eliminates some of the conditions for revoking out-of-state businesses' authority to do business in Connecticut. It also eliminates the requirement that a foreign statutory trust's registration be revoked for failing to file an annual report with the secretary of the state ([PA 09-38](#), effective October 1, 2009).

Connecticut Business Corporation Act Changes

A new law makes many changes to the Connecticut Business Corporation Act. Among other things, it eliminates appraisal rights under certain circumstances, requires shareholders asserting these rights to certify that they did not consent to the transaction creating the right, and requires additional information to be provided to shareholders on corporate actions triggering appraisal rights. Other changes concern (1) corporate actions that can be taken without a shareholders meeting, (2) corporate directors terms and elections, (3) delivery of annual financial statements and other documents, and (4) shareholder suits for judicial dissolution ([PA 09-55](#), effective October 1, 2009).

Connecticut Antitrust Act

A new law increases the maximum civil penalty for certain antitrust cases and imposes the same confidentiality requirements on documentary material and other information voluntarily revealed to the attorney general in an anti-trust investigation that already apply to material and information he subpoenas. The law also increases the maximum civil penalty for failing to comply with a subpoena, interrogatory, or other demand for documentary material the attorney general makes when investigating an antitrust violation ([PA 09-68](#),

effective October 1, 2009 except the provision concerning documentary material and other information takes effect July 1, 2009).

Protecting Personal Information

By law, state agencies must require licensees, registrants, or certificate holders to safeguard personal information they possess about another person. Under a new law, they must also require state-chartered banks to do so. It also specifies that a financial institution's adoption of safeguards that comply with the federal Gramm-Leach-Bliley Act constitutes compliance with the law on safeguarding personal information ([PA 09-71](#), effective October 1, 2009).

Penalty for Doing Business Without Authority

Unregistered or uncertified foreign businesses doing business in Connecticut face increased penalties under a new law. They are already liable for fees and taxes they would have paid if they transact business here without a certificate ([PA 09-83](#), effective October 1, 2009).

Banning Bisphenol-A in Children's Products and Food Products

Starting October 1, 2011, a new law bans the sale, manufacture, or distribution of children's and other products containing bisphenol-A ([PA 09-103](#), effective October 1, 2011).

Donation Bins

Under a new law, anyone placing a donation bin in a public place must obtain its owner or agent's permission and place a sign on the bin indicating if the donation is for charitable or non charitable purposes ([PA 09-119](#), effective October 1, 2009).

Surety Bond for Removing or Replacing Underground Heating Oil Tanks

A new law relieves contractors removing or replacing underground heating oil tanks from proving they have the required surety bond when applying for the state registration certificate. It also relieves those registering for payment from the residential underground heating oil storage tank clean-up subaccount from posting a surety bond, but raises the minimum required amount of liability insurance coverage or liquid company assets from \$250,000 to \$1 million ([PA 09-122](#), effective upon passage).

Disclosing Insurance Requirements in Equipment Leases

Equipment lease agreements subject to the Uniform Commercial Code must now disclose insurance requirements under a new law ([PA 09-134](#), effective October 1, 2009 and applicable to consumer leases entered, renewed, modified, or extended on or after October 1, 2009).

Construction Change Orders

Effective July 1, 2009, owners, contractors, subcontractors, and suppliers must indicate the status of certain actions when requesting payment under certain commercial construction contracts. They must do so regarding pending change orders, change directives, and approved contractual changes ([PA 09-146](#), effective July 1, 2009).

Health and Nutritional Information in Restaurants

Restaurant chains must now disclose calorie counts on their menus ([PA 09-157](#), effective July 1, 2009, except that the provision on authorized agents' inspections takes effect July 1, 2010).

Advising Seniors

A new law generally prohibits people involved in securities sales from falsely expressing or implying that they have the expertise needed to give financial advice to seniors. A willfully violation is punishable by a fine of up to \$2,000, two years imprisonment, or both. The new law also requires the insurance commissioner to regulate life insurance or annuity sales to seniors ([PA 09-174](#), effective July 1, 2009).

Consumer Privacy and Identity Theft

The legislature made many changes in the laws governing identity theft, Social Security numbers, and disseminating personal identifying information. Among other things, it broadened the definition of identity theft, increased the penalties for criminal impersonation, and created the crime of unlawful possession of personal access devices. It also created the Privacy Protection Guaranty and Enforcement Account to reimburse injured parties ([PA 09-239](#), effective October 1, 2009 for most of the changes).

Automobile Manufacturers, Distributors, Franchises and Dealerships

Revisions to the laws governing motor vehicle manufacturers, distributors, and dealers, and the franchise agreements between them affect, among other things, compensation for parts and labor in connection with pre-delivery preparation and warranty service. They also affect franchise and other agreements between a manufacturer or distributor and a dealer ([PA 09-50](#), effective upon passage).

ECONOMIC DEVELOPMENT

Small Business Impact Analyses

All state agencies proposing a regulation must now identify how it affects small businesses. They must still prepare a regulatory flexibility analysis if the proposed regulation adversely affects small businesses ([PA 09-19](#), effective October 1, 2009).

Tax Incremental Financing

The legislature extended the authorization for the Connecticut Development Authority's tax incremental financing programs to 2012. These programs finance large-scale development projects ([PA 09-61](#), effective upon passage).

Expedited Permitting

A new law allows state-licensed engineers to certify that economic development projects comply with all state permitting requirements ([PA 09-184](#), effective October 1, 2009).

Milk Producers and Milk Products

A new program provides grants to dairy farmers ([PA 09-229](#), effective October 1, 2009).

Brownfields Development

The legislature made many changes to the rules for identifying, investigating, remediating, and developing brownfields. They include deadlines for remediating the property and allowing transfers while groundwater is still being remediated and monitored ([PA 09-235](#), with most provisions taking effect on different dates).

FINANCE, INSURANCE, & REAL ESTATE

Extended Warranty Statutes

An insurer issuing an extended warranty reimbursement insurance policy in Connecticut must now meet certain requirements when filing a policy form with the insurance commissioner ([PA 09-24](#), effective October 1, 2009).

Consumer Report Card

The legislature imposed new requirements for reporting and displaying insurer and HMO medical loss ratios ([PA 09-46](#), effective October 1, 2009).

Derivative Financial Transaction Controls

A new law specifically allows U.S. insurers doing business in Connecticut to enter into derivative financial transactions as long as it is prudent, given the company's business and diversification considerations ([PA 09-48](#), effective upon passage).

Underinsured Motorist Conversion Coverage and Recovering of Collision Deductibles in Subrogation Actions

New automobile liability insurance policies must now disclose the availability of, premium for, and description of underinsured motorist conversion coverage. And insurers subrogating claims must now (1) seek to recover any collision deductible the insured paid, unless the insured requests that it not be included in the subrogation demand, and (2) share subrogation recoveries with the insured on a proportionate basis ([PA 09-72](#), effective January 1, 2010).

Mid-Term Automobile Insurance Policy Cancellation Fees

A new law prohibits an insurer that renews, amends, or endorses a private passenger automobile insurance policy in Connecticut from charging the insured more than \$100 for canceling the policy before the policy term ends ([PA 09-98](#), effective October 1, 2009).

Connecticut Business Opportunity Investment Act

The legislature made many changes to the Connecticut Business Opportunity Act, including consolidating existing registration procedures and eliminating certain registration exemptions ([PA 09-160](#), effective October 1 2009).

Mitigating Homeowners and Business Owners Fire Losses

The legislature made many changes to the requisite standard fire insurance policy, including shortening the time for paying claims and increasing the statute of limitations for filing claim-related lawsuits. The legislature also required master insurance policies for condominium associations formed after 1976 to include coverage for terrorism-related losses ([PA 09-164](#), effective October 1, 2009).

Safe Harbor Provisions for Revolving Loans

A new law extends the protections for commercial revolving loans to “commercial future advance loans” ([PA 09-161](#), effective October 1, 2009).

Green Building Standards

The legislature delayed the date when “green building” standards take effect and narrows their scope ([PA 09-192](#), upon passage).

Mortgage Licensing Act and Foreclosure Procedures

The legislature (1) imposed additional conditions on licensing mortgage professionals; (2) banned everyone, not just mortgage brokers, from influencing residential real estate appraisals; and (3) eliminated the maximum loan threshold for licensing small loan lenders.

It made the foreclosure mediation program mandatory for actions with return dates on and after July 1, 2009 and specified conditions under which strict foreclosure judgments can be opened after title has become absolute ([PA 09-209](#), effective July 1, 2009 for most changes).

Mortgage Practices

Among other things, a new law makes residential mortgage fraud a crime, modifies the interest rate for determining if a home loan is nonprime, and gives the banking commissioner another year to adjust the interest rate parameters for nonprime loans ([PA 09-207](#), October 1, 2009).

Personal Risk Insurance Rate Filings

The legislature extended the sunset date for the “flex rating” law for personal risk insurance (e.g., home, auto, marine, and umbrella) from July 1, 2009 to July 1, 2011 ([PA 09-217](#), effective upon passage).

Motor Vehicle Repairs

A new law prohibits an auto insurer, and its agents and adjusters, from specifying where insureds must have their vehicles repaired and revises the written acknowledgement that shops must obtain from their customers ([PA 09-237](#), effective October 1, 2009).

GOVERNMENT PROCUREMENT

Certified Payrolls

Under a new law, contractors and subcontractors working on state and municipal construction projects must submit their certified payrolls to the contracting agency by first-class, postage-prepaid mail. Failure to do so is a class D felony ([PA 09-25](#), effective October 1, 2009).

Small Business Set-Aside Contracts

Under a new law, small contractors with mental disabilities qualify for state small business set-aside contracts ([PA 09-158](#), effective upon passage).

In-State Micro Businesses

A new law authorizes a maximum 10% state bid preference for businesses that purchase goods or services from small “micro” businesses ([PA 09-184](#), effective July 1, 2009).

HEALTH CARE

Disclosure Senior Citizen Discounts

A new law requires people and organizations doing business with the public to disclose any senior citizen discount they offer and subjects them to a \$50 civil penalty for failing to do so ([PA 09-53](#), effective October 1, 2009).

External Expedited Appeals

A new law authorizes external expedited appeals for health plan enrollees and licensed health care providers ([PA 09-49](#), effective October 1, 2009).

Autism Spectrum Disorders

Under a new law, group health insurance policies must cover the diagnosis of autism spectrum disorders and comply with more requirements for treating these disorders. Policies may set a certain annual dollar maximum for behavioral therapy coverage ([PA 09-115](#), effective January 1, 2010).

Underwriting Coverage Based on Prescription Drug Use

A new law restricts the extent to which insurers and others providing individual health insurance can use a person's history of taking an anti-anxiety prescription drug as an underwriting factor ([PA 09-123](#), effective January 1, 2010).

Health Insurance Coverage for Stepchildren

A new law requires individual and group health insurance policies to cover stepchildren on the same basis as biological children. It also extends the coverage eligibility law for individual health insurance policies to individual policies continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) limited benefits; (5) accidents only; and (6) hospital or medical services, including coverage under an HMO plan ([PA 09-124](#), effective upon passage).

Terminated Employees' Health Insurance Premium Payments

Under a new law, an employer can stop paying group health insurance premiums for an employee and his or her dependents as of 72 hours after the employee quits or is terminated for any reason except layoff, unless a collective bargaining agreement requires otherwise ([PA 09-126](#), effective October 1, 2009).

Customer Access to Restrooms in Retail Establishments

A new law specifies when stores and other retail establishments must allow people with specified medical conditions to use employee

restrooms. But it also protects the establishments and their employees from liability under certain conditions and requires no physical changes to the restrooms ([PA 09-129](#), effective October 1, 2009).

Clarifying Postclaims Underwriting

A new law limits a health insurer's or HMO's investigation of a claimant's suspected undisclosed preexisting condition and specifies when insurance producers or agents and insureds are jointly and severally liable for claims resulting from any information a producer or agent knowingly omits or misrepresents.

The new law allows insurers and HMOs to cancel coverage that has been in effect for less than a year without first conducting a thorough medical underwriting based on an insured's application.

Lastly, it requires insurers or HMOs that accept over-the-phone applications for individual health insurance to comply with various disclosure, records, and rescission requirements ([PA 09-135](#), effective October 1, 2009).

Prescription Eye Drop Refills

A new law when certain health insurance policies covering prescription eye drops cannot deny coverage for prescription renewals ([PA 09-136](#), effective January 1, 2010).

Wellness Programs and Health Insurance Coverage Expansion

A new law requires group health insurers to offer health wellness programs that provide incentives for insureds to participate in them and specifies when health insurance policies must cover prosthetic devices and human leukocyte antigen (bone marrow) testing. It prohibits insurers from charging for a second or subsequent colonoscopy a physician orders for insureds in a policy year.

The new law also expands insurance coverage for other things, including required medically necessary ostomy appliances and supplies and children's hearing aids, and broadens the applicability of several mandated health insurance benefits ([PA 09-188](#), effective January 1, 2010).

LABOR

Health Insurance Coverage and Unemployment Compensation

Among other things, a new law lets certain laid-off workers reinstitute health insurance coverage they chose to discontinue when they were laid off and qualifies them for federal insurance premium subsidies. It also continues unemployment compensation for employees who leave a job and relocate because their spouses' jobs required relocation ([PA 09-3](#), effective upon passage).

Family and Medical Leave Act

A new law allows employees to take unpaid family and medical leave to care for an immediate family member or next of kin who suffered a serious illness or injury while serving with the U.S. military, National Guard, or the reserves ([PA 09-70](#), effective upon passage).

Equal Pay for Equal Work Violations

The legislature made several changes in the law banning employers from paying employees based solely on gender. Among other things, it authorized compensatory and punitive damage awards, limited bona fide defenses that employers may assert, and extended the deadline for making a gender wage claim from one to two years following a violation ([PA 09-101](#), effective October 1, 2009).

Proof of Workers' Compensation Insurance on Public Works Projects

Public works contractors must now provide the name of their workers' compensation insurer, the insurance policy number, and coverage dates instead of a hard copy of a certificate of self-insurance or other specified documents ([PA 09-104](#), effective upon passage).

Workers' Compensation Appeals

A new law allows parties to appeal a Workers' Compensation Review Board decision even if it is not final ([PA 09-178](#), effective upon passage).

Standard Wage for Certain Connecticut Workers

The legislature changed how private contractors must determine hourly wages and benefits for their employees who maintain state buildings or provide food service in them. It also requires these contractors, when replacing an existing building service contractor, to keep that contractor's employees for a specified time ([PA 09-183](#), effective July 1, 2009).

Presumption DUI Level for Driving Commercial Vehicle

A new law decreases, from .08% to .04%, the presumptive level for determining if a commercial motor vehicle driver is operating with an elevated blood alcohol level (DUI) for both the criminal offense and the administrative suspension ([PA 09-187](#), effective October 1, 2009).

LAND USE ENVIRONMENT

Mill Properties

A new law exempts mills on contaminated floodplain property from state certification requirements ([PA 09-141](#), effective upon passage).

Regionally Significant Projects

Developers proposing large-scale projects can now submit them to regional planning agencies or other similar organizations for preliminary review before seeking the required local and state permits ([PA 09-165](#), effective October 1, 2009).

Extending Deadlines for Certain Land Use Permits

A new law gives developers more time to complete ongoing projects without seeking reapproval. It applies to projects approved between July 1, 2006 and July 1, 2009 ([PA 09-181](#), effective upon passage).

Beneficial Use of Solid Waste

A new law authorizes state permits for the beneficial use of hazardous material and solid waste ([PA 09-211](#), effective October 1, 2009).

Fertilizer Law

The legislature updated the fertilizer law, basing it on the 2008 Association of American Plant Food Control Officials' recommended model law ([PA 09-229](#), effective July 1, 2009).

TAXES AND FEES

Canceling Debt Income

A new law bars taxpayers from taking advantage of a federal option to temporarily defer income from cancellation of certain business debts when they calculate their Connecticut corporation and personal income taxes ([PA 09-2](#), June 19, 2009 Special Session, effective and applicable to tax years starting after December 31, 2008).

Delaying Revaluation

The legislature allowed towns to (1) delay a revaluation scheduled for 2008, 2009, or 2010 until 2011 and (2) suspend a current revaluation phase-in for up to three years, also until 2011 ([PA 09-60](#), July 1, 2009 and applicable to assessment years starting on or after October 1, 2008 (PA 09-196 changed this date to upon passage and applicable to assessment years starting on or after October 1, 2008)).

Green Buildings Tax Credit

The legislature authorized transferrable and assignable business tax credits for constructing buildings meeting specific energy and environmental standards ("green buildings") ([PA 09-202](#), effective July 1, 2009, with the credits applying to income years starting on or after January 1, 2012).

Tax Settlement Initiative Program

A new law establishes a tax settlement initiative program for anyone owing state taxes (other than the motor carrier road tax), interest, or penalties for any taxable period for which:

1. interest or penalties are due for late payment or underreporting of taxes, or
2. interest or additional tax are due because the taxpayer failed to file a return and Revenue Services Department filed one for it ([HB 6802](#), § 89, effective upon passage).

Economic Nexus for Corporation And Income Tax

The legislature established “economic nexus” for determining if out-of-state businesses and nonresident taxpayers are subject to Connecticut taxes ([HB 6802](#), §§ 90 & 91, effective upon passage and applicable to income and taxable years starting on or after January 1, 2010).

Corporation Tax Surcharge

A new law imposes a 10% corporation tax surcharge for income years beginning in 2009, 2010, and 2011. The surcharge applies only to companies (1) with more than \$100 million in annual gross revenues for any of these years or (2) whose tax liability exceeds the \$ 250 minimum tax. Companies that file combined or unitary returns are not eligible for the gross revenue exemption ([HB 6802](#), §§ 94 & 102, effective upon passage).

Film And Digital Animation Production and Infrastructure Investment Tax Credits

The legislature made several changes to the film and digital animation production and infrastructure investment tax credit program. Starting January 1, 2010, it increased the minimum required expenditure under both programs from \$50,000 to \$100,000. It also based the credit on the amount expended: (1) 10% credit for expenditures between \$100,000 and \$500,000, (2) 15%, for expenditures between \$ 500,000 and \$ 1 million, and (3) 30% for expenditures over \$ 1 million.

The legislature changed the infrastructure credit to a flat 20% and increased the minimum qualifying expenditure to \$3 million, also effective January 1, 2010. Under prior law, the credits ranged from 10% to 30% depending on the total expenditure. ([HB 6802](#), §§ 97-101 & 485).

Corporation Combined Reporting Preference Tax

The legislature doubled, from \$ 250,000 to \$ 500,000, the maximum preference tax for groups of companies filing combined corporation tax returns ([HB 6802](#), § 103, effective upon passage).

Cigarette Tax Increase

A new law increases the cigarette tax by \$ 1, from \$ 2 to \$ 3 per pack (from 10 cents to 15 cents per cigarette), starting October 1, 2009 ([HB 6802](#), §§ 104-106, effective upon passage and applicable to sales on or after October 1, 2009).

Tobacco Products Tax Increase

The bill increases the tobacco products tax from 20% to 27.5% of the wholesale price and the tax on snuff tobacco from 40 to 55 cents per ounce. The tobacco products tax applies to cigars, cheroots, pipe tobacco, and similar products ([HB 6802](#), § 107, effective upon passage and applicable to sales on and after October 1, 2009).

Sales and Use Tax Rate Reduction

Starting January 1, 2010, the sales and use tax rates applicable to most taxable items and services are reduced from 6% to 5.5%, unless the comptroller reports General Fund tax revenue for FY 10 is at least 10% less than the legislature's FY 10's revenue estimate. (This change does not affect the current rates for items and services that are currently taxable at rates other than 6%, such as hotel room rentals (12%)) ([HB 6802](#), §§ 108-113, effective January 1, 2010).

Real Estate Conveyance Tax on Foreclosures

A new law applies the real estate conveyance tax to property that is foreclosed by sale through a court order ([HB 6802](#) § 114, effective January 1, 2010 and applicable to conveyances on or after that date).

Various Fee Changes

A new law raises state fees by:

1. increasing fees to at least \$15;
2. doubling fees under \$150;
3. increasing fees between \$150 and \$1,000 by 25%; and
4. adding \$250 to fees of \$1,000 or more ([HB 6802](#), §§ 140 – 391, effective October 1, 2009 for most fees).

Commercial Underground Storage Tank Inspection Fee

Starting October 1, 2009 the inspection fee for commercial underground storage tanks (UST) is apparently \$100 annually per tank for each UST facility. Under prior law, the inspection fee was also \$100 per tank, but it was imposed no more than once every five years. Exempted from the fee are certain specified tanks, such as septic tanks and pipeline facilities ([HB 6802](#) § 422).

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