



General Assembly

**Amendment**

February Session, 2024

LCO No. 5082



Offered by:

SEN. MARONEY, 14<sup>th</sup> Dist.

REP. D'AGOSTINO, 91<sup>st</sup> Dist.

To: Subst. Senate Bill No. 201

File No. 156

Cal. No. 121

(As Amended by Senate Amendment Schedule "A")

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

122 (d) If any unfair real estate listing agreement or notice or  
123 memorandum thereof is recorded or rerecorded, any person with an  
124 interest in the residential real property that is the subject of such  
125 agreement may recover such actual damages, costs and attorney's fees  
126 as may be proven against the real estate listing provider who recorded  
127 or rerecorded such agreement, notice or memorandum or caused such  
128 agreement, notice or memorandum to be recorded or rerecorded. Such  
129 actual damages, costs and attorney's fees shall be in lieu of any damages,  
130 costs and attorney's fees awarded in any action brought under chapter  
131 735a of the general statutes for a violation of subsection (a) of section 2  
132 of this act.

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

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

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

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

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

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

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

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

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

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

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