



Other Factors to Consider in PA 490 Farmland Classification

- Leased Land**
- Land being farmed is often not owned by the individuals farming the land. The land is being leased or rented to them by the landowner.
 - Lease agreements may be formal written agreements with financials associated with them or informal agreements such as use of the land in exchange for the maintenance of it by the farmer. Either scenario merits PA 490 farmland classification.
 - If land is leased for farming purposes, then the land merits the PA 490 farmland classification.
 - Always keep in mind that PA 490 classification is based on the actual use of the land and the lessee farmer must sign the application.
 - Leased land is included on the M-29 Form for PA 490 farmland classification.
 - Leased PA 490 farmland that includes non-agricultural land such as woodland, swamp and scrub should be given the same consideration as non-leased PA 490 farmland, with consideration given to the overall purpose and intent of PA 490.

- Horse Operations**
- Horse owners and providers of equine services abound in Connecticut.
 - If the landowner has a horse only for pleasure, and not for some business related activity, the land use may not be valued as farmland.
 - If a landowner is involved with an equine business, then they are a farmer.
 - As long as a service is provided or a breeding with intent to sell operation occurs, the business component is fulfilled.
 - The land that is necessary to provide these services merits the PA 490 farmland classification, even if the land is only used for exercise paddocks for the horse.

- Woodland and the Farm Unit**
- Section 12-107b (1) of the CGS states: The term "farmland" means any tract or tracts of land, including, woodland and wasteland, constituting a farm unit.
 - Form M-29 provides for acreage to be categorized as: Woodland in the Farm Unit and Wasteland-Swamp/Ledge/Scrub
 - There is substantial historical context showing that woodland is a valuable part of a farm unit.
 - In many cases the woodland is used for grazing as pasture, for water sources, for the expansion of farmland as needed, and as a source of cordwood and timber production as part of the farming operation.
 - The woodland may include access roads that are essential access to production fields.
 - The woodland and wasteland often provide a necessary buffer zone for the agricultural land in terms of soil protection from erosion and water runoff as well as protection for wetlands, watercourses and wildlife habitat.
 - Woodland and wasteland may also provide a natural vegetative buffer between the farming operation and abutting non-agricultural land uses.
 - Usually swamp, wasteland or wetlands are part of the farm unit. (*Gozdz v. Tolland Board of Tax Review*)
 - Non-contiguous wooded parcels should be considered part of the farm unit, if the farmer can prove that these parcels are incidental to the farming operation.
 - There is a separate forest land classification in PA 490 which requires 25 acres or more, however forestry is also mentioned in the 1-1q definition of agriculture and farming. This means that the harvesting of timber and managing of a woodlot is agriculture, even a small woodlot. Today, there are many small-acreage farms that include tracts of forest land in the farm unit.
 - Unlike the PA 490 Forest Land classification, there is no minimum acreage for woodland under the farm unit.



■ HOW AND WHEN TO APPLY

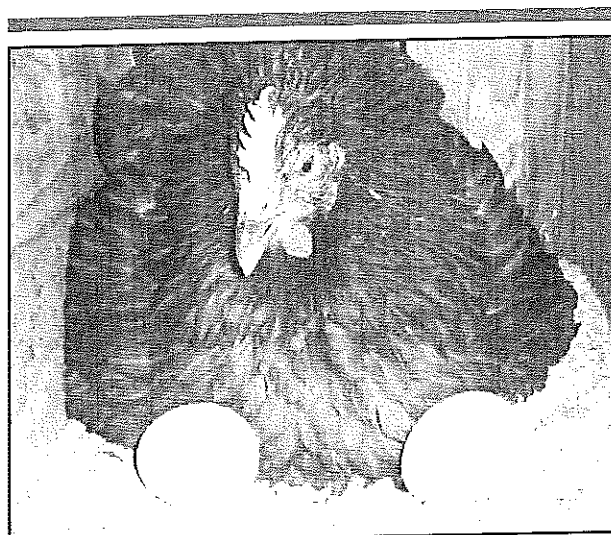
Persons wanting to classify land under the PA 490 farmland classification must do so by application to the assessor in the town in which the land is located. The application must be made on form M-29 "Application to the Assessor For Classification of Land as Farmland", which is prescribed by the Commissioner of the Department of Agriculture. The form is available from the municipality's assessor's office.

The M-29 application must be made between September 1st and October 31st. During the year of revaluation in the town, the application may be made from September 1st until December 30th.

In completing form M-29, the landowner should be prepared to supply the number of acres in each land category as shown in the PA 490 Land Classes table in Section 4 of this Guide and in Appendix D. The recommended values per land class will then be applied to the associated acreages to derive a total assessment. For example a 25-acre farm may have ten acres in Tillable C; ten acres in pasture and five acres in woodland.

Supporting Information to Accompany PA 490 Farmland Application

Supporting documentation provided with a PA 490 Farmland Application is advisable to aid both the landowner and the assessor in determining a classification. Documentation may include assessor's maps, aerial photos and soils maps, photographs of the land, income tax records, leases (written and verbal), a farm business plan, bills and invoices of farm business expenses, and/or a Farmer Tax Exemption Permit. These documents are not required under PA 490, but will aid in determining qualification for classification.



Annual application and renewal for PA 490 farmland classification is not required unless there is a change of use or the land is sold or transferred. However, an assessor may request additional information after the initial filing in order to clarify the property's current use status. If it is a revision of an existing application, then this should be identified and attached to the original M-29. A new application should not be submitted. Both the landowner and the assessor should sign and date the requested revision.

Many towns will ask to update all of their files periodically; often in conjunction with revaluation. This is merely a request to verify that the land is still being actively farmed either by the owner/farmer or by a lessee farmer. This will not affect the ten-year conveyance tax ownership requirement and a new application should not be required. An assessor can assure fairness and equity in the process by reasonable review.

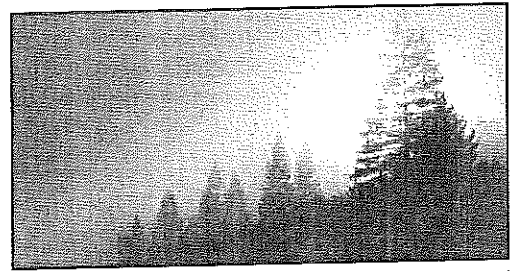
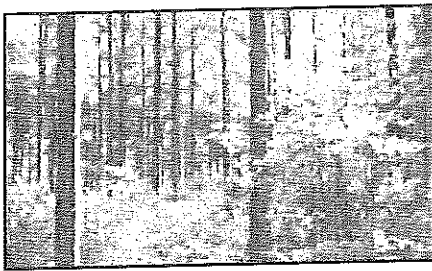
It is strategically wise for farmers to describe their operation by broad categories rather than limited ones. This avoids the need for constant updating when a farm cycles through various farming activities over time as market conditions demand.

Highlights of the 2018 PA 18-176 Amendments

In 2018, the legislature passed PA 18-176. The amendment added the following language to CGS 12-107c(a): The assessor shall not deny the application of an owner of land for classification of such land as farmland if such land meets the criteria for classification as farm land pursuant to this subsection. The assessor shall not deny the application of any portion of such land on account of any minimum acreage requirement for residential parcels or agricultural use established under municipal zoning regulations.



FOREST LAND CLASSIFICATION



■ THE FOREST RESOURCE

Connecticut's forests contribute positively to air quality, clean water, recreation, wildlife habitat and a robust forest products industry. Loss of forest ecosystem integrity due to fragmentation and urbanization continues to threaten Connecticut's forest resource. PA 490 forest land classification plays a critical role in maintaining large parcels of forest land by allowing landowners to be taxed at the current use rate for forest land rather than the highest value, thereby making the tax rate affordable.

Connecticut's forests cover 1,799,342 acres of land or 56% of the state.

73% of Connecticut's forest land is in private ownership.

Connecticut's forest products industries include forestry, logging, primary solid wood products, secondary solid wood products, wood furniture, pulp, paper, and paperboard mills, and secondary paperboard and other products.

In 2017, these industries supported over 16,000 jobs, \$1.2 billion in labor income, \$1.6 billion in value-added, and \$4.0 billion in output in total.

— Source: *The Economic Importance of Connecticut's Forest Based Economy*, North East State Foresters Association 2015

— Source: *Forest Products Industries' Economic Contributions: Connecticut*, Public Sector Consultants, March 2020

■ THE ROLE OF ASSESSOR, FORESTER, LANDOWNER AND STATE AGENCIES IN FOREST LAND CLASSIFICATION

Role of Assessor: The role of the assessor is to fairly and equitably assess the value of the forest landowner's land within the requirements of the law. When the assessor receives the completed application for classification of the land as forest land, accompanied by the Qualified Forester's Report, the assessor will review the supplied materials. If the assessor determines that the use of the land meets the standards for forest land under PA 490, then the assessor can classify the land as forest land and include it as such in the grand list.

If the assessor disagrees with the forester's findings with respect to either the number of acres of forest or the location of the forest within the land, the assessor may appeal to the State Forester, including a copy of the report, and ask for a review of the forester's findings. The State Forester will advise the forester and the owner of the appeal and render his advice within 60 days of receiving the appeal.

When the assessor determines that a change to non-forest use has occurred on the land, he or she may terminate the classification or require the owner to modify the application for classification of any remaining lands that may qualify. The owner may again be required to employ a forester to prepare a report on the land proposed for classification. If the total acreage of the remaining tracts totals less than 25 acres, the entire classification must be terminated. It should be noted that timber harvesting and other forest management activities are permitted forest uses. If an assessor has any question regarding the change of use, the assessor may consult the State Forester.

Annual Reporting of PA 490 Land by Assessors

Pursuant to CGS Section 107d(k): During the month of June each year the assessor of a municipality within which land classified as forest land is situated shall report to the State Forester, in a format prescribed by the State Forester, the total number of owners of land classified as farmland, forest land or open space land as of the most recent grand list and a listing of the parcels of land so classified showing the acreage of each parcel, the total acreage of all such parcels, the number of acres of each parcel classified as farmland, forest land or open space land, and the total acreage for all such parcels.

— Form DEEP-F-490 Appendix B

Role of the Forester: In order to "qualify" to evaluate land proposed for PA 490 forest land classification and prepare a report for the owner, a forester must be certified to practice in Connecticut as per CGS Section 23-65h, have satisfactorily completed the training in applying the standards and policies of PA 490 provided by the State Forester, and comply with those standards and policies.

The forester will familiarize himself or herself with the land, collect the required data, and complete the "Qualified Forester's Report" provided by the State Forester's office along with the required mapping. Copies of the completed report are required to be filed with the forest landowner and the assessor in the subject town.

Role of the Landowner: It is the landowner's responsibility to maintain their forest land under the standards set forth under PA 490. Any change of use of the classified land to some other use other than forest land would require reclassification and perhaps termination of the classification. It is important that the landowner submit a completed and signed M-39 application to the assessor on or before the required filing dates. Landowners should request a copy of the signed and dated application that is filed with the assessor and keep that copy for their records along with the Qualified Forester's Report. Forest management, the harvesting of trees for timber or firewood, and the maintenance of woods roads are all acceptable permitted forest uses and would not impact the forest land classification under PA 490. Once land has been classified as PA 490 forest land, the landowner does not need to renew the application unless there is a change of use or change in title that requires a reclassification, in which case an updated Qualified Forester's Report, and a new M-39 application must be filed.

Role of the State Agency: The State Forester has established and maintains the standards and policies by which forest land is evaluated by private professional foresters. The State Forester is to offer training and examination at least once per year to any forester seeking to be qualified to complete the Qualified Forester's Report under PA 490. The State Forester also acts on any appeal brought forth by a landowner or assessor regarding a forester's findings.

Definition of "Tract"

"Tract" means a continuous or unbroken expanse of land under single ownership and bearing adequate tree cover generally distributed throughout the area. Only the following features shall be regarded as the bounds of a tract; acreage under a different ownership or acreage that does not meet the standards for forest land classification in CGS Section 12-107d-3 of the Regulations of Connecticut State Agencies. Lines of demarcation drawn on maps, including but not limited to, municipal boundaries, assessor's lot lines and lines on subdivision maps are not to be regarded as a boundary of a forest tract.

— Sec. 12-107d-1 (22) Connecticut Department of Energy and Environmental Protection Regulations Concerning Classification of Forest Land

■ DETERMINATION OF PA 490 FOREST LAND

CGS Section 12-107b(2) defines "forest land" as:

...any tract or tracts of land aggregating twenty five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of section 12-107d and consisting of:

(a) one tract of land of twenty-five or more contiguous acres, which acres may be in contiguous municipalities,

(b) two or more tracts of land aggregating twenty-five acres or more in which no single component tract shall consist of less than ten acres, or

(c) any tract of land which is contiguous to a tract owned by the same owner and has been classified as forest land pursuant to this section

Contiguous and Non-contiguous Forested Parcels:

Individual forested parcels aggregating 25 acres or more must all be in the exact same deeded ownership in order to meet criteria for PA 490 Forest Land.

Non-contiguous parcels must be a minimum of 10 acres, all in the same deeded ownership, aggregating 25 acres or more in order to meet criteria for PA 490 Forest Land.

Non-contiguous parcels do not need to be in the same municipality. As an example: A 10 acre parcel in Litchfield can be dependent on a 15 acre parcel in Woodstock to make the 25 acre minimum threshold so long as both parcels meet criteria for classification of forest land and are in the exact same deeded ownership.

M-39 applications to assessor for Classification of Forest Land accompanied by the required Qualified Forester's Report would need to be filled with the assessors in the respective municipalities.

During the 2004 legislative session, the General Assembly substantially revised the role of the State Forester in the administration of PA 490 forest land. The definition for what constitutes "forest land" did not change, but the administrative roles shifted. The State Forester no longer issues a "Certificate of Designation of Land as Forest Land." Instead, the property owner is required to employ a private forester, trained and qualified by the State Forester, to examine the land and prepare a "Qualified Forester's Report" on the land. That report must accompany form M-39 "Application to Assessor for Classification of Land as Forest Land."

■ EXAMINING LAND FOR CLASSIFICATION AS PA 490 FOREST LAND

Once hired by the forest landowner, the forester will visit the land, developing both a forest stand map and sufficient inventory data to reliably describe tree species

composition, forest stand size, and stand density for each forest stand. The forester should note both the owner's goals for the land, as well as a wide variety of factors that influence the ability of the land to serve the landowner's interests. The forester will also determine the number of acres that meet the standards for classification of PA 490 forest land. The forester then completes the "Qualified Forester's Report" form provided by the State Forester along with the required maps.

The report and a copy of all data and information used to develop the report is given to the forest landowner and a copy is sent to the assessor of each municipality where the subject land is located. The assessor may require information in addition to that contained in the Qualified Forester's Report. Should the owner and/or assessor disagree with the findings of the forester they have 30 days to appeal to the State Forester for review of the forester's report. The State Forester will advise the forester and the assessor of the appeal and will render his advice within 60 days of receiving the owner's appeal.

Building Lots and PA 490 Forest Land

As per CT DEEP Regulation Concerning Classification of Forest Land, assessors may exclude the zoned lot size from PA 490 forest land when there is a residence on the property.

Landowners should consult with the local assessor to determine how existing or new construction of a residential, commercial, or industrial structure may impact their ability to qualify or maintain PA 490 forest land classification.

When the land has no residence, a building lot should not be excluded from a PA 490 forest land classification unless the landowner requests such an exclusion. It is important to remember that PA 490 is a current use tax and should be implemented within the intent of the legislation.

– Canterbury Farms Et Al v. Waterford Board of Tax Review

In 2014 PA 14-33 was enacted which helped clarify ambiguous sections of the law. Any person who obtains title to land classified as PA 490 forest land as result of an excepted transfer as per CGS Sec. 12-504c is now required to file an updated M-39 Application accompanied by an updated Qualified Forester's Report, if such a report has not been submitted within ten years prior to the date of the change of ownership.

■ HOW AND WHEN TO APPLY

Persons wanting to classify land under the PA 490 forest land classification must do so by application to the assessor in the town in which the land is located. The application must be made on form M-39 "Application to the Assessor for Classification of Land As Forest Land", which is approved by the Commissioner of the Department of Energy and Environmental Protection. The application must be filed between September 1st and October 31st to be considered on the next upcoming grand list unless the town is in the year of revaluation, in which case the filing deadline is December 30th. However, some assessors will accept the application any time of year as long as it is filed by October 31st.

The form is available from the town assessor's office. A copy of the Qualified Forester's Report prepared by a Certified Forester must accompany the application. The date of the Qualified Forester's Report must be no later than October 1st of the year of classification.

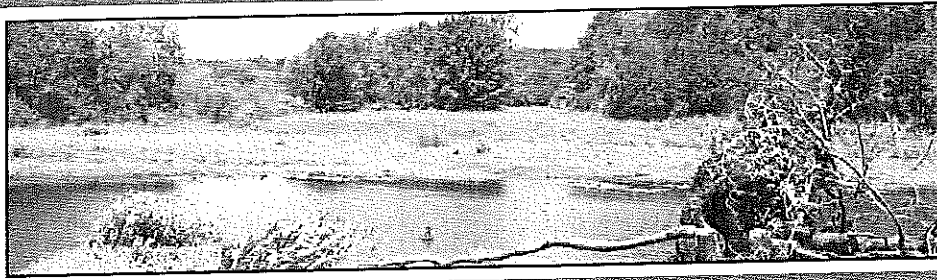
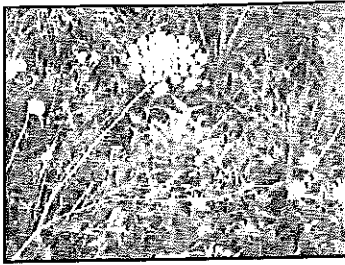
Assessors do not maintain a listing of Certified Foresters, but forest land owners may obtain a list by calling the Department of Energy and Environmental Protection Forestry Division at (860) 424-3630, or by accessing the Forest Practitioner Directory at www.ct.gov/deep/forestpractitionerdirectory. The notation "490" next to a Certified Forester's name indicates that he or she is qualified to examine land for forest land classification purposes.

Annual application and renewal for PA 490 forest land classification is not required unless there is a change of land use or change of ownership. If there is a change of use or acreage change, an amended M-39 is required to be filed with the assessor. The owner may again be required to employ a Certified Forester to provide an updated Qualified Forester's Report to accompany the amended application. The landowner should retain copies of any amended applications, maps and reports.

Treeless Features and PA 490 Forest Land

As per CT DEEP Regulation Concerning Classification of Forest Land, some treeless features may be included in the total acres proposed for forest land classification if such features are surrounded by and contained within the forest land, and the combined acreage of all such features is less than 5% of the total proposed acreage.

OPEN SPACE CLASSIFICATION



MUNICIPAL OPEN SPACE DESIGNATION

Open space within a municipality may be protected in a number of ways. Landowners and land use boards may consider conservation easements, deed restrictions and programs funded through the state of Connecticut and various land trusts that purchase development rights from landowners. Another option to protecting undeveloped land is the PA 490 open space classification. The PA 490 open space classification does not provide permanent protection, however it is a valuable option to reducing the tax burden on open space parcels that do not meet the criteria for PA 490 farmland or PA 490 forest land classifications.

Unlike the PA 490 farmland and PA 490 forest land classifications which are mandatory on all towns statewide, PA 490 open space is a classification that is an option for a municipality to adopt. The terms "farmland and forest land" are often referred to in general terms as "open space," but within the context of PA 490 they are distinct land use value classifications that have specific statutory requirements.

Under PA 490 Sec. 12-107b (3) reads: *The term "open space land" means any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farmland, the preservation or restriction of the use of which would*

- (a) Maintain and enhance the conservation of natural or scenic resources
- (b) Protect natural streams or water supply
- (c) Promote conservation of soils, wetlands, beaches or tidal marshes
- (d) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces
- (e) Enhance public recreation opportunities
- (f) Preserve historic sites, or
- (g) Promote orderly urban or suburban development;

Section 12-107e of the Connecticut General Statutes states that:

The planning commission of any municipality in preparing a plan of conservation and development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

THE ROLE OF ASSESSOR, LANDOWNER, AND MUNICIPALITY IN OPEN SPACE CLASSIFICATION

Role of Assessor: Sec. 12-107e (b) of the CGS states that: *The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if the assessor determines that there has been no such change, said assessor shall classify such land as open space land and include it as such on the grand list.*

The assessor should be certain that an application is completed in full and is signed and dated by the landowners.

Role of Landowner: New applications for PA 490 open space should be completed and filed within the required filing periods set forth in CGS Sec. 12-107e (b). All required sections of form M-30 should be completed in full. The application is required to be signed and dated by the landowner. Applications that are not filed within the prescribed timeframe or are incomplete will not be accepted for PA 490 open space classification. The landowner should request a copy of the fully signed and dated application from the assessor at the time of filing. **It is very important that landowners keep signed and dated copies of everything that is submitted to the assessor.**





This signed and dated paperwork is critical should a classification ever be questioned or the issue of the conveyance tax arises. **Landowners should not rely on the town to keep records for them.**

Role of Municipality: It is the role of the planning commission of the municipality in preparing a Plan of Conservation and Development to designate in such plans areas which it recommends for preservation as areas of open space land and for the municipality to adopt an ordinance that sets forth the criteria for open space classification pursuant to CGS Section 12-107e(a).

■ VALUATION OF OPEN SPACE

The value for open space lands has been and continues to be quite problematic for towns. PA 490 states:

The present true and actual value of land classified as... open space land pursuant to section 12-107e shall be based upon its current use without regard to neighborhood land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such open space land comprised a part of a tract or tracts of land classified as farmland pursuant to section 12-107c.

This has been interpreted to mean different things. One school of thought has open space value comparable to various farm values. It is the assessor's determination based on local ordinance as to what value will be assigned to the land. Again "current use" is the key principle to follow in determining value.

Open Space Land Value Assessment

It is up to each individual municipality to set the assessed value for land that qualifies for the PA 490 Open Space Classification within their municipality.

This is unlike the PA 490 Forest Land or Farmland classification, where the State of Connecticut sets the recommended land values.

Landowners interested in applying for PA 490 Open Space should consult with the local municipal assessor to see if this classification is available in their town and what the assessed value is for land that is accepted into the PA 490 Open Space classification.

It is important to note that the ten-year conveyance tax penalty period for PA 490 open space land originates with the date of classification, unlike the farmland and forest land classification which commence at the time of ownership. Section 9 Conveyance Tax, addresses this in further detail.

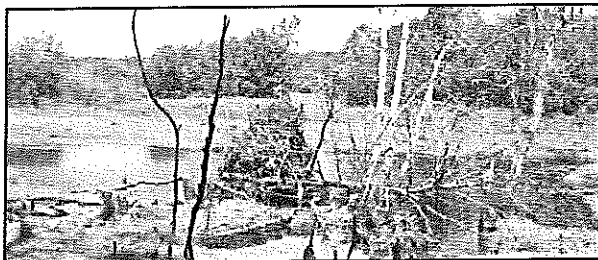
■ HOW TO ADOPT THE PA 490 OPEN SPACE CLASSIFICATION AND WHO IS ELIGIBLE

- Land must be recommended for preservation as open space in the town's Plan of Conservation and Development by the town's Planning Commission.
- Land included in areas recommended for open space may be identified by geographic location and/or map in the Plan of Conservation and Development.
- Geographic areas designated as being recommended for open space in the Plan of Conservation and Development must be approved by the legislative authority within the municipality.
- The municipality adopts an Open Space Assessment Ordinance which stipulates the qualification criteria for the open space classification in that municipality. This criteria establishes the minimum acreage as well as requiring that the land be completely unimproved and undeveloped.
- Only landowners who have property in an area that has been designated as "open space" on the town's Plan of Conservation and Development may be eligible for the PA 490 open space classification. Landowners interested in this classification should consult with their town planner, land use office or assessor with regard to the status of open space designation and the location, if applicable, of such lands.
- Landowners wishing to become eligible for the PA 490 open space classification do so by filing form M-30 "Application to the Assessor for Classification of Land as Open Space" with the assessor in the municipality in which the land is located.

■ HOW AND WHEN TO APPLY

Persons wanting to classify land under the PA 490 open space land classification must do so by application to the assessor in which the land is located. The application must be made on form M-30 "Application To The Assessor For Classification Of Land As Open Space Land" prescribed by the Commissioner of the Department of Agriculture. This form is available from the assessor's office. The filing period is between September 1st and October 31st, except in a year in which a revaluation of all real property is effective in the town, in which case the filing deadline is December 30th.

FREQUENTLY ASKED QUESTIONS REGARDING PA 490



PA
490

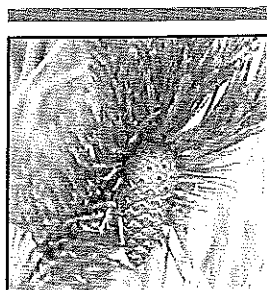
SECTION 14: FREQUENTLY ASKED QUESTIONS REGARDING PA 490

Q What is Public Act 490 and Use Value Assessment?

A In 1963, the Connecticut Legislature passed PA 63-490, commonly referred to as PA 490, "An Act Concerning the Taxation and Preservation of Farm, Forest, or Open Space Land," (now Section 12-107a-f of the Connecticut General Statutes). The legislation provided for assessment of farm, forest and open space land on the basis of its value as currently used rather than its fair market value at its highest and best use. "Use value" is the value of the land when limited to the particular agricultural, forest or open space use to which it is actually put and not what it might be worth on the market if sold for some other use such as residential or commercial development. Every state in the nation has a Use Value Assessment law for its farm, forest, or open space land. Each state has different rules in regards to its particular Use Value Assessment law.

Q How much in property taxes can I save with Public Act 490 and how are values determined?

A Each situation is different; however, the savings can be significant. The Office of Policy and Management (OPM) in cooperation with the Connecticut Department of Agriculture is required to develop a recommended schedule of use values for use by towns for PA 490 land every five years. Most town assessors use the recommended values rather than develop the data necessary to establish use values for each parcel. In nearly all cases these values are significantly lower than other values such as for residential, commercial or industrial land. In exchange for the reduced tax however, the property owner makes a commitment not to change the use of the property for a period of time. Landowners should carefully acquaint themselves with the requirements imposed upon them prior to filing.



Q Does my land qualify as farmland under PA 490?

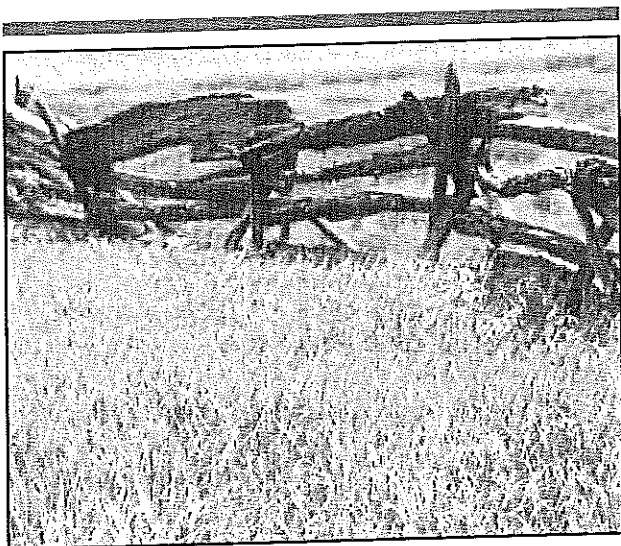
A Your assessor makes the determination if your land qualifies as farmland after you have submitted an application form. The statutes say an assessor may take into account, among other things, the acreage, the percentage of such acreage in actual use for farming or agricultural operations, the productivity of the land, the gross income derived from farming and the nature and value of the equipment used for farming. A frequently asked question is "How much farmland do I need to qualify?" The state law sets no minimum. Persons wanting to classify land under the PA 490 farmland classification must do so by application to the assessor in the town the land is located in September or October of each year. The application must be made on form M-29 Application To The Assessor for Classification of Land As Farmland. Filing information accompanies the application.

Q Does my land qualify for forest land under PA 490?

A The minimum acreage for PA 490 Forest Land is set by statute at 25 acres or more in area bearing tree growth. This may be (A) one tract of land of 25 acres or more contiguous acres, which acres may be in contiguous municipalities (it should be noted that this may be exclusive of the zoned lot size if a residence is on the parcel); (B) two or more tracts of land aggregating 25 acres or more in which no single component tract shall consist of less than 10 acres; or (C) any forested tract of land which is contiguous to a tract owned by the same owner which has already been classified as forest land. The application must be made on form M-39 Application To The Assessor For Classification Of Land As Forest Land. Filing information accompanies the application. A Qualified Forester's Report completed by a certified forester and dated on or before October 1st must accompany the application. The Connecticut Department of Energy and Environmental Protection Forestry Division maintains a list of Certified Foresters that the landowner can employ who are qualified to complete the report.

Q Does my land qualify for open space under PA 490?

A Not every municipality in Connecticut offers the open space classification. Some municipalities permit any land above the minimum acreage required by zoning that is not developed to be so classified. Other municipalities offer the open space category only to landowners who have property in an area that has been designated as "open space" on the municipality's plan of conservation and development. Some towns have minimum acreage requirements. Property owners interested in this classification should consult with their local assessor to see if this is available in their town, and if so, what the specific requirements are.



Q What if my assessor denies my application?

A If you anticipate that there might be questions concerning the approval of your request for farmland, forest or open space designation, you should get help in preparation of your application; the presentation of information in the application can be very important. You may benefit from the advice of an attorney. It is also suggested that you contact the Connecticut Farm Bureau, Connecticut Department of Agriculture, or the Cooperative Extension System before you submit your application. These service agencies do not offer legal advice but they may be able to provide practical suggestions that improve your prospects for approval. As a taxpayer, if your application is denied, you have the right to appeal your assessor's decision to your town's Board of Assessment Appeals and to continue from there on to Superior Court. The quality of your application and the data supplied in it can make a tremendous difference in your chances of success on appeal.

Q Do I have to reapply for PA 490 every year?

A No. Once you have been granted a farm, forest, or open space land classification under Public Act 490, the classification can only be removed by the assessor if the use of the land changes to a use inconsistent with its classification or the land ownership changes. Nevertheless, your town may periodically ask you for an update of the usage of your Public Act 490 land, especially if a new assessor is hired. Often you may be asked to complete another application form. In many cases a new application may not be appropriate and it may lead to some confusion that should be resolved before you proceed. Once the ownership of the land changes (for whatever reason), the farm, forest, or open space land classification can be terminated, and the new owner(s) must reapply. Families should seek legal advice prior to transferring land for estate planning reasons to avoid unexpected consequences. Also, the exemptions set forth in CGS Section 12-504c should be consulted and complied with, if possible.

Q How do I obtain the application form that tax assessors use to determine if my land can be classified as farm, forest or open space under Public Act 490?

A Applications are available from your local assessor's office. Visit the Connecticut Farm Bureau Association website at www.cfba.org or the Connecticut Association of Assessing Officers' website www.caaao.com to download an application.

Q Is Public Act 490 fair to my town and other property taxpayers?

A When the legislature passed Public Act 490 in 1963, it included (and continues to include to this day) the wording that "it is in the public interest to encourage the preservation of farm, forest, and open space land." The legislature made a public finding, unique in the tax laws, that the PA 490 program contributes net value to our state's citizens. In addition, even with the lower property taxes collected, the towns do not sacrifice property tax revenues because of Public Act 490. Studies done across the nation, and closer to home by the American Farmland Trust, have conclusively proven that property tax revenues generated by farm, forest, or open space land, are far greater than the expenditures by the town to service that land. On the other hand, the residential sector costs a town more to service than the amount of property tax generated from that sector. Thus, the preservation of farm, forest, and open space land through this method can actually help control and maintain reasonable rates of property taxation for all of a town's taxpayers.

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SECTION 14: FREQUENTLY ASKED QUESTIONS REGARDING PA 490

Q What records should I keep?

A It is very important that you keep accurate records of your PA 490 land. These records should include a copy of your original application with dates and signatures along with any supporting documents such as maps, reports, correspondence and field cards. It is also recommended that you check with the assessor periodically after the application has been accepted to make sure the updated information on your property tax card is accurate.

Q What is the most important item to understand about applying for PA 490 classification?

A If you have owned the land less than ten years and it is classified as PA 490 land, there is a conveyance tax that will apply if the land is sold, transferred or land use has changed. You will have to pay this tax to the town. The recapture tax can be higher than the amount of property tax saved.

Q What is the Conveyance Tax and how does it work?

A Once you place your property under PA 490 farmland, forest land or open space classification with your town, that property must remain so classified for 10 years or you will incur a penalty called the Conveyance Tax. The clock starts ticking for the conveyance from the time of ownership or time of classification, whichever comes earliest for farmland and forest land and from the time of classification for open space. The tax imposed for a sale, a transfer or a change in the land use and the tax will be 10% of sale price if sold within first year of classification, 9% if sold within 2nd year of classification, etc., down to 1% if sold within 10th year of ownership. No tax will be imposed following the end of the tenth year after the initial date of classification. This tax is in addition to the normal real estate conveyance tax (per Connecticut state statutes) that you must pay. The rate of the tax is applied to the sale price of the land in the case of a sale, or the fair market value of the land determined by the assessor in the case of a land use change or a non-exempt transfer for little or no consideration. The owner/seller is responsible for paying the conveyance tax. There are exemptions or excepted transfers to this listed under CGS Section 12-504c. It is strongly advised that an owner of PA 490 land consult with an attorney that is familiar with all of the PA 490 statutes before undertaking any transfers of PA 490 classified land in order to avoid unintended tax consequences.

Q Is there a definition of farming and agriculture accepted by everyone for use in PA 490 classification?

A Section 1-1q of the Connecticut General Statutes gives a definition of agriculture which is very diverse but which is accepted. However, the PA 490 classification is not to be granted to a "gentleman farmer" who may raise a few

chickens, have a garden or a couple of horses strictly for his own use. In the broader context, this classification is meant for those farms that are practicing production agriculture, and each case merits its own inspection.

Q If I inherit or transfer PA 490 land as an excepted transfer under the provisions of CGS Section 12-504c, does the conveyance tax apply or the ten-year period start over again?

A In most cases the conveyance tax should not be applied nor should the ten-year penalty period restart. However, PA 490 landowners should consult with their assessor regarding any updated applications or reports that may need to be filed to maintain continuity of their classification and/or how such a transfer may or may not impact application of the conveyance tax.

Q If I inherit or transfer PA 490 land as an excepted transfer should the PA 490 classification be terminated?

A It is advisable to meet with your assessor before transferring or upon transfer of PA 490 land under the provisions in CGS Section 12-504c in order to maintain continuity in the 490 classification. New deeded landowners are required to notify the assessor of a change of ownership and must complete the appropriate applications.

Q If I have acreage classified under PA 490 and decide to take some land out for some other use, does my classification get taken away on the rest of the land?

A No, but the original application should be revised to show the change. However, if land is taken out of the forest land classification and the remaining acreage falls below 25 acres, the entire parcel would be declassified because it no longer makes the 25 acre minimum to qualify for PA 490 forest land.

Q Does a new owner of land that was under PA 490 classification by a former owner have to reapply for classification if he or she wants to continue the classification?

A Yes, classification ceases when there is a sale, transfer, or a change in land use. In addition if land classified under PA 490 is sold, the assessor is required by law to notify the new owner of the benefits of PA 490.

Q The question I have regarding PA 490 is not clearly answered in the statute, where would I find the answer?

A There is more than 40 years of case law on PA 490. You would look to see if your situation or issue has been determined by the courts.

APPENDIX A: SELECTED CONNECTICUT GENERAL STATUTES (CGS)

■ RELATED STATUTES AND PA 490: CGS SECTIONS 12-107 AND CGS 12-504

CGS Sec. 1-1(q) — Definition of Agriculture

(q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farmlands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

CGS Chapter 201 Sec. 12-2b. — Duties of Secretary of Office of Policy and Management re: municipal assessment

The Secretary of the Office of Policy and Management shall:

- (1) In consultation with the Commissioner of Agriculture, develop schedules of unit prices for property classified under sections 12-107a to 12-107e, inclusive, update such schedules by October 1, 1990, and every five years thereafter, and make such data, studies and schedules available to municipalities and the public;
- (2) develop regulations setting forth standards and tests for: Certifying revaluation companies and their employees, which regulations shall ensure that a revaluation company is competent in appraising and valuing property, certifying revaluation companies and their employees, requiring that a certified employee supervise all valuations performed by a revaluation company for municipalities, maintaining lists of certified revaluation companies and upon request, advising municipalities in drafting contracts with revaluation companies, and conducting investigation and withdrawing the certification of any revaluation

company or employee found not to be conforming to such regulations. The regulations shall provide for the imposition of a fee payable to a testing service designated by the secretary to administer certification examinations; and (3) by himself, or by an agent whom he may appoint, inquire if all property taxes which are due and collectible by each town or city not consolidated with a town, are in fact collected and paid to the treasurer thereof in the manner prescribed by law, and if accounts and records of the tax collectors and treasurers of such entities are adequate and properly kept. The secretary may hold meetings, conferences or schools for assessors, tax collectors or municipal finance officers.

CGS Sec. 12-63 — Rule of valuation

(a) The present true and actual value of land classified as farmland pursuant to section 12-107c, as forest land pursuant to section 12-107d, as open space land pursuant to section 12-107e, or as maritime heritage land pursuant to section 12-107g shall be based upon its current use without regard to neighborhood land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such open space land comprised a part of a tract or tracts of land classified as farmland pursuant to section 12-107c. The present true and actual value of all other property shall be deemed by all assessors and boards of assessment appeals to be the fair market value thereof and not its value at a forced or auction sale.

CGS Chapter 203 Sec. 12-107a. — Declaration of policy

It is hereby declared (a) that it is in the public interest to encourage the preservation of farmland, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, (b) that it is in the public interest to prevent the forced conversion of farmland, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farmland, forest land and open space land, and (c) that the necessity in the public interest of the enactment of the provisions of sections 7-131c and 12-107b to 12-107e, as amended by this act, and section 12-504f, as amended by this act, is a matter of legislative determination.

Chapter 203 Sec. 12-107b. — Definitions

When used in sections 12-107a to 12-107e, inclusive, and 12-107g:

- (1) The term "farmland" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit;
- (2) The term "forest land" means any tract or tracts of land aggregating twenty-five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of section 12-107d, and consisting of (A) one tract of land of twenty-five or more contiguous acres, which acres may be in

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APPENDIX A: SELECTED CONNECTICUT GENERAL STATUTES (CGS)

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- (2) develop regulations setting forth standards and tests for: Certifying revaluation companies and their employees, which regulations shall ensure that a revaluation company is competent in appraising and valuing property, certifying revaluation companies and their employees, requiring that a certified employee supervise all valuations performed by a revaluation company for municipalities, maintaining lists of certified revaluation companies and upon request, advising municipalities in drafting contracts with revaluation companies, and conducting investigation and withdrawing the certification of any revaluation

company or employee found not to be conforming to such regulations. The regulations shall provide for the imposition of a fee payable to a testing service designated by the secretary to administer certification examinations; and (3) by himself, or by an agent whom he may appoint, inquire if all property taxes which are due and collectible by each town or city not consolidated with a town, are in fact collected and paid to the treasurer thereof in the manner prescribed by law, and if accounts and records of the tax collectors and treasurers of such entities are adequate and properly kept. The secretary may hold meetings, conferences or schools for assessors, tax collectors or municipal finance officers.

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Chapter 203 Sec. 12-107b. — Definitions

When used in sections 12-107a to 12-107e, inclusive, and 12-107g:

- (1) The term "farmland" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit;
- (2) The term "forest land" means any tract or tracts of land aggregating twenty-five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of section 12-107d, and consisting of (A) one tract of land of twenty-five or more contiguous acres, which acres may be in

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contiguous municipalities, (B) two or more tracts of land aggregating twenty-five acres or more in which no single component tract shall consist of less than ten acres, or (C) any tract of land which is contiguous to a tract owned by the same owner and has been classified as forest land pursuant to this section;

(3) The term "open space land" means any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farmland, the preservation or restriction of the use of which would (A) maintain and enhance the conservation of natural or scenic resources, (B) protect natural streams or water supply, (C) promote conservation of soils, wetlands, beaches or tidal marshes, (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (E) enhance public recreation opportunities, (F) preserve historic sites, or (G) promote orderly urban or suburban development;

(4) The word "municipality" means any town, consolidated town and city, or consolidated town and borough;

(5) The term "planning commission" means a planning commission created pursuant to section 8-19;

(6) The term "plan of conservation and development" means a plan of development, including any amendment thereto, prepared or adopted pursuant to section 8-23;

(7) The term "certified forester" means a practitioner certified as a forester pursuant to section 23-65h; and

(8) The term "maritime heritage land" means that portion of waterfront real property owned by a commercial lobster fisherman licensed pursuant to title 26, when such portion of such property is used by such fisherman for commercial lobstering purposes, provided in the tax year of the owner ending immediately prior to any assessment date with respect to which application is submitted pursuant to section 12-107g, not less than fifty per cent of the adjusted gross income of such fisherman, as determined for purposes of the federal income tax, is derived from commercial lobster fishing, subject to proof satisfactory to the assessor in the town in which such application is submitted. "Maritime heritage land" does not include buildings not used exclusively by such fisherman for commercial lobstering purposes.

CGS Chapter 203 Sec. 12-107c. — Classification of land as farmland

(a) An owner of land may apply for its classification as farmland on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farmland and, if such assessor determines that it is farmland, he or she shall classify and include it as such on the grand list. In determining whether such land is farmland, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous. The assessor shall not deny the application of an owner of land for classification of such land as farm land if such land meets the criteria for classification as farm land pursuant to this subsection. The assessor shall not deny the application for any portion of such land on account of any minimum acreage requirement for residential parcels or agricultural use established under municipal zoning regulations

(b) An application for classification of land as farmland shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as farmland within the time limit prescribed in subsection (a) and in the manner and form prescribed in subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as farmland shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

CGS Chapter 203 Sec. 12-107d. — Classification of land as forest land

Regulations re: evaluation of land as forest land. Implementation of standards and procedures. Certification requirements. Fees. Notice of termination of forest land classification. Application for classification as forest land. Appeal. Report to State Forester.

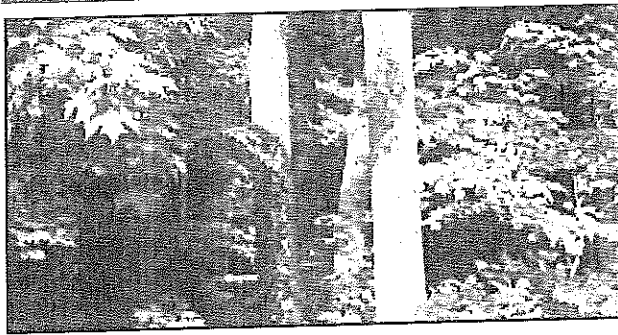
(a) Not later than June 1, 2006, the Commissioner of Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, regarding standards for forest stocking, distribution and conditions and procedures for evaluation by a certified forester of land proposed for classification as forest land. Standards and procedures regarding forest stocking, distribution and conditions and procedures for evaluation by a certified forester of land proposed for classification as forest land shall be implemented by the State Forester while the commissioner is in the process of establishing such regulations, provided notice of intent to adopt the regulations is published not later than twenty days after the date of implementation. The standards and procedures implemented by the State Forester shall be valid until June 1, 2006, or until regulations are adopted, whichever date is earlier.

(b) A certified forester may evaluate land proposed for classification as forest land and attest to the qualifications of such land for classification as forest land, provided such certified forester has satisfactorily completed training by and obtained a certificate from the State Forester or his or her designee related to policies and standards for evaluating land proposed for classification as forest land and, in the opinion of the State Forester, the certified forester acts in conformance with such policies and standards.

(c) An owner of land seeking classification of such land as forest land shall employ a certified forester to examine the land to determine if it conforms to forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of this section. If the certified forester determines that such land conforms to such standards, such forester shall issue a report to the owner of the land pursuant to subsection (g) of this section and retain one copy of the report.

(d) Fees charged by a certified forester for services to examine land and determine if said land conforms to the standards of forest stocking, distribution and condition established by the State Forester shall not be contingent upon or otherwise influenced by the classification of the land as forest land or the failure of such land to qualify for said classification.

(e) Upon termination of classification as forest land, the assessor of the municipality in which the land is located shall issue a notice of cancellation and provide a copy of such notice to the owner of



the land and to the office of the assessor of any other municipality in which the owner's land is classified as forest land.

(f) An owner of land may apply for its classification as forest land on any grand list of a municipality by filing a written application for such classification accompanied by a copy of the certified forester's report described in subsection (g) of this section with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date and, if the assessor determines that the use of such land as forest land has not changed as of a date at or prior to the assessment date such assessor shall classify such land as forest land and include it as such on the grand list, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date in such year.

(g) A report issued by a certified forester pursuant to subsection (c) of this section shall be on a form prescribed by the State Forester and shall set forth a description of the land, a description of the forest growth upon the land, a description of forest management activities recommended to be undertaken to maintain the land in a state of proper forest condition and such other information as the State Forester may require as measures of forest stocking, distribution and condition and shall include the name, address and certificate number of the certified forester and a signed, sworn statement that the certified forester has determined that the land proposed for classification conforms to the standards of forest stocking, distribution and condition established by the State Forester. An application to an assessor for classification of land as forest land shall be made upon a form prescribed by such assessor and approved by the Commissioner of Environmental Protection and shall set forth a description of the land and the date of the issuance of the certified forester's report and a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504e, inclusive. The certified forester's report shall be signed and dated by the certified forester not later than October first and shall be attached to and made part of such application.

(h) Failure to file an application for classification of land as forest land within the time limit prescribed in subsection (f) of this section and in the manner and form prescribed in subsection (g) of this section shall be considered a waiver of the right to such classification on such assessment list.

(i) The municipality within which land proposed for classification as forest land is situated or the owner of such land may appeal to the State Forester for a review of the findings of the certified forester as issued in the certified forester's report. Such appeal shall be filed with the State Forester not later than thirty business days after the issuance of the report and shall be brought by petition in writing. The State Forester shall review the report of the certified forester and any information the certified forester relied upon in developing his or her findings and may gather additional information at his or her discretion. The State Forester shall render the results of his or her

review of the certified forester's report not later than sixty calendar days after the appeal was filed.

(j) An owner of land aggrieved by the denial of any application to the assessor of a municipality for classification of land as forest land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

(k) During the month of June each year the assessor of a municipality within which land classified as forest land is situated shall report to the State Forester, in a format prescribed by the State Forester, the total number of owners of land classified as farmland, forest land or open space land as of the most recent grand list and a listing of the parcels of land so classified showing the acreage of each parcel, the total acreage of all such parcels, the number of acres of each parcel classified as farmland, forest land or open space land, and the total acreage for all such parcels.

CGS Chapter 203 Sec. 12-107e. — Classification of land as open space land

(a) The planning commission of any municipality in preparing a plan of conservation and development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

(b) An owner of land included in any area designated as open space land upon any plan as finally adopted may apply for its classification as open space land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if the assessor determines that there has been no such change, said assessor shall classify such land as open space land and include it as such on the grand list. An application for classification of land as open space land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of section 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as open space land within the time limit prescribed in subsection (b) of this section and in the manner and form prescribed in said subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial by an assessor of any application for the classification of land as open space land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

CGS Sec. 12-107f. — Open space land

(a) Declaration of policy encouraging preservation by tax-exempt organizations. It is hereby found and declared that it is in the public interest to encourage organizations which are tax-exempt for federal income tax purposes to hold open space land in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general.

(b) Improvements exempt from state and municipal assessments or taxes. Payment of assessment or taxes by municipality. Any such open space land held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general, and not held or used for development for any residential, industrial or commercial purpose, by any organization to which a determination letter has been issued by the Internal Revenue Service that contributions to it are deductible under the applicable sections of the Internal Revenue Code as amended, shall not be subject to state or municipal assessments or taxes for either capital or maintenance costs for improvements or betterments capable of serving the land so held, such as water lines, sidewalks, streets and sewers. The amount of such assessments or taxes which would have been charged to such organization shall be paid out of the General Fund of such municipality and shall be financed out of regular municipal taxes.

(c) Exemption application and time limit. Determination by authority. Any owner of land who has received such a determination letter from the Internal Revenue Service may apply for exemption from any state or municipal assessment for improvements or betterments to the authority making such assessment not later than ninety days after such assessment. Said authority shall determine whether the open space land is held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general, and not held or used for development for any residential, industrial or commercial purpose.

(d) Form of application. An application for exemption from state or municipal assessments for improvements or betterments shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth the current status of the determination of deductibility under the applicable sections of the Internal Revenue Code, a description of the land, a general description of the current use of such land, and such other information as said authority may require to aid in determining whether such land qualifies for such exemption.

(e) Waiver by failure to file. Failure to file an application for exemption within the time limit prescribed in subsection (c) and in the manner and form prescribed in subsection (d) shall be considered a waiver of the right to such exemption with respect to the current such assessment.

(f) Appeal from denial of application for exemption. Any owner of land aggrieved by the denial of any application for exemption shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by actions of assessors or boards of assessment appeals.

CGS Sec. 12-107g. — Classification of land as marine heritage land

(a) An owner of land may apply for its classification as maritime heritage land, as defined in section 12-107b, on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall

determine whether such land is maritime heritage land and, if such assessor determines that it is maritime heritage land, he or she shall classify and include it as such on the grand list.

(b) An application for classification of land as maritime heritage land shall be made upon a form prescribed by the Secretary of the Office of Policy and Management and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as maritime heritage land within the time limit prescribed in subsection (a) of this section and in the manner and form prescribed in subsection (b) of this section shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as maritime heritage land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

CGS Sec. 12-504a. — Conveyance tax on sale or transfer of land classified as farm, forest, open space or maritime heritage land

(a) If at any time there is a change of ownership for any property that is classified as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, a new application shall be filed with the assessor pursuant to said section 12-107c, 12-107d, 12-107e or 12-107g, provided such change of ownership is not an excepted transfer pursuant to section 12-5-4c.

(b) Any land which has been classified by the record owner thereof as open space land pursuant to section 12-107e or as maritime heritage land pursuant to section 12-107g, if sold or transferred by him within a period of ten years from the time he first caused such land to be so classified, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to the tax imposed under sections 12-494 to 12-504, inclusive. Said conveyance tax shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year following the date of such classification; (2) nine per cent if sold within the second year following the date of such classification; (3) eight per cent if sold within the third year following the date of such classification; (4) seven per cent if sold within the fourth year following the date of such classification; (5) six per cent if sold within the fifth year following the date of such classification; (6) five per cent if sold within the sixth year following the date of such classification; (7) four per cent if sold within the seventh year following the date of such classification; (8) three per cent if sold within the eighth year following the date of such classification; (9) two per cent if sold within the ninth year following the date of such classification; and (10) one per cent if sold within the tenth year following the date of such classification. No conveyance tax shall be imposed on such record owner by the provisions of sections 12-504a to 12-504f, inclusive, following the end of the tenth year after the date of such classification by the record owner or person acquiring title to such land or causing such land to be so classified.

(c) Any land which has been classified by the record owner thereof as farmland pursuant to section 12-107c or as forest land pursuant to section 12-107d, if sold or transferred by him within a

period of ten years from the time he acquired title to such land or from the time he first caused such land to be so classified, whichever is earlier, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to the tax imposed under sections 12-494 to 12-504, inclusive. Said conveyance tax shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year of ownership by such record owner; (2) nine per cent if sold within the second year of ownership by such record owner; (3) eight per cent if sold within the third year of ownership by such record owner; (4) seven per cent if sold within the fourth year of ownership by such record owner; (5) six per cent if sold within the fifth year of ownership by such record owner; (6) five per cent if sold within the sixth year of ownership by such record owner; (7) four per cent if sold within the seventh year of ownership by such record owner; (8) three per cent if sold within the eighth year of ownership by such record owner; (9) two per cent if sold within the ninth year of ownership by such record owner; and (10) one percent if sold within the tenth year of ownership by such record owner. No conveyance tax shall be imposed by the provisions of sections 12-504a to 12-504f, inclusive, following the end of the tenth year of ownership by the record owner or person acquiring title to such land or causing such land to be so classified.

CGS Chapter 223 Sec. 12-504b. — Payment of tax; land declassified; assessment change

Said conveyance tax shall be due and payable by the particular grantor who caused such classification to be made to the town clerk of the town in which the property is entered upon the tax list at the time of the recording of his deed or other instrument of conveyance. Such conveyance tax and the revenues produced thereby shall become part of the general revenue of such municipality. No deed or other instrument of conveyance which is subject to tax under sections 12-504a to 12-504f, inclusive, shall be recorded by any town clerk unless the tax imposed by said sections has been paid. Upon the recording of such deed and the payment of the required conveyance tax such land shall be automatically declassified and the assessor shall forthwith record with the town clerk a certificate setting forth that such land has been declassified. Thereafter, such land shall be assessed at its fair market value as determined by the assessor under the provisions of section 12-63 for all other property, until such time as a record owner may reclassify such land.

CGS Sec. 12-504c. — Excepted transfers

The provisions of section 12-504a shall not be applicable to the following: (a) (1) Transfers of land resulting from eminent domain proceedings; (2) mortgage deeds; (3) deeds to or by the United States of America, state of Connecticut or any political subdivision or agency thereof; (4) strawman deeds and deeds that correct, modify, supplement or confirm a deed previously recorded; (5) deeds between spouses and parent and child when no consideration is received, except that a subsequent nonexempt transfer by the grantee in such cases shall be subject to the provisions of said section 12-504a as it would be if the grantor were making such nonexempt transfer; (6) tax deeds; (7) deeds of foreclosure; (8) deeds of partition; (9) deeds made pursuant to a merger of a corporation; (10) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the capital stock of such subsidiary; (11) property transferred as a result of death when no consideration is received and in such transfer the date of acquisition or classification of the land for purposes of sections 12-504a to 12-504f, inclusive, or section 12-107g, whichever is earlier, shall be the date of acquisition or classification by the decedent; (12) deeds to any corporation,

trust or other entity, of land to be held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, provided such corporation, trust or other entity has received a determination from the Internal Revenue Service that contributions to it are deductible under applicable sections of the Internal Revenue Code; (13) land subject to a covenant specifically set forth in the deed transferring title to such land, which covenant is enforceable by the town in which such land is located, to refrain from selling, transferring or developing such land in a manner inconsistent with its classification as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, for a period of not less than eight years from the date of transfer, if such covenant is violated the conveyance tax set forth in this chapter shall be applicable at the rate multiplied by the market value as determined by the assessor which would have been applicable at the date the deed containing the covenant was delivered and, in addition, the town or any taxpayer therein may commence an action to enforce such covenant; (14) land the development rights to which have been sold to the state under chapter 422a; and (15) deeds to or from any limited liability company when the grantors or grantees are the same individuals as the principals or members of the limited liability company. If action is taken under subdivision (13) of this subsection by a taxpayer, such action shall commence prior to the ninth year following the date of the deed containing such covenant and the town shall be served as a necessary party.

(b) Any person who obtains title to land as a result of a change of ownership enumerated in subsection (a) of this section shall provide notice of such change of ownership to the assessor by completing a form prescribed by (1) the Commissioner of Agriculture if such land is classified as farm land pursuant to section 12-107c or open space land pursuant to section 12-107e; (2) the State Forester if such land is classified as forest land pursuant to section 12-107d, as amended by this act; or (3) the Secretary of the Office of Policy and Management if such land is classified as maritime heritage land pursuant to section 12-107g. In addition to the notice required under this subsection, any person who obtains title to land classified as forest land shall submit a report issued by a certified forester in accordance with section 12-107d, as amended by this act, if such a report has not been submitted within ten years prior to the date of the change of ownership. (c) For any change of ownership enumerated in subsection (a) of this section except subdivision (7), the ten-year period provided under section 12-504a, as amended by this act, shall not be affected by the date of such change of ownership and shall be measured as follows: (1) For land classified as farm land pursuant to section 12-107c or forest land pursuant to section 12-107d, as amended by this act, such period shall be measured from the date on which such land was classified as farm land or forest land or the date on which the transfer acquired title to such farm land or forest land, whichever is earlier; and (2) for land classified as open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, such period shall be measured from the date on which such land was classified as open space land or maritime heritage land.

CGS Chapter 223 Sec. 12-504d. — Appeals

Any person aggrieved by the imposition of a tax under the provisions of sections 12-504a to 12-504f, inclusive, may appeal therefrom as provided in sections 12-111, 12-112 and 12-118. If the time for appealing to the board of assessment appeals has passed, the taxpayer may appeal at the next regularly scheduled meeting.

CGS Sec. 12-504e. — Conveyance tax applicable on change of use or classification of land

Any land which has been classified by the owner as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, if changed by him, within a period of ten years of his acquisition of title, to use other than farmland, forest land, open space land or maritime heritage land, shall be subject to said conveyance tax as if there had been an actual conveyance by him, as provided in sections 12-504a and 12-504b, at the time he makes such change in use. For the purposes of this section: (1) The value of any such property shall be the fair market value thereof as determined by the assessor in conjunction with the most recent revaluation, and (2) the date used for purposes of determining such tax shall be the date on which the use of such property is changed, or the date on which the assessor becomes aware of a change in use of such property, whichever occurs first.

CGS Sec. 12-504f. — Classification of land classified as farm, forest, open space or maritime heritage land personal to owner. Certificate of classification

The tax assessor shall file annually with the town clerk a certificate for any land which has been classified as farmland pursuant to section 12-107c, as forest land pursuant to section 12-107d, as open space land pursuant to section 12-107e or as maritime heritage land pursuant to section 12-107g, that certificate shall set forth the date of the initial classification and the obligation to pay the conveyance tax imposed by this chapter. Such certificate shall be filed not later than sixty days after the assessment date, except that in a year in which revaluation required under section 12-62 becomes effective, such certificate shall be filed not later than January thirty-first following the assessment date.

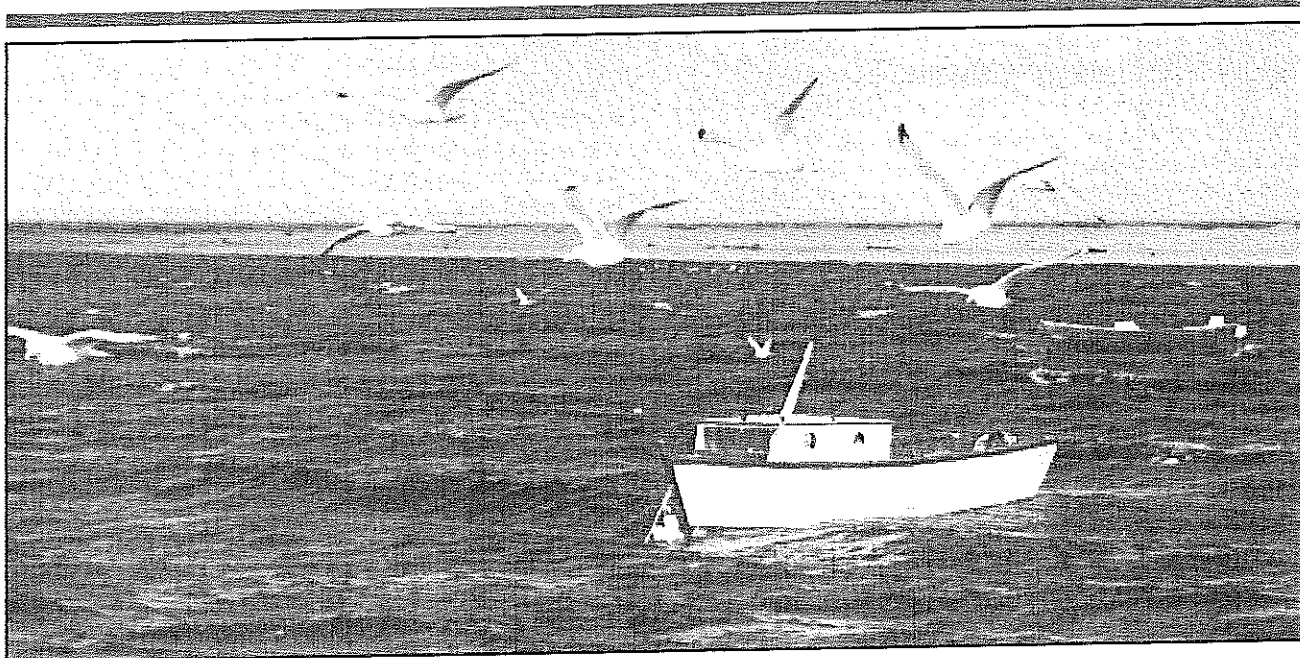
Any such classification of land shall be deemed personal to the particular owner who requests such classification and shall not run with the land. The town clerk shall notify the tax assessor of the filing in the land records of the sale of any such land. Upon receipt of such notice the tax assessor shall inform the new owner of the tax benefits of classification of such land as farmland, forest land or open space land or maritime heritage land.

CGS Chapter 223 Sec. 12-504g. — Recording without payment of tax as constructive notice

The recording of any title deed, instrument or writing without the payment of the tax required by sections 12-504a, 12-504b, 12-504e to 12-504h, inclusive, shall not prevent such recording from constituting constructive notice of such deed, instrument or writing.

CGS Sec. 12-504h. — Termination of classification as farm, forest, open space or maritime heritage land

Any such classification of farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall be deemed personal to the particular owner who requests and receives such classification and shall not run with the land. Any such land which has been classified by a record owner shall remain so classified without the filing of any new application subsequent to such classification, notwithstanding the provisions of sections 12-107c, 12-107d, 12-107e and section 12-107g, until either of the following shall occur: (1) The use of such land is changed to a use other than that described in the application for the existing classification by said record owner, or (2) such land is sold or transferred by said record owner. Upon the sale or transfer of any such property, the classification of such land as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall cease as of the date of sale or transfer. In the event that a change in use of any such property occurs, the provisions of section 12-504e, shall apply in terms of determining the date of change and the classification of such land as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall cease as of such date.



■ **ADVISORY OPINION BY COMMISSIONER OF AGRICULTURE: PA 05-160 JULY 2005**

CGS Sec. 22-4c. — Powers of commissioner. Recording and transcription of hearings. Payment of related costs or expenses

(a) The Commissioner of Agriculture may: (1) Adopt, amend or repeal, in accordance with the provisions of chapter 54, such standards, criteria and regulations, and such procedural regulations as are necessary and proper to carry out the commissioner's functions, powers and duties; (2) enter into contracts with any person, firm, corporation or association to do all things necessary or convenient to carry out the functions, powers and duties of the department; (3) initiate and receive complaints as to any actual or suspected violation of any statute, regulation, permit or order administered, adopted or issued by the commissioner. The commissioner may hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including, but not limited to, suits for injunctions and for the enforcement of any statute, regulation, order or permit administered, adopted or issued by the commissioner; (4) provide an advisory opinion, upon request of any municipality, state agency, tax assessor or any land-owner as to what constitutes agriculture or farming pursuant to subsection (q) of section 1-1, or regarding classification of land as farmland or open space land pursuant to sections 12-107b to 12-107f, inclusive;

■ **ASSESSMENT OF WETLAND BUFFER AREAS: PA 05-190 JULY 2005**

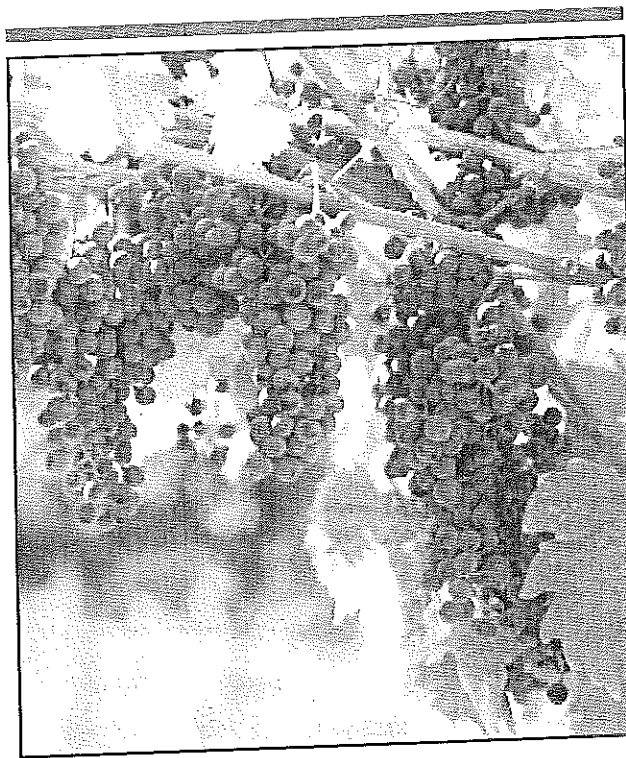
CGS Chapter 203 Sec. 12-63g. — Assessment of buffers to inland wetlands or watercourses

Property required as a buffer pursuant to any permit issued by an inland wetlands agency under regulations adopted under section 22a-42a shall be assessed at a value equal to the value of such property if it were an inland wetland or watercourse area.

■ **GRAND LIST, CHANGES IN VALUATION, NOTICE OF ASSESSMENT**

CGS Chapter 203 Sec. 12-55. — Publication of grand list. Changes in valuation. Notice of assessment increase

(a) On or before the thirty-first day of January of each year, except as otherwise specifically provided by law, the assessors or board of assessors shall publish the grand list for their respective towns. Each such grand list shall contain the assessed values of all property in the town, reflecting the statutory exemption or exemptions to which each property or property owner is entitled, and including, where applicable, any assessment penalty added in accordance with section 12-41 or 12-57a for the assessment year commencing on the October first immediately preceding. The assessor or board of assessors shall lodge the grand list for public inspection, in the office of the assessor on or before said thirty-first day of January, or on or before the day otherwise specifically provided by law for the completion of such grand list. The town's assessor or board of assessors shall take and subscribe to the oath, pursuant to section 1-25, which shall be certified by the officer administering the same and endorsed upon or attached to such grand list. For the grand list of October 1, 2000, and each grand list thereafter, each assessor or member of a board of assessors who signs the grand list shall be certified in accordance with the provisions of section 12-40a.



(b) Prior to taking and subscribing to the oath upon the grand list, the assessor or board of assessors shall equalize the assessments of property in the town, if necessary, and make any assessment omitted by mistake or required by law. The assessor or board of assessors may increase or decrease the valuation of any property as reflected in the last preceding grand list, or the valuation as stated in any personal property declaration or report received pursuant to this chapter. In each case of any increase in valuation of a property above the valuation of such property in the last preceding grand list, or the valuation, if any, stated by the person filing such declaration or report, the assessor or board of assessors shall mail a written notice of assessment increase to the last-known address of the owner of the property the valuation of which has increased. All such notices shall be subject to the provisions of subsection (c) of this section. Notwithstanding the provisions of this section, a notice of increase shall not be required in any year with respect to a registered motor vehicle the valuation of which has increased. In the year of a revaluation, the notice of increase sent in accordance with subsection (f) of section 12-62 shall be in lieu of the notice required by this section.

(c) Each notice of assessment increase sent pursuant to this section shall include: (1) The valuation prior to and after such increase; and (2) information describing the manner in which an appeal may be filed with the board of assessment appeals. If a notice of assessment increase affects the value of personal property and the assessor or board of assessors used a methodology to determine such value that differs from the methodology previously used, such notice shall include a statement concerning such change in methodology, which shall indicate the current methodology and the one that the assessor or assessors used for the valuation prior to such increase. Each such notice shall be mailed not earlier than the assessment date and not later than the tenth calendar day immediately following the date on which the assessor or board of assessors signs and attests to the grand list. If any such assessment increase notice is sent later than the time period prescribed in this subsection, such increase shall become effective on the next succeeding grand list.

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APPENDIX A: SELECTED CONNECTICUT GENERAL STATUTES (CGS)