

Connecticut Real Estate Law: Updated and Revisited

Connecticut Real Estate Licensee
Mandatory Continuing Education Course
2012-2014 CE Cycle



*Approved by the
Connecticut Real Estate Commission
on August 9, 2012*



University of
Connecticut

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The course was developed by the
Center for Real Estate and Urban Economic Studies
University of Connecticut
at the request of the Connecticut Real Estate Commission

Special thanks to the following for their contributions:

- **Katherine Pancak, Professor, University of Connecticut**
- Marilyn Keating, Vice-Chair, CT Real Estate Commission
- Lana Ogrodnik, Commissioner, CT Real Estate Commission
- Michele Erling, CT Department of Consumer Protection
- Kelly Harvey, CT Department of Consumer Protection
- Terry Hastings, HamiltonLadd Home Loans
- Judith Johanssen, Esq., Connecticut Association of Realtors, Inc.®
- John Morgan, Morgan Testing Services
- Laureen Rubino, Real Estate Consultant
- Teresa Sirico, Teresa Sirico LLC, Realtor®

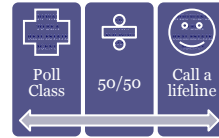
Course Learning Objectives

- Review **Licensing Law Issues** that licensees seem confused about
- Discuss **Practice Issues** that consumers regularly complain about
- Examine **Condominium Resale** laws
- Revisit **Fair Housing** protections
- Receive an update on **Recent Legislation**

Licensing Law Issues

**WHO WANTS
TO BE A
REAL ESTATE
AGENT?**

1. Unlicensed personal assistants are prohibited from doing the following activities, except

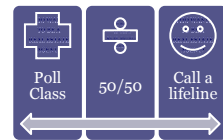
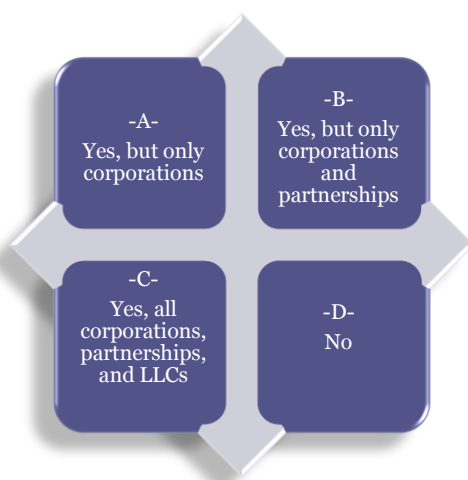


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CREC Policy On Use of Unlicensed Persons

2. Must a real estate brokerage business entity obtain a license?

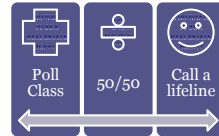
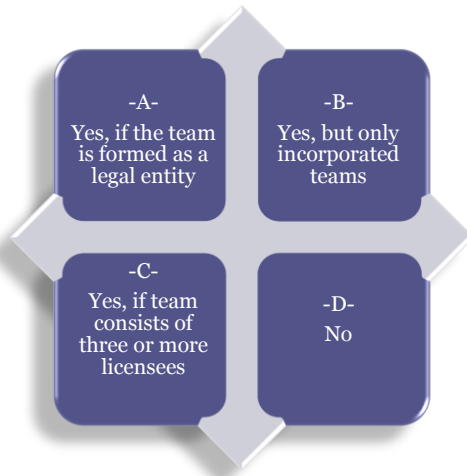


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CGS §§ 20-311, 20-312, 20-314

3. Do teams need a separate real estate license?

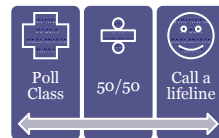
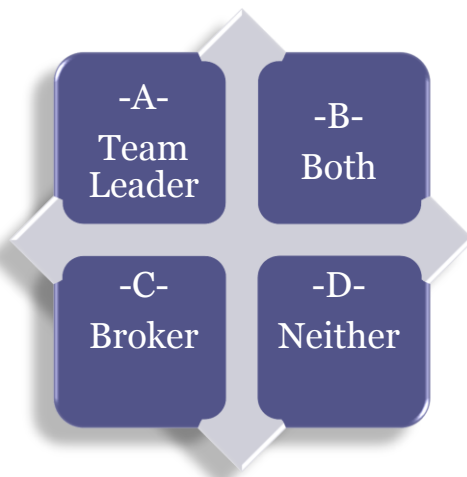


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CGS § 20-312

4. Is a salesperson responsible to her team leader or broker?

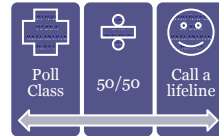
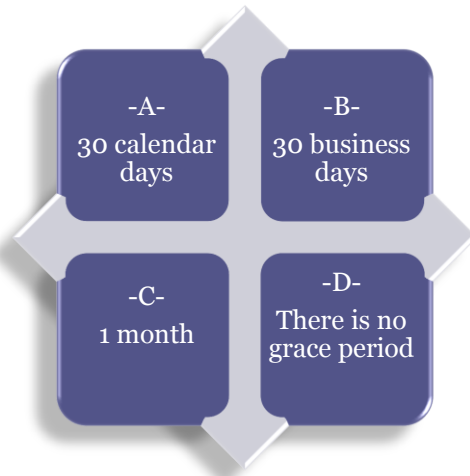


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CGS § 20-311

5. How long is the grace period for renewing your license?

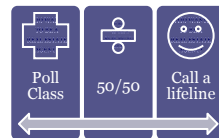
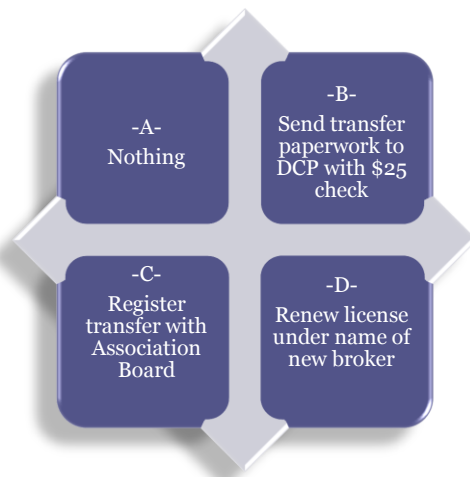


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CGS § 21a-4(c)

6. What must a salesperson do to change broker affiliation?



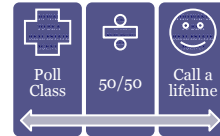
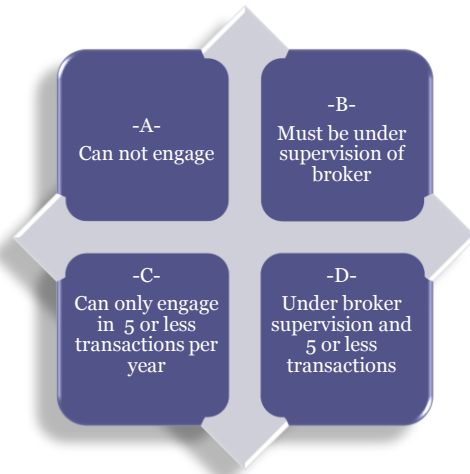
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CGS § 20-319a

7. How can a licensee engage in the practice of real estate with a retiree license?

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August 2012



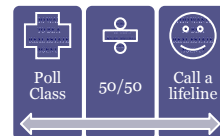
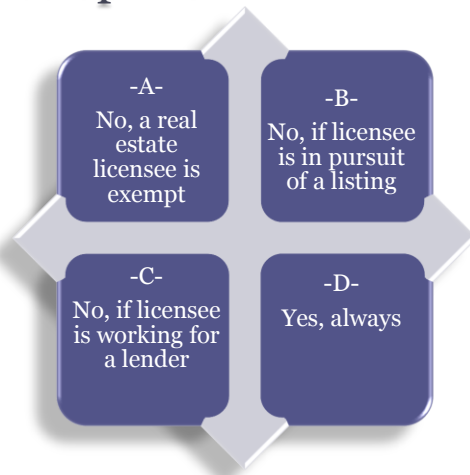
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CGS § 21a-10a

8. Does a real estate licensee need an appraisal license to give a broker price opinion?

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CGS §§ 20-500(5), -501, -526

Practice Issues

- Let's talk about some real estate brokerage practice issues that DCP receives complaints about
 - What's your opinion?
 - How does this effect your practice?
 - What does the law say on the issue?

LET'S TALK ABOUT SAVING BUSINESS RECORDS

- Brokers must maintain the following records for _____ after a transaction closes, escrow money is disbursed, or agency agreement expires:
 - contracts, leases, options, offers, counteroffers drafted by broker
 - listing and buyer agency agreements (plus amendments and disclosures)
 - cancelled checks and banks statements for escrow accounts
- Format: electronic or hard copy



CGS § 20-325m

LET'S TALK ABOUT TEAMS

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THE HUSKY BLUE TEAM

Marketing Connecticut Properties at the Highest Level
860-486-TEAM

We meet all your
real estate needs!
Call to discuss strategy.



Jane Husky, Husky Blue Team Leader Extraordinaire

Affiliated with Connecticut Realty

CT Regulations § 20-328-5a

LET'S TALK ABOUT INTERNET ADVERTISING RULES

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THE HUSKY BLUE TEAM

Marketing Connecticut Properties at the Highest Level
860-486-TEAM



New Construction
\$450K



Waterfront
\$380K



Some Maintenance Needed
\$2.5M



Jane Husky, Husky Blue Team Leader Extraordinaire

Affiliated with Connecticut Realty

CT Regulations § 20-328-5a

LET'S TALK ABOUT RELEASING ESCROW ACCOUNTS



- Broker represents the seller. Buyer and seller enter into contract, and broker holds deposit money in escrow.
- After the home inspection, buyer complains that the chimney needs work and wants deposit back.
- Seller accuses buyer of breaching contract and wants deposit.
- Who should broker give deposit to?

CGS § 20-324k

LET'S TALK ABOUT INTERFERENCE WITH CLIENT RELATIONSHIPS



- Buyer has buyer agency agreement with Sam and has signed a contract to buy 21 Surf Drive
- Buyer goes to Joe's open house at 18 Cove Road
- Joe gets the feeling Buyer is not well represented
- Joe tells Buyer that she should
 - end her current agency relationship; he can represent her
 - see other houses for sale with him
- OK?

CT Regulations § 20-329-9a

LET'S TALK ABOUT REFERRALS/DONATIONS/REBATES

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1. Mortgage company says it will make a donation to the local food pantry for every referral of a borrower by a real estate agent - OK?
 - What if mortgage company makes a donation in the months that it hits a certain target level of business - OK?
2. A real estate agent offers to make a donation to the local animal shelter for every business referral from another agent- OK?
 - What if real estate agent offered to give a buyer or seller a rebate instead of donation?



CGS § 20-320a

LET'S TALK ABOUT MORE ABOUT RESPA

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- RESPA prohibits a settlement service provider (SSP) from giving anything of value to a real estate agent _____



- What is an SSP?
 - _____ who provides a service related to a real estate transaction
 - loans, title, appraisal, inspection, legal
- What is of value?
 - _____ in exchange for business
 - money, gifts, lunch, brochures, food at open houses

12 USC § 2607

Practice Issues: *Recap Quiz*

- True or False?
 1. An expired listing agreement on a house that never closed has to be saved for 7 years.
 2. A team leader is considered a designated broker.
 3. Internet advertising must contain the listing agent's office address.
 4. The only way a broker can release a disputed escrow deposit is by court order.
 5. An attorney can take a real estate agent out to lunch and pay for the meal in thanks for referring business.

Condo Law

- 3 different laws, depending on when the community was developed
 - before 1977: Unit Ownership Act
 - 1977 – 1983: Condominium Act
 - 1984 – present: Common Interest Ownership Act (CIOA – pronounced ki-a-wa)
- Resale requirements of CIOA apply to all

How to protect buyers and sellers

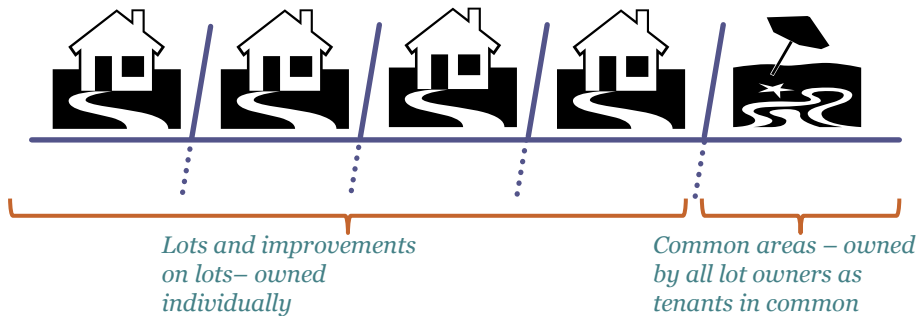
- Know
 - what is a common interest community
 - resale document requirements and meaning
 - resale contract contingencies
 - exceptions

What is a common interest community?

- _____
 - units are separately owned
 - common areas owned by all unit owners as tenants in common
 - units may have limited common elements for exclusive use by a unit owner
- _____
 - all real property owned by association
 - unit owners are shareholders or members of association and have right to exclusive possession of particular unit
- _____
 - everything else that includes common areas
 - example: unit owners own lots, association owns common areas

How do you know property is a common interest community?

Is this a common interest community?



Resale Requirements

- After initial sale by developer
- _____ of unit must give buyer (or buyer's attorney) a copy of resale disclosure documents
 1. _____
 - creation document; recorded in land records
 2. Association _____, rules, regulations, and current budget
 3. _____ prepared by association or management company

Importance: gives buyer information about living and owning in community

Importance of Resale Documents

- Lots of information for buyer; read carefully
- Including
 - Monthly common charges
 - Any unpaid money seller owes Association
 - Restrictions on
 - amount owner can sell unit for
 - owner's right to use or occupy unit
 - owner's ability to lease unit

In practice: Buyer will be obligated to comply with rules, including restrictions about pets, parking, maintenance, unit changes, leasing

Resale Documents, *continued*

- _____ related to Association
 - amount of reserves for capital expenditures
 - any upcoming capital spending approved by Association board greater than \$1000
 - number of unit owners who are at least 60 days delinquent in paying common charges
 - number of foreclosure actions bought or pending by association
 - any pending lawsuits the Association is a party to

Potential concern: If Association does not have a reserve fund, unit owner may have to pay special assessments when major projects become necessary

Obtaining Resale Documents

- Association must file name of contact person with town clerk (*in town where community is located*)
- Association (or management company) must provide seller with documents within _____ of request (and payment of fees)
- Association can charge fees
 - maximum of \$____, plus
 - 5¢ per copied page or \$10 per electronic document

In practice: What if seller has problems obtaining documents?

Right to Cancel Contract

- Seller must give buyer (or buyer's attorney) the resale documents before closing
- Buyer has a right to cancel the purchase until _____ after resale documents are delivered
 - or _____ after sent by registered or certified mail

Importance: Contract for sale of common interest community is _____ until 5 business days after resale documents are delivered

Exceptions

- If common interest community has ___ **or less units** (*and is fully built out and not part of larger community*)
 - seller is not obligated to deliver any resale documents
 - **no right of cancellation** after contract signed

In practice: buyer can negotiate with seller to provide information, and can incorporate a right to cancel contingency in contract

CGS § 47-262

Protecting Your Client

- **Seller**
 - inform and answer questions about obtaining resale documents
 - inform about right to rescission clock
- **Buyer**
 - confirm receipt of resale documents
 - cancel in timely manner
 - inform buyer to review resale documents with attorney
 - does buyer understand financial obligations?
 - does buyer understand restrictions?
 - can buyer rent unit?
 - are there indications that association is experiencing any financial risks?

Condo Law: *Recap Quiz*

- True or False?
 1. The seller of a common interest ownership unit must provide the buyer with resale documents.
 2. The resale documents will provide an estimate of the value of the unit.
 3. The buyer of a unit has right to cancel the purchase within 5 days of receiving the resale documents if the documents show any financial risk associated with buying the unit.
 4. There is no right of cancellation for a buyer of a unit in a small condominium complex.

BREAK

1-15 minutes – depending on performance ☺

www.ct-clic.com is CT's online licensing center



Fair Housing

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- **Larry, a landlord**, lists his house for rent with a real estate brokerage firm. **Sam, a licensed real estate salesperson**, is the listing agent. He advertises the property in the newspaper and submits the listing to the MLS. A **prospective tenant Tess** comes into the real estate company's office to inquire about the house for rent. Sam greets her.

Special thanks to Connecticut Association of Realtors, Inc.[®]
for developing the basis for this vignette



- Our firm has a variety of rentals. How many bedrooms do you need, and how much can you spend a month on rent?

- Well, I have a Section 8 three-bedroom voucher that allows me to spend up to \$1,200 a month.
- OK, let me show you some apartments.



...after the showings...

- I like the one on South Street. It's roomy enough for me and my kids.

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Sam provides Larry the landlord with Tess' application. Larry calls.

- Sam, what are you trying to do me?
This person is a Section 8 tenant. I've never accepted a Section 8 tenant and I'm not about to start.
- Larry, it's OK to reject an applicant for your apartment if you have a legal reason for it.



Can a landlord refuse to rent to a Section 8 tenant?

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- Your reason to reject her is illegal – it's like saying you won't rent to a green person or divorcee receiving alimony. Section 8 is one of the protected classes in CT's fair housing laws – it's called lawful source of income – so you can't reject her just because she has a Section 8 voucher.
- OK, tell her I'm not accepting kids – they're too noisy and they'll wreck the place.



Can a landlord refuse to rent to a tenant because she has children?



- Sorry again, you can't reject an applicant because she has kids – that goes to familial status. I'm not a lawyer, so I can't give you legal advice, but I do know that if you use her kids as your reason to reject her, that would be discrimination and she could file a discrimination complaint against you.
 - Sam, you worry too much. I'll take the blame for discriminating if there's ever a complaint filed. So just find another place for her!



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Can Sam proceed?



- We've got a problem here Larry. It's illegal for me to reject her because of Section 8 or kids. You've put me and our whole company in a very awkward position and we're not happy about it. I'm going to call her with the bad news.
 - Wait, there's something else I want to ask you about. Did you notice anything unusual about Tess? She's kind of tall and her voice is low for a woman.



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- What? ...
- I may be old but I'm not blind. I think she's one of those "trans" people – you know a man dressing like a woman. I don't want someone like that living in my apartment.



If Tess is in fact a man dressing as a woman, now can Larry refuse to rent to her?

- Gender identity is now a protected class in Connecticut. So even if she is a man, you can't discriminate based on her acting like another gender.



- Oh Sam, you just have to get rid of her for me. Use one of those reasons.
- I'm sorry Larry. We have rules we have to follow. If you discriminate against Tess, I cannot continue to represent you. I cannot take part in any plan to discriminate, and neither can any other real estate agent.



1. Tell us how you think Sam should have handled this situation?
2. What do you think Larry chooses to do now?
3. Should Tess file a complaint against Larry for discrimination? How?

Protected Classes in Connecticut

- Race
 - Religion/Creed
 - Color
 - National Origin
 - Ancestry
 - Sex
 - Marital Status
 - Age
- CT State Law (not federal)
- Lawful Source of Income
 - Familial Status
 - Physical Disability
 - Mental Disability
 - Learning Disability
 - Sexual Orientation
 - Gender Identity

CGS § 46a-64c

Fair Housing: *Recap Quiz*

- True or False?
 1. A landlord can require a tenant to submit to a credit check.
 2. A landlord can refuse to rent to a tenant that does not have sufficient income to pay the rent.
 3. A landlord can refuse to rent to a tenant that whose only income comes from welfare.
 4. Gender identity is now a protected classification in Connecticut.
 5. If the landlord has a fair housing law exception and can discriminate, so can the real estate agent representing the landlord.

Recent Legislation

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Property Condition Disclosure

- DCP finalized the _____ as of January 10, 2012; *available online*
 - revisions were the result of Public Act 09-60, which required inclusion of
 - (1) municipal contact information if the property is located in historic district
 - (2) statement listing all leased appliances and other items
 - (3) any land use restrictions (other than by law or in chain of title)

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Disclosure Form, continued

- **Public Act 12-122**
- requires DCP to _____, to add information about
 - common interest community fees
 - underground storage tank removal and documentation
 - smoke and carbon monoxide detectors
 - prior or pending action related hazardous substances
 - consulting with the town to confirm issuance of building permits and COs
 - having property inspected by a licensed home inspector
- also increases credit that the seller must give purchaser at closing for not furnishing report, from \$300 to \$500

Influencing Appraisers

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- **Public Act 12-96**
- redefines _____ real estate appraisals
- cannot
 - directly or indirectly
 - cause or attempt to cause
 - through coercion, extortion, inducement, bribery intimidation, compensation, instruction, or collusion
 - the value assigned to the residential property to be based on any factor other than the appraiser's independent judgment
- mirrors prohibition under federal Dodd-Frank Act

Gender Identity Discrimination

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- **Public Act 11-55**
- “_____” is a new protected category
- defined as “person's gender-related identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth”
- prohibits discrimination in sale or rental of housing (as well as in other areas)

Nonmaterial Facts

- **Public Act 11-242**
- includes property occupants with “reportable diseases, emergency illnesses and health conditions” listed by Connecticut Public Health Commissioner (formerly it was just “reported diseases”)

Property Tax Law Changes

- **Public Act 11-6**
- **Municipal Conveyance Tax**
 - **.25% base rate**
 - temporary increase made permanent
 - plus up to additional .25% in 18 eligible municipalities
- **State Conveyance Tax**
 - increase of .25%
 - residential property: 0.75% on first \$800,000; 1.25% on remaining value
 - commercial property: 1.25%

Foreclosure Mediation Program

- **Mandatory Mediation**
 - to assist borrower and lender to come to an agreement to avoid foreclosure
 - foreclosing lender must give borrower notice of foreclosure mediation and forms
 - applies to foreclosures of 1, 2, 3, or 4 family owner-occupied residential property
- **Recently extended to June 30, 2014**
 - **Public Act 11-201**

Tenant Eviction Protection

- **Public Act 12-41**
- current tenant protected from eviction in complex with five or more units _____ (*may be evicted for other reasons such as non-payment of rent*)
 - over 62 years old or resides with person over 62; blind; physically disabled
- new law adds
 - replaces last two with:
 - **physical or mental disability**, or resides with disabled person
 - definition:
 - physical or mental impairment that substantially limits one or more of a person's major life activities
 - only if such disability can be expected to result in death or to last for a continuous period of at least twelve months
 - does not include addiction to a controlled substance, but does include alcoholism

Smoke and Carbon Monoxide Detectors

- **Public Act 12-184**
- requires battery operated smoke and carbon monoxide detectors in
 - one and two family homes occupied during alterations or additions requiring a building permit
- effective October 1, 2012

Recent Legislation: *Resources*

- Connecticut Real Estate Licensing Law Statutes and Regulations are available at
 - <http://ct.gov/dcp>
 - click Laws and Regulations
 - scroll to Real Estate
 - for Statutes
 - Click [Real Estate Brokers and Salespersons, Chapter 392](#)
 - for Regulations
 - Click [Regulations, Real Estate Brokers and Salespersons](#)
- Recent Public Acts are available at
 - <http://cga.ct.gov>
 - use Quick Search tool bar

Wrap Up

- Instructor should report and discuss any other current topics or recent real estate brokerage-related Connecticut legislation or court cases.
- QUESTIONS?
- COMMENTS?