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Proposed Green Building Amendments to the Connecticut State Building Code: January 1, 2009

On June 4, 2007, Governor Rell signed Public Act 07-242 (the "Act") into law. This law calls for applying green building requirements to commercial *and* multifamily residential projects (i.e., at least four units) that cost in excess of a certain dollar amount and that seek a building permit after January 1, 2009. Implementation of this law will make Connecticut one of the first states to require green building standards for public *and* private construction. Ultimately, it will apply to both new construction and renovation projects.

The Act also requires the State Building Inspector and the Codes and Standards Committee to amend the State Building Code to incorporate the same green building standards. They recently approved such amendments to the State Building Code consistent with the green building requirements set forth in the Act. Before final implementation, the proposed amendments must be reviewed by the Office of the Attorney General and the Legislative Regulation Review Committee later this year and early next year.

"Green building" standards refer to construction techniques and design considerations that yield energy efficiency over the life span of a building. The Office of the Federal Environmental Executive defines "green building" as:

the practice of (1) increasing the efficiency with which buildings and their sites use energy, water, and materials, and (2) reducing building impacts on human health and the environment, through better siting, design, construction, operation, maintenance, and removal-the complete building life cycle.

Several nongovernmental systems defining green building standards have emerged, including the following:

- United States Green Building Council (USGBC), Leadership in Energy and Environmental Design (LEED) System
- Green Building Initiative (GBI), Green Globes System
- International Code Council/National Association of Home Builders (ICC/NAHB), National Green Building Standard (Residential only)
- International Initiative for a Sustainable Built Environment (iiSBE), SB Tool 07

Each system sets forth a series of energy efficiency criteria and offers "points" for each criterion incorporated into either the building design or the construction standards. Depending on the number of points amassed by any one project, it may be assigned a certification indicating the level to which it satisfies green building standards. For example, the LEED for new construction (LEED-NC) system addresses six major areas, including sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, and innovation in design. Depending on the number of points earned in each area, LEED-NC has four progressive levels of certification: Certified, Silver, Gold, and

Platinum.

Section 78 of the Act requires the State Building Inspector and the Codes and Standards Committee to incorporate a green building rating system into the State Building Code. Specifically, the Act provides that the State Building Code shall be revised to require certain public and private developments be constructed using building construction standards consistent with or exceeding one of the following:

1. LEED-NC silver rating, or
2. An equivalent standard, including, but not limited to, a two-globe rating in the Green Globes USA design program.

The green building standards will apply to virtually all new construction projected to cost at least \$5 million. Starting January 1, 2010, the same requirements will be extended to renovation projects expected to cost at least \$2 million. It remains to be seen how the State will require the cost projections to be calculated.

The only explicit exemption from the green building standards is for residential buildings having fewer than four residential units; however, other projects may be exempt if the Institute for Sustainable Energy (the "Institute") finds, in a written analysis, that the cost of compliance significantly outweighs the benefits. The Act neither provides guidance as to how the Institute is to undertake this "balancing" nor requires that the Institute make its findings in a particular time frame. In 2001, the Institute was established at Eastern Connecticut State University "to identify, develop, and implement the means for achieving a sustainable energy future." See <http://www.easternct.edu/depts/sustainenergy>. Among other things, the Institute is funded and supported by the Connecticut Energy Efficiency Fund and by fees for services from various organizations, including the United States Environmental Protection Agency, the United States Department of Energy, the Connecticut Office of Policy and Management, the Connecticut Department of Environmental Protection, the Connecticut Clean Energy Fund, and the Connecticut Green Building Council.

Current Status

At its September meeting, the Codes and Standards Committee approved the final proposed drafts of the State Building Code 2008 Amendments and the Connecticut State Fire Safety Code 2008 Amendments (collectively, the "2008 Amendments"). Among other things, the 2008 Amendments codify the requirements set forth in Section 78 of the Act. A "final" draft will be forwarded to the Office of the Attorney General, followed by the filing of the 2008 Amendment with the Legislative Regulation Review Committee. The Office of the State Building Inspector estimates that the 2008 Amendments will become effective in March of 2009.

The Codes and Standards Committee seems to recognize certain implementation questions remain unanswered. At this time, the Codes and Standards Committee has asked the Office of the Attorney General to determine whether the green building requirements of the Act will become effective January 1, 2009, even if the amendments to the State Building Code are not final.

The information in this update should not be considered legal advice. Consult your attorney before acting on anything contained herein.

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