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PA Bar Institute: Real Estate Institute 2018  
Philadelphia Convention Center

**Changes to PA Law Affecting Real Estate Transactions**

Raymond P. Pepe, December 7, 2018

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**Act 2018-17: Condo, Coop and Planned Community Law Amendments**

- Common interest communities established after July 3, 2018 must adopt voluntary ADR procedures.
- Bureau of Consumer Protection in the Office of Attorney General granted authority to hear complaints regarding meetings, voting and records not resolved by ADR procedures from members in good standing.
- Prevailing parties in disputes with declarants for violations of law may be awarded costs and reasonable attorney fees.

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**Act 2018-30: Property Assessed Clean Energy Program**

- Additional to property tax assessments may be imposed by municipalities to finance clean energy improvements to commercial, industrial or agricultural property.
- Assessments run with the land and may be enforced in the same manner as property tax assessments.
- Financing may be provided by municipal bonds, financial institutions, or other from other sources, including equipment suppliers.
- Property owner must give notice and obtain consent from holders of mortgage, liens and security interests.

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## Act 2018-27: Contractor & Subcontractor Payment Law Amendments

- Waivers prohibited unless expressly authorized.
- Authorizes suspension of performance without penalties if timely payments or notices of deficiencies not received.
- Payment withholding for deficiencies must be reasonable, may not affect payment for satisfactory work, and be accompanied by a written explanation within 14 days. Noncompliance waives right to withhold.
- Retainage may be released upon substantial compliance by posting of a bond and must be released within 30 days of final completion of work.

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## Act 2018-32: Vacant & Abandoned Properties, Sheriff and Attorney Fees

- Establishes procedures for properties to be certified as vacant and abandoned by municipalities or by creditors.
- Impact of certification is to simplify service of process, expedite sheriff's sales and execution of writs of possession, grant a right to possession with limited property maintenance obligations, and allow removal of personal property of prior owner after sale.
- For any mortgaged property sheriffs fees may only be imposed if property is sold.
- Changes made to attorney fees that may be imposed before and after foreclosure action initiated.

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## Act 2018-33: Redevelopment Authorities

Land Bank Law amended to grant county redevelopment authorities the same powers as land banks.

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### Act 2018-38: Tax Sale Law Amendments

- Authorizes redemption of unsold properties by owner for full payment of delinquent taxes and costs.
- Authorizes rehabilitation of unsold properties but exempts tax claim bureaus from property maintenance obligations.
- Imposes continued liability on delinquent property owners for property maintenance for unsold properties.

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### Act 2018-45: Condemnation of Properties Subject to Conservation Easements

- Prohibits local governments from condemning properties subject to conservation easements without a determination by the Orphans Court that there is no reasonable or prudent alternative.
- Exemptions provided for emergencies or condemnations by public utilities or as authorized by federal law.

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### Act 2018-55: Arbitration

- Effective 7/1/19 adopts Revised Uniform Law Arbitration Act and repeals common law arbitration procedures for new arbitration agreements.
- Specifies rules that may be waived or modified by agreement at any time, which may be waived or modified only after a dispute arises, or which may not be waived or modified.
- Does not apply to arbitration agreements executed before 7/1/19 unless agreed upon by parties.

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## Act 2018-75: Broker Price Opinions

- Authorizes brokers and sales persons to apply to Real Estate Board for authority to issue broker price opinions.
- Limits use of broker price opinions to valuation of property held by lenders after unsuccessful foreclosure auctions and for short sales, mortgage refinancing and portfolio evaluations.

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## Act 2018-84: Omnibus Condo and Coop Amendments

- Provides for storm water management obligations after release of permits by DEP or conservation districts.
- Allows suspension of voting rights for unit owners with delinquent assessment obligations.
- Authorizes convening of special meetings to elect executive board after end of period declarant control.
- Requires release of tax liens by declarant before conveying property to owners association.
- Modifies statute of limitations for structural warranty claims.

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## Act 2018-98: Immunities for Recreational Use of Private Land

- Modifies existing law to clarify that immunities apply to improvements made to land.
- Expands the definition of "recreation" to include all types of activities for exercise, sport, education, recreation, relaxation or pleasure, including snowmobiling, ATVs and motor cycling.
- Allows collection of donations to maintain property.

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## Remote Notarization

- To date IN, MI, MN, MT, NV, TN, TX, VA and VT have authorized performance of notarial acts by means of audio-visual communication.
- Legislation based on 2018 RULONA Amendments or MBA/ALTA Model Act expected in most other states.
- Remote notarial acts recognized in PA if performed in compliance with the laws of other jurisdictions.
- Most acts require third party identity proofing, retention of audio visual records, disclosure on notarial certificates, registration by notaries and disclosures of technologies, limit international use, and authorize adoption of standards.

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