General Assembly

February Session, 2004

Raised Bill No. 5561

LCO No. **1586**

____HB05561JUD__031804___

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING SERVICE OF PROCESS IN CERTAIN LAND USE APPEALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (f) of section 8-8 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(f) Service of legal process for an appeal under this section shall be directed to a proper officer and shall be made <u>as follows:</u>

<u>(1) For any appeal taken before the effective date of this section, process shall be served</u> by leaving a true and attested copy of the process with, or at the usual place of abode of, the chairman or clerk of the board, and by leaving a true and attested copy with the clerk of the municipality. Service on the chairman or clerk of the board and on the clerk of the municipality shall be for the purpose of providing legal notice of the appeal to the board and shall not thereby make the chairman or clerk of the board or the clerk of the municipality a necessary party to the appeal.

15 (2) For any appeal taken on or after the effective date of this section,
16 process shall be served in accordance with subdivision (5) of
17 subsection (b) of section 52-57, as amended by this act. Such service
18 shall be for the purpose of providing legal notice of the appeal to the
19 board and shall not thereby make the clerk of the municipality or the
20 chairman or clerk of the board a necessary party to the appeal.

21 Sec. 2. Subsection (a) of section 22a-43 of the general statutes is
22 repealed and the following is substituted in lieu thereof (*Effective*
23 *October 1, 2004*):

24 (a) The commissioner or any person aggrieved by any regulation,
25 order, decision or action made pursuant to sections 22a-36 to 22a-45,
26 inclusive, by the commissioner, a district or municipality or any person
27 owning or occupying land which abuts any portion of land within, or
28 is within a radius of ninety feet of, the wetland or watercourse
29 involved in any regulation, order, decision or action made pursuant to
30 said sections may, within the time specified in subsection (b) of section
31 8-8, from the publication of such regulation, order, decision or action,
32 appeal to the superior court for the judicial district where the land
33 affected is located, and if located in more than one judicial district to
34 the court in any such judicial district. Such appeal shall be made
35 returnable to the court in the same manner as that prescribed for civil
36 actions brought to the court, except that the record shall be transmitted
37 to the court within the time specified in subsection (i) of section 8-8. If
38 the inland wetlands agency or its agent does not provide a transcript of
39 the stenographic or the sound recording of a meeting where the inland
40 wetlands agency or its agent deliberates or makes a decision on a
41 permit for which a public hearing was held, a certified, true and
42 accurate transcript of a stenographic or sound recording of the meeting
43 prepared by or on behalf of the applicant or any other party shall be
44 admissible as part of the record. Notice of such appeal shall be served
45 upon the inland wetlands agency and the commissioner, provided, for
46 any such appeal taken on or after the effective date of this section,
47 service of process for purposes of such notice to the inland wetlands

48 agency shall be made in accordance with subdivision (5) of subsection
49 (b) of section 52-57, as amended by this act. The commissioner may
50 appear as a party to any action brought by any other person within
51 thirty days from the date such appeal is returned to the court. The
52 appeal shall state the reasons upon which it is predicated and shall not
53 stay proceedings on the regulation, order, decision or action, but the
54 court may on application and after notice grant a restraining order.
55 Such appeal shall have precedence in the order of trial.

56 Sec. 3. Subsection (b) of section 52-57 of the general statutes, as
57 amended by section 8 of public act 03-224 and section 126 of public act
58 03-278, is repealed and the following is substituted in lieu thereof
59 (*Effective October 1, 2004*):

60 (b) Process in civil actions against the following-described classes of
61 defendants shall be served as follows: (1) Against a town, upon its
62 clerk, assistant clerk, manager or one of its selectmen; (2) against a city,
63 upon its clerk or assistant clerk or upon its mayor or manager; (3)
64 against a borough, upon its manager, clerk or assistant clerk or upon
65 the warden or one of its burgesses; (4) against a school district, upon
66 its clerk or one of its committee; (5) against a board, commission,
67 department or agency of a town, city or borough, notwithstanding any
68 provision of **[**the general statutes**]** law, upon the clerk of the town, city
69 or borough, provided two copies of such process shall be served upon
70 the clerk and the clerk shall retain one copy and forward the second
71 copy to the board, commission, department or agency; (6) against other
72 municipal or quasi-municipal corporations, upon its clerk or upon its
73 chief presiding officer or managing agent; and (7) against an employee
74 of a town, city or borough in a cause of action arising from the
75 employee's duties or employment, upon the clerk of the town, city or
76 borough, provided two copies of such process shall be served upon the
77 clerk and the clerk shall retain one copy and forward the second copy
78 to the employee.

This act shall take effect as follows:	
Section 1	*October 1, 2004*
Sec. 2	*October 1, 2004*
Sec. 3	*October 1, 2004*

JUD *Joint Favorable*