



House of Representatives

File No. 678

General Assembly

February Session, 2010

(Reprint of File Nos. 421 and 649)

Substitute House Bill No. 5255
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 30, 2010

AN ACT CONCERNING MUNICIPAL MANDATE RELIEF.

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

1 Section 1. Section 47a-42 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2010*):

3 (a) Whenever a judgment is entered against a defendant pursuant to
4 section 47a-26, 47a-26a, 47a-26b or 47a-26d for the recovery of
5 possession or occupancy of residential property, such defendant and
6 any other occupant bound by the judgment by subsection (a) of section
7 47a-26h shall forthwith remove himself or herself, such defendant's or
8 occupant's possessions and all personal effects unless execution has
9 been stayed pursuant to sections 47a-35 to 47a-41, inclusive. If
10 execution has been stayed, such defendant or occupant shall forthwith
11 remove himself or herself, such defendant's or occupant's possessions
12 and all personal effects upon the expiration of any stay of execution. If
13 the defendant or occupant has not so removed himself or herself upon
14 entry of a judgment pursuant to section 47a-26, 47a-26a, 47a-26b or
15 47a-26d, and upon expiration of any stay of execution, the plaintiff

16 may obtain an execution upon such summary process judgment, and
17 the defendant or other occupant bound by the judgment by subsection
18 (a) of section 47a-26h and the possessions and personal effects of such
19 defendant or other occupant may be removed by a state marshal,
20 pursuant to such execution, and [such possessions and personal effects
21 may be set out on the adjacent sidewalk, street or highway] delivered
22 to the place of storage designated by the chief executive officer for such
23 purposes.

24 (b) Before any such removal, the state marshal charged with
25 executing upon any such judgment of eviction shall give the chief
26 executive officer of the town twenty-four hours notice of the eviction,
27 stating the date, time and location of such eviction as well as a general
28 description, if known, of the types and amount of property to be
29 removed from the premises and delivered to the designated place of
30 storage. Before giving such notice to the chief executive officer of the
31 town, the state marshal shall use reasonable efforts to locate and notify
32 the defendant of the date and time such eviction is to take place and of
33 the possibility of a sale pursuant to subsection (c) of this section. Such
34 notice shall include service upon each defendant and upon any other
35 person in occupancy, either personally or at the premises, of a true
36 copy of the summary process execution. Such execution shall be on a
37 form prescribed by the Judicial Department, shall be in clear and
38 simple language and in readable format, and shall contain, in addition
39 to other notices given to the defendant in the execution, a conspicuous
40 notice, in large boldface type, that a person who claims to have a right
41 to continue to occupy the premises should immediately contact an
42 attorney, and clear instructions as to how and where the defendant
43 may reclaim any possessions and personal effects removed and stored
44 pursuant to this section, including a telephone number that may be
45 called to arrange release of such possessions and personal effects.

46 (c) Whenever the possessions and personal effects of a defendant
47 are [set out on the sidewalk, street or highway, and are not
48 immediately removed by the defendant, the chief executive officer of
49 the town shall remove and store the same] removed by a state marshal

50 under this section, such possessions and effects shall be delivered by
51 such marshal to the designated place of storage. Such removal,
52 delivery and storage shall be at the expense of the defendant. If such
53 possessions and effects are not [called for] reclaimed by the defendant
54 and the expense of such [removal and] storage is not paid to the chief
55 executive officer within fifteen days after such eviction, the chief
56 executive officer shall sell the same at public auction, after using
57 reasonable efforts to locate and notify the defendant of such sale and
58 after posting notice of such sale for one week on the public signpost
59 nearest to the place where the eviction was made, if any, or at some
60 exterior place near the office of the town clerk. The chief executive
61 officer shall deliver to the defendant the net proceeds of such sale, if
62 any, after deducting a reasonable charge for [removal and] storage of
63 such possessions and effects. If the defendant does not demand the net
64 proceeds within thirty days after such sale, the chief executive officer
65 shall turn over the net proceeds of the sale to the town treasury.

66 Sec. 2. Section 49-22 of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective July 1, 2010*):

68 (a) In any action brought for the foreclosure of a mortgage or lien
69 upon land, or for any equitable relief in relation to land, the plaintiff
70 may, in his complaint, demand possession of the land, and the court
71 may, if it renders judgment in his favor and finds that he is entitled to
72 the possession of the land, issue execution of ejectment, commanding
73 the officer to eject the person or persons in possession of the land and
74 to put in possession thereof the plaintiff or the party to the foreclosure
75 entitled to the possession by the provisions of the decree of said court,
76 provided no execution shall issue against any person in possession
77 who is not a party to the action except a transferee or lienor who is
78 bound by the judgment by virtue of a lis pendens. The officer shall
79 eject the person or persons in possession and may remove such
80 person's possessions and personal effects and [set them out on the
81 adjacent sidewalk, street or highway] deliver such possessions and
82 effects to the place of storage designated by the chief executive officer
83 of the town for such purposes.

84 (b) Before any such removal, the state marshal charged with
85 executing upon the ejectment shall give the chief executive officer of
86 the town twenty-four hours notice of the ejectment, stating the date,
87 time and location of such ejectment as well as a general description, if
88 known, of the types and amount of property to be removed from the
89 land and delivered to the designated place of storage. Before giving
90 such notice to the chief executive officer of the town, the state marshal
91 shall use reasonable efforts to locate and notify the person or persons
92 in possession of the date and time such ejectment is to take place and
93 of the possibility of a sale pursuant to subsection (c) of this section and
94 shall provide clear instructions as to how and where such person or
95 persons may reclaim any possessions and personal effects removed
96 and stored pursuant to this section, including a telephone number that
97 such person or persons may call to arrange release of such possessions
98 and personal effects.

99 (c) Whenever a mortgage or lien upon land has been foreclosed and
100 execution of ejectment issued, and the possessions and personal effects
101 of the person in possession thereof are [set out on the sidewalk, street
102 or highway, and are not immediately removed by such person, the
103 chief executive officer of the town shall remove and store the same]
104 removed by a state marshal under this section, such possessions and
105 effects shall be delivered by such marshal to the designated place of
106 storage. Such removal, delivery and storage shall be at the expense of
107 such person. If the possessions and effects are not [called for]
108 reclaimed by such person and the expense of the [removal and] storage
109 is not paid to the chief executive officer within fifteen days after such
110 ejectment, the chief executive officer shall sell the same at public
111 auction, after using reasonable efforts to locate and notify such person
112 of the sale and after posting notice of the sale for one week on the
113 public signpost nearest to the place where the ejectment was made, if
114 any, or at some exterior place near the office of the town clerk. The
115 chief executive officer shall deliver to such person the net proceeds of
116 the sale, if any, after deducting a reasonable charge for [removal and]
117 storage of such possessions and effects. If such person does not

118 demand the net proceeds within thirty days after the sale, the chief
119 executive officer shall turn over the net proceeds of the sale to the town
120 treasury.

121 Sec. 3. Section 12-80a of the general statutes is repealed and the
122 following is substituted in lieu thereof (*Effective October 1, 2010, and*
123 *applicable to assessment years commencing on or after said date*):

124 (a) Any (1) taxpayer which, prior to January 1, 1990, was subject to
125 tax under chapter 211 with respect to the rendering of
126 telecommunications service and which, on or after January 1, 1990, is
127 subject to tax under chapter 219 for rendering telecommunications
128 service and (2) other taxpayer that is subject to tax under chapter 219
129 for rendering telecommunications service and which has elected in the
130 manner specified in this section to have personal property taxed as
131 provided in this section, shall be required to submit to the
132 Commissioner of Revenue Services and the Secretary of the Office of
133 Policy and Management, not later than the thirtieth day of November
134 of each year during which it is subject to tax under chapter 219, a list of
135 all personal property on a town-by-town basis that is owned by such
136 taxpayer in this state on the first day of October of such year and that
137 is used solely and exclusively for rendering telecommunications
138 service, as defined in said chapter 219, including the location of each
139 item of such property and the fair market value thereof, recognizing
140 depreciation of such property to the maximum extent allowed for
141 purposes of the corporation business tax in this state, as certified by
142 the Commissioner of Revenue Services. Each such taxpayer shall also
143 submit said list to each municipality in which such taxpayer owns
144 property, provided the list submitted to a municipality shall contain
145 only the personal property owned by such taxpayer that is located in,
146 or allocated pursuant to this subsection to, said municipality. If the
147 records of a taxpayer subject to the requirements of this subsection do
148 not contain the data necessary to develop the list as required without
149 undue cost, the taxpayer may, for purposes of requirements under this
150 subsection, petition the Commissioner of Revenue Services for
151 approval of an alternate method of determining the value of the plant

152 used solely and exclusively to render telecommunications services, but
153 not including central office or switching equipment of that taxpayer,
154 located in each town in the state. If the commissioner finds that the
155 alternative method proposed results in a reasonable approximation of
156 the value of the property of the taxpayer located in each town and
157 used solely and exclusively for rendering telecommunications service,
158 the commissioner shall notify the taxpayer that the proposed alternate
159 method is acceptable and the taxpayer shall be permitted to use the
160 alternate method in developing the list required under this subsection.

161 (b) (1) Not later than the first day of February immediately
162 following the end of such tax year, the Secretary of the Office of Policy
163 and Management shall determine, with respect to such company, a
164 value for personal property equivalent to seventy per cent of the value
165 of personal property included in the list of such property prepared and
166 certified in accordance with subsection (a) of this section. The amount
167 of tax applicable with respect to such personal property of any
168 taxpayer subject to the tax imposed under this section shall be
169 determined by multiplying the value of personal property of such
170 company, as determined under this subsection, by a mill rate of forty-
171 seven mills. Said secretary shall, not later than the first day of March
172 immediately following the end of such tax year, submit a tax bill to
173 each company stating the amount of tax payable to each town in
174 relation to the personal property of such taxpayer located in such
175 town. Such tax shall be due and payable to the town in which such
176 personal property is located not later than the first day of April
177 immediately following. Any city or borough not consolidated with the
178 town in which it is located and any town containing such a city or
179 borough shall receive a portion of the tax due and payable to such
180 town on the basis of the following ratio: The total taxes levied in the
181 previous fiscal year by such town, city or borough shall be the
182 numerator of the fraction. The total taxes levied by the town and all
183 cities or boroughs located within such town shall be added together,
184 and the sum shall be the denominator of the fraction. Any such city or
185 borough may, by vote of its legislative body, direct the Secretary of the

186 Office of Policy and Management to reallocate all or a portion of the
187 share of such city or borough to the town in which it is located.

188 (2) The person responsible for the collection of taxes for each town,
189 city or borough owed taxes under this subsection may, at such time as
190 such tax becomes delinquent as provided in sections 12-146 and 12-
191 169, subject such tax to interest at the rate of one and one-half per cent
192 of such tax for each month or fraction thereof which elapses from the
193 time when such tax becomes due and payable until the same is paid.

194 (c) With respect to tangible personal property included in the list of
195 such property submitted to the Secretary of the Office of Policy and
196 Management as provided in subsection (a) of this section, any taxpayer
197 subject to the tax imposed under this section for any tax year shall not
198 be subject to property tax in any town applicable to such personal
199 property for the assessment year in such town commencing on the first
200 day of October immediately preceding the date on which the tax
201 determined with respect to such property in accordance with this
202 section becomes due and payable.

203 (d) Any taxpayer that, on or after January 1, 1990, is subject to tax
204 under chapter 219 for rendering telecommunications service but that,
205 prior to January 1, 1990, was not subject to tax under chapter 211 for
206 rendering telecommunications service may elect to have personal
207 property taxed in the manner specified in this section. Such election
208 shall be made in writing and filed with the Secretary of the Office of
209 Policy and Management and a copy thereof shall be filed with the
210 assessor of each town in which personal property affected by such
211 election is located. [Such] Except as provided in subsection (g) of this
212 section, such election, once filed with the secretary, shall be irrevocable
213 and shall, if filed on or before the date that is two months prior to the
214 start of the assessment year, be effective for such assessment year and
215 for all succeeding assessment years, otherwise to be effective for the
216 next succeeding assessment year and all succeeding assessment years.

217 (e) For assessment years commencing on or after October 1, 1997,

218 the provisions of this section, including informational reporting
219 requirements imposed on owners, shall also apply, to the extent
220 provided in section 12-80b, to property that is used both to render
221 telecommunications service subject to tax under chapter 219 and to
222 render community antenna television service subject to tax under
223 chapter 219 and that is required, under subsection (a) of section 12-80b,
224 to be taxed as provided in this section.

225 (f) Any municipality may examine the Office of Policy and
226 Management's or the Department of Revenue Services' audit of a
227 taxpayer's submission pursuant to subsection (a) of this section.

228 (g) (1) Any election for taxation made under subsection (d) of this
229 section on or before August 1, 2009, by a taxpayer that provides mobile
230 telecommunications service, as defined in section 12-407a, is null and
231 void. For the assessment year commencing October 1, 2010, and for
232 each assessment year thereafter, such taxpayer shall not be subject to
233 taxation for personal property under subsection (b) of this section, but
234 shall be subject to personal property taxation as otherwise provided in
235 this chapter, subject to the provisions of subdivisions (2) and (3) of this
236 subsection. No taxpayer that provides mobile telecommunications
237 service shall be eligible to make an election as provided in subsection
238 (d) of this section after August 1, 2009.

239 (2) The personal property of any taxpayer whose election for
240 taxation becomes null and void pursuant to this subsection that, on or
241 before the October 1, 2009, grand list, has not been depreciated to the
242 maximum extent allowed for purposes of the corporation business tax
243 in this state, shall be subject to taxation by the town in which it is
244 located as of the assessment year beginning October 1, 2010, under the
245 provisions of this chapter that are applicable to all other taxpayers.

246 (3) The personal property of any taxpayer whose election for
247 taxation becomes null and void pursuant to this subsection that, on or
248 before the October 1, 2009, grand list, has been depreciated to the
249 maximum extent allowed for purposes of the corporation business tax

250 in this state, shall be subject to taxation for assessment years
251 commencing on and after October 1, 2010, as follows: (A) In the
252 assessment year beginning October 1, 2010, such taxpayer shall file a
253 declaration, as required by section 12-41, in which twenty-five per cent
254 of the total value of such taxpayer's fully depreciated personal
255 property shall be reported for purposes of assessment; (B) in the
256 assessment year beginning October 1, 2011, such taxpayer shall file a
257 declaration as required by section 12-41, in which fifty per cent of the
258 total value of such taxpayer's fully depreciated personal property shall
259 be reported for purposes of assessment; (C) in the assessment year
260 beginning October 1, 2012, such taxpayer shall file a declaration as
261 required by section 12-41, in which seventy-five per cent of the total
262 value of such taxpayer's fully depreciated personal property shall be
263 reported for purposes of assessment; and (D) in the assessment year
264 beginning October 1, 2013, and each assessment year thereafter, such
265 taxpayer shall file a declaration as required by section 12-41, in which
266 one hundred per cent of the total value of such taxpayer's fully
267 depreciated personal property shall be reported for purposes of
268 assessment.

269 Sec. 4. Section 1-225 of the general statutes is repealed and the
270 following is substituted in lieu thereof (*Effective October 1, 2010*):

271 (a) The meetings of all public agencies, except executive sessions, as
272 defined in subdivision (6) of section 1-200, shall be open to the public.
273 The votes of each member of any such public agency upon any issue
274 before such public agency shall be reduced to writing and made
275 available for public inspection within forty-eight hours and shall also
276 be recorded in the minutes of the session at which taken. [Within] Not
277 later than seven days [of] after the date of the session to which such
278 minutes refer, such minutes shall be available for public inspection and
279 posted on such public agency's Internet web site, if available, except
280 that no public agency of a political subdivision of the state shall be
281 required to post such minutes on an Internet web site. Each [such]
282 public agency shall make, keep and maintain a record of the
283 proceedings of its meetings.

284 (b) Each such public agency of the state shall file not later than
285 January thirty-first of each year in the office of the Secretary of the
286 State the schedule of the regular meetings of such public agency for the
287 ensuing year and shall post such schedule on such public agency's
288 Internet web site, if available, except that such requirements shall not
289 apply to the General Assembly, either house thereof or to any
290 committee thereof. Any other provision of the Freedom of Information
291 Act notwithstanding, the General Assembly at the commencement of
292 each regular session in the odd-numbered years, shall adopt, as part of
293 its joint rules, rules to provide notice to the public of its regular,
294 special, emergency or interim committee meetings. The chairperson or
295 secretary of any such public agency of any political subdivision of the
296 state shall file, not later than January thirty-first of each year, with the
297 clerk of such subdivision the schedule of regular meetings of such
298 public agency for the ensuing year, and no such meeting of any such
299 public agency shall be held sooner than thirty days after such schedule
300 has been filed. The chief executive officer of any multitown district or
301 agency shall file, not later than January thirty-first of each year, with
302 the clerk of each municipal member of such district or agency, the
303 schedule of regular meetings of such public agency for the ensuing
304 year, and no such meeting of any such public agency shall be held
305 sooner than thirty days after such schedule has been filed.

306 (c) The agenda of the regular meetings of every public agency,
307 except for the General Assembly, shall be available to the public and
308 shall be filed, not less than twenty-four hours before the meetings to
309 which they refer, (1) in such agency's regular office or place of
310 business, and (2) in the office of the Secretary of the State for any such
311 public agency of the state, in the office of the clerk of such subdivision
312 for any public agency of a political subdivision of the state or in the
313 office of the clerk of each municipal member of any multitown district
314 or agency. For any such public agency of the state, such agenda shall
315 be posted on the public agency's and the Secretary of the State's web
316 sites. Upon the affirmative vote of two-thirds of the members of a
317 public agency present and voting, any subsequent business not

318 included in such filed agendas may be considered and acted upon at
319 such meetings.

320 (d) Notice of each special meeting of every public agency, except for
321 the General Assembly, either house thereof or any committee thereof,
322 shall be posted not less than twenty-four hours before the meeting to
323 which such notice refers on the public agency's Internet web site, if
324 available, and given not less than twenty-four hours prior to the time
325 of such meeting by filing a notice of the time and place thereof in the
326 office of the Secretary of the State for any such public agency of the
327 state, in the office of the clerk of such subdivision for any public
328 agency of a political subdivision of the state and in the office of the
329 clerk of each municipal member for any multitown district or agency.
330 The secretary or clerk shall cause any notice received under this section
331 to be posted in his office. Such notice shall be given not less than
332 twenty-four hours prior to the time of the special meeting; provided, in
333 case of emergency, except for the General Assembly, either house
334 thereof or any committee thereof, any such special meeting may be
335 held without complying with the foregoing requirement for the filing
336 of notice but a copy of the minutes of every such emergency special
337 meeting adequately setting forth the nature of the emergency and the
338 proceedings occurring at such meeting shall be filed with the Secretary
339 of the State, the clerk of such political subdivision, or the clerk of each
340 municipal member of such multitown district or agency, as the case
341 may be, not later than seventy-two hours following the holding of such
342 meeting. The notice shall specify the time and place of the special
343 meeting and the business to be transacted. No other business shall be
344 considered at such meetings by such public agency. In addition, such
345 written notice shall be delivered to the usual place of abode of each
346 member of the public agency so that the same is received prior to such
347 special meeting. The requirement of delivery of such written notice
348 may be dispensed with as to any member who at or prior to the time
349 the meeting convenes files with the clerk or secretary of the public
350 agency a written waiver of delivery of such notice. Such waiver may be
351 given by telegram. The requirement of delivery of such written notice

352 may also be dispensed with as to any member who is actually present
 353 at the meeting at the time it convenes. Nothing in this section shall be
 354 construed to prohibit any agency from adopting more stringent notice
 355 requirements.

356 (e) No member of the public shall be required, as a condition to
 357 attendance at a meeting of any such body, to register the member's
 358 name, or furnish other information, or complete a questionnaire or
 359 otherwise fulfill any condition precedent to the member's attendance.

360 (f) A public agency may hold an executive session, as defined in
 361 subdivision (6) of section 1-200, upon an affirmative vote of two-thirds
 362 of the members of such body present and voting, taken at a public
 363 meeting and stating the reasons for such executive session, as defined
 364 in section 1-200.

365 (g) In determining the time within which or by when a notice,
 366 agenda, record of votes or minutes of a special meeting or an
 367 emergency special meeting are required to be filed under this section,
 368 Saturdays, Sundays, legal holidays and any day on which the office of
 369 the agency, the Secretary of the State or the clerk of the applicable
 370 political subdivision or the clerk of each municipal member of any
 371 multitown district or agency, as the case may be, is closed, shall be
 372 excluded.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	47a-42
Sec. 2	<i>July 1, 2010</i>	49-22
Sec. 3	<i>October 1, 2010, and applicable to assessment years commencing on or after said date</i>	12-80a
Sec. 4	<i>October 1, 2010</i>	1-225

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
All Municipalities	See Below	See Below	See Below

Explanation

Sections 1 and 2 would generate significant savings for municipalities, by shifting from municipalities to state marshals the responsibility of storage of the possessions and personal effects of any evicted tenant. It is estimated that each year 2,200 tenants remain in their dwellings when eviction is complete. On average, it costs \$400 to remove the possessions of someone who has been evicted. The effective date is July 1, 2010.

Section 3 would result in:

1. A municipal grand list expansion - Under current practice, the personal property of telecommunications companies providing wireless service is permitted to fully depreciate to zero, (i. e. it retains no residual value). The bill as amended phases a residual value¹ for this property over four years (25% per year), which will result in a grand list expansion.
2. A revenue loss to most municipalities - Currently, the personal property of telecommunications companies providing wireless service is subject to property tax at a statewide rate of 47 mills rather than the mill rate that applies

in the town. The bill as amended requires that this property be taxed at the mill rate of the town in which the property is located, which will result in a revenue loss for most municipalities because their mill rates are below 47 mills.

Section 4 would result in a savings to municipalities who currently do not have the ability to post meeting minutes online by exempting them from certain provisions of the Freedom of Information Act.

House "A" strikes sections 1-3 of the underlying bill and replaces it; the impact of the amendment is discussed above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ The residual value will be set by each municipality.

OLR Bill Analysis**sHB 5255 (as amended by House "A")******AN ACT CONCERNING MUNICIPAL MANDATE RELIEF.*****SUMMARY:**

This bill:

1. requires a state marshal to deliver the possessions and personal property of an evicted tenant to a town-designated storage facility, rather than leaving them on the sidewalk or road to be picked up by the town and eliminates the town's responsibility to pay for the expense of moving these items;
2. applies the same procedures to possessions and personal property of a person evicted in a foreclosure or similar action;
3. limits the scope of a law under which certain telecommunications companies pay property tax on their personal property at a statewide mill rate; and
4. stipulates that the meeting minutes of a municipal agency need not be posted on the Internet in order to comply with the Freedom of Information Act's requirements.

*House Amendment "A" (1) eliminates a provision that allows municipalities to charge fees for various services they provide, (2) eliminates provisions requiring the landlord to pay for removal and delivery and the town to pay storage expenses, (3) requires a marshal evicting tenants to give a telephone number for arranging the release of their property, (4) eliminates a provision that allows municipalities to adopt ordinances waiving storage fees, (5) adds the foreclosure provision, and (5) limits the telecommunications taxation provision to

companies that provide mobile services and expands the scope of the new tax treatment.

EFFECTIVE DATE: July 1, 2010 for the tenant and foreclosure provisions and; October 1, 2010 for (1) the Internet posting provision and (2) the property tax provisions, which are applicable to assessment years beginning on and after that date.

§ 1 — TREATMENT OF TENANT PROPERTY

Current law allows the state marshal who executes an eviction order to move the tenant's possessions and personal property to the sidewalk or street. Before doing so, the marshal notifies the town's chief executive officer, who must remove and store the items for 15 days. Within that time, the former tenant can claim the items and reimburse the town for the moving and storage expenses. After that time and an attempt to locate and notify the owner, the chief executive officer can sell the property at public auction, after posting a notice of the sale. He or she must give the former tenant the proceeds of the sale after deducting the town's costs for removal and storage. After 30 days, if the tenant does not claim the sale proceeds, they are deposited in the town treasury.

The bill requires the marshal to remove the items to a storage facility designated by the town's chief executive officer rather than putting them on the sidewalk or road for the town to remove and store. It eliminates a (1) requirement that the town's chief executive officer remove them and (2) the town's responsibility for removal expenses.

The bill requires the execution notice given to the tenant to include a notice providing instructions on how and where he or she can reclaim his or her possessions and personal effects, including a telephone number for arranging their release.

§ 2 — FORECLOSURES

Under current law, the state marshal enforcing an eviction order

following a mortgage foreclosure or similar court action may remove the possessions and personal effects of the evicted person and move them to the sidewalk or road. The bill instead allows the officer to deliver them to a storage place designated by the town's chief executive officer. The bill imposes the same requirements with respect to the notice instruction as it does for tenants.

§ 3 — PROPERTY TAXES FOR TELECOMMUNICATIONS COMPANIES

Under current law, some telecommunications companies must, and others may, provide a list of their personal property used solely to provide telecommunications services to the Office of Policy and Management (OPM), the Department of Revenue Services (DRS), and the town where the property is located. The lists that go to OPM and DRS must list the property on a town-by-town basis; the list that goes to an individual town must identify just the property that is located in or allocated to that town. Each list must identify where the property is located and give its fair market value, depreciated to the maximum extent allowed under the corporation business tax. The OPM secretary must calculate the taxable value of the property at 70% of its depreciated value, which is subject to a statewide tax rate of 47 mills. The tax revenue goes to the towns.

The bill eliminates, after August 1, 2009, the ability of a company that provides mobile telecommunications services to choose this tax treatment. It makes the election of a company that chose this treatment before August 1, 2009 null and void. The bill specifies how the property of these companies must be taxed. Property that had not been fully depreciated under the corporation tax on before the October 1, 2009 grand list must be treated like other property under the property tax laws, e.g., it is subject to assessment by the municipality and the locally set tax rate.

The bill phases in this treatment for property that had not been fully depreciated as of the October 1, 2009 grand list. For the assessment year starting October 1, 2010, the company must file a tax declaration

reporting 25% of the “total” (apparently undepreciated) value of its fully depreciated property. The proportion increases to 50% and 75% for the 2011 and 2012 assessment years, respectively. For assessment years 2013 and thereafter, the company must report 100% of the property’s total value.

The bill appears to apply to all of the personal property of telecommunications companies subject to its provisions, even if this property is used to provide other types of telecommunications services, e.g. landline service.

The bill does not address the tax treatment of a company that chose the statewide taxation option between August 1, 2009 and this provision’s effective date (October 1, 2010). It appears that such property would be subject to generally applicable property tax laws.

§ 4 — MUNICIPAL MEETING MINUTES

The Freedom of Information Act requires agencies of the state and its political subdivisions to make the minutes of public meetings available for public inspection and, if the agency has an Internet website, to post them on it. The bill exempts an agency of a town, city, borough, or district from the requirement to post minutes on the Internet.

BACKGROUND

Legislative History

On April 19, the Finance, Revenue and Bonding Committee reported a substitute bill that changed the original (File 421) by (1) shifting responsibility for paying for storage of a tenant’s possessions after eviction from the landlord (as under the original file) to the town and making the town chief executive officer rather than the marshal (as under the original file) responsible for conducting the auction (reverting back to current law) and (2) limiting application of the property tax provisions to telecommunication companies, rather than all utilities, and to property acquired after October 1, 2009.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 14 Nay 6 (03/22/2010)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 41 Nay 5 (04/19/2010)