



HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.
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*Your Home
Is Our
Business*

March 16, 2010

To: Senator Gary D. LeBeau and Representative Jeffrey J. Berger, Co-Chairs,
and members of the Commerce Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: RB 5499, AAC the Promotion of Business

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. We estimate that our members build 70% to 80% of all new homes and apartments in the state.

We strongly support RB 5499 and respectfully request the committee's consideration of the attached substitute language. The attached substitute will provide more improvement to the regulatory environment and make Connecticut a better place to conduct business.

Under the current law, directives to state agencies to "consider" streamlining regulations or stating agencies "may" adopt regulations that accomplish a legislative purpose are not enough to get state agencies to take action. State agencies need to be directed with mandatory language to do certain things or they will not be done. **RB 5499 does this by requiring agencies to utilize regulatory methods that minimize the impact on small businesses, all while accomplishing "the objectives of applicable statutes."**

However, our attached substitute language makes several suggestions to better accomplish the stated purpose of the legislation.

In line 9 of our substitute, we delete "welfare" while keeping agency actions consistent with the public health and safety. The public's welfare is a "police power" concept (as in a broad catch-all of powers reserved to the states by the US Constitution) and typically encompasses everything within the state's power beyond health and safety. For example, eighty percent or more of local zoning and planning is based on "welfare" concepts, not health or safety. **Saying regulatory streamlining efforts for small business shall be consistent with public "welfare" gives agencies a big "out" to do little streamlining.**

More importantly, the substitute strengthens the bill by adding "minor or less complex activity" after small business. You could have a large business apply for something minor or not complex. They should also enjoy an expedited process, i.e., have access to some of the streamlining techniques identified in the bill, to help move things along and make CT a friendlier place for business.

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The substitute at line 24 adds a sixth method to the current law. This new provision directs agencies to use “general permits” as distinguished from individual permits. Under a general permit program, which is designed for minor, less complex or common regulated activities, the agency develops application requirements and prescriptive or performance standards for a regulated activity that falls under the general permit’s threshold. Under such a program, an applicant files its application with all the requirements to register its activity with the agency. The applicant should then be able to proceed with its activity without waiting for agency approval.

Our substitute also adds new sections 3 and 4 and makes them applicable to only DEP, DPH, DOT and DECD. **Section 3 streamlines the initial part of a permit process (i.e., getting an agency to determine that an application is complete so the agency can begin its technical review).** It requires these agencies to clearly outline what is required in an application for a license, permit or approval. It requires a determination within sixty days as to the completeness of an application. And it requires an agency to outline what is missing in the application if it determines an application is incomplete. Finally, it allows an agency to request additional information from an applicant during the review process.

Section 4 urges agencies to set up an online application process. Given today’s digital technology, an online system, if designed well and user-friendly, would be a great service for businesses and the regulated community to work through a permitting system essentially 24/7. **Both sections 3 and 4 are “within available appropriations” so there should be no adverse fiscal note.**

If our proposed substitute is seen as too bold, then this state has little hope of participating in a meaningful way in the long, slow climb out of this recession. The items in our substitute should be doable and are necessary. These things can be done while protecting the environment and ensuring the public’s health and safety. It is going to take leadership in the legislature to adopt these and other regulatory reform requirements and leadership in the administration to implement them. CT must change the way it regulates the private sector if we are to change the perception and reality that this state is a difficult place to get economic development done.

There will be much resistance among some agency staff and among anti-growth, anti-development advocates. We urge you to fight through that resistance in order to promote CT as a better place to grow and do business. In fact, we’re counting on you to do so.

We urge you to pass RB 5499 with the attached substitute language, and work with the proponents of other regulatory reform bills (RB 120, 174, 5359, 338, 5208, 5477 and others).

Home Builders Association of Connecticut, Inc.

PROPOSED SUBSTITUTE for

RB 5499, AN ACT CONCERNING THE PROMOTION OF BUSINESS.

HBA's new language is double-underlined; deleted language is ~~strike-through type~~.

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

1 Section 1. Subsection (b) of section 4-168a of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2010*):

4 (b) Prior to the adoption of any proposed regulation, each agency shall prepare
5 a regulatory flexibility analysis in which the agency shall [consider utilizing]
6 utilize regulatory methods that will accomplish the objectives of applicable
7 statutes while minimizing adverse impact on small businesses. Such regulatory
8 methods shall be consistent with public health, ~~and~~ safety ~~and~~ welfare. The
9 agency shall [consider] use, without limitation, ~~each~~ as many of the following
10 methods of reducing the impact of the proposed regulation on small businesses
11 or on minor or less complex regulated activities as would be consistent with
12 protecting the public's health or safety:

13 (1) The establishment of less stringent compliance or reporting requirements
14 ~~for small businesses;~~

15 (2) The establishment of less stringent schedules or deadlines for compliance or
16 reporting requirements ~~for small businesses;~~

17 (3) The consolidation or simplification of compliance or reporting requirements
18 ~~for small businesses;~~

19 (4) The establishment of performance standards ~~for small businesses~~ to replace
20 design or operational standards required in the proposed regulation; ~~and~~

21 (5) The exemption of small businesses or minor or less complex regulated
22 activities from all or any part of the requirements contained in the proposed
23 regulation; ~~and~~

24 (6) The establishment of general permits, under which small businesses, or
25 persons or entities applying for a general permit for a minor or less complex

26 regulated activity, may immediately proceed with such regulated activity
27 upon the filing of a complete general permit application.

28 Sec. 2. Subdivision (2) of subsection (j) of section 22a-430 of the general statutes
29 is repealed and the following is substituted in lieu thereof (*Effective October 1,*
30 *2010*):

31 (2) The commissioner [may] shall adopt regulations, in accordance with the
32 provisions of chapter 54, to establish other categories of discharges which may
33 be exempted from the requirement to submit plans and specifications under
34 subsection (b) of this section. Such regulations [may] shall include, but not be
35 limited to, the following: (A) Minimum standards for the design and operation
36 of treatment systems for such discharges; and (B) requirements for submission
37 of information concerning such discharges.

38 Sec. 3. (NEW) Notwithstanding any provision of the general statutes, the
39 Department of Environmental Protection, Department of Public Health, Department
40 of Transportation, and Department of Economic and Community Development
41 shall establish, within available appropriations, a clear, objective list of application
42 requirements for each license, permit and approval required or permitted to be
43 issued by such agency by which both a regulated person or entity and the agency
44 can determine if an application for any license, permit or approval is complete or
45 acceptable for filing. Each agency shall make a determination if an application is
46 complete or acceptable for filing and so notify the applicant within sixty days of
47 receipt of an application, or within a shorter period of time for applications from
48 small businesses or minor or less complex applications filed pursuant to section 1 of
49 this public act. If an application for any license, permit or approval received by an
50 agency is determined by such agency to be incomplete or unacceptable for filing,
51 the agency shall notify the permit applicant as to the specific information needed by
52 the agency in order to make the application complete or acceptable for filing.
53 Nothing in this section shall preclude the agency from requesting additional
54 information from the applicant subsequent to such notification.

55 Sec. 4 (NEW) The Department of Environmental Protection, Department of Public
56 Health, Department of Transportation, and Department of Economic and
57 Community Development shall establish, within available appropriations, an
58 online application system to expedite the licensing, permitting or approval of
59 regulated activities, including but not limited to identifying the specific application
60 requirements to make an application complete or acceptable for filing, allowing for
61 the online filing of applications for licenses, permits or approvals from such agency,
62 and the ability to track the progress of the agency's review of such license, permit or
63 approval applications.