



House of Representatives

General Assembly

File No. 532

February Session, 2012

Substitute House Bill No. 5035

House of Representatives, April 18, 2012

The Committee on Finance, Revenue and Bonding reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROPERTY TAX ASSESSMENTS BY MUNICIPALITIES.

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

1 Section 1. Subsection (a) of section 12-53a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2012, and applicable to assessment years commencing on or after*
4 *said date*):

5 (a) (1) Completed new construction of real estate completed after
6 any assessment date shall be liable for the payment of municipal taxes
7 based on the assessed value of such completed new construction from
8 the date the certificate of occupancy is issued or the date on which
9 such new construction is first used for the purpose for which same was
10 constructed, whichever is the earlier, prorated for the assessment year
11 in which the new construction is completed. Said prorated tax shall be
12 computed on the basis of the rate of tax applicable with respect to such
13 property, including the applicable rate of tax in any tax district in

14 which such property is subject to tax following completion of such
15 new construction, on the date such property becomes liable for such
16 prorated tax in accordance with this section.

17 (2) Partially completed new construction of real estate shall be liable
18 for the payment of municipal taxes based on the assessed value of such
19 partially completed new construction as of October first of the
20 assessment year.

21 Sec. 2. Subsection (c) of section 12-62c of the general statutes is
22 repealed and the following is substituted in lieu thereof (*Effective*
23 *October 1, 2012, and applicable to assessment years commencing on or after*
24 *said date*):

25 (c) The assessment of any new construction that first becomes
26 subject to taxation pursuant to subdivision (1) of subsection (a) of
27 section 12-53a, as amended by this act, during an assessment year
28 encompassed within the term of a phase-in shall be determined in the
29 same manner as the assessment of all other comparable real property
30 in said assessment year, such that the total of incremental increases
31 applicable to such other comparable real property are reflected in the
32 assessment of such new construction prior to the proration of such
33 assessment pursuant to section 12-53a, as amended by this act.

34 Sec. 3. Subsection (a) of section 12-64 of the general statutes is
35 repealed and the following is substituted in lieu thereof (*Effective*
36 *October 1, 2012, and applicable to assessment years commencing on or after*
37 *said date*):

38 (a) All the following-mentioned property, not exempted, shall be set
39 in the list of the town where it is situated and, except as otherwise
40 provided by law, shall be liable to taxation at a uniform percentage of
41 its present true and actual valuation, not exceeding one hundred per
42 cent of such valuation, to be determined by the assessors: Dwelling
43 houses, garages, barns, sheds, stores, shops, mills, buildings used for
44 business, commercial, financial, manufacturing, mercantile and trading
45 purposes, ice houses, warehouses, silos, all other buildings and

46 structures, house lots, all other building lots and improvements
47 thereon and thereto, including improvements that are partially
48 completed or under construction, agricultural lands, shellfish lands, all
49 other lands and improvements thereon and thereto, quarries, mines,
50 ore beds, fisheries, property in fish pounds, machinery and easements
51 to use air space whether or not contiguous to the surface of the
52 ground. An easement to use air space shall be an interest in real estate
53 and may be assessed separately from the surface of the ground below
54 it. Any interest in real estate shall be set by the assessors in the list of
55 the person in whose name the title to such interest stands on the land
56 records. If the interest in real estate consists of an easement to use air
57 space, whether or not contiguous to the surface of the ground, which
58 easement is in the form of a lease for a period of not less than fifty
59 years, which lease is recorded in the land records of the town and
60 provides that the lessee shall pay all taxes, said interest shall be
61 deemed to be a separate parcel and shall be separately assessed in the
62 name of the lessee. If the interest in real estate consists of a lease of
63 land used for residential purposes which allows the lessee to remove
64 any or all of the structures, buildings or other improvements on said
65 land erected or owned by the lessee, which lease is recorded in the
66 land records of the town and provides that the lessee shall pay all taxes
67 with respect to such structures, buildings or other improvements, said
68 interest shall be deemed to be a separate parcel and said structures,
69 buildings or other improvements shall be separately assessed in the
70 name of the lessee, provided such separate assessment shall not alter
71 or limit in any way the enforcement of a lien on such real estate in
72 accordance with chapter 205, for taxes with respect to such real estate
73 including said land, structures, buildings or other improvements. For
74 purposes of determining the applicability of the provisions of this
75 section to any such interest in real estate, the term "lessee" shall mean
76 any person who is a lessee or sublessee under the terms of the lease
77 agreement in accordance with which such interest in real estate is
78 established.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012, and applicable to assessment years commencing on or after said date</i>	12-53a(a)
Sec. 2	<i>October 1, 2012, and applicable to assessment years commencing on or after said date</i>	12-62c(c)
Sec. 3	<i>October 1, 2012, and applicable to assessment years commencing on or after said date</i>	12-64(a)

FIN *Joint Favorable Subst.*

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: See Below

Explanation

The bill makes partially completed structures or structures under construction subject to municipal property tax. This conforms statute to current practice. *Kasica v Town of Columbia*, now under appeal, raised questions about this practice.

It is estimated that the cumulative municipal revenue total from taxing partially completed or structures under construction exceeds \$20 million annually. Depending on the outcome of the court case the bill may preclude a significant revenue loss to all municipalities.

The Out Years

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

Sources: Public Hearing Testimony from CCM and COST

OLR Bill Analysis**sHB 5035*****AN ACT REDUCING MANDATES FOR MUNICIPALITIES.*****SUMMARY:**

This bill explicitly authorizes municipalities to impose property taxes on structures that are partially completed or under construction.

EFFECTIVE DATE: October 1, 2012, and applicable to assessment years beginning on or after that date.

PROPERTY TAX ON PARTIALLY CONSTRUCTED HOUSES AND OTHER BUILDINGS

The bill explicitly makes partially completed structures or structures under construction (e.g., a house being built) subject to municipal property tax.

Under current law, it is unclear whether a town's assessor may include the value of partially completed structures and improvements in a property's assessment. While tax assessors have commonly assessed buildings that are under construction the question of whether state law authorizes them to do so is the subject of a court case decided by the Superior Court but currently under appeal (see BACKGROUND).

Under current law, non-exempted structures, such as residential homes, garages, barns, commercial buildings, and all other building lots and improvements on them are taxable at a uniform percentage of their present true and actual value, not greater than 100%, as an assessor determines. The law requires assessors assess property for 70% of that value (CGS § 12-62a). Under the bill, an assessor must determine the value of partially completed improvements to a structure and tax them accordingly.

Current law directs how tax assessors and tax collectors must treat new real estate construction that is completed after the October 1 assessment date. If the property was under construction on that date, it becomes taxable on either the date the certificate of occupancy is issued or the date the structure is first used for the purpose for which it was constructed, whichever is earlier, prorated for the assessment year in which the new construction is completed. The bill specifies that, on October 1, the municipal tax is based on the assessed value of the (1) completed new construction or (2) partially completed portion.

The bill also makes conforming changes.

BACKGROUND

Superior Court Case on Taxing Structures that are under Construction

The case of *Kasica v. Town of Columbia* concerns a partially constructed house on a 3.44 acre lot in Columbia, Connecticut. In 2008, Columbia's assessor valued the land at \$255,000 and the improvements (35% complete) at \$569,500. The property owner appealed the assessor's valuation to the court, alleging, in part, that the assessor violated CGS § 12-53a by taxing the partially completed house.

The court ruled that without the issuance of a certificate of occupancy by the building inspector, there was no statutory authority for the assessor to (1) value the subject premises as partially improved and (2) add this amount to Columbia's assessment rolls.

Legislative History

The House referred the bill (File 51) to the Finance, Revenue and Bonding Committee, which reported a substitute that eliminates the provisions on (1) an insurance tax break on certain municipal policies and (2) the timeline for, and cost of, storing evicted tenants' and foreclosed homeowners' possessions.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 15 Nay 5 (03/02/2012)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 34 Nay 16 (04/16/2012)