



Senate

General Assembly

File No. 462

February Session, 2018

Substitute Senate Bill No. 182

Senate, April 12, 2018

The Committee on Planning and Development reported through SEN. CASSANO, S. of the 4th Dist. and SEN. LOGAN of the 17th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING MUNICIPAL TAX APPEALS AND
CONTINGENCY AGREEMENTS.***

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

1 Section 1. Section 12-117a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) Any person, including any lessee of real property whose lease
4 has been recorded as provided in section 47-19 and who is bound
5 under the terms of his lease to pay real property taxes, claiming to be
6 aggrieved by the action of the board of tax review or the board of
7 assessment appeals, as the case may be, in any town or city may,
8 within two months from the date of the mailing of notice of such
9 action, make application, in the nature of an appeal therefrom, with
10 respect to the assessment list for the assessment year commencing
11 October 1, 1989, October 1, 1990, October 1, 1991, October 1, 1992,
12 October 1, 1993, October 1, 1994, or October 1, 1995, and with respect
13 to the assessment list for assessment years thereafter, to the superior

14 court for the judicial district in which such town or city is situated,
15 which shall be accompanied by a citation to such town or city to
16 appear before said court. Such citation shall be signed by the same
17 authority and such appeal shall be returnable at the same time and
18 served and returned in the same manner as is required in case of a
19 summons in a civil action. The authority issuing the citation shall take
20 from the applicant a bond or recognizance to such town or city, with
21 surety, to prosecute the application to effect and to comply with and
22 conform to the orders and decrees of the court in the premises. Any
23 such application shall be a preferred case, to be heard, unless good
24 cause appears to the contrary, at the first session, by the court or by a
25 committee appointed by the court. The pendency of such application
26 shall not suspend an action by such town or city to collect not more
27 than seventy-five per cent of the tax so assessed or not more than
28 ninety per cent of such tax with respect to any real property for which
29 the assessed value is five hundred thousand dollars or more, and upon
30 which such appeal is taken. If, during the pendency of such appeal, a
31 new assessment year begins, the applicant may amend his application
32 as to any matter therein, including an appeal for such new year, which
33 is affected by the inception of such new year and such applicant need
34 not appear before the board of tax review or board of assessment
35 appeals, as the case may be, to make such amendment effective. The
36 court shall have power to grant such relief as to justice and equity
37 appertains, upon such terms and in such manner and form as appear
38 equitable, and, if the application appears to have been made without
39 probable cause, may tax double or triple costs, as the case appears to
40 demand; and, upon all such applications, costs may be taxed at the
41 discretion of the court. If the assessment made by the board of tax
42 review or board of assessment appeals, as the case may be, is reduced
43 by said court, the applicant shall be reimbursed by the town or city for
44 any overpayment of taxes, together with interest and any costs
45 awarded by the court, or, at the applicant's option, shall be granted a
46 tax credit for such overpayment, interest and any costs awarded by the
47 court. Upon motion, said court shall, in event of such overpayment,
48 enter judgment in favor of such applicant and against such city or

49 town for the whole amount of such overpayment, less any lien
50 recording fees incurred under sections 7-34a and 12-176, together with
51 interest and any costs awarded by the court. The amount to which the
52 assessment is so reduced shall be the assessed value of such property
53 on the grand lists for succeeding years until the tax assessor finds that
54 the value of the applicant's property has increased or decreased.

55 (b) Any person who acts on behalf of an applicant in an appeal
56 brought pursuant to subsection (a) of this section, who is not an
57 attorney admitted to the bar of this state, shall be a certified or
58 provisionally licensed real estate appraiser pursuant to sections 20-500
59 to 20-528, inclusive.

60 (c) Any certified or provisionally licensed real estate appraiser who
61 acts on behalf of an applicant in an appeal brought pursuant to
62 subsection (a) of this section shall not enter into a contingency fee
63 agreement with such applicant regarding such appeal.

64 (d) Notwithstanding the provisions of subsection (b) of this section,
65 in an appeal brought pursuant to this section, no witness shall offer
66 expert testimony concerning the value of the applicant's property if
67 such witness is compensated on a contingency basis for such
68 testimony.

69 Sec. 2. Section 12-119 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective July 1, 2018*):

71 (a) When it is claimed that a tax has been laid on property not
72 taxable in the town or city in whose tax list such property was set, or
73 that a tax laid on property was computed on an assessment which,
74 under all the circumstances, was manifestly excessive and could not
75 have been arrived at except by disregarding the provisions of the
76 statutes for determining the valuation of such property, the owner
77 thereof or any lessee thereof whose lease has been recorded as
78 provided in section 47-19 and who is bound under the terms of his
79 lease to pay real property taxes, prior to the payment of such tax, may,
80 in addition to the other remedies provided by law, make application

81 for relief to the superior court for the judicial district in which such
 82 town or city is situated. Such application may be made within one year
 83 from the date as of which the property was last evaluated for purposes
 84 of taxation and shall be served and returned in the same manner as is
 85 required in the case of a summons in a civil action, and the pendency
 86 of such application shall not suspend action upon the tax against the
 87 applicant. In all such actions, the Superior Court shall have power to
 88 grant such relief upon such terms and in such manner and form as to
 89 justice and equity appertains, and costs may be taxed at the discretion
 90 of the court. If such assessment is reduced by said court, the applicant
 91 shall be reimbursed by the town or city for any overpayment of taxes
 92 in accordance with the judgment of said court.

93 (b) Any person who acts on behalf of an applicant in an application
 94 for relief made pursuant to subsection (a) of this section, who is not an
 95 attorney admitted to the bar of this state, shall be a certified or
 96 provisionally licensed real estate appraiser pursuant to sections 20-500
 97 to 20-528, inclusive.

98 (c) Any certified or provisionally licensed real estate appraiser who
 99 acts on behalf of an applicant in an application for relief made
 100 pursuant to subsection (a) of this section shall not enter into a
 101 contingency fee agreement with such applicant regarding such appeal.

102 (d) Notwithstanding the provisions of subsection (b) of this section,
 103 in an application for relief made pursuant to this section, no witness
 104 shall offer expert testimony concerning the value of the applicant's
 105 property if such witness is compensated on a contingency basis for
 106 such testimony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2018	12-117a
Sec. 2	July 1, 2018	12-119

PD 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:*** None***Explanation***

The bill, which allows real estate agents to represent property owners in certain property assessment appeals cases, has no fiscal impact. It is not anticipated to significantly change the number of assessment appeals cases a municipality is subject to.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 182****AN ACT CONCERNING MUNICIPAL TAX APPEALS AND CONTINGENCY AGREEMENTS.****SUMMARY**

This bill appears to authorize certified or provisionally licensed real estate appraisers who are not attorneys to represent clients in certain real property assessment appeals brought to the Superior Court. Under current law, with limited exceptions, only licensed attorneys may represent individuals in court proceedings. The bill prohibits these appraisers from entering into contingency fee agreements (i.e., a fee payable only if there is a favorable result) with clients pursuing these assessment appeals.

The bill also prohibits expert witnesses testifying in these assessment appeals as to the value of an appellant's property from working on a contingency fee basis.

The bill's provisions apply to appeals made by a taxpayer:

1. aggrieved by a decision of the board of tax review or assessment appeals;
2. following a board's decision not to hear an appeal concerning commercial, industrial, utility, or apartment property assessed at over \$1 million; or
3. alleging an illegal property tax. (By law, a tax is illegal if it taxes nontaxable property or is based on a manifestly excessive assessment.)

The bill takes effect July 1, 2018, but it is unclear whether it applies to appeals commenced, or agreements entered into, before that date.

EFFECTIVE DATE: July 1, 2018

REPRESENTING TAX APPEALS CLIENTS IN COURT

The bill prohibits anyone from acting on behalf of an appellant in certain tax appeals unless the individual is a (1) Connecticut-licensed attorney or (2) certified or provisionally licensed real estate appraiser. Presumably, “act on behalf of” means represent in a legal proceeding.

Under current law, with limited exceptions, only Connecticut-licensed attorneys are authorized to represent individuals other than themselves in court proceedings, including tax appeals (CGS §§ 51-86 and 51-88). (And it appears that in certain circumstances, under standards of professional practice, appraisers cannot hold themselves out as appraisers while (1) advocating for a client or (2) working on a contingency fee basis (Conn. Agencies Regs. § 20-504-2).)

BACKGROUND

Appealing Assessments

Property owners can appeal their assessments to a municipality's board of tax review or assessment appeals. The appeals board must hold a hearing on each appeal, except for those for commercial, industrial, utility, or apartment properties assessed at over \$1 million. A taxpayer aggrieved by an appeals board's decision can appeal to Superior Court (CGS § 12-117a).

Two circumstances under which a taxpayer can appeal directly to Superior Court are:

1. when the appeals board declines to hear an appeal on commercial, industrial, utility, or apartment properties assessed at over \$1 million (CGS § 12-111) and
2. when the taxpayer alleges that the tax was (a) assessed on property not subject to tax or (b) “computed on an assessment which, under all circumstances, was manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of such

property" (CGS § 12-119).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 12 Nay 9 (03/26/2018)