

OLR BILL ANALYSIS

HB 5035 (LCO 529)

AN ACT REDUCING MANDATES FOR MUNICIPALITIES.

SUMMARY:

This bill makes changes to laws governing various municipal operations and other laws that may directly or indirectly save municipalities' funds. It:

1. limits to public employers, instead of all public agencies, the requirement to keep the residential addresses of certain employees confidential;
2. exempts municipalities from liability to pay unemployment compensation for certain part-time, seasonal, and temporary employees;
3. explicitly authorizes municipalities to tax structures partially completed or under construction;
4. allows an evicted tenant or former owner of a foreclosed property to request additional time to reclaim possessions after an eviction and authorizes a town's chief executive officer (CEO) to charge and collect from a landlord or mortgage holder (e.g., a bank) payment for moving and storage expenses when the proceeds from the sale of the former tenant's or owner's possessions do not cover these costs; and
5. phases out, by 2016, the rate on domestic insurance companies' and health care centers' (i.e., HMOs') total net direct insurance premiums and subscriber charges, respectively, for policies that insure Connecticut municipalities.

EFFECTIVE DATE: Various, see below

§ 1—NON-DISCLOSURE OF RESIDENTIAL ADDRESSES OF CERTAIN PUBLIC OFFICIALS AND EMPLOYEES

Current law prohibits public agencies from disclosing, under the

Freedom of Information Act (FOIA), the residential addresses of various public officials and employees (the complete list appears below). In *Commissioner of Public Safety v. Freedom of Information Commission (FOIC)*, 301 Conn. 323 (2011), the state Supreme Court held that this prohibition applies to motor vehicle grand lists and their component data that the Department of Motor Vehicles provides to town assessors.

The bill limits the address confidentiality protection for these officials and employees to the state or municipal public agency that employs them. The agency's employees receive the protection only if they ask for it in a written request to the department head or the agency's human resources department. Because federal officials and employees are included in those protected under the law, the legal effect of the bill is unclear with respect to them.

By restricting the confidentiality protection to the employing agencies of employees, the bill removes (1) protection the officials and employees currently have against disclosure of their residential addresses by any other state or municipal agency and (2) a requirement for public agencies to maintain confidentiality for nonemployees.

EFFECTIVE DATE: Upon passage

§ 8—CERTAIN MUNICIPAL PART-TIME WORKERS INELIGIBLE FOR UNEMPLOYMENT COMPENSATION

This bill eliminates a municipality's requirement to make unemployment payments for anyone who it employs in a part-time, temporary, or seasonal position for less than 600 hours in a year (calendar or fiscal). The bill defines "part-time" as less than 20 hours per week.

By law, an employer that temporarily employs a person for work that is not in the regular course of the employer's trade or business does not have to pay unemployment insurance unless the person who does the work is one of the employer's regularly employed workers and paid \$50 or more for it.

EFFECTIVE DATE: July 1, 2012

§ 2—TAX ON PARTIALLY CONSTRUCTED HOUSES AND OTHER BUILDINGS

This 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, a recent Superior Court decision, currently under appeal, has raised questions about whether state law authorizes them to do so (see BACKGROUND).

Under current law, non-exempted structures such as residential homes, garages, barns, buildings used for business, 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 would determine the value of a partially completed or constructed structure and it would be taxed accordingly.

The 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 liable for taxes from the date the certificate of occupancy is issued or the date on which such new construction is first used for the purposes for which same was constructed, whichever is earlier, prorated for the assessment year in which the new construction is completed (CGS § 12-53a). It is unclear how the bill would affect this provision of the law.

EFFECTIVE DATE: Upon passage

§§ 6-7—TIMING OF SALE OF AND COST OF STORING POSSESSIONS UNDER AN EVICTION OR FORECLOSURE EJECTMENT

The bill allows (1) an evicted tenant or former owner of a foreclosed property to request additional time to reclaim possessions that were moved to storage during an eviction and (2) a municipality to obtain any costs remaining for this after the sale of unclaimed possessions from a landlord or mortgage holder.

By law, a state marshal who executed an eviction order or ejectment (for foreclosures) must move any remaining possessions and personal property to a storage facility that the town's CEO designates. The former tenant or owner is responsible for the cost of removal, delivery,

and storage of the possessions.

Eviction

The law gives an evicted tenant 15 days to reclaim his stored possession. After that time and an attempt to locate and notify the owner, the CEO can sell the property at public auction, after posting a notice of the sale. Under the bill, before a tenant's 15-day storage period is up, he or she can request an additional 15 days to reclaim his or her possessions and pay the storage and other expenses.

By law, the chief elected official must give the former tenant the proceeds of the sale after deducting the town's costs for the storage process. After 30 days, if the tenant does not claim the sale proceeds, they are deposited in the town treasury. Under the bill, if the sale proceeds do not cover the storage related expenses, the CEO may charge and collect from the landlord the difference between the storage cost and the sale proceeds.

Foreclosure

By law, when a state marshal ejects a person following a mortgage foreclosure or similar court action the law imposes the same requirements with respect to reimbursements and the notice instruction provisions as it does for evicted tenants. The bill makes the same changes in this case as it does for the eviction of a renter, allowing a former owner to request an additional 15-days. It also allows a CEO to charge a bank or note holder (actual note and mortgage holder at the time the suit is filed) for storage related costs beyond the proceeds from a sale.

EFFECTIVE DATE: October 1, 2012

§§ 3-5—TAX BREAKS FOR INSURANCE COMPANIES AND HMOS ON MUNICIPAL POLICIES

The bill phases out the tax on insurance companies' and HMOs' total net direct insurance premiums and subscriber charges respectively for policies that insure municipalities. Under current law, the premium tax rate for domestic, nonresident, and foreign insurance companies is 1¾%. The tax on HMO's direct subscriber charges is also 1¾%.

The bill phases out taxes for premiums and charges on municipal policies in three steps.

Specifically, it reduces the tax rate for these taxes to .88% for calendar year 2014, .44% for calendar year 2015, and 0% for calendar year 2016 and subsequent calendar years.

1. 2015 through December 31, 2015 is .44%, and
2. 2016 and thereafter is 0%.

The bill requires that any invoice which includes the tax imposed under this bill that a domestic insurance company (i.e., not international or nonresident one) or HMO sends to a municipality for these polices state the reduced tax rate in the list of charges.

EFFECTIVE DATE: July 1, 2012, and applicable to calendar years commencing on or after January 1, 2014

BACKGROUND

Addresses Protected from Disclosure

Under the law, the designated public officials and employees whose residential addresses are protected from disclosure under FOIA include:

1. federal court judges and magistrates and state judges and family support magistrates;
2. sworn members of a municipal or state police department and sworn law enforcement officers within the Department of Energy and Environmental Protection;
3. Department of Correction employees;
4. attorneys-at-law who represent or have represented the state in a criminal prosecution;
5. attorneys-at-law who are or have been employed by the Division of Public Defender Services or social workers who are employed by the Division of Public Defender Services;
6. Division of Criminal Justice inspectors;
7. firefighters;
8. Department of Children and Families employees;
9. Board of Pardons and Paroles members or employees;

10. Judicial Branch employees;
11. DMHAS employees who provide direct care to patients; or
12. Commission on Human Rights and Opportunities members or employees.

Commissioner of Public Safety v. Freedom of Information Commission (301 Conn. 323 (2011))

In June 2008, an attorney and private investigator asked North Stonington's assessor for an exact electronic copy of the file that DMV provided to the assessor to prepare the town's motor vehicle grand list. The assessor replied that the file was protected from disclosure by [CGS § 1-217](#), but offered to provide a version with the redaction of approximately forty names and addresses protected by [CGS § 1-217](#), if Sachs would pay for the labor to redact the list.

Sachs appealed from the assessor's denial to the Freedom of Information Commission. The Public Safety, Children and Families, and Correction commissioners and the Judicial Branch intervened, among others. The FOIC ordered the town to provide Sachs an exact copy of the electronic file he requested.

The plaintiffs appealed to the trial court, which dismissed the appeal. The plaintiffs appealed to the Appellate Court, which transferred the appeal to the Supreme Court.

The Supreme Court reversed the trial court and held that [CGS § 1-217](#) does apply to grand lists and their component data.

The decision has implications for other municipal records, such as land records.

Protected Addresses

Under the law, these designated public officials and employees whose residential addresses are protected include:

1. federal court judges and magistrates and state judges and family support magistrates;
2. sworn members of a municipal or state police department and sworn law enforcement officers within the Department of Energy and Environmental Protection;
3. Department of Correction employees;

4. attorneys-at-law who represent or have represented the state in a criminal prosecution;
5. attorneys-at-law who are or have been employed by the Division of Public Defender Services or social workers who are employed by the Division of Public Defender Services;
6. Division of Criminal Justice inspectors;
7. firefighters;
8. Department of Children and Families employees;
9. Board of Pardons and Paroles members or employees;
10. Judicial Branch employees;
11. DMHAS employees who provide direct care to patients; or
12. Commission on Human Rights and Opportunities members or employees.

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, CT. 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.

Columbia's assessor assessed the unfinished structure based on CGS § 12-55, which charges assessors with a "watchtower" role to correct assessment inequalities. This statute provides that "the assessor or board of assessors may increase or decrease the valuation of any property as reflected in the last preceding grand list..." But the Court ruled that the assessor "should have been guided by § 12-53a, not § 12-55. 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 assessment rolls."

In reaching its decision, the Court cited the "well-settled principle of [statutory] construction that specific terms covering [a] given subject matter will prevail over general language of...another statute which

might otherwise prove controlling. Here, the specific terms of § 12-53a (a), governing new construction, prevail over the broad terms of § 12-55.”

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