

LEGISLATIVE REPORT



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Avalanche of Bills Yields Mixed Results

Facing a huge fiscal crisis in January, State legislators nevertheless brought up thousands of non-budgetary – even arcane – proposals, ranging from documenting bedbugs to decriminalizing marijuana. One-party control of the General Assembly and Governor's office proved insufficient for delivering a crucial balanced budget after the regular session adjourned on June 8th.

STATE BUDGET

When Governor Malloy signed it on May 4, a new two-year budget appeared to be a speedy accomplishment. Yet it fell apart once the “assumed” savings from a State workers concession deal were not ratified. Connecticut REALTORS® had consistently pressed lawmakers to “reduce spending first” in their *Five Budget Principles*. Instead, the plan imposed the biggest tax increase in State history (see “Real Estate Tax Increases” below) while bottom-line spending edged up. At a Special Session on June 30, House Bill 6701 was passed giving extra budget-cutting powers temporarily to the Governor to bridge the gap from the failed labor deal. Lawmakers refused the Governor's request to cut spending for towns, meaning possibly another 1,000 state employees layoffs beyond the 6,500 he had already suggested. Caveat: Questions remain as to specific tax-and-spending decisions pending resolution of the State employee concessions.

BIGGEST REALTOR ACHIEVEMENTS: “DAMAGE CONTROL”

Most notable REALTOR® successes occurred in lobbying *against* ill-advised bills. A slew of proposals creating impediments to real estate sales and property ownership were driven back, thanks to vigorous CAR testimony and grassroots action. Best-known of these: a new buyer's conveyance tax.

BLOCKED OR DEFEATED:

SB 832: Restrictions on Vegetation Removal Near Wetlands

Opposed by CAR, this bill would place large belts of additional private land under the jurisdiction of town wetlands commissions. Except for manicured grass, landowners would have to demonstrate “no likely impact” when they altered or destroyed plant life within 100 feet of a watercourse or wetland.

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HB 6378: Mandatory Fire Sprinkler Systems

Opposed by CAR, this required all newly-constructed homes to be equipped with an automatic fire extinguishing system. CAR said this should be a matter of informed consumer choice, not government fiat.

SB 1049: Requiring Property Owners to Document Bed Bug Infestations

Owners of condominium units and owners of rental properties would be required to provide documentation of any bed-bug infestation, including eradication measures, prior to sale or lease of their property. CAR urged further study of the bill, pointing to serious flaws in the proposal.

HB 5473: Mandatory Septic System Inspections

Would universally require that prior to sale of any property served by a septic system, that the system and leaching field be evaluated for operational performance and structural conditions. CAR objected to an inflexible (and costly) time-of-sale mandate.

HB 6544: Energy Evaluation And Building Labeling

Established a 'property labeling and disclosure' law for virtually all commercial and residential buildings linked to their time of transfer; made landlords responsible for providing a history of their property's heating expenses at time of rental; allowed towns to circumvent State building code. Opposed by CAR as written.

REAL ESTATE TAX INCREASES

The following real estate tax increases are part of the largest tax hike in Connecticut history and result from approval by the Legislature and Governor of SB 1239 in the first week of May. They were vigorously opposed by CAR. Of 36 Senators, 17 voted against the bill. Of 151 Representatives, 67 voted in opposition.

- **Property Tax Credit Reduced From \$500 to \$300**
Retroactive to January 1, 2011, the effect is to increase State income taxes by disallowing a portion of the credit taken by many middle class families for property taxes paid to their towns.
- **No Sunset of Extra Municipal Conveyance Tax**
In most towns, the municipal portion of the seller's conveyance tax was scheduled for a 56% roll-back on July 1, 2011, (from 0.25% to 0.11%). Under SB 1239 (Public Act 11-6) the termination date of the higher rate is revoked (permanently cancelled). The practical effect in most towns in the rate continues at 0.25% except for 17 targeted investment communities where the rate remains at 0.50 % (0.35% in Stamford). These towns are: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Waterbury, and Windham.
- **State Conveyance Tax Increased July 1, 2011**

	<i>From:</i>	<i>To:</i>
<i>Non-Residential</i>	1.0%	1.25%
<i>Residential – \$800k or less</i>	.5%	.75%
<i>Residential – Portion over \$800k</i>	1.0%	1.25%

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HB 6651: "CIA" Fee Increase Made Permanent

Opposed by CAR, this part of a "budget implementer" bill makes permanent the increase in the land use document recording fee (from \$30 to \$40) scheduled to sunset on July 1, 2011. Under the "Community Investment Act" (CIA), the money from the recording fees is allocated for five different purposes: agricultural programs, historic preservation, open space preservation, affordable housing, and municipal finance. Passed and signed by the Governor as PA 11-48.

SB 1019: New Tax on Homebuyers is Defeated

Not content with raising the seller's conveyance tax by 50%, some legislators pushed to give every town a local option to charge homebuyers a separate conveyance tax in the same transaction. They repeatedly targeted homebuyers to pay more -- in Senate Bills 46 and 834 that died in committee -- and then by stripping language out of SB 866: Concerning Wine Festivals and SB 1019: Concerning the DEP Permitting Process and substituting the buyer's tax proposal. Votes inserting the tax in the last two bills by the Environment Committee were: 13 to 10 (4/8/2011) and 16 to 12 (5/17/2011). Later, on the floor of the Senate, SB 866 was changed back to its original Wine Festival concept and SB 1019 was recommitted to the Commerce Committee, effectively quashing the homebuyer's tax. CAR had launched Calls to Action against the proposals and finally conducted an Issues Advocacy Campaign engaging the public through radio, billboards, web ads, and other media.

HB 5192: Foreclosure Tax Defeated

The stated purpose of this bill was to "increase the collection of tax revenue" by no longer exempting foreclosure sales from state and town conveyance taxes. CAR opposed the bill as well as the notion that banks, rather than sellers, would pay the taxes. The bill died in the Banks Committee.

SB 130: Land Value Taxation Defeated

Opposed by CAR, this bill authorized expansion of a pilot program by which land is taxed at a higher rate than buildings. Sponsored by Senate Democrat Majority Leader Martin Looney, the intent was to stem a perceived problem of owners allowing valuable commercial parcels to remain vacant, thereby denying cities their full potential of property tax revenue.

HB 6510: Banning Private Transfer Fees

This was a bill supported by CAR, title insurers, and others, to prevent the imposition of resale fees developers sometimes attach to homes -- often 1 percent -- paid every time a home is resold up to 99 years. The revenue stream generated by these "private transfer fees" can then be sold to investors to be securitized. The bill CAR advocated essentially banned future PTA's unless they directly benefitted the encumbered properties. Pre-existing PTA's must comply with specific disclosure provisions in both the land records and subsequent sales contracts or they would be void under the legislation. The bill was approved by both the Insurance and Real Estate Committee and Judiciary Committee but failed in the Finance Committee due partly to opposition by a lawmaker who also is an attorney.

HB 6525: "Learn Here, Live Here" Approved

This jobs-housing concept had been advocated by CAR since 2007. A provision in HB 6525 now allows the Commissioner of Economic Development to set it up within available appropriations. Eligible graduates of Vo-Tech schools and public colleges would be incentivized to earmark their State income tax payments for placement in a first-time homebuyer's savings account. Passed as PA 11-140; awaits Governor's action. Effective for graduates on or after 1/1/2014.

Affordable Housing Appeals Act is Preserved

At least eight different bills were proposed that would undermine an expedited appeals procedure for developers of workforce housing in towns with a relative scarcity of such units, including HB 5479. All were opposed by CAR and defeated.

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HB 6308: Creating a Scaled-Back Sustinet Plan

Opens-up the State employees' health insurance program to municipal and certain non-profit employees' and creates a "Sustinet Health Care Cabinet" to undertake a feasibility study of alternatives to private insurance. CAR's main issue in backing the Sustinet approach was in obtaining affordable, group negotiated rates for REALTORS® who (as small business people and independent contactors) have great difficulty accessing such plans. The Malloy administration sent strong signals that anything but the scaled-backed program would be too costly to implement. Passed and became law without the Governor's signature.

HB 6526: Brownfield Development as an Economic Driver is Approved

Supported by CAR, this is a "smart growth" bill intended to move contaminated or abandoned properties through DEP's regulatory process more efficiently so that they can be cleaned-up, revitalized, and added to a town's grand list. It exempts from liability for offsite pollution individuals or entities having no connection with contamination that may have migrated outside the boundaries of the site. It eases the costly and time-consuming requirements of Connecticut's "Transfer Act," and provides State funding of \$50 million for brownfields redevelopment over two years. Passed as PA 11-141; awaits Governor's action.

HB 6618: Well Testing and Definition of Nonmaterial Fact

Entitled "An Act Concerning Various Revisions to Public Health Related Statutes," this bill impacts real estate in two different ways effective October 1, 2011. First, it reiterates that no well water testing regulation shall be linked to the time of transfer of a property. It expands slightly the conditions under which a local health director may require tests for organic chemicals, pesticides, and herbicides, adds "radionuclide's" as substances he may require tests for, and requires owners of residential property on which a well is located, prior to sale or rental, to "provide the buyer or tenant notice that educational material concerning private well testing is available on the Department of Public Health website." In exchange for providing such notice (in writing), the seller, landlord, and any real estate licensee is given liability protection for failing to make certain disclosures. The other section of this bill expands the definition of "non material fact concerning real property" to encompass occupants with "emergency illnesses and health conditions" listed by the Public Health Commissioner (not just "reported diseases"). CAR worked closely with the Department and the Home Builders Association to craft the well-testing section into language our members could live with and to eliminate more heavy-handed provisions. Passed as PA 11-242; awaits Governor's action.

HB 5437: Rental Security Deposit Interest Rate

Effective for calendar year 2012 and later, this bill eliminates the requirement that landlords pay a "floor-level" interest rate of 1½%, even when the savings deposit index rate is less, on the deposit upon anniversary of the lease. Instead, the rate will be tied solely to the savings deposit index rate. Passed as PA11-94; awaits Governor's action.

HB 6309: Requiring a Statewide Real Estate Contract Form

Though well-intended, CAR opposed this bill requiring a standardized contract form for the sale of residential property. The Association pointed out that there are many different sources of forms, from commercial suppliers, to Bar Associations to REALTOR® Boards, but none are mandated "and they all must give way to the negotiations and preference of the buyer, seller, their attorneys, and permutations and exigencies of the transaction". The bill also lacked detail concerning State Government's ability to produce and update such forms – a concern reflected in the recent long delay in revision of the Property Condition Disclosure Form. The bill died in the Insurance and Real Estate Committee.