

# LEGISLATIVE REPORT



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## **CONNECTICUT NOW OPERATING UNDER EXECUTIVE ORDER DUE TO BUDGET STANDOFF ... \$2.5 BILLION TAX HIKE IS VETOED**

Though nearly 600 of about 3,000 bills actually passed in the legislative session ending June 3<sup>rd</sup>, the two-year budget needed to keep the state running was not among them. Some spending cuts and fee increases were made but barely scratched the surface of a nearly \$10 billion cumulative shortfall (includes FY'09, FY'10, and FY '11). Legislators immediately called themselves into an "overtime" special session. Days before the end of the '09 fiscal year, they passed the largest tax hike in State history in order to preserve many of the programs and services Governor Rell had tried to cut back. Among the revenue raisers: income tax hikes beginning with individuals earning \$265,000, a 25% surcharge on the corporation tax, a 30% surcharge on the estate tax, and a 75 cents-per-pack cigarette tax increase. Rell criticized the package as replete with "unidentified" and "phony" cuts, said it lacked detail as to which programs should be targeted, and pointed to glaring "holes" (like ignoring funds for the Transportation and Motor Vehicles Departments). She vetoed the budget on July 1 and, declaring "a severe financial emergency" issued an executive order with allotments for state expenses for a one-month period. It gives "priority to programs that provide direct care services, administer justice and protect the public health and safety." *After the start of the Special Session, CAR contacted all legislators urging them to close the deficit with additional spending cuts and no increased taxation on the real estate transaction. A copy of five REALTOR® principles for a balanced budget was provided.*

## **SB 569, HB 5934 – TWO RESTRICTIVE WETLANDS BILLS – ARE DEFEATED**

The first of these would change the rules of evidence, making it more difficult for a property owner to appeal the denial of a permit, even forcing him to show "entitlement" to a permit. This was ultimately stricken in the Senate, but a provision remained which elevated protection of bogs and watercourses to a higher public value than economic uses. SB 569 died in the House as did HB 5934. The latter would create a statutory presumption that any activity affecting upland vegetation located within 100 feet of a wetland or anywhere in a flood plain will have an adverse impact. CAR was allied with the Home Builders Association of Connecticut in opposition to both bills.

## **HB 6600: "SUSTINET" HEALTH CARE BLUEPRINT PASSES, THEN VETOED. AN OVERRIDE EFFORT BY LEGISLATURE IS LIKELY ON JULY 20**

An intense campaign for more affordable and accessible health insurance for REALTORS® was waged as CAR joined a broad coalition backing HB 6600. Passed by wide margins in both chambers, the bill provides a road map for creation of a large risk-sharing pool to be rolled-out in 2012. This "Sustinet" product would be a self-insured plan, utilizing a public insurance pool based on the existing pool for state employees, designed to compete with – not replace – private insurance. Others backing Sustinet include the Connecticut State Medical Society, AARP, and Small Businesses for Health Care Reform. On July 8, the bill was vetoed by the Governor. She said it was well-intentioned but argued it raised serious fiscal concerns. A two-thirds vote of all members in each chamber is required to overturn the veto.

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**HB 6284: A MODEL ENERGY CODE AND GREEN BUILDING STANDARDS**

Owners and developers will be better served, thanks to this bill. It fixes flaws in a law enacted two years ago imposing inflexible and confusing green building standards on a variety of renovation and construction projects. It now opens up compliance criteria to include more than just the LEED's and Green Globes regimes, adding standards used by the National Association of Home Builders and "an equivalent rating system approved by the State Building Inspector and Codes and Standards Committee." Compliance is linked more realistically to certificate of occupancy instead of when applying for a building permit. Adoption of details like thermal envelope and mechanical system design, along with threshold size of building subject to the standards, is left to the C and S Committee and State Building Inspector through the regulatory process. Supported by CAR & the Coalition for a Unified Code. *Passed and signed by Governor as PA 09-192. Effective upon passage.*

**SB 72: CONFIDENTIALITY OF HOME ADDRESSES OF R.E. LICENSEES**

Originally backed by CAR to prevent home address of real estate practitioners from being posted indiscriminately on the State government's public licensing registry, this bill was rendered unnecessary when Deputy Commissioner of Consumer Protection Jackie Mandyck worked with CAR's Executive Vice President to accomplish this administratively. The Department's enhanced web site now allows the agent the choice of using a business or home address.

**SB 948: THE SAFE MORTGAGE LICENSING ACT, EMERGENCY MORTGAGE ASSISTANCE, AND THE FORECLOSURE MEDIATION PROGRAM**

This bill goes hand-in-hand with stepped-up enforcement of real estate related lending laws by the Inspector General of TARP. Makes CT licensing of mortgage professionals consistent with the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008", or "SAFE." Exempts from the definition of "mortgage loan originator" real estate licensees who only perform "real estate brokerage activities" unless they are compensated by a mortgage lender, mortgage broker or other loan originator or by one of their agents. It expands eligibility for two different foreclosure prevention services, the Emergency Mortgage Assistance Program (EMAP) and the CT Families program. Makes State's temporary foreclosure mediation process mandatory (or automatic) for foreclosure actions with return dates on and after July 1, 2009. Portions of the bill were supported by CAR. *Passed and signed by Governor as PA 09-209. Effective July 31, 2009.*

**HB 6466: CONCERNING PROJECTS OF REGIONAL SIGNIFICANCE**

Requires regional planning organizations to facilitate a voluntary pre-application review process for developers of larger projects (e.g., having over 1,000 parking spaces). CAR supported the bill to assist both developers and towns in obtaining informal evaluation of costs and other requirements before risking undue expense and time. *Passed and signed by Governor as PA 09-165. Effective October 1, 2009.*

**HB 6467: SMART GROWTH AND CT'S PLAN OF CONSERVATION & DEV'T**

Postpones from 3/1/09 to 3/1/11 the deadline for revising Connecticut's five year Plan of Conservation and Development, creates a definition of "smart growth" and principles for implementing smart growth into state policies and projects. Supported by CAR, with reservations. *Passed and signed by Governor as PA 09-230. Effective upon passage.*

**HB 6585: AN ACT CONCERNING REGIONALISM**

Allows CEO's of certain municipalities to enter into mutual agreements to promote regional economic development and share property tax revenue from such development. It also requires the State to segregate part of the sales tax generated in those regions and channel it back to those towns on a pro-rata basis. CAR supported in part. *Passed and signed by Governor as PA 09-231. Effective October 1, 2009.*

**SB 897: NEW TIME SHARE BILL COULD HELP STATE'S ECONOMY**

REALTORS® are protected under this bill, which replaces an outdated statute with modern features regulating the creation of time share plans and the sale of all forms of vacation ownership. These so-called fractional ownership/occupancy plans have been hailed by one investor as "a melding of resort vacationing and second home ownership." Under SB 897, a Connecticut real estate broker's license is required for time share sales agents as well as for time share resale brokers. Grandfathered from the new legislation are any time share properties established within Connecticut on or before December 31, 2009. They continue to be governed under existing law. The bill provides certain other exemptions from its requirements, but in general, mandates that time share plans be registered with the

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Department of Consumer Protection (DCP); provides for a detailed Time Share Disclosure Statement for purchasers, updated to cover current industry products; specifies key contractual disclosures to consumers wishing to buy or sell through a time share resale broker; gives buyers a five calendar day right to cancel; and requires developers to financially assure the completion of any unfinished property through escrow, bond, or letter of credit arrangements. Supported by CAR. *Passed and signed by Governor as PA 09-156. Effective January 1, 2010.*

#### **HB 5401 AND 6449 DEFEATED; INTEGRITY OF REAL ESTATE LICENSE UPHELD**

CAR opposed HB 5401 which would have allowed unlicensed people to be paid for referring buyers to time share developers. CAR also opposed HB 6449, a proposal to widen the very narrow license exemption now given to home builders selling their own properties (and to their on-site residential superintendents). HB 6449 proposed to allow unlicensed employees of new home construction contractors to engage in the practice of real estate. Both bills died in committee.

#### **HB 5400: DISCLOSURE OF LEASED ITEMS IN REAL ESTATE SALES**

**Note: None of the three disclosure bills described here were initiated by CAR but by a group of legislators and the Attorney General. Only HB 6114 passed.**

Would mandate that seller give a statement listing all leased items on a property prior to sale, such as propane tanks, security alarm systems, and hot water heaters, etc. This bill was revised with input from CAR and merged with an amended version of HB 6114 (see below).

#### **HB 6470: RESIDENTIAL HEATING OIL AND PROPANE CONTRACTS**

Would set forth new requirements for retail contracts for sale of fuel oil or propane gas for home heating. Would require the seller's Property Condition Disclosure (PCD) form to provide notice when there is a propane tank of greater than 20 gallons capacity located on-site, and the name of the tank owner, and a "statement disclosing any contract related to such tank." CAR's position was to urge the PCD section be dropped and instead adopt seller disclosure provisions in the amended version of HB 6114 (see below). Passed the House in modified form but failed in Senate.

#### **HB 6114: DISCLOSURE OF HISTORIC DISTRICT DESIGNATIONS AND LEASED ITEMS TO PROSPECTIVE PURCHASERS OF RESIDENTIAL PROPERTY**

Original bill required seller disclosure "in conspicuous type" if property is located in a village district or historic district and referral of buyer to town planner for information on property restrictions. CAR lobbied legislators to adopt substitute language to accommodate the intent of both this bill and the two involving leased items (5400 and 6470). In effect, CAR sought to have legislators delegate the specifics of prescribing the disclosures to the Department of Consumer Protection in order to reconcile them in a consistent, user-friendly manner that comports with the existing PCD form. The final act directs the Department to adopt regulations by April 1, 2010, make the form include information on (a) leased items on the premises, including, but limited to, propane fuel tanks, water heaters, major appliances and alarm systems; and (b) (i) whether the real property is located in a municipally designated village district or municipally designated historic district or has been designated on the National Register of Historic Places, and (ii) a statement that information concerning village districts and historic districts may be obtained from the municipality's village or historic district commission, if applicable. *Passed and signed into law by the Governor as Public Act 09-127. Effective upon passage.*

#### **SB 891: CONCERNING MODERNIZATION OF CONNECTICUT FERTILIZER LAW**

An amendment tacked-on to this bill on the last day of the regular session aims to raise just under \$7 million for dairy farms in twelve months. It does this by increasing the \$30 document recording fee "surcharge" to \$40 for the first page of anything a citizen records at town hall. It's on top of the \$10 underlying fee for the first page and \$5 for every page thereafter. In addition, brownfields programs are added as a 5<sup>th</sup> beneficiary of the \$30 surcharge imposed in 2005 by cutting the 25% earmarks to historic preservation, CHFA, DEP, and Department of Agriculture. So now 5 earmarks will get 20% of the pie instead of 4 getting 25%. Opposed by CAR. *Passed and signed into law by Governor as PA 09-229. Effective upon passage.*

#### **HB 5871: NEW DUTY OF LANDLORD TO STORE TENANTS' GOODS**

This bill would have transferred to landlords the current obligation of municipalities to store personal effects of evicted tenants. Opposed by CAR and defeated.

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**HB 5979: USE AND OCCUPANCY PAYMENTS**

During an eviction proceeding for nonpayment of rent, the current court system of special motions and defenses allows some tenants to continue residing in the property while not paying. This bill would have disallowed these special defenses unless the tenant remits use and occupancy payments into escrow. Supported by CAR. Defeated.

**HB 5201: FORCLOSURE BY MARKET SALE AMENDMENT**

CAR attempted to amend this foreclosure relief bill by providing homeowners a new “foreclosure by market sale” option. The intent was to give them more opportunity for a fair price than traditional “strict foreclosure” and “foreclosure by auction sale.” The bill failed.

**HB 6672: AMENDMENTS TO UNIFORM COMMON INTEREST OWNERSHIP ACT**

Overhauls Connecticut law dealing with condominiums, co-ops and other forms of common interest communities. Of particular interest to REALTORS® is section 41, which makes changes to what must be included in a resale certificate and how the cost of the certificate is calculated. *Passed and signed by Governor as PA 09-225. Effective July 1, 2010.*

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