

Legislative History for Connecticut Act

2005

Act Number: 190
Bill Number: 1085
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Thank you, Senator. Will you remark? Will you remark further on the amendment? If not, I'll try your minds. All in favor, please say "aye".

SENATE ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay". The ayes have it. The amendment is adopted. Senator Ciotto.

SEN. CIOTTO:

I'd like to yield to Senator Looney, Mr. President.

THE CHAIR:

Mr. Majority Leader, Senator Looney.

SEN. LOONEY:

Yes, thank you, Mr. President. Thank you for the yield, Senator Ciotto. Mr. President, I would move that the bill as amended be placed on the Foot of the Calendar.

THE CHAIR:

Without objection, so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 18, Calendar 295, File 349, S.B. 1085, An Act Concerning Buffers to Inland Wetlands

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Areas, Favorable Report of the Committees on Planning and Development, Finance, Revenue and Bonding, and Environment. Clerk is in possession of an amendment.

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. Mr. President, I move the acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

On acceptance and passage, will you remark?

Senator Coleman.

SEN. COLEMAN:

Mr. President, local zoning agencies require that wetlands be off limits, and the tax treatment for wetlands is different than the tax treatment for developable property. Local zoning agencies also require that land surrounding wetlands constitutes a buffer, and development in the buffer is not permitted.

What this bill before us seeks to do is to have the tax treatment for buffers be the same as the tax

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treatments for wetlands. That is the underlying bill,
Mr. President.

There is an amendment. If the Clerk would, would
he please call LCO 5983.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5983, which will be designated Senate
Amendment Schedule "A". It is offered by Senator
Coleman of the 2nd District.

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. I move adoption of the
amendment and seek permission to summarize.

THE CHAIR:

On the adoption, will you remark? Senator
Coleman.

SEN. COLEMAN:

Mr. President, the main objective of this
amendment is to require that an updated application be
filed with the assessor of the municipality in which
the land is located any time there is a change in

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ownership of property that is farmland, open space land, or forestland.

There is some confusion that has resulted as a result of two court decisions that make this a little bit difficult for assessors.

And the Association of Assessors has recommended this particular amendment in order to make things a little bit more clear and to facilitate their responsibilities, particularly regarding farmland, open space land, and forestland.

I urge support of the amendment, Mr. President.

THE CHAIR:

On the amendment, will you remark further?

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. I had a chance to look at this amendment earlier today, and I certainly appreciate where it's coming from. But through you, just a couple of questions to Senator Coleman.

THE CHAIR:

Please proceed, Senator.

SEN. RORABACK:

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Thank you. Through you, Mr. President, as I read the amendment, it says that you would be assessed a penalty if you transferred property which is classified either as farmland, forestland, or open space within a ten-year time horizon.

The current law says if you sell it, you pay a penalty. But this changes it to say if you transfer it, you would pay a penalty. Through you, Mr. President, am I reading that correctly?

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Mr. President, through you, to Senator Roraback, my reading does not suggest that the penalty applies to a transfer, through you, Mr. President.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. I'm looking at, I wish I was looking at something that had the line numbers on it, but it's, in the portion of the bill, Section 504, that amends Section 12-107(e), under Sub-Section, I'm sorry, Mr. President. It's much harder to be

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looking at the computer screen than it is to look at a piece of paper.

If you could bear with me for one moment, because the question, where I'm going with this, for Senator Coleman's benefit, Mr. President, through you, is I wouldn't want someone donating their property, their farmland, their forest land, or their open space to a land trust to have to pay a penalty tax if they transfer it within ten years of classifying the property as farmland, forest land, or open space.

As I read the text of the bill, literally, that may be an unintended consequence of the bill.

And through you, Mr. President, I just wanted to check with Senator Coleman whether anyone gave any thought to that, to this bill actually inhibiting people from donating property to a land trust because they would be confronted with a penalty tax?

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

That certainly was not the intent of the amendment, as I understood it. If I might have a

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minute, Mr. President, just to review the amendment a little bit more closely?

THE CHAIR:

Would you like the Senate to stand at ease, Senator?

SEN. COLEMAN:

Thank you, Chairman.

[SENATE AT EASE]

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Mr. President, may this item be Passed
Temporarily?

THE CHAIR:

Hearing no objection, the item will be Passed
Temporarily. Mr. Clerk.

THE CLERK:

Calendar 302, File 382, S.B. 770, An Act
Concerning Availability of State Agency Regulations,
Favorable Report of the Committee on Judiciary and
Appropriations.

THE CHAIR:

Mr. Majority Leader.

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to finance whatever measures the town sees fit,
through you, Mr. President?

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Through you, Mr. President, this would be a
method of financing a tick control program.

SEN. MCKINNEY:

Thank you, Mr. President. Thank you, Senator
Coleman.

THE CHAIR:

Further remarks? Will you remark further?
Remark further? If not, Senator Coleman.

SEN. COLEMAN:

If there is no further discussion of this item, I
move it to placement on the Consent Calendar.

THE CHAIR:

Hearing no objection, the item will be placed on
the Consent Calendar. Mr. Clerk.

THE CLERK:

Calendar Page 18, Calendar 295, File 349, S.B.
1085, An Act Concerning Buffers to Inland Wetlands
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and Development, Finance, Revenue and Bonding, and
Environment.

When the bill was last before us, Senate
Amendment Schedule "A" was called and designated as
LCO 5983.

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. I move the acceptance
of the Joint Committee's Favorable Report and passage
of the bill.

THE CHAIR:

On acceptance and passage, will you remark?

Senator Coleman.

SEN. COLEMAN:

Mr. President, I would move, again, Senate "A",
LCO 5983, was currently before us when the bill was
Passed Temporarily.

THE CLERK:

LCO 5983, which was previously designated Senate
Amendment Schedule "A". It was offered by Senator
Coleman of the 2nd District.

SEN. COLEMAN:

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The bill was summarized, Mr. President. There was some question about a penalty that might be incurred upon transfer. I think Senator Roraback's inquiry has been satisfied.

I don't see him in the Chamber, but for the benefit of the Members who are present, I believe that Senator Roraback and I determined that such penalty would apply only in the event that there was a change in the user classification of the land in question.

So again, I would urge adoption of the amendment, Mr. President.

THE CHAIR:

On adoption, will you remark further? If not, try your minds. All those in favor, please say "aye".

SENATE ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay". Ayes have it. The
amendment is adopted. Senator Coleman.

SEN. COLEMAN:

Mr. President, I'm not sure if there is any further question or debate. I see Senator McDonald may be seeking the floor.

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THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, just two brief questions, through you, to Senator Coleman, if I might?

THE CHAIR: [SENATOR FINCH OF THE 22ND IN THE CHAIR]

Please proceed, Senator.

SEN. MCDONALD:

Thank you, Mr. President. Senator Coleman, in the underlying bill, it talks about the requirement that property which is being used in a buffer zone shall be assessed at a value equal to the value of such property that's in the inland, wetland, or watercourse area.

Does that shall be assessed language necessarily mean that the assessment rate would be different or that it might be different based upon an assessor's evaluation of the facts and circumstances of the property, through you, Mr. President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

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Thank you, Mr. President. If I understand the question correctly, based upon the circumstances of the use of the property, the rate may be different.

If the area in question is, in fact, the buffer zone, if it is a part of another parcel where there is developable property on the other portion of the parcel, the developable portion of the parcel may be assessed according to its fair market value.

The buffer area would be assessed according to the rate that would apply to wetlands property, through you, Mr. President.

SEN. MCDONALD:

Thank you. Through you, Mr. President, thank you, Senator Coleman.

My second question is that this talks about assessments that are the result of an application to the Inland Wetlands Agency, and I just want to address the situation where there has been a revaluation, values have been established. Subsequently, an application is then filed which would involve this scenario.

Is it the intent of this bill that the assessor would be required to reassess the property or could

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that reassessment take place during the next revaluation cycle when that municipality is intended to revalue all property in the community?

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. It would be my understanding that the revaluation would take place at the next scheduled revaluation, through you, Mr. President.

SEN. MCDONALD:

Thank you.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. And thank you, Senator Coleman. I privately had expressed some concerns about this bill because of the facts and circumstances that might exist for any particular property.

I don't know that all of those concerns are resolved. One of my concerns, frankly, is that if there is a parcel of property that is eligible for development, whether there is a buffer zone or not a

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buffer zone may or may not impact on the development rights of that property.

And in fact, even with a wetlands property and the buffer zone, sometimes property can still be fully developed to its zoning potential without impacting the value of the property at all as a result of the wetlands location of the property.

And that's why I appreciated so much Senator Coleman's answer to the question, because it would allow an assessor to take into consideration the totality of the circumstances and development opportunities for a parcel of property.

In fact, there are many cases where wetlands property and the buffer that is created by these permits can, in fact, diminish the property. Or diminish the value of the property.

But there are also circumstances where the wetlands location and the buffer around that wetlands location, doesn't limit or hinder the full market value of the property at all.

And I'm pleased to see, from Senator Coleman's answer, that the assessor will have an opportunity to take into consideration all of the elements of the, in

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determining the highest and best use of the property
when the next revaluation is undertaken.

So thank you, Mr. President.

THE CHAIR:

Thank you, Senator McDonald. Will you remark
further? Senator Coleman.

SEN. COLEMAN:

Mr. President, if there is no further debate on
this bill, I would ask that it be placed on the
Consent Calendar.

THE CHAIR:

Hearing no objections, so moved. Mr. Clerk.

THE CLERK:

Calendar Page 22, Calendar 439, File 603,
Substitute for S.B. 948, An Act Concerning the Failure
of a Municipality to obtain a Bond from Certain
Contractors, Prepaid Home Heating Oil Contracts and
Heat and Utility Surcharge Clauses in Residential
Leases, Favorable Report of the Committees on General
Law, Judiciary, and Planning and Development. Clerk
is in possession of amendments.

THE CHAIR:

Senator Cappiello. Senator Colapietro.

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Mr. President, those items previously placed on the second Consent Calendar begin on Calendar Page 1, Calendar 160, Substitute for S.B. 1220.

Calendar Page 8, Calendar 537, H.B. 6475.

Calendar Page 15, Calendar 193, Substitute for S.B. 1251.

Calendar Page 18, Calendar 295, S.B. 1085.

Calendar Page 22, Calendar 439, Substitute for S.B. 948.

Calendar 442, Substitute for S.B. 1033.

And Calendar Page 26, Calendar 506, Substitute for H.B. 6849.

And Calendar 507, Substitute for H.B. 6851.

Mr. President, that completes those items previously placed on the second Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Will you please announce the pendency of a roll call vote on the second Consent Calendar, and the machine will be open.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

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The roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all Members voted? Senator McDonald.
Senator Hartley. Senator Stillman.

Have all Members voted? The machine will be locked.

THE CLERK:

Motion is on adoption of Consent Calendar No. 2.

Total number voting, 34; necessary for adoption, 18. Those voting yea, 34; those voting nay, 0. Those absent and not voting, 2.

THE CHAIR:

Senator Looney. The Consent Calendar is adopted.
Senator Looney.

SEN. LOONEY:

Thank you, Mr. President. Mr. President, that concludes the business that we will act upon in today's session. I would move that all items marked Passed Temporarily or not otherwise acted upon be marked Passed, retaining their place on the Calendar.

THE CHAIR:

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And I would also like to give him a commendation, if I may, because I think they really, truly, deserve it for a wonderful action. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Madam. Will you remark further?

House will stand at ease, please.

(CHAMBER AT EASE)

SPEAKER AMANN:

Any other announcements or introductions?

DEPUTY SPEAKER GODFREY:

The House will come back to order. We will return to the Call of the Calendar. Will the Clerk please call Calendar Number 576.

CLERK:

On Page 10, Calendar Number 576, Senate Bill Number 1085, AN ACT CONCERNING BUFFERS TO INLAND WETLANDS AREAS, Favorable Report of the Committee on Environment.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Planning and Development Committee on Danbury, Representative Wallace.

REP. WALLACE: (109th)

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Good afternoon, Speaker. A pleasure to see you at the dais.

DEPUTY SPEAKER GODFREY:

Good afternoon, Sir.

REP. WALLACE: (109th)

Mr. Speaker, I move acceptance of the Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER GODFREY:

Question is on acceptance and passage. Would you explain the Bill, please, Sir.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Mr. Speaker, in this Bill a Municipal Inland Wetland Agency permit requires that land serving as a buffer or an upland review area, thereby being subjected to the same development restrictions as wetlands, that the municipality must assess the land as though it were wetlands. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir.

REP. WALLACE: (109th)

Mr. Speaker?

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DEPUTY SPEAKER GODFREY:

Yes, Sir, continue.

REP. WALLACE: (109th)

The Clerk has an Amendment, it is LCO Number 5983. Would you please ask the Clerk to call and I be allowed to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 5983, which will be designated House Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO Number 5983, Senate "A", offered by Senator Coleman.

DEPUTY SPEAKER GODFREY:

Gentleman has asked leave of the, I'm sorry, let me correct that. It is previously designated Senate Amendment Schedule "A". My apologies to the Chamber. The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, please proceed, Sir.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Mr. Speaker, this

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clarifies implementation of the PA 490 plan and I move adoption.

DEPUTY SPEAKER GODFREY:

Question is on adoption. Would you remark, Sir.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Mr. Speaker, under this Bill the Town Clerk must notify the assessor of the sale of any land that is in the program when the sale is filed in the land records.

Upon receiving the notice, the assessor must notify the new owner of the tax benefits of participating in the PA 490 program.

The Bill requires the filing of a revised PA 490 application with the assessor whenever ownership of land in the program changes. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on Senate Amendment Schedule "A"? Will you remark further? The distinguished Deputy Minority Leader, Representative Powers of the 151st. Madam.

REP. POWERS: (151st)

Thank you, Mr. Speaker. Good afternoon. Through

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you, a question to the proponent of the Amendment,
please.

DEPUTY SPEAKER GODFREY:

Of course, please proceed.

REP. POWERS: (151st)

Is there a Fiscal Note attached to this
Amendment, please?

DEPUTY SPEAKER GODFREY:

Representative Wallace, do you care to respond?

REP. WALLACE: (109th)

Yes, Mr. Speaker. Through you. Thank you.
Through you. Yes, there is a Fiscal Note. In
summary, there is anticipated a minimal revenue
impact, less than \$10,000, to the State and municipal
real estate convance taxes. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Powers.

REP. POWERS: (151st)

Thank you, Mr. Speaker, and through you. Is
there any municipal impact?

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Through you, Mr. Speaker. I'm just, I just want to make sure. The municipal impact would be that potential revenue impact, less than \$10,000. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Powers.

REP. POWERS: (151st)

Thank you, Mr. Speaker, and through you. This looks sort of like a whole Bill. Was this a Bill before your Committee and did it have a public hearing? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. This Bill did not have a public hearing this year in my Committee. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Powers.

REP. POWERS: (151st)

Then I don't believe the Amendment is properly before us, if we did not have a public hearing. Mr. Speaker, would you care to remark upon that?

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DEPUTY SPEAKER GODFREY:

No, you haven't asked formally for a particular kind of remark.

REP. POWERS: (151st)

Thank you, Mr. Speaker. You are absolutely correct. Point of Inquiry. No, Point of Order. Thank you. Sorry. The dog threw me off.

DEPUTY SPEAKER GODFREY:

It ate my homework, too.

REP. POWERS: (151st)

True. Point of Order, Mr. Speaker. As this has not had a public hearing, I do not believe it is properly before us.

DEPUTY SPEAKER GODFREY:

The House will stand at ease as we work this out.

(CHAMBER AT EASE)

REP. POWERS: (151st)

I would like to withdraw my Point of Order. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, Madam. Will you remark further on Senate Amendment Schedule "A"? Will you remark further? Representative Witkos. Oh, I'm sorry,

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before we do that. Representative Chapin, Sir, you have an issue. Chapin.

REP. CHAPIN: (67th)

Thank you, Mr. Speaker. In light of the withdrawal of that Point of Order, in accordance with House Rule Number 40, I request the Speaker's permission to recuse myself from the debate and subsequent vote.

DEPUTY SPEAKER GODFREY:

Of course. So ordered. Thank you, Sir.

REP. CHAPIN: (67th)

I'm sorry, Mr. Speaker. Due to a potential conflict of interest.

DEPUTY SPEAKER GODFREY:

Thank you for correcting the record, and we will stand at ease while Representative Chapin leaves the Chamber.

(CHAMBER AT EASE)

DEPUTY SPEAKER GODFREY:

And we will return back to order. And will you remark further on Senate Amendment Schedule "A"? Will you remark further? Representative Spallone of the

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36th.

REP. SPALLONE: (36th)

Thank you, Mr. Speaker. Mr. Speaker, if I may, I would like to propose a couple of questions to the proponent of the Bill.

DEPUTY SPEAKER GODFREY:

Please frame your questions, Sir.

REP. SPALLONE: (36th)

Thank you, Mr. Speaker. Through you to Representative Wallace. Representative Wallace, was this Amendment designed to address decisions by this Connecticut Supreme Court in the cases of Stepney Ponds v. Monroe and Timber Trails v. New Fairfield?

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Through you, Mr. Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE: (36th)

Through you, Mr. Speaker, to Representative Wallace. And it is my understanding that the proponents of this Amendment and this legislation were

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seeking basically to codify the court's decisions in those two cases. Is that true? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Mr. Speaker, through you. Yes.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE: (36th)

And through you, Mr. Speaker, to Representative Wallace, it's my understanding from the proponents of the legislation and discussions with them that it is not the intention to, to create more opportunities to penalize or tax participants in the 490 program but rather to monitor the program properly. Is that true? Through you.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Through you, Mr. Speaker. That is absolutely correct. To make sure that the PA 490 is extended to

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the proper owner and goes with the owners rather than the land. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Spallone.

REP. SPALLONE: (36th)

Thank you, Mr. Speaker, and I thank the Chairman of the Planning and Development Committee for his answers to my questions. Just a couple of words on the Amendment.

I would just like to say that I believe I can support this Amendment. I had previously prepared amendments due to certain concerns I had.

I think it's important that we be cautious when we amend anything to do with Public Act 490 because we want to promote its purposes, which are to preserve open space, preserve farmland which is rapidly being depleted in Connecticut, and to preserve forestland for future generations.

I think we want to be mindful that we don't create traps for families that might be making sophisticated estate plans in order to carry out the purposes of Public Act 490.

And I would just like to say for today's record that next year, when we return, and hopefully this won't create any problems, but additionally in the exemptions.

Today we are adding that we will not trigger a restart of the penalty period if there is a transfer to an LLC where the members of the LLC are the same as the members making the transfer.

And I would like to submit that there might be other planning tools that could be available to families that are in these situations, including limited partnerships or corporations or trusts.

And I would suggest that those should be added to the exemption list in the future. And I would look forward to working with the Planning and Development Committee on that issue if possible. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. The gentleman from Canton, Representative Witkos of the 17th.

REP. WITKOS: (17th)

Thank you, Mr. Speaker. Several questions to the proponent of the Amendment, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Please frame your questions, Sir.

REP. WITKOS: (17th)

Thank you. Through you, Mr. Speaker, to Representative Wallace. Line Number 1119, if the property that had the language added was transferred, if one family member who was not a parent or a spouse wants to transfer property with no consideration to another family member, how do they derive at a total sales price of the land for the tax purposes? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. How would the seller derive the sales price to the buyer for an in-family transaction? Is that the question? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Witkos, would you care to clarify?

REP. WITKOS: (109th)

Thank you. Through you, Mr. Speaker. The Bill states that a conveyance tax is applicable to a total

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sales price of such land if it is transferred amongst the parties.

And, through you, Mr. Speaker, if one family member transfers property to another family member at no cost, how do they determine that there's a conveyance tax applicable if there's no cost to the land? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. I refer the good Representative to Lines 245 through 250, where it speaks about how the fair market value is calculated based on the last assessment. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Witkos.

REP. WITKOS: (17th)

Thank you, Mr. Speaker, and I thank the Representative. On Line Number 166 of the Bill, the Bill states that no conveyance tax will be imposed if, is this correct, through you, Mr. Speaker, after the

tenth year of ownership or a person acquires title to the land through a transfer.

Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Witkos, we're on Senate Amendment "A".

REP. WITKOS: (17th)

Right, Senate Amendment "A" on Line 166.

DEPUTY SPEAKER GODFREY:

All right, very good. Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. That is correct.

DEPUTY SPEAKER GODFREY:

Representative Witkos.

REP. WITKOS: (17th)

Thank you. And, through you, Mr. Speaker, in Lines 269 through 274 of Senate Amendment "A", is it correct to state that if I was given property or deeded property by a family member and say I only owned five acres of land, it wasn't eligible for forest or open space, and a family member were to give

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me 25 acres of property which could be classified as forestland or open space.

If they had it previously classified, would that classification end on the transfer to me, and I would have to go and reapply for the same classification of that same piece of property? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. That is correct.

DEPUTY SPEAKER GODFREY:

Representative Witkos.

REP. WITKOS: (17th)

Thank you, Mr. Speaker. Through you. Could the gentleman please explain why the classification of the property would end if there is no application for development on that property? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Why it would end, I just want to make sure I understand the question. I would ask the good Representative to please rephrase the question. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Witkos.

REP. WITKOS: (17th)

Thank you, Mr. Speaker. Currently, I believe forestland and open space lands are taxed at a different rate than residential property.

And when we transfer those lands to another person, if it is forestland or open space taxed at a lower rate, the new owner now must go and have that same land reclassified as the same type of land that it already was, even though there's development or application for development to be proposed.

I'm just curious as to why we believe that we have to change the law in this instance. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

All right, thank you, Mr. Speaker. Through you, Mr. Speaker. That was really the impetus of the two court decisions, Timber Trails and Stepney. They said that there, it was not codified in State law as to the classification being able to move with the owners rather than the land.

So we wanted to make sure with this law, through you, Mr. Speaker, that the new owner does reapply for the PA 490 program so that the land does remain as PA 490 farmland or open space.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Witkos.

REP. WITKOS: (17th)

Thank you. Through you, Mr. Speaker. Are there any further loopholes that one owner, if the property is transferred to another owner, that they would have to go through for the reclassification of the same piece of property?

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Are there any further loopholes? That's--

REP. WITKOS: (17th)

A higher degree or standard than currently. If you have, if I'm the owner of parcel "A" and I have it classified as forestland and I sell parcel "A" to somebody else, they have to go to their town hall or assessor's office and have it reclassified as forestland.

Is there anything additional that they are going to have to supply in order to get that same classification? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

All right, thank you, Mr. Speaker. Through you, Mr. Speaker. No, there is no additional information needed by the new property owner. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Witkos.

REP. WITKOS: (17th)

I thank the gentleman for his answers. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on Senate Amendment Schedule "A"? The gentlewoman from Bridgeport, Representative Martinez of the 128th. No, very good. The distinguished vice, the distinguished Ranking Member of the Judiciary Committee, Representative Farr of the 19th.

REP. FARR: (19th)

Thank you, Mr. Speaker. Mr. Speaker, through you to Representative Wallace. Just so I fully understand this. This says you have to make a new application if you sell the land.

First of all, am I correct in assuming that if this land is classified as open space, it will be, there won't be any supplemental tax. If there is no longer, if the land is sold, it will continue, you know, your land is assessed in October, tax bill comes out in July of the next year.

If you sell it on May, June 31st, will you continue to be taxed on it for the balance of that year as if it's open space?

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DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr.
Speaker. Yes.

DEPUTY SPEAKER GODFREY:

Representative Farr.

REP. FARR: (19th)

And then the second question is, I would like to get some understanding of what we are doing here. As I understand it, with the land that's classified as forestland or open space land, if you sell it within ten years, you are subject to an extra surcharge by an increased conveyance tax on it.

What is the, as I read this Bill, even if you sold it to somebody who is going to keep it for the same use, you would have to pay the surcharge. Is that correct?

In other words, if you sold this property and owned it for six years, somebody else wanted to keep it as forestland, they would have to reapply but you would now have pay the conveyance tax? Is that correct?

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DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr., thank you, Mr. Speaker. Current law is that if the owner who puts their property in PA 490 current law sells it within ten years, they pay a tax on that, on that, on that sale. The Bill before us does not change that. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Farr.

REP. FARR: (19th)

And through you, to Representative Wallace. I'm just trying to understand the public policy here.

Even though they are keeping it in exactly the same open use, preserving it as forestland etcetera, under, apparently under both current law, which I think court cases clarified in this Bill, we are saying it would be subject to an extra conveyance tax even though it wasn't going to be changed in terms of its use.

Is that correct? And I just wonder if you could comment, is, is that a public policy that you have had some discussion about?

I mean, I'm not sure why, if someone is simply selling forestland to someone else to be used as forestland, we now want to collect a surcharge on it. Through you, Mr. Speaker, to Representative Wallace.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. The good Representative makes a good point into how the currently existing PA 490 impacts people who sell their property in that program.

The purpose of this Bill was not to address that piece of the PA 490 but rather to clarify that when property transfers hands, the new owner needs to apply so that the assessor can properly note that the land isn't PA 490.

So that is the purpose of the Bill before us today. through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Farr.

REP. FARR: (19th)

Okay, thank you very much. Thank you, Representative Wallace.

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DEPUTY SPEAKER GODFREY:

The gentleman from Manchester, Representative Barry of the 12th. Who doesn't appear to be here. All right.

Will you remark further on Senate Amendment Schedule "A"? Will you remark further on Senate Amendment Schedule "A"? If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay. The Ayes have it. The Amendment is adopted. Will you remark further on the Bill as amended? Will you remark further on the Bill as amended? The gentleman from East Hartford, Representative Christopher Stone of the 9th.

REP. STONE: (9th)

Thank you, Mr. Speaker. And I rise in support of the Bill, in particular the underlying Bill, which deals with the wetlands buffer and the treatment of wetlands buffer areas for purpose of a municipal assessment. I just had a question, if I may, of the proponent of the Bill. Through you, Mr. Speaker.

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DEPUTY SPEAKER GODFREY:

Please proceed, Sir.

REP. STONE: (9th)

Through you, Mr. Speaker. Is there anything in our Statute now that sets forth the basis upon which a municipality would assess wetlands areas? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. I believe the Office of Policy and Management produces periodically a listing of recommended assessment rates or prices, but it is not, those are not required to be followed by the municipalities. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Stone.

REP. STONE: (9th)

Thank you, Mr. Speaker. And for purpose of legislative intent, I would assume that those same standards adopted by OPM are at least recommendations to municipalities.

If followed by a municipality for wetlands area, if this Bill passes, would also have to be followed for purpose of buffer assessment, is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Through you, Mr. Speaker. I just, I just want to be clear because what this Bill would do is, that property that is now buffer I think would more likely either be buildable land, so I think it's unlikely that there would be a new category. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Stone.

REP. STONE: (9th)

Thank you, Mr. Speaker. And then just one last line of questioning. In relation to the interplay between a wetlands agency, which establishes the buffer area, and the municipal assessment side of things, whether it be the Board of Assessors or a town assessor.

Is there anything in this Bill where an assessor, and through, or the municipality, through the assessor, would have some input as to what areas or the extent to which they buffer would be maintained by a municipality? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Wallace.

REP. WALLACE: (109th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. An inland wetland agency would have to, may wish to change the regulations, the permitting process that would go at least through a public hearing.

There would certainly be opportunities for both the public and municipal employees to participate, and I am sure that there would indeed be interplay before and after that formal public hearing to garner input from the impacted departments.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Stone.

REP. STONE: (9th)

Thank you, Mr. Speaker, and I appreciate the responses from my friend from Danbury. And I, I have

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talked with him about the Bill and with Senator Fasano in the Senate, who was, we had talked about the Bill as well.

And I won't say concerned, because that's probably overstating it, but one of the issues that I had had to do with the relationship between a municipality, who may suffer some revenue loss by lower assessment on buffer areas, and a wetland agency who, I'm sure one of their priorities is not municipal revenue, more to preserve and maintain wetlands.

They may set a wetlands buffer that might be perhaps overly broad and have a significant revenue impact on a municipality.

I just want to make sure that there's, if not a specific vehicle, but some method by which the municipality can participate in determining the extent of the buffer, with the understanding that there may be some revenue impact.

So I appreciate the good gentleman's responses, and I urge my colleagues to support the Bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on this

Bill as amended? Will you remark further on the Bill?
If not, staff and guests please come to the Well of
the House. Members take your seats. The machine will
be opened.

CLERK:

The House of Representatives is voting by Roll
Call. Members to the Chamber. The House is voting by
Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the Members voted and is your vote
properly recorded? If so, the machine will be locked
and the Clerk will take a tally. And the Clerk will
announce the tally.

CLERK:

Senate Bill Number 1085, as amended by Senate
Amendment Schedule "A", in concurrence with the
Senate.

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	137
Those voting Nay	7
Those absent and not voting	7

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DEPUTY SPEAKER GODFREY:

The Bill is passed in concurrence with the
Senate. Will the Clerk please call Calendar Number
603.

CLERK:

On Page 13, Calendar Number 603, Senate Bill
Number 1230, AN ACT CONCERNING THE TAXATION OF DAILY
RENTAL MACHINERY, Favorable Report of the Committee on
Appropriations.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Finance,
Revenue and Bonding Committee, Representative Staples.

REP. STAPLES: (96th)

Thank you, Mr. Speaker. Mr. Speaker, I move
acceptance of the Joint Committee's Favorable Report
and passage of the Bill in concurrence with the
Senate.

DEPUTY SPEAKER GODFREY:

Question is on acceptance and passage. Would you
explain the Bill, please, Sir.

REP. STAPLES: (96th)

Thank you, Mr. Speaker. Mr. Speaker, the Bill
before us establishes a surcharge program for

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Quality rental housing and ground-floor retail, however, might work, given a downtown market in tandem with this proposed tax credit. In conclusion, I urge your support of Senate Bill 1090. Thank you for your time.

SEN. COLEMAN: Thank you. Are there questions? There are no questions. Thank you for your time and your testimony. Bill Ethier is next.

BILL ETHIER: Thank you, Senator Coleman, Representative Wallace, Members of the Planning and Development Committee. My name is Bill Ethier, and I am the Executive Director of the Home Builders Association.

I have submitted testimony on two bills today, SB1085 but I'd like to primarily talk about Senate Bill 1083, AN ACT CONCERNING REORGANIZING LOCAL LAND USE COMMISSIONS, BOARDS, AND AGENCIES.

We are strongly in support of this bill. We think it is, in fact, one of the most important bills you have raised in a number of years.

Although, if it were to move forward, we would recommend, as we stated in our written testimony, certain changes that would need to be made.

The current system of our local land-use boards and commissions was created by the General Assembly and delegated to local governments over many decades.

It began with some model statutes that were put out by the U.S. Department of Commerce in the 1920's, 100 years ago. They have been the

there is a little piece in here that would allow them to do that as well.

REP. RYAN: So a town or municipality would have to do something in response to this, if this passed this building across the street.

BILL ETHIER: Yes, they would.

REP. RYAN: Okay. Thank you. Thank you, Mr. Chairman..

SEN. COLEMAN: Representative Miner.

REP. MINER: Thank you, Mr. Chairman. If I can switch to Senate Bill 1085 for a minute--

BILL ETHIER: The one I didn't speak about?

REP. MINER: --well, it is the one you provided testimony on and didn't speak about.

BILL ETHIER: Yes. Yes.

REP. MINER: I'm sure that wasn't by accident. Anyway, I can appreciate the frustration at times that people might have with the lack of discretionary use of their property. [Gap in testimony. Changing from Tape 1B to 2A.]

--works. The value established on real estate is done through a reevaluation process, not necessarily by use. I'm envisioning that a subdivision may occur or someone my establish value initially, but once those properties start to transfer, what if the value of the land transfers much higher?

Someone's argument might have been that it was wetlands or an upland area that we couldn't use. Therefore, it should be diminished in value.

BILL ETHIER: I'm not sure if this answers your question, Representative Miner. Our only position is that if wetlands, which are deemed to be off limits under a particular application, are given different tax treatment, as sometimes they are, that other lands, upland review areas or other lands that are also off limits because of the same action, they should be give the same treatment.

That is only fair. If wetlands and other lands surrounding it are off limits, and the wetland portion is given a different tax treatment by that town, that same different tax treatment should also be done for the other lands.

We think that is an appropriate consequence of not allowing anything to be done with property.

REP. MINER: Even if the established value on the retail market doesn't reflect the same restrictions?

BILL ETHIER: I'm not sure how that would play out. You know, the established value, do you mean the sales price of the whole property?

REP. MINER: Well, I think that eventually, that is what we get to. There is a decision made by an assessor as to value.

BILL ETHIER: Right.

REP. MINER: And then there is a statistical process that occurs in subsequent years that may have the effect of reestablishing a value. I think it is a common practice used statewide where municipalities will look at an acre of land and re-determine its value.

It may be that at the time, a subdivision is filed on the land records, someone might be able to argue, I couldn't use 25% of my property, and, therefore, the regular assessment should be reduced because of that.

I think it would be kind of an artificial reduction in subsequent years, if the actual cash value of the sales price didn't reflect that same reduction in value. Don't you?

BILL ETHIER: I'll be honest. I cannot talk intelligently about how assessors value property. If I say anything more, I'll probably prove that.

REP. MINER: Fair enough. Thank you.

SEN. COLEMAN: Senator Fasano.

SEN. FASANO: We're talking about Senate Bill 1083. I just have a couple things. You use the word streamline, and we've used it with someone else who spoke against the bill.

The word streamline, this is a streamline to either approve or deny, right? It's not the idea that we're trying to streamline projects through the tunnel for approval. It is just streamlining the process up or down. Let's just get through the process.

BILL ETHIER: Absolutely. You know, I've always said, for developers, who I have been representing for some 25 years, the deadliest form of denial is delay. That kills you more than a quick no.

SEN. FASANO: And let me just turn to Senate Bill 1085 for a second. Actually, while we're still on Senate Bill 1083, when you start talking about the evolution of bills, and laws, and land-use issues, one of the biggest evolutions is wetlands from pre-'76 until now.

BILL ETHIER: 1970, it started.

SEN. FASANO: 1970. What is happening now, see if you agree with this statement, is that because the buffers have gotten so large in many towns, virtually every zoning application ends up at Wetlands at any rate.

In other words, the law used to be, if you had wetlands on your property, and there was a significant activity, then you would go to Wetlands.

There would be discretion on whether you would go to Wetlands, which the engineer or Wetland's officer made the determination. Then if you had wetlands on the property, you had to go.

Now, if there is an impact on your property, which affects wetlands, even off your property, you have to go. So pretty much any application in town that has wetlands ends up at Wetlands. Do you agree with that?

BILL ETHIER: It depends on the town, but in many towns, yes. I wouldn't say every town.

SEN. FASANO: Well, in terms of Branford, we'll take Branford as a town. Branford's position is that anything upland drains down into a river or stream, therefore, every application, you are subject to Wetlands. That is Branford's position.

BILL ETHIER: And that is the position of the Attorney General's Office, who advises and gets involved in these cases. Every square inch of the state is jurisdictional for Inland, Wetlands because water flows down.

SEN. FASANO: So by combining the boards, if you take the assumption that every application must go to Wetlands, and Wetlands is sitting through every zoning application, no matter what, by putting the board together, whether it has wetlands on it or it doesn't, it really does protect that wetland interest because the board is made up of Wetland folk, if you will.

So every application [inaudible] close calls, not close calls, they would end up being in front of them for the correct legislation. Isn't that right?

BILL ETHIER: Yes.

SEN. FASANO: And then let me just go one step further on this. If that were to take place, do you think the buffer issue would become less of an issue?

Right now, the buffer issue is really for Wetlands to grab jurisdiction. It's really what it is. The Wetlands Commissions want to

know the impact of the site on our natural resources.

With that, to make sure they get it, if they have wetlands, and they only do a 25-foot buffer strip, well, that is their zone, if they do 50, 75, 100, 300 feet.

If you really do end up with every application, don't you think that, therefore, since everyone comes to them anyway now, the issue of buffer strips is sort of taken care of case by case on the applications? There isn't this widespread 300-foot buffer issue.

BILL ETHIER: That may happen. You know, the issue with wetlands is that you have to show a likely adverse impact on the wetland itself, regardless of how far away you are, if you are 10 feet outside, if you are 1,000 feet

Now, the upland review area, I won't use the term buffer because the Legislature got rid of that term on our behest actually in the late '90s. Right.

I mean, a buffer connotes an off-limits area. It's not supposed to be off limits. You're supposed to be able to get a permit, if you don't show a likely adverse impact.

If you're within the upland review area, there is a presumption that there is an impact, so Wetlands is supposed to take a closer look at it.

They do have jurisdiction over all land, if there is a likely adverse impact on the

wetland. Even if you're outside the upland review area, they can still take a look at it.

Now, if they are all together in this development and review agency, they're looking at it anyway. So maybe the upland review areas do go away, and there is no need for them, as everything will be looked at.

SEN. FASANO: [inaudible - microphone not on] so if your use is restricted by virtue [inaudible] directly related to that use. For instance [inaudible] cannot occur.

So the value [inaudible] would decrease. [inaudible - microphone not on] therefore, it does affect the value of the property. So having a different tax for that area [inaudible]

BILL ETHIER: Intelligently, yes.

SEN. COLEMAN: Representative Aman.

REP. AMAN: [inaudible - microphone not on]

BILL ETHIER: Yes. On a voluntary basis, absolutely.

REP. AMAN: [inaudible - microphone not on]

BILL ETHIER: I can't tell you. I've never worked in the towns like Farmington that have combined all three into one, so I don't know how they work.

When you asked the question, I was thinking more of planning and zoning. Simsbury, my town, for example, they have separate Planning

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February 25, 2005

To: Senator Eric D. Coleman, Co-Chairman
 Representative Lewis J. Wallace, Co-Chairman
 Members of the Planning & Development Committee

From: Bill Ethier, Executive Vice President & General Counsel

Re: Raised Bill 1085, AAC Buffers to Inland Wetlands Areas

The HBA of Connecticut is a professional trade association with almost one thousand three hundred (1,300) member firms statewide employing approximately 45,000 people. Our members are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to this diverse industry. We also created and administer the Connecticut Developers Council, a professional forum for the land development industry in the state.

We support this bill since areas outside wetlands that are made to be off limits by local inland wetlands agencies should be afforded the same tax treatment as the wetlands themselves that are also made to be off limits.

However, we urge that the term "buffer" in both the title and in the bill be changed to "upland review area" to reflect the important change in the inland wetlands act made in the late 1990s. These upland review areas are not supposed to be "buffer" areas. That term connotes an off-limits area when the act actually permits regulated activity in the wetlands themselves. It is only a practice that has evolved over time, contrary to the words of the statute, that has led to local wetlands agencies treating wetlands and surrounding areas of various distances as off-limits. The trend to prohibit activity further and further "up the hill" should have consequences, and favorable tax treatment for the affected property owners is an appropriate consequence.

Thank you for considering our views on this bill.