

Legislative History for Connecticut Act

PA 14-124

HB5140

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
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1681 – 2023**

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DEPUTY SPEAKER ORANGE:

The bill as amended passes. Will the Clerk
please call Calendar Number 333.

THE CLERK:

On page 24, Calendar Number 333, favorable report
of the joint standing committee on finance, revenue
and bonding, House Bill Number 5140, AN ACT CONCERNING
PROPERTY TAX RELIEF ON CERTAIN REAL PROPERTY HELD IN
TRUST.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Good evening, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Good evening, Sir.

REP. HAMPTON (16th):

Madam Speaker, I move for acceptance of the joint
committee's favorable report and passage of the bill.

DEPUTY SPEAKER ORANGE:

The question before the Chamber is on acceptance
of the joint committee's favorable report and passage
of the bill. Representative Hampton.

REP. HAMPTON (16th):

Thank you, Madam Speaker. This bill provides tax

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relief to the elderly and disabled persons whose property is held in trust on behalf as long as they occupy the property. Such trusts create a plan for the possibility of residents becoming incapable or managing her -- his or her own assets if they become - - during difficult financial times during their lifetime. I urge adoption.

DEPUTY SPEAKER ORANGE:

Thank you, Representative Hampton. Would you care to remark further on the bill before us? Representative Aman of the 14th, you have the floor, Sir.

REP. AMAN (14th):

Good evening again.

DEPUTY SPEAKER ORANGE:

Good evening, Sir.

REP. AMAN (14th):

Looking at the bill is a requirement for the municipalities to give any tax breaks to the seniors, to elderly, to veterans or to any other group. And through you, Madam Chair, may I ask the proponent of the bill, is this one of the mandates that is a may or is it a shall? Is it something that they're allowed

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to do or are they required to take this action?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, Madam Speaker. Through you, this is just an option for municipalities, any municipal entity to -- to have the option. It is not mandatory. A municipality may or may not choose to pursue this option for tax relief. Through you.

DEPUTY SPEAKER ORANGE:

Representatives Aman.

REP. AMAN (14th):

The -- this bill talks about a trust and most people associate trusts with a way of controlling very large estates. Could the proponent of the bill explain why a family or why a senior would want to put their home in this -- in a trust and take advantage of this since it's also based if you go down further on the bill income. It looks to me like it would not be something that someone who is very wealthy would take advantage of. Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker. This option is just

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not simply designated for -- for wealthy. It allows any individual who becomes possibly incapable of managing his or her own financial affairs eligible for such relief during -- during their lifetime.

DEPUTY SPEAKER ORANGE:

Representative Aman.

REP. AMAN (14th):

The tax breaks or the -- for the elderly as you read into the good language that's already here has a -- some age limit, some income limits and things.

Does the fact that the property has been put in trust have any impact on that or would the person who's property's in trust still have to meet all the requirements of the current language of the bill?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker. They would still have to fulfill those requirements.

DEPUTY SPEAKER ORANGE:

Representative Aman.

REP. AMAN (14th):

Yes, since you have a trust which is a continually operating entity and the underlying bill or the current language would end upon the death of the spouse or the death of the individual who was the owner of the property. How does this work with a municipality when it's in a trust format? Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker. They would be notified through the tax assessor's office.

DEPUTY SPEAKER ORANGE:

Representative Aman.

REP. AMAN (14th):

And through you, Madam Speaker. How does the tax assessor's office become aware of that -- the senior who is the reason for the tax abatement is -- has passed away or has moved out of the area? Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker. Municipalities -- residents of municipalities have to file on an annual basis for this program so they or their agents would file appropriately in a given year.

DEPUTY SPEAKER ORANGE:

Representative Aman.

REP. AMAN (14th):

Yes. And then also in the underlying language of the bill or in the current language it talks about the municipality has the right to put a lien on the property under certain conditions. Would the municipality still be able to do that even though the property was in the title of the trust? Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker, yes.

DEPUTY SPEAKER ORANGE:

Representative Aman.

REP. AMAN (14th):

I thank the proponent for his answers. I think if for anyone listening to this it pretty much clarified what the intent of this legislation is.

Unfortunately as more and more seniors are coming down with Alzheimer's and other illnesses even though they may be able to stay in their own homes they're incapable of really taking care of the day to day operations. And it appears that more attorneys are placing property in trust to protect everyone.

And this I think is the intent of the legislation is to allow the benefits to still flow to the person who if they were not having problems would be able to receive the benefit. So I think it just is a correction to make it fair to the seniors who are needing this and because it is an option for the town to do it though I think it may be very difficult for them not to do it with the political pressure that could be put on them I do think it is a good piece of legislation and should be supported. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, Sir. Will you care to remark further?
Representative Smith of the 108th.

REP. SMITH (108th):

Thank you, Madam Speaker. Just one question hopefully for the good gentleman. I'm looking at lines -- it looks like --

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DEPUTY SPEAKER ORANGE:

Please proceed.

REP. SMITH (108th):

Thank you, Madam Speaker. Through you. I'm looking at lines nine and ten. It talks about the principle residents as being one of the requirements to be eligible under this bill. I'm just wondering how the town knows whether or not it is one's principle residence versus some other type of home. Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker. The residence would -- I think that would be picked up in their annual tax bill for properties in state.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

And just to follow up on that. So I mean obviously the -- I'm not sure if the tax bills that the gentleman's referring to is the tax bills in terms of the income tax and the filings therein and whether the town would have access to that or the tax bills

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that are issued by the municipality to the property owner. And I did not get a chance to read through the bill to see whether it was part of the requirements that the owner fill out perhaps a declaration saying that this is my principle residence. So I'm not sure if there's any language in the bill that would just make sure that the -- someone's not taking advantage of this good process. Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Hampton.

REP. HAMPTON (16th):

Through you, Madam Speaker. Since this is a municipal option the municipality may have the ability to define -- make a definition of a permanent resident. Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

And I'm happy to hear that an di hope the municipalities will take advantage of that because certainly I'm not saying that there's people out there that would take advantage of this situation but there certainly could be and would hate to see someone get a tax break when really -- because properties held in

trust when it may not be their principle residence. They may have properties in Florida or other states and they just happen to hold the property in trust. So I think the intent of the bill and the language here is laudable.

I think we want to make sure that our -- our people who are ages 65 and older are protected and that their taxes which are extremely high throughout the State are kept low and they can afford to stay here. I mean that's really what we're desiring. So I just -- I just wanted to make sure that those for which the bill are intended are actually -- receive the benefits and those to try to take advantage of it there's procedures by which the municipality can make sure that doesn't happen. So I thank the gentleman for his answers and thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, Sir. Will you care to remark further on the bill before us? Will you care to remark further on the bill before us? Will you care to remark? If not, staff and guests please come to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.

Members to the Chamber please. The House of Representatives is voting by roll. Members to the Chamber please.

(Speaker Sharkey in the Chair.)

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted? If all the members have voted will members check the board to make sure your vote has properly cast remembering that the speaker controls the lock on the board. If all the members have voted the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally.

THE CLERK:

House Bill 5140.	
Total Number Voting	140
Necessary for Passage	71
Those voting Yea	139
Those voting Nay	1
Those absent and not voting	10

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SPEAKER SHARKEY:

The bill passes. Are there any announcements or introductions? If not, Representative Ryan.

REP. RYAN (139th):

Thank you, Mr. Speaker. Just a reminder that the optometrists will be having a ice cream social at 6:30 to 8 upstairs in room 310. Just a reminder for folks. Thank you.

SPEAKER SHARKEY:

Thank you, Sir. Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker. I'm not sure if I can see myself going to the ice cream social, Representative Ryan. Mr. Speaker, in a few brief moments we're going to take a break and we'll be having a democratic caucus in room 208A I believe -- 207A.

SPEAKER SHARKEY:

Thank you, Mr. Majority Leader. And the distinguished Minority Leader, Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. It looks like my caucus is lining up for that ice cream social because they ain't here. But we also upon recess will be taking a

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SENATE

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SENATOR LOONEY:

Calendar 456, House Bill 5440, move to place on the
Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Calendar 459, House Bill 5321, move to place on the
Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

And Calendar 461, House Bill 5140, move to place on
the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Moving to Calendar Page
16, Calendar 474, House Bill 5337, move to place on
the Consent Calendar.

THE CHAIR:

So ordered, sir. Senator, is there also on Page 15
that you might have missed.

SENATOR LOONEY:

The matter on Page 15 we have already voted, Madam
President.

THE CHAIR:

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Calendar 334, House Bill 5339.

Calendar 336, House Bill 5056.

On Page 7, Calendar 345, House Bill 5443.

On Page 9, Calendar 417, House Bill 5410.

On Page 10, Calendar 420, House Bill 5258.

Calendar 421, House Bill 5263.

Calendar 424, House Bill 5439.

On Page 11, Calendar 429, House Bill 5581.

On Page 12, Calendar 445, House Bill 5418.

Calendar 438, House Bill 5336.

On Page 13, Calendar 453, House Bill 5133.

Calendar 446, House Bill 5150.

Calendar 452, House Bill 5531.

On Page 14, Calendar 457, House Bill 5516.

Calendar 455, House Bill 5325.

Calendar 456, House Bill 5440.

Calendar 459, House Bill 5321.

Calendar 461, House Bill 5140.

On Page 15, Calendar 468, House Bill 5450.

Calendar 465, House Bill 5341.

On Page 16, Calendar 474, House Bill 5337.

Calendar 469, 5538.

Calendar 473, House Bill 5328.

On Page 17, Calendar 496, House Bill 5115.

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SENATOR LOONEY:

If we might pause for just a moment to verify a couple of additional items.

Madam President, to verify an additional item, I believe it was placed on the Consent Calendar and Calendar Page 30, on Calendar Page 30, Calendar 592, Substitute for House Bill 5476.

THE CHAIR:

It is, sir.

SENATOR LOONEY:

It is on? Okay. Thank you. Thank you, Madam President. If the Clerk would now, finally, Agenda Number 4, Madam President, Agenda Number 4 one additional item ask for suspension to place up on Agenda Number 4 and that is, ask for suspension to place on the Consent Calendar an item from Agenda Number 4.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President, and that item is Substitute House Bill Number 5566 from Senate Agenda Number 4.

Thank you, Madam President. If the Clerk would now, if we might call for a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk. Will you please call for a Roll Call Vote on the Consent Calendar. The machine will be opened.

THE CLERK:

An immediate Roll Call has been ordered in the Senate.

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An immediate Roll Call on Consent Calendar Number 2 has been ordered in the Senate.

THE CHAIR:

If all members have voted, all members have voted, the machine will be closed. Mr. Clerk will you please call the tally.

THE CLERK:

Consent Calendar Number 2.

Total number voting	36
Necessary for adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar passes. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Two additional items to take up before the, our final vote on the implementer. If we might stand for just, for just a moment.

The first item to mark Go is, Calendar, to remove from the Consent Calendar, Calendar Page 22, Calendar 536, House Bill 5546. If that item might be marked Go.

And one additional item, Madam President, and that was from Calendar, or rather from Agenda Number 4, ask for suspension to take it up for purposes of marking it Go, that is House Bill, Substitute for House Bill 5417. Thank you, Madam President.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**PLANNING
AND
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at/gdm/gbr PLANNING AND DEVELOPMENT 11:00 A.M.
COMMITTEE

CHARLOTTE HITCHCOCK: Thank you.

SENATOR OSTEN: Chris Drew is next, and last, unless anyone else would like to sign up.

CHRISTOPHER DREW: All right. Senator Osten, Representative Rojas --

SENATOR OSTEN: Excuse me one minute.

Phil, are you waiting around? I see you're on the list.

Thank you.

Sorry, go ahead, Chris.

CHRISTOPHER DREW: Okay. Senator Osten, Representative Rojas, members of the committee, thank you for the opportunity to appear before you this afternoon to comment on Raised Bill Number 5140, AN ACT CONCERNING PROPERTY TAX RELIEF ON CERTAIN REAL PROPERTY HELD IN TRUST.

My name is Chris Drew. I'm a shareholder of the law firm of Drew & Mersereau, and we have an office in Avon. And I practice law in the areas of estate planning and estate settlement. And I respectfully request that the Planning and Development Committee act favorably on Raised Bill Number 5140.

Connecticut General section -- Connecticut General Statute, Section 12-129 N, permits municipalities to provide property tax relief for elderly homeowners and totally disabled homeowners who meet an income criteria established by the municipality.

Raised Bill Number 5140 would permit people who qualify for property tax relief, based on

income or disability, to transfer their home to a trust to continue to qualify for property tax relief.

And I would like to emphasize two points this afternoon. First, when the -- for senior citizens, creating and funding a revocable living trust has become an important part of the estate planning process. When a person creates and funds a trust, they're implementing a plan to provide for the management of their financial affairs in the event that they become incapable of managing their own financial affairs.

Typically, the trust will provide for a successor trustee or a cotrustee who would be able to take over upon the incapacity of the principal and be able to help them pay their bills and manage their affairs.

In addition, when a person creates and funds a revocable trust, they are making a plan to provide for their eventual demise. And when -- when a trust is funded, it -- the probate process is necessarily made easier, and it also provides the successor trustee with the ability to immediately access trust assets to pay the funeral home and other expenses of the estate, such as utility bills for the house.

The -- the second point that I'd like to emphasize is that this -- this potential change to the statute is consistent with other statutes that already allow property tax relief for other individuals, including blind persons and veterans, if that person's house is owned by the trust.

And so we would -- this proposed legislation would be consistent with that area.

And while there may be a perception that trusts are only used by people with millions of dollars, my personal experience, and if I may summarize, my personal experience is that that is not the case.

I have worked with two clients in particular who are faced with a choice of setting up and putting their house into a trust or continuing to receive the property tax relief. And I believe that Raised Bill Number 5140 would certainly provide many people with the opportunity to plan for their potential incapacity and also help their family through the estate settlement process.

Thank you very much for the opportunity to be here this afternoon, and I'd be pleased to answer any questions that you may have.

SENATOR OSTEN: Yes, Representative.

REP. KOKORUDA: Thank you for being here.

I'm a little confused. In my town, I believe -- and I must be wrong -- but I always thought our tax -- senior tax program included people that had put their homes in trust, in family trust, as long as they were residing in the home.

Are you saying the state law now really prevents us from doing that, and maybe my town shouldn't be doing -- doing that?

CHRISTOPHER DREW: I'm not -- I'm not sure what your town should be doing. But they -- well, the statute itself provides that if the -- if -- that the person has to own the property and also reside in the property.

And my understanding is that, because the

language that's not in there providing that the property could be in a trust, that the town should not be providing property tax relief to a person who has funded their living trust with their house.

REP. KOKORUDA: All right. Thanks.

You know, thinking -- I know this is an issue for a lot of people, as -- the elderly, as they are trying to make plans for the future of their assets. And -- and I -- I think it's a good point.

I just -- I'm wondering how it's being interpreted by our municipalities. I'm very curious to see if my town's one of the few that sort of missed that. But I've got to text into my first selectman to check it out.

CHRISTOPHER DREW: Okay, well, thank you, your Honor, or Representative.

And I'd be happy to follow up with you if you have any additional questions.

REP. KOKORUDA: Thank you. Thank you,

CHRISTOPHER DREW: It's an old habit, die hard, with your Honor.

SENATOR OSTEN: I wasn't going to say anything.

Yes, Representative Sear.

REP. SEAR: Thank you, Madame Chair.

Just for clarification. So the fact that the property is -- is being held in trust has no connection, whatsoever, to them qualifying for that tax relief in terms of what their present condition is. Is that correct?

CHRISTOPHER DREW: Yes.

The -- there are criteria that are established by the town in terms of the income thresholds. And all this proposal would do would be to say that a person -- it would clarify that a person could put the property into the house and continue to reside in the house, and they would still qualify for the relief.

So I don't believe they would be opening a whole new class of people to receive property tax relief. It's just the same people who would be allowed to pick up the house in the trust.

REP. SEAR: Thank you.

SENATOR OSTEN: Representative Diminico.

REP. DIMINICO: Thank you, Madam Chair.

Not being a tax accountant or an attorney, is there any -- what are the implications in setting up a trust and how it relates to state or federal income tax? Is there any tax benefits to doing that?

CHRISTOPHER DREW: There's -- there's several different types of trusts. And so the most common type of trust that we're talking -- that we'd be talking about now, for this purpose, would be a revocable living trust, where you would have a person who would put their assets into the trust. And the primary benefit is the efficient management of their assets during life and upon death.

There are other types of trusts that can provide for estate tax benefits that would be like a credit shelter trust, but I don't -- I

don't think those would necessarily -- you could have a house that would be in trust. There may be some estate tax benefits. But I don't think that would be the primary purpose of this legislation. But it would really be to allow people to put their own house into trust. If they live there, it's for their benefit.

REP. DIMINICO: So you're basically saying that irrevocable trusts, there's really no tax benefit to an irrevocable trust except to manage the estate?

CHRISTOPHER DREW: Well, this -- this would be a revocable trust.

REP. DIMINICO: Oh, okay.

CHRISTOPHER DREW: And so the -- and there's -- there's several different types of trusts. And so the -- the main one that people are doing is -- would be for a senior who would just be not as concerned about his state tax consequences, because the estate tax thresholds have been increased with the federal exemption amount now at \$5.34 million. People are thinking less about estate taxes.

And the people who would be concerned about estate taxes most likely would not be meeting the income criteria to qualify for the low-income senior program.

So the people who would be benefiting from this program, would -- they would not be typically involved in any estate tax planning as part of -- as part of the benefit of using the trust.

REP. DIMINICO: Very good, thank you.

SENATOR OSTEN: Are there any questions?

Senator Cassano.

SENATOR CASSANO: Yes. Just a quick question on the residency.

Is there any residency length of time? Can I spend six months in Florida under this program, if I put my house in trust?

CHRISTOPHER DREW: That's a -- that's a good question. I believe that the statute itself provides -- and I'll just flip to that -- so it says with respect to real property owned and occupied by residents as their principal residence. And so I would read that to say -- to indicate that it would have to be a person who's a resident of Connecticut as opposed to a person who's a resident of Florida

SENATOR CASSANO: Which would be six months and a day.

CHRISTOPHER DREW: Yes.

SENATOR CASSANO: Okay. Thank you.

SENATOR OSTEN: Representative -- I mean, excuse me, Senator Fasano.

SENATOR FASANO: Thank you, Madam Chair.

Tell me, where -- where were there be abuse in what you have? How could someone -- see, the only thing I'm concerned about. And I don't know the estate law at all.

Where do you think someone could abuse this change that is being proposed? Was there not -- using the trust, not for the purpose that you intend, but they figure out some way to put it in a trust and then the person's in Florida.

I don't know. But -- but how -- how do you think they -- they do that?

CHRISTOPHER DREW: You know, I've given some thought to that, as we've been thinking about this legislation for quite some time. And it would be -- legislation would be similar for the legislation that's already in place for veterans and for blind individuals.

And I believe that, because the criteria for property tax relief is based upon the age of a person, 65 and older, and also is income-based, I think it would be very difficult for people to establish the -- to abuse what we're trying to accomplish --

SENATOR FASANO: So let me ask you --

CHRISTOPHER DREW: -- by putting their house in trust.

SENATOR FASANO: -- let me ask you two questions. First is, if it is a revocable trust -- I'm going back, because I haven't done this stuff -- but if it was a revocable trust, that means, if I put my stuff in a revocable trust, I still have ownership over that trust because I haven't revoked it and I can take it out any time. Is that correct?

CHRISTOPHER DREW: Yes. That is correct.

Typically, a person would be the donor of the trust.

SENATOR FASANO: Right.

CHRISTOPHER DREW: The person contributes to the assets to the trust would also be the trustee of the trust and would retain control over

those assets.

SENATOR FASANO: If I put my asset into a revocable trust, and then I were sued by some person, and they wanted to attach that asset in that revocable trust, would that asset be subject to creditors?

CHRISTOPHER DREW: Yes. There is no asset protection.

SENATOR FASANO: So that would kind of answer why maybe some towns, who see a revocable trust, treat like it's the same person cause it's revocable, and technically, they still have ownership interest. Right?

CHRISTOPHER DREW: That may be why the town where Representative --

SENATOR FASANO: Right.

CHRISTOPHER DREW: -- why they interpret it that way.

SENATOR FASANO: Correct. That's --

CHRISTOPHER DREW: And I think this would just clarify that.

SENATOR FASANO: All right.

So then the second question I would have -- what was I going to say -- so if -- if I owned the property and I was over the age and I can get the benefit of the tax, the town could always check whether Len Fasano lived at his address, because they know they're looking at the deed, it says Len Fasano. They mail the bills to Len Fasano. Len Fasano either gets the mail or doesn't get the mail. Maybe that's the way I know whether Len Fasano lives there

or not. But if it's in a trust, and the deed is trust, the bill goes to the trust -- right -- at some PO box or law firm or wherever it goes. How does the town ensure that the donor, being Len Fasano, is still there?

Because the trust can own it and I could say conceivably, frankly, right, I could say -- I could have the ABC trust, revocable trust, put the property in the trust, leave it in the trust, but make the beneficiary of that trust Bill Aman. The town would never know that I changed the beneficiary. They would still know from the first filing that it's me.

How would they ever catch up to the fact that it's Bill Aman? What would be the mechanism for the town? Before, if it's under my name and I transfer the bill, that I would click in all sorts of folks to know about it.

How would you track it if I did something like that?

CHRISTOPHER DREW: Well, my understanding of the -- how it works within -- I live in Simsbury. And my understanding for how it works in Simsbury is that the town -- you -- a person has to come into the town to apply for the tax break. And so they have to provide a copy of their 1040 that shows, you know, the -- with their address on the 1040.

And so, I think, that would provide a certain level of assurance.

SENATOR FASANO: They do that -- do they do that every year?

CHRISTOPHER DREW: I believe that's the case, yes. So that -- so that that way there's a --

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SENATOR FASANO: Sorry. Go ahead.

CHRISTOPHER DREW: -- I believe that's the case that a person would have to continue to apply to show that the income that they have meets the criteria that's established by the town.

And I think, you know, I don't know that there would be a distinction if the question was were there other people who were living in the house. I don't know if there's a -- you know, how you would distinguish whether a person who had the property in their name and permits their grandchildren to live in the house, you know, I don't know how you'd distinguish that.

SENATOR FASANO: Yeah, whatever happens now happens. So that would be --

CHRISTOPHER DREW: Right. I don't think it would be any different from that.

SENATOR FASANO: Okay.

Thank you very much.

CHRISTOPHER DREW: You're welcome.

SENATOR OSTEN: Are there any other questions?

Thank you very much.

CHRISTOPHER DREW: All right. Well, thank you for the opportunity to be here.

SENATOR OSTEN: And I believe last now is Phil Chester.

PHILIP CHESTER: Hi. Thank you, Madam Chair and members of the Planning and Development Committee.

SB117



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PLANNING & DEVELOPMENT COMMITTEE

February 21, 2014

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 92% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

SB 114 "An Act Establishing A Property Tax Program To Encourage The Preservation Of Historic Agricultural Structures"

SB 116 "An Act Concerning Personal Property Tax Relief For Businesses Affected By Major Construction Activities"

HB 5140 "An Act Concerning Property Tax Relief On Certain Real Property Held In Trust"

SB 114, SB 116 and HB 5140, although appearing to be voluntary, are de facto mandates.

De Facto Mandate

By definition, a state mandate is "any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state court and any legislation necessary to comply with a federal mandate." However, **in practice, these onerous state laws and proposals come in a variety of forms.** In some cases, the General Assembly passes legislation that a municipality may adopt by local option which, as a practical political matter, local government cannot avoid. Thus, the State imposes chameleon-like mandates termed optional or "**de facto**" mandates.

Make no mistake; this circuitous breed of state mandates can impose an equally negative burden on towns and cities - particularly on shifting costs onto residential and business property taxpayers.

"De facto" mandates are those proposals that provide municipalities with various "options" that would, for example, expand criteria and eligibility for local property tax exemptions. By codifying such 'options' the State politically wedges local officials into enacting many of the proposals - despite potential negative fiscal impacts. Critics are clear to point out, "so what, towns and cities don't have to enact the options." Again, the political reality is that they often have no choice.

Good intentions can have unintended consequences - as would be the case with many "de facto" mandate

proposals. Simply put, in times like these -- our hometowns cannot afford new unfunded state mandates, "de facto" or otherwise. The General Assembly should take no action on "de facto" mandate proposals.

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If you have any questions, please contact Randy Collins, Senior Legislative Associate for CCM, at rcollins@ccm-ct.org or (860) 707-6446.

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Testimony of Christopher S. Drew, Esq.
In Support of Raised Bill 5140
An Act Concerning Property Tax Relief on
Certain Real Property Held in Trust

Planning and Development Committee
February 21, 2014

Senator Osten, Representative Rojas, members of the Planning and Development Committee, thank you for the opportunity to appear before the committee to comment on Raised Bill No. 5140, An Act Concerning Property Tax Relief on Certain Real Property Held in Trust. My name is Christopher S. Drew. I am a Shareholder of Drew & Mersereau, P.C., a law firm with an office in Avon. I practice law in the areas of estate planning and estate settlement. I respectfully request that the Planning and Development Committee act favorably on Raised Bill No. 5140.

C.G.S. Section 12-129n permits municipalities to provide property tax relief for elderly homeowners and totally disabled homeowners who meet an income criteria established by the municipality. Raised Bill No. 5140 would permit people who qualify for property tax relief based on income or disability to transfer their home to a trust and continue to qualify for property tax relief.

Many people are using revocable living trusts as an important part of their estate plan. Essentially, a trust is a contract between the person who establishes the terms of the trust (the Donor), and the person who agrees to manage the trust property in accordance with the terms of the trust (the Trustee), for the benefit of the beneficiaries of the trust. The Donor can change the terms of a revocable living trust at any time as long as the Donor is still competent.

Many trust agreements provide for the same person to be the Donor, the Trustee and the primary beneficiary of the trust. By serving as Trustee, the Donor retains control over the assets in the trust during his life. The Donor will often transfer ownership of his assets into the trust during his life.

Typically a client would sign a deed to transfer ownership of the house into the trust.

There are several benefits to funding a trust during a person's life. The first benefit is to create a plan for the possibility of the Donor becoming incapable of managing his own financial affairs during his life. The trust can provide for the Donor's child to either serve as a Co-Trustee with the Donor or as a successor Trustee to manage the assets for the benefit of the Donor if the Donor becomes incapable of managing his own affairs. The second benefit of funding a trust is to create a plan for the management of the Donor's property at his death. Typically when a person funds a trust with his assets during his life, the probate process is easier for his family upon his death. In addition, upon the death of the Donor the successor Trustee has the ability to immediately access trust assets to pay bills such as funeral bills and utility bills for the house.

The change to C.G.S. Section 12-129n proposed by Raised Bill No. 5140 is consistent with the following statutes that already offer property tax relief if the person's house is owned by a trust:

- C.G.S. Section 12-81(17) for blind persons;
- C.G.S. Section 12-81(19) for veterans;
- C.G.S. Section 12-81(20) for servicemen and veterans having disability ratings; and
- C.G.S. Section 12-81(22) for a surviving spouse or minor child of a serviceman or veteran.

While there may be a perception that trusts are only used by people with millions of dollars that is not the case. Many people who are currently qualifying for property tax relief in accordance with C.G.S. Section 12-129n would benefit from the opportunity to use a trust as part of their estate plan. Personally I have worked with two clients who were faced with the choice of either funding a trust or continuing to qualify for property tax relief. Raised Bill No. 5140 would resolve this dilemma for those two people and many others across the state.

Thank you again for this opportunity to comment on Raised Bill No. 5140. I would be pleased to answer any questions you might have, either now or at your convenience by telephone or e-mail.