

LEGISLATIVE / REGULATORY UPDATE
"FINAL GAVEL"

2nd SESSION OF THE
145TH GENERAL ASSEMBLY
AS OF: 7 July 2010
EXECUTIVE SUMMARY

"This is unsustainable."

Another Session has ended with the budget dominating most of the work in the Legislature. With another round of federal stimulus monies and small bumps in general tax revenues from the estate and escheat taxes, the General Assembly once again brought a budget in under the 98% of projected revenues, sparing the business community and the citizens any of the huge tax increases from last year. This year also saw tremendous pressure building for expansion of gaming above and beyond our three licensed operators, until the Governor put a pause in May, which ended any efforts to get a vote on HB194 or its derivatives.

The 2nd Session did not see any special elections that occurred in 2010 (Sen. Booth and Rep. Briggs-King), but the state did see a number of significant retirements from the House. Representative William Oberle, (R-24th) first elected in 1976, announced his retirement earlier this year, after years on the budget and bond bill committees. He was the second longest serving member of the Assembly in history, only exceeded by Speaker Robert Gilligan, who was elected in 1972. Also retiring this year is Rep. Pam Thornburg (R-29th) and Rep. George Carey (R-36th). All three members have over the years, contributed significantly to Delaware. However, a special note of thanks to Rep. George Carey, who for the real estate and development communities, was always there protecting individual private property rights from government intrusion and outright confiscation. Many will never know the work that was done on our behalf. Thank you.

As the economy continues to show no signs of "normalcy" and whether a recover has begun or a double dip is around the corner, the budget actually grew some 6.6% from last year's 2010 with some \$240million in additional spending. However, the Governor's budget, as highly amended by the Assembly, did not raise any taxes to meets its obligations. Here is a general breakdown of spending for FY2011:

General Operating Budget	\$3.3billion
Bond/Capital Improvement Bill	\$389.7million
Grant-in-Aide	\$35.2million

Yet, many of the hard issues have again been left on the table for another year. There was no action to change the state's pension program for new employees, or look at dramatically changing the state's employee health plan. The state did not address spouses who work for the state getting their health insurance for free, or the salary step increases for teachers that occurred despite the 2.5% cut from last year (which was given back this year). The Assembly also restored the school nurse program, the school district bus transportation funding, and kept state troopers in public schools, all programs the Governor had put on the table. The spending included some interesting line items such as \$38,000 for the Delaware Estuary Program, and under the Dept. of Labor, some \$425,000 for the Delaware State Summer Youth Employment Program. Of this amount, \$256,700 goes to the City of Wilmington.

As in year's past, the money bills passed, yet the budget still received 13 No votes in the House. Of particular interest were Senator Bonini's comments on the budget, where he observed, "What is before us is unsustainable. We all know it; we are just unwilling to do what is right for Delaware (sic)." He went on to explain that Delaware's budget has doubled since 1998, and we have 32,000 state employees. It is unsustainable.

The year's Session ended for the Senate around 2:15 AM, and for the House shortly thereafter around 2:30 AM. However, despite budgetary pressures, and numerous individual bills, the outlook for the real estate, building/development communities and property owners alike remained unchanged. **Numerous bills that would have curtailed the ability of the property owner to sell and transfer real property in Delaware have remained tabled in committee, did not have a committee meeting, or were not brought forward for a vote by the Assembly.**

Here is a partial list of bills from the 2nd Session that could have negatively impacted our collective industries and the rights of property owners, but DID NOT SEE any FINAL ACTION:

- * Legislation seeking to impose a "pattern and practice" of violations by owners of manufactured housing communities;
- * Legislation that would mandate "universal design" for all new homes that take any federal or state financial assistance, and;
- * NCC seeking to eliminate the first time home buyers exemption on homes over \$400,000.

This Session again saw passage of a number of energy bills related to housing and construction; the first would allow home owners to install ground mounted solar panels on property larger than ½ acre, with restrictions, and; Language in the Bond Bill that would prevent any municipal or county from placing zoning restrictions on residential wind turbines.

Of general business interest was the following legislation:

- * Passage of HB432 that allows the tasting of spirits, not just beer;
- * Passage of a bill that prevents 3rd party "private transfer fees/taxes," and;
- * Passage of stronger consumer protections within the AG's office.

A note of thanks to the REALTORS®, the multi-family housing sector, individual property owners, HBADE, CIRC, the manufactured housing team, and the other trade associations that I am grateful in representing, for all recognizing political engagement often means the difference between success or failure.

Respectfully Submitted;
C.S.KIDNER ASSOCIATES/CAPITOL STRATEGIES
C. Scott Kidner

REVIEW OF LEGISLATION

I. LAND USE/ENVIRONMENTAL/ENERGY

The following bills and positions noted represent the overall housing and development industries as it relates to their collective abilities to use and transfer real property within the state of Delaware.

SENATE

SB252 – Sen. Bushweller and Rep. Blakey – Kent County Zoning
OPPOSED

Introduced in Mid-May, this sought to dramatically change the KC Levy Court's notice to private property owners about zoning changes. After aggressive action by Kent County REALTORS® and local attorney's familiar with the details of these notices, a substitute was offered. However KC Levy court eventually decided to not support the compromise. The bill was stricken on June 24th.

No Further Action Taken.

SB266 – Sen. McDowell and Rep. Brady – Green Energy Fund
NEUTRAL

It strengthens the Green Energy Fund by providing greater discretion to the Secretary of DNREC on the residential and nonresidential grant programs for energy efficiency projects, including renewable energy technologies.

Awaiting Governor's Signature.

SB273 – Sen. McDowell and Rep. Brady – Weatherization Assistance
NEUTRAL

The act transfers administration and staff of the federally and state funded Weatherization Assistance Program and the Low Income Home Energy Assis. Program from the Delaware HHS to the State Energy Office, which includes funding generated from the Regional Greenhouse Gas Imitative (RGGI) of the Northeast Region. The bill remains in the Senate Executive Committee since its assignment.

No Further Action Taken.

SB316 w/SA#2 – Sen. Peterson and Rep. DE Williams – Yard Mounted Solar Panels
OPPOSED

Introduced on June 15th, the bill initially allowed solar panels to be installed on any residential lot of ½ acre or more, despite any covenants, deed restriction or other laws. After aggressive work by the REALTOR® community, the retroactivity was removed and other amending language was attached concerning the Unit Property Act. It eventually passed both Chambers by June 30th.

Awaiting Governor's Signature.

SB321 – Sen. Sokola and Rep. B. Short – DEDO and TDR's
NEUTRAL

The bill seeks to require DEDO to maintain a list of all the transfer of development rights that exist, and the holders of those rights. Reported out of the Senate small Business Committee on June 24th.

No Further Action Taken.

HOUSE

HB50 – Rep. Hocker and Sen. Bunting – Dewey Beach 35 Ft.
NEUTRAL

The bill from last year sought to place a 35 foot zoning restriction within the Charter of Dewey Beach. While an amendment offered by the sponsors in the House was successfully attached to the bill offering some protection to property owners, the real estate community believed that placing height restrictions in a town charter was unprecedented and unnecessary. There was some action early in January 2010, but eventually, the amount of opposition from other business groups including Dewey Beach Enterprises (which this was specifically directed towards) kept the bill from being acted upon in the Senate, where it remained on the ready list.

No Further Action Taken.

II. HOUSING

SENATE

SB131 – Sen. Ennis and Rep. Cathcart – Mandatory Disclosers for Housing Projects with Increased Density Bonuses.

OPPOSED

This bill from last Session regained momentum this year when Sen. Ennis asked for the bill to be released from Committee on June 9th. It mandates discloser by builders and REALTORS® about the number of bonus density homes in the project, any financial costs these homes add to market priced units as well as some regression analysis on the impact of these homes on the total project. The bill got released with an agreement that the NCC Administration would amend the bill to remove the "redlining" contained in the bill. Language was drafted, but HBADE remained opposed, and the bill never made the Senate agenda in 2010. *No Further Action Taken.*

SB212 w/SA#1, #2, and #3 – Sen. Ennis and Rep. Mitchell – Fireman’s Tax
OPPOSED

This legislation would enable NCC Government to impose a new impact fee/surcharge on any building permit in an amount not to exceed .5% of the construction value, which would be distributed to NCC fire companies. After great efforts by the builder and real estate industries to defeat this legislation, a series of amendments were added, some makes clearer the intent, while SA#3 limits the tax/surcharge on commercial construction to the first million dollars of value. The bill passed both Chambers without incident and New Castle County has already imposed, by ordinance, a .25% building fee on all construction.

Signed by Governor.

SB226 – Sen. Deluca and Rep. Viola – Elimination of First Time Homebuyer’s Exemption on NCC Transfer Tax.

OPPOSED

Introduced on behalf of NCC on March 30th, the bill was assigned to the Senate County and Community Affairs Committee. After weeks of discussion between the real estate and home builder communities, the bill was heard in Committee on April 21st with some 9 REALTORS® in attendance arguing against the bill. Not having the votes for release, the bill was walked on April 28th, and eventually placed on the Senate Agenda on June 9th. Again, after intense and continuous pressure from NCCBOR and DAR, the bill was laid on the Table in Senate, with an amendment attached on the 21st. Fully expecting the bill to be worked by the Pro-Tem, the Session ended with no floor vote taken by the Senate.

No Further Action Taken.

SB268 – Sen. Peterson and Rep. Mitchell – International Mechanical and International Fuel Gas Codes.
NEUTRAL

Impacting the residential and commercial construction industries, the bill mandates to the state Board of Plumbing, HVAC and the local governments to adopt and enforce the IMC and the IFG Codes. The bill was done by June 24th.

Awaiting the Governor’s Signature.

SB322 – Sens. Bunting and Sokola and Reps. Brady and Bennett – Elimination of Private Transfer Fees.
SUPPORT

Introduced on June 23rd on behalf of DAR, the bill was assigned the Senate Finance Committee, where it was released on June 29th. The bill seeks to prevent third party companies to place on the deed or covenant of residential property, a private transfer tax up to 1% of the value of the home, in perpetuity. Essentially, the bill would allow a developer to sell these ongoing annuities as a financial product that could then be sold to other investors. Prior to introduction, the bill was reviewed by the HBADE counsel, and the AG’s office. Shortly before Senate floor action DAR became aware the actual company, Freehold Capitol Partners from NYC that creates this funding mechanism, had hired a lobbyist to prevent the passage of the bill. However, to no avail, the bill passed the Senate and House on June 30th by votes of 20 and 39 Yes respectively.

Awaiting Governor’s Signature.

HOUSE

HB30 – Rep. Jacques and Sen. Ennis – Increases School Impact Fees
OPPOSED

Thought to be dead from last year because the Sponsor said he would work with the affected industry, he moved the bill onto the House Agenda in January – passing on a virtually party line vote. It seeks to increase the Voluntary School Assessment fee paid by builders by a factor of 1.2, however such that the fee shall not exceed more than 6% of the total cost of the residential unit. Strongly opposed by HBADE and real estate industries because it raises the cost of housing in a difficult market, the bill was then assigned to the Senate County and Community Affairs Committee. Over the next number of weeks, builders worked to dramatically amend, or keep the bill from passing. After a hearing on 12 May in the Senate committee, the bill failed on a 4 to 3 votes to be released. *No Further Action Taken.*

HB105 w/HA#2 and SA#2 – Rep. Atkins – Tree Maintenance

OPPOSED

The bill establishes the obligations of the community owner of manufactured housing as it relates to removal and maintenance of trees. Introduced in March 2009, the bill saw a number of significant rewrites as community owners and tenants tried to deal with liability issues and access to lots to deal with the trees. HA#2 reflects added definitions of a tree and areas of responsibility of the tenant. It also adds when owners may access the lot and under what circumstances. The amended bill removed the more difficult issues, but industry believes the legislation is completely unnecessary. Passing the House on June 30th, the bill was eventually assigned to the Senate County and Community Affairs Committee in January 2010. A hearing was held on March 31st – and reported out of Committee with amending language. SA#3 was attached, which becomes the bulk of the bill on requiring maintenance of trees 25ft in height or 6 inches in diameter on tenant's lots.

Signed by Governor on May 16, 2010.

HB246 w/HA#1 – Rep. Longhurst and Sen. Bunting – Right of First Offer

OPPOSED

Introduced late in June, the bill requires the registration of home owners associations, but within the bill there is an attempt to re-draft the "notice of the intent to sell" that was previously passed last year. It requires delivery and content of the notice, and clarifies language on counter-offers made by the homeowners association. Amended significantly with HA#1 that refines the how and when of the notice of sale, and talks about calculation of unused days on mailing notices. The bill passed the House in June 2009 and assigned to the Senate County and Community Affairs committee in January. With no further amending, the bill passed the Senate on March 30, 2010.

Signed by Governor on April 18, 2010.

HB280 – Rep. Q. Johnson and Sen. Simpson – Five Day Notice

SUPPORT

The bill clarifies the ambiguities on the landlord tenant code relating to "five day notice" that is sent to the tenant that has not paid rent on the due date, and the "seven day notice" to tenants that have broken rules or the lease, by removing the formal service currently required by the Courts. The bill reduces the costs of notice by the Landlord, but the JP Court sought to have it tabled until they could determine if tenant's rights would be impacted. The bill remained active throughout the 2010 Session, but the sponsor never sought a floor vote.

No Further Action Taken.

HB292 – Rep. Marshall – Superior Court Appeals

NEUTRAL

Allows any person with action in Title 25, the Landlord Tenant Code, aggrieved by a decision of the JP Court, to appeal the decision to the Superior Court. Introduced on June 30th, the bill sits in the House Judiciary Committee.

Stricken on January 10, 2010.

HB311 – Rep. Longhurst and Sen. Ennis – Pattern and Practice.

OPPOSED

Introduced on January 21, 2010, the bill would impose a "pattern and practice" of violations in Title 25, Sec. 7025 committed by manufactured community owners as it relates to their leases, such that 3 or more violations would create a "pattern" of willful violation. After two hearings in committee, bill was never released.

No Further Action Taken.

HB312 w/HA#1 – Rep. Longhurst and Sen. Ennis – Standing Water

OPPOSED

Introduced in January, the bill requires manufactured community owners to prevent the accumulation of standing water on the lots of tenants. The amendment clarifies the term "standing water" that does not dissipate within 48 hours after precipitation, however areas defined by local, state, or federal regulations as flood plains, tidal areas, water recharge areas or recorded drainage systems are exempt from the bill.

Passing the House on a virtual party-line vote. It was assigned to the Senate County and Community Affairs, eventually passing in the Senate on May 4th.
Signed by Governor May 14, 2010

HB313 – Rep. Longhurst and Sen. Ennis – Consumer Protection Advisory Councils
OPPOSED

Also introduced in January, the bill would require the use of alternative dispute resolution (ADR) for all aspects of the agreements between community owners and tenants, as well as create a tenant legal fund. Highly amended by HA#1, which becomes the bill, the industry believes the language still needs significant refinement because it places undo advantage with tenants. The bill passed out of Committee on March 31st, and was placed on the House Ready List.
No Further Action Taken.

HB320 w/HA#1 and SA#1 – Rep. Cathcart and Sen. Ennis – Chain of Title for New Homes
OPPOSED

It seeks to provide the buyer all the financial obligations in the chain of title in new home sales. This is a result of buyers not knowing of their obligations in the Odessa National housing development. The bill was amended to exclude the Uniform Common Interest Ownership Act (Condo Code) and to allow the Real Estate Commission to amend or offer new forms for this information to be presented prior to the execution of the contract.
Signed by Governor on May 10, 2010.

HB321 w/HA#1 – Rep. Cathcart and Sen. Ennis – Non-Collection of Fees
OPPOSED

Also a result of Odessa National, the bill originally sought to prevent any developer/builder from collecting any fees for amenities that were not available for the residents in their specific development, and to do so retroactively to October 1, 2005. After opposition from the HBADE the retroactivity was removed, and the bill moved through both Chambers by June.
Signed by Governor on June 10, 2010.

HB391 – Rep. Longhurst and Sen. Ennis – Pre-Counseling for Tenants
OPPOSED

This seeks to require mandatory counseling by the Delaware State Housing Authority of a manufactured housing tenant, as well as a number of written disclosures, all prior to the tenant signing leases in a community. Universally opposed by both the FSMHA and DSHA, the bill was amended with HA#1 that reduced the bill to only disclosure statements made to the tenant at least 2 weeks prior to their signing a lease agreement. Released out of Committee in May.
No Further Action Taken.

HB392 w/SA#1 – Rep. Longhurst and Sen. Ennis – Community Centers
NEUTRAL

Seeking to mandate the use of community centers by a group of tenants, or a tenant's association, upon notification to the owner, the bill was hotly debated and contested by a number of community owners within FSMHA. However, the industry did not take a position in opposition, since many owners had clearly established rules and guidelines for the use of their community centers. Passing un-amended in the House on another mostly partisan vote of 21 yes, (only after the Majority Leader asked a member to switch their previously recorded vote) the bill was amended in the Senate. This places a 14 day response by the community owner back to the tenants on the use of the center. The bill w/SA#1 passed the House with 27 Yes votes on June 30th.
Awaiting the Governor's Signature.

HB426 – Rep. Q. Johnson and Sen. Sorenson – Universal Design
OPPOSED

Introduced in May, the bill would require all new homes constructed that use any local, state, or federal financial assistance to be constructed under the Universal Design standards as described in the bill. Supported by the Disabilities Council and other advocates, the bill had been under discussion with the

non-profit housing providers for many months until its introduction when the bill became known to the HBADE. After numerous conversations between the advocates, HBADE and the non-profit builders, the bill's sponsor would work to amend the bill prior to a possible re-introduction in January 2011.

No Further Action Taken.

HB460 – Rep. Schwartzkopf and Sen. Bunting – Standards for Accessible Design

NEUTRAL

Introduced late in June, the bill requires the counties and municipalities to adopt the Standards for Accessible Design as contained in federal regulations, and to include enforcement and penalty provisions within those local regulations. After discussion with HBADE, the sponsor indicated he would run the bill next year.

No Further action Taken.

III. TAXES

As previously discussed in the Executive Summary of this report, there were no tax increases for FY2011.

IV. BUSINESS ISSUES

SENATE

SB241 – Sen. McBride and Rep. Mulrooney – Chronic Violator Status

NEUTRAL

The bill would give DNREC' Secretary broader powers in determining what is a chronic violator, adding new categories of business, and types of violations, as well as increased fines. Generally opposed by the State and Central Delaware Chamber's of Commerce, the bill was tabled in the Senate Environment Committee.

No Further Action Taken.

SB243 – Sen. Peterson and Rep. Oberle – Dram Shop Liability

OPPOSED

As with every Session, Senator Peterson has introduced a bill that would hold bar owners, servers, and any alcohol licensee responsible for the actions of an intoxicated customer that injures or kills an innocent party. The Delaware Restaurant Association, in concert with the Hotel Lodging Association and the Chambers, all opposed the bill because of the potential for unlimited civil damages, couple with much higher liability insurance. However, most troubling with the bill is there is no practical way of proving you are innocent of causing that person to become drunk or their actions afterward. After aggressive action by the business community, the sponsor struck the bill on June 30th.

No Further Action Taken.

SB256 – Sen. Booth and Rep. Hocker – Reciprocal Preferences

SUPPORT

This seeks to apply any preferences that are applied to a Delaware business when they are competing for jobs out of state, to those businesses seeking work with the State of Delaware. Assigned to the Senate Small Business Committee on May 5th, the bill never had a hearing and remains tabled in Committee.

No Further Action Taken.

HOUSE

HS#1 to HB229 w/amendments – Rep. Scott and Sen. Sokola –

Cell Phone Ban.

OPPOSED

The bill is an outright ban on the use of cell phones while operating a car on any road in the state with fines for first offense of \$50. Introduced on June 17, 2009, the bill was released from Committee on a partisan vote the next day, and remained on the House Ready List until January 2010 with HS#1 to the bill. After numerous industries, including the utilities, ham operators and the agricultural industry all

seeking exemptions, the bill passed the Senate in June with SA#1 and SA#3, eventually passing the House on June 30th

Awaiting the Governor's Signature.

HB237 – Rep. Viola and Sen. Cloutier – Automatic Doors

OPPOSED

It requires that all newly constructed businesses and other places of public accommodation be equipped with automatic doors for persons with disabilities. While noble in its goal, the bill ran into conflict with the ADA and other building codes, and increases the cost of construction. After a commitment to work with CIRC from the sponsor before January 2010, language was eventually agreed to that requires, at a minimum, for all newly constructed commercial structures after January 2011, a calling device that allows the occupant to know a person with a disability needs assistance to open the door. It passed the Senate in June.

Awaiting the Governor's Signature.

HS#1 to HB247 w/HA#1, #2, and #4 – Rep. Keeley and Sen. McBride – Consumer Protection.

OPPOSED

Some 17 pages long, the bill was drafted by the Consumer Protection Unit of the AG's Office, providing for extensive revisions of the title and adding new administrative powers to the Director's office to prosecute businesses that offer, sell, or provide services or products that harm the public. Like last year, the bill was again opposed by the REALTOR® community, Chambers, and some insurance companies. Tabled in Committee, the bill was reheard in the House Judiciary Committee on March 17, 2010 after the sponsor agreed to language that would remove the "double jeopardy" problem for those individuals already regulated under the Division of Professional Regulations. However, late in the Session, numerous members of the Delaware Bar have lobbied the Governor to veto because it opens up corporations to punitive damages by the AG's office not previously held.

Awaiting the Governor's Signature.

HB256 – Rep. B. Short – Mortgaging of Leasehold Interests.

NEUTRAL

This amendment to law is seeking to allow for certainty regarding leasehold mortgage transactions in accordance with what is customary, which is 10 years of the original length of the term, not what remains of the term.

The bill remained unheard in the House Banking and Insurance Committee until June 2010, where it was moved out and adopted in the House on a Consent Calendar, then passing the Senate on June 30th.

Awaiting Governor's Signature.

HB371 – Rep. B. Short and Sen. DeLuca – Commercial Insurance

NEUTRAL

The bill seeks to allow in commercial loan situation to allow for insurance policies be given to lenders as evidence of insurance on the collateral. Assigned to the House Banking and Insurance Committee on April 20, 2010, the bill eventually passed the Senate on the last night of Session.

Awaiting Governor's Signature.

HB376 – Rep. Mitchell and Sen. Ennis – Floor Emergency Lighting

OPPOSED

Introduced on behalf of a company that manufactures these specific floor mounted emergency lights for commercial structures, the bill drew criticism from the Fire Marshall's office and CRIC, because of the costs associated with these new lights, no implementation date, or consideration of non-hallway designed floor plans. Assigned to the House Public Safety Committee in April, where it remained for the rest of Session.

No Further Action Taken.

HS#1 to HB390 – Rep. B. Short and Sen. Katz – Administrative Procedures Act
SUPPORT

The bill would require all State agencies, prior to issuance of any regulation, the preparation of a regulatory flexibility analysis to determine the adverse impact, if any, of the regulation on the small business community. Heralded by the Chambers, the bill was modeled after some federal provisions advanced by the SBA. However, some in the Senate felt the bill would unduly burden the State with new costs and after passing the Senate, it was assigned to the Senate Executive Committee.

No Further Action Taken.

HB400 – Rep. B. Short and Sen. Bushweller – Construction Disputes
SUPPORT

Essentially the bill makes it a void as against public policy any provision in a contract agreement relating to building construction work that make litigation, mediation or arbitration processes the laws of another state. Supported by the Chambers and others, it seeks to reduce Delaware companies from exposure to out of state laws in these specific contracts. Reported out of the Senate Labor Committee on June 16th, it never reached the Senate Agenda.

No Further Action Taken.

HB422 – Rep. B. Short and Sen. Bunting – Consumer Legal Financing
NEUTRAL

Most unique in its scope, the bill would attempt to regulate a business model that allows businesses to loan money to plaintiffs so that they can advance their lawsuits. It would create new provisions to help protect consumers who enter into these contracts by disclosing their rights, cancellation procedures, and all fees and costs associated with using the advanced money. When heard in committee, the insurance industry spoke in opposition until a further understanding of exactly what this product is, and who should regulate it. The bill gained enough support to be released on June 16th, but never made the agenda.

No Further Action Taken.

HS#1 to HB428 – Rep. Barbieri and Sen. Peterson – Dram Shop
OPPOSED

Very similar to the Senate version, this also seeks to expand civil liability to the licensee holder for actions of, in this case, a minor who injures or kills another person. Strongly opposed by the DHLA, DRA, and the Chambers, the bill was heard in committee on June 2nd, and then after much debate among committee members, it was tabled. The sponsor said he would return with changes with a substitute introduced on June 9th.

No Further Action Taken.

HB432 – Rep. Viola and Sen. Ennis – Tasting for Wine and Spirits
SUPPORT

It would allow licensees to offer high end 80 proof spirits to be “tasted” as way of promotion, much like beer and wine are currently allowed. The bill would still limit the taste to no more than a ½ ounce serving. Supported by the wholesale and retail liquor industries, the bill passed both Chambers by the end of Session.

Awaiting the Governor’s Signature.

HB476 – Rep. B. Short and Sen. Katz – Stormwater Discharge Fees
SUPPORT

Seeking to redress the fees charged to a large private property owner in Wilmington, the company got legislative support to introduce the bill clarifying that only if water is actually discharged into the municipal system, can fees be charged. It also provides for relief if the fees have been paid, such that those fees must be re-paid. After strenuous objections from the City, the sponsor agreed to table the bill, based upon the City’s willingness to work with the property owner.

No Further Action Taken.

GAMING LEGISLATION:

*** HB194 – Expansion of Gaming/Del-Point**

On behalf of the Schell Family and their residential and commercial development project in Millsboro, the bill would allow a new operator for VLT's, sports bet, coupled with a standard bred track in Sussex County. The advocates believe there remains untapped gaming dollars in the state and consider the under-served beach market would provide enough money for their project and the currently operating tracks. The opponents think there is a limited gaming dollar in Delaware and our surrounding areas, coupled with the new taxes, makes the project highly questionable. Under suspension of rules at the close of Session in 2009, the bill was introduced on the House Floor without a hearing in the House Gaming Committee. The bill remained on the House agenda for months, until in late May, when the Governor with agreement from the sponsor, pulled his support of the bill. By the end of Session there were at least 7 different projects spread throughout the state – all seeking to gain VLT's or some form of gaming. In general, they were referred to as the following:

DelMar Del Point	Indian River Marina and Casino	
Georgetown Raceway	Christina River Front Project	The NVF Site
7 Th Street Peninsula	Tri-State Mall Project	

*** HB310 – Allows Table Games at the 3 Racinos**

This was the culmination of work started in the fall of 2009 that created the framework for full-on gaming at the three licensed operators in Delaware. The bill was significant because it contained the legal framework, various rules and guidelines for table games in the state. By the end of Session, all three operators had their games up and running. It remains to be seen if the expectations from the State and the operators meets what actual happens.

V. ISSUES FOR JANUARY 2011

TAXES * While the Assembly avoided any tax increases for the FY2011 budget – many expect another very difficult year for FY2012. Delaware's economic climate continues to send mixed signals, with unemployment reaching 10% overall, and within the building trades – approaching 25%. If corporate taxes, along with the PIT do not stabilize, coupled with a still sluggish gaming industry (despite the introduction of table games) the expectations that taxes will increase next year are strong.

LAND USE * 2010 was uneventful as it relates to any significant land use bills being offered by the Administration. It remains unclear what steps the Administration will be taking to change/fix some of the ongoing and time consuming problems that exist within the PLUS process. However, the building and real estate industries should expect action on HB30, in some new form, and the Assembly seeking to further address issues around NCC's Workforce Housing. Finally – the Office of Statewide Planning will be submitting their updated state growth plans this fall and into next year, requiring input from the land use community.

MANUFACTURED HOUSING * As with year's past, it was another demanding year of legislation, all of which would have significantly impacted the community owners. However, FSMHA managed to amend or otherwise deal with the bills that were submitted on behalf of the tenant groups, except for the "Community Centers" legislation as noted.