

CBA LPRC POSITION REQUEST FORM

The CBA Real Property Section **position request** is as follows:

- 1) Proposed legislative or regulatory concept:

To **OPPOSE** 5287, An Act Establishing a Mortgage Recording Tax. The Bill would impose a tax on the privilege of recording a mortgage on real property located in Connecticut.

- 2) Explanation and rationale for advancing this position:

The imposition of an entirely new tax on the recording of mortgages would greatly increase the cost of purchasing and refinancing real estate in Connecticut. Most properties are purchased with the assistance of a mortgage loan. Any tax imposed on recording mortgages would be passed on to borrowers.

The increased cost of purchasing and refinancing real estate would have a chilling effect on real estate transactions by increasing the cost of those transactions.

Experience with mortgage recording taxes in New York shows that the existence of such a tax causes parties to commercial real estate transactions to go to great lengths to avoid the imposition of the tax. For example, rather than paying off mortgage loans when commercial property is sold, it is often the practice that loans are assumed by purchasers, with mortgage assumption and modification documents recorded instead of a new mortgage that would subject to the mortgage tax. The added complexity to such transactions results in increased attorneys' fees paid by borrowers and sellers of real estate.

- 3) Is draft regulation, legislation or proposed bill included?

Proposed Bill is in concept form only.

- 4) What is the date of any legislative hearing, if known? N/A

- 5) Was this position previously approved by the CBA? If so, when does/did it expire?

No

- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position? No

- 7) Potential or actual CBA opposition from another CBA section or committee? None expected

- 8) Strength of section position (including process and results of section vote taken on issue):

Pursuant to its bylaws, the Executive Committee was polled in between meetings of the Section. Support for this position was unanimous in those responding to the poll (thirteen responses).

- 9) Fiscal impact (on the state): There currently is no such tax, so the fiscal impact on the State in rejecting this bill would be none. Of course, if passed, the tax would generate revenues, and the amount of such revenues have not been estimated.
- 10) Are you seeking “fast-track” approval? Yes