00020192417

Clerk of the House of Representatives
Legislative Resource Center
B-106 Cannon Building
Washington, DC 20515

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510

RECEIVED
SECRETARY OF THE SE
PUBLIC RECORDS

02 JUN 24 AM 1

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - **All Filers Are Required To Complete This Page**

1. Registrant Name

International Council of Shopping Centers

2. Address ☐ Check if different than previously reported

1033 N. Fairfax Street, Ste. 404, Alexandria, VA 22314

3. Principal Place of Business (if different from line 2)

City: State/Zip (or Country)

4. Contact Name	Telephone	E-mail (optional)	5. Sena
Judy E. Laniak	(703) 549-7404	jlaniak@icsc.org	1993

7. Client Name ☒ Self

6. Hous
1993

TYPE OF REPORT 8. Year 2001 Midyear (January 1-June 30) ☐ **OR** Year End (July

9. Check if this filing amends a previously filed version of this report ☐

10. Check if this is a Termination Report ☐ ⇨ Termination Date_____ 11. No L

INCOME OR EXPENSES - Complete Either Line 12 **OR** Line 13

12. Lobbying Firms

INCOME relating to lobbying activities for this reporting period was:

Less than $10,000 ☐

$10,000 or more ☐ ⇨ $_____
Income (nearest $20,000)

Provide a good faith estimate, rounded to the nearest $20,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSES relating to lobbying activities for period were:

Less than $10,000 ☐

$10,000 or more ☐ ⇨ $ 475,000.
Expenses

14. REPORTING METHOD. Check box to accounting method. See instructions for descri

☐ **Method A.** Reporting amounts using LDA

☐ **Method B.** Reporting amounts under sect Internal Revenue Code

☐ **Method C.** Reporting amounts under sec Internal Revenue Code

Signature Rebecca M Sullivan

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

LD-2 (REV. 6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code INS (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Filing #2439e7d0-86ea-4bea-bc9d-3c8fafff3a38 - Page 3 of 62

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form LD-2 (Rev.6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code BNK (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form D 2 (Rev 6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form LD-2 (Rev 6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code CAW (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form LD-2 (Rev.6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form LD-2 (Rev 6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code ENV (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Rebecca M. Sullivan, Staff V.P. Government Relations

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form LD-2 (Rev.6/98)

Registrant Name International Council of Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each** information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable
Rebecca M. Sullivan	
Wayne Mehlman	
William H. Hoffman III	

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/13/02

Rebecca M. Sullivan, Staff V.P. Government Relations

Printed Name and Title Rebecca M. Sullivan, Staff V.P. Government Relations

Form LD-2 (Rev.6/98)

International Council of Shopping Centers

TERRORISM INSURA

Issu

Upda

ISSUE

Before September 11, coverage for terrorist activities was generally included a business' property and casualty insurance policy. "Acts of war" are tı excluded, however, "acts of terrorism" have not been separately included o from such policies. Even after the Oklahoma City and World Trade Center U.S. insurers did not see the need to offer, and U.S. businesses did not ha separate coverage for acts of terrorism. September 11 changed all of that.

BACKGROUND

Although the insurance industry is able to absorb the estimated $40-$70 billic from September 11, most reinsurance companies have decided, on a prospecti exclude terrorism coverage because they are unable to price such coverage. A terrorism insurance from primary insurers is either unobtainable (especially visible and "trophy" properties) or available only at extremely high prices (w caps and high deductibles). Most states' insurance commissions, with the e: New York and California, have been approving requests by insurance co exclude terrorist coverage from their policies.

Without proper terrorism insurance, shopping center owners will bear the damages resulting from any future terrorist events, and may be in technical their existing loan agreements. In addition, lack of such coverage may cause other lenders to cease or significantly curtail financing new projects or existing ones.

LEGISLATION

In November, the House of Representatives passed legislation (H.R 3210), int Representatives Michael Oxley (R-OH) and Richard Baker (R-LA), that wou federal government act as an "insurer of last resort", thereby enabling insur reasonably-priced terrorism insurance to their policyholders. Specifically, the create a one-year program (with an optional two-year extension) whereby the g would provide up to $100 billion in loans to the insurance industry to cover future terrorist attacks. The loans would cover 90% of claims exceeding $ industry losses (or 10% of an individual company's capital surplus and net pre

H.R. 3210 also contains controversial tort reform measures that, among ot would ban punitive damage awards against the federal government and prope Unfortunately, the bill would not require insurance companies to offe insurance to all their policyholders, and contains a somewhat restrictive d "terrorism."

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-549

International Council of Shopping Centers

As of mid-February, the Senate has been unable to reach agreement on similar despite the fact that Senate negotiators and the White House agreed on several in early December. The preliminary agreement would have the federal govern 90% of future terrorist-related claims exceeding $10 billion (for events under $ the government would cover 80% of losses exceeding an individual company level of 7.5% of premiums). Neither the insurance industry nor its policyhol have to reimburse the government for such assistance and the program would year. Tort reform measures had not been agreed to under the plan, but insu have to offer terrorist coverage to all of their policyholders.

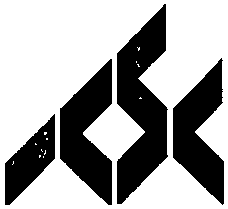
There are several bills in the Senate that contain various elements of the agreement and H.R. 3210, including S. 1751 –introduced by Sens. Phil Gran and Mike Enzi (R-WY), S. 1743 – introduced by Sens. Ernest Hollings (D-S Boxer (D-CA) and Ron Wyden (D-OR), and S. 1744 – introduced by Sen. Jo (R-AZ).

The General Accounting Office, on behalf of the House Financial Services Co well as the White House's Council of Economic Advisors, has asked th community for examples of how the lack of federal legislation has negative their ability to obtain terrorism insurance, as well as new or refinanced loans. sent a survey out to its members asking for their feedback.

OUR POSITION

ICSC supports H.R. 3210, as well as Senate efforts, to enact terrorism legislation as soon as possible. Such legislation, however, should (1) require offer coverage to all of their policyholders and for all of their properties; (2 broad enough definition of "terrorism" to include all acts of terror even classified for political purposes as "acts of war"; and (3) include appro safeguards to protect all victims of a terrorist attack, including property owners

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.



International Council
of Shopping Centers

PROPOSED BANKING RU
Issue

Updated

ISSUE

The Department of Treasury and the Federal Reserve Board issued Propose December 2000 that would permit financial holding companies and financial s of national banks to engage in real estate brokerage and management activi believes these Proposed Rules could have a significant negative impact on ou management members.

BACKGROUND

In 1999, Congress passed and President Clinton signed into law the *Gramm-L Act* – a bill that amends the *Bank Holding Company Act*. Among other thir allows financial institutions to participate in securities and insurance a including such activities in its definitions of activities that are "financial in n "incidental to a financial activity".

Although the Act permits financial institutions to engage in other activiti Treasury determines, in consultation with the Federal Reserve Board, to be " nature" or "incidental to a financial activity", it does not give any indica explicitly or implicitly, that real estate brokerage or management activities ar be, included in either definition.

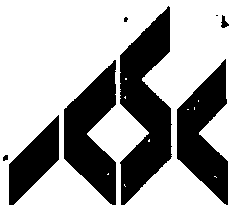
However, after the Act became law, the banking industry persuaded Treas Board to issue Proposed Rules (also known as "Regulation Y") that woul estate brokerage and management activities as "financial in nature" or "in financial activity". ICSC has since signed onto letters with the National As Realtors and submitted a comment letter with NAREIT, the Real Estate Rour the Building Owners and Managers Association International (BOMA) opp Proposed Rules.

LEGISLATION

Senators Wayne Allard (R-CO) and Hillary Clinton (D-NY) recently intr *Community Choice in Real Estate Act* (S. 1839) that would bar national financial holding companies from directly or indirectly participating in brokerage or management activities. Representatives Ken Calvert (R-CA Kanjorski (D-PA) have introduced similar legislation, H.R. 3424.

The Financial Institutions and Consumer Credit Subcommittee of the Hous Services Committee held hearings on this issue last May, however, the full has not yet scheduled hearings or a markup of H.R. 3424. Unfortunately, Banking Committee has not acted on this matter either.

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-549



International Council
of Shopping Centers

OUR POSITION

ICSC supports S. 1839 and H.R. 3424, and urges Treasury and the Federal Res
to withdraw their Proposed Rules. We believe that real estate is not a fina
instrument or product. Therefore, related activities such as real estate bro
management, can not, and should not, be construed by Treasury and the B
either "financial in nature" or "incidental to a financial activity".

We also believe that Congress, in passing the *Gramm-Leach-Bliley Act*, made i
financial institutions can only participate in financial activities and not in c
activities, such as real estate brokerage and management. ICSC is not opposed
healthy competition, however, we are very concerned that some financial
could use their leverage in a manner that could negatively affect our
management members and suppress competition in the long term.

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-549

International Council of Shopping Centers

LEASEHOLD IMPROVEM

Issu

Upd

ISSUE

One of the most important obligations of shopping center owners is to provi efficient, and environmentally sound retail space for their tenants and the publi must periodically refurbish and replace many structural components of their b such as internal walls, ceilings, partitions, plumbing, lighting, floor coverings and communication outlets, and computer data ports—in order to meet the spe of their tenants and to comply with government regulations. Unfortunately, dictates that these modifications—commonly referred to as "leasehold impro be depreciated over 39 years. Most leasehold improvements, however, ha shorter economic life—usually between 3 and 10 years.

BACKGROUND

Before 1981, building owners could recover the costs of leasehold improveme term of the lease to the tenant. The rationale behind this reflected the fact tha improvements for one tenant are rarely suitable for another, and when a tena is usually necessary to destroy or abandon such improvements and rebuild tenant.

In 1981, Congress set aside this principle of matching income from the lea costs of leasehold improvements. A single depreciation life of 15 years was for all buildings and all improvements made within. Since then, the recover nonresidential real property has been gradually increased to 39 years.

In 1996, Congress enacted legislation that allows owners to expense the basis of leasehold improvements in the year they are destroyed or Previously, only tenants who owned such improvements could do so. Un leasehold improvements must still be depreciated over a 39-year recovery p they are in service.

In 2000, the consulting firm of Deloitte & Touche completed a study that e economic depreciation of various types of real estate structures and an estimates for tax depreciation purposes. According to the study, retail structu estimated economic depreciation recovery period of 12 years based on annu years based on building values) – both of which are significantly shorter than currently allowed under the tax code.

LEGISLATION

Representative Clay Shaw, Jr. (R-FL) and Senator Kent Conrad (D-ND) legislation (H.R. 1030, S. 1087) that would reduce the depreciation period f improvements from 39 to 10 years. Despite the fact that their bills have gar

International Council of Shopping Centers

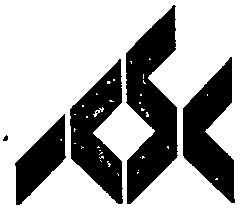
bipartisan support over the past few years, it was not included in the tax-cut b signed into law last June.

However, two economic stimulus bills passed by the House in 2001 contain that would permanently reduce the depreciation period for leasehold improver years. Unfortunately, as of January 2002, the Senate has been unable to reach on their own stimulus package.

OUR POSITION

ICSC advocates shortening the depreciable lives of leasehold improvements more closely aligned with their economic lives. We strongly support legislati H.R. 1030, S. 1087 and the House-passed economic stimulus package, significantly reduce the depreciation period for leasehold improvements, an would encourage shopping center owners to invest more resources into such pr

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.



International Council
of Shopping Centers

E-COMMERCE TAXAT

Issue

Updated

ISSUE

The Internet is rapidly becoming America's new marketplace. While tax po not discourage consumers from exploring this new purchasing channel, it favor Internet purchases over store purchases either. Instead, tax policy shoul level playing field for traditional retail businesses, mail order companies ar based merchants. All levels of government need to work together to formulate local sales and use tax system that is uniform, equitable and streamlined. system should reduce administrative costs and burdens for all businesses and Adopting an efficient sales tax system would not only preserve the sales tax b and local governments, but it would also promote fair trade among all sellers c goods.

BACKGROUND

Through the years, Congress and the courts have addressed the issue of sta sales and use taxes on remote sellers as it applied to mail-order merchants. H advent of Internet commerce brings a new focus and sense of urgency to this Internet marketplace is rapidly expanding, yet it remains mostly free from forms of taxation. The current dilemma facing Congress is whether to authority to collect taxes on remote e-commerce sales (which some claim Internet commerce) or maintain the current tax collection system (which giv line sellers an unfair advantage over traditional merchants and reduces state a revenues).

In 1998, Congress enacted a three-year moratorium which expired on Octob on Internet access taxes and new, multiple or discriminatory taxes or commerce. In addition, it established an Advisory Commission to exam taxation and interstate sales transactions. Unfortunately, the Commission fai a consensus on the collection of state and local sales taxes on remote sales. did issue a majority report that recommended not only extending the mora creating special "nexus" carve-outs and sales tax exemptions for Internet busir

The Streamlined Sales Tax Project (SSTP), created by several state and loca groups, approved model legislation last year that would simplify state and systems in order to encourage collection by remote sellers. In additio Conference of State Legislatures (NCSL) approved their own version. Since number of states have decided to play an active role in the process of sales tax

LEGISLATION

ICSC supports legislation introduced by Senators Byron Dorgan (D-ND) and (R-WY), S. 512, and Representatives Ernest Istook (R-OK) and William D MA), H.R. 1410, that, in addition to extending the moratorium, would give

International Council of Shopping Centers

that simplify their sales tax systems the authority to collect remote sa Unfortunately, a Senate amendment that would have provided such authority v and the underlying bill, H.R. 1552 – which extends the moratorium for two mo was passed and later signed into law. This two-year extension, however, will and local governments additional time to devise a simplified and workable collection system that will hopefully be part of the next moratorium extension.

OPPOSING VIEWPOINTS

Many Internet-based retailers claim that imposing remote sales tax requirements on them would be too burdensome, given the thousands of state taxing jurisdictions across the country. While we agree that states and localiti simplify their sales and use tax systems, there is currently software availabl adequately determine, collect and remit a merchant's remote sales taxes.

Our opponents also claim that states are currently flush with cash, and therefor be concerned with uncollected sales taxes on electronic commerce. While mo all, states are currently enjoying budget surpluses, if the economy continues to more sales gravitate from traditional stores to the Internet, states and localities themselves with budget deficits and forced to cut back on essential services or taxes.

OUR POSITION

ICSC believes that tax policy should be consistent and equitable for all consumer purchases – whether they take place in shopping centers, via mai over the Internet. Internet retailers should not receive a tax advantage at the traditional retailers and state and local governments. ICSC does not oppose substance of the moratorium, however, we believe that any extension should those states that simplify their sales tax systems the authority to require remot collect sales and use taxes on their behalf. ICSC is working with other organizations and the e-Fairness Coalition to promote a level playing fie merchants.

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.

International Council
of Shopping Centers

CAPITAL GAINS REFO

Issue

Updated F

ISSUE

Lowering the tax rate on individual and corporate capital gains would help s nation's economic growth, improve long-term productivity and make internationally competitive. It would also "unlock" billions of dollars in unpro under-utilized investments for new, innovative, job-creating activities.

BACKGROUND

Before 1987, the capital gains of individuals were taxed at rates below that c income. The *Tax Reform Act of 1986* not only lowered the tax rates on ordina but it also repealed the tax preference for capital assets. Therefore, capital g taxed at the same rates as ordinary income. In 1991 and 1993, the top rate fc income was increased to 31 and 39.6%, respectively, while the top rate for ca was maintained at 28%.

The *Taxpayer Relief Act of 1997* reduced the maximum long-term capital gain: 28 to 20% (10% for those in the 15% income tax bracket). Beginning in 2001 rates on assets held five years or more will drop from 20 to 18% (10 to 8% fc 15% bracket). However, to be eligible for the 18% rate, such assets wou acquired after December 31, 2000. The maximum tax rate on depreciat however, was reduced only to 25%. The capital gains of corporations, on the c taxed at ordinary corporate income tax rates, with a maximum rate of 35%. did not provide any corporate capital gain relief. In 1998, former President C legislation that included additional capital gains tax relief.

LEGISLATION

A tax-cut bill signed into law last June – the *Economic Growth and Reconciliation Act of 2001* – did not include any capital gains tax relief for ind corporations. An economic stimulus package passed by the House in Oct contained a provision that would have eliminated the five-year holdi requirement for the 18 and 8% rates referred to above. The bill also w increased the amount of ordinary income that could be offset by capital lc $3,000 to $5,000. Unfortunately, the House later passed a revised stimulus b any capital gains or loss measures. As of January 2002, the Senate has n agreement on their own economic stimulus package.

OUR POSITION

ICSC will continue to work with other real estate groups to promote indi corporate capital gains relief for inclusion in subsequent tax bills. We believe t gains taxes should be further reduced or eliminated, and that related legislatio on the following principles:

International Council
of Shopping Centers

- Capital gains income should be taxed at a lower rate than ordinary inco

- Corporate and individual taxpayers should be treated equally, since t supporting preferential tax treatment for capital gains apply without re legal form of the entity holding the property;

- All types of real estate assets, including new and existing property, treated the same; and

- The tax rates applicable to capital gains on the sale of real estate appreciation and depreciation recapture, should be taxed at the same applied to other capital assets, such as stocks and bonds.

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.

International Council of Shopping Centers

BANKRUPTCY REFC

Issue

Updated I

ISSUE

Over the past few years, an increasing number of financially healthy comp been filing for bankruptcy protection as a business tool. Because businesses d to be insolvent to declare bankruptcy, more and more solvent companies are re under Chapter 11 of the Bankruptcy Code in order to restructure themselve unprofitable stores. To make matters worse, many bankrupt retailers fail (continue) or reject their leases in a reasonable amount of time. As a re shopping center owners are losing control over their own properties, neighbor are losing business, retail employees are losing their jobs, and local economie threatened.

BACKGROUND

Congress has addressed the issue of bankruptcy reform for decades. In 1994 created the National Bankruptcy Review Commission to investigate and st relating to the Bankruptcy Code. As a part of its review, the Commissio Chapter 11 of the Code, including provisions in Section 365 that affect shop leases. In 1997, the Commission submitted a report to Congress that containec statement of their findings and conclusions, along with recommendations for and/or administrative action.

Bankruptcy reform legislation was almost enacted in the 105th and 106th Con 1998, legislation passed the House but died in the Senate, while in 2000 package passed both the House and Senate but died by "pocket veto" on forme Clinton's desk (since Congress adjourned within 10 days of sending the bill to

LEGISLATION

ICSC supports both the House and Senate versions of *The Bankruptcy Reform* (H.R. 333). Both bills adequately address important issues to our industry, in relating to: (1) the amount of time a bankrupt tenant has to assume or reject the administrative priority of rents due under leases that are assumed and late greater access to creditors' committees; (4) the curing of certain nonmone before a lease can be assumed and assigned; and (5) the adherence of "use" ar provisions upon assignment.

Although House and Senate conferees have held preliminary meetings, it whether reform legislation will be enacted in the 107th Congress. Repub Democrats continue to disagree over several key issues, including those rela homestead exemption, means testing, and perpetrators of violence on abortion other public facilities.

International Council of Shopping Centers

OPPOSING VIEWPOINTS

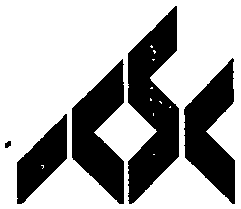
Some retailers claim that they need the long extensions of time in order t determine which leases should be assumed and rejected. While we agree that 60-day period may not be enough time to make such decisions, a fixed, de period of time in which to assume or reject needs to be established so shopp owners can retain some control over their properties. ICSC supports the c provisions in both versions that would require bankrupt debtors to assume or leases within 120 days, plus another 90 days "for cause". Any additional would require the prior written consent of the owner.

Some of our opponents claim that shopping centers owners are not harmed extended period retailers have to assume or reject their leases so long as such r paying their monthly rent on time. The problem is, even if an owner is rec during this period, many bankrupt merchants cease their retail operations and stores "dark". This, in turn, casts a dark shadow over the entire shopping negatively affects neighboring stores' customer traffic and sales revenues. Th results in owners receiving reduced "percentage" rents, but it can also affec agreements they have with these other stores.

OUR POSITION

ICSC believes that solvent companies should not be able to use the bankruptc break valid leases, and that decisions on whether to assume or reject leases made within a reasonable period of time. Companies faced with financial should be able to reorganize under Chapter 11. However, our bankruptcy laws strengthened to protect all creditors and to prevent companies from abusing Bankruptcy should be the final option, not the preferred option of businesses.

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.



International Council
of Shopping Centers

Issue

Updated I

ISSUE

The intent and spirit of the Americans with Disabilities Act of 1990 is un being abused by a growing number of attorneys who are filing, or threaten lawsuits against property owners for minor, technical access violations. Fearin hassle and expense of lawsuits, these property owners are forced into settling tl with these attorneys.

BACKGROUND

Some attorneys have created a cottage industry of inspecting various shoppi retail stores and restaurants and then identifying minor violations of the ADA those in parking lots, walkways, or bathrooms. Without giving the alleged vi chance to remedy the problem, these attorneys are filing, or threatening to fil that usually lead to cash settlements – part of which goes to the attorney and t disabled plaintiff. By creating a multitude of cases, these attorneys are substantial amounts of income for themselves.

LEGISLATION

To help address this problem, Representative Mark Foley (R-FL) and Sena Inouye (D-HI) have introduced the *ADA Notification Act* (H.R. 914, S. 782). would give property owners 90 days to fix an alleged ADA violation after they notified before a related lawsuit can be filed.

OUR POSITION

ICSC supports these bills since they would curtail the abusive practice attorneys filing, or threatening to file, lawsuits for easily correctable ADA while preserving the rights of disabled people to bring lawsuits for serious vi their rights. ICSC is working with these members of Congress and other busir to get this legislation enacted into law.

For more information, contact Wayne A. Mehlman at 703-549-7404, ext. 225.

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-549

International Council of Shopping Centers

ENDANGERED SPEC

Issue

Updated I

ISSUE

The Endangered Species Act (ESA) needs to be reformed. It has failed to cc species it was meant to protect and, in the process, has wreaked economic social distress on communities throughout our nation.

BACKGROUND

The ESA has often been used as a tool by no-growth advocates to curtail pr growth. The ESA was first enacted in 1973 to protect species believed to be o of extinction. When enacted, 109 species were listed for protection. Today, al species are listed, with more than 400 additional candidate species. Only tw species have been "delisted" or removed from the species list since 1973: sev of extinction, six because of data errors in the original listing process, an officially declared as reaching recovery populations.

LEGISLATION

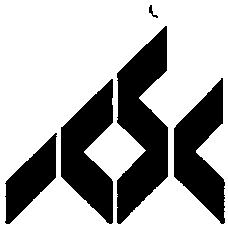
It is clear that the ESA does not work. According to the General Accounting O than 90 percent of the species listed under the ESA rely upon private land for of their habitat. The current system inadequately protects the environment a economically harmful. In addition, species are listed without appropriate scie review. It is imperative that the ESA be reformed to reflect current scie economic realities.

Legislation has been introduced in both the House and Senate that would rec science becomes a stronger part of the ESA process. The Sound Science for I Species Decision-making Act (H.R. 2829 and S. 1912) would also require gr from stakeholders as listing and delisting decisions are made. ICSC su legislation.

OUR POSITION

ICSC will continue to advocate for reform of the Endangered Species A landowners are treated fairly and responsibly. We will work with su legislative reform of the act which include, at a minimum the following princip

- Responsible, responsive, and timely judicial review and/or regulatory development applications;
- Economic impact assessment of the imposition of legislation an regulation;



International Council
of Shopping Centers

- Efficient and fair system by which a property owner can seek timely laws and regulations that result in a taking without compensation or th economic benefits of the "highest and best" use of his/her property;

- Standards by which the environmental value of property shall be establi

- Enhancement of the state and local role in the listing and delisting reflect local biological and economic concerns.

For more information, contact William H. Hoffman, III at 703-549-7404, ext. 224

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-549

International Council of Shopping Centers

ENE

Issu

Update

ISSUE

The United States needs to implement a comprehensive energy policy that w increased energy supplies, electrical generation and transmission capacity an reliability, efficiency and conservation, while addressing the concerns current commercial, industrial and residential consumers. A comprehensive approach way to ensure all consumers, including ICSC members, realize the most w benefits while ensuring the country conserves its natural resources. In ac federal government should continue to support deregulation efforts, mirrorin that have implemented successful deregulation programs.

LEGISLATION

The Congress is expected to continue to debate energy legislation in 2002. advocate for those elements in the legislation that will provide for increa supplies while ensuring advances made under state deregulation programs ar back by the federal government.

OUR POSITION

ICSC believes elements of a comprehensive energy policy should consist of, limited by, the following:

- Modernization and expansion of the existing power t capabilities
- Increasing domestic energy supplies;
- Increasing electrical generation capacity where needed;
- A national framework governing utility restructuring modele state plans that have proven extremely beneficial to consumers;
- Incentives for ALL consumers to improve their energy efficie tax credits and equipment upgrade benefits
- Increased R&D on alternative energy sources and new technolc
- Regulators should be vigilant in their elimination of undue m that could negatively influence pricing.

In addition, ICSC is committed to ensuring that thoughtful and manageable restructuring programs are implemented. ICSC believes a national framewor developed – modeled on successful state programs – to reduce confusion bein by the state-by-state deregulation process.

ICSC also believes that its members with operations in multiple locations sh to aggregate power among these locations without regulatory restrict aggregation by multiple operators, whether in the shopping center indust commercial/industrial interests, will increase efficiency for the individual ir

promote an overall efficiency increase to the benefit of all suppliers and user and conservation while at the same time benefit the operators. The end result to the entire community both economically and environmentally. ICSC companies will continue to work toward more efficient energy usage and federal, state and local governments to support efforts that will provide ou economical and reliable energy supplies.

For more information, contact William H. Hoffman, III at 703-549-7404, ext. 224

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-549

International Council of Shopping Centers

PRIVATE PROPE

Issu

Update

ISSUE

The "takings" clause of the Fifth Amendment to the U.S. Constitution states, ir shall private property be taken for public use without just compensation." I protection of the Constitution, countless landowners have been deprived of thei prosecuted, fined, or in some cases, jailed, because of wetlands and endange on their property.

BACKGROUND

The often reckless enforcement of laws such as the Endangered Species Act Section 404 of the Clean Water Act (CWA) (the source of regulations li development of wetlands) has driven down market value and often rende property useless for agricultural or development purposes. Government " essentially an act of government restricting the rights of private property pursue specific activities on their private land—without compensation ha dramatically with the increase of regulation and galvanized private property o action to defend their property rights. However, all too often property owne through a maze of procedural and judicial hurdles that take years to resolve.

The Fifth Amendment is being attacked, both legislatively and judicially. ICSC ultimately want to be able to develop their land. Developers purchase l investment tool, not as an opportunity to seek compensation from any go entity.

The vast majority of land in America is privately owned. Regulators need to these landowners, not against them. Regulators and lawmakers should rec progress we have made since the '70s and encourage new and better ways to p enhance our environment.

LEGISLATION

ICSC continues to advocate the need for Congress to enact legislation t strengthen the rights of property owners. The 107th Congress has thus far not in serious legislative efforts on the property rights issue(s).

OUR POSITION

ICSC believes that it is necessary to protect private property through the a appropriate environmental legislation and regulation and supports action that:

- Provides standards by which the environmental value of property established;

International Council of Shopping Centers

- Provides an efficient and fair system by which a property owner can s redress for laws and regulations that result in a taking without comp that deny the economic benefits of the "highest and best" use of his pro

- Provides for responsible, responsive, and timely judicial review and/o rulings on development applications; and

- Incorporates an economic impact assessment of the imposition of legi resulting regulation.

For more information, contact William H. Hoffman, III at 703-549-7404, ext. 224

International Council of Shopping Centers

SUPERFUND REFC

Issu

Update

BACKGROUND

The environmental importance of the nation's valuable wetlands is wide However, the federal wetlands program in effect today under Section 404 of Water Act is not the product of a carefully considered and fully debated policy. The Clean Water Act is not a wetland protection law; it is a water quali has been used in an attempt to achieve wetland protection, a goal for which designed. In fact, the Supreme Court ruled in January 2001 (*Solid Waste Northern Cook County v. U.S. Army Corps of Engineers*) that the Corps doe regulatory authority over isolated waters of the United States because, in part had not delegated the authority to the Corps.

REGULATORY ACTIVITY

New activity-based permits, promulgated by the U. S. Army Corps of Engi Corps) to replace Nationwide Permit 26 (NWP 26), went into effect on Jun NWP 26 had been the general permit used most often for construction and rer small shopping centers. Large regional malls typically are forced into the mc individual permit category. General, or nationwide permits, were authorized 404(e) of the Clean Water Act (CWA) in an effort by Congress to provide a s permitting process for minimal impact projects. Nationwide Permit 39 (NWP replacement permit covering residential, commercial and institutional ı development activities. To be eligible for that permit projects cannot result in more than ½ acre of wetlands. A Pre-Construction Notification must be file Corps if the project will result in the fill of more than 1/10 of an acre of w ICSC members are unable to qualify for NWP 39 they will be forced intc expensive and time-consuming individual permitting category. Conservative regarding the impact of the new permits are an increased cost to the regulated c of over $300 million, necessitating a 30% increase in the Corps' regulato maintain current customer service standards. The new permits will not only the Corps' already serious workload while adding little environmental valu would prove harmful to the business community, state and local governments public agencies.

The Corps is currently in the process of reauthorization of all Nationwic (NWPs), including NWP 39. The schedule for issuance of the final permit 2002. Although ICSC has continued to stress the need for a more rational approach that would yield a more useful NWP 39, and has reiterated its positio comments on the proposed revised permits, the Corps has offered no s improvements to the permit.

International Council of Shopping Centers

LEGISLATION

The politically charged climate surrounding national wetlands policy makes r legislative reform nearly impossible. However, Rep. Walter Jones (R introduced legislation (HR 1474) which would legislatively created a wetlands banking program. ICSC believes this legislation would stimulate the cr funding of mitigation banks because it would provide a greater degree of certai has endorsed Rep. Jones' bill and has worked with his office to encourage support from other members.

OPPOSING VIEWPOINTS

Many in the environmental community argue that no progress has been m national effort to protect our wetlands and that the federal government must pl stronger role in permitting and land use decisions. However, statistics illu through mitigation and conservation landowners **are** protecting and improving of wetlands throughout the country by working with state and municipal agenci

OUR POSITION

Serious questions concerning the legality of the new permitting procedures, t supporting data to justify the changes and the ability of the Corps to adequat the increased workload resulting from these changes make the new permits vu legal challenges. ICSC is participating in litigation filed by other industry grou an *amicus curiae* brief. Congress has demonstrated its concern over this issu provisions in appropriations legislation for the Corps of Engineers for the past years, requiring the Corps to submit economic and workload impact reports to ICSC was instrumental in advocating for those appropriations provisions, become increasingly apparent that additional legislative efforts are necessar this fatally flawed federal regulatory activity. ICSC believes it is time to reau Clean Water Act in order to bring clarity and fairness to the wetlands permittin and to adequately insure the protection of valued wetlands resources. A principles that should be embodied in this legislative reform are:

- Respect for existing local and state laws on water quality and land us and development so that they are not be subordinated to federal regulations.
- Explicit statutory requirement that the value and functionality of w taken into account in the regulatory process, including reasonable mitigation.
- Define circumstances where the landowner would be entitled to compe instances where permit denials constitute an unlawful "taking."

For more information, contact William H. Hoffman, III at 703-549-7404, ext. 224.

International Council of Shopping Centers

WETLANDS REFC

Issue

Update

BACKGROUND

The environmental importance of the nation's valuable wetlands is wide However, the federal wetlands program in effect today under Section 404 of Water Act is not the product of a carefully considered and fully debated policy. The Clean Water Act is not a wetland protection law; it is a water quali has been used in an attempt to achieve wetland protection, a goal for which designed. In fact, the Supreme Court ruled in January 2001 (*Solid Waste Northern Cook County v. U.S. Army Corps of Engineers*) that the Corps doe regulatory authority over isolated waters of the United States because, in part had not delegated the authority to the Corps.

REGULATORY ACTIVITY

New activity-based permits, promulgated by the U. S. Army Corps of Engi Corps) to replace Nationwide Permit 26 (NWP 26), went into effect on Jun NWP 26 had been the general permit used most often for construction and rer small shopping centers. Large regional malls typically are forced into the m individual permit category. General, or nationwide permits, were authorized 404(e) of the Clean Water Act (CWA) in an effort by Congress to provide a s permitting process for minimal impact projects. Nationwide Permit 39 (NWF replacement permit covering residential, commercial and institutional development activities. To be eligible for that permit projects cannot result ir more than ½ acre of wetlands. A Pre-Construction Notification must be file Corps if the project will result in the fill of more than 1/10 of an acre of v ICSC members are unable to qualify for NWP 39 they will be forced int expensive and time-consuming individual permitting category. Conservativ regarding the impact of the new permits are an increased cost to the regulated of over $300 million, necessitating a 30% increase in the Corps' regulat maintain current customer service standards. The new permits will not only the Corps' already serious workload while adding little environmental valu would prove harmful to the business community, state and local government public agencies.

The Corps is currently in the process of reauthorization of all Nationwi (NWPs), including NWP 39. The schedule for issuance of the final permit 2002. Although ICSC has continued to stress the need for a more rational approach that would yield a more useful NWP 39, and has reiterated its positic comments on the proposed revised permits, the Corps has offered no improvements to the permit.

INTERNATIONAL COUNCIL OF SHOPPING CENTERS
1033 NORTH FAIRFAX STREET, SUITE 404 • ALEXANDRIA, VA 22314-1540 • 703-549-7404 • 703-54

International Council of Shopping Centers

LEGISLATION

The politically charged climate surrounding national wetlands policy makes legislative reform nearly impossible. However, Rep. Walter Jones (I introduced legislation (HR 1474) which would legislatively created a wetlands banking program. ICSC believes this legislation would stimulate the cr funding of mitigation banks because it would provide a greater degree of certa has endorsed Rep. Jones' bill and has worked with his office to encourage support from other members.

OPPOSING VIEWPOINTS

Many in the environmental community argue that no progress has been m national effort to protect our wetlands and that the federal government must p stronger role in permitting and land use decisions. However, statistics ill through mitigation and conservation landowners **are** protecting and improving of wetlands throughout the country by working with state and municipal agenc

OUR POSITION

Serious questions concerning the legality of the new permitting procedures, supporting data to justify the changes and the ability of the Corps to adequa the increased workload resulting from these changes make the new permits vu legal challenges. ICSC is participating in litigation filed by other industry grou an *amicus curiae* brief. Congress has demonstrated its concern over this iss provisions in appropriations legislation for the Corps of Engineers for the pas years, requiring the Corps to submit economic and workload impact reports t ICSC was instrumental in advocating for those appropriations provisions, become increasingly apparent that additional legislative efforts are necessa this fatally flawed federal regulatory activity. ICSC believes it is time to reau Clean Water Act in order to bring clarity and fairness to the wetlands permittir and to adequately insure the protection of valued wetlands resources. principles that should be embodied in this legislative reform are:

- Respect for existing local and state laws on water quality and land u and development so that they are not be subordinated to federa regulations.

- Explicit statutory requirement that the value and functionality of v taken into account in the regulatory process, including reasonable mitigation.

- Define circumstances where the landowner would be entitled to compe instances where permit denials constitute an unlawful "taking."

For more information, contact William H. Hoffman, III at 703-549-7404, ext. 22