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Washington, DC 20515

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

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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

3. Principal Place of Business (if different from line 2)
City: Alexandria State/Zip (or Country) VA 22314

4. Contact Name	Telephone	E-mail (optional)	5. Senate ID #
Judy E. Laniak	(703) 549-7404	jlaniak@icsc.org	19935-12

7. Client Name ☒ Self — 6. House ID # 19935

TYPE OF REPORT 8. Year_____ Midyear (January 1-June 30) ☐ **OR** Year End (July 1-December 31) ☒

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 Lobbying Activity ☐

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 this reporting period were:

Less than $10,000 ☐

$10,000 or more ☒ ⇨ $ 220,000
Expenses (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.

☒ **Method A.** Reporting amounts using LDA definitions only

☐ **Method B.** Reporting amounts under section 6033(b)(8)of the Internal Revenue Code

☐ **Method C.** Reporting amounts under section 162(e) of the Internal Revenue Code

Signature Rebecca M Sullivan

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

LD-2 (REV. 6/98)

PAGE 1 of 6

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 the registrant engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code,** provide 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)	New
Wayne Mehlman		☐
William H. Hoffman III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐
		☐

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

Signature Rebecca M Sullivan Date 2/14/01

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Form LD-2 (Rev.6/98) Page 2 of 6

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 the registrant engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code,** provide 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)	New
Wayne Mehlman		☐
William H. Hoffman III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐
		☐

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

Signature Rebecca M Sull Date 2/14/01

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Form LD-2 (Rev. 6/98)

Registrant Name International Council of Shopping Centers Client Name SELF

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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)	New
Wayne Mehlman		☐
William H. Hoffman III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐
		☐

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

Signature Rebecca M Sullivan Date 2/14/01

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Form LD-2 (Rev.6/98) Page 34 of 60

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 the registrant engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code**, provide 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)	New
Wayne Mehlman		☐
William H. Hoffman III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐
		☐

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

Signature Rebecca M Sullivan Date 2/14/01

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, 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 the registrant engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code,** provide 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)	New
Wayne Mehlman		☐
William H. Hoffman III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐
		☐

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

Signature Rebecca M Sull Date 2/14/01

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Form LD-2 (Rev.6/98) Page 6 of 6

Government

BANKRUPTCY - Issue Brief

ISSUE
Unfortunately, an increasing number of financially healthy companies are filing for bankruptcy as a business tool. Because businesses do not have to be insolvent to declare bankruptcy, more and more solvent companies are reorganizing under Chapter 11 of the Bankruptcy Code in order to break their leases and restructure themselves. Furthermore, many bankrupt tenants fail to assume or reject their leases in a reasonable amount of time. As a result, shopping center owners are losing control over their properties, neighboring tenants are losing business and revenues, retail employees are losing their jobs, and the economic health of local communities is being damaged..

BACKGROUND
Congress has addressed the issue of bankruptcy reform for decades. In 1994, Congress created the National Bankruptcy Review Commission to investigate and study issues relating to the Bankruptcy Code. As a part of its review, the Commission analyzed Chapter 11 of the Code, including provisions in Section 365 that affect shopping center leases. In 1997, the Commission submitted a report to Congress that contained a detailed statement of their findings and conclusions, along with recommendations for legislative and/or administrative action. Over the years, ICSC has called for several critical provisions to be included in bankruptcy reform legislation. These provisions include: (1) an expedited time period for tenants in bankruptcy to assume or reject their leases; (2) greater access to creditors' committees by shopping center owners; (3) reimbursement to owners for re-leasing expenses on rejected leases; and (4) assurance that all defaults, both monetary and nonmonetary, are cured prior to the assumption and assignment of a lease.

LEGISLATION
As of mid-September, the prospect of bankruptcy reform legislation being enacted this year appears to be fading. Although the Senate passed its reform package (S. 625) by a vote of 83-14 in February and the House passed its version (H.R. 833) a year earlier by 313-108 vote, a conference report has still not been agreed to, despite reports that behind-the-scenes "shadow" conferees have reached agreement. (A formal conference has not been held since the Senate bill contains tax provisions that must originate in the House.)

There are still several issues that need to be resolved between Republicans and Democrats, including those relating to perpetrators of abortion clinic violence, check collection practices and homestead exemptions. In fact, President Clinton has threatened to veto any conference report that does not adequately address these issues. While a bipartisan agreement can be reached at any time, there are very few legislative days remaining for Congress to address this and other pressing issues before it adjourns in early October. Both bills contain provisions that would benefit the shopping center industry, including those that would limit the amount of time bankrupt tenants have to assume or reject their leases. Currently, such tenants have 60 days after filing for bankruptcy to assume or reject their

leases. However, most judges routinely extend this time period for months, even years. Both bills would require tenants to assume or reject their leases within 120 days after filing for bankruptcy. H.R. 833, however, would give tenants an additional 120 days "for cause".

Both bills would allow for additional time if the owner consents. H.R. 833 would treat remaining rents due under an assumed and subsequently rejected lease as an administrative priority for one year. In addition, both bills would give shopping center owners greater access to creditor committees.

ICSC POSITION

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

Government

TAXATION OF E-COMMERCE - Issue Brief

ISSUE

The Internet is rapidly becoming America's new marketplace. Consumers are now able to browse and shop for a variety of consumer goods at the touch of a button. Tax policy should not discourage consumers from exploring this new marketplace. However, it should not favor Internet purchases over store purchases either. Instead, tax policy should provide a level playing field for traditional retail businesses, mail order companies and computer-based merchants.

All levels of government must work together to formulate a state and local sales tax system that is uniform, equitable and streamlined. This new system should reduce administrative costs and burdens for all businesses and consumers. Adopting an efficient sales tax system would not only preserve the sales tax base of state and local governments, but it would also promote fair trade among all sellers of consumer goods.

BACKGROUND

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

In 1998, Congress incorporated the Internet Tax Freedom Act into its year-end budget package. The legislation imposed a three-year moratorium on Internet access taxes and on new, multiple or discriminatory taxes on electronic commerce.. In addition, it established an Advisory Commission to examine Internet taxation and interstate sales transactions. It is clear that Congress, according to a 1992 Supreme Court case (Quill Corp. v. North Dakota), has the authority to expand, restrain or otherwise prescribe rules governing the state and local taxation of electronic commerce.

This past April, the Advisory Commission on Electronic Commerce issued its long-awaited report after meeting four times over the past year. Unfortunately, the Commission failed to reach a consensus on the collection of sales and use taxes on remote sales. Furthermore, the report that was sent to Congress was agreed to by only 10 of the 19 Commissioners, clearly short of the 13 votes required under the Internet Tax Freedom Act. In addition, the report not only recommended (although not formally) extending the existing moratorium, but also creating special "nexus" carve-outs and sales tax exemptions for Internet businesses.

LEGISLATION
The following month, the House passed the Internet Nondiscrimination Act which would extend the moratorium for an additional five years. While ICSC does not oppose the actual substance of the moratorium, we believe that any extension should also give states the authority to collect sales and use taxes from remote sellers. ICSC strongly supports legislation introduced by Congressman Spencer Bachus (R-AL), H.R. 4462, and Senator Byron Dorgan (D-ND), S. 2775, that would not only extend the moratorium, but also allow those states that simplify their sales and use tax systems to require remote sellers to collect sales and use taxes on their behalf.. As of mid- September, it appears that the Senate will not act on any moratorium extension legislation before it adjours for the year.

ICSC POSITION
ICSC believes that tax policy should be consistent and equitable for all forms of consumer purchases-whether they take place in shopping centers, via mail order, or over the Internet. Internet retailers (and their customers) should not receive a tax advantage at the expense of traditional retailers and state and local governments. ICSC is working with other real estate organizations and retailers in the e-Fairness Coalition to promote a level playing field for all types of merchants.

Government

Wetlands/Clean Water Act

Issue

Presently, most shopping center developers use a Nationwide Permit 26 (NWP 26) for their wetlands permit under the Clean Water Act (CWA). The U.S. Army Corps of Engineers (Corps) is preparing final replacement, activity-based permits to replace NWP 26. The proposed changes to the Congressionally mandated streamlined permitting process for minimal impact projects under the Clean Water Act 404 permit program would not only compound the Corps' already serious workload while adding little environmental value, but also would prove harmful to the business community, state and local governments and other public agencies.

Background

The environmental importance of the nation's valuable wetlands is widely known. However, the federal "wetlands program" in effect today under Section 404 of the Clean Water Act is not the product of a carefully considered and fully debated legislative policy. The Clean Water Act is not a wetland protection law; it is a water quality law that has been used to attempt to achieve wetland protection, a goal for which it was not designed. As a result, current federal wetland policy is actually little more than the accumulation of two decades worth of administrative conflicts, bureaucratic decisions, and judicial rulings.

Nationwide Permits are expressly authorized by CWA section 404(e) as streamlined general permits to authorize minimal impact activities in wetland areas. Primarily to replace NWP 26, in 1998 the Corps proposed six new "activity-specific" NWPs, with many broad conditions and restrictions (e.g., buffer requirements, water quality restrictions, flow requirements, etc.) that duplicate existing federal and state programs. These proposals are in clear violation of the streamlined permitting intent of the CWA.

Issue Impacts

The Army Corps of Engineers proposals would prohibit the use of most NWPs: within the 100-year floodplain, as defined by the Federal Emergency Management Agency (FEMA); within "critical resource waters" and their adjacent wetlands; and in "impaired" waters. The proposed exclusions to the general permitting process will result in applications being transferred to the individual permitting process. Having to operate within the new permitting scheme will, according to the Corps' own data, result in costly time delays for permit applications to be acted on.

The current drafts of the proposed replacement permits provide for one general permit, which could be available for shopping center development. The new permit, NWP 39, would cover residential, commercial, and institutional development. NWP 39 would include, but not

be limited to, expansion of an existing facility, grading, re-channelization, erosion, and building in accordance with the "Pre-Construction Notification" (PCN) general condition. Under this proposal, the discharge must not cause a total loss greater than 3 acres of wetlands, and any loss above 1/3 acre would require notification of the Corps District office. The 3-acre limit is further defined down by the proposed indexing system for acreage thresholds, making the requirements even more restrictive and onerous. These new permits and restriction are scheduled to take effect in January 2000.

Issue Update

ICSC took the lead last year in urging Congress to utilize its oversight authority and require the Corps to submit a study detailing the impacts of replacement permits (and restrictions) on the Corps' workload and the cost of the changes to the regulated community. In addition, ICSC worked to include language in the Corps' Appropriations for FY2000 that would require the Corps to establish an administrative appeals program. Through such a program, a property owner could receive final jurisdictional determination from the federal courts before having to go through a costly permit application phase. Unfortunately, due to political pressure and a veto threat from the Administration, the ICSC-supported language was passed in watered-down form. The Corps has been directed to undertake an impact study, although not before implementing the new permits and restrictions. In addition, the adoption of a real appeals program was passed, albeit not including a provision making an appeal determination a final agency action. As a result, property owners will still be forced through the permit application process before appealing a jurisdictional determination in a federal court.

ICSC continues to work with Congress to ensure the Corps justifies the changes to the permitting program. In addition, we are working with others in the development and business community to pursue all available options requiring the Corps to answer for their proposals.

ICSC Position

· Appropriate implementation of existing local, state and federal laws should replace blanket prohibitions and limits in the replacement permit package. Conditions in the proposal as currently drafted are overreaching, redundant and unnecessary, and result in little or no measurable environmental improvement.

· Substantial reforms should be made to take into account the value and functionality of wetlands, to limit the demands of federal agencies for disproportionate amounts of mitigation based on the value and function of the wetlands, and to define circumstances, through Congressional action, where the landowner would be entitled to compensation when a permit is not obtained.

· There are serious questions concerning the legality of the new permitting procedures, the lack of supporting data to justify the changes and the ability of the Corps to adequately handle the increased workload resulting from these changes. The Congress must use its oversight and appropriations powers to mandate increased study of these issues before any changes are made. Further, Congress should direct the Corps to extend the existing NWP 26 until sufficient data is provided to justify the proposed changes.

For More Information Contact William H. Hoffman, III, at 703/549-7404.

ext. 224.

Government

Deregulation of Telecommunications

Issue

The provisions of the Telecommunications Act of 1996 deregulate and promote competition in every segment of the communications industry. As a result, shopping centers and their tenants will be presented with the choice of a variety of new providers of telecommunications services that are in competition with the existing service providers and each other.

Background

Some issues shopping center owners and managers may face include the management, control, and cost of the provision of telecommunications, including those involving space, security, liability; control of service facilities and personnel, and compliance with laws and regulations. A major concern is whether any and all telecommunication service providers, in the name of encouraging competition, would be granted guaranteed access to private property, under government order, without the permission of the property owner.

Regulation

1) Federal Communications Commission (FCC)
The FCC has statutory authority over aspects of the activities of various telecommunication providers, including telephone companies and cable operators. Under the new law, the FCC is responsible for deregulating and bringing competition to these and other areas. It is through these new regulations that private property owners face the threat of the required access of telecommunication providers to their property without their permission. Through ICSC lobbying effort, the FCC has become educated on the intricacies facing the commercial real estate industry in this matter. We have made it clear that deregulation of the telecommunications industry should not lead to increased regulation of the shopping center industry.

The FCC issued a proposed rule regarding the installation of satellite dishes on shopping centers and other buildings. ICSC actively lobbied for changes from the original rule, which would have allowed any tenant to put up a dish. The rule adopted by the FCC allows shopping center owners to continue to solicit bids and choose satellite service providers for their centers, with input from their anchor tenants.

2) States
Under the new law, the states retain the right to regulate the access of service providers to private property, consistent with fundamental state and federal laws. There is pressure in the states, often generated by a coalition of alternative telecommunications providers (cable and newspapers), to provide for forced entry to private property for telecommunications providers. These efforts have manifested themselves in two forms of legislation. The first would impose such requirements

legislatively. The second would grant the state Public Utility Commission (PUC) the authority to deal with the issue with the view that the PUC would impose such requirements.

Regulatory and Legislative Update

In July 1999, the FCC released a Notice of Proposed Rulemaking concerning forced access for telecommunications carriers into existing buildings and structures. In addition, legislation of concern has been introduced in the Senate. Senate Bill 1301, introduced by Sen. Ted Stevens (R-AK), would require any building housing a federal government tenant to provide non-discriminatory access to alternative telecommunication providers. Such a mandate would not only preclude property owners from negotiating and maintaining exclusive contracts, but also would allow these alternative providers access to buildings at rates previously negotiated with incumbent providers. In other words, such non-discriminatory forced access amounts to a form of federal rent control for the privilege of having a government tenant. A bill introduced in the House, H.R. 2891, would also require commercial buildings with federal tenants to provide non-discriminatory access to alternative telecommunications providers. Finally, there is the possibility the Clinton Administration will issue an Executive Order designed to accomplish the goals of S. 1301 and H.R. 2891 if Congress does not act.

ICSC, working in coalition with others in the real estate community under the name "Real Access Alliance," has taken the lead in opposing any regulatory or legislative action that would force property owners to grant access to providers. We filed extensive comments with the FCC stating our position that the current market-based system of contract negotiation is working and that any mandate for forced access is illegal, violating the "takings" clause of the Fifth Amendment to the Constitution, and not needed.

ICSC Position

ICSC believes the right of property owners to maintain their property is paramount. The deregulation of the telecommunications industry has proven to be extremely complex and will pose many opportunities and challenges as we continue to lobby and monitor its impact on our industry. ICSC will act at both the federal and state levels to promote and protect the interests of our members. ICSC believes that state laws and regulations will determine the direction ICSC members take in creating telecommunications-related opportunities in their individual centers.

For More Information Contact William B. Hoffman, III, at 703/549-7404, ext. 224..

Government

Superfund Reform

Issue

In 1980, Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as "Superfund", to address the problem of inactive hazardous waste sites. During its 16 years of existence, CERCLA has proven to be complicated, bureaucratic, and costly in implementation. The Act imposed unfair burdens on private citizens and companies, retroactively, without regard to their negligence, fault, or failure to exercise due care. Superfund has proven to be an expensive failure and needs to be substantially revised and reformed.

Background

When enacted in 1980, Superfund was a five-year program with a $1.6 billion budget. That year, approximately 400 toxic waste sites were to be cleaned up under Superfund. To date, the federal government has spent $30 billion and cleaned up only 125 hazardous waste sites, with 1,200 sites awaiting action. The average Superfund site takes approximately 12 years to complete, at a cost of over $25 million. Nearly half of every Superfund dollar (47 cents) has been wasted on non-cleanup related activities, such as litigation and negotiations, rather than cleanup.

The Superfund is actually a "fund" created by a tax on polluters. Superfund by itself does not cover the entire cost of cleanup. The federal government, polluters, insurance companies, and states share the actual cost of cleanup. The main principle behind the establishment of Superfund was that the polluter should pay to clean up hazardous waste sites. The major problem with Superfund is that it has resulted in endless litigation over who is actually responsible for the cleanup.

Under the current system, an owner or operator is held liable regardless of whether he or she was involved in the handling or disposal of a hazardous substance.

Legislation

In the first session of the 106th Congress, the issue of Superfund reform, along with the companion issue of reforming the ability of state and local governments to develop former industrial sites (Brownfields), was the subject of much speculation.

In the House, Rep. Sherwood Boehlert (R-NY) introduced H.R. 1300. This bill seeks to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote Brownfields redevelopment, and to reauthorize and reform the Superfund program. The bill, which was reported out of the House's Transportation and Infrastructure Committee with a strong 69-2 bipartisan vote, would offer liability relief to innocent purchasers and strengthen state voluntary

cleanup programs. Another bill, H.R. 2650, offers many of the same reforms and has passed the House Commerce Committee. The legislation currently has an amendment that would change remediation standards for dry cleaners and defines property owners and lessors as de-facto dry cleaners. At the time of this update, members from both committees are working together to attempt to create a unified bill that can be brought to the House floor with bipartisan support. The Senate has indicated it will wait for House activity before moving on any reform legislation.

ICSC is working with others in the real estate community who share our concerns to advocate these types of reforms so that innocent developers are able to develop their properties and contribute to the redevelopment of currently abandoned or underutilized Brownfields sites.

ICSC Position

All reform efforts must adhere to the principles that responsibility for environmental cleanups should be fault-based and that the system should be designed to exempt truly innocent persons from liability.

ICSC will be supportive of any legislation that provides a clear definition of , and liability protection to, an innocent landowner. An innocent landowner can be briefly defined as an owner or operator who did not cause the release of hazardous substances at the vessel or facility. This language will protect owners who lease to tenants that can potentially cause contamination. Under current law, a tenant can cause contamination but the owner can be held financially responsible-a fault-based allocation system would reform that law.

For More Information Contact William H. Hoffman, III, at 703/549-7404, ext. 224.