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

SECRETARY OF THE SE
01 AUG 13 PM 5:0

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 #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. 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 2001 (200) Midyear (January 1-June 30) ☒ **OR** Year End (July 1-Dec

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 Lobbyin

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 rep period were:

Less than $10,000 ☐

$10,000 or more ☒ ⇨ $ 300,000
Expenses (nearest

14. REPORTING METHOD. Check box to indicat accounting method. See instructions for description o

☒ **Method A.** Reporting amounts using LDA defini

☐ **Method B.** Reporting amounts under section 603 Internal Revenue Code

☐ **Method C.** Reporting amounts under section 162 Internal Revenue Code

Signature Rebecca M Sullivan

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

LD-2 (REV. 6/98) P

[redacted]

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 engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each cod** 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.
U.S. Dept. of Treasury

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 8/7/01

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

[redacted]

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 r engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code** 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.
U.S. Dept. of TReasury

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 8/7/01

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

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 regist engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code**, pro 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.
U.S. Dept. of Treasury

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 8/7/01

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

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 r engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code** 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.
U.S. Dept. of Treasury

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 8/7/01

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

[redacted]

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 reg engaged in lobbying on behalf of the client during the reporting period. **Using a separate page for each code,**] 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.
U.S. Dept. of Treasury

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 8/7/01

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

[redacted]

Issue Brief – BANKRUPTCY REFORM

ISSUE

Over the past few years, an increasing number of financially healthy companies have been fili for bankruptcy protection as a business tool. Because businesses do not have to be insolvent t declare bankruptcy, more and more solvent companies are reorganizing under Chapter 11 of t Bankruptcy Code in order to restructure themselves and shed unprofitable stores. To make matters worse, many bankrupt retailers fail to assume (continue) or reject their leases in a reasonable amount of time. As a result, many shopping center owners are losing control over their own properties, neighboring tenants are losing business, retail employees are losing their jobs, and local economies are being threatened.

BACKGROUND

Congress has addressed the issue of bankruptcy reform for decades. In 1994, Congress create 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 Commissi submitted a report to Congress that contained a detailed statement of their findings and conclusions, along with recommendations for legislative and/or administrative action.

LEGISLATION

Bankruptcy reform legislation was almost enacted in the 105th and 106th Congresses. In 1998, legislation passed the House but died in the Senate, while in 2000, a reform package passed b the House and Senate but died by "pocket veto" on President Clinton's desk (since Congress adjourned within 10 days of sending the bill to him).

ICSC supports bills that recently passed both chambers of the 107th Congress -- *The Bankrupt Reform Act of 2001* (S. 420) introduced by Senator Charles Grassley (R-IA) and *The Bankrup Abuse Prevention and Consumer Protection Act of 2001* (H.R. 333) introduced by Representative George Gekas (R-PA). Both bills adequately address important issues to our industry, including those that relate to: (1) the amount of time a bankrupt tenant has to assume reject its leases; (2) the administrative priority of rents due under leases that are assumed and later rejected; (3) greater access to creditors' committees; (4) the curing of certain nonmonetar defaults before a lease can be assumed and assigned; and (5) the adherence of "use" and other lease provisions upon assignment. As of mid-May, conferees have not been selected as Senat leaders try to resolve the issue of how many Senate Republicans and Democrats should be on Committee.

OPPOSING VIEWPOINTS

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

[redacted]

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

ICSC POSITION

ICSC believes that solvent companies should not be able to use the bankruptcy system to brea valid leases, 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 prote all creditors and to prevent companies from abusing the system. Bankruptcy should be the fir option, not the preferred option of businesses.

Issue Brief – TAXATION OF ELECTRONIC COMMERCE

ISSUE

The Internet is rapidly becoming America's new marketplace. While tax policy should not discourage consumers from exploring this new purchasing channel, it should not favor Interne purchases over store purchases either. Instead, tax policy should provide a level playing field traditional retail businesses, mail order companies and Internet-based merchants. All levels of government need to work together to formulate a state and local sales and use tax system that 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 o 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 Congress 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 enacted a three-year moratorium (which expires on October 21, 2001) on Internet access taxes and new, multiple or discriminatory taxes on electronic commerce. In addition, it established an Advisory Commission to examine Internet taxation and interstate sa transactions. Unfortunately, the Commission failed to reach a consensus on the collection of state and local sales taxes on remote sales. However, it did issue a majority report that recommended not only extending the moratorium, but creating special "nexus" carve-outs and sales tax exemptions for Internet businesses.

The Streamlined Sales Tax Project (SSTP), created by several state and local governmental groups, approved model legislation late last year for state adoption that would simplify state a local sales tax systems in order to encourage collection by remote sellers. However, the Natio Conference of State Legislatures (NCSL) approved their own version instead of the one approved by SSTP.

LEGISLATION

Last year, the House passed legislation that would have just extended the moratorium for five more years. Fortunately, it was not voted on in the Senate. ICSC does not oppose the actual substance of the moratorium, however, we believe that any extension should also give states t authority to collect sales and use taxes from remote sellers.

ICSC opposes legislation introduced in the 107th Congress by Senator Ron Wyden (D-OR), S. 288, that would extend the moratorium, but not automatically allow those states that simplify their sales tax systems to require remote sales tax collection. ICSC supports legislation recent introduced by Senators Byron Dorgan (D-ND) and Mike Enzi (R-WY), S. 512, and Representatives Ernest Istook (R-OK) and William Delahunt (D-MA) H.R. 1410 that in

addition to extending the moratorium, would give those states that simplify their sales tax systems the authority to collect remote sales taxes. The Senate Commerce Committee recentl held hearings on this issue, but a markup scheduled for early May was postponed since key Senators could not reach agreement on a compromise bill. Discussions are still ongoing (as o mid-May).

OPPOSING VIEWPOINTS

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

Our opponents also claim that states are currently flush with cash, and therefore need not be concerned with uncollected sales taxes on electronic commerce. While most, but not all, state are currently enjoying budget surpluses, if the economy continues to soften and more sales gravitate from traditional stores to the Internet, states and localities could find themselves witl budget deficits and forced to cut back on essential services or raise other taxes.

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 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 the e-Fairness Coalition to promote a level playing field for all merchants.

International Council of Shopping Centers

WETLANDS/CLEAN WATER

Issue

ISSUE

New activity-based permits, promulgated by the U. S. Army Corps of Engineers t Nationwide Permit 26 (NWP 26), went into effect on June 5, 2000. NWP 26 had been permit used most often for construction and renovation of small shopping centers. Larg malls typically are forced into the more lengthy individual permit category. General, or n permits, were authorized by Section 404(e) of the Clean Water Act (CWA) in an effort by to provide a streamlined permitting process for minimal impact projects. Nationwide Permit 39) is the replacement permit covering residential, commercial and institutional real estat ment activities. To be eligible for that permit projects cannot result in the fill of more than wetlands. A Pre-Construction Notification must be filed with the Corps if the project will r fill of more than 1/10 of an acre of wetlands. If ICSC members are unable to qualify fc they will be forced into the more expensive and time-consuming individual permitting Conservative estimates regarding the impact of the new permits are an increased cost to t ed community of over $300 million, necessitating a 30% increase in the Corps' regulato maintain current customer service standards. The new permits will not only compound already serious workload while adding little environmental value, but also would prove harm business community, state and local governments and other public agencies.

BACKGROUND

The environmental importance of the nation's valuable wetlands is widely known. Howev eral wetlands program in effect today under Section 404 of the Clean Water Act is not the a carefully considered and fully debated legislative policy. The Clean Water Act is not a we tection law; it is a water quality law that has been used in an attempt to achieve wetland pr goal for which it was not designed. In fact, the Supreme Court ruled in January 2001 (S Agency of 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, Congress ha egated the authority to the Corps.

OPPOSING VIEWPOINTS

Many in the environmental community argue that no progress has been made in the nation protect our wetlands and that the federal government must play an ever stronger role in and land use decisions. However, statistics illustrate that through mitigation and co landowners are protecting and improving the quality of wetlands throughout the country b with state and municipal agencies.

ICSC POSITION

Serious questions concerning the legality of the new permitting procedures, the lack of data to justify the changes and the ability of the Corps to adequately handle the increased resulting from these changes make the new permits vulnerable to legal challenges. ICSC pating in litigation filed by other industry groups through an amicus curiae brief.

Congress has demonstrated its concern over this issue through provisions in appropriations for the Corps of Engineers for the past two fiscal years, requiring the Corps to submit eco workload impact reports to Congress. ICSC was instrumental in advocating for those appr provisions, but it has become increasingly apparent that additional legislative efforts are ne repair this fatally flawed federal regulatory activity.

contin

ICSC believes it is time to reauthorize the Clean Water Act in order to bring clarity and fai wetlands permitting program, and to adequately insure the protection of valued wetlands Among the principles that should be embodied in this legislative reform are:

- Respect for existing local and state laws on water quality and land use planning an ment so that they are not be subordinated to federal wetlands regulations.

- Explicit statutory requirement that the value and functionality of wetlands be tak account in the regulatory process, including reasonable limits on mitigation.

- Define circumstances where the landowner would be entitled to compensation fc 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
1033 North Fairfax Street. Suite 404 □Alexandria. VA 22314-1540 □703/549-7404 □703/549-8712 (

[redacted]

International Council of Shopping Centers

DEREGULATION
TELECOMMUNICATI(
Issue E

ISSUE

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

BACKGROUND

Some issues shopping center owners and managers may face include the management, control, of the provision of telecommunications, including those involving space, security, liability, con vice facilities and personnel, and compliance with laws and regulations. A major concern is wl and all telecommunication service providers, in the name of encouraging competition, would l forced access to private property, under government order, without the permission of the proper

REGULATION

1) Federal Communications Commission (FCC)

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

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

2) States

Under the new law, the states retain the right to regulate the access of service providers to priv erty, consistent with fundamental state and federal laws. There is pressure in the states, often gen a coalition of alternative telecommunications providers (cable and newspapers), to provide f entry to private property for telecommunications providers. These efforts have manifested ther two forms of legislation. The first would impose such requirements legislatively. The second w the state Public Utility Commission (PUC) the authority to deal with the issue with the view that would impose such requirements.

REGULATORY & LEGISLATIVE UPDATE

In July 1999, the FCC released a Notice of Proposed Rulemaking concerning forced access fo munications carriers into existing buildings and structures. If it were enacted, owners of mu buildings would be forced to grant non-discriminatory access to alternative providers. The Co is currently in the process of determining how, or if, to proceed with this rulemaking. In addit lation of concern has been introduced in the Congress. H.R. 3487, introduced by Rep. Michael OH), would deny property owners their normal property rights in determining the entry, occupa use of their buildings. This forced access legislation also would completely disregard free ma

cont

in determining rent for the space alternative providers would use. In other words, such non-c tory forced access amounts to a form of federal rent control.

ICSC, working in coalition with others in the real estate community under the name "R Alliance," has taken the lead in opposing any regulatory or legislative action that would forc owners to grant access to providers. We filed extensive comments with the FCC stating our po the current market-based system of contract negotiation is working and that any mandate f access is illegal, violating the "takings" clause of the Fifth Amendment to the Constitution, and ed.

ICSC POSITION

ICSC believes the right of property owners to maintain their property is paramount. The dereg the telecommunications industry has proven to be extremely complex and will pose many op and challenges as we continue to lobby and monitor its impact on our industry. The current, fi system has been working to provide greater choice to center owners to better serve their tena will act at both the federal and state levels to promote and protect the interests of our membe tinuing to oppose any and all federal efforts that violate our members' Constitutional Rights a undermine the current free market system of telecommunication choice.

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 □703/549-8712 (fa

International Council of Shopping Centers

BROWNFIELDS REDEVELOPMI

Issue E

ISSUE

In 1980, Congress passed the Comprehensive Environmental Response, Compensation anc Act (CERCLA), also known as "Superfund", to address the problem of inactive hazardous w During its nearly 20 years of existence, CERCLA has proven to be complicated, bureaucratic, ly in implementation. The Act imposed unfair burdens on private citizens and companies re ly, without regard to their negligence, fault, or failure to exercise due care. Superfund has pr an expensive failure and needs to be substantially revised and reformed. In recent years, recognition of the impact of Superfund on the redevelopment of lightly contaminated parc estate has occurred. These properties, commonly known as Brownfields, have been caught in plicated web of Superfund liability.

BACKGROUND

The main principle behind the establishment of Superfund was that the polluter should pa up hazardous waste sites. The major problem with Superfund is that it has resulted in endless over who is actually responsible for the cleanup.

Under the current system, an owner or operator can be held liable regardless of whether he c involved in the handling or disposal of a hazardous substance. Such Draconian measures not vent redevelopment in existing urban areas, but they also contribute to environmental degrac

LEGISLATION

Legislative attempts to reform Superfund and to enact provisions aimed to stimulate the c lightly contaminated sites, known as Brownfields, gained significant momentum in the 106th C but final action was elusive. Senators Smith, Chafee, Boxer and Reid have introduced reform in the 107th Congress. "The Brownfields Redevelopment and Environmental Restoration Ac (S.350)" would provide liability protection for innocent landowners and further protect the site cleanups undertaken within state cleanup programs.

OPPOSING VIEWPOINTS

Some in the environmental community argue that any Superfund or Brownfields reform leg merely a way to let polluters off the hook. ICSC does not believe knowing polluters shoulc erated. However, punishing innocent purchasers or undermining existing and evolving stat programs is counterproductive. Reform legislation is needed that will speed up the c Brownfields and Superfund sites; resulting in improved environmental and social conditions.

ICSC POSITION

ICSC has endorsed S.350 and continues to believe all reform efforts must adhere to the princ responsibility for environmental cleanups should be fault-based and that the system should be to exempt truly innocent persons from liability.

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

[redacted]

Lastly, ICSC believes that protection must be given to parties who acquire, remediate and Brownfields sites from "second-guessing" by the federal government. It is critical that clean u taken by property owners and developers under state laws be considered final and immune f sequent federal intervention.

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 □703/549-8712 (fa