

---

---

## **OLR Bill Analysis**

### **HB 5474**

#### ***AN ACT ESTABLISHING A PROPERTY TAX EXEMPTION FOR PROPERTY LOCATED ON CERTAIN INDIAN LANDS.***

#### **SUMMARY**

This bill establishes a property tax exemption for real property and personal property located on reservation land that is held in trust for a federally recognized Indian tribe. The exemption applies regardless of ownership (i.e., it applies to Indian and non-Indian owned property).

With exceptions, federal law precludes taxing federally recognized tribes for real or personal property they own, and in some cases lease, on their reservations (see BACKGROUND). Additionally, existing state law specifically exempts from property tax (1) reservation land held in trust by the state and (2) motor vehicles garaged on a reservation that are owned by tribal members or their spouses (CGS § 12-81(2) & (71)).

EFFECTIVE DATE: October 1, 2022, and applicable to assessment years beginning on or after that date.

#### **BACKGROUND**

##### ***Related Case Law***

The U.S. Supreme Court has ruled that under the U.S. Constitution states may not tax federally recognized Indian reservations and the Indians on them without clear congressional authorization to do so (*Oklahoma Tax Commission v. Chickasaw Nation*, 515 U.S. 450 (1995)). Local governments, as political subdivisions of the states, are generally subject to the same limitation.

Federal law does not necessarily preempt taxing non-Indian businesses or non-Indian property on reservations. In *Mashantucket Pequot Tribe v. Town of Ledyard*, 722 F.3d 457 (2d Cir. 2013), the Second Circuit Court of Appeals held that the town could levy personal

property taxes on slot machines owned by a non-Indian lessor and leased to the tribe for its exclusive use for on-reservation gaming. In doing so, it overturned a decision by the district court that found the property tax to be preempted by federal law.

***Related Bill***

sHB 5424 (File 412), favorably reported by the Planning and Development Committee, expands the properties eligible for reimbursement under the payment in lieu of taxes program to include all real property that is exempt from property tax under CGS § 12-81, except houses of worship.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 36    Nay 15    (04/06/2022)