

Legislative History for Connecticut Act

PA 75-637

Act Number:	637	Year:	1975
Bill Number:	HB 5110	Pages	
Senate Pages:	3159		1
House Pages:	4899-4905		7
Committee:	General Law 2-3, 1204-1227		26
		Page Total:	34

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

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S-110

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1975

VOL. 18
PART 6
2629-3188

1975 - GENERAL ASSEMBLY

SENATE

FRIDAY

MAY 30, 1975

LFU
108

THE CHAIR:

The question is on adoption of the Amendment. All those in favor indicate by saying aye. Opposed nay. Ayes have it. The Amendment's adopted. And the Bill will be placed on the Consent Calendar.

SENATOR LIEBERMAN:

Mr. President, on page ten, Calendar 1032, Substitute for Senate Bill No. 582. Calendar 1034, Substitute for House Bill No. 6851. Calendar 1036, Substitute for House Bill No. 7500. Calendar 1037, Substitute for House Bill No. 8453. Calendar 1039, Substitute for House Bill No. 5620. I should say for the Members of the Circle that 1038 had previously been marked Consent but there was objection in the interim. So we'll take it up. We won't take it up now.

Calendar 1040, House Bill No. 8463. Calendar 1041, Substitute for House Bill No. 5110. Moving to page eleven, Calendar 1044, Substitute for House Bill No. 6922. Calendar 1045, House Bill 8012. Calendar 1046 Substitute for House Bill No. 6200. Calendar 1047, I'd move for recommittal of Substitute for House Bill No. 6883 to the Committee on the Judiciary.

THE CHAIR:

Question is on recommittal. Is there any objection? If there is no objection, the Bill is recommitted to the Committee on Judiciary.

SENATOR LIEBERMAN:

Moving to page twelve of the Calendar, Mr. President, Calendar

H-167

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1975

VOL. 18
PART 10
4554-5052

House of Representatives

Tuesday, May 27, 1975

113
mms

Committee will meet tomorrow, one half hour before our starting time here. One half hour before to enact and to take some very needed action on a Bill. Thank you Mr. Speaker.

THE SPEAKER:

The Chamber will be at ease.

The House will come to order.

Clerk please return to the call of the Calendar.

THE CLERK:

On page 6. Calendar 1111. Substitute for House Bill 5110.

AN ACT CONCERNING IMPLIED WARRANTIES IN THE SALE OF NEW SINGLE FAMILY DWELLINGS.

THE SPEAKER:

The gentleman from the 56th, Representative Martin Burke.

REP. BURKE (56th):

I move for acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark?

REP. BURKE (56th):

Yes. The Clerk has an Amendment Mr. Speaker, LCO 9608.

THE SPEAKER:

Clerk please call House "A".

REP. BURKE (56th):

May I summarize in lieu of reading, Mr. Speaker?

THE SPEAKER:

Is there objection to the gentleman from the 56th summarizing in lieu of reading? If not, the gentleman is recognized for that purpose.

House of Representatives

Tuesday, May 27, 1975

114

mms

REP. BURKE (56th):

This matter was taken off the Consent Calendar earlier in the day for purposes of this Amendment. The Amendment is technical in nature and can best be explained as follows: The Statute which concerns implied express and implied warranties in new single family housing was based upon a State of Maryland Statute. There were certain words in the Statute that were legal words of art in the State of Maryland and not in the State of Connecticut.

The Amendment deals with that. It further clarifies the provisions as determination of warranties and in an existing Statute concerning a warranty on certificates of occupancy, it conforms it to the wording of this Statute.

I move adoption of the Amendment.

THE SPEAKER:

Remark further on House "A"? If not, the question is on its adoption. All those in favor will indicate by saying Aye. Opposed? House "A" is adopted and ruled technical. Will you remark further on the Bill as amended?

REP. BURKE (56th):

Yes Mr. Speaker.

THE SPEAKER:

The gentleman from the 56th.

REP. BURKE (56th):

I move acceptance and passage of the Bill as amended. Mr. Speaker, the concept of Caveat Emptor, or let the buyer beware, has been discarded in the State of Connecticut since the early 1960's with respect to personal property or consumer goods. And items of personal property now carry implied warranties concerning their fitness of purpose and

House of Representatives

Tuesday, May 27, 1975

115
mms

merchant ability. On the other hand, the doctrine of Caveat Emptor in certain instances still applies to real estate. Certainly if an appliance or any other consumer good carries warranties, then a house, which is usually the largest, single purchase one makes in a life time, should additionally carry implied and expressed warranties.

If this Bill is adopted, Connecticut will be the second State in addition to Maryland to adopt such a Statute. There is question in this State as to whether there is an implied warranty in a completed piece of real estate. And there is no case of the Connecticut Supreme Court even announcing the doctrine of implied warranty.

The Bill very simply would indicate that any written promise, description, plan, specifications, samples or models, which are the basis for the bargain between the purchaser and the vendor, will be considered part of an expressed guarantee.

I might add that the language in this Bill is very similar to language in the Uniform Commercial Code, concerning personal property. As to the implied warranties, there will be implied in the sale of every newly completely, single family residence, that the structure or improvement is free from faulty materials. That it was constructed according to sound engineering principles. Constructed in a workmanlike manner and is fit for habitation at the time of delivery of the deed or completion of the real estate.

This is an extremely strong consumer measure and I urge acceptance and passage.

THE SPEAKER:

Remark further on the Bill? The lady from the 16th.

REP. CONNOLLY (16th):

Thank you Mr. Speaker. A question to the proponent of the

House of Representatives

Tuesday, May 27, 1975

116
mms

Bill.

THE SPEAKER:

Please frame your question.

REP. CONNOLLY (16th):

Yes. Through you Mr. Speaker. Will this constitute an additional cost to the purchaser, at the time of purchase?

THE SPEAKER:

The gentleman care to respond?

REP. BURKE (56th):

Through you Mr. Speaker. No. This will be a Statute that says in the sale of every single family residence, certain things shall be applied....implied. This is set out in Section 2 of the Bill, I believe. And that as to expressed warranty, certain actions taken by the vendor, would be the developer or seller of the real estate, will constitute an expressed warranty. If he shows a model home in a tract and said your home will be similar to this one, then that's an expressed warranty.

I don't see any additional cost to the consumer. And I might point out that some lower courts in Connecticut have recognized the doctrine of implied warranty of habitability and fitness. The problem is, we don't have a Supreme Court decision on the subject and some of the case log does not address itself to these warranties in a completed dwelling, only to one that is in a state of construction, when examined by the purchaser.

REP. CONNOLLY (16th):

Thank you Mr. Speaker.

THE SPEAKER:

House of Representatives

Tuesday, May 27, 1975

117
mms

The gentleman from the 105th.

REP. PAWLAK (105th):

I rise to heartily support this legislation. I think it is a great day, assuming we will pass this legislation, as my...my experience as a First Selectman of our town, I know that my office was very frequently called with regard to difficulties between a home purchaser and a...the developer of a tract.

This is something which should help to eliminate the problems before they begin. I think this is very much in the interest of the public and a great consumer Bill.

THE SPEAKER:

The gentleman from the 135th.

REP. MANCHESTER (135th):

Mr. Speaker, through you, a question to the proponent of the Bill.

THE SPEAKER:

Please frame your question sir.

REP. MANCHESTER (135th):

At line 68, "according to sound engineering standards," may I inquire as to what specifically that means ?

REP. BURKE (56th):

Through you Mr. Speaker. There's....

THE SPEAKER:

The gentleman from the 56th.

REP. BURKE (56th):

There's a basic Building Code in the State which is the Building Code for every municipality. I would submit that...that would be on criterion and probably according to Standards on...of professional

House of Representatives

Tuesday, May 27, 1975

118
mms

Engineers registered in the State of Connecticut.

THE SPEAKER:

The gentleman from the 135th has the floor.

REP. MANCHESTER (135th):

Another question, through you Mr. Speaker. At line 103, and elsewhere in other sections of similar phrase, as I read that section, it appears that the implied warranties end at that moment in time when the buyer takes possession of the improvement. Is that correct?

THE SPEAKER:

The gentleman care to respond?

REP. BURKE (56th):

Through you Mr. Speaker. The Amendment, I think, took care of this area under implied warranties and the area under expressed warranties. Specifically line 103, to which you referred, as amended would read "delivery or one year after the taking of possession by the purchaser". In other words, the warranty would terminate one year after the date of closing when the deed was delivered or one year after taking... of possession by the purchaser, whichever occurs first.

REP. MANCHESTER (135th):

Thank you sir. Mr. Speaker, I'm afraid that I would have to then rise to oppose this Bill, for two reasons. One, that the words "sound engineering" can be construed to mean many things. And a...a buyer of a property upon moving in, may well become disgruntled with all sorts of things, including his neighborhood or what have you and feel dissatisfied in general and then begin looking for excuses to decry or run down the property that he has acquired.

Similarly, with extending the implied warranties section to

House of Representatives

Tuesday, May 27, 1975

119

mms

a full time period of one year after possession, strikes the same note. Similarly, in this situation I feel that the typical buyer, after they have moved in to an improvement, for one reason or another, they become upset, that I'm afraid that they would hide under these clauses in order to attack the builder of that improvement. And I feel that we currently have sufficient law on the books, to protect the buyers, the typical buyers and home owners, from this kind of problem that the Bill seeks to meet.

Therefore, I would oppose it.

THE SPEAKER:

Remark further on the Bill? Will you remark further? If there are no further remarks, please be seated and the staff come to the well. The machine will be open. Have all the Members voted and is your vote properly recorded? If all the Members have voted, the machine will be closed. The Clerk will take a tally.

THE ASSISTANT CLERK:

Total Number Voting.....	141
Necessary for Passage.....	71
Those Voting Yea.....	140
Those Voting Nay.....	1
Those absent and not Voting.....	10

THE SPEAKER:

The Bill as amended is passed.

The gentleman from the 60th.

REP. O'LEARY (60th):

Mr. Speaker, two items which were taken off today's Consent Calendar, I move that they be placed back on today's Consent Calendar.

I understand the objections have been removed. They are on

JOINT
STANDING
COMMITTEE
HEARINGS

GENERAL LAW
PART 1
1 - 413

1975
INDEX

GENERAL LAW

present consumer advocate in the Public Utilities Commission. My proposal is no reflection at all on that because, from all reports Mr. Silverstone is doing an outstanding job. I am told that the fact that he is on the staff or he is an employee, if you will, of the PUC has not apparently interfered with his independence. However, my proposal is to have an independent office whether it be an appointment by the Legislature or an independent office in the Executive Branch - that I really haven't developed.

But I would also like to propose the consumer advocate's functions or statutory duties be expanded beyond just the Public Utilities Commission and I think the Public Utilities Commission is probably the most vivid area at this point for some one to be the public advocate, but I submit that there are a host of other commissions such as hospital insurance and many other regulatory bodies for which the consumer advocate could and should appear for the citizens of Connecticut.

I understand that New Jersey has an Office of Consumer Advocacy.

CHAIRMAN WEBBER: At the risk of being a little bit disrespectful, and I don't mean to be, just tell me what you would like without necessarily debating the merits of the bill, making references to other states, that will come at the public hearing. I say this because there are many people that want to be heard and if we could conform every speaker to about three or four minutes we could get through this.

REPRESENTATIVE BURKE: I understand. And, I am done.

CHAIRMAN WEBBER: I hope you didn't take this personally. Just tell us the purpose of the bill and then at the public hearing then, you know, you can bring it up.

REPRESENTATIVE BURKE: I hope I have, Mr. Webber. I would hope there would be a public hearing on it.

My other bill is Proposed House Bill 5110 entitled "An Act Creating an Implied Warranty of Fitness and Suitability for Human Habitation in the Sale of New Single Family Dwellings." Basically, this would eradicate the concept of caveat emptor in sales of single family, new dwellings. There are several Connecticut cases and again, with your instructions, I won't get into them but I think it is important to note that there is no Connecticut Supreme Cases fully developing the implied warranty in real estate. There are, as you know, in the Uniform Commercial Code implied warranties that apply to consumer goods. It seems to me that with a single family resident being on the whole the largest investment the average person ever makes that we ought to, by legislation, create an implied warranty. We ought to do it as the Legislature

GENERAL LAW

because the courts have been^s low in the State of Connecticut to expand this.

SENATOR CICCARELLO: Mr. Burke, isn't there a law right now that gives a one-year warranty on the issuance of a building permit?

REPRESENTATIVE BURKE: Yes. There is but it is not limited to one year, 52-563(a) an implied warranty of compliance with the building code, but I would submit that that doesn't go far enough. The building code is what every building inspector in every town interprets it.

CHAIRMAN WEBBER: The big problem with that, Representative Burke, as you just explained it, largely very often a builder will complete a project or even a condominium complex and then leave, go out of the state, abscond, or whatever, in a perfectly legal sense. And then the buyer, if he or she does have a problem, has no one to go to. Now if you are talking about bonding of some kind, you see, how do you implement the warranty? We have gone over this and I think Mrs. Dunn would be the first to agree. She probably has more complaints in her office on home improvement people and building, isn't that true Commissioner? How do you enforce it? The whole problem is enforcement.

REPRESENTATIVE BURKE: What you have to do on my proposal all the words written in the purchase of a single family dwelling would have to be enforced judiciously and I have heard the argument that this really doesn't do much, but I can speak from personal experience, being an attorney and having represented homeowners, the Connecticut courts have not fully adopted this theory and I think it would be a start.

I just have two other things I would like to say in conjunction with this. The wording of my proposed bill really talks about warranty of fitness and suitability for human habitation. The concept, however, embodies language along the lines in addition to that of good and workmanlike manner. And while that doesn't appear in the proposed bill, I would just like the Committee to understand that my bill would embrace that concept.

Lastly, it really would only apply to defects that were latent and undiscoverable by a reasonable inspection. It wouldn't be if there were no roof on the house when somebody looked at they couldn't later sue for breach of the implied warranty. I think this is a good proposal and I strongly urge the Committee to draft the bill.

CHAIRMAN WEBBER: Thank you Representative Burke for coming.

SENATOR CICCARELLO: Representative Post? He is not there. Representative McCluskey - she is a member of the Committee. Are there any other legislators who care to speak? Representative Morton.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL LAW
PART 3
819 - 1285**

1975

GENERAL LAW COMMITTEE

JERRY STODDARD: You maybe misunderstood me, I'm in favor of a license. In fact we have had our model licensing, well I am to a certain extent, now the bonding is primarily what I'm against, the \$25,000 bond would be ver restrictive to a lot of these small businesses. A model licensing act

REPRESENTATIVE GRANDE: Excuse me, if I might interupt you. I think we mentioned that we did clarify this and I don't know whether or not you were at the hearings last year but we did some research on it and I had the Insurance Commissioner come over and discuss this and we're not talking about a performance bond, which is expensive and not readily available. We're talking about a bond on the license which I think, if my memory serves me right is something in the area of \$10.00 a thousand. I could be wrong on the license on the bonding..... This is the hangup this is the total hangup on the bill last year as of the cost of the bond and everyone was under the impression that it wasbut it was a performance bond.....

JERRY STODDARD: Well, I'm referring to bill #7147 sir. It calls for a corporate surety bond in the amount of \$25,000 or 1% of the said company's gross sale, which ever is greater.

representative webber; 7147

JERRY STODDARD: 7147, yes sir

REPRESENTATIVE WEBBER: Well anyway so we can clear the air a little bit this committee isis not so sure that the bonding requirement necessary or the amount of the bond , we'd like to get for the purpose of this hearing comments input to the committee for that..... and hopefully(MIXED VOICES _ INAUDIBLE) O.K. Jerry do you have anymore testimony?

JERRY STODDARD: No, that's it. Thank you very much.

REPRESENTATIVE WEBBER: Is Shirle Axelrod here?

SHIRLE AXELROD: Shirle Axelrod, representing the Connecticut Citizen Action Group. There are so many bills I didn't pick out any numbers. We'd just like to address a couple fundamental provisions that we felt are crucial to effect protection of consumers consistent with free competitive practices. The two bills 5110 and 7139 which refer to the establishment of implied warranties which governing home improvement contracts and home construction contractors. I know that Representaitve Burke was here earlier 5110 and 7139. Many consumer products today carry implied warranties of fitness which offer consumers a useful avenue of recourse for shoddy or defective merchandise. Home improvement and home construction presently have no implied warranties affecting the products and workmanship being sold. This absence creates a tremendous gap in the consumer's ability to achieve satisfaction even through the courts.

While providing for implied warranties in these industries provides some measure of protection to consumers, stopping there leaves a large loop-hole. A favorite tactic of merchanct and manufacturers is to negate the implied warranty by adding exclusions to customer contracts, or waiver.

GENERAL LAW COMMITTEE

SENATOR CICCARELLO: Excuse me, there is an implied warranty from the date
is there not?

SHIRLE AXELROD: There's a if I understand it correctly the implied warranty is that the home is suitable for occupancy when you get the certificate. with the building code but I think the contract, can go a lot further than that there's standards of workmanship that really are not covered at all in any warranty. With regard to the waiver, or certain rights under a warranty it's our hope that legislation that at least one of these bills addresses this part of this problem exclusions under a warranty. It's our hope that you will provide specific protection for consumers from waiving their own rights under warranty without realizing what they're actually doing. Maryland for example has legislation passed recently that requires that any waiver or any exclusions under a warranty be stated specifically on a separate sheet and require a separate signature.

REPRESENTATIVE WEBBER: Do you have a copy of that bill?

SHIRLE AXELROD: I don't have it with me I will get it for you. Another possibility is to require a notice in very simple and plain language and perhaps in larger type than the rest of the contract, that if you sign this you are or waiving your right to warranty?

SENATOR CICCARELLO: What make you think that a court in the State of Connecticut would permit a waiver of applied warranty

SHIRLE AXELROD: That a court would permit a waiver?

SENATOR CICCARELLO: Yes, most often a court will not permit a waiver of applied warranty where statutory obligation is public policy here in the State of Connecticut. I doubt very much that if we just legalize the language that we have right in this bill that a court would find that that implied warranty specific suitability could ever be waived. It would be contrary

SHIRLE AXELROD: I think that would really be an optimum piece of legislation where the warranty rights could not be waived. In fact now that could protection doesn't exist.

REPRESENTATIVE WEBBER: Yes, I agree.

SHIRLE AXELROD: With regard to the proposed bills that deal with licensing or registration and bonding of home improvement and home building contractors There is a very real difference between the two systems, licensing and registration and from our study registration seems to provide better over-all protection than licensing. Too often licensing is used by the licensed industry itself to restrict membership and to restrict competition. Studies by the Federal Trade Commission, among others, indicate that product and service prices of licensed industries tend to be higher, because of restricted competition, than are prices in industries regulated by some other method, possibly by more simpler registration procedure. It has also been suggested that enforcement of consumer protection measures is less effective under a licensing system than in a registration system that is coupled with state agency enforcement capabilities.

These points are all borne out by a study that was conducted for the Federal Trade Commission last January on Regulation of the TV Repair Industry in Louisiana, California and Washington, D.C. They found, Louisiana repairers are licensed and controlled by a board of their peers. California, they're

GENERAL LAW COMMITTEE

required to register and there's a bureau of repairmen that handles allegations of fraudulent repairs. In Washington, D.C. there's no regulation at all of these professionals. As the study compared the incidence of parts fraud, the unnecessary replacing of parts, they found that it's no lower in Louisiana where these people are licensed than in Washington, D.C. where they're completely unregulated and in both of those cities the prices were 20% higher. I'm sorry the prices were 20% higher in New Orleans than in the other two cities. New Orleans is where they're licensed. The occurrence of parts fraud were significantly lower in San Francisco where the repairers were required to register and there was a bureau to investigate consumer complaints.

On the basis of this data we feel that it's important that any registration system be combined with adequate enforcement authority for the Department of Consumer Protection along with a bond-posting system that if such can be worked out that's not discriminatory, that would discourage fly-by-night operators. We feel that action to deal with serious abuses in the home improvement and home building industries are much needed.

Consumers in this state have suffered long enough really there's no state agency that equipped to assist consumers who have problems with such contractors when they occur. The amount of money involved is often substantial but too small, too much for small claims court and not enough to warrant the cost of going through a higher court. Sometimes too even if the amount is high enough to warrant higher court action the protections under the law are insufficient. The General Assembly has the opportunity here to protect consumers, at the same time avoiding the pitfalls of a licensing board. We do not believe that such actions preclude any efforts by the industries themselves to handle informally the problems that may arise. We understand that that state branch of the National Remodelers Association has been effective on occasion in mediating disputes. However, we have received a substantial number of complex complaints that involve expensive disputes and which are controversial. Consumers need the basis of protection of amplified legal recourse through solid implied warranty as well as the extension of state regulatory authority into the field of home contractors and home improvements.

REPRESENTATIVE WEBBER: Shirle, then you are suggesting a system of registration?

SHIRLE AXELROD: Yes

REPRESENTATIVE WEBBER: And you're not in suggesting this system of registration you're not necessarily asking for qualifications before one be registered You view the registration as a strain or hold on

SHIRLE AXELROD: Exactly, so that there's a record.

REPRESENTATIVE WEBBER: Thank you very much.

SENATOR CICCARELLO: I did want to ask this one question. Do you organization make any distinction between home builders, new home builders when it comes to that subject of implied warrantyarea and improving contractors. Do you want registration of both?

SHIRLE AXELROD: Yes we do make the distinction and yes we do want registration of both. Both of them I understand, sometimes they're the same. Sometimes one company does.....

GENERAL LAW COMMITTEE

REPRESENTATIVE WEBBER: I'm of the opinion, Senator that home builders as such also when they're called upon to do home remodeling do that..... I don't know of any home builder who especiallyespecially in these days if given an opportunity to do a remodeling job or an additional room or something that turns it down. Isn't that true?

UNIDENTIFIED SPEAKER: No it's not true

REPRESENTATIVE WEBBER: The home builders

(INAUDIBLE _ MIXED VOICES)

SHIRLI AXELROD; We would also like to say that the implied warranty could be extended to home improvement jobs as well not merely home building.

REPRESENTATIVE WEBBER: Ronald Delaney

RONALD DELANEY: Ron Delaney, Jr. is my name and I'm from Watertown and I'm here with the Waterbury Home Builders. I find at this time very hard to go into any of the problems which might occur because as you did bring up we don't have the bills present with us at this time. My big question at this time is if there is to be a regulatory board set and to control this industry. Number one who is going to pay for it and who is going to hold the reins over this? Is it going to fall under one area or is it going to fall under Consumer Protection as well as the building, the building officials of the state.

REPRESENTATIVE GRANDE: I can give a probable answer to that there are two areas in which it might fall that's under the Department of Consumer Protection or the State Public Works Department.....

RONALD DELANEY: At this time I don't feel that I could ask any more questions, at this time until we do have these bills which we can look at. Unless there is any other

SENATOR CICCARELLO: You have a proposal just look at 935
Are you for or against it?

RONALD DELANEY: I am against this falling under the Consumer Protection because as pointed out before, I don't feel that I should go into that much is this basically is because the , I don't feel the Consumer Protection has that much of an insight into the building field

SENATOR CICCARELLO: This bill also talks about the establishment of a home builders contractors advisory board.

RONALD DELANEY: Yes, and then

SENATOR CICCARELLO:dealt with the Commissioner of Consumer Protection on the.....of the home builders industry.

RONALD DELANEY: When anybody who would be brought into this board would they be out of the home building field? Would they have prior knowledge in this area? All you're saying, you are going to create a board, now are they going to be consumer oriented or are they going to be non-biased?

GENERAL LAW COMMITTEE

REPRESENTATIVE GRANDE: According to the bill that waslast year I'm sure that some of the language will be included this year, it will be made up of homebuilders, home improvement contractors and people related in the field. It would be, you have an attorney on the board, you would probably have the public sector represented and it would probably be under the auspices of the Department of Consumer Protection but it would be represented by people from the industry. That's one of the, I recall particularly that someone indicated to me that what does the Commissioner know about home building and I made the remark quickly and I said nothing but the staff would.....

REPRESENTATIVE WEBBER: Ronald are you a new home builder?

RONALD DELANEY: Our basic work is addition and remodeling work.

REPRESENTATIVE WEBBER:Waterbury home builders?

RONALD DELANEY: I belong to the Waterbury home builders we do have quite a few remodeling contractors and home improvement contractors in this group.

REPRESENTATIVE WEBBER: Have you ever or do you do new work?

RONALD DELANEY: I have done new work, yes I have. Yes I do both.

REPRESENTATIVE WEBBER: Thank you.

RONALD DELANEY: At this point, at this time I would just like to say that at this time I am against the bills as proposed in the in the sheets which we have. I believe to give any fair judgement on anyone of these bills we should have, we should have the complete bills in front of us and so be able to diagnose the wording.

REPRESENTATIVE WEBBER: Do you want the record to show that you're opposed to any kind of registration or licensing.

RONALD DELANEY: I am opposed to any licensing as is shown in these right now, because I have no grounds on which to say I would be for it because I don't know exactly what it is.

REPRESENTATIVE WEBBER: Well are you opposed to the concept of licensing and registration?

RONALD DELANEY: I am not opposed to it, no.

REPRESENTATIVE WEBBER. Thank you. Thomas Garofolo, I think that's the name. Is it Garafolo? Did I pronounce it right sir?

THOMAS GARAFOLO: Yes sir. Thank you Mr. Chairman and members of the board, my name is Tom Garafolo from the Waterbury Home Builders. I too am opposed to the licensing, the building licensing coming out of the Consumer Protection Office. I feel that our 10 year warranty which has been very successful in 37 different states will be the answer for Connecticut. I just happen to remember a builder friend of mine came back from Florida I.....last week and he did mention it was anywhere in the neighborhood of \$3,500 to get a license in Florida and I thought that was an awful lot of money to be licensed in a state. The implied warranty, I was listening to the implied warranty and I was always under the understanding that the implied warranty meant good workmanship and I think there was a bill passed in 1969 that with the certificate of occupancy it had a three year warranty on that.

GENERAL LAW COMMITTEE

SENATOR CICCARELLO: One year.....

THOMAS GARAFOLO: No, I beg your pardon I am sure that I read three years in that there, I don't have the bill number, on the implied warranty and the implied warranty with me means it's good workmanship. No it's three years sir. I don't have the bill number with me but it was three years sir and I still feel that the ten year warranty the builders warranty is the answer and it has been very successful in all the different, the 37 different states and it will answer our problem here in Connecticut.

SENATOR CICCARELLO: Sir, was that in 1969? Identify yourself and read it.

ROBERT COHEN: I'm Robert Cohen again of the home builders 52-563A and it's....^{HB-5110}
issuance by the building department of any municipality if a certificate of occupancy for any newly constructed single family dwelling shall carry an implied warranty to the purchaser of such dwelling from the person, firm or corporation which constructed it that such person, firm or corporation has complied with the building code or the customary application in the interpretation of the building code in such a municipality. No action shall be drawn upon such implied warranty but within three years next from the date of the issuance of such certificate of occupancy .

REPRESENTATIVE WEBBER: Let me ask you this would that apply toappliances?

ROBERT COHEN: No, Mr. Chairman, if you're addressing that question to me that would not apply to appliances.

THOMAS GARAFOLO: Appliances has effective guaranteed for one year.

representative webberLet me ask you something (Inaudible - mixed voices)

THOMAS GARAFOLO: I think that when you get to appliances, I think this is something that, I don't know how the bills ever got into the appliance business. I've been building for 28 years and there was a time where the buyers always bought the appliances and I think the builders do it more as an accomodation because they more or less get it from the cabinet company, they furnish the appliances but to stand behind the appliances forever is not right neither.

REPRESENTATIVE WEBBER: No, I didn't say that when you complete a building suppose you builtlike many builders do and you complete it, you complete it at least to your satisfaction and you ask for an inspection, now when you have your inspector look at it you then are subject to the CO. Now suppose that house doesn't sell for a year or a year and a half

THOMAS GARAFOLO: I'm sure about that three year implied warranty because I've had a little experience with that. But, the appliances, I know what you're referring to. I think when you sell a household it a year the buyer hands in a guaranteed application. You're saying once you buy your house whether it's a year or a year and a half later after it's completed you send your application into the company and they will acknowledge that. Thank you very much, gentlemen.

REPRESENTATIVE WEBBER: William McCullough

GENERAL LAW COMMITTEE

WILLIAM MCCULLOUGH: My name is William McCullough, I'm representing the Commissioner of the Department of Consumer Protection and I'd like to speak to the generally the bills that are before us today. A couple of things that I might be able to help clear up for you. You were just talking about implied warranties and three years and all that business. The three years is the statute of limitations on that particular action. The implied warranty is not for any specific period of time. When you have an implied warranty your warranty runs to the fact that your saying that at the time I sell that house it complies with the building code and if something happens a year later for some reason it no longer complies with the building code, if it complied at the time that the house was sold were not liable under that implied warranty. So it's not for a specific period of time, the three years is a statute of limitation. It's not a three year guarantee.

SENATOR CICCARELLO: In other words you're saying that it's three years you have to bring the action on the implied warranty within three years.

WILLIAM MCCULLOUGH: Right

SENATOR CICCARELLO: But the defects must have existed at the date of the CO, and any subsequent defects

WILLIAM MCCULLOUGH: O.K. well say something happens to the house, it's difficult to think of something that would happen that would not have been present at the time it was sold but o.k. yea, the heating system stops working.

SENATOR CICCARELLO: Defects can arise after the C.O. as long as you can show that they were defects had their origination prior to date of the.....

WILLIAM MCCULLOUGH: Right, o.k. but if something stops working. The heating system stops working a year after you bought the house, that implied warranty has nothing to do with that action. Unless you can show that.....right, right. O.K. now as far as the Department of Consumer Protection is concerned, we did present to the committee two proposed bills which we drafted, which are the same ones that, essentially the same ones that we submitted last year on home building and home improvement contractors. They were changed

SENATOR CICCARELLO: One second, I hate to interrupt you, you're going to go off from the implied warranty?

WILLIAM MCCULLOUGH: Right that was just on the side.

SENATOR CICCARELLO:the implied warranties here don't have the same problem? The implied warranty running from the building of the.....
(Inaudible)

WILLIAM MCCULLOUGH: If they can't prove that they were present at the time of sale. Otherwise you're talking about, If you're talking about something where a defect occurs after the house is sold say a year later, two years later, then you have to be talking about unconditional guarantees. Or the conditions have to be such that they would come under that guarantee but you're not talking about implied warranties.

SENATOR CICCARELLO: (Inaudible)

WILLIAM MCCULLOUGH: That's what you have on your appliances. You have a one year unconditional guarantee that that appliance is not going to stop working in that year.

GENERAL LAW COMMITTEE

SENATOR CICCARELLO; Has your Department look at that guarantee that

WILLIAM MCCULLOUGH: The Barnes, you mean.

(Mixed Voices - Inaudible)

WILLIAM MCCULLOUGH: No we haven't

SENATOR CICCARELLO: Would you take a look at it. Does anybody here have the literature on how I just want you to take a look at it maybe you can , maybe your Department may want tonot now, not now.....

WILLIAM MCCULLOUGH: O.K. the bills that the Department presented are now registration bills. They're not licensing and I agree with what Shirli Axelrod said about the situation where you had a licensing board, and you have licenses and you have invested interest in a license, like the situation where you have plumbers, electricians the way they're licensed in the state now, I don't think that is what we want for either home improvement or home builders. I agree with Miss Axelrod that if you have that situation you're going to have higher prices and you're going to have entrenchment in the

SENATOR CICCARELLO: Let me ask you this with reference to that. She mentioned the FG Study, the FGC study which I'm very familiar with in California where they regulate T.V. repairmen they have spot checks by the Repairers Board or whatever it's called. The affect of that is to go on a job or to examine a T.V. or to call upon a repairman to do a T.V. job on and he is the owner of that set and thesomeone has raised the point that if this is within the Department of Consumer Protection and you people don't have builders or people with the expertise to go around and make theof examination to say that they're violating the law or they're not conforming to certain

WILLIAM MCCULLOUGH: If you're going to have an act, and you're going to enforce the act in that matter if you're going to go out and make inspections rather than just acting on consumer complaints

SENATOR CICCARELLO: You can act, you can do both. I'm not saying you that you....

WILLIAM MCCULLOUGH; That's right, you would have to answer on consumer complaints but if you're going to make inspections, routine inspections you have to have someone who's knowledgeable in the field, obviously. I couldn't go out and tell you whether a house was built correctly or not.

SENATOR CICCARELLO; That means that your Department would have to hire

WILLIAM MCCULLOUGH: Definitely we

SENATORCICCARELLO: Certain people from the field, people who operate in the field who have experience in the building trade.

WILLIAM MCCULLOUGH: Definitely, as a matter of fact the, last year when these bills came up we came up with a figure of 5 investigators for home builders and these would have to be knowledgeable in investigators.

SENATOR CICCARELLO: Was that a registration act

WILLIAM MCCULLOUGH: It was then called licensing but in effect was a registration. There was no testing involved or anything.

SENATOR CICCARELLO (Inaudible)

GENERAL LAW COMMITTEE

WILLIAM MCCULLOUGH: The Department has received complaints about home builders someone mentioned that we hadn't. Someone said that Barbara Dunn said that we hadn't. That isn't true, I don't whether she said that or not, but we have recieved complaints about home builders. But the Department's main thrust in this area it towards home improvement. There's 10 times as many complaints about home improvers as there are about home builders and I think if we're going to do anything, we have limited resources, we should do it in the area of home improvement. Last year when we drafted the home improvement bill we had a home improvement advisory council to help us drafting it and there is at least one member of the council here, Mr. Maranoni, who helped us draft that bill and at the time we thought it was a , is a very comprehensive bill, there may be some problems with the bonding aspects of it.

SENATOR CICCARELLO: Is that bill that you're referring to in any essence Senator Houley's bill 935?

WILLIAM MCCULLOUGH: As far as I know the proposal is Senator Webber, Representative Webber's proposed bill. That is the , I don't have it

SENATOR CICCARELLO: 7136. 7136 doesn't have the detail that 935 has in referring towithin your Department and a home builder, home building contractor

WILLIAM MCCULLOUGH: Well, I'm talking to home improvement right now and that's 7156 or 46 or something like that.

REPRESENTATIVE WEBBER: Do you have a copy of the bill in your office?

WILLIAM MCCULLOUGH: I have a copy right here.

REPRESENTATIVE WEBBER: Do you have an extra copy?

WILLIAM MCCULLOUGH: You can have this one right here. That is very definite as to definition of home improvement contractor it includes those areas that we have had problems with , swimming pools, driveways installers, aluminum siding

REPRESENTATIVE WEBBER:even though it's.....to the home improvement field.

WILLIAM MCCULLOUGH: If he does that type of work, yes.

REPRESENTATIVE WEBBER: I he does that type of work, exactly what I was going to say.

WILLIAM MCCULLOUGH: There is no other way you could do it. You would have to

REPRESENTATIVE WEBBER: And apparently there aresome new home builders who do not do home improvements. The builder who built my house definitely does no improvements.

WILLIAM MCCULLOUGH: Mine, too. Yes I just want to make it clear that we are in favor of some kind of control over home improvements especially. Home builders we're not so sure.

REPRESENTATIVE COLLINS: Mr. Chairman,would I gather that you are interested more in the registration type bill than the licensing?

WILLIAM MCCULLOUGH: Definitely

REPRESENTATIVE WEBBER: Thank you. Yes, I'm sorry, Representative Villano.

REPRESENTATIVE VILLANO: You mentioned the fact that there was a wide discrepancy in complaints as between the home improvement and the home builder.....

(Inaudible)

GENERAL LAW COMMITTEE

WILLIAM MCCULLOUGH: I know that to a great extent there are not, especially well it depends on the type of work that they're doing. I know some building inspectors in some of the smaller towns will inspect home improvement type jobs but they're not required to. Often it's not necessary, well most of the time it's not necessary to have a CO I think that was mentioned previously.

REPRESENTATIVE VILLANO: But let me ask you this why are you in favor of registration and not in favor of licensing? What is your reason for that?

WILLIAM MCCULLOUGH: Well the same reason that was mentioned by Shirli Axelrod before, I think that when you have licensing

SENATOR CICCARELLO: Licensing implies testing

WILLIAM MCCULLOUGH: It implies testing, it implies a vested interest in the license, it implies grandfather clauses, it implies that the licensing is done by a board of professionals. You have a situation where the licensing actually increases price to the consumer, it actually makes for more shoddy work, often times than is the case without any type of licensing. I think the registration you have, registration is much more practical as far as control and as far as keeping open competition in the business as long as everybody can be registered.

REPRESENTATIVE VILLANO: Would you have to be registered in order to practice the engaged as a home improvement builders?

WILLIAM MCCULLOUGH: Yes

SENATOR CICCARELLO: One of the things in looking at your act here is I don't see the, I think there's criminal penalties, yeah there is a criminal penalty for not.....acting as a home builder without, a home improvement contractor without a license . Did you consider making the contract then enforceable in a court of law?

WILLIAM MCCULLOUGH: To be perfectly frank with you I don't remember.

SENATOR CICCARELLO: Also there is, I don't see any provision for a hearing for an suspension of revocation of licenses.

WILLIAM MCCULLOUGH: There is in there somewhere.

SENATOR CICCARELLO:give a license (Inaudible)

WILLIAM MCCULLOUGH; Refusal to renew, suspension oror refusal to renew a certificate should be althgether in one section. Gary.....by the way has this draft.

SENATOR CICCARELLO: There's a hearing on Section 9 (Inaudible - not speaking into the mike)

WILLIAM MCCULLOUGH: It should say refuse, I mean suspend, revoke or refuse to renew in accordance with chapter 54 and this is in accordance with..... procedure. One other comment, people have been talking about the building inspectors and the code enforcement taking care of building problems I think it has been touched on before but most of the complaints that we receive in the Department concerning home builders have to do with the cosmetic aspects of the building. They always mention the wall paper, the paint, the nails popping out, the landscaping, that's where the home owner does not have the protection.

GENERAL LAW COMMITTEE

REPRESENTATIVE WEBBER: Thank you very much. We hope that during the course of this hearing we'll shut off the air conditioning and put it on every so often. To clear the air andDaniel Miller

DANIEL MILLER: Mr. Chairman, gentlemen of the committee, my name is Daniel Miller I appear before you as a past president of the National Remodelers Assoc. and gentlemen I'd like to preface this comment that I'm going to make with a simple fact that we cannot in any way deny that there have been some inequities as far as the consumer is concerned where some contractors or other related fields have taken advantage of the consumer. I think you'll find that in almost any profession in every trade. There's always someone who participates in something that's going to get something from someone. Now that might be a tongue twister but that's the only way I could express it. But I have to go on record because as long as we cannot read the bill and others have said this so I'll be brief, we cannot read the bill, other than statement of purpose, I have to unequivocally object to each and every bill that you're proposing. There are specifics I'd like to bring to your attention. Specifically number one, when it comes to remodeling and I'm a remodeling contractor I should have added that, if we add a room addition to a home we do have to have a certificate of occupancy and therefore that comes under your various rules and regulations of a town.

SENATOR CICCARELLO: You mean a building permit?

DANIEL MILLER: Yes, you need a building permit for roofing, for siding or a certificate of occupancy for a room addition because it becomes part of the home. If you add a room to the back of your house, we get out a building permit and you also pay for a certificate of occupancy and the building inspector must come in and give final approval. Now if you don't have it in the city code you certainly have it for state code and therefore you must comply with it. Now I use the word must, let's say sometimes with tongue in cheek because perhaps not everyone does comply with the law. But when you get into the various things, the important that I would like to stress to you is that our association does not, does not argue against licensing act per se but what we're looking for is a licensing act that has equity to both the consumer and the businessman. And the only way that we're going to balance that off in my honest opinion is to be able to sit down and we've endeavored to do this, to try to get legislators to sit down with us and go over a licensing act so that we could have an opportunity to put some in- put into it, so that our legislators will

SENATOR CICCARELLO: Did you see last year's bill?

DANIEL MILLER: I've been here every year but what bill are you referring to?

REPRESENTATIVE WEBBER: The registration act, an act concerning the registration of the home improvement contractors and.....

DANIEL MILLER: Well, I think, Mr. Chairman, I think in 1969 our association put out a model home improvement licensing act because we believe in the fact that if we have equity for the consumer and the contractor, you have registration and you have licensing all in this particular little booklet, which we did issue to many of the legislators and if you follow that as a guideline and if follow along with what you're proposing, you have used as an example Consumer Protection as the main stay body where as we have utilized the Secretary of State. Using Consumer Protection the conotation is strictly one sided, you're talking only on behalf of the consumer. Well I happen to be a consumer also as you are and

GENERAL LAW COMMITTEE

REPRESENTATIVE WEBBER:that's natural on your part, you know they spoke about setting up a board of your people, your peers,

DANIEL MILLER:BECAUSE MANY OF OUR legislators have taught me at least one thing it's where you put the question mark or where you put the comma as to what that sentence means. I have spoken to legislators in the past and not that I wish to be argumentative about it Mr. Chairman it's just the fact that where there is a sentence in a bill which perhaps I will read one way and someone else reads another way but when that becomes a law it becomes a law. There's an example, I was just talking to Representative Grande you have a proposal whereby the Consumer Protection Department will write rules and regulations it up to you to enact it into a law. Now Congress did the very same thing in.....and lending. They turned right of making rule over to the Federal Trade Commission and the Federal Reserve Board who promulgated rules and regulations in truth and lending called regulation Z. Congress said one thing in the original law, the Federal Trade Commission says something totally different, and we live by what the Federal Trade Commission said they were never elected to make law in this country. They were appointed by Congress to enact rules and regulations. Now Congress used a term when security interest is retained

SENATOR CICCARELLO: I think

DANIEL MILLER: Well let's get back, we'll come back from Washington to the State of Connecticut. No the analogy that I'm drawing is that if Consumer Protection Department is going to write rules and regulations, they could very readily write something which our law makers did not make into a law. Either.....or look at it later.

SENATOR CICCARELLO: (Inaudible) not using the mike

DANIEL MILLER: Would that then become a public hearing on this, sir? Before actually you'll accept it as part of law?

REPRESENTATIVE WEBBER: Not necessarily.

DANIEL MILLER: Alright, then another thing that I would like to bring out, this young lady that was here a few moments ago gave credit to our association in helping tocomplaints that have been coming through to their office of the Citizen Office Group. We do work with the Consumer Protection Department we work with the banking department on any kind of remodeling complaints including the Better Business Bureau. We have a consumer affairs group within our own association. Who really in every way try toany wrongs that pop up between the contractor and the homeowner. So what we're trying to establish is a simple fact. That if you enact into legislation a license that would have equity to both the businessman as well as the consumer, we would and could support something like that willingly but cartebianche we could never back what you have here on these papers.

REPRESENTATIVE WEBBER: Alright, thank you. Joseph Marinone. Is that the name?

GENERAL LAW COMMITTEE

JOSEPH MARINONE: My name is Joseph Marinone, I'm also the past president of our National Remodelers Association here in Connecticut. I think I checked the sheet where I'm for and against. There are a few things in some of these bills that are drawn up that kind of frighten me a little bit or scare me a little bit being a home improvement contractor. One is this \$25,000 bond at 1% another one is some sort of penalty in there in jail and don't see anything like that in the real estate business or anything else. So I just wonder if we're carrying it a little too far on some of these bills. Before I came here I was just going to blanketly oppose some these because of the way that they're written up but I understand that these are just some small proposals that you people, some of the representatives have come up with, but you're actually going to draw up a bill?

REPRESENTATIVE WEBBER: I understand that you played a part.....

JOSEPH MARINONE: Yes, I was a member of that Advisory Board on that yes.

REPRESENTATIVE WEBBER: You're familiar with the contents of it.

JOSEPH MARINONE: Yes, I am. I have a copy of that.

REPRESENTATIVE WEBBER: Do you have any objections to this?

JOSEPH MARINONE: No, I have no objections to that, I think it's a fairly decent bill let's face it in any of those I think there are going to be some things that you're not going to like.

REPRESENTATIVE WEBBER: You're not going to make everybody happy.

JOSEPH MARINONE: I would like to point out that when I served on that Advisory Board that I'm a home improvement contractor and it kind of stings me a little bit when I find that a lot of these complaints come in from water-proofing people, driveway people, pool people and I'm not in that business but yet I'm a home improvement contractor. So what they're doing is lumping everybody into this catchall of home improvement contractors and I'm not trying to say that they maybe do not have documented cases of home improvement contract complaints but by far when we served on that committee, they had the bigger and larger complaints from that area. So that it is in here and I would just like to point out that there's, you see there's no superceding factor over some of these people because they don't have to get a permit like we do, when we go, we have kind of a building inspector watching us and all. Right, but like the driveway people, the water proofing people. Yea, under this they would right, so that we have had some regulations to a certain extent. I would be happy to see a bill of this type in there. I would like to see the General Assembly regulate what goes into it. I didn't particularly care to just give the Commissioner of Protection the power to just write anything. I think you people should see what is going into a bill and judge it to what's good for the overall contractors, consumers and everyone.

REPRESENTATIVE WEBBER: We establish agencies, we establish commissions, we establish boards, we hope that the people who make up these boards and agencies and commissions have some expertise and if they don't they bring in special people, but we very often say to them you promulgate the regulations. Now the case in point, and I digressing a bit, and another Chairman may take exception for my digressing but we've developed in our state an act called ADFDC Act a very comprehensive, a very significant piece of legislation, but we left it to the Office of Consumer Protection and the Attorney General's Office to promulgate the regulations under this ADFDC Act you know relating to each heading and each department, legislators just cannot

GENERAL LAW COMMITTEE

do that in light of the hundreds of other responsibilities that they have and we will skip something that will develop.....that later proves to be totally inequitable or it may have some defects, sure then the legislators the following year not two years later might recommend a change of which we proposing now in some other areas. Wherein the rules were promulgated by other agencies. It very difficult for us to become involved in every, the dotting of every i and the crossing of every t.

JOSEPH MARINONE: O.K., Right, I can understand that and I can only sympathize in what you've said because you do have a lot to do. It's just for my direction I think it kind of, you leave it up to one person to really tell you what you're going to do and you'reWell, when you say Commissioner Protection you're really talking about one person. Alright the Office and who's involved? I'd be in favor of it. Do you want a copy of it? Oh, sure go ahead.

REPRESENTATIVE GRANDE: Are you a little clearer as to the registration bond
(Inaudible - not speaking into the mike)

JOSEPH MARINONE: Well I agree with you as far as what you've said, now just going back that's what happened last year. We felt it just wasn't available and you in checking it out mentioned what the cost and it wasn't a performance bond, just a registration type

REPRESENTATIVE GRANDE: (Inaudible) was not readily available but very difficult to get.....

JOSEPH MARINONE: O.K. Right. If you read in here where it mentions the performance bond I believe we wrote in there that as an example if I couldn't get a \$2,500 performance bond I could take \$2,500 out of the bank and put it up as security and we do give that out in the event that there wasn't available this type of bond so the man could still stay in business is what we're trying to do and it's written in there and if it works out the way you said it's fine.

SENATOR CICCARELLO: Under what circumstances is that bond called

JOSEPH MARINONE: What circumstances? Called in? I don't know but we also had a paragraph in there where it was up to the discretion of the Consumer Protection as to whether they wanted to ask for the maximum bond or lesser? Yea, that was at her discretion, right.

REPRESENTATIVE WEBBER: Thank you(Inaudible)

JOSEPH MARINONE: Do you want a couple of copies of these I don't know if they're as clear or they're not the same as Mr. McCullough, I think they are except he said he crossed out licensing and put registration in. Other wise the wording is basically the same. I be happy, I think I have two copies, I'd be happy to give them to you. O.K.

REPRESENTATIVE WEBBER: Thank you. Eugene Martin

March 27, 1975

GENERAL LAW COMMITTEE

EUGENE MARTIN: Mr. Chairman, ladies and gentlemen, my name is Eugene Martin, I am a small home improvement contractor in Connecticut, also a officer member of the National Remodelers Association. I think all of the points put forth here this afternoon were very well taken and received. I feel it's apparent you have a peice of literature there in front of you there that you feel that you can enact and live with and I'm sure it's something that we can work and live with also. I would like to address myself to the licensing registration aspect of what we're talking about. It was pointed out here, by a young lady a little while ago that it should be registration instead of licensing, that is not my feeling on the subject, I think in the small home improvement contracting business, that anyone with a pick-up truck, a hammer and a ladder can call themselves a contractor. In a T.V.repair business, a man has to have a little technical knowledge, where in our field it's not always critical. I think a good licensing act would perhaps enhance, your piece of legislation rather than detract from it and I would just like to go on record as being in favor of licensing as opposed to registration.

REPRESENTATIVE WEBBER: Does anyone here come from the Hamden area, or close to the Hamden area?

EUGENE MARTIN: I'm not too far from it, I'm from Oxford.

REPRESENTATIVE WEBBER: I understand that in Hamden they have a registration.

EUGENEE MARTIN: Yes, I did a job in Torrington which required me to take out a contractors license to do aluminum gutter and.....job. A \$50.00 license to do a \$100.00 job. I think it should be a state wide licensing act as the plumbers or electrical

REPRESENTATIVE WEBBER: (Inaudible - mixed voices)

EUGENE MARTIN: And I would certainly hope that this state license would supercede licensing by all the little municipalities.

REPRESENTATIVE WEBBER:Oh, I didn't see Representative Manchester, I apologize,

REPRESENTATIVE MANCHESTER: You said you're a member of the Remodelers Association. About how many members are there in the State of Connecticut?

EUGENE MARTIN: We have approximately 100 members, there are approximately 2,000 small contractors or people who call themselves small contractors. There is a great deal of difference as I'm sure you are well aware and this is why we're sitting here this afternoon because there are a lot of people calling themselves contractors who are not really.

REPRESENTATIVE MANCHESTER: Thank you.

REPRESENTATIVE WEBBER: Thank you. E.C. Pearl

E. STEVE PEARL: Mr. Chairman and members of the committee, my name is E. Steve Pearl, President of the Tax Payers Association of Connecticut also a Home Improvement Dealer in Manchester. If these bills are passed you know that whatever fee that would be charged will be passed onto the homeowners, adding to the already high cost of materials and work. Well aware in any of these bills that I see a set fee for this licensing. Therefore any builder or home improvement contractor not objecting to these bills would in effect be granting a bureaucracy a blank check.

GENERAL LAW COMMITTEE

SENATOR CICCARELLO: How about under the proposed act from the Department of Consumer Protection

E STEVE PEARL: This, is this one of your official bills that you're speaking of or is it something that someone has passed to you.

SENATOR CICCARELLO: It's the nature of the bill that would be drafted.

E. STEVE PEARL: I didn't see it on the bulletin and neither did I find it in the Bill Room .

SENATOR CICCARELLO: \$50.00 initially and \$20.00.....

E. STEVE PEARL: The bills that you're hearing here today I have in my hand and I found, I picked them up at the Bill Room . Proposed bills, right and I didn't see this as having, you're not having a hearing on that bill are you?

SENATOR CICCARELLO: Did you see this last year?

E. STEVE PEARL: I probably did, but I don't recall the bill.

SENATOR CICCARELLO: This is probably the bill, probably the bill that will be drafted.

E. STEVE PEARL: I see. But probably and of course in effect being the bill there's two different things. I don't know as fact that that would be the bill and you're not telling me as fact that that will be the bill. So therefore

SENATOR CICCARELLO:In your opinion whether you know that you think the \$50.00 is too much and the \$20.00 renewal fee is too much, in your opinion.

E. STEVE PEARL: You're asking me to, in effect approve that bill? I'm not going to do that. I haven't seen the bill.

SENATOR CICCARELLO: We're talking about a fee...

E. STEVE PEARL: I am, no, I say actually in effectwithout, without a set fee on these bills here.

SENATOR CICCARELLO: Those bills are proposed bills that don't have the details.

E. STEVE PEARL: I see, if it's just a case of setting forth a figure well certainly not the figure seems reasonable but so far as approving that bill I can't approve it without going over it. I'm sure that you'll understand that.

SENATOR CICCARELLO: If the fee was \$50.00 the first and 20 years thereafter and \$20.00 a year there after is that going to bring the consequences that you indicated in that first sentence of your statement?

E. STEVE PEARL: It certainly would. Would you give me \$50.00 right now and not charge somebody for it.

SENATOR CICCARELLO: I pay \$150.00 a year to the state.

E. STEVE PEARL: For acting as our Senator?

SENATOR CICCARELLO: No,

GENERAL LAW COMMITTEE;

E. STEVE PEARL: I see

SENATOR CICCARELLO: No, my profession.

E. STEVE PEARL: Do you know what I think would be a great idea in fact Representative Webber brought out the thought here, I, why it would be a great idea, for Representatives and Senators to pay the state and have a license...

REPRESENTATIVE WEBBER: You wouldn't be happy with that.

E. STEVE PEARL: Sure, I wouldor buy me then buy me abill that is requesting a \$25,000 bond or 1% of the contractors company gross sale, which ever is greater and that bill is 7147. This would cause undue hardship on the contractors and unwarranted investigation of the contractors records. Most of these bills say that the contractors shall register with the Commissioner of Consumer Protection. Most of these bills claim that their purpose is to protect the consumers from shoddy practices of the contractor. If you give a favorable report on these bills you will be granting a license to create a bureaucracy to administer these, this license. We feel this would be an injustice to the tax payers of this state. Thank you very much. When will we put that bill in the hopper?

SENATOR CICCARELLO: Inaudible

REPRESENTATIVE WEBBER: Dennis Hazer is it? Thank you.

DENNIS HAZEL: My name is Dennis Hazel and I reside in the town of Manchester and am involved in the construction of new homes presently in the town of West Hartford. I stopped in yesterday to pick up the bills that were suppose to be heard today and of course only got proposals which I find a little bit abhorrent to myself to come up here. I just have to be opposed to everything I see because there's nothing really to see.

REPRESENTATIVE WEBBER: I can't.....I apologized earlier the printing.....

DENNIS HAZEL: I was here when you apologized but I just want to be on the record as saying that because it does bother me just from the fact of the way the wheels are turning. I don't think it's right personally. The complaints I'm addressing myself primarily to the builder licensing bills and the numbers are unimportant I don't think because most of them say the same thing in different words as far being proposed but there's a few points that were brought out about..... the representative of the Department of Consumer Protection mentioned just cosmetic complaints which I think in the general overall thing of the house is a very minor thing considering the overall picture of the house and he didn't say how severe or how many, he said they were very minor in comparison, I didn't get any number, all I know is that in the year 1973 there was close to 12,000 single family units, new units sold and a number of condominium units sold, I think it was in the 13 or 14 hundred unit range there's nothing to compare complaints versus number of units, new units. I think it's probably infinitesimal when your talking about the overall picture. Also there was mention too, somebody brought out the point, do you know how many of the states have licensing laws? The number that was brought out was 16. How many of those states have a state building code? Which I think is a point to be taken.

SENATOR CICCARELLO: Here are some of the states.....Alabama, Alaska, Arizona, California, Delaware, Hawaii.....

GENERAL LAW COMMITTEE

DENNIS HAZEL: Excuse me, those are licensing bills, right? How many of those states held a state building code? This is what I'm asking?

SENATOR CICCARELLO: Inaudible - mixed voices

DENNIS HAZEL; I would venture a guess that none of them have it.

SENATOR CICCARELLO: California, you don't think has a building code?

DENNIS HAZEL: No, This is why they have a licensing law because they do not have a state building code. I know of licensing in Florida and I know not only is there a state license but the counties jump on the band wagon and within the counties the cities jumped on the band wagon so you can pay the state their fee which now, I think is in the vicinity of \$3300 a year for a license, then you have to go from, in the State of Florida now you go from there and you build in 4 different counties, say you're building four houses in four different counties you have to go, turn around and give each one of these counties a licensing fee and then from there if you building four different cities within those four different counties you have to give them a licensing fee.

REPRESENTATIVE WEBBER: Dennis, we're not talking about the State of Florida, you know

DENNIS HAZEL: No, but I'm telling you what this thing can turn into .

REPRESENTATIVE WEBBER: Do you gentlemen have to pay for a license state building?

DENNIS HAZEL: No, you pay your building permit fees which in turn supports the building department in that town.

REPRESENTATIVE WEBBER: Does that vary to the cost of the house?

DENNIS HAZEL: It varies to the cost of the house and it varies from town to town.

REPRESENTATIVE WEBBER: Where in Connecticut?

DENNIS HAZEL: Yes, definitely.

REPRESENTATIVE WEBBER: Is there a big variation from one town to another?

DENNIS HAZEL: Yes, now another thing that was brought up about the implied warranty and obtaining a C.O. I don't know of any builder that builds a house that turns around the minute the house is completed and runs out and get his C.O. because then he's taxed on full market value of that house from the time that he gets the C.O. The only time he's going to get a C.O. is when he has a buyer so that knocks off that argument about going out and then selling the house three years later and there is no more warranty left on it.

SENATOR CICCARELLO: That depends..... in a given town, I know many towns that completely fail to adhere to the new law which says that the tax on new construction should be

DENNIS HAZEL: This is in aside as to the statement being made that I don't know of anybody that runs out and gets a CO in fact I never bring a house to that stage of completion where I could get a C.O. because I'd have to have the plumber in there and the electrician in there and the decorators to finish this thing off and they in turn have to be paid and then you're paying interest on that much more money if you're going to the bank and borrowing. Going one by one through this things, they're alloriented and for the most part they're all under the auspices of

GENERAL LAW COMMITTEE

the Consumer Protection Department which if I recall from an article that I read in Connecticut magazine has spent something like 6.7 million dollars in the last four years and has had nine cases in court and is so swamped that they average sometimes between 500 and 1,000 phone calls a day and also the phone calls are averaging over 40,000 a year. I don't think a Department of Consumer Protection is equipped to handle this, any of these.

SENATOR CICCARELLO: Can I ask (Inaudible - mixed voices)

DENNIS HAZEL: I saw the builders bill last year and I, there was provision in there and it's, if I can find the particular 935 this year states and it stated so in the bill last year that the Advisory Board shall, An Advisory Board shall be appointed, in by the Governor, I don't know if that particular bill said by the Governor or by the Department. To advise and consult with the Commissioner of Consumer Protection but it didn't say a thing about them having any decision making powers, any policy making powers, all they were there to do was to advise and consult. They had no, nothing to do with any decision. Now last year when that committee was formed, that Ad-Hoc Committee for Department of Consumer Protection to draft these bills, on the building end of it there was not one home builder on that committee that was appointed to, at that time Mrs. Dunn's Office, there was not one home builder on that committee and I was plugged into it through somebody that was on the committee and they were not there in a capacity to help draft this thing they got a thing in the mail on Tuesday that said to come on Thursday and rubber stamp it. No I don't consider this any in-put by...

REPRESENTATIVE WEBBER: Is that a fact?

UNIDENTIFIED SPEAKER: To my recollection

DENNIS HAZEL: Well was there a home builder on the home building end of it?

UNIDENTIFIED SPEAKER: Well I think there was one invited but I think he never showed up.

DENNIS HAZEL: I will tell you about the one that was invited too, if comes down to to that, because I know him personally and I know how it happened. He doesn't know how he ever got the invitation. He wrote a letter saying that he could not attend and would request that they appoint somebody else in his place because he's a one man operation and nothing was ever done about it. No I just have stay generally opposed and that one paragraph bothered me and I have notes on other sheets here. You called Mr. Cohen saying relative to that at last year's thing, I was here when Barbara Dunn said that she really had no axe to grind with the home building industry perse. That was another point that I wanted to bring out.

SENATOR CICCARELLO: Well that's why I asked if there was a distinction between home builders and home

DENNIS HAZEL: There is another thing that I would like to bring out also..

SENATOR CICCARELLO: You thing there is a big distinction between.....

DENNIS HAZEL: I think there is a big distinction. Although we have done additions substantial additions I don't think that anybody's business which is primarily construction of new homes should fall into the same category as somebody who's primary business is home improvement contracting business.

GENERAL LAW COMMITTEE

I think there should be a definite distinction made, and really that's all I have to say. Thank you

REPRESENTATIVE MATTIES:to satisfy some of the complaints made here today, I would suggest that we either send out a copy of what you're referring to everyone here or the bill and insure them that we will with-hold any final action until we get some in-put from these

REPRESENTATIVE WEBBER: I have no objections to that.

SENATOR CICCARELLO: When this proposal becomes a bill
(Inaudible - not using the mike)

SAMUEL SISISKY: My name is Samuel Sisisky, I'm a resident of Groton Connecticut I'm President of the Home Builders Association of South-eastern Connecticut and representing many of our members who could not be here today because they're essentially one-man operations and could not take the time. I would like to, and I don't want to make an issue of this but I recall being in this room and taking a day away from my business just about a year and 2 weeks ago and I heard Barbara Dunn and I remember her exact words and some of them were, "I have no quarrel with the new home builders" now in the interim my volume suffered 70% drop this past year. So with the reduced amount of homes that were built in the last twelve months since we sat herediscussing such a bill, I'm wondering how the home building industry went throughand a hand basket how did our quality drop so badly in this,twelve months, I know I couldn't dowith a 70% drop in volume.

I am just greatly concerned that the state would have to expend a tremendous amount of money to set up a large technical staff to administer any kind of licensing and appeals procedures. Now I can definitely state that if you do not put technical people, administering the technical product we're going to have nothing but chaos. Now we have a state building code frankly it's a good code and the technical aspects of the house are inspected at the cost of an average of \$100 per house if you take an average of those different towns for inspection permit fees by certified building inspectors. They are looking at what is in back of the walls often before the buyer gets there, plumbing, electrical and so forth framing..... That then brings us to the situation where the state might want to put out wall paper inspectors, you don't need technical people for that but you'll need a tremendous staff for it. These are the surface items that do not reflect any tremendous cost to the buyer if he has to make repairs and thinks so injustly, they are items that do not affect the living in the house, maintainence and so forthitems that if there is some sort of a wailing wall sponsored by the tax payers in the State of Connecticut that I'm sure people will pick up the phone and call.

It's a problem that I as a builder have faced vor 19 years, how do you turn around and tell a buyer that you know he's lying to you when he calls up 3 weeks after he's moved in and says there is a tear in the wall paper. Moving in day is rough on any house the mover leans against the wall paper damages a decoration . Gentlemen this is the kind of thing that we would place the State of Connecticut into, is being, is stopping up the 50 odd wall paper inspectors. If you're going to get into the technical aspects of the house you're being redundant. The home owner right now , the home buyer for 1975 just got slammed another \$200.00 for a house

GENERAL LAW COMMITTEE

with the increase of sales tax from 6 to 7%. Now we're going to fund this. Another point, when we're building a house, we're no more than a taxi driver, the meter is running. Now if our people are going to have to come up to Hartford constantly for hearings to protect their license, if they're going to have to just meet with State Inspectors, be they wall paper type inspectors or secondary technical type inspectors, this is putting the small builder, in the State of Connecticut there are plenty of these small builders, off the job for an hour or two or five hours. It has to reflect in the price of houses. The people of Connecticut need housing, the State of Connecticut's economy needs the housing industry. Every time a house goes up \$100 someone gets hurt and I'm just wondering why we have to do this. I can't see where it's going to provide anything except as I said before a giant wailing wall at the tax payers and the home buyers expense.

SENATOR CICCARELLO: Are you speaking against the home improvement bill

SAMUEL SISISKY: I'm not speaking against the home improvement bill, I would submit this to your consideration. There seems to be some question, home builder, home improvement? I can still categorically in 19 years I have never done a home improvement job. Many of our builders do a limited amount. You might consider to clear the air on this question and possibly something to the effect that you have a home builder does 25% or more of his total gross volume in home improvements then he would have to have a license as a home improvement operator or whatever.

REPRESENTATIVE WEBBER: How do you (Some testimony lost between tapes)

SAMUEL SISISKY: Enforcement I suppose again those that are incorporated would just have to break what's your home improvement receipts. You have a State Tax Department that audits businesses for sales tax and so forth I don't think it would be very hard to determine which are your home improvement jobs against your gross new home sales. That's the easiest figure for me to pick off it's just my total sales for the year and as I've said I've never done home improvements but if I were to it would be listed in my cash book as home improvement income. It shouldn't be hard to do that just render a simple report and it might clear the air on that one point. In other words essentially a new home builder is just that and where sometimes he'll accomodate one of his prior customers he might go back and put on a porch at their request. Essentially then I just want to make the point that I don't think that the home buyers of Connecticut can afford redundant operations and that's just what the state will be doing if they have any sort of enforcement of this, would be to send out another team of building inspectors to duplicate what is being done and quite well done by the town building inspectors under the state code. Thank you.

REPRESENTATIVE WEBBER: Thomas Kalinosky

THOMAS KALINOSKY: You'll have to excuse me, my voice is very bad today and this isn't working I guess. I'm sure you gentlemen realize that the bills as proposed are anachronisms and are not workable and I'm sure that you know that you're holding, yea, I'm sorry, my name is Thomas Kalinoski I'm currently the National Vice-President for the National Remodelers Association and Past President of the Local Remodelers Association. My address is 1592 Asylum Avenue West Hartford. Do you want to know the

GENERAL GENERAL LAW COMMITTEE

name of the company I own or is that? o.K. I'm sorry. The bills that were supplied here for us to look at aren't worth anything but as I sat and listened I know you gentlemen are aware of that. I know that you're also aware that the bill you're holding is the only good one you've got. However, I want to call your attention to a few things. First of all, this bill is a home improvement contractors bill and if enacted into law would never, never be effective unless there was a companion building contractors bill enacted as well. Now, this gentleman, I respect his knowledge and I respect his experience in this industry. I'm 22 years in the home improvement industry and I don't know of one single builder that doesn't remodel, and what you'd be doing is you would be, not one that has not remodeled, and what you would be doing is you would be legislating against one industry and leaving it wide open for the other. To fill in a void because surely there would be a void and that void would be caused by the elimination of that one person operation. The one man in a truck who sometimes goes remodeling for himself, sometimes he works for somebody else. In this business, very rarely does a carpenter work 12 months a year for a firm. So he works for that firm for 6 or 8 months and the other 6 or 8 months he's on his own. But he's got to put up the \$2500 bond for cash or whatever, he's not going to be in the business. So he's either going to disobey the law or he's going to collect unemployment compensation, one or the other.

By eliminating these people you might be doing the consumer some service that's conjecture who knows but I feel that these people are responsible for keeping prices competitive so that the big has to watch his costs so he can compete with that little fellow with the hammer. I feel that when that little fellow leaves the scene and he will leave the scene, the prices are going to go and the consumer is going to pay. Now I would recommend that because of business conditions, the way they sit now, and they are bad, this industry is suffering tremendously, along with the home building industry, I think that the enactment of such a bill this year could throw this industry into disarray. With the net result being higher cost to the tax payer in the end. I'm for the bill in most instances it's not a bad bill, it can be lived with, but this is a bad, bad year, very bad. When conditions are good or when they have improved and returned to normal, I think the bill will look at the consumer to a reasonable degree. Now

SENATOR CICCARELLO: Mr. Kalinosky when you say this bill are you referring to last year's bill?

THOMAS KALINOSKY: Yes, the one you showed a little while ago. Yea, that's the one I'm referring to, because the others, the others you might as well kiss the industry good-bye if any single one of them was ever enacted, and you'd kiss income to the State of Connecticut good-bye because it produces a great deal of income for the state. We pay a sales tax on all of the material we buy and I'd hate to tell you what I give the State of Connecticut in sales tax in one year. It happens to exceed my income. This is what you'd be hurting. Now the bill, even that particular bill which is the best one as drafted is not going to eliminate but few of the abuses. These abuses will continue because the majority of the perpetrators of these particular abuses are not small companies, they're large, they spend money on television, they spend money on the radio, they spend money for expensive salesmen, they teach them all kind of tactics to get to get the deal. These people are financially strong because they have

GENERAL LAW COMMITTEE

abused and they will meet all the criteria in all of those acts so what you'd be doing you'd be eliminating the good honest guy and you'd be giving the crook a bigger field with those bill that have all been proposed. I'm not saying that for this one .

REPRESENTATIVE WEBBER: Well we're only talking about this one now.

THOMAS KALINOSKI: Well o.k. but this one will at least, this one at least will keep most of the people that are in the business in the business and then you're going to have to find other ways to eliminate the abuses. Now our National Remodelers Association is comprised of in my opinion the best remodelers in the State of Connecticut. Although we are 100 members we probably are responsible for better than a third, at least better than a third of all the business done in this state. That shows you how small the little guy is because there are over 2,000 others and we are, we know what these abuses are and we know how to minimize and eliminate most of them but the names that are doing so are not drafted into any bill that I have ever seen in the 10 years that I sat here and talked about those bills.

SENATOR CICCARELLO: Ther probably not legal.....

THOMAS KALINOSKI: I don't know because I'm not a lawyer. There are ways to eliminate the abuses and I'm sure that and in 10 years this has never happened, that if the committee of contractors, knowledgeable contractors that knew what the abuses were and how they come about sat down with legislators, legislators that could draft a bill and their abuses could easily be drafted We're not lawyers, you fellows are but with the two of us we could get together and we could

SENATOR CICCARELLO: (Inaudible - mixed voices)

THOMAS KALINOSKI: Well you know, the biggest abuse, the biggest abuse in this whole business is overstating a job and getting an unconscionable price, that's the biggest abuse really and this particular abuse is what spones the complaints. Where a person finds out that they paid 5,000, 2,000 too much and the methods of obtaining this high figure are the real abuses. Then they look for ways out that are really not justifiable ways out. They claim , they claim that the work is shoddy. I have seen so many shoddy jobs that are not shoddy but I've seen jobs that were cheap and really shoddy that no one ever complains about. So the reason tha these complaints are borne are unconscionable pricing now I don't know how you legislate againt that.

REPRESENTATIVE WEBBER: There's no way.

THOMAS KANINOSKI: But you can legislate against the means of obtaining these high prices. Promises and bonuses, failure to listen, what.....a contract etc., etc., etc., in which they talk a big job and do a small job that's how they get the big money. And they make promised in the future, cash promises, it's pyramid type selling that spones this but gentlemen I can tell you from the 22 years that I have been in this business, no more than 3% of the people in this business commit these abuses and they happen to be about 15% of the business and if these were legislated against it would end. Now I don't know if you realize but home improvement is big it's a big, big business and I would venture to say that in 1974 it produced more dollar volume than the home building business and I know for a fact that so far this year it's produced a hell of a lot more dollars

GENERAL LAW COMMITTEE

than the home building business. Very close, very close to the automobile business and when you begin to legislate a big business like this you have to be very careful because the repercussions can go down the line in areas that you could never dream could occur and that's why you can't leave writing specifics to a Department of Consumer Protection who knows nothing about building. That's my on the matter. I hope, at least gentlemen that we at least put this aside another year and wait for things to return to normal and then let's and then in the meantime let's get a committee of attorneys and the legislators, 3 and 3 and let's talk about the real abuses and let's get some legislation and eliminate them. Thank you very much.

REPRESENTATIVE WEBBER: Thank you very much. (Inaudible - mixed voices)

JOSEPH MARINONE: Joseph Marinone from Windsor Locks. Just going back to this committee that was formed last year. We did have 12 members of various people on there, a member from the public works, a building inspector, a man from the union, a columnist and some women on who also were Consumer Advisory Council people and the builders, I think there were one or two. Unfortunately like the man before me said this builder or two builders never showed at a meeting and it wasn't until our last meeting that I think one of the other representatives showed up and I think we had four meetings and we devoted the time entirely to this home improvement contractors bill and when we finally got to where we had that shaped up somewhere near right and we were going to work on the home builders one it came time for the legislator, legislation committee here, I think it is General Law wanted the bill and in our final meeting we were presented with a bill that was horrendous. That's all I can tell you. Now what they did, they took and they combined the home improvement people and the home builders and made a real sloppy bill out of the thing where you couldn't really read what they meant by this bill. This..... I think that somehow or other you can't combine and make one bill out of the two situations, I think you have to have two separate bills and that's about it.

REPRESENTATIVE WEBBER: Thank you very much.