

Legislative History for Connecticut Act

HB 5014	PA 76-308	unit ownership	1976
Genlaw	143-169		27
House	2674-2698		25
Senate	2474-2508		35

87 p.

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

Connecticut State Library  
Compiled 2012

JOINT  
STANDING  
COMMITTEE  
HEARINGS

GENERAL LAW  
PART 1  
1 - 500

1976  
INDEX

GENERAL LAW COMMITTEE

FEBRUARY 24, 1976  
9:30 a.m.

PRESIDING: Representative Willard

COMMITTEE MEMBERS PRESENT:

SENATORS: Ciccarello

REPRESENTATIVES: Collins, Hendel, Hamerman, Webber

REPRESENTATIVE WILLARD: Anybody else that is going to speak we will take them in the order when they appear and I might say the recent problem was there is an absence of the number of people who are vitally interested in this bill is because the past couple of months, I think Pat, we have been conducting a series of invited hearings on this particular bill. Representatives of various areas, the physicians, the bankers, the developers, the builders, the real estate and insurance men and I will state today as I told them at that particular time that if anyone who is speaking agrees with a gentleman who has spoken before, it will not be necessary to repeat all their testimony. They can make reference to the prepared statement that I think most of them have submitted at the time and which we still have and make reference to them and if they have any particular things that are pending since that time, it will not be necessary to go through the whole thing again.

REPRESENTATIVE HENDEL: I think you are quite right what we had before were more than a hearing, I think what we had before were really workshop kinds of meetings where people did have an input into the bill and, of course, some changes are being made as a result of the meetings that we had. I think the absence doesn't mean they have lost interest except that they have already had their say and I hope that some degree of satisfaction for the act.

REPRESENTATIVE WILLARD: We will start with Mr. Coles. Now, wait a minute we have got you setup over there and will you identify yourself for the records .....

ALBERT L. COLES: My name is Albert L. Coles and I am a lawyer from Bridgeport, Connecticut, Coles, O'Connell, Belham and McDonald, .....1855 Main Street in Bridgeport. I am here because my partner, Thomas Dolan, whose far more, has a greater expertise than I have in this particular field, and has had wider experience in connection with financing, is ill with the bug that's

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

going around and he has been for several days. I profess to have some knowledge of the subject, however.

REP. WEBBER: Excuse me, I just want to interrupt for just a moment to remind the members of our committee and those of you who are sitting out there that Al Coles, this gentleman testifying now, is not only a former state senator, former Attorney General for the state of Connecticut, former Superior Court Judge and a very, very wonderful person.

MR. COLES: Thank you very much Al, I appreciate it and I am grateful to you for your courtesy in recognizing me in that fashion. As I said I hope to have some expertise in this field, but not the kind that my younger and more vigorous partner does. I think that it's fair to compliment the committee on the work that you have been doing so industriously over such a long period of time and I don't propose to come in here and have the temerity to criticize. What I have to say .....point of you for your consideration and I hope too that Tom Dolan and Mr. Bruckner worked together on this act previously and if they haven't submitted them, they will submit them shortly at least to have before you the point of view that we bring.

Now, we are not paid lobbyists, we don't represent the kind of people that most general practioners represent. We have some .....members, mortgagees of substantial sums of money in condominium operations, we represent purchasers of condominium units, we represent developers and sort of the whole gamut of what you would expect to find in anybody who had any experience with condominiums on all sides. That considerably ..... of condemnation, but not of condominium.

The first element in the bill which I read rather hastily and I'm not apologize for it at all because I came in early this morning is the whole withholding of five percent of the purchase price which still appears in the bill. I know it starts off with a ten percent until closing and then five percent stays and the five percent remains. That causes some of the reasons for this bill. That causes a problem for the developer, financing issue would be a problem and I still think the part that says really is going to be an add on. I can't help but feel that people we represented are developers of condominium projects, are going to wonder how long it is going to be held up. It's part of his bread and butter, sincerely so, part of his profit and if its going to be held up or subject to completion ..... which basically is what it is, completion is a difficult word to define and .....that is probably the position which excites them at the outset the most and to which they have objection

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

the most at this point.

REP. WILLARD: Would you mind if we pick your brains that Mr. Webber just referred to. The basic concept, of course, of the withholding of a sum of money is to guarantee. The committee has considered other aspects such as bonding, which I am sure you will agree is horrendous and, if at all, possible, let alone available, so could you or would you address yourself at all to the problem of whether you develop a type of a protective agency within the state to insure the developers to do certain things. But the next thing I suppose follows is criminal penalties, civil penalties or what and frankly that is the particular area that you are in right now that we are in and if you would care to make any comment, I know I would find it helpful.

REP. WEBBER: Before you start, I too would like to ask a question. You and I both know that legislation, anything in most cases usually comes about as a result of abuses, legislators don't come up here and just dream up a lot of ideas, they know there's a lot to create ideas for legislation. Where there are flagrant abuses in a certain area, sometimes you have to resort to legislation. You and I both know that there have been condominium developments, projects in our state, wherein the buyer was promised a school, whatever, recreational center and all of the other amenities that just didn't happen, just were not delivered by the time the job was over because the builder ran out of money or he just changed his mind or whatever and many of these condominium developments are bought primarily as a result of this kind of merchandise, the little extras, you know that kind of thing. Now, you say the word completion is a difficult word and I agree, but yet we have that same concept applied to subcontractors who do state work or even private work, big jobs, and you know Al, you have represented them. Or the plumbing contractor, or the painting contractor or whoever has held back from his total bill anywhere up to ten percent until total completion. And all we are doing is trying to apply the same thing here. How do you determine the word completion for the subcontractors on a large job?

MR. COLES: Usually with some architectural certification, do you agree?

REP. WEBBER: I don't know what the certification is here.

REP. WILLARD: That is another area that we will get into, maybe we will comment on the question of how much has to be certified by an architecture, that in the testimony too, but I am more concerned to answer Al's question, I am more concerned with the basic concept

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

first of maybe an alternate solution, if you had anything concerning the very basic concept of guaranteeing in some way this work is done other than withholding of an escrow which we sit down and we release half of this and try to be very fair within the whole approach. If there is some other, that the bill does not approach. We have talked about bonding which I think you will agree is ridiculous, even if it could be gotten.....so we are back to that basic and if you don't have any comments, I might go along, I am sorry to interrupt you. I just at that particular time, I thought that I should bring some speak on that.

MR. COLES: I would like to, one item is relatively limited, that I can answer it within that experience only this way that its true that in most jobs that a contractor has been withholding ten percent eventually paid out, but there are stages at which its pretty clear how that money is leased. Its quite ..... you don't have ten percent of your money, you are going to have to either borrow it to pay for it and pass it along so we need a .....to what extent must you in order to keep people on it .....or at least respectable and as the merchants of the product that the people of the state are buying on many of which there have been complaints, the concept I can't argue with except to say that it is another concept which is going to be favorsome .....in the long run to the buyer and if its necessary got to be. But where do we draw the line. I mean when do you decide that the money is going to be paid as with a contractor of the state of Connecticut, upon certification by the architect, the public works department will pay the balance. I really, it may be there, I don't question that, but I just read upon completion of the condominiums, well heaven sakes, I know of a development that we represent that has many, many units and it will probably be another two years before all the condominiums are complete. Because of the fact that we are moving, moving on, they are not all complete, they have the right to go over all the roads, all the walks, etc., in the whole area, the whole development I would assume, but they are not going to invade it for a long time by virtue of the nature of the project itself.

I can't rid you, I .....discussion who may have more expertise than I do in answering that question as to how you do it, but unless you establish some means of giving the manager money to which you decide or the commission decide or an administrative architectural designer is willing to certify to, you have a never never land as to whether you are really going to get your money and that's when you are going

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

to say o.k. add it to the place, if I get it back it will be a nice dividend. Well, I don't agree with that.

REP. WILLARD: Now, basically we are facing the problem of whether or not we should allow it to tie it in with the completion of a local building inspector. We thought that would be worse than the real estate commission, you know, I mean, we are aware of the problem, we do know that will probably build in costs, but we are still touching that particular problem in our minds that, I might say it's not only dishonest, even on the condition change where a developer were not finished, but why should the purchaser of the condominium be facing with that problem. I am not saying they are all dishonest, but maybe he was one of those .....and maybe the market went and he said well I just can't economically build it anymore and I'm not saying they are all dishonest or anything, but we are back to the problem of what you say the state is going to demand certain requirements to protect the people you have got to have some form of penalty.

I was just looking at the summary that we had and it reports that in Virginia the purchase of deposit must be held in escrow before its release when the purchase is completed. We kicked that around too, that offers some degree of protection, no question about it, but our problem is the amenities that Chairman Webber pointed out which is often a deciding factor for a lot of people to purchase that particular unit and when they don't get those amenities then they really have paid a lot more than what they probably would have paid for under our prospectus that we require the builders to supply. So that is an area, I think that Mr. Coles might address himself again to it, he has in the past. I didn't mean to interrupt you, but while you were on that particular point, I just wanted to point out the problem and see if you had any ideas. We do recognize the passing on to the consumer. We do recognize the tremendous burden on the developer. We do recognize that there is an area that we have to cover and that in our opinion, when I say our I am just talking about the subcommittee, not the general committee, this was an approach to it that could be acceptable.

REP. WEBBER: You know we have been holding public hearings on a proposed condominium bill for six years.

MR. COLES: I didn't know it was that long.

REP. WEBBER: And if what we tell you of some of the pickups or by-laws here some of the lesser compliances people report condominium units, hopefully that we are going to get a, assume they were buying.

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

MR. COLES: Well, we got a present experienced group of people, we have got together and that's been very fortunate and I recognize there's been many areas where you have, but not that I guess either, but take a situation now in Bridgeport, right near where I live, 70 unit condominium, after .....other purposes for a number of years, has been constructed. There's at least a two and one-half million bank mortgage and another \$150,000. second, for a lot of reasons that just couldn't get off the ground, they sold three units before they went bankrupt. Now, its finished, its all there, you have this funny feeling when I walk through it, a very pleasant place to go to

REP. WEBBER: Apparently there's no water in the pool if you walk through it.

MR. COLES: As a matter of fact, there's wasn't when I did, but there's a lot of objection to it. It's right on the shore, beautiful location. Now, what's going to happen when the bank forecloses that? There's been no guarantees of any kind, no withholdings its true and it is a complete one. I want to mention it because it brings up to me the problem which a foreclosing and I'm jumping, foreclosing mortgagee will have on a situation like that to comply with the provisions of this law. You know, how long will it take? Suppose you get a raw day in September, would the requirements of registration with all this has got to do that I really .....accomplish in terms of plans, and everything else surveys, your tax exemption, you have got a long way to go before the bank begins to even be able to sell one of the condominium units which would interest some of my neighbors, oddly enough.

I guess the fact is something which that goes into the question of whether or not you really ought to have some kind of a grand-father clause in this act and I didn't read one or I didn't pick it up because it seemed to me that if you don't and I realize I'm digressing go back for a moment, to answer your question, I'm not trying to duck it that way, I didn't mean it that way. I don't have any better solution than you have got other than .....of holding of some kind of money. My only comment really is and I know its in the Virginia bill, I recognize what you are saying is that if a man gets his money when the sale is closed, probably that might afford the best legal ground between what you are trying to do which is guarantee all the amenities that go with it and saying we will give you when all the condominium is completed or common elements I think is the right word, it seems to me it might be a more appropriate and a fairer middle ground. I confess that I can't add a better or suggest a solution than that.

We do have however an extraordinary provision for warranties, it seems to me. In my own experience in ordinary residence or house building, I don't mean that I have done the building, but I have rescued a lot of people through all the years who have built many, many houses, that is an extraordinary set of warranties, maybe desirable, but it passes the cost along and .....If the subcontractor is going to warranty, an appliance or some work that he has done for a period of one or three years as the case may be and I'm not an expertise again in exactly what you have said here in terms of three years against one year. If you are going to have a written warranty just like the alarm clock you buy at the drugstore you pay for it and its going to increase the product, that's all. You get subcontractors some subcontractors will guarantee a warranty in their work, it's going to cost the contractor money and its going to be passed along in the personal product and it gets to be almost a unit device then, if you are going to have that kind of warranty.

REP. HENDEL: Mr. Coles, excuse me, I appreciate what you are saying, I think there's a fact that the withholding and the fact of the warranties obviously will be reflected in the price, but the suggestion came about as a result of abuses and people seem to, I just got a wire I can't remember.....the other day with a list of all the things that she had wrong and they are all in these areas and common elements not completed. She had a catalog of these suggestions and to her she is not getting her money's worth which she has been willing to pay that small amount add on to make sure she gets the protection and got the value of what she was buying. Probably in her .....and this is what people have been complaining about. She can't have it both ways, you are right.

MR. COLES: Right, well the warranty again are unusual. I don't recall that you get any such warranty when you build a residential home and sell it. We have represented some people who have been exclusively home builders and they are willing to go back and do what they think they should do, but there is no written warranties, there's no implied warranty. It's curious and I respect your draftmanship. You say there is an implied warranty, but really isn't it specific, you know, you say it right there, it's not implied, it's one very specific warranty when the builder himself have got to warrant and it isn't anything you know is up to your choice or mine because I don't criticize the language at all. We usually think of implied warranties as .....to use, etc., in our law business and that's where it comes from, but this is a

GENERAL LAW

FEBRUARY 24, 1976  
9 :30 a.m.

pretty specific warranty and as you say one that's got to be passed along and regrettable that the situation is yet to be required, but I haven't any better solution except to wonder how far you want to go with a warranty and how long, you know, is it a year? What about the use the purchaser puts the property to? Does he abuse it? Whether its a purchased property or the house itself, does he do the ordinary required maintenance, you know, the gutters and leaders cleaned out of leaves.....I don't know you've got an awful problem in that area, no question about that. I think you have tried desperately to solve it, but I think you have got to recognize that if the pendulum throws you on the side of the necessity for this, o.k., you recognize the other side of the coin which is the cost and this gets prohibitive. I think it can get to the point where you won't have condominium building in the state to the extent that you have just had. Mostly because of the lack of success in sales in some areas as well as because of the cost, the amount of money it costs you to own one.

I wonder about the start up time. If you embark upon this and you take, well take a condominium I was talking about a moment ago that's under foreclosure. I think it would appal the bank that holds that first mortgage to know that really you know if we're factual about it, it's going to take a long time to put a large bureaucratic agency at work. They have got to have expertise, they have got to have people who understand what they are doing, they have got to be educated in many senses. They have got to have a staff. A lot of people have got to be employed. How long would it take would you say, six months, three months, nine months, before all of these begin to turn over again and what about a person who is half-way through? What about Fair-weather .....which is right near the other one in Bridgeport and its a strange development because it was half based in the sound and half based, I was going to say the Peter Creek, which is not the pleasantest place in Bridgeport to look at. The half on Peter Creek side didn't sell, the half on the shore did. Now, if the owners and the .....have got to comply with the provisions of this bill.

REP. WILLARD: You read the, well Mr. Brockman thought this is one area he is going to submit a statement to the committee on this particular area. As I explained to him, section 41 says the act will take effect on January 76 and shall apply to declarations filed on or after the date except sections 12. Now the basic intent of the submitting, I must confess that I am going to go into this area again, the basic intent of the committee was not to create any

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

kind of fiscal havoc among existing programs as far as banks or anything else. The reason that we added certain sections 12 thru etc., is that those areas that are posing problems particular problems to existing units that could be incorporated after July 1, 1976 such as filing the annual accounting statement with the Real Estate Commission, those benefits we thought should be afforded to condominiums that were already in effect. But the purpose of the idea was that definitely not to see any kind of havoc among financing. Now maybe we have not accomplished that, maybe some of the later speakers will address themselves to it. Mr. Buck has already pointed out that he thought there was a little bit of inconsistency in that section and that was one of the areas that he is going to submit a statement on. There was no intent to create any kind of havoc amongst developers or more importantly the people that have participated in those incomplete units to create any havoc for them or the builder or anybody else. Now whether that has been accomplished or not when we sit down and go through this thing again and every time we go through it you understand we are talking on a different area. But that clearly states that it should be effective with declarations filed after July 1, 1976.

MR. COLES: Now, that is good, I saw Section 41 right at the end and I didn't appreciate fully what its purpose was. Would that effect the question only for our discussion? Assume that there is a condominium development pretty large and he's done it section by section, I assume that without knowing that the declarations have gone on covering each section as he went along, factual with everything else. Would this apply to such a development? I am thinking of one where all they have done is two sections and its been completed, recreation room and everything.

REP. WILLARD: To answer, an old trick, to answer a question with a question. Are you talking about sections that have been established in individual condominiums or are you talking about a single condominium document providing for section completion?

MR. COLES: Maybe I didn't make myself clear and it may be lack of knowledge. What I am thinking about is I have assumed that in the development that I am thinking of, there has been a declarations which applies to a certain area and that's been completed and then another declaration and its been completed and now there are two more different sections.

REP. WILLARD: I would say under the law that the new sections if they were

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

to comply, if they were to file documents to establish that, would have to comply with the new law.

MR. COLES: Well, that brings up the question which you supported, I mean to which you addressed yourself only a short time ago, it captures that person in kind of mid-air, half way there, half-way home of what a 600 unit in all, the 300 all done and everybody reasonably happy and he can't go financing mortgage money, the ability of payment and that raises the question, .....address himself to this, the problems of getting money would be a necessity for complying with the provisions which this law, in your judgment, must impose. That raises a serious question.

REP. WILLARD: We have, not to speak for the banking industry, but we did have and I have a statement prepared .....George Steimer from Society, I can't remember the bank, but we did have a series of, frankly my impression with the discussion was that it would not create that kind of a problem to developers to comply with the new law because when they went into these new sections, now, that's right that was my feeling or my surmise because I'm not trying to quote Mr. Steimer or any other banker, as a matter of fact he stated quite emphatically that its a whole new ballgame and that there were a lot of reservations that he had that he wanted to make and things like that. I expressed to him and I express to you we are not trying to develop a monster in developers. We frankly feel that one of the compelling reasons for the lack of sales of condominiums is an adverse criticism to condominiums that have developed over the years which have been allowed to exist because of the law. We think quite frankly that if we have a law that is fair that in the future that it will build good substantial condominiums and that most of this will be the area of developers within the state of Connecticut as it has been without the state. Like I say we are trying to balance the equities as we go along, not saying that the developers are bad on developing inequities in a sense that economic conditions as a result even of a bank some of these developers are under finance to begin with. That results to the consumer, so to speak, using that term loosely, to bear the brunt. We think that a strong law incorporating a lot of these ideas is going to make a healthier situation in condominium development for the protection not only of the consumer, but the developer too if he knows a lot of these things in advance. That's just a general concept that we have on the committee right Pat not to cause any problems that we don't have to.

MR. COLES: That's why we are here, now I think all we can do is to try to point

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

out what we view as your problems and hope that you will be able to solve them at least come as close as you can to doing so because I think what you say is true that it immeasurably affects the real estate market at least in our area which occurred, I felt primarily the reason why all sorts of real estate fell apart.

REP. WILLARD: I agree with that, but I do think that you will agree with the comments appearing in the papers and editorials on condominiums in general to the philosophy regarding condominiums.

MR. COLES: No they weren't and particularly in the less expensive condominiums \$25 and \$30, \$35,000. class there was a lot of reason for comment.

Well, we mentioned, I think you have covered at least I don't know if you have covered the element satisfaction .....but you can't make everybody happy I appreciate the question of intent by the clause in Section 41 that I raise the question only of what happens when you say that to develop new sections would require full compliance with the provisions of the law and if the banks are going to be able to go along and submit people to operate all right, I think the experience to some of them in that particularly would be condemnation, I keep using that word, with the condominium foreclosure that occurred in my own bailiwick. I think they would be pretty chary of loaning money anyway at the present time in the present atmosphere and the public stand that they have had. I just wonder assuming a half way decent experience with a developer why we really have to before we complete the entire project, go into a full dress compliance with the law that is impressed by associates and maybe Mr. Bruck can address himself to that problem hopefully that they be helpful.

REP. WILLARD: I can think its just a general philosophy you know you are going to have to start somewhere and we do not want a situation in between now and July 1st where there's a lot of paper condominium is the situation of protecting the, like I say, I think we try to be as fair and we are assured by the fact that they could that they are going to have to operate under this law in the future that they would just have to operate under it on the position of the new law on the additional condominium which are in effect in very few cases I think where the basic financial status was built on the complete. I mean they might go maybe one or two more than what they projected in the first time in their contract, but I don't think, we are frankly afraid that if we didn't have a greatly strengthened grandfather's clause that any condominium document you know we would have a flood of them.

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

REP. HENDEL: It would generate more in the area than you want.

REP. WILLARD: I don't think, I don't know how many there are affected how many have this particular problem of being in a stage where they cannot really comply with these new requirements.

MR. COLES: Well, I don't suppose anyone is going to be in a position where he can't comply, how long is it going to take him to do so and how long is he going to be held up and how long is he going to be able to weather, you know, just to hold the land. In a couple of instances that I know I would say mortgages are around half-million to three quarters of a million dollars.

REP. WILLARD: He should not, you understand from the general gender of the bill that we have made it very clear that it is not in the approval that is required by the real estate section, in other words, there are the plans and things, they only have to do certain things under the law and they automatically are allowed to go ahead. It's not a question, we were very careful about that, not to see it another super agency in the state of Connecticut for developers. That was another area we were concerned with. We were very clear in the drafting of the bill to just say that they have got to do certain things and file them. We do not have the discretion so, therefore, it should not hold up. I mean there's no other approval agency that's going to hold up the developers under the bill hopefully.

MR. COLES: But to the extent that you require a completion, the precises of which you require the location of each unit in a survey the elevations in the act.

REP. WILLARD: You know we have all that under requirement now really. We are not adding new burdens, we've got all that.

MR. COLES: O.K.

REP. WILLARD: I think we might have tightened a couple areas, I think we have provisions for some parts that say specific things are not under .....but are minimal I think as far as additional requirements to get the results.

REP. HENDEL: They are minimal to accomplish our objective without trying to be too burdensome.

REP. WILLARD: I just might point out that on page 35 that's back to the

## GENERAL LAW

FEBRUARY 24, 1976

9:30 a.m.

escrow on line 1106 to oversee that the escrow is only deposited from the contract itself.

MR. COLES: Yes.

REP. WILLARD: And we worded it where substantially in accordance with plans, we left it up to the realtor realizing again the problem we have, we left it up to the real estate section with a certain amount of leeway substantially so that the rather than have the local building inspector who has a complaint from somebody you know that you know, so we try to be about as broad under that particular section. We did not say when he constructed a 100 units, you have got to deposit.

MR. COLES: Right.

REP. WILLARD: Well, ten percent you know. Now, with construction this is the only way you have a contract to sell a condominium that hasn't been submitted.

MR. COLES: So would it behoove a developer to stockpile condominium units of various types and sell them as completed units? He's going to have the same problem wouldn't he as far as the common areas are concerned the five percent.

REP. WILLARD: Yes, I think that definitely is an area that's going to be and I think I expect a lot of arguments on the floor of the house bill for it as our basic concept of it and we cannot be bonding only when its available and we see in that hopefully that whether or not the ten percent balance would be down to five percent, but that's an area that would have to be kicked around.

MR. COLES: I'm glad you took out, I'm think you took out the provision for cancellation within 15 days of closing which caused so much ..... time before, 15 days after filing a statement, something to that effect. I was curious too why you don't conventionally permit construction on leased land.

REP. WILLARD: I think that's an area that we are still flexible on. The original concept when we started drafting this bill after other states, it was brought to our attention that there was a problem with a particular area and that problem was resulting from lease hold. Since that time certain members of the legislature talked to me with their and have been involved with leasehold, have assured me that there is a vehicle and frankly I know a little bit about condominiums, but I don't profess to be an expert and have the expertise.

My own consensus originally was that it could work out on lease hold that if it could work out, there were so many pitfalls for the consumer that it would be impossible to submit. I don't think that that generally is the feeling of the subcommittee now, at

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

least on each statement and I particularly address the question to the members of the banking profession whether or not they were satisfied with the concept in regard to backing it as they were presented. I would say that that is an area which is flexible. We have some people that are going to give us some more expertise on that and I don't, the original part that was no leasehold because frankly what had happened in this particular case was the people would not know that they were getting leasehold, they were winding up with nothing so called. So there are protections that can be built into leasehold I would think and there is definitely economic advantages to the consumer if the lease hold advantage can be used by the developer for tax purposes and so I think it can probably work out in that area and we are still working on it. And incidentally if anybody has any written documents or anything they want to give us on that particular point, I would be glad to take it. Right now, I think that's flexible on this whole area, wouldn't you say Pat?

REP. HENDEL: Definitely, I think Dick explained the background of our position, possibly some of our provisions for disclosure would negate some of the problems that were heard before with people just not knowing what they were getting into and we have some feelings about maybe differences between commercial and residential areas.

REP. WILLARD: Just not to mislead you Mr. Coles, that is the current feeling of the subcommittee. I'm not speaking for the committee because the committee itself has had certain .....on that matter of whether or not they would take it, I don't know. I'm talking about the subcommittee.

MR. COLES: On that subject, I think, I don't see him here, I tried to reach him yesterday, but the time was limited, Mr. Edwards .....as the last organization they .....a lot of condominium properties some of which I have assisted them in, we are .....of the leasehold and it was the first thing that was on Fairfield Road and Stratfield Road and Fairfield and matter of fact, at the onset I think people knew it was leasehold and, were therefore reluctant because they didn't think they were economically accomplishing anything by that kind of .....It became apparently a very successful sale. It took a while to convince people they ought to buy with a lease.

REP. HENDEL: There is one in Madison that has been very successful too and I think everybody knew it started out to be a handicap as opposed to the other situation we are talking about.

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

MR. COLE: So it goes.

REP. HENDEL: I think its just an area we are still questionable on. We are going to investigate further and we would appreciate your views or anyone else's on it to where it works.

MR. COLES: Exactly. I know there are other people while not speaking for them, but I made reference to them to give us some input and I think should with Mr.....and the other gentleman who was mentioned before. There's Robert Chetti, whose done a lot in our area and .....Pulaski whose drawn up a lot of properties in Fairfield. As a matter of fact, he's in the process of converting one at the present time. He's very very successful, very competent, very respectable kind of an operator.....been in Stratford all those properties that I am talking about. And I think we can give you some input. You have given me a lot of time and its been helpful to me.....and I don't know what the bank's attitude in the long run is going to be. Our concern with.....outside of the withholding, outside of the .....are extraordinary I think were the limitations for the time it is going to take to tune up to get started, to get off the ground with a new agency of this sort with the pictures, I don't know what they are now exactly, but I know that the .....the injunctive .....literature .....resort to restraint from anyone .....performing properly could do so, I think they could suspend them and talk afterwards. I think ..... the man that gave me thought for thought, but as indicated they could still .....stop and now they talk about having a hearing later. Those are difficult powers, properly administered proably all right except that they all bear it seems to me upon just how easy its going to be to get money.....and in my own experience not as a .....but on a couple of boards and one bank that ..... I think that its fair to say that the banks are going to take a long look at what they developed a new condominium development has got to .....and limitations imposed upon them by the act.

REP. WILLARD: Would you say that these are big problems we should have give them more time to get things filed under the old law. Are you saying the law should become effective July 1, 1977?

MR. COLES: Maybe, I don't know. Yes, I think the longer time with anybody has, like the people I mentioned thatI am thinking of who might have, you know, a respect absolutely tops, I could have mentioned .....but I didn't think of it at the moment, but if they have more time to do it, they would be off the ground and going ahead of time.

REP. WILLARD: Yes, but that's what we are worrying about. We have too many people off the ground and going ahead of time.

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

- REP. HENDEL: The law isn't written for the most outstanding type of developer because probably the better developments have done a lot of these things all along. It's being written in the abuse area and then pushing it is pretty difficult sometimes to the highest level.
- MR. COLES: Well, that's true, it would seem, however, that the people who have the most trouble with it in trying to get under a wire could be the people who are causing that trouble and the most comment and concern.
- REP. WILLARD: Well, maybe, I liken it to a question like the subdivision, if you are going to change something in the regulations you have got a lot of paper subdivision by people who .....and things like that and there's nothing to say that you couldn't sell that condominium back. Say you were not a developer and you established a condominium by document and in the future and you had it and sold it .....to a developer under the old law that could seriously have a problem.
- MR. COLES: I understand under that same law except to.....wouldn't it behoove therefore, that person to take an individual and I won't mention any names .....a conversion and I just use that term loosely you have a lot of money and you have a lot of mortgages to finance and bought a fairly good building and is converting it presently as compared with a million and one-half dollar mortgage on it and it's gone along all right. Wouldn't it behoove such a person to if they got more than one section of the building to do it far before July .....you know without trying to .....the come in under and have to pay for a subdivision since you have paper condominiums which are never going to see the light of day maybe, come in and file before the deadline day if they could.
- REP. WILLARD: Except that I don't think it's going to behoove him to that extent because of the fact that the second part of Section 41 says he is going to have to do certain things .....so really I mean he's not going to get that much of an advantage, I don't believe, and I don't think that particularly under economic conditions that we have now that we are going to get a flood of condominium documents filed between the time of the
- REP. HENDEL: Not with the present influence on the market. I was reading a statement by .....from New York in relation to the bonding market in state municipal bonds, etc., and he comments that maybe its time for the banks to exercise more care and discretion and they sort of help generate things because there is really .....kind of deal and maybe again the concern you have .....for this kind of .....bank or something, maybe they ought to be a few more .....and maybe in

their being fearful about the development they shouldn't finance some of the ones who are unable to .....and end up getting foreclosed to everybody, the holder of the mortgage the three people who buy the units after .....or what have you, maybe they won't be better off. ....

MR. COLES: Hopefully so. Thank you very much. I appreciate the time you have given me and I would like to have the opportunity to have Mr. Dolan or associates who have got bills submit anything they can to be helpful, .....

REP. WILLARD: Mr. Hicock, you are next on the list.

MR. HICOCK: My name is Russell Hicock and I represent the Heritage Village Master Association. I would like to refer to communications we have had with the subcommittee.

REP. WILLARD: It will not be absolutely necessary to go over again as yet I have your comments and I have your subsequent comment in which you change your position on one item.

MR. HICOCK: That's in the letter of January 23rd where we change from 60% to 75%. I indicated on the sign in sheet we were in favor of Committee Bill 5014. This with the belief that you will give favorable consideration to the provision that would come up any two or more condominiums in a condominium community to consolidate their management and operations so that a uniform operation can be carried on without the necessity of keeping individual records for each of the condominiums in the condominium community. With our understanding we did favor Committee Bill 5014. We believe that it is highly essential that the extent of the condominium concept come into being in Connecticut. Certainly we wouldn't be in the kind of situation we are in now at Heritage Village, have the village developed as an expandable condominium instead of a series of 24 condominiums.

We would pay very particular attention to those areas where we think we would have problems under the wording of the bill which applies to Sections 12, 22 and 23 to unsold units. Another problem as aired this morning on the requirement to file statements for condominiums presumably in which there were unsold units on the effective date of this bill. In our case, the only condominium records we have are consolidated. We don't have any individual.

You mentioned .....that it would not be necessary to repeat anything in our communication. May I ask if the oral comments I made at the meeting on the first working session we had are also a matter of record?

REP. HENDEL: We had a secretary at those meetings.

REP. WILLARD: I would assume, I took notes that day and I would suggest that

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

let's go over it again, if it's not included in your sixth document which you spent some detail on.

MR. HICOCK: Generally, we think that we created this authority to have a consolidated operation is highly important. We would like to see it accomplished under the general bill. However, if it is not considered a corporate inclusion in the general bill, I would again request that you give favorable consideration to our request for an amendment to Special Act 7582 so that this will apply to Heritage Village and if the effective date of 5014 is put forward to 1977, we will also ask favorable consideration to that amendment so that we can get going this year.

REP. WILLARD: Thank you very much for coming up again. Incidentally, for the records, we Miss Hendel and I just studied a letter that was given to us from Oranoke or King Village which is basically in .....for the consolidation of the condominium.

MR. HICOCK: We understand also a letter was supposed to come in from Heritage Village which would support our recommendation with respect to that added section of the general bill.

REP. WILLARD: Mr. Robert Cohn.

MR. ROBERT COHN: .....this is the third hearing this year and as Mr. Webber pointed out its been going on six years that we have been going to these hearings and I am sure you don't want to hear a great deal from me at this particular point and I will try not to be repetitious. I would like to just question in addition to the basic philosophical differences which we have on the bill, whether or not on Page 43 where the Commission is given power to alter require alternations of the proposed public offering statement, whether or not you are creating a bureaucratic snag there. On subparagraph C on page 43, line 1375, "The Commission may require the declarant to alter or amend the proposed public offering. So you are now creating a sort of a minor FEC type jurisdiction in the Real Estate Commission and now you are now imposing their judgment on them and I think you are creating a bureaucratic, it may be a Pandora's box.

REP. WILLARD: I would just say that my feeling would be under this section was that the and I am making a note to make specific if necessary, that the purposes which require that there, can only require the alternations of amendments in conformity with the requirement of the section, I mean, we went through that before we eliminated or we were just contemplating eliminating the catchall phrase that was in the previous section and once we did that, my feeling is that this section would specifically be limited to the act in nature that all the items which are required to be in there are there, but this seems

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

to imply a substitution of judgement on the part of the commission. I make that note to be extra clear and know if we have to clarify it or what.

MR. COHN: As the committee knows, we have maintained long and repetitiously our position that philosophically or as a matter of social value the extra cost which is entailed in the escrow deposit is not justified by the social benefit to be achieved therefrom. I think that's a substance acquisition with regard thereto and I don't think I can say anything to amplify that.

REP. WILLARD: I might ask you the same question. Would you recall if you have any substitute on this bill for provision, I think we could go round and round.

MR. COHN: I really don't. I just think its going to be more costly than is justified by the, as a matter of social value. Again I would like to point out with regard to the warranties that the General Assembly did adopt a fairly comprehensive warranty statute last session. It really doesn't seem to us that there should be any difference between the warranties in a residential condominium, a residential new family house, a single family house and perhaps the committee might check to see the revisions which were placed upon the new, the single family warranties and see if we can't just write it and we need separate treatment for condominiums.

REP. WILLARD: TESTIMONY INAUDIBLE.

MR. COHN: Yes sir.

REP. WILLARD: Could you call and let me know the number. I'll look it up.

MR. COHN: Right offhand I think its 2633A, but that may be a wrong citation. There was a bill adopted in the last session which we as the housing industry didn't have any particular objection to with the mortgagees contained therein were legitimate ones, but I don't see why the condominium warranties should be any different and by the same token, we have, of course, the fear that the condominium warranties will now get translated back into the single family area which we assuredly do not want.

We have pointed out as a matter of aside that some of the information which is required under Section 31, I refer to Page 41, which is the names and addresses of the general contractor and major subcontractor, architect. It's superfluous information for the consumer and also maybe impossible for the developer to give at any given moment because he may want to change them.

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

REP. HENDEL: You discussed that.

MR. COHN: We discussed that at the subcommittee. I don't know if any changes have been made on the bill, but we would certainly feel that that would lock into a subcontractor or a general contractor or even an attorney to whom he did not want to be married. And other than that, I would refer the committee to whatever comments were made in the past hearings and not take up all of your time.

REP. WILLARD: Is your fear, in other words what you are saying is your fear the big change?

MR. COHN: I really don't know if all this information is legitimate, a legitimate concern of the consumer, who the developer uses in connection with the prosecution of his work including his professional employees, or professional consultants. He has the plans, he has what is going to be built and the developer has to adhere to them. Now, I really don't know why that information has to be forthcoming and I also would think that anytime you want to change one, it may require an amendment the way its written.

REP. WILLARD: William Breetz.

WILLIAM BREETZ: Thanks for hearing me this morning. My name is Bill Breetz and I am a lawyer in Hartford with the firm called Reed and Riga and we don't represent any condominium people at all on any side of the fence. What I am doing here is appearing in my capacity as a reporter to the uniform condominium act committee of the National Conference of Commissioners on the Uniform State Laws. The Conference is a group that drafted the uniform commercial code and the uniform probate code and a number of things that are active in this state. The state has three commissioners as you probably know, Dave Neiditz is one of those commissioners, Ted Reed of my firm is another one of the commissioners and Mr. Miller is the third.

In the last year, the Conference adopted the Uniform Land Transaction Act and that is now available for promulgation in various states and a very controversial part of that act is Article 4 with its uniform .....which was a condominium provision and the Conference at its last meeting decided to set up a separate act on condominiums because of the many issues that were raised in that area. We have set up such a committee and I was ..... as a reporter to that committee. I have two assistant reporters. One of them is a Senior Title Lawyer for the Lawyers Title Insurance in Richmond and the second reporter who is the assistant

GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

drafter of the Virginia Act which you will find much duplication in this act. The committee includes the Bill Thomas who is a fellow who drafted actually, is responsible for drafting the Virginia Act, the fellow who drafted the Puerto Rico Statute, a fellow who has been very much involved in Florida condominium act. There are a number of other people who know a great deal more about the subject than I do. We have an advisory committee including Jerry Levine, who some of you may know used to be the area HUD Council here. He's now Special Assistant to the Secretary of HUD and was the senior man responsible for the HUD study. Do you know about the HUD study, have you seen it? You have. I haven't seen it.

The HUD study is five volumes like this. It's a monumental piece of legislation for which a monumental price I am told was paid. But it's a very interesting piece of research because what they have done is try to touch base with all the legislation that exists in the country. They hired Arnold and Porter and their fellow .....Jim Jones. He wrote this book which is the legal review and its a 100 percent review of all statutes and all jurisdictions in the country, broken up by subject matter with references to the particular statute, a handy piece of research, if you ever get involved in it and it does statistically analyze the responses of consumers of condominiums across the country. It comes up with some fascinating statistics which I won't worry you with, but one of which is that 85 per cent of all condominium purchasers are delighted with their condominium. It certainly floored me. A good deal of my work is in the area of consumer work and I was astounded at that kind of statistic.

In any event, we are embarked on drafting a uniform act which may or may not be of interest to you in your deliberation. I feel somewhat like the dog in the manager, you have been working for six years to put together an act were recently embarked and I guess as I come away from this, the only thing I can suggest is there may be additional study that you want to put into your work by virtue of what we are doing. All I can offer you is that a couple of thoughts as I read through the act which are not intended as criticism, but there are a number of issues that I just picked up briefly and this goes on all the time in our own deliberations.

We spent eight days just going over the act with people who have been working in the area for four years and we are constantly

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

recognizing new problems. But let me just highlight a couple of things that occur to me, maybe things you might want to think about.

In Section 21 (b) for example you require that any alternation of the unit which impairs the value of the unit or of the property and that's not a defined term, can only be done with the unanimous consent of the condominium unit owners. Now, I don't know what impairment of value is, but maybe leopard wall-paper and black ceilings impairs value inside the unit and if it does, then you couldn't paint ceilings black on the inside without the unanimous consent of the condominium owners which you would never get. That may be good policy, but it may be bad policy. I just suggest that its something you might want to think about.

REP. HENDEL: TESTIMONY INAUDIBLE.

MR. BREETZ: Yes, you do which are very vague terms. You know how about punching holes through a wall to create new non-structural walls or through a structural wall to create new doors. I don't know whether that's a good thing or a bad thing, but the terms are, I think, intentionally broad and they do leave unanswered questions.

Section 6 seems to me, it at least raises the question, of whether or not you can lease a unit, not lease a whole condominium, but whether an owner of the declared or a problem that arises that quite frequently in condominiums is occurs where the declarant is attempting to sell his units and can't get rid of them. So in order to improve his cash flow and protect his financial situation he leases them. Now that may not be a good idea, it may change completely the character of the condominium community. It may well change the ultimate value. On the other hand, I don't know what the effect of Section 6 is as I read it and I read it very briefly and I don't mean to suggest that .....I just don't know. I think there's a question there that you might want to at least highlight.

You provide for the cancellation of contracts after the period of declarant control has disappeared which is certainly something I have argued for very vigorously in our debates, but the issue comes up, when you have very broad language in cancellation of contract, does the association, for example, after it's assumed control have the power to cancel commercial leases of facilities therein that are part of the condominium of commercial condominium, for example, or a mixed used condominium. By having the power to very broadly cancel all contracts affecting the operation of the condominium,

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

does that include leases net? I don't know. It's something you might want to think about because I don't think you want the association to be able to cancel Stop and Shop's lease for 20,000 square feet.....,but in any event you might want to consider that issue.

REPRESENTATIVE WILLARD: I hate to interrupt you, but in other words, you think that the definition of the unit as contained in the document applies to commercial as well as.

MR. BREETZ: In section 23 you say that any contract made by the declarant which could be, of course, a lease of a commercial condominium to Stop and Shop could be on a leased condo. The unit owners' association in contract can cancel any contract for management, maintenance or operation of the condominium. Now, if a lease is a contract to the operation of the condominium, then the association could cancel such a lease.

REPRESENTATIVE WILLARD: The operation of the condominium, I wouldn't think that Stop and Shop would be a contract just for the operation of it, but I see your area and we will look into it. The intent there was to give the unit owners' the right to review contracts that have been established and the maintenance and the operation of the particular unit, that's what we had in mind, to give them an opportunity.

MR. BREETZ: I will tell you that an argument that's been thrown up to me for what its worth and I have bought it, but there are people whose judgment I respect who argue that bona fide commercial leases which are restricted to a relatively short time period here the maximum is five depending on when its been entered into, it could be for a much shorter period of time. You won't be able to attract the lowest price, if you have got a very short term bona fide commercial lease. I've had a lot of trouble with that because its been an area of great abuse, but people who I believe are acting in good faith, commercially that could be a serious problem. I offer it to you for what its worth.

In your definition of offer, a very broad definition and, I am turning to another point now, with regard to the issue of registration in this state of the sale of out of state condominiums, you may run into a problem that you haven't thought about and that is this, if you advertise in this state or the mere, let's take an example, let's say some of the Massachusetts recreational condominiums are advertised in the Springfield newspaper and Springfield newspapers are sold in Enfield, what you have is the Massachusetts folks offering their condominium in Enfield. Your act would prohibit

## GENERAL LAW

FEBRUARY 24, 1976  
9:30 a.m.

that unless the Massachusetts condominium declarant registered with the Connecticut Public Offering Statement. I don't think that he's going to do that and I'm not at all certain that you want to get him, you may, but by virtue of this broad definition of offer and the broad definition of registration, you put a substantial burden on there that you may not have thought of. How long you want to go on this, I could go for a fair while.

REP. WILLARD: What I suggest is really that as I said to Mr. Coles, if you would give us a synopsis, I've just written out notes here, but I can see that we are going to want, if you just wanted to indicate the area or the section and your general comment and I am sure we will get as I have all these others, and some that aren't even in this pile. I have been trying to get things together, but in all fairness if you feel that you want to really give it.....I'm not going to be able to take it down, we are not going to get it in this form of .....notes here. Why don't you just, but I would impress upon you as I said to Mr. Buck this morning, it would have to be pretty quickly.

MR. BREETZ: Well, that's the other side of it, it's a practical matter, it's not an area in which I have a financial interest at all and I don't know how concerned you are about it at this late stage bringing in.

REP. WILLARD: We are concerned about anything that would make the bill a better bill. I don't know what areas you are talking about, but we are concerned right now with anything that would make this bill a better bill.

MR. BREETZ: Perhaps you and I could sit down and talk briefly. I just don't have the time very honestly to sit down.

REP. HENDEL: Is there something we can do it this way?

MR. BREETZ: Perhaps you and I could sit down and talk briefly. I just don't have the time very honestly to sit down.

REP. HENDEL: I don't see why you can't do it this way and it will be on the tape too.

MR. BREETZ: Would it be better if you and I just talked and I'll point out the things in light of everybody else being here? I'll be glad to do that.

REP. WILLARD: Thank you very much. May I see the sign in sheet? That's all we have listed for the people on this bill sitting here. Is there anyone else who wishes to address the hearing? If not, then we will declare it closed, right Pat. The hearing is closed.

1  
SA

GENERAL LAW  
GROTON CONDOMINIUMS

February 24, 1976  
Groton  
7:30 P.M.

PRESIDING CHAIRMAN: PATRICIA T. HENDEL

CHAIRMAN HENDEL: I want to call to order the meeting of the General Law subcommittee on condominiums, we'll hear our first testimony.

MR. WILLIAM McCAULEY: Thank you Representative Hendel. First a question if I might, is the proposed condominium legislation this year essentially similar to what was raised by the committee last year.?

CHAIRMAN HENDEL: It's the bill we heard today #5014 you don't have a copy?

MR. WILLIAM McCAULEY: I do it just came in the mail as I arrived home tonight.

CHAIRMAN HENDEL: That bill is essentially the same as was raised with the amendment at the end of the session. It would be house amendment we are planning one of two courses we know we are going to make some changes as a result of the workshops and hearings we've had today and it we may end up with this bill with amendments or a substitute bill if we feel it requires rewriting but in answer to your question yes.

MR. WILLIAM McCAULEY: Thank you. My name is William McCauley and I'm president of the Savin Rock Condominium Association in West Haven. The revised unit ownership act that was put forth in the by the General Law Committee during the last session of the General Assembly and again is under consideration provides safeguards for unit owners and prospective condominium purchasers. These safeguards particularly have provisions which prohibit the developer from retaining title to recreational facilities establish limits on third part contracts and require the establishment of an escrow account to insure completion of common elements will provide the condominium purchaser with protection in his or her dealing with the developer. There is one additional area that I would urge this committee to explore, that is the relationship between the condominium and the municipality. Some municipalities restrict services that are available to multi-unit residences such as apartments, for example, refuse collection is provided for single family dwellings while apartments and other commercial enterprises must contract for this service. The condominium unit, however, is actually a single family dwelling attached to other single family dwellings and sharing the neighborhood.

2  
SA

## GROTON CONDOMINIUMS

February 24, 1976  
Groton  
7:30 P.M.

MR. WILLIAM McCAULEY (CONT.): The unit owner pays property taxes at the same rate and similar assessment as the owner of a single family house. The services received however are considerably less than those provided to the single family homeowner. We must contract for refuse removal, snow removal, and street maintenance, in addition we have installed, maintained and paid the cost of our street lighting. The municipal services provided to unit owners should be equivalent to those provided to owners of single family dwellings. Thank you, Representative Hendel, and I'll leave you a copy.

CHAIRMAN HENDEL: Thank you, Mr. McCauley and I'll see that the Committee has these. This is an area that the last area that you mentioned, the municipal services is an area which we have discussed and so far have not been able to resolve it as being different from other kinds of divisions and what have you. We've talked to a lot of people about it and I'm aware I've gotten some calls from people in the New Haven area with some specific problems on this score and we are aware of it I'm not sure what we'll do, but we are considering it.

MR. WILLIAM McCAULEY: Thank you very much.

CHAIRMAN HENDEL: You're welcome. Now do you want to speak on condominiums or Blue Laws, fine. I think they're through unless someone else comes in.

MR. CARROLL DUNHAM: Thank you Madam Chairman, I'm Carroll Dunham, representing the Connecticut Association of Realtors to make just a brief comment on the condominium bill. Our Association has made it's position clear to you many times and we won't burden you with repeating it, except to stress the fact that we do support the efforts of the Committee to get a stronger and better condominium bill passed, that will tighten up the regulations of this type of project and make it a safer and better place for the buyers and inhabitants of condominiums. The only thing we would like to sort of refer back to is that are major concern is the timing on various contract relationships when people do sign up to purchase and I don't have the bill in mind.....

CAHIRMAN HENDEL: You're concerned about the fifteen day decision, we're going to change that.....

MR CARROLL DUNHAM: And the only reason for that is to make it so that the people cannot on a whim get involved in the

February 24, 1976  
Groton  
7:30 P.M.

MR. CARROLL DUNHAM (CONT.): problems and time that is involved with all people concerned, but apart from that we couldn't feel stronger about the fact that the consumer, the person who is going to buy a condominium unit needs as much protection as possible and we want to make certain that it is a viable real estate product that somebody can be happy in purchasing and living in it. We thank you.

CHARIMAN HENDEL: Thank you Mr. Dunham. Is there anyone else who wants to comment on either of these two topics? You're welcome to come next Thursday where we're going to hear the condominium bill again in New London.

H-178

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1976

VOL. 19  
PART 7  
2671-3172

House of Representatives

Friday, April 23, 1976

4  
djh

Connecticut Prison Association, File No. 726; Calendar No. 784, substitute for H.B. No. 5468, An Act Concerning a Program for Restitution to Victims of Crime, File No. 725; Calendar No. 785, substitute for H.B. No. 5838, An Act Concerning a School of Veterinary Medicine, File No. 722, Calendar No. 786, substitute for H.B. No. 5802, An Act Exempting Students at the Connecticut Police Academy from Tuition Payments at State or Community Colleges, File No. 716; on page 3, Calendar No. 791, H.B. No. 5780, An Act Concerning the Establishment of a Handicapped Driver Training Program Within the Department of Motor Vehicles, File No. 717.

THE SPEAKER:

You have the motion of the gentleman from the 5th. Question on adoption of the matters within the purvue of the motion, consent items. All those in favor will indicate by saying aye. Opposed? The bills are PASSED.

THE CLERK:

Page 4 on the Calendar, on page 4, Calendar No. 726, substitute for H.B. No. 5014, An Act Concerning Unit Ownership, File No. 655, General Law.

MR. WEBBER (92nd):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark, sir?

MR. WEBBER (92nd):

Thank you, Mr. Speaker. Mr. Speaker, it is with a great deal of pride and pleasure that we've reached that point today in our session

House of Representatives

Friday, April 23, 1976

5  
djh

where we are finally going to hear about and hopefully pass a much needed and long overdue condominium protection bill, as it were. Now although the bill you will hear about will probably in its present form not solve all of the problems but hopefully it will be a good start, get something on our books and in time, by virtue of trial and error, we can amend the bill and bring it up to that state where we think it belongs. The problems with condominiums, I think, are known to many of us. We've had all kinds of bitter complaints about condominiums. We're hearing from people throughout the entire state and frankly, we have no way of protecting their investment or interest.

Mr. Speaker, the condominium sub-committee headed up by the very distinguished Richard, Rep. Dick Willard and the very gracious Rep. Patricia Hendel have but in literally hundreds and hundreds of hours on this measure. They were assisted by people under the title of an ad hoc committee who are not members of this legislature but who also gave us many, many hours of their time to help us put this thing together. And I'd like, I think, the record to know or should be made aware and you legislators should be made aware of those people who did offer some tremendous input and assistance to our committee: Mr. Robert Cohen representing the Home Builders of Connecticut, Mr. Charles Morton of the Tax Assessors Association of Connecticut, Mr. George Steiner from the Society for Savings, Mr. Russell Hickock, representing the Heritage Village Condominium Association, Mr. George Haines, the Connecticut Association of Realtors, Mr. Richard Caffrey representing the Independent Insurance Agents of Connecticut, Mr. Dan Sachs, a young attorney from New Haven who joined with us at no fee whatsoever to assist us, Mr. Steve Rolnick, another young attorney from New

House of Representatives

Friday, April 23, 1976

Haven who joined with us gratis and two very distinguished members of this assembly from the Judiciary Committee, Rep. Tom Clark and Rep. Ernest Abate, all of whom, believe me, all of whom put in countless hours and tremendous effort and dedication to bring this bill to you.

Mr. Speaker, at this point, I would like to yield, if I may, to the very gracious lady from New London, Rep. Pat Hendel.

THE SPEAKER:

The lady from the 40th.

MRS. HENDEL (40th):

Thank you Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO 3843.

THE SPEAKER:

The Clerk please call LCO 3843, House "A".

THE CLERK:

House Amendment Schedule "A" offered by Mrs. Hendel of the 40th and others.

MRS. HENDEL (40th):

Mr. Speaker, may I please summarize?

THE SPEAKER:

Is there objection to the lady from the 40th summarizing in lieu of Clerk's reading? Hearing none, the lady from the 40th for that purpose.

MRS. HENDEL (40th):

Thank you Mr. Speaker. This amendment includes a number of items where we have decided to make the language of this bill more exact, where we have tried to make the language more clear and most of the items

House of Representatives

Friday, April 23, 1976

7  
djh

in this amendment cover that type of situation. Some of them are punctuation; some are editorial; and we have inserted the very first, in line 1, we insert that this act shall be known as the Condominium Act of 1976 as a kind of better shorthand rather than calling it the Unit Ownership Act. There are just two of the items in this amendment that I would just like to speak to. One of them concerns grandfathering out building which have already been under construction for which it would not be suitable to require architect's certificates to be issued before they are sold.

So on page 5 of the amendment, there are three lines that pertain to that where we have actually grandfathered the architect's certification requirement.

And on the first page of the amendment, we refer, in line 58, we insert reasonable reserves established for the repair, replacement and capital improvements or improvements for more than a single year of life, merely to be specific and clarify a right that is probably exists presently under the present law.

I move adoption of the amendment.

THE SPEAKER:

Will you remark further on adoption of House "A"? If not, the question is on its adoption. All those in favor will indicate by saying aye. Opposed? House "A" is ADOPTED, ruled technical. Will you remark further on the bill as amended?

MRS. HENDEL (40th):

Mr. Speaker, I would like to yield to Rep. Thomas Clark.

THE SPEAKER:

The lady is relinquishing the floor. Will you remark further on

the bill as amended?

MR. CLARK (21st):

Mr. Speaker, it's my intent at this time to give the members of the House a brief overview of what this Unit Ownership Act does and I might start by saying that this is an extremely complicated area of the law and it is so because it really melds together two areas of the law that don't really come together in this fashion in any other part of our general law. And that is the area of corporate law and the area of real estate law. And I think that what has happened in the United Ownership Acts around the country is that these two areas have come together to require certain disclosures and certain protections of right which are peculiar to the corporate law and they have been blended and melded into the real estate law which we have and in effect it's now come out into a unit ownership act.

Now I would like to briefly turn to the bill itself and explain some of the differences with this law and the law that's on the books now. Basically in the area of recording or submitting documents, we have attempted in this bill to clarify not only what documents should be recorded, such as plans, but what should be contained in those documents and where they should be recorded. There have been some problems with grantee versus grantor index, where they're filed, under persons or corporations, we have addressed that problem and hopefully clarified that.

In the declaration, which is the information contained in the statement put forth by the developer as to what he is constructing, we have required additional information in there. General descriptions of the unit, descriptions of the portions of common and limited common elements and many

House of Representatives

Friday, April 23, 1976

other descriptions which were not required under the old law which we hope will clarify for the purposes of the purchaser exactly what they're purchasing.

We have also dealt with areas of condominium law which were not dealt with under the old law. For instance, the concept of the expandable condominium where a condominium may be begun and additional land may be added. We have clarified that to require that the parties set forth that they intend to expand the condominium so that a person will not necessarily buy a condominium thinking it's going to be a hundred units and find out subsequently it's going to be 400 units. This would clarify the law so they would disclose that in the beginning.

We have also dealt with the requirement of removal of land from the condominium to make sure that there is disclosure of that, specification of any property that's going to be removed.

This would also permit an activity which was not clear under the prior law and that is, can condominiums merge their operations in order to save costs in some areas. This law sets forth the procedure by which condominiums would be able to merge which was an area in the old law which wasn't covered clearly and was not--it caused problems. As a matter of fact, we had a special act in here on this problem.

It also covers the situation of a conversion condominium which was not covered under the old law which is where a person has a building and would like to have it converted into a condominium and this bill sets forth how one would go ahead and convert an existing structure to a condominium and would clarify the law in that area.

It also sets forth that you must specify the easements. It

(rec  
2

House of Representatives

Friday, April 23, 1976

10  
djh

clarifies the problem of what happens if you have encroachments and boundary problems within the condominium. It adjusts for those problems.

I think the most significant area of improvement in this particular bill is the compromise which was struck in the State of Connecticut about protecting the purchaser. There are basically two bodies of law in the condominium area concerning, well there are really three: do nothing, don't really do much to protect the purchase; the second is to require a disclosure

--

THE SPEAKER:

Excuse me sir. Thank you.

MR. CLARK (21st):

The second is to require a disclosure in the nature of a public offering and the third is formal registration and in formal registration, that requires that you set up an organization to make sure that the parties selling, in this case the declarant, has registered the documents and complied with the requirements of registration. Here in Connecticut, under this act, we do not go the full extent of registration. We require instead a public offering statement to be provided to each purchaser. In effect, we have eliminated, if you will, the state from overview of the sale of condominiums except within the statutes themselves. We will not have any separate agency which will be the registering party who will check the declarant. That still basically is the requirement of the purchaser and his counsel to check the documents and we have merely specified what must be in those documents. And we have included an exhausted list of matters which must be disclosed: third party management, maintenance contracts, encumbrances on the party, common expense schedules, anticipated costs, purchaser's cancellation rights, statement

House of Representatives

Friday, April 23, 1976

11  
djh

of total number of units that may be included by reason of future expansion, an indication of whether or not recreation facilities are available to others other than unit owners, and even states in there that if you don't understand it, go talk to somebody who does.

It also provides that any purchaser with the public offering statement has a 15 day right of cancellation. He can sign an agreement to purchase and yet he has 15 days after that signing of that agreement in order to go and get information and still be able to back out of the agreement after that period of time.

Now, there's an escrow provision in here. This sort of covers the period from when the unit owners purchase until they take over. Often these units are constructed on a phase so that they're selling units while they're building others and it's not always the case that everything is completed at the time when the unit there are sufficient number of unit owners to take over operation. This provides that unless the building is completed, there is an escrow agreement there and there must be established if the unit is not completed--furnished or otherwise the landscape substantially in accordance with the plans and specifications. There is this escrow of up to 10%.

There is as there has been in the current law the right of restraint on the alienation to be extended by right of a first refusal so that the condominium unit association itself could purchase back a unit if it wanted and there's a limitation on the time within which the unit owners association has to exercise that.

There is another, what I feel to be significant area, and that is in the whole area of responsibility for construction. This has been a major problem. What is to be held liable if there are construction defects?

House of Representatives

Friday, April 23, 1976

12  
djh

We dealt with that basically in three areas. We said you must escrow. If you have not constructed it correctly, there's going to be an escrow. Secondly, when you sell a unit, which was constructed after January of '77 which is when this law comes into effect, you must provide an architect's certificate to the unit owner and when you turn it over to the unit owner's association, you must provide an architect's certificate to the unit owner's association which says that you have substantially constructed this building in compliance with the plans and specifications. Now what that in effect means is that there is an independent third party who goes on the line alone with the declarant who might be a corporation who disappears and says, yes this was constructed and that requires that that architect be there on a regular basis and supervise the construction. That's one of the areas of protection. The second is implied warranties which run from the declarant to the purchaser. And a third is, basically it's the disclosure requirements which we give. We've got the implied warranties--oh, the third is the liability for misrepresentation basically. The disclosures which would permit them to recover back again for misrepresentations made.

Another area which was not covered under the old bill was that there was no way under the old statute that the association could sue against a third party, like the declarant, as a class, until September of '75, there was no class action statute in Connecticut. There is now but it's a practice act rule. Now under this statute, the condominium instead of having to sue as all hundred members individually could band together as a class and bring a cause of action.

There are changes made in the insurance provisions, common expenses and how they're allocated. There is a substantial change in the accounting procedure requiring the declarant to have tighter accounting

House of Representatives

Friday, April 23, 1976

13  
djh

practices than he's currently required to have.

Another significant change is in the area of voting rights. This says that each associate unit owner has the same voting rights as the other unit owners and in most condominiums, the differences between the voting rights currently are very nominal in any event. It also expands the turn-over of control. It gives the unit owners association more protection, or the unit owners themselves, more protection in when they can demand that the condominium be turned over to them so that when someone has bought into a condominium, they are more assured under this act that in fact the condominium that they have been told would eventually develop, will, in fact, develop into a unit owners association where they own the property.

I think, Mr. Speaker, that covers really the highlights. It's as you may have indicated--guessed from this presentation, this is really a quick overview and it is an extremely complicated area. I'd be happy to try to answer any questions that I might and at this time, I would like to yield, Mr. Speaker, if I might, to Rep. Abate.

MR. ABATE (148th):

Thank you, Mr. Speaker. Mr. Speaker, I rise obviously in support of the bill which is before us at this particular point in time. I had an opportunity to participate on occasion with the sub-committee that was studying this measure in the interim, a sub-committee of the general law committee, I had the opportunity to see the diligence and the style with which that committee approached the task at hand. I was very much impressed.

This bill, ladies and gentlemen, seeks to remedy many of the bauses which are extent in our existing statute. If one were to read our

House of Representatives

Friday, April 23, 1976

existing unit ownership act, they would see that it is relatively speaking, a very simple statute. Unfortunately, in its simplicity, it offered the opportunity for abuse. In an effort to remedy the abuses which were experienced and to prevent potential future abuses, the committee is offering the bill before us today.

The bill before us, in fact, in my opinion, remedies all the abuses which have been experienced and it attempts to remedy all foreseen abuses. A lot of you may be aware of the fact that at one time in this bill, there were very detailed registration requirements. I personally was opposed to registration requirements. I didn't feel that they were necessary when the opportunity existed for detailed disclosure. I didn't like registration because I saw that with registration was a requirement for the extension of an already existing bureau of government, the real estate commission, to the point where we would have another super agency. I didn't think that was at all necessary.

The bill as it stands now, with the very detailed disclosure requirements that are required to be set forth in the public offering statement, to which Rep. Clark made reference, are guarantees against the potential abuses. If one were to take a look at the public offering statement section of the existing bill, they would see that the statement is required to be offered to potential purchaser before a non-binding reservation agreement is signed or before a contract to purchase is signed. As Rep. Clark ably indicated, both of those documents are cancellable on or within 15 days after signature.

Mr. Speaker, I wish to offer through you, to the members of this assembly notice of the fact that not only is disclosure required by the declarant on initial sale but notice is also required by a unit owner on

House of Representatives

Friday, April 23, 1976

15  
djh

resale. I consider this a very significant provision. The disclosure that is required on resale would be include the following. It would have to include a statement certifying that the association is waiving its right of first refusal or other right to control resales. It would have to include a statement of any capital expenditures anticipated by the association within the next fiscal year. This is a very important item to be included in a disclosure. A potential purchaser, under the existing law, may buy a condominium unit and find himself in a position shortly after purchase of these things with a special assessment which is so expensive that it would require him to incur an indebtedness which was not initially anticipated. The disclosure would require a statement of the status and amount of any reserve for replacement found in any portion of such fund which is earmarked for any special project. And it would require a statement setting forth the amount of any unpaid assessment against the seller. The disclosure required on resale is an excellent provision.

Ladies and gentlemen, if you've had the opportunity to read this bill, you'll see where it is really in the consumer interest. It's an excellent bill and I heartily recommend that you support it. Thank you very much, Mr. Speaker.

THE SPEAKER:

Will you remark further on the bill?

MR. BURNHAM (101st):

Mr. Speaker, the Clerk has an amendment.

THE SPEAKER:

Would the gentleman be kind enough to indicate the LCO?

MR. BURNHAM (101st):

(record  
3)

House of Representatives

Friday, April 23, 1976

16  
djh

LCO No. 2766.

THE SPEAKER:

The Clerk please call LCO 2766, House Amendment Schedule "B".

THE CLERK:

House Amendment Schedule "B" offered by Mr. Burnham, Mr. Abate,  
and Rep. Manchester.

MR. BURNHAM (101st):

May I summarize, Mr. Speaker?

THE SPEAKER:

Is there objection to the gentleman from the 101st summarizing  
in lieu of Clerk's reading? Hearing no objection, the gentleman from the  
101st to summarize.

MR. BURNHAM (101st):

Thank you Mr. Speaker. This amendment merely provides that the  
developer or declarant of condominiums can lease them, if he so wishes. The  
amendment defines leases, lessee and what a leasehold condominium is. It  
also provides for total disclosure of all costs and how much it will cost  
for the title to vest in the lessee. The present law in Connecticut pro-  
vides for leasing, so this amendment is just consistent with the prior laws.

I move the adoption of the amendment and urge its passage. Thank  
you.

THE SPEAKER:

Will you remark further on the amendment?

MR. TOBIN (37th):

Mr. Speaker, may I be excused because of a possible conflict?

House of Representatives

Friday, April 23, 1976

17  
djh

THE SPEAKER:

The Journal will so note.

MR. CLARK (21st):

Mr. Speaker, we have no objections to this amendment. We went over it at length with Rep. Burnham and examined the tax implications and how they might affect unit owners. We're satisfied that they would not and in fact in might in areas where land is very expensive, reduce the initial cost to the purchaser and we think it's a good amendment.

THE SPEAKER:

Will you remark further on House "B"?

MR. LOWDEN (146th):

Mr. Speaker, through you a question to Rep. Burnham.

THE SPEAKER:

Please frame your question, sir.

MR. LOWDEN (146th):

I understand the import of this amendment and I would agree with it. I'm just wondering about the technicalities of drafting it and I would ask him whether his amendment amends on page 5 of the bill, subsection a of section 2 which provides that the owner or owners of any property in the State of Connecticut, which I assume means real property, if that section is amended so it is not in conflict with his amendment providing for leasehold condos.

THE SPEAKER:

The gentleman from the 101st care to respond?

MR. BURNHAM (101st):

House of Representatives

Friday, April 23, 1976

18  
djh

Could you just give me a moment to find this, Mr. Speaker?  
Thank you. Could the gentleman please refer again, through the Speaker,

--

THE SPEAKER:

Could the gentleman please reframe his question?

MR. LOWDEN (146th):

Mr. Speaker, through you, on page 5 of the bill, the file copy of the bill, section 2, subsection a, states that the owner or owners of any property may submit to the terms of this act. Does his amendment allowing, as I assume it does, leasehold condominiums, amend that section or would there be any conflict? I have no quarrel with the substance of the amendment, I'm just wondering whether we're doing it properly in a technical fashion.

THE SPEAKER:

Does the gentleman from the 101st care to respond?

MR. BURNHAM (101st):

Through you, Mr. Speaker, I believe so. Many eminent authorities other than myself have worked on this amendment including Tom Gallivan which I know the gentleman from the 146th respects. Thank you.

MR. LOWDEN (146th):

I'm satisfied with the explanation, Mr. Speaker.

THE SPEAKER:

Will you remark further on House "B"? If not, the question is on its adoption. All those in favor will indicate by saying aye. Opposed?  
House "B" is ADOPTED, ruled technical. Will you remark further on the bill as amended?

House of Representatives

Friday, April 23, 1976

19  
djh

If not, will the members be seated and the staff, excuse me, the gentleman from the 111th.

MR. CAMP (111th):

I was a bit slow. Through you please a question to the proponent of the bill.

THE SPEAKER:

Please frame your question, sir.

MR. CAMP (111th):

In section 32, which applies to the sanctions imposed by the bill, would the failure to include a material fact, could that be an act of negligence or would it be a wilful failure to include something?

MR. CLARK (21st):

Could you refer me to a line?

MR. CAMP (111th):

Excuse me, through you Mr. Section, it's in section a, I'm sorry, sub-section a of section 32, line 996 on page 43, 1996, I'm sorry.

MR. CLARK (21st):

I think it--

THE SPEAKER:

Does the gentleman care to respond?

MR. CLARK (21st):

Yes, Mr. Speaker, through you. I think there is at the second half of that section exculpatory language which would cover the problem that you're dealing with where it says that unless it is proved either that the purchaser knew of the untruth or omission or that the person offering or disposing did not know in any exercise of reasonable care could not have

House of Representatives

Friday, April 23, 1976 20  
djh

known of the untruth or omission so there are really three ways out of that problem; first is that the purchaser knew about it even though there was an untruth or an omission; the second way out would be that the declarant didn't know in the exercise of reasonable care couldn't have known about it; or the third possibility is that even if there were a technical problem, the purchaser didn't rely on it. I think that's just basically sort of a statement of the law in this area.

MR. CAMP (111th):

Mr. Speaker, as I understand the bill, I take it would impose the burden upon somebody who was negligent or who didn't make those investigatory acts which he ought to make under the bill. I guess what disturbs me is that in the next paragraph as I understand it, and I would appreciate it if I could be corrected, the bill provides that the penalty for failing to do this is a requirement to recover the consideration paid for the unit together with interest, together with the property taxes, together with attorney's fees and court costs, less only an amount of rental. I don't see any reduction in there for person who lives in the place for a couple of years or however long he may before the action finally is decided and then in the following paragraph, there's a provision that not only are the people who actually participate liable but there's some language that seems rather fuzzy to me, that persons occupying similar status or performing similar functions may be liable. In addition to them, presumably a real estate broker may be liable and I think what we ought to do if this passes is to warn some of the people that are in the various businesses that they are going to sustain very healthy liabilities if they don't watch themselves

House of Representatives

Friday, April 23, 1976 21  
djh

extremely carefully. Perhaps they should but it certainly does impose some pretty high sanctions. It may also impose them upon attorneys although I'm not sure about that.

THE SPEAKER:

Will you remark further on the bill as amended?

MR. LOWDEN (146th):

Mr. Speaker, through you a few questions to Rep. Clark.

THE SPEAKER:

Please frame your questions, sir.

MR. LOWDEN (146th):

Rep Clark, I believe you mentioned a provision permitting the merging of condos. Would that not possibly create an inequity in that the owners of a newer condo would then be liable for a disproportionate share of a maintenance cost of the older condo?

THE SPEAKER:

The gentleman care to respond?

MR. CLARK (21st):

Yes, through you Mr. Speaker, the whole question of merger is left up to the unit owners association and that's an area for negotiation between those associations and I feel that the bill does not mandate anything. It merely says that in an arms length transaction, two unit owners associations may decide that it's equitable and fair and less expensive for them to merge some or all parts of their operation and do that subject to agreement. So I think they would be able to make the adjustments that you're talking about within the agreement that they enter into for purposes of merging part

House of Representatives

Friday, April 23, 1976 22  
djh

or all of their operation.

MR. LOWDEN (146th):

Thank you. Through you, Mr. Speaker, another question to Rep. Clark. In section 2, sub-section b, there is reference to the declaration. Is there any definition of declaration in the bill?

MR. CLARK (21st):

If I may have a moment, Mr. Speaker, I would have to refer to the statutes, if you'd-- If you would look at section 4, oh, through you Mr. Speaker, I'm sorry, if you would look at section 4, the declaration is in fact spelled out by what is contained in it. The declaration shall contain the following information and then it lists a through, I don't know, a great many, a listing of what the declaration is in section 4.

MR. LOWDEN (146th):

Thank you Mr. Speaker. Through you another question, on page 12 of the file copy, it refers to conveyance being made subject to covenants, easements and liens limited as follows: property reservation which land developers commonly convey. Does that mean that the developer may reserve the right to grant these ones to utility companies?

THE SPEAKER:

Does the gentleman care to respond?

MR. CLARK (21st):

I believe that, through you Mr. Speaker, that section refers to the fact that they must be fee simple, the declarant must convey simple title with only the following things that may not be part, or may be reserved from being in fee simple and those would be property reservations which

House of Representatives

Friday, April 23, 1976

23  
djh

they must, the developer must give for purposes of, as it goes on to say, bringing utilities to or through the condominium, access to or through the condominium, drainage to, from and through other land in the vicinity of the condominium which they may be required to do by the town for one reason or another or they may be required to have a buffer area, for one reason or another, and I guess technically speaking they would not be conveying the absolute fee simple. They would be reserving some things which the town required them to reserve.

MR. LOWDEN(146th):

Thank you. I have one last question, Mr. Speaker, and I hope that Rep. Clark doesn't think I'm harrassing him. I'm trying to clear these questions up in my own mind.

THE SPEAKER:

The gentleman from the 146th has the floor.

MR. LOWDEN(146th):

Through you, Mr. Speaker, to Rep. Clark or anyone who cares to answer, on page 5 of the file copy, section 2 sub-section a provides that the owner and so forth may submit such property to the the provisions of this chapter. Rep. Clark, is there any reason a person or an entity may not create a common law condominium without submitting to the terms of this act?

THE SPEAKER:

The gentleman care to respond?

MR. CLARK (21st):

House of Representatives

Friday, April 23, 1976 24  
djh

As a matter of fact, excuse me Mr. Speaker, through you, as a matter of fact, there are properties which are created which are not subject to this act but they're not common law condominiums. To get under this act, you have to submit the property to this act. You can have PUDs, Planned Unit Development, groups of properties, I believe there's one in Middletown, which is not a condominium. It is not submitted under the condominium act and in order to bring yourself under this act, you must submit yourself to this act, so it is possible to have some sort of a residential grouping of lands and offer that for sale and not have it be a condominium.

(record  
4)

MR. LOWDEN (146th):

Mr. Speaker, through you, I don't think you've exactly answered my question, Tom. Is there anything to prevent a party who does not submit to this act to create a condominium either by common law or otherwise. I'm hung up on the word "may" in that particular section.

THE SPEAKER:

Does the gentleman care to respond?

MR. CLARK (21st):

Well, through you Mr. Speaker, I know of no situation in the country where anybody has attempted to come underneath a condominium law on the grounds that they are a common law condominium. If what you're driving at is that is that it should say "shall" submit--

MR. LOWDEN (146th):

Thank you. I think that probably if it is intended that all condominium developments be governed by this law, that the word "may" might very well be considered to be changed to "shall". Thank you very much for your kind answers.

House of Representatives

Friday, April 23, 1976 25  
djh

THE SPEAKER:

Will you remark further on the bill as amended?

MR. CAMP (111th):

Through you please, a further question to Mr. Clark.

THE SPEAKER:

Please frame your question, sir.

MR. CAMP (111th):

I continue to be bothered by section 32 which relates to the sanctions. It appears to me from the first sentence of section 32 that is line 1996 that the sanctions apply in the case of any sale which would include not only the initial sale but also a resale of a condominium unit. Am I correct in my understanding? Through you please, Mr. Speaker.

THE SPEAKER:

Does the gentleman care to respond?

MR. CAMP (111th):

Could I also point out what appears to me--

THE SPEAKER:

...there's a pending question.

MR. CAMP (111th):

Could I continue--

THE SPEAKER:

There's a pending question.

Does the gentleman care to respond?

MR. CLARK (21st):

If I could, he may have some clarification on that question.

THE SPEAKER:

The gentleman from the 111th has the floor. Would the gentleman

House of Representatives

Friday, April 23, 1976 26  
djh

care to repostulate his question?

MR. CAMP (111th):

Yes, Mr. Speaker. I would point out that the words "any person" would seem to apply at any time because it talks about disposing of condominium unit makes no reflection to a first sale. However, in section e of the same provision, there's a provision that says a person may not recover under this section in actions commenced more than one year after his first payment of money to the declarant in the contested transaction. Now a payment to a declarant would presumably be the person who put the condominium on in the first place which makes it look like you're only talking about the initial sale. In my way of thinking, and I'll continue with my elongated question, this is an extremely important provision because if we are imposing sanctions upon an initial developer, I'm not too worried about it. He went in it to make money. This is one of the risks of doing business and he expects to be required to make accurate statements. If, on the other hand, we're going further and saying that the act applies every time a condominium is sold, I think we're getting in a very delicate area because it well may be that the seller is equally unknowledgeable with the purchaser or effectively so and he's opening himself, I think, under this act to some whopping liabilities which include not only the cost of the unit but interest, attorney's fees and a lot of other things. That's a long question.

MR. CLARK(21st):

Through you Mr. Speaker, I think that Attorney Camp has pointed out that it would seem to me that in an action brought under this section, now I think that any seller could probably bring a similiar action and probably even claim similar damages at the discretion of the court, as a matter of fact I think we had an interest provision in here this year, and

House of Representatives

Friday, April 23, 1976 27  
djh

may recover a great deal of what's already covered in section b. However, I do think that if he went under this section, he would be faced with a special defense of section e if it were other than against the declarant.

MR. CAMP (111th):

Ok. I must confess I want to vote for a condominium bill because I think we very badly need law in this subject. I'm very unhappy with this section 32 because I think the sanctions are there. They do apply to people. I don't believe they're applicable under the present law and I'm very much troubled by the person who presently owns a condominium and may want to sell it. Now I don't believe that he's liable under this broad spectrum if he sells it without all sortsof declarations. There's usually in a contract of sale an as is provision which we're presumably overruling. I think it's generally up to the purchaser to make his own investigation. Obviously, the seller can't defraud the purchaser by hiding things but I don't believe there's an affirmative obligation to tell the buyer certain things. Under this section, we talk about a reconveyance of the property, paying back the amount of money, paying back 6% interest, paying back an attorney's fee and we're way over the amount. We don't even make a provision that there can be any credit for the fact that the guy may have lived in that place for a year presumably rent free. I think this is very different from the common law negligence liability situation and I think it imposes the danger for people that I don't think is either intended or desirable and I don't want to ask that the thing be p.t.'d but I'm tempted--yes I will, Mr. Speaker.

MR. CLARK (21st):

Mr. Speaker, if I might.

House of Representatives

Friday, April 23, 1976 28  
djh

THE SPEAKER:

Will you remark further on the bill as amended? Will you remark further? If not, will the members be seated and the staff come to the well. The machine will be open. The machine is still open. Have all the members voted and is your vote properly recorded? The machine is still open. Have all the members voted and is your vote properly recorded? If so, the machine will be closed and the Clerk will take a tally. The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	130
Necessary for Passage.....	66
Those Voting Yea.....	130
Those Voting Nay.....	0
Those Absent and Not Voting.....	21

THE SPEAKER:

The bill as amended is PASSED.

THE CLERK:

New business with emergency certification, Raised Committee Bill No. 5964, An Act Concerning Procedures for Towing Vehicles Which are a Menace to Traffice, Abandoned or Unregistered.

THE SPEAKER:

Refer to the joint committee on the Judiciary.

Are there points of personal privilege at this time?

MR. LAWLESS (137th):

Mr. Speaker, I rise on a point of personal privilege to make an introduction.

THE SPEAKER:

Please proceed sir.

S 118

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1976

VOL. 19  
PART 6  
2171 · 2626

Monday, May 3, 1976

66.  
roc

Veterinary Medicine. It contains a fifty thousand dollar appropriation and if there is no objection, Mr. President, I move that this matter be placed on the CONSENT CALENDAR.

THE PRESIDENT:

The matter has been moved to Consent, Do you object? Hearing none, it is so ordered.

THE CLERK:

Continuing on page six of the Calendar, Cal. 825, File 655 and 844. Favorable report of the joint standing committee on General Law. Substitute for House Bill 5014. AN ACT CONCERNING UNIT OWNERSHIP, as amended by House Amendment Schedules A and B.

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO: (25th)

Mr. President, I move acceptance and passage of the bill as amended by the House.

THE PRESIDENT:

Will you remark on it, senator?

SENATOR CICCARELLO:

Yes. Mr. President, this bill is the result of a long-time effort by the General Law Committee in association with the Judiciary Committee. It passed the House by unanimous vote and I think that the reasons why it passed in that manner were pointed out by Senator Proxmire in a Congressional Report of August one nineteen seventy-five when he said as follows: if

Monday, May 3, 1976

67.

roc

condominium sales have multiplied, so have reports of misrepresentations, self-dealing contracts and other abuses by condominium developers. Consumer problems in the condominium industry have received much attention in recent months. There is low-balling, the practice of understating the monthly condominium fee charged for maintenance of common areas and other building expenses so that the owner finds his fee doubles or triples shortly after he buys the unit. There is the sweetheart contract, a long-time contract, long-term contract entered into with a management company generally one in which the developer has an interest which locks the owners into higher costs and often lowered quality management services than they could get if they were free to choose their own company and assures the developer a continuing financial interest in the property even after control is turned over to the owners' association. There is a ninety-nine year recreation lease in which the owners find that they do not own the swimming pool or other facilities but in fact are leasing them from the developer at a steep rental fee. In many cases, there is a built-in cost of living escalator which will give the developer over time a profit many times greater than the original cost of the facilities. There are other aggravations. Promised facilities which are never built. Defects left unrepaired. Developers refusal to turn control over to the owners' association. Continued developer control of the association through holding of unsold units. Some condominium buyers do not even get to become owners because the

Monday, May 3, 1976

68.

roc

developer goes broke and it turns out that he ploughed their deposits into the construction and there is no way that the prospective owner can get his money back. In buildings converted to condominiums, still more problems arise. The owners find that after they take control that they are saddled with expensive repairs as long neglected electrical, mechanical systems left untouched by the cosmetic renovation fall apart and have to be replaced. The owner may find himself paying as much or more for a condominium as for a comparable house. He feel he has been defrauded and yet finds that he has no grounds on which to sue because the property laws in his state do not envision such subtleties as low-balling and sweetheart contracts. Willy-nilly is the owner of his condominium castle and the law holds that he is responsible for whatever befalls him. Caveat emptor is the only applicable doctrine. Condominium conversions waves the specter of still another problem. The displacement of tenants who are unable to buy their units and who cannot find suitable alternative housing at a price they can afford; especially hard hit are elderly people and lower income families. Condominium conversions dry up the supply of rental housing, drive up rents, further aggravating the housing problems these people face. This is the most intractable of all the problems spawned by the condominium boom. It is not only the consumer who is suffering from the many problems associated with the condominium industry. Developers, the majority of them honest businessmen, are feeling the backlash of consumer frustration

Monday, May 3, 1976

69.  
roc

Condominium sales have plummeted with the combined effects of the recession, speculative overbuilding, and the extensive publicity given to condominium abuses. As developers bear the burden of consumer complaints, so, too, do the lenders who have committed themselves heavily to financing condominium projects. When the developer goes broke before he completes the project or when he cannot sell the units he has built, then the lender loses money too and may find himself the owner of property with little market value. Mr. President, this all points out the need to revise our condominium laws in the State of Connecticut. Our laws were enacted in 1963, but they simply do not address themselves to the problems I have mentioned. This bill, as I stated, is the product of years of work and effort by the General Law Committee in consultation with every group affected. It enjoys the support of various groups. The Connecticut Association of Realtors, Title Insurance Companies, the Home Builders Association, Heritage Village, Savin Rock Condominium Association, Senior Citizens and labor groups, attorneys for various builders and developers, the Connecticut Citizens Action Group and others; and the reason for this is that this bill will serve to eliminate the abuses and complaints which have affected condominium sales and it will have the effect of raising consumer confidence which again will affect the sales of condominiums in the future. And I think the bill will help the developers and the lenders in selling a quality alternative to single-family homes. Mr. President, we are going

Monday, May 3, 1976

70.

roc

to be faced with a series of amendments which may very likely have the effect of defeating this bill. I think this would be a tragic consequence to all those people who have sought to revise our condominium laws. I therefore must urge that this circle defeat each and every one of these amendments so that this bill may reach the Governor's desk at the earliest possible time. There are amendments, Mr. President.

the PRESIDENT:

I believe the Clerk has fifteen amendments and we will take them up obviously one at a time. I hope that in discussion of these amendments that we will speak to the issue of the particular amendment and then get to the vote.

THE CLERK:

The Clerk has Senate Amendment Schedule A, File 844, House Bill 5014. LCO 4100, offered by Senator Dinielli.

THE PRESIDENT:

Senator Dinielli.

SENATOR DINIELLI: (31st)

Mr. President, I move adoption of the amendment.

THE PRESIDENT:

Do you care to remark on it?

SENATOR DINIELLI:

Yes. Mr. President, members of the circle, first I don't believe that any bill that comes before us should be termed pure just because it has had a lot of work. It still could have some defects and I offer some of these amendments in a very constructive way because I feel that this bill is too

Monday, May 3, 1976

71.  
roc

important to go through without correction of some of the defects. LCO 4100 corrects a defect which has been brought to my attention by Commissioner Kanell. One of the problems, Mr. President, with the thirteen amendments it is hard to keep them all in order, but I promise you, I'll be a little--once I get them sorted out. We have with LCO 4100 a requirement that the mortgagee which takes an ownership interest in all or a portion of a condominium by foreclosure will not be responsible for any preexisting defects. The bill the way it is written now would require that any foreclosure the mortgagee would be subject to all preexisting defects and it would have the net effect of stopping any investment in any of these so-called condominium developments. I think that would be an unfortunate aspect of this bill under the guise of protecting condominium owners and associations, it would in fact kill the whole goose so I just move adoption of the amendment.

THE PRESIDENT:

The question is on the adoption of the amendment.

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I rise to oppose the amendment. I think we have a basic philosophical difference here presented by it and that is - who should bear the risk after a foreclosure - the bank which has been involved in the condominium from the ground level or the unit owners who have come in after the fact based on certain reliance upon the developer and the bank itself.

Monday, May 3, 1976

72.

roc

Mr. President, there is no question in my mind but that the bank should bear this risk. I think they do that now. I have been in conversations with individuals who are receivers of condominiums which have gone under, particularly George Haines who is also a legislative representative for the Connecticut Association of Real Estate Brokers. He is the receiver for Cain and Close (?) and he advises me that the bank in that particular case, Chase Manhattan, has accepted responsibilities in this area. So I think that this bill does not change the present law. Moreover, I think that the banks have a great deal to do with the problems in the area of foreclosures. Frankly, I think it can be said that the banks have funded undercapitalized developments and should bear responsibility for it. They have funded builders whose reputations have been shaky. They haven't overseen the construction which they should do and their inspections have been shoddy. But, Mr. President, this bill, as written, would provide for a combination of people to oversee the construction of a condominium project without the intervention of a state agency. We have in this bill the requirement of an architect. And it seems to me that the banks when they lend money for such large projects should be required and should<sup>have</sup> the commonsense to deal with the architect and the engineers on the project to make sure that quality materials are used, that the work is done, that payments are not issued by the bank where the work has not, in fact, been done. But I think that the end result of this bill will be to protect the banks, make them

Monday, May 3, 1976

73.

roc

more careful with respect to their investments and increase consumer confidence so that the foreclosure problem will, in effect, become a minimal aspect. We have gone through a recession the last year and a half, times are getting better, and I think the foreclosure problem should not be utilized to defeat what is otherwise an excellent bill.

THE PRESIDENT:

Senator Strada.

SENATOR STRADA: (27th)

Mr. President, I rise to support the amendment and I in hope that this unit ownership bill, we are attempting to correct some abuses within the industry in the State of Connecticut. I think it would be tragic if we do anything to discourage the development of condominiums. For two reasons, basically. The first reason is that there are many people in this state that just simply cannot afford to spend sixty, eighty or a hundred thousand dollars for a home, but they can afford condominiums which are priced much less than that. Secondly, the development of condominiums obviously produces jobs and helps our employment situation. We have an amendment here that is supported by the Banking Commissioner, supported by the Chairman of Banks who has expertise in this field and whether you like banks or not, they are the ones that finance homes and condominiums and without them, I daresay there would be very few of us, except maybe Senator DePiano, he's not here, who would be able to afford to purchase one without a mortgage. Therefore, I am in favor of the amendment.

Monday, May 3, 1976

74.

roc

THE PRESIDENT:

Alright. Now the question is on the adoption of Senate Amendment Schedule A. Do you care to speak again, Senator Ciccarello?

SENATOR CICCARELLO:

I would ask for a roll call vote.

THE PRESIDENT:

Certainly. Would you want a roll call on all of these amendments.

SENATOR CICCARELLO:

Yes.

THE PRESIDENT:

Alright. Will the Clerk please announce an immediate roll call in the Senate.

THE CLERK:

An immediate roll call will take place in the Senate. Would all senators please return to the chamber. An immediate roll call has been ordered in the Senate. Would all senators please be seated.

THE PRESIDENT:

Now the question, ladies and gentlemen of the circle, is on the adoption of Senate Amendment Schedule A. The machine is open. Please cast your vote. The machine is closed and locked. The Clerk will tally the vote.

Monday, May 3, 1976

75.

roc

N	1	Joseph J. Fauliso	Y	19	James J. Murphy, Jr.
N	2	Wilber G. Smith	N	20	Richard F. Schneller
Y	3	George W. Hannon, Jr.	N	21	George L. Gunther
Y	4	David M. Barry	N	22	Howard T. Owens, Jr.
N	5	David H. Neiditz	N	23	Salvatore C. DePiano
A	6	Paul S. Amenta	Y	24	Wayne A. Baker
Y	7	Charles T. Alfano	N	25	Louis S. Ciccarello
Y	8	Lewis B. Rome	N	26	George C. Guidera
Y	9	J. Martin Hennessey	Y	27	William E. Strada, Jr.
N	10	Joseph I. Lieberman	N	28	Joseph W. Schwartz
N	11	Anthony M. Ciarlone	N	29	Audrey P. Beck
N	12	Stanley H. Page	N	30	Harold D. Hansen
Y	13	Anthony P. Miller	Y	31	Joseph J. Dinielli
N	14	Robert L. Julianelle	N	32	Richard C. Bozzuto
A	15	Louis S. Cutillo	N	33	Betty Hudson
Y	16	William J. Sullivan	N	34	Lawrence J. DeNardis
N	17	Joseph P. Flynn	Y	35	Robert D. Houley
N	18	Mary A. Martin	N	36	Florence D. Finney

THE PRESIDENT:

Senator Rome.

SENATOR ROME:

While you are tallying the vote, Mr. President, it is my understanding that there are nineteen amendments. Is that correct?

THE PRESIDENT:

Well, I said fifteen, but nineteen may be correct. It makes little difference.

SENATOR ROME:

Mr. President, I am going to make a request. It is not a motion. As soon as you announce the vote.

THE PRESIDENT:

Total Voting . . . . .	34
Necessary for Passage . . . . .	18
Voting Yea . . . . .	12
Voting Nay . . . . .	22
Absent and Not Voting	2

SENATE AMENDMENT SCHEDULE A IS DEFEATED.

Monday, May 3, 1976

76.

roc

SENATOR ROME:

Mr. President, this is the last bill, except I understand the bill on the bottom of page five, that we are to take up prior to a caucus. Is that correct? This is the last one that's marked.

THE PRESIDENT:

Yes.

SENATOR ROME:

May I respectfully request that it would expedite all of our business here today, if, in fact, we were to pass temporarily this bill, caucus on this bill, and have the amendments explained and if the Democrat caucus would invite the Republicans in to hear the thirteen or nineteen amendments, I would be more than happy to do that, but it is very difficult for us to understand what these amendments are without having them explained. When you talk about thirteen amendments and having to code them back into your book and they have just come on our desk, perhaps all of them are here by now, it's too much of a burden.

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

I normally would accede to the request of the minority leader except that, as you will find, I believe, that Senator Dinielli is not going to introduce all of these amendments and that several of them relate to the same thing. There are four

Monday, May 3, 1976

77/

roc

amendments that I know of that touch on the matter that we just voted on and I think we have agreed to be as brief as possible with respect to these amendments and I think that there is really only three issues raised by them and Senator Dinielli could correct me if I am wrong and that is, one with respect to the foreclosure problem which we just voted on; two, whether or not there should be escrow provisions; and three, whether or not there should be a registration. We have discussed the subtleties in caucus and I really would like to have us go on.

THE PRESIDENT:

Senator Rome.

SENATOR ROME:

Mr. President, I would ask then, through you to Senator Dinielli, are there more than ten amendments here that are being offered by you.

THE PRESIDENT:

Senator Dinielli, DO you care to respond?

SENATOR DINIELLI:

Mr. President, through you, yes, there are nine amendments which I, in my name, and four I am handling for Senator Cutillo. I intend to withdraw a few of these as we go along because as Senator Ciccarello indicated some of them, more than one of them, relate to the same subject matter.

SENATOR ROME:

Well, I really would like to press my request. Obviously,

Monday, May 3, 1976

78.

roc

I would not make it in a form of a motion, but with all due respect, the minority knows little about what's going on on this particular bill other than to read a few of the amendments and try to collate them. We can't collate them all and if you say that you are going to be brief, Senator Cutillo, with all due respect, the briefer you are, the less we know.

THE PRESIDENT:

The request has been made by the minority leader

SENATOR ROME:

That wouldn't always apply.

THE PRESIDENT:

Senator Fauliso.

SENATOR FAULISO:

May I add that only through brevity, brevity that he is persuasive.

THE PRESIDENT:

Senator, a request has been made and the response appears to be in the negative, so I think we have no alternative but to plough forward. Senator Dinielli.

SENATOR DINIELLI:

To expedite matters, may I call the LCO numbers?

THE PRESIDENT:

Alright.

SENATOR DINIELLI:

Madame Clerk, LCO 2889 is withdrawn. LCO 2890 is withdrawn. And i will ask the Clerk to call LCO 2896.

Monday, May 3, 1976

79.

roc

THE CLERK:

The Clerk has Senate Amendment Schedule B, File 844, Substitute House Bill 5014. LCO 2896 offered by Senator Cutillo.

THE PRESIDENT:

Senator Dinielli.

SENATOR DINIELLI:

Mr. President, I move adoption of the amendment.

THE PRESIDENT:

Do you care to remark on it, Senator?

SENATOR DINIELLI:

Yes. Mr. President, under the provisions of the bill before us, there is a requirement that an escrow be set aside until all common interests are completed. In speaking from experience, I have in the past been involved with a condominium development and it took three and a half years to be completed. What we are saying here in the bill is that escrow monies be put aside for a period of time that could be as long as three years maybe longer and maybe less, of course. It seems to me that the net effect of this type of a requirement is that the five percent escrow is going to be added to the purchase price of the condominium since the builder, in many cases, doesn't even make five percent profit on each individual condominium. If we would hold five percent in escrow, it would seem to me that possibly the profit that is required for any businessman would be held in escrow for an interminable time and, in fact,

Monday, May 3, 1976

80.

roc

contribute to the defeat of the purpose of this bill. The effect of this amendment would be to delete the escrow requirement, and I move its adoption.

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I rise in opposition to the amendment. Mr. President, when this bill was originally drafted, it included not only disclosure provisions but also a registration provision. After consultation with various groups, we decided it was a wise course of action to eliminate the registration and this in essence was a trade-off with the developers and the banks to retain the escrow provision. As the current bill stands, there is no group overseeing its use. We are relying upon the self-enforcement provisions within the bill and I think they will work. But there is no real estate commission to oversee this project and make sure people get their deposits used for the purpose for which they were taken or that they not lose them. But I think again, we are facing a philosophical question. Who are we to protect? The purchasers of the building or the banks who claim that their rights are being interfered with. Mr. President, HUD, in pursuing a model condominium development law, has the following provision and describes it as follows: Section 14--Escrow of Deposits. This section was intended primarily to protect purchasers from losing deposit money in a case of developer insolvency before construction of development

Monday, May 3, 1976

81.

roc

has been completed. Often developers use purchasers' deposits to help meet construction costs, particularly in marginal developments. If such a developer goes bankrupt during this period, as has often happened in an adverse economic climate, purchasers end up losing their deposits without getting a home. In fact, another matter is that they may end up living in a construction site. But to go back, it says, an escrow requirement will at least insure that they will get their money back with interest. This is the purpose of our section on escrow deposits. But we go a little further to make sure that the developer doesn't leave the purchaser living in a construction site, but in fact completes the condominium common elements. I think this is what a purchaser of a condominium unit desires and it is what he expects and to hold this ten percent back will not be adverse to him. In fact, I have received personal messages from the Home Builders Association, the Board of Realtors and others, who say that they can easily live, or will live with this escrow requirement and I urge defeat of this amendment.

THE PRESIDENT:

Senator Rome.

SENATOR ROME:

Mr. President, I have never asked for a quorum call, but I would ask you either to announce an impending roll call or I am going to ask for a quorum call. If this is important legislation, I am not sure that the concept is understood by all. I intend to support the concept of reform, but until I

Monday, May 3, 1976

82.

roc

know exactly what each of these amendments do and until each of the members here know what they do, I think it's wrong. This is a massive piece of legislation. I would ask you to announce an impending roll call or anything else that you would deem appropriate to bring the members of the circle back and in lieu of that, a pass retain.

THE PRESIDENT:

If there are no further remarks on Senate Amendment Schedule B, the Clerk please announce a roll call in the Senate.

THE CLERK:

An immediate roll call has been ordered in the Senate. Would all senators please be seated. An immediate roll call will take place in the Senate. Would all senators please take their seats.

THE PRESIDENT:

Senator DePiano.

SENATOR DEPIANO: (23rd)

With your permission, I would like to comment on this particular amendment.

THE PRESIDENT:

Go ahead, Senator DePiano.

SENATOR DEPIANO:

Thank you. I just want to point out the fact that this is probably one of the biggest investments that most people will make, that is in buying a home for themselves and I think that the deposit is a very, very important part of that

Monday, May 3, 1976

83.

roc

transaction and I believe that there must be some protection given to these people so that after the closing the escrow that will be held, according to the original bill as it provides, will be indeed a great protection to these people.

THE PRESIDENT:

Before we vote, ladies and gentlemen of the circle, the minority leader has raised questions as to a quorum being present in the Senate during the debate on this very important legislation and indicated that if necessary he would ask for a quorum call so that there would be a quorum here. I hope that that will not be necessary. Now apparently we can go ahead and go through these amendments, apparently again there are going to be some of them withdrawn, but I think we can do this piece of business with some dispatch if you will stay here. If you don't, I'll tell you in advance that if anybody, including the minority leader, asks for a quorum call, I will accede to his request. The machine is open. The vote is on Senate Amendment Schedule B. The machine is closed and locked. The Clerk will tally the vote

N	1	Joseph J. Fauliso	Y	19	James J. Murphy, Jr.
N	2	Wilber G. Smith	N	20	Richard F. Schneller
Y	3	George W. Hannon, Jr.	N	21	George L. Gunther
N	4	David M. Barry	N	22	Howard T. Owens, Jr.
N	5	David H. Neiditz	N	23	Salvatore C. DePiano
N	6	Daul S. Amenta	Y	24	Wayne A. Baker
N	7	Charles T. Alfano	N	25	Louis S. Ciccarello
N	8	Lewis B. Rome	N	26	George C. Guidera
Y	9	J. Martin Hennessey	Y	27	William E. Strada, Jr.
N	10	Joseph I. Lieberman	N	28	Joseph W. Schwartz
N	11	Anthony M. Ciarlone	Y	29	Audrey P. Beck
Y	12	Stanley H. Page	N	30	Harold D. Hansen
N	13	Anthony P. Miller	Y	31	Joseph J. Dinielli
N	14	Robert L. Julianelle	N	32	Richard C. Bozzuto

Monday, May 3, 1976

84.

roc

A	15	Louis S. Cutillo	N	33	Betty Hudson
Y	16	William J. Sullivan	N	34	Lawrence J. DeNardis
N	17	Joseph P. Flynn	Y	35	Robert D. Houley
N	18	Mary A. Martin	N	36	Florence D. Finney

Total Voting . . . . . 35  
 Necessary for Passage . . . 18  
 Voting Yea . . . . . 10  
 Voting Nay . . . . . 25  
 Absent and Not Voting 1

SENATE AMENDMENT SCHEDULE B IS DEFEATED.

THE PRESIDENT:

Senator Dinielli.

SENATOR DINIELLI:

Mr. President, this time I will defer the rest of my amendments to Senator Flynn. I think it is LCO 4114.

THE CLERK:

The Clerk has Senate Amendment Schedule C, File 844, Substitute House Bill 5014. LCO 4114 offered by Senator Flynn.

THE PRESIDENT:

Senator Flynn.

SENATOR FLYNN: (17th)

Mr. President, I move adoption of the amendment.

THE PRESIDENT:

Do you care to remark on it, senator?

SENATOR FLYNN:

Yes, Mr. President. This amendment would put the authority of the Real Estate Commission back into the bill where I think it does belong. Section 34 authorizes, the new section 34, which you will find in line 32 of the amendment, the Real

Monday, May 3, 1976

85.

roc

Estate Commission to provide reasonable regulations which will include provisions for advertising standards to insure full and fair disclosure, provisions for operating procedures and other regulations necessary and proper to accomplish the purposes of the act. Line number 38 will provide that the commission may, by regulation, require the prior filing of advertising material prior to its distribution. It will also provide that if a person has violated the provisions of this act that injunctive powers will be given so that the real estate commission can apply to the court, even without prior administrative proceedings, to bring an action in the county in which any portion of the condominium is located to enjoin acts or practices which have been complained of and which were in violation of the main bill. It will give the commission also power to make necessary investigations, to subpoena and will provide, I think, for enforcement of what is in the main bill by allowing for cease and desist orders for any violations of the provisions of the act with respect to any violation which has been brought to the attention of the REal Estate Commission. As it stands right now, Mr. President, <sup>if</sup> this bill passe without this amendment, those members of the public who have complaints about violations of the current condominium law or the laws being proposed, have only one remedy and that is to hire a lawyer and go to court. Something which may be a time-consuming process. That I don't think is a salutary way to approach this entire problem. In previous versions of this

Monday, May 3, 1976

86.  
roc

bill, the Real Estate Commission has been a partner of the entire process. This returns that to the legislation. This provides, I think, for some sensible way to administer the entire thing in that copies of all declarations would have to be filed with the Connecticut Real Estate Commission in some central place. Without this type of an amendment, they will be in as many places as condominiums are built because they will be filed only in various town clerks offices throughout the state. Now I will make one further comment about this amendment, Mr. President, and that is that I have been told <sup>if</sup> that/this amendment passes it might jeopardize the future of the bill in that members of the House might not accept the amendment. And I don't discount that type of argument, Mr. President, but our principal obligation here is to adopt legislation that makes some sense to us and to hope that it will make sense downstairs. I don't think we discharge our own special responsibilities here if we don't do something which clearly should be done on the premise that it might have some other effect, totally unrelated to the body or to the language of the bill. It seems to me that it is important to have some central body regulating this industry in the State of Connecticut. It is important to have some administrative sanctions through the Real Estate Commission just as we do with so many other things whether it is the regulation of real estate brokers or the regulation of liquor dealers or whatever. It shouldn't be necessary where there has been a problem for everybody who has a problem to get involved in a long and a time-consuming court action.

Monday, May 3, 1976

87.

roc

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I strongly object to this amendment. I understand Senator Flynn's motives but I think that the effect of this amendment would, in fact, be to kill this bill, and I think it is much too important a bill to all of us to suffer that fate. I would think that in actuality adding the Real Estate Commission as the administrator of this bill would only add a bureaucracy which is totally unnecessary. The General Law Committee, last year, rejected an attempt to register the homebuilders and the single-family residence areas and we felt that one of the large reasons for that was the existence and presence of counsel for the purchasers. This bill would give the purchaser and his counsel the rights under the escrow provisions that we just in favor of. It has the benefits of architects certificates, it permits class actions concerning and allowing the recovery of attorneys fees to compel compliance with the by-laws and other applicable rules and regulations. It provides warranties and other important consumer related items. Mr. President, the counsel for the purchaser is well able in the face of this legislation to meet the demands of his client. And I think that if we had the Commission on Real Estate administering this project, this type of legislation, if we had any financial problems it would be mortgagee provisions and so forth, that they could end up

Monday, May 3, 1976

88.

roc

tieing up projects forever and I think that the general consensus among the people who appeared before us, namely the Board of Realtors, the Home Builders, the various groups, they are all satisfied with the bill that we have now, they don't want registration. I think what they do want is us to give a fair chance to this bill which has received the time and effort of so many people. And I have letters from various groups urging that this circle pass this bill as quickly as possible. So all I want to leave the circle with is the idea that registration was a matter that was seriously considered by the Committee on General Law in consultation with the Judiciary Committee. We rejected this item in a compromise attempt which has reached and met the satisfaction of various groups involved. In the future, if the self-enforcement procedures under the bill should prove unfeasible, then I think future legislatures can step right in and cure the problem.

THE PRESIDENT:

Senator Page.

SENATOR PAGE: (12th)

Mr. President, I support the amendment presented by Senator Flynn. I don't think that the average guy should continually have to go out and hire a lawyer or hire his counsel everytime he has a problem rising out of his condominium purchase and I think if we put this in the hands of the Real Estate Commission, there will be some place that the average people can turn to that is not going to cost them a fee every

Monday, May 3, 1976

89.

roc

time they have a problem.

THE PRESIDENT:

Thank you, senator. The question then..Senator Flynn.

SENATOR FLYNN:

Mr. President, rising for the second time in connection with this amendment, I would just like to urge the body to give some careful consideration to it. If you look at Section 36, a new section proposed by way of this amendment, it will allow the Real Estate Commission to issue a cease and desist order if there were some bad practices going on and this is where the problem should be first met. This is where the issue should be first joined. Without this type of procedure, what we are being asked to do is put our imprimatur on some process where somebody can go to court and hope that they will be put whole after the wrong has been already done to them. It is highly important and I think really vital that if there is going to be any teeth in this bill that there be some provision to stop some of these bad practices from just continuing unchecked at the outset because unless we do this, we are simply going to leave the people high and dry, stuck in unhappy situations and leaving them with the only remedy to solve their problems of going to a lawyer and engaging in a time-consuming and expensive court suit. That's one reason, I think, we ought to at least give this some consideration. Secondly, there ought to be some central repository for filing of condominium documents, so that we can get one central body where these things are available, where they may be looked at,

Monday, May 3, 1976

90.  
roc

where they must be filed. We ought to give, I think, this same body these powers because the Real Estate Commission is one of the reasons why we are discussing any bill at all. When people make complaints, when purchasers found themselves having been taken over the hurdles by a few unscrupulous developers, they made complaints to the Real Estate Commission and it was the complaints that those people generated to the Commission which caused the commission years ago to come before this body and request introduction of legislation. We are talking now about regulation of a very complex, legal set of situations, we are talking about a bill of great significance and it seems to me that the state body that the state commission that has jurisdiction over real estate brokers and real estate transactions generally ought to have of necessity some vital part to play in this entire area. They do now with respect to out-of-state transactions under the Interstate Land Sales Act, some things are filed with them with respect to condominiums that may be sold in Florida. It seems to me it would be incongruous to have a situation where we have an intrastate sale, a buyer and a seller of a property in Connecticut, and not have involved the commission that is so centrally involved in this whole area of regulation of brokers and sales of real estate.

THE PRESIDENT:

Senator Neiditz.

SENATOR NEIDITZ: (5th)

Mr. President, I rise to oppose the amendment. I think

Wednesday, May 3, 1976

91.

roc

that the Real Estate Commission was set up to license people. The Real Estate Commission is made up of real estate brokers who serve without pay. I have not looked at the list lately but over the years that I have been here they have been essentially residential real estate brokers who sell houses around the state who are on the commission. There is a built-in conflict, Mr. President, that you would have to have a part time commission set up for purposes of licensing to be involved in enforcing what I agree with Senator Flynn is a very crucial area in the protection of consumers in this state. Now if the amendment before us was to give certain jurisdiction to a line department of the state, the Banking Department, the Attorney General's Office, Mr. President, as they have it in New York which has under its umbra the consumer protection function, that would be one thing. But here we are talking about a licensing board to give out licenses for brokers. It would be like the plumbing board or the steamfitting board or the electrical board which are to license people, drafting the codes, the building codes in technical areas of electrical or plumbing or heating specifications. So I think that it is the wrong place and if there is some other amendment giving some jurisdiction to the Banking--we gave the jurisdiction to the Bank Commissioner regarding the tender offer bill. Well, the Bank Commissioner has the professional staff and capability to do that to analyze these things; or we gave it to the Insurance Commissioner. I think it was a mistake several years ago to have the registration of

Monday, May 3, 1976

92.

out-of-state places put under the Real Estate Commission. But really it's mainly a repository of the documents as far as the out-of-state places are concerned and I don't, frankly, believe that we have as good an enforcing setup as far as out-of-state real estate transactions as say the State of New York does where it is in the Attorney General's Office. So I think this amendment, while I respect the intention of Senator Flynn, I think it is the wrong place to go.

THE PRESIDENT:

The Clerk please announce an immediate roll call vote in the Senate, on Senate Amendment Schedule C.

THE CLERK:

An immediate roll call vote will take place in the Senate. Would all senators please be seated. An immediate roll call has been ordered in the Senate. Would all senators please take their seats.

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, it should also be pointed out that a registration statute such as the one that Senator Flynn's amendment would bring us to would require a fiscal note, an appropriation of a number of thousand of dollars. It simply would mean the defeat of this bill. I urge rejection.

THE PRESIDENT:

The machine is open. Please cast your vote, on Senate C. The machine is closed and locked. The Clerk will tally.

Monday, May 3, 1976

93.  
roc

Y	1	Joseph J. Fauliso	Y	19	James J. Murphy, Jr.
N	2	Wilber G. Smith	N	20	Richard F. Schneller
Y	3	George W. Hannon, Jr.	Y	21	George L. Gunther
N	4	David M. Barry	N	22	Howard T. Owens, Jr.
N	5	David H. Neiditz	N	23	Salvatore C. DePiano
N	6	Paul S. Amenta	N	24	Wayne A. Baker
N	7	Charles T. Alfano	N	25	Louis S. Ciccarello
Y	8	Lewis B. Rome	N	26	George C. Guidera
Y	9	J. Martin Hennessey	Y	27	William E. Strada, Jr.
N	10	Joseph I. Lieberman	N	28	Joseph W. Schwartz
Y	11	Anthony M. Ciarlone	N	29	Audrey P. Beck
Y	12	Stanley H. Page	N	30	Harold D. Hansen
N	13	Anthony P. Miller	Y	31	Joseph J. Dinielli
Y	14	Robert L. Julianelle	N	32	Richard C. Bozzuto
A	15	Louis S. Cutillo	N	33	Betty Hudson
Y	16	William J. Sullivan	N	34	Lawrence J. DeNardis
Y	17	Joseph P. Flynn	Y	35	Robert D. Houley
Y	18	Mary A. Martin	N	36	Florence D. Finney

Total Voting . . . . . 35  
Necessary for Passage . . . . . 18  
Voting Yea . . . . . 15  
Voting Nay . . . . . 20  
Absent and Not Voting . . . . . 1

SENATE AMENDMENT SCHEDULE C IS DEFEATED.

the PRESIDENT:

Senator Dinielli.

SENATOR DINIELLI:

Mr. President, I withdraw my other amendments and if I have the power to do so, I will withdraw Senator Cutillo's three remaining amendments. They were remanded to my care and custody.

THE PRESIDENT:

Are they all of the remaining amendments? (Answer not given on mike, but assume he said no.) Alright. Cutillo and Dinielli amendments have been withdrawn. Proceed, then, Madame Clerk.

Monday, May 3, 1976

THE CLERK:

The Clerk has Senate Amendment Schedule D. File 844,  
Substitute House Bill 5014. LCO 3143 offered by Senator  
Alfano.

THE PRESIDENT:

Senator Alfano.

SENATOR ALFANO: (7th)

Mr. President, I move for adoption of the amendment.

THE PRESIDENT:

Will you remark on the amendment, Senator Alfano?

SENATOR ALFANO:

Mr. President, under the bill as written the developer has to put into escrow ten percent of the cost of the total construction. This applies to all existing developers, people who have already made commitments, people who made commitments in connection with the funds that they are securing from the lending institutions. So it appears to me that passing legislation like this now is compelling a breach of an existing contract. We are adopting a law whereby somebody who is already entered into a contract, we are now trying to vary this contract by legislation. On that basis, I think it is very unfair to compel this once a person made commitments to try to change it by legislation. So on that basis, I will offer this amendment.

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I rise to oppose the amendment. This bill

Monday, May 3, 1976

95.

roc

would take effect on January 1, 77. It would apply to all condominiums declared on or after that date except that the following sections would also apply to any unsold condominium units and condominiums declared prior to January 1, 77, that is the escrow, restraints on resale, warranties, disclosure of resale, mergers, conversions, cancelations rights, public offerings, statements, et cetera. These rights were carefully picked out so that those who were purchasing unsold units after the effective date would have some of the same rights as those purchasing a condominium which was declared after the effective date. You know, if these provisions are good for those people who are buying after the effective date, they are good for those people who are gonna purchase unsold units or buildings that were constructed prior to the effective date. I think the amendment will take away rights that we are trying to give to the prospective purchaser and therefore it's a bad amendment.

THE PRESIDENT:

Will you remark. Senator Strada.

SENATOR STRADA: (27th)

Mr. President, I rise in support of the amendment. I think the other amendments we talked about/<sup>there</sup>were philosophical differences, as Senator Ciccarello pointed out, with the banks on one side and developers on the other and real estate people maybe on a third side. But it seems to me that this is a very fair, equitable amendment. What we are talking about here are projects that are under construction, where commitments have

Monday, May 3, 1976

96.

roc

been made legally, where the people are operating under the existing law and who now who will have to operate under this provision. Let me just give you one example. If under existing law, in a project the developer has made contractual agreements with the bank to pay back ninety percent at the closing, under this law, in addition to the ninety percent he has to pay five percent to a real estate broker or six percent, one percent to an attorney, one percent conveyance tax; Mr. President, I submit that he doesn't have the five percent left to put in escrow. So what we are talking about here is the grandfather clause, like we do in many other areas. So that the people who are operating under the existing law will not be caught either in violation of their existing agreements, legal, with banks or with other industries. I think it is a very fair, equitable amendment. It does not touch the philosophy that Senator Ciccarello talked about before which have been voted down. I think this amendment is very important in all fairness.

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

Mr. President, I do think that it affects philosophy. It affects the philosophy of what materials, what disclosures, what provisions for purchasers should be made after the effective date of this act. I think it is extremely crucial to this bill and the items picked were very selective and we tried not to put any costs upon the developer and I think we have succeeded.

Monday, May 3, 1976

Moreover, we have the developer lead time, we have given him from today or whenever the bill is signed into law, until January one, 1977. I think this is a sufficient time for him to make preparations for those bills that he hasn't paid and to get about the work. If he has completed the common elements by January one, 77, there is no escrow deposit to be retained because the escrow only pertains to the completion of the common elements and hopefully they will be completed by the effective date of this act.

THE PRESIDENT:

Senator Strada.

SENATOR STRADA:

Mr. President, briefly in response, through you to Senator Ciccarello, I think he is aware that some projects encompass fifty or seventy-five units, and January one, seventy-seven is only six months away. Now obviously, the agreements with the banks have already been made if the project is under construction. How does the developer, through you, Mr. President, where does the developer find the money for the escrow when he has a commitment to a bank for ninety percent of the closing and he already has a commitment to the realstate broker for six percent and he has to pay his attorney one percent and he has a one percent conveyance tax. There is only one hundred percent total. Where does he find the money? Where is the equity there for those that are operating under the existing law who aren't aware of this when the bill hasn't passed yet?

Monday, May 3, 1976

98.

roc

But who have purchased and made agreements, legally binding, with lending institutions?

THE PRESIDENT:

Senator Ciccarello.

SENATOR CICCARELLO:

Through you, Mr. President, the number of the items that the good senator was talking about are matters which will be taken care of at the closing, the attorneys fees, the brokers fees, et cetera. If the common elements have been completed, there is no escrow whatsoever. He has got six months from now to complete them. I think that we are talking about disclosures to the buyer and I think he is entitled to them, he expects them. The laws throughout the United States have provided for these disclosures and I think that the developer is not placed under an onerous burden by virtue of this provision.

SENATOR STRADA:

Mr. President, speaking for the third time, if I may, just to say that it is obvious that the senator of the General Law Committee is not prepared to accept any amendment. I've stated the case. I am in support of the amendment.

THE PRESIDENT:

The Clerk please announce an immediate roll call in the Senate on Senate Amendment Schedule D.

THE CLERK:

An immediate roll call has been ordered in the Senate. Would all senators please take their seats. An immediate roll call will take place in the Senate. Would all senators be seated.

Monday, May 3, 1976

99.

THE PRESIDENT:

roc

The machine is open. Please cast your votes. The machine is closed and locked. The Clerk will tally please.

N	1	Joseph J. Fauliso	N	19	James J. Murphy, Jr.
Y	2	Wilber G. Smith	N	20	Richard F. Schneller
Y	3	George W. Hannon, Jr.	N	21	George L. Gunther
Y	4	David M. Barry	N	22	Howard T. Owens, Jr.
N	5	David H. Neiditz	N	23	Salvatore C. DePiano
A	6	Paul S. Amenta	N	24	Wayne A. Baker
Y	7	Charles T. Alfano	N	25	Louis S. Ciccarello
Y	8	Lewis B. Rome	N	26	George C. Guidera
Y	9	J. Martin Hennessey	Y	27	William E. Strada, Jr.
N	10	Joseph I. Lieberman	N	28	Joseph W. Schwartz
N	11	Anthony M. Ciarlone	N	29	Audrey P. Beck
Y	12	Stanley H. Page	N	30	Harold D. Hansen
N	13	Anthony P. Miller	Y	31	Joseph J. Dinielli
Y	14	Robert L. Julianelle	N	32	Richard C. Bozzuto
A	15	Louis S. Cutillo	N	33	Betty Hudson
Y	16	William J. Sullivan	N	34	Lawrence J. DeNardis
N	17	Joseph P. Flynn	N	35	Robert D. Houley
N	18	Mary A. Martin	N	36	Florence D. Finney.

Total Voting . . . . . 34  
 Necessary for Passage . . . . . 18  
 Voting Yea . . . . . 11  
 Voting Nay . . . . . 23  
 Absent and Not Voting. 1

SENATE AMENDMENT SCHEDULE D IS DEFEATED.

THE CLERK:

The

Clerk has no further amendments.

THE PRESIDENT:

There are no further amendments. Senator Ciccarello.

SENATOR CICCAREELO:

Mr. President, I would move the bill as amended.

THE PRESIDENT:

Alright. Question now is a roll call on the bill itself. Announce it please. I think everybody is here.

Monday, May 3, 1976

100.

roc

THE CLERK:

A roll call will take place in the Senate. Would all senators please take their seats. An immediate roll call in the Senate. Would all senators please be seated.

THE PRESIDENT:

The machine is open. Please cast your vote. Now let, Doctor, let Senator Flynn go and vote because that's the only one we are waiting for. Thank you. Your plans are all gone, there is nothing further you can offer. The machine is closed and locked. The Clerk will tally the vote.

Y	1	Joseph J. Fauliso	Y	19	James J. Murphy, Jr.
Y	2	Wilber G. Smith	Y	20	Richard F. Schneller
Y	3	George W. Hannon, Jr.	Y	21	George L. Gunther
Y	4	David M. Barry	Y	22	Howard T. Owens, Jr.
Y	5	David H. Neiditz	Y	23	Salvatore C. DePiano
Y	6	Paul S. Amenta	Y	24	Wayne A. Baker
Y	7	Charles T. Alfano	Y	25	Louis S. Ciccarello
Y	8	Lewis B. Rome	Y	26	George C. Guidera
Y	9	J. Martin Hennessey	N	27	William E. Strada, Jr.
Y	10	Joseph I. Lieberman	Y	28	Joseph W. Schwartz
Y	11	Anthony M. Ciarlone	Y	29	Audrey P. Beck
Y	12	Stanley H. Page	Y	30	Harold D. Hansen
Y	13	Anthony P. Miller	N	31	Joseph J. Dinielli
Y	14	Robert L. Julianelle	Y	32	Richard C. Bozzuto
A	15	Louis S. Cutillo	Y	33	Betty Hudson
Y	16	William J. Sullivan	Y	34	Lawrence J. DeNardis
Y	17	Joseph P. Flynn	Y	35	Robert D. Houley
Y	18	Mary A. Martin	Y	36	Florence D. Finney

Total Voting . . . . . 35  
Necessary for Passage . . . . . 18  
Voting Yea . . . . . 33  
Voting Nay . . . . . 2  
Absent and NOT Voting . . . . . 1

THE BILL AS AMENDED IS ADOPTED.

THE PRESIDENT:

Senator Lieberman.