

Legislative History for Connecticut Act

PA 81-340

Act Number:	340	Year:	1981
Bill Number:	HB 6706	Pages	
House Pages:	3772-3779, 6535-6541, 7048-7070		36
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

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3736-4068

House of Representatives

Thursday, April 30, 1981

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CLERK:

House Bill No. 7169.

Total number voting	144
Necessary for passage	73
Those voting yea	143
Those voting nay	1
Those absent not voting	7

SPEAKER ABATE:

The bill passes.

REP. FUSSCAS: (55th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Fusscas.

REP. FUSSCAS: (55th)

Could I indulge your consideration of registering my vote in the affirmative.

SPEAKER ABATE:

I'm sorry, sir. Too much time has elapsed, sir since the time I asked the Clerk to announce the tally.

CLERK:

Calendar page 10, Calendar No. 358, Substitute for House Bill No. 6706, AN ACT CONCERNING MUNICIPALITY LIABILITY FOR ICE AND SNOW ON PUBLIC SIDEWALKS. Favorable Report of the Committee on Judiciary.

REP. ONORATO: (97th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill, sir.

SPEAKER ABATE:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark sir?

REP. ONORATO: (97th)

Thank you, Mr. Speaker. Mr. Speaker, basically this bill would permit the municipality the option of providing an actions recover from injuries from snow and ice cases, provided by ordinance, shifting the burden onto private property does not come under the direct control of the city or the municipality.

Further, what this bill would do is to relieve the municipalities from defending this action, would do away with the present 60 day notice, or 90 day notice that is now required and give them a 2 year statute of limitations, statutory period in which to bring the action, sir.

I would move passage of the bill, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

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

SPEAKER ABATE:

State your question, please sir.

REP. VAN NORSTRAND: (141st)

Rep. Onorato, this would represent a shift in policy, I gather from the municipality. What happens to the person that doesn't live - what happens to the vacant lot with the sidewalk in front of it.

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Through you, Mr. Speaker. What basically would happen is the reasonable notice aspect, would still be applied obviously. The vacant lot, or the abandoned house, would have to make provisions, reasonable provisions. We're not talking about an overnight type thing. Would have to make reasonable provisions

to adopt. It is not the attempt of the legislation to make them, in effect, strict liability on their part. Obviously, they have the reasonableness under the existing statutes, or the existing law, which would be carried through, even with this legislation.

REP. VAN NORSTRAND: (141st)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Is there a considerable case law dealing with that?

REP. ONORATO: (97th)

Yes, there is. Through you, Mr. Speaker.

REP. VAN NORSTRAND: (141st)

Through you, Mr. Speaker. I gather the present system is one wherein the municipality can find someone who doesn't clean their sidewalk as it is. Why is that not working?

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Through you, Mr. Speaker. Mr. Speaker, presently, the municipalities are mandated by state statutes, that they shall be strictly liable. They weren't given an option to enact an

ordinance to fine individuals who did not clean their property up. However, the same legislation that gives them the option for fining people, also limits the fine to \$5.00. That's why that's not working.

REP. VAN NORSTRAND: (141st)

Thank you, Mr. Speaker. Thank you, Rep. Onorato. Although this does represent a shift in policy, I have been advised that it has been a source of considerable difficulty for some municipalities. I am inclined to support it. I just wanted to establish that some of these situations that might come to the minds of some of us, are not as foreboding as one might think when one considers the case law.

SPEAKER ABATE:

Will you remark further on this bill? Will you remark further on this bill?

REP. TRUGLIA: (145th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Truglia.

REP. TRUGLIA: (145th)

A question through you, if I may, to the proponent of the bill.

SPEAKER ABATE:

State your question please, sir.

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REP. TRUGLIA: (145th)

Thank you. My question is, as I read this, is it possible that the homeowner could be held liable other than just snow removal. How about the maintenance of that sidewalk?

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Through you, Mr. Speaker. The homeowner would be liable except for affirmative acts by the municipality, or any of its subdivisions. I believe that answers the question.

SPEAKER ABATE:

Rep. Truglia, you still have the floor, sir.

REP. TRUGLIA: (145th)

Through you, Mr. Speaker. I'm afraid that doesn't answer my question. I'll restate my question one more time. Other than the actual matter of cleaning that sidewalk for snow or ice. Is that homeowner also liable for maintenance, proper maintenance of that sidewalk under this bill if it's accepted?

REP. ONORATO: (97th)

Through you, Mr. Speaker, the homeowner would be liable for the snow and ice conditions and any other conditions that the homeowner creates. If the municipality, through an affirmative act, either digging up of the sidewalk, a tree that's been uprooted,

damages the sidewalk, a snowplow comes by, and covers the sidewalk up with debris, anything like that, the municipality would be liable for. Otherwise, the liability would fall on the homeowner.

REP. TRUGLIA: (145th)

Through you, Mr. Speaker. Thank you. It is my understanding that the city, or municipality is only responsible for the maintenance of a sidewalk, actually tearing it up, replacing it. I just have some suspicion that under this particular bill, we're doing more than just removing the responsibility of ice and snow from municipalities. We're actually putting more burden, and responsibility onto the homeowner. I could be wrong. Thank you.

SPEAKER ABATE:

Will you remark further on this bill? Will you remark further on the bill? If not, would all the members please be seated. Staff and guests, all staff and guests, please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Would the members please check the roll call machine to determine

if their vote is properly recorded.

The Chair would remind all staff and guests, other than those staff members specifically authorized to come to the well of the House during the pendency of a vote. The machine is still opened. The machine will be locked. The Clerk will take the tally.

Would the Clerk please announce the tally.

CLERK:

House Bill 6076.

Total number voting	144
Necessary for passage	73
Those voting yea	81
Those voting nay	63
Those absent not voting	7

SPEAKER ABATE:

The bill passes.

CLERK:

Calendar page 9, Calendar No. 342, Substitute for Senate Bill No. 1336, AN ACT CONCERNING CHANGES TO PROCEDURES FOR PERMITTING NEW DISCHARGES TO THE WATERS OF THE STATE, as amended by Senate Amendment Schedule "A". Favorable Report of the Committee on Environment.

REP. BERTINUSON: (57th)

Mr. Speaker.

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House of Representatives

Thursday, May 21, 1981

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signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed nay.

REPRESENTATIVES:

Nay.

DEPUTY SPEAKER FRANKEL:

The ayes clearly have it. The bill is recommitted.

CLERK:

Calendar No. 358. Substitute for House Bill No. 6706, AN ACT CONCERNING MUNICIPALITY LIABILITY FOR ICE AND SNOW ON PUBLIC SIDEWALKS. As amended by Senate Amendment Schedules "A" and "B", Favorable report of the Committee on Judiciary.

REP. ONORATO: (97th)

Mr. Speaker,

DEPUTY SPEAKER FRANKEL:

Rep. Onorato.

REP. ONORATO: (97th)

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of this bill in concurrence with the Senate.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance of the Joint Committee's

favorable report and passage of this bill in concurrence with the Senate.

DEPUTY SPEAKER FRANKEL:

Will you remark, Sir?

REP. ONORATO: (97th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment LCO No. 7344. May he call the amendment and read it sir?

DEPUTY SPEAKER FRANKEL:

The Clerk has an amendment LCO No. 7344 previously designated Senate Amendment Schedule "A". Would the Clerk please call and read the amendment?

CLERK:

LCO No. 7344 previously designated Senate Amendment Schedule "A" offered by Sen. Owens of the 22nd District.

In line 26, delete the word "sole",

DEPUTY SPEAKER FRANKEL:

The amendment is in your possession. What is your pleasure, sir?

REP. ONORATO: (97th)

I move adoption of the amendment, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of Senate Amendment Schedule "A". Will you remark on its adoption?

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REP. ONORATO: (97th)

Thank you, MR. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Onorato.

REP. ONORATO: (97th)

Mr. Speaker, by deleting the word, "sole", it brings us into the current side of the law which is on negligence cases, and I would move adoption of the bill, the amendment, sir.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of Senate Amendment Schedule "A"? If not, all those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

All those opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER FRANKEL:

The ayes have it, The amendment is adopted and it is ruled technical. Will you remark further on this bill as amended?

REP. ONORATO: (97th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an

amendment LCO No. 7312. May he call that amendment and read it, sir?

DEPUTY SPEAKER FRANKEL:

The Clerk has an amendment LCO No. 7312 previously designated Senate Amendment Schedule "B". Would the Clerk please call and read the amendment?

CLERK:

LCO No. 7312 previously designated Senate Amendment Schedule "B" offered by Sen. Gunther of the 21st District.

In line 20, after "care" insert the following: "With respect to the presence of ice or snow on such sidewalk"

DEPUTY SPEAKER FRANKEL;

The amendment is in your possession. What is your pleasure, sir?

REP. ONORATO: (97th)

Mr. Speaker, I move adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of Senate Amendment Schedule "B" Will you remark on its adoption?

REP. ONORATO: (97th)

Thank you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Onorato,

REP. ONORATO: (97th)

When the bill was initially brought out, there was some concern as to language on what the intent of the legislation was. This amendment would clear it up as to exactly what the intent was and, in fact, makes it a better bill. I move its adoption.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of Senate Amendment Schedule "B"? Will you remark further? If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

All those opposed, nay.

REPRESENTATIVES:

Nay.

DEPUTY SPEAKER FRANKEL:

The ayes have it. The amendment is adopted and ruled technical. Will you remark further on this bill as amended?

REP. ONORATO: (97th)

Mr. Speaker,

DEPUTY SPEAKER FRANKEL:

Rep. Onorato,

REP. ONORATO: (97th)

Mr. Speaker, I move passage of the bill as amended.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the bill as amended?

REP. BELDEN: (113th)

Mr. Speaker,

DEPUTY SPEAKER FRANKEL:

Rep. Belden.

REP. BELDEN: (113th)

Mr. Speaker, I suppose the two Senate amendments made an unacceptable bill. It's a bad bill. We've got another precedent coming here. I've never seen so much precedent setting activity as we are having this year, but we are now telling the private property owner that he is now going to be responsible for plowing the sidewalk. Perhaps next year we'll make him responsible for his half of the road.

Just for snow and ice -- does that mean that now under his homeowner's policy he should now extend it out to cover the part of the sidewalk that he doesn't own but he's liable for if he doesn't plow the snow? It's nice if you give to the municipalities but this is a super lawyers' bill. Now, we can have everybody in court for the next ten years with this bill whether or not the property owner did or didn't take the snow off the city's property.

It's crazy. The city is an entity made up by the property owners of the community. Now, we are trying to reverse that. Mr. Speaker, I really feel that this is a horrendous bill and not in

the interests of the private property owners in the State of Connecticut.

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended? If not, staff and guests please come to the well of the House. Would the members please take their seats? The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber. There is a roll call vote in progress in the Hall of the House. Would the members please return to the Chamber immediately?

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally. Would the Clerk please announce the tally?

CLERK:

House Bill No. 6706 as amended by Senate Amendment
Schedule "A" and "B".

Total number voting	141
Necessary for Passage	71
Those voting Yea	53
Those voting Nay	88
Those absent and not Voting	10

DEPUTY SPEAKER FRANKEL:

The bill fails.

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The Clerk please announce the tally.

CLERK:

House Bill No. 7409, as amended by House Amendment
Schedule "A".

Total number voting	147
Necessary for passage	74
Those voting yea	52
Those voting nay	95
Those absent and not voting	4

SPEAKER ABATE:

The Bill fails.

REP. BERTINUSON: (57th)

Mr. Speaker.

SPEAKER ABATE:

Representative Terry Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, I, at this time would like to move for
reconsideration of a bill which appeared on the House Calendar
on Thursday, May 21. It had Calendar No. 358, it's Substitute
House Bill 6706, File 491. I was on the prevailing side.

SPEAKER ABATE:

The lady has asked for a reconsideration of a bill
which appeared on our Calendar as Calendar 358, is filed as

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File No. 491. The item is Substitute House Bill 6706, AN ACT CONCERNING MUNICIPALITY LIABILITY FOR ICE AND SNOW ON PUBLIC SIDEWALKS. The lady has indicated that she is on the prevailing side. She was on the prevailing side at the time the vote was taken.

Will you remark now on the motion for reconsideration?

Representative Bertinuson.

REP. BERTINUSON: (57th)

Yes, Mr. Speaker. I had voted this Bill originally when it was passed by this House. It came back with Senate Amendment "A" and "B" and I misunderstood. There was very little debate on the amended bill and I voted against it as I believe many of my colleagues did because of that misunderstanding.

I would like to have another chance to vote on it.

SPEAKER ABATE:

Will you remark further on the motion to reconsider?

The House of Representatives please come to order. The members please be seated. Will you remark further on the motion to reconsider? If not, all those in favor of the motion of reconsideration, please indicate by saying aye.

REPRESENTATIVES:

Aye.

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SPEAKER ABATE:

All those opposed, nay. The ayes have it, the matter is reconsidered. It is before us at this time for action.

The Clerk please call the Bill.

CLERK:

House Bill No. 6706, AN ACT CONCERNING MUNICIPALITY LIABILITY FOR ICE AND SNOW ON PUBLIC SIDEWALKS.

REP. ONORATO: (97th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate.

SPEAKER ABATE:

The question is on acceptance and passage in concurrence with the Senate. Will you remark?

REP. ONORATO: (97th)

Thank you, Mr. Speaker. Mr. Speaker, this Bill last Thursday was amended by Senate Amendments "A" and "B" and they were adopted by the House and then there was a vote on the Bill. There was little debate on the Bill and as to what

it does, and I'm sure most of it's my fault in that I wasn't clear. I would at this time, Sir, remark that this Bill is a permissive piece of legislation. It gives the municipalities, by ordinance, if they so desire, the chance to change some of the hundred year old state law and state mandates that were put on them.

One of the amendments that was passed by the Senate had to do with limiting this particular file to the issue of snow and ice, sir. There was concern of some members of the House, the Minority Leader, we took care of that particular amendment in the Senate and that was remedied.

What the bill does is give those municipalities who by ordinance, who adopt an ordinance, the right to make property homeowners who are in control or possession, or own the sidewalk in front of their houses, the duty to keep them clear of snow and ice. Limited strictly to snow and ice. Obviously, any sidewalk that is in the control or possession or is owned by the municipality, that burden necessarily falls on the municipality.

Also, the municipality is not relieved by any affirmative acts that the municipality may do to disrupt this particular or disrupt the status quo, so to speak. If, for example, they plow and they contribute somehow by an accumulation on the sidewalk for which they're directly responsible, they have the

burden of cleaning it up. Right now, by the various state mandates and the various interpretations by the court, Mr. Speaker, the municipalities are limited. They can, by state authority, they can put this charge now on the property owner, however, they are limited to a five dollar fine by ordinance and we've run into a whole issue of joint and joint liabilities and a whole different provisions separating negligence from the duty and care exhibited by municipalities.

There was some concern that there would be an added cost on to the consumer. This is not so, at least in my opinion in that the base for this now under his homeowners policy and by the various ordinances that have been adopted by municipalities, they are required to do this duty in the first place.

However, they can only be subject, as I say to a five dollar fine and they may even a joint . . . That, I think, explains the Bill, Mr. Speaker and I would move passage of the Bill as amended by "A" and "B".

REP. BERMAN: (92nd)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this Bill as amended by

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Senate Schedules "A" and "B".

REP. BERMAN: (92nd)

A question through you.

SPEAKER ABATE:

Representative Berman.

REP. BERMAN: (92nd)

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

SPEAKER ABATE:

State your question, please.

REP. BERMAN: (92nd)

Representative Onorato, if this bill were to pass, would it affect current lawsuits?

SPEAKER ABATE:

Representative Onorato.

REP. ONORATO: (97th)

Through you, Mr. Speaker, the answer is no. It would affect only those lawsuits arising on or after the effective date of this bill which I assume would be October 1, 1981.

SPEAKER ABATE:

Representative Berman.

REP. BERMAN: (92nd)

Thank you.

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SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. HOFMEISTER: (117th)

Mr. Speaker.

SPEAKER Abate;

Rep. William Hofmeister.

REP. HOFMEISTER: (117th)

Mr. Speaker, a comment on the bill. In my particular communities, we have some of the lovely giant state plows, and some of our lovely municipal plows coming down after some of our elderly and some of our people have taken and removed the snow from their sidewalks and all of a sudden, here it is, three foot of snow and ice on top of our sidewalks.

With this particular bill, if this is removed, and removed properly to everybody's satisfaction and somebody falls, some of our people are going to be open to lawsuits which presently, apparently some of the communities are responsible for through their insurance program. Some communities may not have this kind of insurance, or some communities may decide not to fund some of the insurance any more, so the liability will fall onto the homeowner. I don't think this is a particular good bill and I'm going to again oppose it.

SPEAKER ABATE:

Will you remark further on this Bill as amended?

REP. BELDEN: (113th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. This is certainly a rather slippery area of discussion. Ladies and gentlemen of the House, I think what we really have before us here as I mentioned last week, is a very, very complex issue and naturally, many of our highly populated areas of the state would certainly like to see the liability for injury resulting from snow and ice on sidewalks transferred from the municipality to the local to the abutting property owner. And I'm very amazed in a flier that came out this morning from the Council of Municipalities that said homeowners would be protected by their existing liability insurance policy.

That may or may not be the case. One thing that's for certain, since claims are now levied against the municipalities, any payment of future claims is not included in the current property owners bill that he gets every year for his liability on his property. And as Representative Hofmeister indicated, in your larger cities where the sidewalks abut the street, the abutting property owner who doesn't own the sidewalk can

plow it and then the city plow can come down five minutes later and cover the sidewalk again and we have now the abutting property owner liable for suit.

There have been discussions that \$500,000 a year could be saved by the municipality. If they're paying out \$500,000 a year in claims now, that will merely be transferred to the homeowners premiums for their liability insurance on their properties.

And I'll give you another example. In those towns that mandate in subdivisions, that sidewalks be built when you're within a perimeter of a school, I can take you into my town and show you a half a mile sidewalk on undeveloped property and what the municipality did was mandate that the sidewalk be put there and if this bill were to pass, it would mandate that the property owners must plow a half a mile of sidewalk which he neither wanted, and doesn't use.

Mr. Speaker, I really believe we're not addressing the issue properly here. I believe that there are proper ways to address this issue through considerable study, involving changing the law regarding what the penalty can be to the property owner for not removing the snow and ice in a reasonable manner from the sidewalk that he owns in front of his house. Or, if the municipality wants to go that far, the sidewalk that abuts his property which is owned by the city.

But I think to just arbitrarily switch the liability from the municipality to the property owner, whether he lives there or rents there, or whether there's no development at all there, is not in the best interests of our state taxpayers. Thank you, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. ONORATO: (97th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Thank you, Mr. Speaker. Mr. Speaker, to address some of the concerns that were just stated, on lines number 16 and 17 it states that the municipality is liable for any affirmative act with respect to any such sidewalk. So given the example of an individual cleaning his sidewalk and the city plow comes by and loads it up again and there's an injury, I think that the city, at that point, has done an affirmative act and they would have to be responsible for the maintenance of cleaning that debris that they put on there. Or, if someone were injured, they would be liable for the suit.

All this bill does, this bill does nothing more, Mr. Speaker, than say that those who own the sidewalks are responsible

for them. The municipalities under state statute and under court decisions interpreting the statutes, state that the municipalities are responsible for sidewalks whether they own them or not.

I don't think that we're trying to do anything differently here except say that those property owners who own the sidewalk are responsible for them and shall keep them clear.

This particular piece of legislation was passed by the House and Senate when Governor Meskill was the Governor and was vetoed by him and that particular problem that he had with the veto was cleared up by the Senate Amendment. That particular piece of legislation was thought to go too far in extending freedom from liability to everybody. The Senate Amendment clearly clears that up.

The examples given here about what acts, or what acts municipalities will not do clearly do not lie within the file copy because if they do any affirmative acts, Mr. Speaker, then they're liable for whatever acts they do.

And secondly, it imposes no burden on them that they're not now already paying. They're already paying for their homeowners insurance which is an extension of their yard at this point and clearly one or two members of the House were confused on the wordings of abutting, what the word abutting means.

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It simply means, the fact that it abuts it must abut property that you own. If the city owns it, its city property, if you own it then it's your property. That's what the word abutting means. Mr. Speaker, I don't think that the fears that were spoken to are real fears because they're provided for in the bill and municipalities, as I stated, are responsible for their own acts.

And with this legislation, and more importantly, this is not a mandatory piece of legislation on all our cities and towns, the municipalities, the local municipalities have to do an affirmative act themselves to come under this particular piece of legislation. And that is by ordinance adopt some enabling legislation. I urge passage of the bill, sir, as amended.

REP. BROUILLET: (2nd)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this Bill as amended?

Rep. Arthur Brouillet.

REP. BROUILLET: (2nd)

Mr. Speaker, I want to make it clear that even though I come from the municipality of Hartford, which supposedly had 60 claims last year, that amounting to \$300,000, I don't

want to shift this to the individual homeowners and I'll tell you why. It's far better for the overtaxed public that the city, which is self-insured, pick up this obligation. I could see the city, as Representative Belden said, putting a much higher fine than the five or ten dollars for not cleaning your walk, and there's still a vague ambiguity of when should the walks be cleaned. When's the next snowfall. Or should you come home right away when there's been a freezing rain.

I could see the proponents putting in a bill to limit the liability of each municipality to say \$20,000. But I wouldn't want to give our city council in Hartford the right to take this power into their hands and pass legislation back to the homeowners. Far better the city pays a small amount of \$300,000 versus I do not for a minute believe, with the fire and theft losses the homeowners are suffering right now, that the taxes, or I should say the insurance rates aren't going to go up.

I've asked insurance people, far more knowledgeable than I am, saying absolutely the rates are going to go up. And finally, perhaps the proponent, Mr. Onorato, through you can answer a question that I'm not positive about the answer, Mr. Speaker.

SPEAKER ABATE:

State your question, please.

REP. BROUILLET: (2nd)

Thank you, Mr. Speaker. Mr. Onorato, I was told that and this is how the municipality in fact, can use discretion. In New Britain a special act was passed which set the maximum liability of \$1,000 for the city of New Britain. Do you have any knowledge of that?

SPEAKER ABATE:

Representative Onorato.

REP. ONORATO: (97th)

Mr. Speaker, I think in 1936 or 1935, there were one, I think New Britain was the town that a special act was passed and then they redid the whole home rule thing and those special exceptions were left out, except for those towns that previously had them.

In doing the research in the LCO report on this, that would not be the case now. It would be almost, information from across the street, that it would be almost unconstitutional with the various powers of the home rule and the way it's been set up, to do that kind of act now.

SPEAKER ABATE:

Rep. Brouillet you have the Floor.

REP. BROUILLET: (2nd)

My answer to that, Mr. Speaker, would be a Republican

remembering when Governor Meskill vetoed this, was that I just talked to a lawyer today to check into this who had a case recently in New Britain and his client has \$3,000 in medical claims, \$3,000. But this prominent lawyer, because it was a thousand maximum, settled out of court for her for \$500 and to me that just buttressed my argument that you shouldn't turn it back, even with home rule permissible to the municipalities. I think it was a bad bill before. I think it's a field day for lawyers to change this back. And I'll tell you why.

If you think about Representative Belden's question about the snow plow coming along, then the logical answer if you listen to Representative Onorato, you've got to hire a lawyer to prove that the snowplow put the snow on your sidewalk and then to have a liability case. So you've got to prove who's liable first.

So for all these reasons, I oppose this. I opposed it before and I'll let our self-insured city of Hartford pick up the claims must easier than the little old homeowner who's already burdened with taxes and they'll get one more bill on their insurance policies.

REP. CREAN: (81st)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this Bill as amended?

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Will you remark further on this Bill as amended?

REP. CREAN: (81st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Crean.

REP. CREAN: (81st)

Very shortly, Mr. Speaker.

I oppose this Bill. I know it's an enabling Bill that would give the communities the right to do as they please. And I've read the flier from CCM and I totally disagree that this will not, in fact, cost the homeowners more money.

My town is a member of CCM. I checked with the Council in my towns to ask them if they were behind this piece of legislation.

They emphatically told me they were not behind this piece of legislation.

Under the ordinances in our town, the town has the right now to go in and put a public convenience sidewalk in or a school access walk in, even though the homeowner doesn't want the walk.

They are forced to have the walk put in front and

then they are told they have to maintain the walk and they have to shovel the walk and now they are told you will be responsible if someone falls down, due to snow and ice in front of your house.

I don't think that this is a bill that is geared for the consumer. I think it's geared for the municipality and I don't think it's a bill that we should be passing here. I voted against it two prior times. Someone told me the other day that we should support this bill because it's a relief of a mandate on the towns.

But the towns and cities are not talking about this kind of mandate. At least my town isn't.

They are talking about mandates that have been placed upon them where the state has not properly financing it.

So for these reasons, Mr. Speaker, I would urge the members of the General Assembly to defeat this measure.

Thank you.

REP. FARRICIELLI: (102nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Farricielli.

REP. FARRICIELLI: (102nd)

Mr. Speaker, through you, may I ask a question to the proponent of the bill?

SPEAKER ABATE:

State your question please, sir.

REP. FARRICIELLI: (102nd)

Thank you. I would like to clarify that if a homeowner or landlord or property owner does not shovel away the snow and ice and there is no injury, is there any liability to the owner who did not shovel his walk?

SPEAKER ABATE:

Rep. Onorato.

REP. ONORATO: (97th)

Through you, Mr. Speaker. The answer is no.

SPEAKER ABATE:

Rep. Farricielli, you have the floor, sir.

REP. FARRICIELLI: (102nd)

Thank you, Mr. Speaker. Mr. Speaker, a statement was recently made that this bill is geared for the municipalities and that's correct. It is geared for the municipalities but God what are the municipalities if they are not us? I am an insurance agent and as an insurance agent I have counselled my own community, a group of us have, and in trying to provide for our municipality the greatest liability that our municipality

has is the individual sidewalk liability. Now let's go a little bit further. As Chairman of Planning and Development, we have looked into the development of our cities and towns and boroughs and we've had bills on consolidation. And we look at as we now consolidate our cities and our towns, that the reason that in most cases they started to develop were that the towns were large and in the centers were the cities or the boroughs.

And those boroughs got together and assessed an additional tax and for that additional tax they provided additional services. Among those additional services were in some cases collection of trash, installation and maintenance of sidewalks and in some cases additional street lights but as our cities and our towns grew and as our society became much more mobile even within the state of Connecticut which is a small state, we found that it became advantageous to consolidate.

And indeed right now I believe that out of 169 towns we only have six or seven that have not completed consolidation. So the consolidation has taken place. Now why is this important and why would it save the communities money? The fact is the general public doesn't like us because we are government and when they don't like us, they don't like the cities and towns and so that when someone is injured they seem to, the settlements seem to be larger because for some reason when you make a

municipality pay, it's not people but the municipality only gets its money from taxes in much the same way when we tax the businesses that I opposed and they will pass that tax on.

So will the municipalities if we hold them responsible. But let me go even one step further. If you live in the city and you have a sidewalk that runs in front of your house and then there is a walk that goes from the sidewalk to your front door, are you not responsible for that section of the sidewalk? And doesn't your homeowners already cover that? And wouldn't a postman or a mailman or any delivery man walking along the sidewalk and then up to the front of your house, wouldn't your homeowners insurance already cover it?

And with regard to the premium on your insurance premium the fact of the matter is if tomorrow you were to install a pool, an in the ground pool in your back yard, there would be no additional charge because yes, there is a cost and yes, there is a liability but insurance companies are the best bookmakers in the whole world. They figure the odds and they spread the odds over all of us.

And I would rather take my chances with it that way with the private sector than having people in a situation attacking municipalities and having the type of reserves and not allowing us to spread the risk which what is in essence what insurance is all about. In short if you can follow what I've tried to

bring about, I do support the bill. I think that it's necessary for us to try and relieve some of the burden on the municipalities if we're going to cut the funds to the municipalities which I'm intending to support some time in the future, then we must also give the municipalities the tools in which they can operate to handle themselves. Thank you, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, but for my respect for the rules of this Chamber I was almost moved to move the question. Mr. Speaker, I don't know exactly all of what Rep. Farricielli had to say, but I think I agree with his conclusions. I voted for this bill twice before. Once I think mistakenly. The second time I felt more confident. There was a mistake that I think Rep. Smith pointed out on our side which was cleared up as Rep. Onorato said in the Senate.

I gather people feel differently about it. I feel it's an opportunity in terms of local option. I don't think you can pick and choose when you want to have it and if you think

your town fathers are going to hoodwink the local residents and shopkeepers, fine. Then you probably ought not to vote for this. I happen to believe in local autonomy and I don't have any problem voting for this. I think the underlying problem is the one that makes these damage suits as high as they are, this obligation is generally imposed on the abutting owner now.

But the only means of enforcement is our inadequate ordinance penalties. In short, if the things were clean, we wouldn't have the suits and hence the claims. Now if you shift the burden maybe the sidewalks will get cleaned and that, after all, was the original goal so the people can walk in safety.

SPEAKER ABATE:

Will you remark further on this bill as amended? Would all the members please be seated. Staff and guests to the well of the House, please. All staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Would the members please check the roll call machine to determine if their vote is

properly recorded. The machine will be locked. The Clerk will take the tally.

Would the Clerk please announce the tally.

CLERK:

House Bill NO. 6706 as amended by Senate Amendment Schedules "A" and "B".

Total Number voting	145
Necessary for passage	73
Those voting yea	92
Those voting nay	53
Those absent and not voting	6

SPEAKER ABATE:

The bill as amended passes.

Will the House of Representatives please come to order.

Will the House please come to order. At this time the Chair would like to invite to the dias for purposes of presiding over this House during the debate on the next bill Rep. John Mannix.

REP. MANNIX: (142nd)

Thank you, Mr. Speaker and thank you, members of the House. Just a personal note, I would welcome from Rep. David Smith any point of order during this period. Will the Clerk please return to the call of the Calendar.

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GEN. ASSEMBLY
SENATE

PROCEEDINGS
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THE CLERK:

Cal. 502, File 491. Substitute for House Bill 6706. AN ACT CONCERNING MUNICIPALITY LIABILITY FOR ICE AND SNOW ON PUBLIC SIDEWALKS. Favorable report of the Committee on Judiciary. The Clerk has some amendments.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

Mr. President, I move acceptance of the joint committee's favorable report and passage of this bill.

THE PRESIDENT:

The Clerk has an amendment. Please call the amendment.

THE CLERK:

Senate Amendment Schedule A. LCO. 7344 offered by Senator Owens. Copies have been distributed.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS:

I would ask for adoption of the amendment, Mr. President.

THE PRESIDENT:

Will you remark?

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SENATOR OWENS:

Yes, very briefly. It would just take out the word "sole" from the bill. I would ask for adoption of the amendment.

THE PRESIDENT:

Will you remark further? All those in favor of the amendment signify by saying Aye. Those opposed Nay. The Ayes have it. THE AMENDMENT IS ADOPTED.
Senator Owens.

THE CLERK:

Senator Owens, the Clerk has two additional amendments..

THE PRESIDENT:

Sorry. The Clerk call the next amendment.

THE CLERK:

Senate Amendment Schedule B. LCO 7312 offered
by Senator Gunther.

THE PRESIDENT:

Senator Gunther.

SENATOR GUNTHER: (21st)

Mr. President, I move adoption of the amendment and waive the reading.

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THE PRESIDENT:

Without objection, you may proceed.

SENATOR GUNTHER:

This quite simply identifies that it is strictly for ice and snow removal. It does not involve other liability such as defects in the sidewalk and that sort of thing. It will clarify succinctly that we are applying it to snow and ice removal.

THE PRESIDENT:

Senator DiBella.

SENATOR DIBELLA: (1st)

Yes, Mr. President. Through you to Senator Gunther, is this amendment saying that the city would be responsible or liable for any claims for defective sidewalks?

THE PRESIDENT:

Senator Gunther.

SENATOR GUNTHER:

Mr. President, actually the technicality here, of course, is that the city owns the sidewalks. If a tree damages that particular sidewalk or if there is damage that occurs to it, the town does have that responsibility to repair that particular damage. We are

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talking about ice and snow removal, and, again, I think the responsibility there is the individual that lives there to clear that. I know that some of our local towns have ordinances that you can go in there and clear the ice and snow if you don't and you have to pay for it. But I think what we are talking about here and quite succinctly is ice and snow removal, and certainly there would be a liability on the part of the town for defects in the sidewalk.

THE PRESIDENT:

senator DiBella.

SENATOR DIBELLA:

Mr. President, through you to Senator Gunther, I was under the impression that the city in all cases, and maybe this is a question that should be raised with respect to the proponent of the legislation or the committee chairman, that in all cases sidewalks are not owned by the municipality and that under many circumstances, and I believe and I would stand corrected, that the City of Hartford, the sidewalks are owned in some cases by people that own the abutting property, and I believe that the city has responsibility for the inspection of those. I could be wrong.

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THE PRESIDENT:

Senator Gunther, do you have legal knowledge over this. It comes within the scope of your jurisdiction I take it. Senator Gunther.

SENATOR GUNTHER:

Mr. President, all this is a technical amendment because the bill itself before us applies only to ice and snow removal.

THE PRESIDENT:

The question that Senator DiBella poses is whether or not a sidewalk is considered part of the highway. I think Senator Owens from his legal knowledge can answer that.

SENATOR GUNTHER:

Mr. President, only when there is a car on it. The sidewalks are owned by the people in general so consequently it isn't part of the highway.

THE PRESIDENT:

The answer to that is government. Anything further? All those in favor of the amendment signify by saying Aye. Those opposed Nay. The Ayes have it.

THE AMENDMENT IS ADOPTED.

You won one, Senator Gunther.

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SENATOR GUNTHER:

It ain't easy.

THE CLERK:

The Clerk has Senate Amendment Schedule C.
LCO 7238 offered by Senator Gunther.

THE PRESIDENT:

Senator Gunther.

SENATOR GUNTHER: (21st)

Mr. President, I move adoption and waive the reading and I will explain it.

THE PRESIDENT:

You may proceed.

SENATOR GUNTHER:

This again is a clarifying amendment. It sets up the mechanics that if a town adopts the ordinance that a copy of that ordinance will be filed with the insurance commissioner so that it will be on record.

The second portion of this amendment merely requires that when an injury occurs that a written notice of the injury and a general description be given to the owner or person in possession and control of the land. So this would require, again, notice at least that an injury has occurred and the people can take cognizance of that.

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THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

Mr. President, I rise to speak against the amendment. The requirements with respect to notice have always been upheld and been valid as to municipalities because municipalities have so much area to cover whether it is street or sidewalk or anything of that sort and the only other notice requirement that I can remember is under the Dram Shop Act because there is an awful lot of people coming in and out and it is a statutory provision. But what we are doing here is allowing the landowner to become, ah, the landowner becomes liable here under a general theory of liability that has been long established and the only reason that they were never was because municipalities heretofore assumed this obligation by special statutory action.

So for that reason I would oppose the notice requirement. I can't think of a situation if someone falls down inside your house or someone falls down in your backyard or is hurt in an automobile accident, there certainly is no written notice requirement given as a condition precedent to the suit. I don't think it is

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necessary and I would oppose the amendment and ask for a roll call vote.

THE PRESIDENT:

The Senate will stand at ease. Senator Owens, will you approach the podium please.

SENATOR OWENS:

Yes, Mr. President.

THE PRESIDENT:

Senator Owens, did you wish to be heard.

SENATOR OWENS:

Yes, Mr. President. I would like to reiterate my objection to this amendment and I am saying that once we are transferring liability from the municipality to the landowner, that I know of no situations where a notice requirement would be conditioned prior to suit being instituted under these circumstances, and what would happen if someone say fell down due to ice and snow on the sidewalk and for some reason the injury devolved after the ninety-day period, then of course they would be precluded from bringing an action.

Now with respect to the municipality and a notice, we have done that because of the municipality requirement to cover so much land area and to cover so many

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streets and sidewalks and so forth. So that's why that special condition has always been there on that.

I ask that when we take the vote on this, it be done by roll call please.

THE PRESIDENT:

Senator Skowronski.

SENATOR SKOWRONSKI: (17th)

Just very briefly, Mr. President. I rise to associate myself with the remarks of Senator Owens to speak against the amendment which would really provide a major departure in tort law in the State of Connecticut, whereby we, in this one isolated situation, would require the injured party to give written notice which would be different from the procedure in any other kind of tort or negligent case. And I don't think it is really necessary to apply the standard that existed for municipalities to the private landowner who only has a limited amount of sidewalk within his jurisdiction and should certainly be able to keep that under control and be aware of any accidents that may occur.

So I would urge the defeat of the amendment.

THE PRESIDENT:

Will you remark further? The Clerk please make an announcement for an immediate roll call.

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THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please take their seats. An immediate roll call has been called for in the Senate. Will all senators please be seated.

THE PRESIDENT:

The question before the chamber is adoption of Amendment Schedule C. LCO 7238. The machine is open. Please record your vote. The machine is closed. Please tally the vote.

Result of the Vote: 7 Yea - 29 Nay. THE
AMENDMENT IS DEFEATED.

Senator Owens.

SENATOR OWENS:

Mr. President, I move for passage of the bill, and I ask, if there is no objection, that it be placed on the CONSENT CALENDAR.

THE PRESIDENT:

Passage of the bill as amended by Schedule A and B, Senate Amendments. Am I correct, Mr. Clerk?

Hearing no objection, the matter is placed on the CONSENT CALENDAR.

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could call the Consent Calendar for those items that have been done to date. It is then our intention to proceed until approximately seven fifteen at which time I will ask for adjournment.

THE PRESIDENT:

Senator Wilbur Smith.

SENATOR WILBUR SMITH: (2nd)

Mr. President, I would request the removal of Cal. 459, File 693, Substitute for Senate Bill 747 from the Consent Calendar, for the purposes of offering an amendment.

THE PRESIDENT:

It may be removed from the Consent Calendar. Any other observations, any other points? Are you ready with the Consent Calendar?

THE CLERK:

The Consent Calendar is as follows: Page one - Cal.165. Page five - Cal. 460, Cal. 465, Cal. 466. SB394,378,HB7346, Page six - Cal. 479. Page seven - Cal. 481, Cal. 484. SB753,58,1214, Page eight - Cal. 500, Cal. 501, CAL. 502. Page nine - HB6453,6461,6706 Cals. 503, 505, 506, 507 and 508. Page ten - Cals. 509 HB7169,7255,7209, 7375,7360,7391, 514, 515, 516 and 517. 5689,6561,5092,5595

That concludes the call of today's Consent Calendar.

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THE PRESIDENT:

Any corrections or omissions? The Clerk please make an announcement for an immediate roll call.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please take their seats. An immediate roll call has been called for in the Senate. Will all senators please be seated.

THE PRESIDENT:

The matter before us is the adoption of the Consent Calendar. The machine is open. Please record your vote. The machine is closed. The Clerk please tally the vote.

RESULT OF THE VOTE: 36 Yea - 0 Nay. the
CONSENT CALENDAR IS ADOPTED.

THE CLERK:

Page two of the Calendar, on an item that was previously passed temporarily. Cal. 202, File 264. Substitute for Senate Bill 458. AN ACT CONCERNING INTEREST RATES AND FINANCE CHARGES. Favorable report of the Committee on Banks. The Clerk has two amendments.

THE PRESIDENT:

Senator Sullivan.

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SEN. OWENS: Thank you Richard, glad to have you with us and covering so many Bills. Diana Crouse? Diana Crouse, Attorney John F. Pickett, John F. Pickett, Daniel Walker to be followed by Caroline Murray and Kathleen Kennedy after that.

DAN WALKER: Mr. Chairman my name is Dan Walker, I represent the Connecticut Conference of Municipalities, we are before you today to speak in support of two bills which, although we did not help to draft we are enthusiastic about. The first is Committee Bill 6706 the so-called sidewalk liability Bill.

This Bill would shift primary liability from municipalities as is currently the law to homeowners for personal injuries or property damage resulting from snow or ice on sidewalks or other areas of private property open to the public. Since private homeowners policies or other general liability insurance policies would cover these kinds of accidents we think it makes sense to shift an unnecessary cost from our cities and towns for settling these towns and lawsuits to the property owners. We would also support a local option version of this Bill that is a bill which would leave it to the individual municipality to opt for this change by adopting an ordinance to that effect. Municipalities who do not care to shift primary liability could then leave the law the way it is. Such a Bill was passed in 1972 only to be vetoed by then Governor Meskel for reasons which we think show on their face a misunderstanding of the effects of such a law.

The other Bill is Committee Bill No. 5243 which would establish a pilot program in New London, Windham and Tolland counties for a special prosecutor to prosecute violations of municipal regulations. We would simply like to state our support for this Bill as well. Thank you very much.

SEN. OWENS: Thank you Mr. Walker, hold on, stay here. Caroline Murray, Caroline Murray, Kathleen Kennedy? All right fine, thank you, I didn't -- all right. Thank you again. Elizabeth Sabo, all right we'll take Mrs. Shirley Sabo, is she here? Dr. Walter Winchell, all right, Wallace Winchell, okay. We'll go back to the Sabos in just a second, you were out, we'll take you next, all right? Why don't you just stand up right next -- come down here please and use that where it says minority leader there, there is a microphone there, yes sir.

WALTER WINCHELL: I won't belabor -- just very quickly, we are not safe in our homes, --



OFFICE OF THE MAYOR

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CITY OF NEW HAVEN
CONNECTICUT 06508

BIAGIO DILIETO
MAYOR

TESTIMONY OF

MAYOR BIAGIO DILIETO

SUBMITTED BY

STEVEN G. MEDNICK

SPECIAL COUNSEL FOR LEGISLATIVE AFFAIRS, CITY OF NEW HAVEN

BEFORE THE

JUDICIARY COMMITTEE
CONNECTICUT GENERAL ASSEMBLY

March 26, 1981

The City of New Haven supports H.B. 6706 entitled "An Act Concerning the Civil Liability of Municipalities". This bill would impose primary liability for ~~an~~ injuries sustained as a result of the presence of snow or ice on sidewalks, on the property owner who land abuts the sidewalk. The bill would also cover privately owned areas open to the public.

Mr. Chairman, the Office of the Corporation Counsel reports that of the 100-150 public liability claims filed annually against the City of New Haven that, at least 1/3 (35-50) fall within the rubric of snow and ice cases. This bill would not relieve the municipality of primary liability for structurally defective sidewalks imposed by § 13a-149. C.G.S. but would be limited to snow and ice.

There are several reasons why this bill should be enacted. First of all, snow and ice fall into a different category than the structural defect cases. In the latter, the city has the responsibility to inspect and repair the defect; although I must admit that the funds for

preventative maintenance programs are increasingly difficult to find both in our municipalities as well as the State Department of Transportation which has charge over our public highways and bridges.

Secondly, we believe that the imposition of primary liability on the abutting property owner would ultimately promote public safety ^{as} by shifting liability. At the present time, many municipalities have ordinances which impose fines ^{on} and residents who do not clear their sidewalks of snow and ice ^{on} following an established time-frame after a storm, the experience under these ordinances has not been positive. We believe the proposed legislation would prove a more effective mechanism to maintain sidewalks, since the municipalities do not have adequate funds to ensure enforcement otherwise.

Finally, this bill does not relieve the municipality of liability in toto. The bill imposes secondary liability on the municipality.

We urge your support for this legislation, which affords a degree of relief on our municipalities while at the same time encourages the promotion of public safety.