Legislative History for Connecticut Act

HB 5501 PA 321 [redacted] scan 1984

House - 407, 3274-3277 (5)

Senate - 324, 2548-2549, 2651 (4)

E.P.V. - 340, 382-385, 387-391, 427-428, 459 (13)

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H-369

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1984

VOL 27
PART 2
612-716

CLERK:

Favorable Report of the Joint Standing Committee on Substitute for House Bill No. 5501, AN ACT CONCERNING RESIDENTIAL UTILITY AND HEATING FUEL ACCOUNTS. The committee feels the bill should pass but first be referred to the Committee on Judiciary.

SPEAKER STOLBERG:

So ordered.

CLERK:

Favorable Report of the Joint Standing Committee on Banks on Substitute for House Bill No. 5542, AN ACT INCREASING THE AMOUNT PAYABLE UNDER AN ANNUITY CONTRACT ISSUED BY AN INSURANCE BANK. The committee feels the bill should pass but first be referred to the Committee on Insurance and Real Estate.

SPEAKER STOLBERG:

So ordered.

CLERK:

Favorable Report of the Joint Standing Committee on General Law on Substitute for House Bill No. 5559, AN ACT CONCERNING MOTOR VEHICLE OPERATOR'S LICENSES FOR PERSONS LESS THAN TWENTY YEARS OF AGE. The committee feels the bill should pass but first be referred to the Committee on Transportation.

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CONNECTICUT

GEN. ASSEMBLY

HOUSE

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1984

VOL. 27

PART 9

3061 - 3415

SPEAKER STOLBERG:

The motion is to pass retain. Is there objection? Is there objection? Seeing none, so ordered.

CLERK:

472, Substitute for House Bill 5501, AN ACT CONCERNING RESIDENTIAL UTILITY AND HEATING FUEL ACCOUNTS. Favorable Report on the Committee on Judiciary.

REP. LAVINE: (100th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

I move the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Yes.

REP. LAVINE: (100th)

Yes, Mr. Speaker. This bill clarifies a portion of Connecticut law, makes it clear that it is a property owner's duty to provide heat and utility service for an apartment unless that unit can be individually metered. It's important that this be clarified because there have been a number of instances where tenants have found themselves responsible for collecting or trying to collect

utility payments which they have been forced to make for other apartments in the building.

This would make it crystal clear that if that occurs, the tenant can deduct a reasonable amount from his rent in order to get equity.

And I would move its passage.

SPEAKER STOLBERG:

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

Will staff and guests please come to the well of the House immediately. Blaisdell, Mr. McQuade, will you please come to the well, and messengers.

CLERK:

The House of Representatives is now voting by roll. Members please return to the Chamber immediately. The House of Representatives is presently voting by roll. Members kindly return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted? If so, the machine will be locked. The Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Bill 5501.

Total number voting 142

SPEAKER STOLBERG:

Just a moment, please. Rep. Emmons were you on your feet.

REP. EMMONS: (101st)

Yes, Mr. Speaker. I would like to be voting in the affirmative.

SPEAKER STOLBERG:

Rep. Emmons in the affirmative.

REP. DYSON: (94th)

Mr. Speaker. In the affirmative.

SPEAKER STOLBERG:

Rep. Dyson were you on your feet when I asked for the --

REP. DYSON: (94th)

I haven't sat down all day, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Dyson, there you have defined the problem.

Rep. Dyson of the 94th, in the affirmative.

Will the Clerk please announce the tally.

CLERK:

House Bill 5501.

Total number voting	142
Necessary for passage	72
Those voting yea	142
Those voting nay	0
Those absent and not voting	9

SPEAKER STOLBERG:

The bill is passed.

Are there any announcements or points of personal privilege at this time?

Any announcements or points of personal privilege? Rep. Barrett.

REP. BARRETT: (132nd)

Mr. Speaker, a point of personal privilege. It's my great pleasure today to introduce a local representative from the representative town meeting in Fairfield, Michael J. O'Dwyer. Will my colleagues stand and greet him today. Thank you. (Applause)

SPEAKER STOLBERG:

Are there further announcements or points of personal privilege at this time? The distinguished Deputy Speaker of the House, Rep. Robert Frankel.

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Referred to Finance, Revenue and Bonding.

EDUCATION

HB 5838. An Act To Allow Boards Of Education To Have The Use Of Funds Derived From The Sale Of Surplus School Equipment And Revenues From The Repayment Of School Materials.

Referred to Planning and Development.

HUMAN SERVICES

HB 5405. An Act Concerning Instructionf For Pro Se Requests To Modify Support Orders.

Referred to Judiciary.

HUMAN SERVICES

HB 5406. An Act Concerning The Day Care Council.

Referred to Government Administration and Elections.

ENERGY AND PUBLIC UTILITIES

HB 5420. An Act Concerning Authorization Of State Bonds For The Weatherization Of Low Income Households.

Referred to Finance, Revenue and Bonding.

ENERGY AND PUBLIC UTILITIES

Substitute HB 5501. An Act Concerning Residential Utility And Heating Fuel Accounts.

Referred to Judiciary.

ENERGY AND PUBLIC UTILITIES

HB 5611. An Act Concerning The Implementation Of Energy Conservation Measures In Multi-Family Dwellings.

Referred to Judiciary.

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CONNECTICUT
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Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens. Bottom of page 18.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Remark?

SENATOR OWENS:

The Bill would make it clear that the Freedom of Information Commission is authorized to defend, prosecute or otherwise participate in any appeal of any of its decisions and to take an appeal from any judicial decision that overturns or modifies a decision of the commission.

THE CHAIR:

Remark further? Do you have a motion to place on Consent?

SENATOR OWENS:

I so move Mr. President.

THE CHAIR:

Any objection to placing on Consent? Hearing none, the matter will go on Consent.

THE CLERK:

Page 19, Calendar 650, File 593, Substitute for House

Bill 5501, AN ACT CONCERNING RESIDENTIAL UTILITY AND HEATING FUEL ACCOUNTS, Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Comment?

SENATOR OWENS:

It would make the owner, agent, lessor, unit or manager of a multi-unit residential building liable for gas, electricity, heating fuel or water bills when service to each unit is not individually metered. I'd ask if there is no objection, that this Bill be placed on Consent.

THE CHAIR:

Any objection to placing the item on Consent? Hearing no objection, it will go on Consent.

THE CLERK:

Calendar 651, File 638, Substitute for House Bill 5548, AN ACT CONCERNING THE DETENTION OF JUVENILES AND NOLLE PROSEQUIS IN JUVENILE MATTERS, as amended by House Amendment, Schedule A, Favorable Report of the Committee

Mr. Clerk.

THE CLERK:

On page 10, Calendar 605, 606, 607 and 608. On page 11, Calendar 611, 612, 613. On page 12, Calendar 614, 616, 617, on page 13, Calendar 620, 622, 623. On page 14, Calendar 625, 626, 627, 628, 629. On page 15, Calendar 630, 631, 633, 634. On page 16, Calendar 635, 637, and 639. On page 17, Calendar 641, 643, 644. On page 18, Calendar 645, 647, 648, 649. On page 19, Calendar 650, 651, 652, 653, 654. On page 27, Calendar 115 and on page 28, Calendar 209, 230, 252, 285. On page 29, Calendar 329, 337, 343. On page--I believe that--excuse me, on page 29, Mr. President, Calendar 362. One moment Mr. President. That completes the items on the Consent Calendar.

HB5069-HB5224
HB5876-HB5057
HB5476-HB5807
HB5424-HB5949
HB5942-HB5886
HB5544-HB5836
HB5246-HB5373
HB5219-HB5779
HB5592-HB5751
HB5111-HB5154
HB5250-HB5505
HB5988-HB5216
HB5229-HB5164
HB5150-HB5762
HB5255-HB5501
HB5548-HB5554
HB5899-HB5915
SB402-HB5410
SB283-SB561
SB127-HB5204
SB576-SB427
SB577-

THE CHAIR:

Senator Zinsser.

SENATOR ZINSSER:

Thank you Mr. PResident. I would like to, Mr. President, remove from the Consent Calendar, on page 17, Calendar 644, House Bill 5268, File 707.

THE CHAIR:

Calendar 644 will be removed and we'll vote on it right after. Senator Matthews.

SENATOR JOHN MATTHEWS:

Thank you Mr. President. Page 10, Calendar 607, Bill

JOINT
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REP. LAVINE: I would hope that DEP would retain some control over their contractors to be able to exert some influence. I certainly have heard nothing here that would persuade me in any way other than you have the capacity to do it.

MR. FLORKOSKI: Other than in fact we're doing it. That's all we want to let you know is just the information.

REP. LAVINE: Thank you. Elaine Puzzo.

MS. ELAINE PUZZO: Good morning. My name is Elaine Puzzo, executive assistant to Comm. Harris of the Department of Human Resources. I would like the department to go on record in support of House Bills 5501, 5420, 5495, 5110 and 5114. The department also supports Senate Bill #286 entitled An Act Concerning the Weatherization of Shelters for the Homeless, on which I would like to make a few comments. As a member of the Governor's Task Force on the homeless and an agency that provides funds to battered women and emergency shelters throughout the state, we applaud you for your efforts here at assisting shelters in providing life sustaining services to one of the nation's most vulnerable populations.

I would like to take this opportunity to discuss with you the two particular sources of funds that you have earmarked in this legislation. It is the department's desire to offer any assistance to you and your committee on ways that we can utilize the energy assistance block grant funds. It is presently our understanding that the utilization of these funds to weatherize a shelter may not be within the parameters of the law, since in order to weatherize a unit it must be clearly occupied by and identified with an eligible recipient of energy assistance. We will gladly work with you in the near future to clarify this issue.

Regarding the social services block grant, shelters can be funded and, as you know, are already receiving funds under the category of emergency shelter. Unless the current NIS agreement were renegotiated, however, the existing appropriation could not be used since there is a two year agreement in effect from federal fiscal year 83-85 to 84-85. If additional funds become available, as has recently occurred, emergency shelter would most likely, receive its fair share since it is a high priority category and the tripartite committee is aware that providing shelter services is a concern of the Governor.

REV. ADER: (continued)
be eligible on public, for public assistance.

REP. ARTHUR: You have also stated that you would encourage us to include energy in this piece of proposed legislation. However, looking at some of the organizations that in fact provide shelters, may be very difficult to determine what exactly is the percentage of their energy costs or related specifically to the homeless program.

REV. ADER: Okay, in particular, you're referring to --

REP. ARTHUR: I assume some of these are churches.

REV. ADER: You need to look at the large 8-1/2 x 14 sheet that was in the packet.

REP. ARTHUR: That's what I was looking at, where you listed specific organizations in different towns and cities in the state.

REV. ADER: That's correct.

REP. ARTHUR: St. John's, St. Luke's, I assume those are churches.

REV. ADER: They are churches for, that have opened up portions of a building for emergency shelters. And those that are included were pro-rated on heating costs. Okay, and in some other situations like in Waterbury, for example, there are separate meters that have been installed for emergency shelter purposes.

REP. ARTHUR: Thank you.

REP. KEEFE: Any other questions? Hearing none, thank you. The next speaker will be Edward Dale.

MR. EDWARD DALE: Thank you, Rep. Keefe, members of the committee. My name is Edward Dale. I'm an Attorney with Connecticut Legal Services, and I'm speaking today on behalf of the low income clients that I represent in that capacity. I'm testifying today on House Bill 5501, An Act Concerning Residential Utility and Heating Fuel Accounts.

Essentially, this bill in its present form, provides an effective remedy where none now exists for the situation where tenants are unfairly saddled with utility bills for

MR. DALE: (continued)
service that they do not actually use in their own apartments. To give you an example of the problem from one of my own most recent case of this type, a woman came to see me about four months ago. She lived in a four unit building, where, under the terms of the lease she and the other tenants in the building were to be provided with hot water. That was one of the landlord's responsibilities accounted for in the rent. Well, the landlord did provide hot water, but the landlord did so by tapping into my client's gas line to run the tenant's gas line to run the hot water heater for the entire building. So instead of having as her neighbors did in the summer, gas bills of around $15 a month, hers ran $150 a month.

Under existing law, there is no real remedy for a person in that situation. It might be possible to go to superior court. It would be a long and involved process and I don't think that's an effective, it's a very expensive and not particularly effective fast remedy for this type of situation.

This bill does provide a remedy. It would allow the tenant to deduct the cost, and this is a suggestion for an amendment to the way the bill is presently drafted. As it's presently drafted to relieve the situation, the bill provides the tenant could deduct the entire utility bill that they are paying from their rent. I think that's sort of a step a littel bit too far, and what I would suggest is an amendment. I believe one has already been submitted to legislative commissioner's office, would be to allow the tenant to deduct a reasonable cost for the service that they are not receiving, so in this case, the tenant would be able to say, all right, my neighbor's paying $15 a month for gas, I will take my gas bill, deduct that $15 and then deduct the balance, the part of the gas that was in effect, being stolen by the landlord, from their bill.

The bill also, of course, has its very major impact in terms of conservation, and it's really based on the premise that someone should only be responsible in terms of the utility bill, or oil bill, what have you, for the service that they're actually receiving and that situation with my client that I had in that case, the landlord really didn't care if that hot water heater was at all efficient. It didn't matter, they weren't paying the bill. You see that quite often.

MR. DALE: (continued)
The same holds true in situations where one tenant ends up with the utility bill of another, where an apartment building has been converted, for example, the tenant on the second floor is paying for the electric bill not only for those, but for the tenant upstairs. The tenant on the third floor isn't going to have any incentive whatsoever to conserve, and can be very, not be concerned about energy inefficiency as a result.

Just to give you my second example, going back a couple of months further, involving a situation where the landlord in a six unit oil heated building decided that he didn't want to pay the oil bill, so he announced to one tenant that that tenant, who became my client, that the oil bill was from then on going to be in her name and it was going to be her responsibility to go around to the other five tenants and collect every time there was an oil delivery, one-sixth of the oil bill from the other six tenants.

It's a very unworkable situation. It leaves one tenant holding the bag. If another tenant decides for whatever reason that they're not going to pay their fair share, there's really no remedy for the tenant who's stuck with the oil bill and it also means that the five families in the other units if they're low income, would not be eligible for energy assistance, because they're not paying directly for the oil bill.

This bill really provides and requires the landlord in that type of situation to really be responsible for a utility bill or heating bill, unless the service is going exclusively to a tenant's dwelling, and that's certainly the preferable way of doing it. It does provide a remedy allowing the tenant to deduct a reasonable amount of service if that is not the situation. And I think it adequately protects the landlord in this situation because if the tenant trys to deduct too much, the landlord of course, will be able to resort to eviction procedures on, essentially, because this would be an unexcusable non-payment of rent situation, so I think the landlords are fully protected in this type of situation. That concludes my comments unless anyone has any questions.

REP. KEEFE: Any questions? I'd like to ask a question. Primarily, you're speaking about what type of housing, and what type of tenants?

MR. DALE: Well, as I as a representative for low income people see it primarily from low income situations. I have had inquiries, a lot of time we'll talk to people on the phone who are not qualified for our service, just to get general advice, so that it does, I can say from my own experience go beyond strictly low income situations. But it's, I would think primarily involving low income. Usually older houses, new construction housing especially if it was constructed originally to be rental housing, will be constructed so that everybody has their own heating system, or everybody will have their own electrical usage, or perhaps it will be in a common situation, and it will be included in a rent.

REP. KEEFE: Those cases that are, those tenants really have no leases or agreements that they sign to accept certain responsibilities?

MR. DALE: Well, normally, often there aren't written leases, they would still be under landlord/tenant law obligations for both landlord and tenant which would include paying, and this bill wouldn't affect those type of situations, where there's an agreement in the lease that spells out who's going to provide the service. If that answers your question.

REP. KEEFE: Just one quick question. In many cases, although evictions occur so do all the other things that go with the eviction that all the costs disappear at the time of the eviction and usually the landlord collects nothing, in the long run, unless he goes to court, and it usually isn't worth it.

MR. DALE: That may be.

REP. KEEFE: Thank you.

MR. DALE: Thank you, sir.

REP. KEEFE: Barbara Johnson.

MS. BARBARA JOHNSTON: I'm Barbara Johnston, and I'm speaking for the Connecticut Association of Conservation and Inland/Wetlands Commissions, perhaps better known as CACIWC. And I'm speaking on raised committee bill No. 274, An Act Concerning Acquisition of Ansonia Derby Water Company.

REP. KEEFE: Thank you. Raphael Podolsky. I recognize the face but not the name.

MR. RAPHAEL PODOLSKY: Not the name, huh? My name is Raphael Podolsky. I'm a lawyer with legal services training and advocacy project, which represents low income clients of the legal aid programs.

There are two bills that I want to speak to you about. One is 5501, about which Mr. Dale previously testified to you. The basic principle of, in terms of the provision of energy, and who is responsible for paying for it, is in Connecticut, that if you can individually provide the service to an apartment, then the tenant can be made responsible for paying for it. In other words, if you have either an individual meter in the system, or an individual furnace, then that can be assigned as a tenant responsibility.

If, for whatever reason, the building is so constructed, or the metering system is so arranged, you can't divide that, then that becomes a landlord responsibility. The landlord bills the cost to that into the rent, so for example, someone where there's a central furnace in a multi-family building, the landlord would pay for the heat, and he would obviously include heat in the rent. The rent is going to be higher in that kind of a building.

What this bill does, is it works from the fact that that is in fact, what's supposed to happen, but in reality there are a number of cases where that does not happen, and it creates a reasonably simple remedy.

As Mr. Dale mentioned in the drafting of this bill, it appears that there's maybe perhaps a bit of an overkill in the remedy. I was one of the people who was involved in the drafting, and the draft was supposed to say, not that the tenant could drop, could deduct the entirety of the utility payment, but rather that basically the tenant could deduct that portion of it that was not for their own service. And in conjunction with Mr. Dale, I will submit an amendment to the committee on that.

Also, a couple of other minor changes that need to be made and I will submit some suggestions. I can go over them with you if you like, but I have a feeling it's not particularly worth it to take real little tiny things.

REP. ARTHUR: Is it reasonable to agree that if in fact, this legislation is adopted and there's still one meter that goes on one particular resident, or family, that supports the meter supports four family or six family dwelling for whatever service we're talking about, that the reasonable cost can be peacefully achieved or agreed upon between that particular resident and the landowner?

MR. PODOLSKY: I'm not sure I follow what you mean.

REP. ARTHUR: How does the person determine how much they're going to deduct, if in fact this becomes a law.

MR. PODOLSKY: One of the reasons the bill's worded, I think it has to be worded in terms of reasonable estimate of the cost is that, well, in one example where you have, in the kind of situation Mr. Dale had, we actually had other tenants with different bills, you could look and see what the bills were. If you have a service that is say, provided, let's take in the case of the oil that he gave, where you have six families and one tenant is being told to pay for the entire oil bill because it was a single furnace. It would seem to be a reasonable estimate would be to presume there's an approximation that each unit uses one-sixth of the oil in the building and therefore essentially five-sixths of the oil bill would be deductible.

There's no absolute guaranteed way, because the whole point is, you can't meter or measure it, and so you're forced to deal with approximations. The only other alternative would be to take the route which is the language of the bill itself which is simply to say since the owner is not complying with the law then the tenant is entitled to deduct the entirety of the bill, and the only reason that we have not recommended that was on the assumption on the tenant had basically agreed to pay his own, and in fact, is liable for his own bill. Then it became in that case, five-sixths of it would be an effort to bring the tenant's bill down to his real bill, while the other six, if he deducted the entirety, would really be a kind of penalty to the landlord for having broken the law. And that is an alternative way of approaching way and eliminatesany problem of dealing with what is or what is not a reasonable estimate. Those of us who are working on the bill tried to balance those two. Is it better to do just the easy approach which in a sense overpenalizes the owner, or to put in a reasonable estimate approach which has

MR. PODOLSKY: (continued)
the disadvantage of as you said, well, what's a reasonable estimate. Our feeling was on balance it was fairer to go with the reasonable estimate approach and leave the tenant to in a sense cover his own bill and not take any deduction from the rent.

I don't object to the other approach. I just presume the other approach might get criticized from someone who felt that it was allowing the tenant to deduct too much. You know, I would certainly defer to the committee's view as to whether it's administratively easier to do it the other way.

REP. KEEFE: Are you going to submit to clarify --

MR. PODOLSKY: Yes, I'll submit. In fact, I have submitted but it did not appear to find its way into this draft of the bill. There's a second bill on which I'd like to testify also.

REP. KEEFE: Just one second. Isn't it true that when rent is advertised it usually stipulates with or without appliances or heat.

MR. PODOLSKY: Yeah, usually.

REP. KEEFE: But what you're saying is although it may say this, this type of sharing of heat is occurring where there's no landlord after the fact, decides to say, well no, that isn't enough, we're going to charge more for it?

MR. PODOLSKY: Well, we've seen all variations on this. One variations, some variations, many variations the tenant doesn't know about until after they've moved in. In other words, the situation is, is the tenant moves in, they know that they're supposed to pay for their own, let's say their own gas. What they don't know is that there are other apartments on the gas that they're paying for besides their own, and they only find out after they've taken the apartment. So they knew it was an apartment that didn't include gas, but they did not know it was somebody else's gas they were paying. You sometimes find situations where there is common areas are being put on one tenant's bill, the basement, the back porch, the hallway lights, there are all sorts of things where that happens, and the tenant typically doesn't find out about that until long after they've moved in and discover

MR. PODOLSKY: (continued)
they're being billed for it. Sometimes you have situations where the tenant is told. In other words, the tenant moves in and is told, you are paying, this is a master metered building. The tenant who lives on the first floor apartment is always expected to pay the utitilies for the entire building. It's your job to collect them from everybody else. And the tenant is told, take it or leave it. If you want to live in my building, that's the way it is.

The problem with that is, it creates, in a short housing market where tenants often feel they have very little choice as to where they can find an apartment, they sometimes take it, but that creates a very, very unfair situation when they discover that some of the other tenants aren't paying, or I'll tell you what happens. Sometimes one of the other tenants moves out. Now the tenant was supposed to be paying, all right, a three family house and they're paying the heat for all three units. Well now the third floor tenant leaves. Who are they supposed to collect the floor heat from? The apartment may stay empty, two, three or four months. They're stuck with the bill. If they don't pay the bill, the oil company's going to want to cut off deliveries to the building, or won't take it on credit, or will not give them a budget plan. It's simply inappropriate to try and have one tenant assume that when you can't break it down.

If the landlord wants to have separate furnaces, fine, then he can separately meter it, fine. And in a lot of ways that's good from a conservation point of view. But if he keeps them together, then it just is not a reasonable system to have to try and have a tenant pay all of that. Plus you're really increasing the chances of default because although obviously the landlords who have financial problems, on probably an average, the tenant has to front the extra money, it's going to be a lot harder for the tenants. A greater chance, for example that you won't have heat in the building, because the tenant who's supposed to pay the heating bill doesn't have the money to pay it. The other tenants haven't given him the money up front, and then he has no heat in the building, and ultimately that's not in the landlord's interest, because the lack of heat threatens the integrity of the building, you get pipes bursting and things like that.

REP. KEEFE: So what you're saying in a sense, of what's the landlord's responsibility if the oil ran out, and the oilman wouldn't deliver because there was no payment made,

REP. KEEFE: (continued)
the tenants are the ones that really suffer and you could do what you want to do about it as far as trying to get heat in there, it would have to be handled in a different fashion --

MR. PODOLSKY: We have a statute that addresses the problem of the landlord who is supposed to be paying failing to pay, and basically a remedy analagous to this is what is available under the statutes already. This tries to address the system before somebody has stopped paying. What it tries to say is, what it says is that if it makes clear that the owner of the building is responsible when you cannot individually meter or individually provide the furnace, and that is, at least in my opinion what the law already is. But to find that, you would have to turn to three or four different statutes and read them together, and this in effect, puts it in one place and it's clear. It seems to me it will save confusion for everybody, because it makes clear what the responsibilities are.

REP. KEEFE: Well, that would be my perceiving of the law, too, and I sometimes wonder if we're not placing too many laws in too many locations.

MR. PODOLSKY: Well, I'll tell you, I sit on the Fair Right Commission in Hartford, and in that capacity, although I work with low income people, I see cases that arise at all income levels, and in some ways I've been surprised that there is a small but significant number of cases that come in where it turns out you do have exactly this situation and it often leads to disputes, because you have a rent increase and the tenant says, this isn't fair, he's made me pay the utility bill for this or that, and that's one of the ways that I learned, this is a fairly small, but general problem. And so, I'm at least persuaded that you do need to address it. It's not something that is taking care of itself.

The second bill I wanted to testify on is House Bill 5114, An Act Concerning Electric and Gas Service for Customers Lacking Financial Resources to Pay Their Entire Accounts. This is a bill that deals with what we mean by the phrase reasonable amortization agreement, when you have a person on welfare. Those of you who are familiar with the welfare grant for AFDC know that we have a flat grant system which now pays far less than the standard of need. Maybe 15 years ago we used to pay 100% of standard of need and then we went

MS. BRYANT: (continued)
In regard to bill 5420, state bonds for weatherization for low income households. We definitely support that, because no matter how much energy assistance you give people, or how low their bills are right now, without weatherization, this situation is just going to get worse, and from the low income households I think there's a need for some state involvement in terms of making those residences less of a waste for energy use.

In regard to 5494, the immunity for employees of public service companies, we certainly support the bill. One thing that occurs to me, though, is that the protection may not be as complete as it should be. I'm a little bit concerned about an employee who things they've come across something which needs to be investigated. They don't really know how substantive it is. Maybe it turns out to be not as significant as the misfeasance, malfeasance standards in the bill. They're basically not protected at that point. So you might want to change the standard to a more subjective one, in which an employee reasonably believes that there is a question, a matter of malfeasance or misfeasance.

Finally, regarding 5501, utility and heating fuel bill, our office definitely supports this. I think it provides an additional protection which has just been an oversight and hasn't been provided in the past. We protect tenants from shutoff when the bill is in the name of a landlord, and it's a master metered situation, one meter and the landlord doesn't pay. We don't protect a tenant who basically isgetting stuck with another tenant's bill or their landlord's bill and truly, it's fair to do so.

The remedy for this bill is to deduct from the rent. I would suggest that another remedy be included, and that would be to pay to the utility company, the portion which is a reasonable estimate of what is owed for your own exclusive space and leave it up to the utility to go against the landlord for the balance. I think that unless you add this additional remedy, you're going to have increased eviction actions. I'd rather leave it up to the tenant which way to go, but if you can think of a situation where a tenant indicates to a landlord that they're going to withhold a portion of a rent because they've been paying for the landlord's utility service, and the landlord indicates, if you

MS. BRYANT: (continued)
do that, I'll evict you. Sure, you can go to housing court and try to fight the eviction, but that's also burdensome, and there are other things that a landlord could do in the form of retaliation that makes life miserable. So I would suggest that you give the tenant the option of deducting from their rent, or deducting from their utility bill.

And that completes my testimony. I'll be glad to answer any questions.

REP. KEEFE: There's no questions, thank you.

MS. BRYANT: Thank you.

REP. KEEFE: Charles Mokriski.

MR. CHARLES MOKRISKI: My name is Charles Mokrisky. I'm an attorney in Hartford, and I'm very briefly representing the Bridgeport Hydraulic Company in opposition to two bills.

284, An Act Establishing a Public Receiver for Water Utilities Providing Inadequate Service. I'd associate myself with the remarks of Mr. Burke who spoke what must have been seven or eight weeks ago at the beginning of this hearing in opposition to this bill. I think it addresses a real need. On the other hand it's cumbersome and vaguely drafted in part and you've had considerable testimony on that and I'll not prolong the hearing longer.

Senate Bill 287, An Act Extending the Deadline, Bridgeport Hydraulic Company would particularly be opposed to being singled out, as I think Rep. Lavine mentioned earlier, that all you'd try to cover by 180 day time limit would be the electrics, gas and maybe Bridgeport Hydraulic. I'd be delighted if you wanted to draw the lines differently and just exclude Bridgeport Hydraulic Company, if you are planning on giving this bill serious consideration.

Again, I'd associate myself with the remarks of Mr. Burke, Mr. King and even Comm. Downey, who testified that they have not had difficulty meeting the 150 day deadline, and would continue to be able to do so. Parkinson's Law rages in a bureaucracy and when you give people an extra 30 days,

Attach

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February 27, 1984

TESTIMONY OF RAPHAEL L. PODOLSKY

H.B. 5501 -- AAC residential utility and heating fuel accounts

Recommended Committee action: JOINT FAVORABLE

This bill clarifies an ambiguous portion of Connecticut law. It is generally agreed that it is a property owner's duty to provide heat and utility service for an apartment, unless the service can be metered individually to that unit or is supplied by a furnace which covers only that unit. This is the conclusion that comes from reading §16-262e of the statutes, in conjunction with §47a-7, §47a-13, and §19a-109, all which deal with the duty to provide heat and other essential services. Nevertheless, we continue to find cases in which a landlord requires a tenant to pay a utility bill for more than one apartment. Indeed, sometimes the tenant is not told and discovers the fact only after moving in.

This bill makes the law clear by spelling out the requirement explicitly in §16-262e. If the tenant nevertheless finds himself responsible for a bill for other than his own apartment, he is entitled to deduct from the rent the amount which is not for his apartment.

This does not in any way preclude a property owner from charging a tenant for heat or other utilities. It simply makes clear that when such services cannot be individually metered to an apartment, than the account must be maintained by the landlord and the costs built into the rent. That is, in fact, the way that it normally is done.

The bill is important because the consequences are often severe if a tenant must assume liability for a bill for more than one apartment. First, the tenant must "front" a large payment for someone else's utilities, thus greatly increasing the risk of non-payment. Second, the liable tenant has no leverage to collect a share from tenants in other apartments -- no security deposit, no ability to build the cost into the other tenants' rent. Third, if the "contributing" tenants fail to pay, the utility company will hold the tenant on the account liable for the entire bill. This may lead to a shut-off, will affect security deposit requirements and the ability to order oil on credit, and may create numerous other problems. Fourth, this liability for someone else's apartment is often a surprise to the tenant. And, finally, this kind of assignment of liability may limit eligibility for some energy assistance programs.

By spelling out the rule that a tenant can be required to assume liability only for his or her own apartment, this bill goes a long way toward eliminating problems of this sort.