

Legislative History for Connecticut Act

SB 555 PA 210 1986

House 4629-4632 (4)

Senate 1406, 1461, 1463 (3)

Judiciary 2034-2035, 2047-2049,
2261-2265, 2369, 2371 (12)

Total 19P

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

PROCEEDINGS
1986

VOL. 29
PART 13
4519-4947

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House of Representatives

Tuesday, April 29, 1986

REP. KRAWIECKI: (78th)

May that item be passed temporarily, please?

DEPUTY SPEAKER BELDEN:

The motion is to pass temporarily Calendar 558.

Is there objection? Hearing none, so ordered.

CLERK:

Calendar No. 559, Senate Bill 555, File No. 463,

AN ACT CONCERNING NOTICE IN SUMMARY PROCESS ACTIONS.

Favorable Report of the Committee on Judiciary.

REP. WOLLENBERG: (21st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. William Wollenberg.

REP. WOLLENBERG: (21st)

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

DEPUTY SPEAKER BELDEN:

The motion is for acceptance and passage in concurrence with the Senate.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Today there is a problem in evicting people where a landlord gives notice to the person he believes is occupying the property and once

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that is done and he goes to open the door and he finds that there may be a person or persons there who have been living with or at the pleasure of the tenant, and at this time he must start over again. He, the landlord himself, had no idea these people were living there, no reason to believe they were living there but he is faced with starting the process over again. This bill would give the landlord, would require that he gave Notice to Quit to the occupant, only if the landlord knew the occupants name or in the exercise of reasonable diligence, should know his name. So I would presume a Notice to Occupant would satisfy this.

I'm not suggesting that this satisfies the end result. Once you have given the notice, you must then go through the process if evicting. There's no easy way to get these people out. They may be squatters, but it is a step in the right direction. Many housing authorities have requested this. They are having problems with this and it will help the landlords, housing authorities or whomever, in accomplishing this need. I urge passage.

DEPUTY SPEAKER BELDEN:

Will you remark further on the bill? If not, staff and guests please come to the well of the House. An

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immediate roll call is ordered. Will the Clerk please announce a roll call is in progress.

Staff and guests please come to the well of the House.

CLERK:

The House of Representatives is now voting by roll. All members please return to the Chamber immediately.

The House of Representatives is now voting by roll. All members please return to the Chamber immediately.

DEPUTY SPEAKER BELDEN:

Have all the members voted? Please check the board to determine if your vote is properly recorded? The machine will be locked. Will the Clerk please take a tally.

REP. KARSKY: (4th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Karsky.

REP. KARSKY: (4th)

In the affirmative, please.

DEPUTY SPEAKER BELDEN:

Rep. Karsky of the 4th in the affirmative.

Will the Clerk please announce the tally.

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House of Representatives

Tuesday, April 29, 1986

CLERK:

Senate Bill 555.

Total number voting	146
Necessary for passage	74
Those voting aye	132
Those voting nay	14
Those absent and not voting	5

DEPUTY SPEAKER BELDEN:

The bill is passed in concurrence with the Senate.

Are there announcements or Points of Personal Privilege at this time?

REP. JAHN: (32nd)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Robert Jahn.

REP. JAHN: (32nd)

Thank you, Mr. Speaker. With us today are a group of members of the American Association of Retired People, Chapter No. 3596 from Cromwell. They are touring the building and I'd ask those people from this chapter if they are in the gallery if they would please stand and if my compatriots here on the floor would give them a warm welcome. Thank you, Mr. Chairman.

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GEN. ASSEMBLY
SENATE

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there's no objection, so we mark it pass, retaining.

SENATOR SMITH:

Thank you, Sir. On page 4, HB 5928 Cal. No. 130 will be passed, re-
SB 391
taining its place. Cal. No. 226 will be taken up. Cal. No. 252 will
be passed, retaining its place. Cal. Nos. 266 and 273 will be taken
up.

On page 5, SB 451 Cal. No. 306 will be passed, retaining its place.
SB 428
Cal. 311 will be taken up. Cal. 317 will be passed, retaining its
place. Cal. Nos. 318, 319, and 320 will be taken up.

On page 6, SB 520 Cal. 321, Mr. President, at this time I'd like to
move that Senate Bill No. 520, Cal. No. 321 be referred to the Labor
Committee.

THE CHAIR:

Any objection? So ordered.

SENATOR SMITH:

On Cal. No. SB 524 322, will be passed, retaining its place. Cal. Nos.
323, 324 and 325 will be taken up. At this time, Mr. President I'd
SB 555
like to move that Cal. No. 326 be placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR SMITH:

On page 7, Cal. 327 and 330 will be taken up. I'd like to move
SB 539 HB 5940
at this time that both Cal. Nos. 331 and 344 on page 7 be moved to

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THE CHAIR:

Mr. Clerk, will you please call the next item of business.

SENATOR SMITH:

Mr. President, could we do the Consent Calendar?

THE CHAIR:

Senator Smith.

SENATOR SMITH:

I'd like to call the Consent Calendar, Sir?

THE CHAIR:

Mr. Clerk, would you please read the Consent Calendar, please?

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar, will all Senators please return to the Chamber.
An immediate roll call has been ordered on the Consent Calendar, will all Senators please return to the Chamber.

Page 6, Cal. No. 326, Senate Bill No. 326, Senate Bill No. 555.

Page 7, Cal. 331, Subst. for Senate Bill No. 539. Cal. 344,
House Bill 5940.

Page 8, Cal. 345, House Bill 5966. Cal. 347, Subst. for House Bill 5369. Cal. 349, Subst. for House Bill 5828.

Page 9, Cal. 351, House Bill 5892. Cal. 352, Subst. for Senate Bill 72. Cal. 354, Senate Bill 135. Cal. 356, Subst. for Senate Bill 295.

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Those in favor, 35. Those opposed, 0. The Consent Calendar is
adopted. Senator Smith, on page 11, Cal. 365, that has been taken
off the Consent Calendar. Can I presume you wish that be marked go?

SENATOR SMITH:

Yes, Mr. President.

THE CHAIR:

Thank you, Sir. Mr. Clerk, will you please call the next item?

THE CLERK:

Page 2, House Joint Resolution No. 72. Resolution Confirming
the Nomination of the Honorable M. Morgan Kline of Bloomfield, to be
a Judge of the Superior Court. Favorable Report of the Committee on
Judiciary.

THE CHAIR:

Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Thank you, Mr. President. I move acceptance of the Joint Committee's
Favorable Report and passage of the Resolution... or adoption, rather.

THE CHAIR:

Thank you, Senator. Do you care to remark?

SENATOR RICHARD JOHNSTON:

Yes, Sir. Judge Morgan Kline makes his residence in Bloomfield,
Connecticut. He received his Bachelor of Science from the University
of Connecticut in 1948, and his Law Degree from the University of

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STANDING
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REP. WOLLENBERG: (continued)

Charles Cobb will be next. Alice Brown, Sally Tresselt.

DAVID DODES: I'm going to be very brief, and for humanitarian reasons. My name is David Dodes. I am a principal in the lobbying firm of Issues Management Group, and I'm here today representing the Connecticut Chapter of Housing and Redevelopment Officials. And I'm speaking in favor of Senate Bill 555, An Act Concerning Notice in Summary Process Actions.

We approach this proposed legislation from the point of view of housing provided for thousands of moderate and low income people. And those are moderate and low income people of all ages, including elderly, of course, and we provide housing for about 75,000 families in this state.

We support this legislation because it will help us make our operations run more smoothly and efficiently, as well as help us keep operating costs down and of course if we can keep our operating costs down we can also ultimately help keep the cost of rent down.

So that you can better understand the position we find ourselves on the present law and conditions, allow me to give you an example of the problems faced by housing authorities throughout the state. By the way, this bill would also affect the private sector as well as those involved in public housing.

Here is an example. There are many possibilities, but this is one example if you can picture it happening in a situation with a housing authority. A family consisting of a father, a mother and two children move into a housing authority unit. Sometime later, months or even years, there's a problem with rent not being paid and the authority has to start to take some action to have the family evicted from the apartment. When the summary process papers are filed, the name of the person or persons who signed the lease with the authority are put on the notice. It would seem that would be sufficient to start the legal process.

However, a recent housing court decision has ruled that it's not enough to list the names of those on the lease,

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MR. DODES; (continued)

but all persons occupying the apartment in question. What too often happens in housing authority situation is we find many apartments are occupied by persons in addition to those who moved in when the lease was signed. Imagine the difficulty in trying to find out exactly who's living in the apartment at any given time, when new occupants in addition to the original tenants are never brought to the attention of the housing authority when they move in.

These new people moving in is, as you know, a violation of the lease. In order to rectify the existing situation, we have respectfully submitted some substitute language that further clarifies the statute. I won't go into it. I have copies of it here.

What we're doing is asking you to review this and change the entire statute that revolves around the summary process situation.

REP. WOLLENBERG: We'd better crawl before we run too fast. I think this is something, the bill itself is something you may need. But some revamping. We'll hear more, I'm sure.

MR. DODES: Well, this has to do with the bill. I don't want to go into it now, Rep. Wollenberg, but if changes are involved with lines 32 and 33 of the bill and changes also are involved with lines 48, and in addition we have added some other sections that we'd like you to look at because we think it even clarifies further the situation and may be even more helpful.

REP. WOLLENBERG: Any questions? Thank you.

MR. DODES: Thank you.

REP. WOLLENBERG: Alice Brown. Sally Tresselt. Jay McNally. Maybe I'm pronouncing them all wrong. Frank Horan. David Oberle. Nicholas Simeone. Don Tuttle. Is Don here?
Yes.

DON TULLER: Rep. Wollenberg, other members of the Judiciary Committee, the few souls that are still present. My name HB6143 is Don Tuller and together with my cousin I operate Tulmeadow Farm in West Simsbury. We have been a continuous family operation since 1768. We milk cows, raise vegetables,

ATT. PODOLSKY: (continued)
have a right to the child and that you intend to keep the child for at least ten hours. There's no requirement of a permanent keeping.

I think that piece can be fixed. And I gather that there is some effort also to fix the lines 44 to 48. But 44 to 48 I think, is an especially serious unless it's greatly rewritten.

The second bill is Senate Bill 555, which deals with the notice to quit, I understand the problem that's been raised by the housing authority people in the bill. But I think that the solution creates greater problems than the bill is intended to address. What that, what, as I read the bill, what it says is, if the landlord does not know the name of his tenants, that he doesn't have to give them a notice to quit.

The underlying doctrine is that when you're bringing legal actions, you have to be able to give notice to the people that you're bringing action against. And what this does is creates a waiver of the notice to quit requirement. That simply creates the situation where it's not clear who is being told that there's an eviction action pending against them.

The context in which we've seen this is not in the housing authority context so much, but where you have oral month to month leases where you have an apartment that is rented, say to a man, a woman moves in with him, eventually the man moves out, the woman is still there. You then serve a piece of paper that's directed to the man and the courts have ruled that correctly, that you cannot obtain a judgment against the woman by bringing an action against a person who isn't there, and yet the sheriffs may come and try to throw that person out, when she has had no ability to participate in the action and may have a defense.

REP. WOLLENBERG: Raffie, case in point. I go through the summary process for Mr. Jones. I get it served, after the six months it takes me and everything. Finally, Mr. Jones leaves. I go myself to occupy the property, and I open the door and there's two people living there, his daughter and granddaughter or son of Mr. Jones. Says

- REP. WOLLENBERG: (continued)
sorry, start all over. You didn't name me. Give me the answer. How can we help that?
- ATT. PODOLSKY: Okay, I've had a couple of conversations about this since last Thursday. One of the problems is that there is no clear and easy solution. I'm saying this to you honestly. I think there's a real problem. I'm not trying to deny to you that there's a problem.
- ATT. PODOLSKY: I'm not saying anything is possible. Under some circumstances, for example when you're talking minor children, it's clear that minor children are covered by any action against an adult. The problem really focuses on other adults. And there are a whole range of circumstances, there are circumstances where a landlord rents knowing that he is renting to somebody, who is not named perhaps in a written lease. To circumstances where a tenant leaves and somebody new moves in, and you can have a complete squatter situation, where it is clear that the new person is not holding in any sense under the old tenant. It was a vacant apartment and they moved into it.
- REP. WOLLENBERG: Excepting, Raffie, I get a call and the attorney for this person says tell you what we'll do. Stay there three months without paying anything and we'll get out. Otherwise it's going to take you six months. That's the problem.
- ATT. PODOLSKY: I think that is a problem which is reasonable to look at more closely. I don't think this bill is a solution to that problem.
- REP. WOLLENBERG: What is the answer to it?
- ATT. PODOLSKY: I don't know the answer. I'm telling you honestly, that that is a problem. It is a real problem, and I am not at this moment able to come up with an answer for you. And I've tried to think about that.
- REP. WOLLENBERG: As a landlord, I have no rent for about six months. You know, bad enough I don't have it for three until I get Mr. 1 out, but then I have a squatter situation and it takes me another three months.
- ATT. PODOLSKY: Well, there's a whole separate question about whether it should take you three months under those

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ATT. PODOLSKY: (continued)
circumstances. But what I'm saying is, I'm not denying that it is a problem. But I think that you have to look at, you have to make sure that any solution includes the due process notice. And I don't think that the kind of solution that is proposed here addresses that at all.

REP. WOLLENBERG: There isn't any.

ATT. PODOLSKY: I'm not saying there's no possible solution. I'm saying I don't think we have one yet. And I think it's worth working on. That's one that's worth working on.

House Bill No. 6154 deals with complaints against attorneys and judges. I don't know if you've had testimony on this. I really hope that you will reject this bill. I think it's a very bad and in a way very dangerous bill, from the point of view of making sure that people have access and the right to criticize lawyers and judges.

Essentially what it says is, I mean supposedly it's aimed at frivolous complaints. But what it really says is, that if you make a complaint without probable cause, then you're going to be liable for the judges or lawyers costs and attorneys fees. And that is a powerful disincentive, especially when you're talking about the kind of people individual litigants, and they make grievance complaints without consulting a lawyer. They may indeed be grieving their own lawyer. They really don't know. They may be acting in good faith but if they're not in a good position to know how much merit there is to their case.

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That's what you've got grievance committees for, and that's what you've got a Judicial Review Council for. You do it so that you can screen out the complaints that really have no substantial merit. But when you sanction people for exercising the right to bring a complaint against their lawyer, by saying if this complaint is determined to be frivolous, then you're going to have to pay his lawyers' fees, it may be thousands of dollars. The affect is to close down the judicial system and make people scared to file complaints against lawyers and judges.

I think it's a terrible bill.

JOINT
STANDING
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HEARINGS

JUDICIARY
PART 7
2108-2523

1986

Issues Management Group

Public Affairs Consulting

My name is David Dodes. I am a principal in the lobbying firm Issues Management Group. I am here today representing the Connecticut Chapter of the National Association of Housing and Redevelopment Officials, and I am speaking in favor of S.B. 555, An Act Concerning Notice in Summary Process Actions.

We approach this proposed legislation from the point of view of housing providers for thousands of moderate and low income people.

We support this legislation because it will help us make our operation run more smoothly and efficiently, as well as help in keeping operating costs down.

So that you can better understand the position we find ourselves under present law and conditions, allow me to give you an example of the problems faced by housing authorities throughout the state. (The private housing sector is affected the same way.)

A family consisting of a father, mother and two children move into a housing authority unit. Some time later (months or even years) the rent is not paid, and the authority starts to take action to have the family evicted from the apartment.

When the summary process papers are filed, the name of the person or persons who signed the lease with the authority are put on to the notice.

It would seem that would be sufficient to start the legal process. However, a recent housing court decision has ruled that it is not enough to list the names of the lease signer or signers, but ALL persons occupying the apartment in question.

What too often happens in housing authority situations is that with time many apartments are occupied by persons in addition to those who moved in when the lease was signed. Imagine the difficulty in trying to find out exactly who is actually

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LANDMARK SQUARE 107 BROAD STREET SUITE 200 STAMFORD, CONN. 06901

Public Affairs Consulting

living in an apartment, when new people other than the original tenants are never brought to the attention of the housing authority when they move in. (These new people moving in is, as you know, a violation of the lease).

In order to rectify the existing situation, we are respectfully submitting some substitute language that further clarifies the statute.

Sec. 47a-23. (Formerly Sec. 52-532). Notice to quit possession of premises. Form. Service. (a) When a rental agreement or lease of any land or building or of any apartment in any building, or of any dwelling unit, or of any trailer, or any land upon which a trailer is used or stands, whether in writing or by parol, terminates by lapse of time, or by reason of any expressed stipulation therein, or under the provisions of section 47a-15a, or as a result of a violation of section 47a-11, or where such premises, or any part thereof, is occupied by one who has no right or privilege to occupy such premises, or where one originally had the right or privilege to occupy such premises but such right to privilege has terminated, and the owner or lessor, or his legal representatives, or his attorney at law, or in-fact, desires to obtain possession or occupancy of the same, at the termination of the rental agreement or lease, if any, or at any subsequent time, he or they shall give notice to the lessee or (occupant) PERSON(S) KNOWN BY THE LANDLORD TO BE OCCUPYING SAID PREMISES to quit possession of such land, building, apartment or dwelling unit, at least eight days before the termination of the rental agreement or lease, if any, or before the time specified in the notice for the lessee or occupant to quit possession or occupancy.

(b) The notice shall be in writing substantially in the following form" "I (or we) hereby give you notice that you are to quit possession or occupancy of the (land, building, apartment or dwelling unit, or of any trailer or any land upon which a trailer is used or stands, as the case may be), now occupied by you, on or before the (here insert the date) for the following reason (here insert the reason or reasons for the notice to quit possession or occupancy, also the date and place of signing notice). A.B."

(c) A copy of such notice shall be delivered to the lessee or KNOWN occupant or left at his place of residence or, if the rental agreement or lease concerns commercial property, at the place of the commercial establishment by a proper officer or indifferent person.

Sec. 47a-23a. Complaint. (a) If, at the expiration of the eight days the lessee or KNOWN occupant neglects or refuses to quit possession or occupancy of the premises, any commissioner of the superior court may issue a writ, summons and complaint which shall be in the form and nature of an ordinary writ, summons and complaint in a civil process, but which shall set forth facts justifying a judgment for immediate possession or occupancy of the premises and make a claim for possession or occupancy of the premises. Such complaint shall be returnable to the superior court. Such complaint may be made returnable six days, inclusive, after service upon the defendant and shall be returned to court at least three days before the return day. Notwithstanding the provisions of section 52-185 no recognizance shall be required of a complainant appearing pro se.

(b) Venue for actions brought pursuant to this chapter shall be the geographical area, established pursuant to section 51-348, where the defendant resides or where the leased premises or trailer are located at the plaintiff's election or, in the case of a defendant corporation or domestic corporation, has an office or place of business. If the defendant is a nonresident, venue shall be the geographical area, established pursuant to section 51-348, where the plaintiff resides or where the land lies at the plaintiff's election.

Sec. 47a-42. (Formerly Sec. 52-549). Eviction of tenant; sale of personal effects. (a) Whenever a judgment is entered against a defendant pursuant to section 47a-26, 47a-26a, 47a-26b or 47a-26d, such defendant AND ALL PERSONS HOLDING THEREUNDER shall forthwith remove (himself) THEMSELVES, (his) THEIR possessions and all personal effects unless execution has been stayed pursuant to section 47a-35 to 47a-41, inclusive. If execution has been stayed, the defendant AND ALL PERSONS HOLDING THEREUNDER shall forthwith remove (himself) THEMSELVES, (his) THEIR possessions and all personal effects upon the expiration of any stay of execution. If the defendant AND ALL PERSONS HOLDING THEREUNDER (has) HAVE not so removed (himself) THEMSELVES upon entry of a judgment pursuant to section 47a-26, 47a-26a, 47a-26b or 47a-26d, and upon expiration of any stay or execution, the plaintiff may obtain an execution upon such summary process judgment, and such defendant's AND ALL PERSONS' HOLDING THEREUNDER possessions and personal effects may be removed by a sheriff or his deputy, pursuant to such execution, and set out on the adjacent sidewalk, street or highway.

CENTER FOR ADVOCACY AND RESEARCH, INC.

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140 Huyshope Avenue
Hartford, Connecticut 06106
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March 31, 1986

Judiciary Committee
State Capitol
Hartford, CT. 06106

Raphael L. Podolsky
Acting Director

Re: March 31 public hearing

Dear Committee member:

Enclosed are copies of my testimony on a number of bills being heard at today's public hearings, which I hope you will review in more detail. In summary, my recommendations are as follows:

BILLS WHICH SHOULD BE REJECTED:

(1) S.B. 551 -- Custodial interference: The bill applies the custodial interference statute inappropriately, including to instances when both parents have legal custody of the child and no court order on custody or visitation exists. It also imposes unreasonably short time limits.

(2) S.B. 555 -- Summary process notice to quit: The bill appears to permit litigation without identifying the defendant, something almost sure to cause confusion.

(3) H.B. 6154 -- Complaints against attorneys and judges: The bill inappropriately discourages dissatisfied litigants from filing grievances against judges and lawyers.

BILLS WHICH SHOULD BE REJECTED UNLESS THEY ARE AMENDED SUBSTANTIALLY:

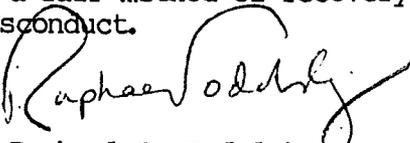
(1) S.B. 109 -- Enforcement of child support orders: The bill, among other weaknesses, gives magistrates inappropriate jurisdiction in paternity and some custody and visitation cases; and it makes magistrate decisions virtually unreviewable.

(2) S.B. 110 -- Enforcement of out-of-state support orders: The bill fails to make provision for seeking modification of an out-of-state support order, too narrowly limits the defendant's right to present defenses, and permits use of inadequate methods for service of process.

(3) S.B. 111 -- Mandatory mediation: The bill imposes overly rigid visitation requirements, fails to protect the rights of the weaker party in mediation, and in some cases fails to focus on the best interest of the child.

(4) H.B. 6134 -- Tort "reform": The bill changes the nature of small claims court, denies innocent victims a fair method of recovery, and immunizes towns from liability for their own misconduct.

Sincerely,


Raphael L. Podolsky

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(203) 525-6604

Raphael L. Podolsky
Acting Director

March 31, 1986

TESTIMONY OF RAPHAEL L. PODOLSKY

S.B. 555 -- Summary process notice to quit

REJECT

As written, this bill seems to waive the notice to quit requirement when a landlord claims not to know or be able to determine the name of the occupant of one of his apartments. There are due process considerations which mandate that defendants be given reasonable notice of judicial proceedings against them. The failure to identify the defendant would create major confusion when an eviction action is actually brought. The bill should be rejected.