

Legislative History for Connecticut Act

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HB 5978	PA 268	1986
House 2418-2419, 4855-4889		(37)
Senate 3129-3131, 3178-3179		(5)
Banks 13-18, 31-46, 49-52, (64-68), 80-81, 86		(34)

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1986

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2160-2577

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House of Representatives

Thursday, April 17, 1986

matter is passed temporarily.

CLERK:

Calendar 358, Substitute for House Bill 5824,  
File No. 383, AN ACT ELIMINATING HOLDING PERIODS FOR CERTAIN  
DEMAND DEPOSITS. Favorable Report of the Committee on Banks.  
REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. May this item be recommitted  
to the Committee on Banks.

SPEAKER VAN NORSTRAND:

The motion is to recommit Calendar item 358 to the  
Committee on Banks. Is there objection? Seeing none,  
the matter is so recommitted.

CLERK:

Calendar 365, Substitute for House Bill 5978, File  
No. 388, AN ACT CONCERNING MORTGAGE PAYMENT SCHEDULES, LATE  
FEES AND MORGAGOR'S RIGHT TO COUNSEL. Favorable Report  
of the Committee on Banks.

REP. JAEKLE: (122nd)

Mr. Speaker.

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SPEAKER VAN NORSTRAND:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. May this item be referred to the Committee on Judiciary.

SPEAKER VAN NORSTRAND:

The motion is to refer Calendar item 365 to the Committee on Judiciary. Is there objection? Seeing none, the matter is so referred.

CLERK:

Calendar 366, Substitute for House Bill 5961, File No. 386, AN ACT CONCERNING CREDIT CARD SURCHARGES AND ACCEPTANCE OF BANK CREDIT CARDS. Favorable Report of the Committee on Banks.

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Gerard Patton.

REP. PATTON: (119th)

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

SPEAKER VAN NORSTRAND:

The question is on acceptance and passage. Will you remark?

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CLERK:

Page 23, Calendar No. 365, Substitute for House Bill 5978, File No. 388, AN ACT CONCERNING MORTGAGE PAYMENT SCHEDULES, LATE FEES AND MORTGATOR'S RIGHT TO COUNSEL.

Favorable Report of the Committee on Judiciary.

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Gerald Patton.

REP. PATTON: (119th)

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

SPEAKER VAN NORSTRAND:

The motion is for acceptance and passage. Will you remark, Sir?

REP. PATTON: (119th)

Yes, Mr. Speaker. This bill, as it's before us in the file copy, would do three things --

SPEAKER VAN NORSTRAND:

-- Excuse me a moment, Sir. Everybody's back from their repast. Perhaps they should lean across to their neighbor and tell them where they went for their supper, say hello, and then the House will please come to order.

Rep. Patton.

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REP. PATTON: (119th)

Thank you, Mr. Speaker. It would do three things. It would specifically permit the bi-weekly mortgages, which are so popular today; it would require a creditor to give notification to a consumer debtor in the event of a late payment and in the imposition of a late payment or fee; and it would require creditors from requiring of a borrower that the creditor use the borrowers attorney.

Mr. Speaker, there is an amendment on this bill, LCO 3823 and I would request the Clerk call the amendment and may I summarize?

SPEAKER VAN NORSTRAND:

Will the Clerk please call LCO 3823 which will be designated House Amendment Schedule "A".

CLERK:

House Amendment Schedule "A", LCO 3823, offered by Rep. Patton and Rep. Ritter.

SPEAKER VAN NORSTRAND:

The gentleman has requested permission to summarize. Is there objection? Hearing none please proceed, Rep. Patton.

REP. PATTON: (119th)

Mr. Speaker, this amendment will alter Section 5 and Section 6 of the bill. Specifically, it will alter

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the implementation of notification that must go from the creditor to the debtor and it also will eliminate some of the provisions of notification to the creditor with regard to the creditor's rights. I would move adoption of the amendment, Mr. Speaker.

SPEAKER VAN NORSTRAND:

The gentleman has moved adoption of House "A".

Will you remark further on House "A"?

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

Mr. Speaker, Section 5 of this bill would be altered by this amendment and it would require the creditor to send notification of a late payment only in those cases where the creditor does not now send a late payment and only in those cases where the creditor is being hit with a charge or being -- or additional cost and a creditor would have 60 days to forward such notification to the debtor.

In Section 6 of the bill, it would advise the borrower that he does not have to use the creditor's attorney, that he does not in fact have to have an attorney

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and that he may direct complaints pertaining to those issues to the banking department. Mr. Speaker, the amendment, as it is, significantly improves, drastically improves, Section 5 and Section 6. It now really is a notification to a creditor only if the creditor is going to be charged with additional fees and there is some additional notification of creditor's rights. It's strictly a consumer orientated issue at this point and the last thing I will say is that the drafting of this language as we see it now, is language that was drafted in concurrence with the Savings & Loan, the Savings, the Commercial banks, the consumer credit organizations and so we gathered all of the representatives of the creditors together.

They all assisted in drafting this and to that extent all of the banking interests are satisfied that this does what we want to do and does no harm to the lenders. I would move adoption of the amendment, Mr. Speaker.

REP. STOLBERG: (93rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, through you a question to the

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distinguished chairman of the committee.

SPEAKER VAN NORSTRAND:

Please frame your question, Sir.

REP. STOLBERG: (93rd)

Mr. Speaker, does this amendment have anything to do with credit cards?

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

To the best of my knowledge, this has nothing to do with credit cards.

REP. STOLBERG: (93rd)

Thank you, Mr. Speaker. I appreciate that. Through you, Mr. Speaker, does the bill have anything to do with credit cards? Through you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to answer, Rep. Stolberg's inquiry?

REP. PATTON: (119th)

Does the bill have anything to do with credit cards? Mr. Speaker, the fact that credit cards are used in many, many instances for securing credit from a lender, to that extent many of the provisions of this section are in fact applied against credit card purchases,

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so to that extent I guess I've got to conclude that the implementation of these provisions, particularly Section 5, can apply equally to credit card purchases it loans as to any other type of purchase.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

REP. STOLBERG: (93rd)

Through you, Mr. Speaker. I appreciate that. I think the amendment appears to be reasonable on it's face. I think the gentleman's explanation that it does clean up Section 5 is apparently accurate and that the three subjects dealt with in the total bill, bi-weekly mortgages, late payments and creditor/borrower controls do not really effect credit card rates per se, and therefore, at least the substance, I'm sure about the technical drafting, but the substance of the amendment seems to be okay.

SPEAKER VAN NORSTRAND:

Will you remark further on House "A"?

REP. RYBAK: (66th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Michael Rybak.

REP. RYBAK: (66th)

Mr. Speaker, with all due respect to the prior

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speaker, I want to ask Rep. Patton a couple of questions about this amendment.

SPEAKER VAN NORSTRAND:

Absolutely, Sir. Please proceed.

REP. RYBAK: (66th)

He said it altered Section 5 and 6. I maintain it neuters Sections 5 and 6 of the bill and I'd like to ask him a couple of questions in this regard.

With respect to Section 5, Rep. Patton, why are we taking out the requirement that a notice of a late charge imposed be given to somebody prior to their next payment due date unless it's one of those periodic statement affairs where you get a normal statement? For instance, on a coupon book, where you're paying a loan on a coupon installment, why are we doing away with the notice prior to the next due date?

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

Through you, Mr. Speaker, we're doing it for ease of implementation of the notification. Many different lenders have different times of the month when their mechanism triggers out the next notification. What we don't want to do is to cause two notices to be put out in

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one month and consequently, if the payment is too late, it would have been too late to have been triggered on the notice that automatically is coming out each month so that we wanted to maintain the integrity of the notice, which was essential, but we felt that if it missed the first cycling out of a computer by being caught in the second month, it was still effective notice to the creditor, to the borrower.

SPEAKER VAN NORSTRAND:

Rep. Rybak.

REP. RYBAK: (66th)

But through you, Mr. Speaker, Rep. Patton, why are we waiting sixty days after the charge has been imposed to notify somebody that they've been hit with a late charge?

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

Through you, Mr. Speaker, we're really not waiting sixty days. If per chance your payment was due on the first of the month, and they -- and the lender automatically triggers out notification of late payments say on the 16th of the month, and you really didn't make your payment until the 23rd of the month, you're going to catch it on the next month but you know, all of these cycles are going thirty

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days and many times the payment may not go in until after that first notice was coming out and so you catch it in that case on the next month's notice.

SPEAKER VAN NORSTRAND:

Rep. Rybak, you have the floor, Sir.

REP. RYBAK: (66th)

Mr. Speaker, one other question for Rep. Patton. With respect to Section 6, Rep. Patton, why are we changing what I think is fair warning that a borrower may engage an attorney of his choice, to say that a borrower may not be required by the creditor to be represented by the creditor's attorney and may waive the right to be represented by an attorney? Are we changing the whole thrust of the notice to the consumer/borrower in Section 6 with this amendment?

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

Mr. Speaker, through you, what we're trying to do is accomodate some of the problems that have been discovered in the marketplace. It was illustrated to us that some borrowers did not know that they could have their own attorney and it was illustrated to us that some lenders really do tend to intimidate borrowers by inferring that

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they should use the lender's attorney. The provision as it's written here is a reasonable attempt to ensure that the borrower is advised of his rights, that he doesn't have to have that bank's attorney, that he doesn't in fact even have to have any attorney, and this seems to be a reasonable presentation of that disclosure to the borrower.

SPEAKER VAN NORSTRAND:

Rep. Rybak.

REP. RYBAK: (66th)

Thank you, Rep. Patton. Mr. Speaker, members of the House, I find this amendment somewhat astounding. First of all, I know from personal experience that if you're a day late on making that payment, that late notice is in the mail. The computer spits it out and it's there. They have the mechanism. They do it right now, so I don't understand why we're going to give them 60 days after the imposition of the charge in which to mail notice. That I don't understand. Maybe give them a little time, but 60 days seems rather extreme.

With respect to Section 6, the file states exactly what the law is and a person's going to be warned that they may have legal interests that differ from those of the lender, that's very true; that they may engage an attorney of their own choice, that's very true; that they may not be required

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by the creditor to be represented by the creditor's attorney and that they may direct any complaints concerning violations to the Banking Department. I think that's straight forward language. That's plain language, plain talk, but instead we're going to (inaudible) it and take out a section of it with this amendment.

Mr. Speaker, I urge rejection of the amendment and I'll ask for a roll call vote on the amendment.

SPEAKER VAN NORSTRAND:

The gentleman has requested a roll call vote on House Amendment Schedule "A". Those in favor of a roll call please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

The 20% rule has been met. A roll call vote will be ordered at the appropriate time. Will you remark further on House "A"?

REP. WOODCOCK: (14th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. John Woodcock.

REP. WOODCOCK: (14th)

Thank you, Mr. Speaker. A question to Rep. Patton.

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SPEAKER VAN NORSTRAND:

! Please frame your question, Sir.

REP. WOODCOCK: (14th)

Thank you, Mr. Speaker. Through you, Rep. Patton, in your introduction of the amendment you mentioned that a number of parties had been involved in putting together the amendment, including certain consumer groups or consumer interests. Would you please tell me what consumer groups or consumer interests were involved in drafting this particular amendment?

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

Through you, Mr. Speaker, yes, I will tell you. The first consumer group, consumer interest of course is the Bank's Committee and the legislators that are here in the House and the Senate and this is -- and we all know that we are the best consumer group instituted in this state. We brought this before the Bank's Committee as a method of protecting and furthering the consumer interests of this state and in fact of course, that is the thrust of this. I also have talked to some of the good folks, the good lobbyists out there that have interests in consumer groups and have tried to get input from all

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of those parties as well.

SPEAKER VAN NORSTRAND:

Rep. Woodcock.

REP. WOODCOCK: (14th)

Thank you, Rep. Patton.

SPEAKER VAN NORSTRAND:

Will you remark further on House "A"? If not, staff and guests please come to the well of the House. An immediate roll call is ordered. Will the Clerk please announce that a roll call is in progress.

CLERK:

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

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

SPEAKER VAN NORSTRAND:

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.

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CLERK:

House Amendment "A" on House Bill 5978.

Total number voting	148
Necessary for adoption	75
Those voting aye	76
Those voting nay	72
Those absent and not voting	3

SPEAKER VAN NORSTRAND:

House "A" is adopted and ruled technical.

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House Amendment Schedule "A".

Delete lines 295 to 303, inclusive, in their entirety and the following is substituted in lieu thereof: "assessment as a result of a late payment on a note, mortgage or instalment sales contract unless the creditor issues a periodic statement which may include any delinquency charge, late fee, or similar assessment. Such notice shall be mailed within sixty days of the imposition of such charge."

Delete lines 309 to 320, inclusive, in their entirety and substitute the following in lieu thereof:

"(2) May not be required by the creditor to be represented by the creditor's attorney;

(3) May waive the right to be represented by an attorney;

(4) May direct any complaints concerning violations of this section to the banking department.

The notice shall be written in plain language and shall be signed by the consumer debtor to acknowledge its receipt."

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SPEAKER VAN NORSTRAND:

Will you remark further on the bill as amended?

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REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

The Clerk has a second amendment on the bill, LCO 3652. I would request the Clerk to call and may I summarize?

SPEAKER VAN NORSTRAND:

The Clerk -- would the gentleman repeat the LCO number again, please?

REP. PATTON: (119th)

Yes, Mr. Speaker, 3652.

SPEAKER VAN NORSTRAND:

3652. Would the Clerk please call LCO 3652 which will be designated House Amendment Schedule "B".

CLERK:

House Amendment Schedule "B", LCO No. 3652, offered by Rep. Patton and Rep. Ritter.

SPEAKER VAN NORSTRAND:

The gentleman has asked permission to summarize. Is there objection? Hearing none, please proceed.

REP. PATTON: (119th)

Mr. Speaker, this is similar to a bill that we did pass last week; however, it does pick up what I consider

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an oversight as we drafted it last week. This amendment would permit a debtor who incurs a debt in a foreign state while a resident of that state, to -- who subsequently moves to Connecticut to bring that loan contract with him to Connecticut for the debtor's convenience. I move adoption of the amendment, Mr. Speaker.

SPEAKER VAN NORSTRAND:

The gentleman has moved adoption of House "B".

Will you remark further?

REP. STOLBERG: (93rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, through you a question to the Chairman of the committee.

SPEAKER VAN NORSTRAND:

Please frame your question, Sir.

REP. STOLBERG: (93rd)

Mr. --

SPEAKER VAN NORSTRAND:

-- just as soon as the House comes to order. Will the House please come to order. We have a considerable amount of business left this evening. I ask members to

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give their courtesy to those who are addressing the Assembly. REp. Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, through you to the Chairman of the committee, is this amendment not in essence the exact same bill that was passed with essentially a change of no significance in order that more guns can be trained on the amendment that was passed on this bill when it went to the Senate, an amendment that passed -- and the bill finally passed with 11 negative votes in this Chamber, to try to save the bill so that they can kill it in the Senate? Through you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Patton, do you care to respond?

REP. PATTON: (119th)

Yes, Mr. Speaker, I would care to respond because that's a legitimate concern that I'm sure would be in the minds of many. The answer is absolutely not. The change that is in the amendment that lies before you is a very, very significant change. The change would make this movement of a debt available to the borrower for all debts that he has incurred, whereas what we did last week when we made it subsequent to the passage of the bill, it would make an administrative nightmare for the lenders

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to ever be able to administer when a debt was made and when it may be transferred to Connecticut so this makes legitimate the effort that we tried last week and in no way is a reflection upon what is up in the Senate in a slightly different form.

SPEAKER VAN NORSTRAND:

Rep. Stolberg, you have the floor, Sir.

REP. STOLBERG: (93rd)

Through you, Mr. Speaker, if that's the case, would the Chairman be willing to PR this bill until the other one is acted on by the Senate and then we can deal with this, through you, Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

Yes, of course, Mr. Speaker. I'd be very happy to respond. As a matter of fact, the Minority Leader did seek the permission of the Chair to speak while I thought I still had the floor, and even though I had moved for passage of the amendment, I thought I was going to have an opportunity to describe the amendment and to speak to the amendment. I would like to have that opportunity --

REP. STOLBERG: (93rd)

-- Mr. Speaker, I would yield to the gentleman for

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that, if he would like. I believe I was recognized but I would be happy to yield.

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

I do appreciate being able to finish because over here on the other side of me people were asking me questions that I did in fact intend to answer when I described the bill and I really would like to be sure I answer that before we go back and discuss the PR.

I was asked over here for a specific example of what we're really talking about and the most prominent use of this amendment is the sailor in San Diego, and particularly for servicemen. The guy in San Diego goes out and he buys a boat in San Diego, a serviceman and he's transferred, as servicemen are regularly transferred, and he's transferred to Groton at the Navy base and he's still got a boat payment that he's making. Our statutes presently do not permit the transfer of the contract that he entered into in San Diego to be moved to Connecticut. That's the purpose of this bill, to allow the movement of a contract so that the sailor who's now up in Groton can have his loan serviced in Groton so he can establish credit in Groton, so that if he has a problem with the loan he

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doesn't have to do it by mail to San Diego. If he wants to increase the amount of the borrowing he doesn't have to do it by mail. So that's the whole purpose of the amendment and now if I may, I would address the question by the Minority Leader of PR'ing.

There is no problem in our taking action here, and I hope we will, in adopting this bill and this amendment as it's written, because what's in the Senate is unyieldy. It would require every lender who enters into any contract for any serviceman to check to see when the statute in Connecticut was enforced and when his loan was enforced. It's an administrative nightmare so it's terribly important that we do do this and I see now reason to PR it now because this has still got a long journey ahead of it.

It's got to go to the Senate. We know that the bill that's up in the Senate is going to be coming down here and I've checked with LCO and they see no problem in passing both and merging them because the only difference is the implementation of the past debts vs. future debts, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

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REP. STOLBERG: (93rd)

Mr. Speaker, I'd like to know how the Chairman knows that the bill in the Senate will be coming down here? We've already acted on it.

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

I certainly will and I agree with you, Rep. Stolberg. It's stricted speculation but boy they do some crazy things up there and they're making a lot of changes on a lot of things and I'm just speculating, based on past experience that they're changing everything up there.

SPEAKER VAN NORSTRAND:

Rep. Stolberg, you have the floor, Sir.

REP. STOLBERG: (93rd)

Through you, Mr. Speaker, would not the Chairman hope along with me, that because of the lopsided nature of the vote down here, perhaps we have guided the Senate for a change to do something exactly right.

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

Through you, Mr. Speaker, I would offer not only

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my hope with you, but a prayer too to tell you the truth because I'd like to see those things go.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

REP. STOLBERG: (93rd)

Through you, Mr. Speaker, one more question to the distinguished chairman of the committee. Why was this amendment not drafted presuming that 36-243 as it had already been changed, was already up in the Senate, and just include lines 41-44 which provides the (inaudible) to do the clarification that the gentleman finds is necessary?

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

Through you, Mr. Speaker, I think I do. I think the question is why didn't we just change the implementation date instead of having all of the language. Probably because I just never thought of that. I knew what we did upstairs had that flaw in my mind because it really makes it impractical the way it is upstairs, and I just said well, geez, let's do it again. Let's make sure we get the date right and then -- and I also checked with LCO and they specifically said that I should make sure that

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they are identical except for that one discrepancy and then they could be merged together.

SPEAKER VAN NORSTRAND:

Rep. Stolberg, you have the floor, Sir.

REP. STOLBERG: (93rd)

Through you, Mr. Speaker, I would press my point with the chairman. If the other bill does not come back, then we could pass this and the clean up is done. If the other bill does come back, then indeed we have both of them before us and we could clean them up together. Thus, I would ask again why it is not more reasonable to pass retain this to protect what this Chamber has already voted by a vote of about 12 or 15 to 1? Through you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

! Rep. Patton, would you care to respond?

REP. PATTON: (119th)

It certainly is a very reasonable question and let me tell you why. The bi-weekly mortgage is perhaps the most important bill, or one of the most important bills to consumers of Connecticut that we have had before the Bank's Committee this year. In case you don't know what that is, that's the mortgage that allows 26 mortgage payments per year as opposed to the mortgages that are

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typically 12 payments per year. They are today the most popular mortgage in Connecticut but by our statutes they are not clearly permitted so that the priority for the lenders who are lending these bi-weekly mortgages, the priority for the Banking Commissioner was that we get our statutes straightened out before somebody challenges it. Clearly, that mortgage is one of the most valuable pieces of mortgage financing in Connecticut today, clearly it is terribly, terribly important that we process that through. I think it would be a mistake for us when we only have five days left to hold such a terribly important piece of legislation. I'd rather see it go through tonight, if this Assembly is willing. It's a terribly important bill and handle the next as it comes.

SPEAKER VAN NORSTRAND:

Rep. Stolberg, you have the floor, Sir.

REP. STOLBERG: (93rd)

Rather than pose further questions, I think it is fascinating that this grotesque flaw in this bill was found after this Chamber overwhelmingly expressed its feeling about usury level interest rates on credit cards. Then it was found that the vehicle for it had a problem. I wonder if we had not passed that amendment whether we would have ever discovered this problem? I think there's

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a serious question that we would not have. Again, I am going to urge everyone to vote against this if it's voted tonight and for that reason, Rep. Patton, I will ask one more time that you PR it so that indeed if it is necessary, it can have a life independent of the credit card rate.

At this time, Mr. Speaker, I would ask for a roll call vote on this amendment.

SPEAKER VAN NORSTRAND:

The gentleman has requested that when the vote is taken on House Amendment Schedule "B" it be taken by roll. We'll try your minds. All in favor of a roll call vote please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

The appropriate rule has been met. A roll call will be ordered when the vote is called.

REP. GELSI: (58th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Fred Gelsi.

REP. GELSI: (58th)

Mr. Speaker, members of this Chamber, I guess we

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should always be concerned with the lenders in this state because most of us whenever we want to do something if we can't go borrow some money we're not going to do it.

The problem I have, when we went with the interest rates from 12% to 15% to 18%, the lenders didn't come in here and say, do anything special because we don't know how we're going to differentiate when the loans were taken. They knew when they were taken. They knew how to take care of it and believe me, if you can remember what your bills and your loans were in those days, you know that they took care of it.

Just to follow up, I'd like to ask a couple of questions of the Chairman of the Banks Committee.

SPEAKER VAN NORSTRAND:

Please proceed, Sir.

REP. GELSI: (58th)

Rep. Patton, you gave some indications that we should be concerned about sailors moving from San Diego to Groton. What type of loans would they have been, a finance -- household finance or that type of thing or Sears or what type of lending institutions were you referring to, Sir?

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

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REP. PATTON: (119th)

Through you, Mr. Speaker, to the best of my knowledge you've named them right there; household finance loan, a Sears Roebuck loan, any of the typical consumer credits that you would enter into in your daily borrowing and daily purchases.

SPEAKER VAN NORSTRAND:

Rep. Gelsi.

REP. GELSI: (58th)

I like to thank the Chairman for that answer. I very seldom talk about my years in the service, but I happened to have spent 20 years in the United States Navy, traveled from the east coast to the west coast, out to Hawaii and everywhere's else and all those institutions that are already mentioned, never really gave a damn where I was stationed. They knew how to charge the interest, they knew how to get their money and they always got it, and I think it's a bad bill. Defeat the amendment. Defeat the bill.

SPEAKER VAN NORSTRAND:

Will you remark further on House "B"?

REP. DILLON: (92nd)

Mr. Speaker.

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SPEAKER VAN NORSTRAND:

Rep. Patricia Dillon.

REP. DILLON: (92nd)

I'm sorry I wasn't listening to all the interchange between the Chair of the Committee, Mr. Speaker, but through you may I ask a question to the proponent of the amendment?

SPEAKER VAN NORSTRAND:

Please frame your question.

REP. DILLON: (92nd)

Yes, the file copy of the bill to which the interest rate reduction was attached included language which specified that the change from one state to another could be -- must in a state which was not contiguous to the State of Connecticut and I mention that because it was to prevent people from sort of shopping around. I'm looking at the language of this particular bill which theorhetically addresses the same problem and I don't see any language mentioned contiguous.

Through you, could you mention why that is not there because I think that would be a problem with the amendment?

SPEAKER VAN NORSTRAND:

Rep. Patton, do you care to respond?

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REP. PATTON: (119th)

Yes, Mr. Speaker, and I'm going to have to apologize. As I understand the question, it's why is this not limited to contiguous states?

SPEAKER VAN NORSTRAND:

Rep. Dillon, could you repose your question for Rep. Patton?

REP. DILLON: (92nd)

Mr. Speaker, I will repose the question. There was specific mention of noncontiguous states in the file copy of the previous bill to prevent abuse, people going over Connecticut borders and bypassing our own state institutions and it was to underline the fact that it was to address, for example, someone who took out a loan in good faith in Kansas and then moved to Connecticut, rather than someone who would drive over the border into Massachusetts and taking advantage of loan interest rates there and then coming back here and trying to get it transferred here.

The question through you again is to ask why the word contiguous has been removed if the language in this amendment is indeed meant to address the same problem that was addressed in the file copy?

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SPEAKER VAN NORSTRAND:

Rep. Patton would you care to respond?

REP. PATTON: (119th)

Yes, Mr. Speaker. I'll respond as best I can. The bill which is now an amendment is solely for non-residents of Connecticut who enter into financing contracts while they are residents of other states, any other state, who subsequently become residents of Connecticut and then bring their loan with them.

SPEAKER VAN NORSTRAND:

Rep. Dillon.

REP. DILLON: (92nd)

Thank you. I still have serious questions about the removal of that language, partly because of the traffic between New York and Massachusetts and Connecticut and I think that was a safeguard in the original file copy. Thank you very much.

SPEAKER VAN NORSTRAND:

Thank you. Will you remark further on House "B"?

REP. STOLBERG: (93rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

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REP. STOLBERG: (93rd)

Mr. Speaker, I'm going to ask another question of the Chairman. I have before me file 351, which we passed, along with the amendment and I have before me LCO 3652. Would the Chairman of the committee show me where the differences are between the amendment before us and the file copy that we already dealt with? If he could refer to the lines I would be grateful.

SPEAKER VAN NORSTRAND:

Rep. Patton, would you care to respond?

REP. PATTON: (119th)

Yes, I would. I'm going to have to dig to get file 351 that the Minority Leader makes reference to.

REP. STOLBERG: (93rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Stolberg.

REP. STOLBERG: (93rd)

In order to spur the gentleman on, I'm going to rise to a Point of Order, that the amendment before us is not properly before us, that it is an item already considered in file 351, and therefore, I would urge the Speaker to examine both items and if indeed this item has already been dealt with, I ask the ruling that it is

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not properly before us.

REP. STOLBERG: (93rd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Mr. Speaker, at this point I would withdraw my  
Point of Order.

SPEAKER VAN NORSTRAND:

The gentleman has withdrawn his Point of Order that House Amendment Schedule "B" is identical to material taken up previously in another file.

Will you remark further?

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Gerald Patton.

REP. PATTON: (119th)

In order to expedite the proper flow of this bill, I would withdraw amendment -- let me make sure I get the right LCO No. 3652, at this time.

SPEAKER VAN NORSTRAND:

The gentleman has withdrawn LCO 3652, House  
Amendment Schedule "B". Is there objection? Hearing none,  
the item is withdrawn.

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REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Patton.

REP. PATTON: (119th)

I think at this point we have placed the first amendment on this bill and at this time I would address the bill.

I would just caution everybody to let this business -- to not let this business that's going on here interfere with our proper judgement on this bill. This bill is what makes proper bi-weekly mortgages in the State of Connecticut and today they happen to be probably the most sought after mortgages in Connecticut so it's crucial that we adopt and legalize, if you will, bi-weekly mortgages.

This bill further goes on to give notification to borrowers if they are being charged fees and they don't know it. That clearly is a consumer protection devise that we're going to put into our statutes. The next part is to serve borrowers notice of their rights with regards to attorneys.

I jsut hope you will grasp the fact that what we're trying to do here is for the people of Connecticut to have better banking laws than they presently have and

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I would urge everybody to understand the meaning of the bill before us and please, let's not get this other business off the track. Let's get this bill out and pass it the way it should be.

SPEAKER VAN NORSTRAND:

Will you remark further on the bill as amended by House "A"?

REP. RITTER: (2nd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Ritter.

REP. RITTER: (2nd)

Thank you, Mr. Speaker. Veru quickly, I would just like to reiterate what Chairman Patton said. Commissioner Brown testified before our committee, wanting to make sure that any bi-weekly mortgage written in the State of Connecticut would be done so legally and I know that the Department has allowed them to write them but I think this would make sure that our statutes are in accordance. I would hope that we would all vote for it. Thank you.

SPEAKER VAN NORSTRAND:

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

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call is ordered. The Clerk will please announce that a roll call is in progress.

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.

SPEAKER VAN NORSTRAND:

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

CLERK:

House Bill 5978, as amended by House "A".

Total number voting 149

Necessary for passage 75

Those voting aye 139

Those voting nay 10

Those absent and not voting 2

SPEAKER VAN NORSTRAND:

The bill as amended is passed.

There will be a number of announcements. I would ask the members to please pay attention. Rep. Felming.

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PART 9  
2910-3313

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it says he may suspend. I don't think that goes far enough. I think that that's not what the public wants to see and I don't think that's what a lot of us here want to see. I think we should be a little bit stronger and maybe we should be asking a little bit more of the legal profession when it comes to those things. Other than that, again, I want to congratulate Representative Shays and on this Bill. I know he's worked long and hard on it and I have no problem with putting it on consent. Thank you Mr. President.

THE CHAIR:

Further remarks? Any objection to placing on Consent?

Hearing none, so ordered.

THE CLERK:

Page 12 is another Judiciary Bill. Senator Smith, page 12 is another Judiciary.

SENATOR SMITH:

628 on page 12.

THE CLERK:

Page 12, Calendar 628, Substitute for House Bill 5978, File 388, AN ACT CONCERNING MORTGAGE PAYMENT SCHEDULES, LATE FEES AND MORTGAGOR'S RIGHT TO COUNSEL, as amended by House Amendment, Schedule A, Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Eaton.

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SENATOR EATON:

Yes Mr. President. I move the Bill as amended by House A.

THE CHAIR:

Will you remark?

SENATOR EATON:

Yes, thank you.

THE CLERK:

I have an Amendment.

SENATOR EATON:

Oh, I'm sorry. Do you have an LCO number on that?

THE CLERK:

3775.

SENATOR EATON:

Just give me one moment, Mr. President, while I check that Amendment.

THE CLERK:

Introduced by Senator Giulietti.

SENATOR EATON:

Does that Amendment have a title on it, Mr. Clerk? I think that may have been withdrawn.

THE CLERK:

○ Adds a new Section 7.

SENATOR EATON:

I'd like to withdraw that Amendment if I may.

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THE CHAIR:

All right. The Amendment is withdrawn. All right. You may proceed with an explanation of the Bill.

SENATOR EATON:

Thank you Mr. President. This is the so-called bi-weekly mortgage Bill that permits banks to issue mortgages and consumers to pay them on a twice monthly basis as opposed to a once monthly basis. This actually helps the consumer in that it enables them to divide their mortgage payments to make smaller payments twice a month, rather than having to take the entire payment out of their pocket once a month.

In addition to that, it helps put more money into the bank earlier for reinvestment in more mortgages. In addition to that, it provides for a notice on payment of late charges and for notice with regard to attorney's services. Mr. President, if there is no objection, I would move this Bill to the Consent Calendar.

THE CHAIR:

Senator Smith.

SENATOR SMITH:

Mr. President, I believe the Chairman of the Finance Committee is now prepared to proceed with his presentation on Calendar 376, so if we could call that item.

THE CHAIR:

Mr. Clerk.

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would then be subject to judicial review which would make the final decision in a settlement of the dispute.

THE CHAIR:

Further remarks? Any objection to placing this on Consent Calendar? Hearing none, so ordered.

Clerk please make an announcement for an immediate Roll Call on the Consent Calendar.

THE CLERK:

An immediate Roll Call has been ordered in the Senate. Will all Senators please return to the chamber. An immediate Roll Call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber.

THE CHAIR:

Please give your attention to the Clerk who will now read the items that were referred to the Consent Calendar.

THE CLERK:

Page 1, Calendar 376, Substitute for House Bill 5167.  
Page 3, Calendar 530, House Bill 5987. Page 4, Calendar 558, House Bill 5208. Page 6, Calendar 597, Substitute for House Bill 5178. Page 7, Calendar 598, House Bill 5347; Calendar 599, House Bill 5796; Calendar 600, Substitute for House Bill 6107; Calendar 602, Substitute for House Bill 5874. Page 8, Calendar 604, Substitute for House Bill 6154. Page 10, Calendar 620, Substitute for House Bill 5150; Calendar 621, Substitute for House Bill 5171. Page 11, Calendar 623, House

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Bill 5455; Calendar 624, Substitute for House Bill 5769;  
Calendar 625--I'm sorry, 626, Substitute for House Bill 5279.  
Page 12, Calendar 628, Substitute for House Bill 5978.

THE CHAIR:

Any changes or omissions? The machine is open. Please record your vote.

THE CLERK:

An immediate Roll Call is in process in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

I just ask for your indulgence. I think there are a couple of Senators that may be down in the other chamber. Senator Eaton and Senator Kevin Johnston. The machine is closed. Clerk please tally the vote.

The result of the vote:

32 YEA

0 NAY

The Consent Calendar is adopted.

Senator Avallone.

SENATOR AVALLONE:

Yes Mr. President, I was out of the chamber for Calendar 625. May I be recorded in the negative?

THE CHAIR:

The record will so note.

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COMM. BRONW: (continued)

offering testimony on Raised Committee Bill 5826, An Act Concerning the Establishment of Branch Offices by Banks. And I will be offering a substitute bill which I would hope that the committee would favorably consider. That substitute bill is contained in the package. I'll also offer testimony on Raised Committee Bill No. 5978, An Act Concerning Bi-Weekly Payment of Mortgages and I will also request that a substitute bill will be favorably considered.

With you permission, I would like first to consider, Raised Committee Bill No. 5978, An Act Concerning Bi-weekly Payment of Mortgages. The issue of the Bi-weekly mortgages first arose in January of 1984. An attorney made a request on behalf of a savings bank client for legal interpretation of a statute pertaining specifically to savings banks writing 80% to value mortgages. The question under the statute was inasmuch as the language of the statute spoke specifically to the writing of monthly, quarterly or semiannual mortgages, whether or not the writing of bi-weekly mortgages under their statute was permissible.

The legal conclusion was that it is not permissible under that statute. As I mentioned that was in January of 1984. Not, a hair was raised, business went on as usual. I was asked to reconsider that opinion as acting commissioner. I reiterated the same conclusions drawn from the review that had been made back in January of '84 and things got a bit muddled, to put it mildly.

Now, I believe that conclusion is legally sound. Even -- two things, one, is a matter of legal construction where a thing is stated specifically as to how it should be accomplished in the statute. Then, any manner not expressly stated is therefore, not included, and therefore, not permissible. The second basis for that opinion has to deal with the conclusions reached under the parity bill that you considered last year. It was concluded that savings banks would not be granted incidental powers until 1988.

Therefore, unless the language is expressly stated in the statute, it's not permissible. That is not to say that actions would have been taken against the banks which continue to write it. They were merely put on notice

COMM. BROWN: (continued)

that there may well be another defense raised on defaulted mortgage. The bill which was raised does not do what the draft bill that I have submitted does. It does not address the issue. It merely super imposes the language of the term biweekly onto the provisions of the statute. Neither does it address the present language of the statute which requires payments of tax obligations in one-twelveth, annually over one-twelveth increments.

If the institutions are allowed to write biweekly mortgages, then certainly the one-twelveth payments of tax obligations has to be corrected also. The bill which I have submitted which is in your package does that. And I would hope that you would favorably consider that. The next bill which I --

REP. PATTON: Rep. Flinn has a question please.

REP. FLINN: I have a question please on the biweekly mortgage bill. Mr. Commissioner, if one were a die hard and wished to be consistent with previous opinions that there shouldn't be 90% mortgage laws, but 80% was an appropriate figure, a, I'd be interested in what such a person should do with this bill, and b, do you have any opinion yourself on the suitability of having 90% mortgage loans?

COMM. BROWN: Well, presently, Rep. Flinn, the power to write those mortgages is in the statutes.

REP. FLINN: I voted against them, sir.

COMM. BROWN: The -- as I indicated, it's in the statutes, presently it's up to the management of the banks to look at their appraisals and make a determination as to what -- which segment of the market they wish to be in. I really don't see safety and sound issues -- that's the specific issue without studying it further, I don't think I could respond to it beyond what I've stated.

I will now move on --

REP. PATTON: Excuse me, Commissioner, while we're on that one we might as well get those questions. Sen. Eaton.

SEN. EATON: In drafting the bill a question came up in discussion of the preliminary, the drafting of the LCO, with

SEN. EATON: (continued)

regard to the disparity in the language in the regional bill and the apparent attempt to allow biweekly and/or semimonthly mortgage payments. I think your point is well made that we ought to specifically define what it is we do so that there is no question as to whether biweekly means twice a week or twice a month.

However, the discussion which we had vis-a-vis the language that was originally prepared indicated that presumably under the -- (gap in changing of cassette)

-- or a 7-1/2 day mortgage or any other kind of configuration that whoever was writing the note and signing it might wish to have and that could present a creative network of mortgage loans out there that could confuse the consumer by having not so much choice, but key situations that would be difficult for consumers to define what the actual costs or what the terms were what the impact on that would be under that mortgage.

And while flexibility might be desirable if you have expect a mortgage with a term of one to 365 days or 750 days or whatever it may be that exposure to the consumer would be a very difficult situation and a realistic appraisal by the consumer of what he or she was entering into in terms of a mortgage agreement might be very difficult. So I'm wondering whether or not there isn't some new ground so that we're not creating too many different types of mortgages as there are grains of sand on the beach, but are in fact, dealing with the desire of the financial institutions in the state in order to simply legalize what many of them have already done and/or wish to do.

COMM. BROWN: What we attempted to do and I assume you're referring to a language which says that the bank may write mortgage notes in at least semiannual terms which means that can certainly write them more frequently which gets to the biweekly issue that allows them to write them biweekly. It will also grant the flexibility to that bank and the mortgagor to fully negotiate whether they wish to pay biannually, biweekly, quarterly, every other month, six payments per year. There is a wide range of reasonable terms which may come into play by keeping it open and allowing the two parties to fully negotiate.

COMM. BROWN: (continued)

The problem with tying the language down specifically is that there may be -- well, specifically, to refer to bi-weekly, that it takes away from the flexibility of that mortgagor and mortgagee to further negotiate their terms. Now, the contracts in any other setting are open to negotiation, and it's my position that the mortgage payment notes should be open to negotiations. They're also the lein payment features that we're finding now which would have to be specifically addressed in this if we were to attempt to very specifically point out each and every instance of how a mortgage could be written.

We also have the protection of the truth in lending act which would require a full disclosure of the terms and how the interest rates would accrue. So, I think with that in mind, plus the thought that the segments of the public who are looking for mortgages are going to be reasonable and not accept terms which clearly are not reasonable, they walk out of that bank and go to another one, I think it's reasonable to assume that this approach is sound and that the public will not be duped into paying mortgages every day, or every other day.

I think your concern certainly is something that should be reviewed, but I think its been adequately handled.

SEN. EATON: It seems to me, Commissioner, this could be very expensive legislation to a administer (inaudible) with regard (inaudible), of course the world is basically accustomed to a 30 day mortgage. Now if, and competitive rates based on people (inaudible), if we started seeing mortgage lenders, not institutional lenders, but advertising 7-1/2 percent right now, based on a 21 day term, people might go rushing in their thinging that (inaudible) a lot cheaper than the friendly savings bank down the corner compared with the last 35 years, (inaudible) when in fact they will end up more costly than that competitive loan from the friendly savings bank.

And we get these kind of rate wars which really aren't rate wars at all, but are term wars. All we are doing is reducing the time, it doesn't make it appear that they are reducing the cost of the consumer, when in fact -- that's my concern, and it seems to me that the more limiting the

SEN. EATON: (continued)

language properly defined (inaudible) what the financial institutions could ask that (inaudible) job. Now if the other testimony come along to elucidate on that, but my principle concern is the information that was (inaudible) from advertising.

COMM. BROWN: May I say one clarification, Senator, the (inaudible) in mortgage (inaudible) that I have provided, does not address the terms of the loans, address the duration of the mortgage commitment. It is merely the moment of payment, the moment of sequential payment.

SEN. EATON: The effective annual yield of that loan (inaudible) and the effective interest rate of the mortgagee, under that loan agreement.

COMM. BROWN: It will affect the interest rate, certainly it will, which is what we are trying to (inaudible), but I quite frankly don't see the abuses taking place which you mentioned. There -- just to look historically, we have had several banks which were offering a biweekly, and they didn't have authority to do that. And those abuses didn't occur. I don't think you are going to see that take place and if we do see it take place, I have ample powers to move against the banks within the state without coming back for additional legislation to correct that.

If I determine that it is deceptive trading -- deceptive practice in that it raises issues which (inaudible) portfolio, I can go in and have them cease and desist. And so I think the protections are there. I think we have adequate safeguards.

REP. PATTON: Rep. Gilligan had a question.

REP. GILLIGAN: I just wanted to clarify one matter, Commissioner, the thrust of this bill is to amend the savings banks power statute, correct?

COMM. BROWN: No, sir. The issue arose with the savings banks, but to make sure that it is clear, we have also amended the savings and loans statutes, the savings bank statutes, the commercial banks statutes, to make sure that it is (inaudible).

REP. PATTON: Any other questions on the -- yes.

REP. GILLIGAN: Yes, I have another question and someone has borrowed my copy of the file, but the very last section of the proposed bill seems to deal with the totally different subject matter from the title. And I am wondering if you could tell us roughly what the impetus of that section, Commissioner, that section 4 dealing with -- well, it goes on and on, consumer --

COMM. BROWN: I believe that is the bill we raised which is the one that I am suggesting that the committee not consider. There was some additional revisions that were tacked on to the draft of the bill which I initially submitted which addressed only the issue about the mortgage, and that's another reason of course why I hope you would accept my substitute bill and favorably consider.

I don't view the biweekly mortgage issue as the probably didn't tack on other issues that may jeopardize the passage and clarification that I am attempting to have established. Thank you.

REP. PATTON: Any other questions.

REP. RITTER: I just have a comment and I was going to wait until later, but not that it has been brought up, and I (inaudible) quite appropriate that we don't have bills before us earlier in these tell us the subject matter of what the bill is going to me, come back to the bill and it is a totally different, has provisions in there that have nothing to do with the bill, and I am sure we can remedy it later, but I think your members as well as our members should know that we are trying to go ahead in good faith, and all of a sudden they come in with the provisions of a bill that have totally nothing to do with what was described or voted on, and I think it is not easy to go ahead in good faith and I just wanted to have that on the record.

REP. PATTON: Any other questions on the biweekly, Commissioner, otherwise we'd ask you to go on to your next bill.

COMM. BROWN: Thank you, Mr. Chairman. The next bill which I will (inaudible) Raised Committee Bill 5826, An Act

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REP. PATTON: Any questions from the committee? And I thank you for your testimony.

SEN. EATON: Just one thing, Larry. I would personally like to thank you for your testimony. You darn near gave me goosebumps when you started talking about social responsibility, and I am pleased to hear that come from your association and to hear your remarks in that regard. If I might ask you if you could make an effort to talk with the co-chairs of the committee to see what we can do to tinker with the language to make it appropriate yet keep the intention of the bill and the provisions alive, and I am very pleased to see this spirit of cooperation on the part of banks.

MR. BENTLEY: Senator, thank you very much.

REP. PATTON: I should mention also that Rep. Foley and Rep. Wollenberg quite some time back joined us. Next, the next speaker would be Sheldon Pollock.

SHELDON POLLOCK: Good afternoon, my name is Sheldon Pollock. I am the Chairman of the North American Bank & Trust Company and I am a member of the Executive Committee of the Connecticut Bankers Association. I appreciate the opportunity to speak to you this afternoon about some provision of Bill No. 5978, An Act Concerning Bi-Weekly Morgages. While we generally support the measure, we feel compelled to bring to your attention our concern with provisions of the bill which we believe will adversely affect our ability to see loans in the secondary mortgage market.

Section 1-3 of the proposed act deal directly with the issue recited in the Bill's title, by inserting corrective language at various places in the existing code granting permission for State chartered banks to offer loans with Bi-Weekly repayment schemes by inserting a specific reference to this payment method. Since these loan programs were introduced in recent years, they have been proven to be very popular with consumers and lenders as well. Many workers are paid on a bi-weekly basis and the repayment method affords them the opportunity to more readily budget this major expenditure. In addition, since there are more frequent payments to principle, and under many programs effectively one additional monthly principle

MR. POLLOCK: (continued)

each year, the loans amortize much faster at a constant dollar expenditure affording the consumer a significant overall savings on loan interest. At the same time, the shortened maturity generally permits lenders to offer more favorable rates for these loans, enhancing the consumer benefit. Lenders are moved to bid aggressively for these loans since their shorter maturities help to reduce the institution's exposure to some of the long term interest rate risks which have so devastated them in the past.

Through this technique, lenders can afford the stable, long term fixed rate financing that most consumers prefer, in a way in which increases its appeal to both the borrower and lender. And consumer acceptance of these loans, evidenced by strong proven demand for them in the Home Loan Market, ratifies the validity of the lending approach.

We strongly believe that this market based evidence should not be ignored and urge that the permissive modifications contained in Sections 1-3 of HB 5978 should be adopted.

However, it should be broadened to include periodic payment mortgages that may be developed in the future in response to market demands, such as the commissioner is proposing. We are concerned however with the effect of Section 5 and 6 of HB 5978 which raises issues related to the earlier sections of the bill and matters which we believe could impede the efficient flow of mortgage capital to Connecticut borrowers.

Section 5 attaches additional notice requirements to loan collection procedures in order to allow lenders to collect late fees or additional finance charges on delinquent accounts. While at first blush this new requirement takes on the guise of "Consumer Protection", it should be noted that it serves to protect consumers who have failed to meet the obligations of their debt agreement. A substantial minority of all borrowers, and who are those exposed to penalties of which they have already been notified in the debt instrument, in the various disclosures they receive when a loan is taken out, such as the truth in lending disclosures mandated by both federal and state law.

MR. POLLOCK: (continued)

Delinquent loans pose a cost to lenders which must and will be made up from revenues generated in the ordinary operation of their business. Late fees are a method of allocating this burden to the customers whose actions create the cost. If these fees were not imposed, all borrowers would bear this cost in the form of higher rates, a grossly unfair outcome.

The nature and extent of these fees are already disclosed and I believe are well understood by borrowers. Additional notification requirements don't serve an information or disclosure purpose, rather they are an attempt to create a loophole by which borrowers can escape this penalty unless the lender follows yet another technical procedure. To be sure, lenders in Connecticut will adjust their procedures, the loophole will quickly be closed, and no one will be harmed, directly. But there is no such thing as the free lunch. The additional computer, labor, legal, postage and other expenses associated with this unnecessary burden will be paid for by all borrowers, those who are delinquent and those who are not, but Connecticut lenders are not the only ones involved. The low mortgage rates we see today reflect an efficient national market where loans are freely transferred among lenders to satisfy basic supply/demand relationships throughout the country.

It has recently been estimated that of the \$3.2 billion in residential mortgage loans in Connecticut last year, nearly 60% found their way to out-of-state investors. While the problem affects all loans sold to out of state investors, the situation is most acute for loans sold on a "servicing released" basis. That is loans on which the payment collection and administration responsibility is transferred with the purchase. In these cases, the investor may not be aware of the requirement to send this additional notice or may be unprepared to do so.

Fortunately, most loans are sold on a servicing retained, rather than released basis, and the continued involvement of the original lender would assure compliance. However, I would estimate that as much as 10% of the loan sale activity in Connecticut is on a servicing released basis, perhaps amounting to \$300 million a year. Faced with requirements such as this, it is likely that investors who

MR. POLLOCK: (continued)  
specialize in purchasing service released loans will perceive an inhospitable lending environment in Connecticut, and begin to withdraw from the market.

In their view, why should be invest here and risk penalties from unusual requirement when they can invest elsewhere without such risks?

This would be a most infortunate thing for Connecticut borrowers, since these lenders typically offer preferential rates for the loans they purchased, even though they are a minority in the market, they do exert a restraining discipline on prices that would not exist in their absence.

Indeed, to some degree, this effect is already in evidence. Servicing rights to mortgages have a certain value, and with loan types that are freely traded, such as FHA and VA loans, investors pay a specific "premium" above market prices for these rights. The amount paid jfor these rights varies from state to state, reflecting the cost of loan administration in each state, and Connecticut, I am sorry to say, ranks among the lowest state for these premiums. Where a California lender may realize a 2% premium, for a loan generated in that state, a Connecticut lender is more likely to receive a 1.3% or 1.5% premium for rights to similar loans. However, and moreover, several national investors simply refuse to bid on Connecticut loans because in their judgment, our regulatory environment makes servicing uneconomic.

While these concerns may seem to reflect gains to the lenders than to the borrowers, most sellers of these loans tend to be smaller banking organizations and typically the value of this premium is cranked into their pricing, thus passing the banefit through to the retail market. This is the depressent effect on pricing that I spoke of earlier, and it seems realistic to assume that at least a significant portion of any additional premium realized because of a more hospitable lending climate would also be passed through and would inure to the benefit of all Connecticut borrowers.

Because of the prospective effect of this proposal on our ability to attract funds in the national secondary market,

MR. POLLOCK: (continued)

we recommend against adoption of provision of Section 5, of HB 5978.

Section 6 of the proposed bill addresses the requirement by most lenders that the borrower pay the cost of the lender's legal representation in preparing loan documents and conducting settlements. Lenders require that their own counsel prepare the loan documents and review the title report on the proposed security property to assure that they, their depositors, stockholders, and prospective investors for the loans are adequately protected in the transaction. It is evident to most borrowers that their interests are not entirely coincident with the lenders, although in many areas they do coincide and most borrowers retain their own counsel to protect their interests.

The lender's cost of legal counsel, like all lending costs, must be recovered through operations, and the custom of charging the borrower for these services is again a matter of apportioning costs to the events or actions that cause them. To do otherwise would simply result in the costs of being picked up in another way, most probably higher rate for loans which would I believe discriminate more against borrowers than the current practice does.

The issue of controlling the costs surrounding the home purchase and loan closings, has long been regulated by the federal sector, most notably in the real estate settlement procedures act, which you all know as RESPA and the question of who pays whom for what was reviewed in much detail when that act was adopted. But no restriction was placed on the present custom at that time precisely because acceptable alternatives could not be developed.

Borrowers also received good faith estimates, which by law enabled them to shop around for the best deal. If they find that the closing costs at one institution are out of line, surely they will go elsewhere. While our present practice may see less than idea, and I grant you that the extent of reform efforts over time suggest that it appear that way, it effectively apportions costs in the most efficient manner yet developed, and the proposed restriction would, I believe, lead to a more restricted market for home loans because of higher rates.

MR. POLLOCK: (continued)

Accordingly, we recommend against the adoptions of Section 6 of HB 5978, and in summary we recommend the adoption of Sections 1-3 of the proposed 5978, in that a valuable and marketable consumer product would be available to Connecticut borrowers.

We oppose the adoption of Sections 5 and 6 of the proposed bill because we believe that their provisions ultimately would lead to higher rates for home buyers in Connecticut. Thank you for affording us the opportunity to express our views on these matters.

REP. PATTON: Any questions? Rep. Wollenberg.

REP. WOLLENBERG: Yes, you referred to the Section 6.

MR. POLLOCK: Yes.

REP. WOLLENBERG: In your dissertation, you referred to the banks attorney reviewing the title document, but generally the attorney whose -- and he not the bank's attorney necessarily, he is hired by the bank to do the mortgage deed, the note, and the rest, and he normally, it is more the rule I think in Connecticut, mortgage companies especially that attorney does the title work too. He just doesn't review it.

MR. POLLOCK: That's true.

REP. WOLLENBERG: So he doesn't just review it.

MR. POLLOCK: No, the borrower's attorney often will provide the various title policies that are required, that's true.

REP. WOLLENBERG: Why --

MR. POLLOCK: -- the bank attorney would certainly review what was being submitted. He would have to review the exceptions, wouldn't he?

REP. WOLLENBERG: I don't mind --

MR. POLLOCK: That's what I think I had reference to, probably wasn't elegant --

REP. WOLLENBERG: Well, he doesn't review his own work so if he does it himself, he doesn't review it. He does it.

MR. POLLOCK: Yes. If he -- I guess I don't follow you.

REP. WOLLENBERG: The bank attorney, somebody, could be any firm.

MR. POLLOCK: Right.

REP. WOLLENBERG: The bank calls to represent them in all their closings, --

MR. POLLOCK: Right.

REP. WOLLENBERG: Or they work through a mortgage company, or this person does the mortgage deed and note, he does the RESPA, and he also many times does the title work. Writes the policy, --

MR. POLLOCK: Some lenders allow that, some don't.

REP. WOLLENBERG: Most, what we are getting at there is most say they have to do it. And it is all a matter of dollars, I mean, we know that. It is just that you make a deal with the guy to do the closings, he can't do them for \$250, but he can do them for \$375, and then he gets part of the title policy. It is all a matter of dollars. So then someone comes to represent the borrower, and everybody says you can have your own attorney, the borrowers attorney sits there, he can't tell him anything about the title, which is pretty important to the home buyer, whether there is an easement here to not, he defers to the bank's attorney to tell him about his property.

MR. POLLOCK: What you are saying is the attorney would abrogate his rights, that he was engaged by a borrower and he would just walk away and say this lawyer it, I don't care --

REP. WOLLENBERG: He is not going to charge you for another title search or another title policy --

MR. POLLOCK: But he certainly is going to review it. I can't imagine that an --

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REP. WOLLENBERG: He is not going to review the search for -- you know, and the attorney that is employed by the title company or I mean by the mortgage company, or the bank, says to the borrower, hey, I can do it for you for \$100, represent you too. It is all a matter of dollars, and we know that.

But why does the -- why can't the borrower's attorney do the title search, give the title policy, and represent his client?

MR. POLLOCK: The bank is representing its own interests, okay. It may not have the same confidence that the --

REP. WOLLENBERG: We are giving title insurance, the same title company.

MR. POLLOCK: We might not have the same confidence in the work that is done, not all closings have title insurance.

REP. WOLLENBERG: Almost all in Connecticut today.

MR. POLLOCK: Fortunately, many of them do. But not all --

REP. WOLLENBERG: Almost all.

MR. POLLOCK: Not all of them do.

REP. WOLLENBERG: Almost all. Will you agree with me?

MR. POLLOCK: I'll agree with you that not all of them do. I don't have a figure on that.

REP. WOLLENBERG: Okay.

MR. POLLOCK: But the question that you are raising is why (inaudible) where there is no title policy shouldn't the bank have the right to review that.

REP. WOLLENBERG: I don't have a problem with that. Let me do it if there is no title policy. But most of the banks, believe me, whether you know it or not, most of the banks require title insurance. And you can write Chicago, you can write whatever the Commonwealth, you can write lawyers, you can write Connecticut, give you anyone you want, and it is the same policy insuring the same loan, what is the bank care who does it?

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- MR. POLLOCK: Well, that isn't exactly what this bill is suggesting, just the title policy. You are picking up on only one thing.
- REP. WOLLENBERG: Oh, yes, I am just picking up on one phase of it.
- MR. POLLOCK: I think that your point is well taken.
- REP. WOLLENBERG: Okay.
- MR. POLLOCK: Let's take the other documents, Rep. Wollenberg, and the documents that come from attorneys who are -- who may represent the borrower, but who are not well trained in certain nuiances of some of these adjustable rate notes, and so forth, you know what happens--
- REP. WOLLENBERG: You can do the note. You can do the note and mortgage. Your person can do that. I don't have a problem with that.
- MR. POLLOCK: Yeah, but that's not what Section -- that's where I (inaudible) section 6, it talks about the closing, of course.
- REP. WOLLENBERG: Maybe we are going half way. Maybe I'm going half way. I'm not going all the way on that.
- MR. POLLOCK: Okay.
- REP. WOLLENBERG: I don't disagree with you totally on that.
- MR. POLLOCK: Maybe there is a way to get together and working some of this out.
- REP. WOLLENBERG: It should be fine, sir.
- REP. PATTON: Mr. Pollock, I heard a couple of questions, to tell you the truth, I find that about it probably easier to move the White Cliffs of Dover than to move the banking industry into consumer issues.
- MR. POLLOCK: Of couse, we feel the same about this committee sometimes, Rep. Patton. We would like to bring you into the real world.

REP. PATTON: Well, I think we are in the real world, but to tell you the truth, so I would ask you to --

MR. POLLOCK: -- (inaudible) from one group to another group, I don't know if that is the real world.

REP. PATTON: Well, let's talk about that. Is it conceivable for example that a bank could mislay a mortgage payment or a payment that goes into their mailroom.

MR. POLLOCK: Yes, of course.

REP. PATTON: It is possible.

MR. POLLOCK: Yes.

REP. PATTON: Without the provisions that we are talking about would the sender of that check ever know that that payment was late?

MR. POLLOCK: Yes.

REP. PATTON: No, he wouldn't.

MR. POLLOCK: When we go to pay it off, they would get some kind of bill for it.

REP. PATTON: Would that be as much as 7, 8, 10 years later?

MR. POLLOCK: It might be?

REP. PATTON: So you are suggesting to me that because the bank error, in 1973, that the borrower in 1986 should be charged additional funds?

MR. POLLOCK: No, I am merely saying that that is where the notice would come in some cases, and I am sure that they can resolve this.

REP. PATTON: Surely, people can resolve this. Can you tell me how a borrower resolves when a bank tells him that your payment 7 years ago was late and you owe us additional money, how in the name of heaven does any one --

MR. POLLOCK: How many cases -- I've never heard of a cases like this. Has the committee got testimony from people in evidence that there is a lot of it.

REP. PATTON: I doubt that there is a lot of it, because I think it is common practice that lenders send notification --

MR. POLLOCK: Usually, yes.

REP. PATTON: Most cases, yes, and we are just suggesting that in all cases, --

MR. POLLOCK: (inaudible) need for this legislation.

REP. PATTON: Because presently it is not being conducted that way.

MR. POLLOCK: Now the cost of that will be transferred to (inaudible)

REP. PATTON: What cost is there when it is already a common practice?

MR. POLLOCK: Well, then what need for the legislation?

REP. PATTON: Because it is not being done 100% in practice.

MR. POLLOCK: Again --

REP. PATTON: Are you telling me that banks never err?

MR. POLLOCK: Of course not.

REP. PATTON: So who should pay for that?

MR. POLLOCK: I make (inaudible) --

REP. PATTON: The bank or the borrowers.

MR. POLLOCK: (inaudible) the legislature does that, that is  
(Gap between tapes)

MR. POLLOCK: I'm not arguing this. (inaudible).

REP. PATTON: The notification goes out to borrowers that they are paying (inaudible) the mortgage market in the state of Connecticut is in the dark ages and we are not going to be able to float loans. That is what he is suggesting. He is suggesting --

MR. POLLOCK: (inaudible) you are carrying the (inaudible).

REP. PATTON: (inaudible) you said inhospitable lending environment, risk penalties, unusual requirements --

MR. POLLOCK: That doesn't take us to the dark ages, but you have already moved, when California can get 2 point premium and Connecticut is now getting 1.4, the marketplace is disciplining Connecticut. Two of our major buyers in the country are not touching Connecticut because of (inaudible). I am only trying to point of the facts as they exist as disciplined by the market place. That's what I am trying to get to you.

REP. PATTON: Well, you certainly haven't convinced us that there is something lacking in the Connecticut mortgage market that is causing us to be second rate lenders in Connecticut.

MR. POLLOCK: I tried last year with the bill on the foreclosures and got no where, and then these things come back to haunt us. We go out and try to pedal the Connecticut paper. We continue to hear about these problems, oh, my God, they did this, they did that. We don't want it anymore. It is very difficult. I -- you know, I am asked to come to testify, I try to give you what is happening. You are not going into the dark ages. I don't want that. That is not going to happen.

Why have an inhospitable environment. It is going to continue to grow. You can't continue to put regulations on out of state investors and say just keep doing this, keep doing this, and keep doing all these other things, and expect them to come running back to buy your loans when they can go to another state and buy the same kind of loan without the restrictions.

REP. PATTON: Mr. Pollock, the regulations, this banks committee for as long as I have been on it, and it is 8 years now, that 95% of the legislation that we put through is legislation that comes to us from the industry and the banking commissioner. Now, that is not hostile legislation.

MR. POLLOCK: I'm not talking about --

REP. PATTON: This banks committee has practically never seen legislation except in the last 2 years that would be anything suggestive as consumerism.

MR. POLLOCK: I take your comments as stated, but I only can tell you what the marketplaces do to us.

REP. PATTON: Any other questions?

SEN. GIULIETTI: Yes, I have a question.

REP. PATTON: Sen. Guilietti.

SEN. GIULIETTI: Yes, you were mentioning earlier about the good faith estimates on closing costs. Just for my knowledge, with more banks charging points, are you aware of how many banks are charging points up front even before when you apply, you have to pay the points, even before you have been approved? Is that becoming more and more of a common practice? I've had a couple of --

MR. POLLOCK: We are not aware of that. We don't do it in our bank. But the good faith estimate was designed to break out all of your closing costs, before you became committed to doing anything so you could go shopping from institution to institution. So that would be in the GF8.

SEN. GIULIETTI: I understand how that works and the intent of it, but my question is, you don't know where or how prevalent that is now of charging points up front, and paying for the points even before the loan is approved, or even before the closing?

MR. POLLOCK: No, I am not, but you know that again let's talk about the marketplace. The borrower certainly has the option and they are all doing it today, they are running from bank to bank, calling bank to bank and asking the lending practices, and it is very simple for them to compare that.

REP. PATTON: Any other questions? Rep. Antonetti.

REP. ANTONETTI: Mr. Pollock, in your statement, you made mention that there are regulations that are specifically driving out investors in Connecticut, and I think that is a matter of concern, because we do, I think want to

REP. ANTONETTI: (continued)  
maintain the healthy environment for investors,  
specifically would you cite where or what you feel is  
driving those investors out?

MR. POLLOCK: Well, last year you changed the interest rate  
on the escrow accounts from 4 to 5-1/4, 5-1/8, I don't  
remember. Some of the documents that are now required on  
payoffs, and satisfactions, the time limits, apparently,  
the banking and the real estate industry have now worked  
out some compromise that is going to be worked in this  
session of the legislature. The inordinate time to  
foreclose a mortgage in Connecticut is botherin the out of  
state investors greatly.

California averages 120 days. In this state it is going  
up to 9 months. Those are the kinds of problems they  
see. They put their mortgages into securities. They are  
obligated under those debentures to pay the principle and  
interest due on the mortgage securities even if they don't  
collect it from the borrower. So when the state starts  
adding various costs, and we continue advance funds for  
taxes, the borrower doesn't pay the principle and  
interest, and you are into a long delinquency, the  
mortgage banker who is not that well capitalized, has got  
to continue to advance his own funds to cover it, and you  
get a situation where they say why should we do this here  
if I get a more hospitable thing in another state.

There are many other areas I wish I could think of them  
off hand. Thank you.

REP. PATTON: I wish you would think of something more  
convincing than going from 4 to 5 percent interest on the  
escrow account.

MR. POLLOCK: Well, that was a 12-1/2 percent increase or what  
ever it was, and that is affecting the marketplace, and  
trying to say it doesn't, but gentlemen, I am telling you  
it does. It does affect what people are paying in  
Connecticut. It -- you are asking the Connecticut  
borrower to pay slightly more for his mortgage because of  
these things. You know, maybe you don't believe me, that  
your prerogative, of course, but it is happening.

We sell many mortgages out there. We know what the

MR. POLLOCK: (continued)

marketplace is. Now that's what the facts are like for us. I don't mean to come in here and show nothing but gloom but that is something that we are up against. We are trying to sell you this thing. Your interest is great, it's wonderful, but there is a cost of what you want to do. Is the cost of what you want to do trying worth it? You have a big problem. You have many banks that are losing payments and not adjusting the problems. Then surely you have to do something, but you don't see that as a major issue.

REP. PATTON: I would conclude by just offering two comments. One with regard to the attorneys representing borrowers being merely representing banks, according to commissioner's testimony for a year and a half now the biweekly mortgages have been in flagrant violation of his interpretation of the law, and I just wonder how many of those borrowers knew that that was the situation that they were hiring an attorney to represent them, and that's about all I can say on that matter.

MR. POLLOCK: Well, the point is that the marketplace accepted the mortgage, really, and I agree with you it is through an interpretation of law. It was not permitted by this statute. I wonder what the assessive damages are if the borrower benefited from the (inaudible). It is hard to see, and I think it is a good thing that you are raising the bill now, and trying to get this thing off. We do hope that you back the commissioner's bill so that there is -- if there is a new mortgage instrument out there, that Connecticut isn't lagging behind the rest of the country. It can put it out. If the marketplace accepts it, fine. If they don't, whose loss?

REP. PATTON: Rep. Gilligan.

REP. GILLIGAN: I just have one question. It seems to me that Section 5 would prohibit a lender from collecting any kind of late charge, if prior to his next payment date you (inaudible) notified the individual of the delinquency from the previous month. It is my understanding that most of these operations, most of those supervisors, 15 day late charge, or 10, if the -- do you believe it is adequate time to notify before the next due date, which I presume would not specify to be the first and following

REP. GILLIGAN: (continued)  
month, in fact realistically given the volume of transactions and the number of payments received, (inaudible) two week period to respond, I am not sure (inaudible) .

MR. POLLOCK: It is a little short, but in most cases, as Rep. Patton said, the banks are doing it in the installment obligations as best they can. What we are really worried about is the problem out there in the secondary mortgage market, where loans are sold servicing release where someone else has to come in and comply with this who knows nothing of Connecticut, it is a national investor. They wouldn't do it. You have got to understand that we can do just so much in this state to legislate.

The question really is how serious is your problem verses the efforts. Most banks are giving the notices. They try to because they want to collect these. They want to stop delinquencies. They cause more problems to us than anything. And most borrowers aren't in this place. We have an infinitesimal number of borrowers here, and we seem to be going after them with a shotgun. Banks do try to give the notices so people know if they have been late or not, and there are all sorts of laws that if a payment was made on time, but didn't arrive at the bank, there are all sorts of law.

One of the other problems you have, and where do you put this is the post office, they delay, they are not always as swift as they used to be in delivering payments. What do you do then? We are constantly address those things with borrowers. But you know, we are in the business too and if we turn the public off with pettyness and things like that, we are not going to get that customer back, and we have to be realistic. The marketplace, Rep. Gilligan, is a tremendous disciplining force.

REP. GILLIGAN: Do you know of any other state that has this kind of forfeiture --

MR. POLLOCK: No, sir, I don't. No, sir.

REP. PATTON: Any other questions? Thank you very much.

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MR. DUFFY: (continued)

difference between a surcharge and a discount. I also don't know of anyone who really makes wide use of it. I have a couple of suggestions that I think would be important to clarify. First of all, I would want it to be clear that retailers, and particularly restaurants, would still be free to establish a minimum charge level at which they would accept a credit card. I think that is an important, it's a condition of the bank's acceptance of that account, and it affects the rate the merchant discount rate that the retailer pays to the bank for the ability to accept those credit cards, and so I would suggest, and I hope that while it may not be necessary, language be inserted in that bill to -- similar to the language in Section B, which shall nothing in the section shall prohibit any seller from requiring a minimum charge level.

Secondly, in part C, and again I am not an attorney, but I would suggest that rather than saying any seller who -- and I don't have any question about the substance of this section of what it is trying to do, but I just suggest that it might say instead of having language that would say any seller shall honor a bank credit card bearing such trade name that might say, "no seller can refuse to accept a bank credit card bearing such trade name simply because of the identity of the card issuer." So perhaps a minor point but one that you might consider.

In general I don't have any real questions with that aspect of -- or problems with that aspect of that bill.

Lastly, on HB 5978, again, I would express on behalf of our membership some strong concern with Section 5 of the bill, and points of clarification, perhaps. If this requirement means that every installment sales contract an additional piece of paper has to flow from the lender to the consumer, it adds significantly to the costs of these kinds of loans.

Section 5, a creditor shall mail to a consumer debtor a written notice of the imposition of any delinquency charge, late fee, or similar assessment, and any financial charge accrued as a result of a late payment on a note, mortgage or installment sales contract. I would be concerned that in addition, if an installment sales

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MR. DUFFY: (continued)

contract currently, has the feature where a monthly payment notice is mailed, that you are not suggesting that there be an additional piece of paper that flows on top of that which would summarize the amount owed including late fees from previous nonpayments or late payments.

REP. PATTON: What do you do if you get a late payment this month?

MR. DUFFY: Well, in an installment sales contract where there is already a piece of paper flowing back to the debtor, usually that notice is included, and that is received prior to the date suggested in the law. My question is, and I am assuming that this language does not mean that in addition to that, another piece of paper has to flow dealing with the late payment?

REP. PATTON: I presume you to be correct.

MR. DUFFY: But I think that needs to be clarified.

REP. PATTON: You do give some notice to the added cost.

MR. DUFFY: Yeah, but if you are suggesting that an additional piece of paper has to flow, --

REP. WOLLENBERG: Excuse me, Charlie, you are saying that you do it already.

MR. DUFFY: On the regular statement. In most instances that is true. Where that does happen, I am assuming this legislation wouldn't require an additional piece of paper to flow.

REP. MOYNIHAN: You are not assuming right. I think it requires an additional --

MR. DUFFY: Well, that's the way that I read it, and I am concerned that that not be -- if this bill goes forward, this section goes forward, I think it ought to be clarified.

REP. WOLLENBERG: I think if it is noticed on the monthly statement, that this is enough. I think the problem was that it wasn't. I think you are right, that Connecticut does suggest --

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REP. MOYNIHAN: This clearly suggests that an additional piece of paper has to go out before the next payment phase.

MR. DUFFY: Well, it says before the next payment due date. In most instances, if a piece of paper is already flowing here, what -- that would be in advance of the due date, and so I assume that that would comply with the language here.

REP. MOYNIHAN: Good point.

REP. WOLLENBERG: Think of the mortgage that goes out at the beginning of the first of the month, you don't have to pay it until the 15th. I suppose the due date is the first, though, isn't it.

MR. DUFFY: I am not talking about mortgages. (inaudible).

Secondly, I would be concerned and I am not sure again whether this would cover this instance, but there are hundreds of small retailers across the state who have store accounts. My local florest, sometimes your liquor store, your drycleaner will maintain an instore account, not financed by bank, not covered by a card, but simply an account, and you pay on it, some instances, it may in effect be a revolving account. In most instances the intent is that it be paid monthly, but there is no paper flowing back and forth of this kind and my concern is I am not sure whether those would fall under installment sales contracts, or notes, but my concern is that if this language were to survive and those kinds of transactions are covered, you would be adding tremendously to the cost of maintaining those accounts for hundreds of small retailers across the state, and I would suggest that curing problems with costs, it is going to mean the elimination of those accounts, which I think it would.

REP. PATTON: In those situations, the livery, your local florest, what do they levy additional charges?

MR. DUFFY: Let me give you an example. I shop at a local florest, and I call them up and I say send flowers to my wife because of a public hearing or something, but and he sends me a bill (inaudible) I send them myself. He sends me a bill and if I don't pay it, he charges me a late fee. He doesn't mail me a notice of the late fee. He

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MR. DUFFY: (continued)

mails it the next time he sends me a bill, which may or may not be every month. If in those instances, these are those kinds of accounts and transactions would be covered by this legislation, I think you would be doing a great disservice to the customers of those kinds of retailers, who make efficient and effective use of those kinds of accounts, and I don't know if this language does, but I would suggest that the protection of those accounts is extremely important, and if this kind of a process covers those, those accounts will have to be eliminated because they just can't be maintained that way.

REP. WOLLENBERG: Mr. Chairman.

REP. PATTON: Yes.

REP. WOLLENBERG: Charlie, unless they tell you before hand they are going to charge you a late charge or penalty or anything, they can't do that.

MR. DUFFY: Well, they are not allowed to by law, and I am not obligated to pay it. That's true. But still they do.

REP. WOLLENBERG: That's triple damages under federal law for that, you know.

MR. DUFFY: I understand. I pointed that out to them. He said do you want the roses or not? These accounts exist throughout the state in hundreds of stores and I think you are going to do damage to them if you are going to cover them or require that they be covered in this manner.

REP. WOLLENBERG: Okay.

MR. DUFFY: I think that concludes my testimony on this issue. Thank you.

REP. PATTON: Any other questions of the committee? If not, thank you very much. Donald Calcagnini.

DONALD CALCAGNINI: Sen. Eaton, Rep. Patton, members of the committee, I'm Donald Calcagnini, chairman of the Board (HB 5826) and President of American Bancorp, Inc., and its wholly owned subsidiary, American National Bank, which is

MR. EDEN: (continued)

I believe was the same bill that was approved by the subcommittee after the hearings this fall. In any event, no matter which way you go, let's do something so it will all be over with in two years anyway. House Bill 5968 which no one has mentioned today --

SEN. EATON: We second that motion, by the way.

MR. EDEN: House Bill 5968, no one has testified on it today and perhaps I could just ignore it, but it's the Act Concerning the Establishment and Operation of Branch Offices. When the commissioner addressed you, in his comments he referred to one of the new sleeper loopholes. It was in the bill where there is a commercial bank. It was in a town where there was no home office of the savings could open in that town as long as they restricted the business to saving bank powers only.

One commercial bank had discovered that and I have seen a reason for this bill except to plug that loophole. You might expect me to be supporting that bill because there is a loophole (inaudible) my industry. But I met with my steering committee yesterday and consistent with our support for the elimination of home office protection, we would oppose 5968 on the basis it's just adding a further restrictive home office protection on the books.

If you're going to phase it out, don't put another restriction in because it's all going to be gone in two years anyway. We would oppose that bill. The bill I (HB 5978) would like to spend just a bit of time on is the biweekly mortgage bill and I am not going to repeat what has been said with one exception. We are quite concerned with the way this bill surfaced. We were of the opinion that the bill was raised by your committee was a bill (inaudible). The bill did not come out of the LCO and into the bill room in time for me to see it, for us to see it and I pick up everyday until last week, Thursday.

And it was Thursday night at home reading it when I found sections 4, 5, 6 dealt with issues that I was not aware had ever been discussed in the committee had been raised and certainly goes a lot further than being the biweekly mortgage bill. Suffice to say, that is our comment. We are opposed to those sections 4, 5, 6 in the bill feel that if they are to be discussed, should be the subject

MR. EDEN: (continued)

at least as a separate piece of legislation, so that nothing is done to jeopardize the possible passage of the biweekly mortgage bill which we feel strongly is a must piece of legislation for this year.

I would associate myself with the remarks of the commercial banks people who testified and the bank commissioner in terms of opposition of those three sections but at the very minimum would ask that the bill be split and we deal with the biweekly mortgage subject on its own merit. Concerning that, I would like to correct what I believe are a couple of misconceptions that may have resulted from the testimony today and I think very understandable.

I think Sen. Eaton made the comment somewhere he's trusing previously that a 30 day mortgage was what the world was attuned to. I can tell you this, since the biweekly mortgage came on the scene here in Connecticut last year, at least in the case of more than eight of my savings banks, the biweekly mortgage is the name of the game in town. It's a consumer issue. They love it. This is what's caused the problem in the first place. And I have (inaudible) made the comment earlier, after hearing the commissioner's comments, I could understand if you agree that there's been flagrant violations in the banking laws by the banking institutions of Connecticut.

The opinion that he referred to, and I think he used the date of January 4 on this, this was a private opinion, it was never issued by the industry, that my banks were never aware of. Mr. Montgomery who is president of City Savings Bank of America who is the grandfather of this legislation in the State of Connecticut, he testified before you last year. Any of you who are close to the are aware of the press publicity he got. There was a major press conference held down in Meriden. It was an exciting product (inaudible) the consumers -- actually the volume at Bristol Savings Bank and Liberty Bank for Savings in Middletown and Bank in Meriden have been

We have never found out who made the request. But someone made a request of the Banking Department questioning whether this could be done. (inaudible) it's a different of opinion.

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MR. EDEN: (continued)

They read the statute saying it was all right to get into  
bi --

SEN. EATON: Wasn't that a matter of public record if there was  
an opinion rendered? Was it rendered in writing or was it  
done orally?

MR. EDEN: To my knowledge, it was rendered only to the banks  
that requested it. It was not a request -- request for a  
public rule.

SEN. EATON: Still isn't that a matter of public record?

MR. EDEN: Oh, I suppose so. Yeah. But the banks weren't aware  
of it is all I'm saying. There was flagrant violation of  
the law. We weren't aware of it until --

SEN. EATON: You said you hadn't been able to find out who  
requested the --

MR. EDEN: Oh that may be -- I hadn't gone that far. The  
point is someone requested -

SEN. EATON: Did you make an effort to?

MR. EDEN: Oh, it's water over the dam.

SEN. EATON: You mean you never bothered to ask.

MR. EDEN: No.

SEN. EATON: I'm trying to figure out why that --

MR. EDEN: The request was made to Brian Wolf back last May  
I think it was. He was in the process of deciding he was  
going to go elsewhere. There was never any response to  
the request and finally got on Howard's desk and it came  
out of Howard's office not until late August. And he  
issued the opinion then sent it out to the banks. By then  
many banks were already in the business.

SEN. EATON: Well you lost a member -- not you lost a member,  
but Connecticut lost a state chartered savings bank over  
this very issue.

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MR. EDEN: That's correct.

SEN. EATON: Did others --

MR. EDEN: No, because I then went to the Banking Department and we sat down and he reissued a letter to the banks that although technically he hadn't stuck by the opinion of the staff that there was a violation in the statutes -- the statutes did not provide for that he would not issue any cease and desist orders. He would not tell the banks they couldn't do it, unless some consumer complained and they could prove some damage was done.

Well the consumers liked it so much -- well, that's why the legislation's before you, corrective legislation has to be done. But I wanted to get on the record that there's been no flagrant violation of statutes by the banks. I would prefer --

SEN. EATON: If I may, I think that's a critical point. You have laws in the State of Connecticut which are technically, regardless of whether it's popular with people now, are technically being violated and the reason that legislation is in here is to protect, I think, the sacred covenant which surrounds any kind of legal agreement between the consumer and the lender and that is the consumer has the right to, I think somebody raised the question, the consumer has the right to believe in the integrity of that agreement and that it's being done in a legal fashion.

That has been in question for some period of time under the law. So -- it is thus a pretty fair (inaudible) violation.

MR. EDEN: Well, not only -- let me add this to it. The reason I said it's not, there are those who do not agree with the commissioner's ruling that it's illegal. There are those who try to interpret the statutes that they aren't in violation. But this is for the lawyers.

SEN. EATON: In that particular case, why do we need the legislation.

MR. EDEN: To clarify it, because if there's any question or doubt, it's a consumer product. Believe me, it's a consumer product. People love it. And if there's any

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MR. EDEN: (continued)

question, we have the ruling on the books, regardless of the difference of opinion in what the law is, we do have a ruling now from the banking commissioner that in his opinion the present statutes do not provide for the making of biweekly mortgages.

SEN. EATON: I think we had testimony on this particular legislation. People come in and say well, I want it my way and somebody else says I want it my way and yet very few people come forth ever to say what specifically they have a problem in dealing with. And since we're commenting on previous testimony, I might add that I think it would be much more helpful if there were specific people who see fit to submit legislation to this committee, they might also submit in writing drafts of how they feel the bills ought to be rewritten.

MR. EDEN: Well, in that regard, I can say this I worked and my leadership worked with the Banking Department during the fall months and over the holidays in drafting a corrective biweekly bill. And it is not the bill (inaudible). We had on the bill which is the bill Commissioner Brown testified on today, the wording in that bill was patterned upon the regulations of the federal loan bank which are the regs are making mortgages in terms of sequence of payments, the federal loan industry.

SEN. EATON: There's just no basis in the text of that bill in the title, it's not a biweekly mortgage bill or semi-monthly bill. It's an any period mortgage bill.

MR. EDEN: At least.

SEN. EATON: Well again, taking it to the extreme, it could be from one day to a full year.

MR. EDEN: That's correct. You don't want to get trapped into the same problem again.

SEN. EATON: Six and a half -- (inaudible)

MR. EDEN: The consumer can have all the interest rate -- but in summary will support the bill as developed by us working with the commissioner of the department.

MR. PODOLSKY: (continued)

that problem when you say you can't do a credit card surcharge. It was illegal under federal law until 1984 and so it would be good for us to pick that up.

I do think that if you look at that bill, it has a sanction that has violation of crime. I think there -- I don't think the criminilization is the best way to go on that. I think you would be better off substituting the provision that violation is an unfair trade practice. Charlies Duffy in talking said that he was waiting for someone to tell him the difference between the credit card surcharge and the cash discount. Case discounts would not be prohibited.

They are similar. The reason that it is more important to deal with surcharges than discounts, I think is two-fold. First of all, the credit card surcharge is more likely to produce deceptive advertising. If you say my product costs a dollar and you bring people in to buy that for a dollar, then they find for them it is a \$1.05, you have brought them in with a misleading statement of the price. With the cash discount, you can say my product costs a dollar and they come in and discover it only costs \$.95, you haven't deceived them in the same way.

The second difference is it tends to have an effect that raises prices. For the credit customer, that dollar sale now becomes \$1.05 sale, and fairly the store could lower its cash price to \$.95 and then put on a 5 cent credit card surcharge, but in reality, you and I know that they are not going to do that. They are still going to charge the dollar. So they have the overall effect of raising the average price of goods for all customers.

House Bill No. 5825, which would establish a banking law study dealing particularly with certain kinds of bank service charges, I simple say for the record, I support.

House Bill No. 5978, which deals with the bi-weekly mortgage payments plus some other collateral matters, that seem to have appears in Sections 4-6, I will tell you that I support the entire bill. Certainly the first three sections, the part Section 5 dealing with notice of delinquency charges appears to me has an impact only on those creditors that do not bill on a periodic basis.

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MR. PODOLSKY: (continued)

Because I read the bill as saying if you did a periodic statement on that periodic statement, the fact that you were in default showed up. So you would comply with the bill. And if that is not correct, then I would agree with those who said that should be rewritten to make it clear that including the default on the periodic statement is adequate.

You are really only talking about those creditors that do not do periodic billing and therefore have no way to tell people that they are in default, and so you are really dealing with it fairly now a category of creditors, it is not a wholesale paperwork assault on creditors in general.

As to the -- I also think in regard to Section 6, that there is a very real problem with people in effect when buy homes they are double billed for attorneys fees because you end up with the system where you have your attorney which may or may not be protecting the bank's interest, and the bank's attorney, and between the two of them are functionally doing the same thing. And I'm not sure if there is a solution or not, Bill Wollenberg's suggestion that perhaps there should be an exemption, or perhaps it should only apply to cases where there is no title insurance (inaudible) title insurance. They should exempt cases where there is no title insurance, maybe a reasonable way to make him feel for palitable.

I think that is all that I wanted to offer. I appreciate your interest and attention.

REP. PATTON: Any questions from the committee?

MR. PODOLSKY: I would like to be questioned about the bounced check bill, if anybody would do that.

REP. PATTON: It is after 5 o'clock. Any questions. Not hearing any, we thank you for your testimony.

MR. PODOLSKY: Thank you.

SEN. EATON: The last speaker that is signed up is Zaiga Antonetti.

ZAIGA ANTONETTI: Thank you very much for your patience

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HB 5919 - AN ACT CONCERNING THE ACQUISITION OF BENEFICIAL OWNERSHIP OF FINANCIAL INSTITUTIONS

As this bill appears to be a housekeeping measure to assist the Banking Department in its supervisory role over financial institution mergers, we support it as drafted.

HB 5978 - AN ACT CONCERNING BI-WEEKLY PAYMENT OF MORTGAGES

Statutes controlling financial institutions do not allow mortgage loans to be repaid on a bi-weekly basis. Many institutions and consumers alike feel that, by dividing the monthly payment in approximately one-half, loans can be repaid far sooner, shortening the life of the loan and saving considerable interest payments by the borrower.

I believe it is universally accepted that bi-weekly mortgage authority is beneficial to borrowers and lenders alike and, as such, the three financial institution trade organizations together with the Banking Department developed a bill that would provide this authority, consistent with the Parity concept adopted by this Committee last Session.

Therefore, we were perplexed when the draft of HB 5978 was released. Not only does this bill add additional provisions, but it is not consistent with Parity.

A review of Sections 1 through 3 will show that commercial banks and savings banks may establish repayment schedules bi-weekly, monthly, quarterly or semi-annually. Savings and loans may only establish repayment schedules bi-weekly or monthly. This inconsistency was discovered in the drafting process and corrected in the draft submitted to the Committee.

This problem notwithstanding, HB 5978 goes far beyond bi-weekly mortgages and, in fact, provides restrictions on late charges, notification requirements and prohibitions against charging attorneys' fees in conjunction with the closing of a mortgage loan.

Because of these considerable changes in both the technical and conceptual approaches to this bill, we are placed in the unfortunate position of opposing HB 5978 as drafted. We heartily support bi-weekly mortgages and strongly urge this Committee to substitute the language in this bill with the draft submitted by the Banking Department earlier in this Session.

I thank you for your attention in these matters and offer the resources of the Savings and Loan League of Connecticut for your assistance in these and any other items before the Committee today.

RRW/jms