

Legislative History for Connecticut Act

HB 5695 PA 338 1989
House 484-485, 542-546, 13542-13565 (31)
Senate 309, 2781, 2919-2924, 3613-3621,
3622 (18)
Banks 12, 16, 24A, 30-31 (5)

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HOUSE

PROCEEDINGS
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House of Representatives

February 7, 1989

CONCERNING ENFORCEMENT OF FOREIGN MATRIMONIAL
JUDGMENTS.

DEPUTY SPEAKER POLINSKY:

Table for the Calendar and printing.

THE CLERK:

Favorable Report of the Joint Standing Committee on
Judiciary ON HB5982, AN ACT VALIDATING CERTAIN
MARRIAGES PERFORMED BY UNAUTHORIZED JUSTICES OF THE
PEACE.

DEPUTY SPEAKER POLINSKY:

Refer..Table for the Calendar and printing.

THE CLERK:

Business on the Calendar, Tuesday, February 7,
1989. Calendar #18, Substitute HB5695, AN ACT
CONCERNING SMALL LOAN LICENSING REQUIREMENTS.
Favorable Report of the Committee on Banks, File #3.

DEPUTY SPEAKER POLINSKY:

Representative Vito Mazza.

REP. MAZZA: (115th)

Thank you Madam Speaker. I would like to move that
we refer that bill to LCO for reprinting and an LCO
notation. There will be no change in the File Copy.

DEPUTY SPEAKER POLINSKY:

Motion is on referring the bill to LCO for
addition of a notation and reprinting. Is there

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objection? Hearing no objection, so ordered.

THE CLERK:

Madam Speaker, there is no further business on the Clerk's desk.

DEPUTY SPEAKER POLINSKY:

Representative Mazza.

REP. MAZZA: (115th)

Thank you Madam Speaker. I move that the House adjourns until tomorrow, February 8th at 10:00 a.m. for a Regular Session.

DEPUTY SPEAKER POLINSKY:

Motion is on adjournment until tomorrow at 10:00 a.m. for a Regular Session. Is there objection? Hearing no objection, the House is adjourned.

On motion of Representative Mazza of the 115th the House adjourned at 11:40 o'clock a.m., to meet again on February 8, 1989 at 10:00 o'clock a.m.

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REP. STOLBERG: (93rd)

Mr. Speaker, in the affirmative, please.

SPEAKER BALDUCCI:

Representative Stolberg in the affirmative.

The Clerk please announce the tally.

CLERK:

HB5694 as amended by House "A"

Total number voting 146

Necessary for passage 74

Those voting yea 146

Those voting nay 0

Those absent and not voting 5

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Please turn to Page 4, matters returned from
 Legislative Commissioner, Calendar 18, Substitute for
HB5695, AN ACT CONCERNING SMALL LOAN LICENSING
REQUIREMENTS. Favorable Report of the Committee on
 Banks.

REP. BELDEN: (113th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Belden, for what purpose do you
 rise?

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REP. BELDEN: (113th)

Mr. Speaker, a point of order, I believe the Clerk called File 18 and I believe, or Calendar 18, and I believe it requires Suspension of the Rules to bring that matter before us.

SPEAKER BALDUCCI:

Thank you Representative Belden. That was what we were in the process of doing.

Representative Frankel.

REP. FRANKEL: (121st)

Yes, Mr. Speaker, ladies and gentlemen, you will note that the file before you is a reprint of File No. 3. When File No. 3 was originally printed, it did not contain the appropriate reference of changes made by the legislative Commissioners' Office, which required that it be returned to the Legislative Commissioners' Office for reprinting.

Nevertheless, File No. 8 and File No. 3 are the identical bill. It is that footnote which was omitted on File No. 3. A question has been raised by both sides of the aisle relative to the propriety of proceeding on this bill. While our rules suggest that so long as the same bill is being acted upon, we would not have to suspend, but clearly, the file is different and it is unclear whether, indeed, we can proceed at

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this point.

So without necessarily deciding one way or the other, I think the appropriate thing to do would be to suspend our rules, particularly the house rule requiring that our files be double starred so that we can proceed on this matter.

So at this time, Mr. Speaker, I would move for suspension for the immediate consideration of File No. 8, reprint of File No. 3.

SPEAKER BALDUCCI:

The question is on suspension. Will you remark further? Will you remark? If not, the rules are suspended.

Representative Ritter. The bill has been called.

REP. RITTER: (2nd)

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

SPEAKER BALDUCCI:

Will you remark?

REP. RITTER: (2nd)

Yes, Mr. Speaker, this bill simply clarifies that all banking institutions and credit unions chartered in this State or any other state by any agency of the federal government are excluded from the requirements of the small loan laws.

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In addition, the proposal would exclude all entities to the extent that they make loans of a commercial nature and engage in extending credit to consumers through open-end credit plans for the retail sale of consumer goods and services.

This is currently the practice and we want to clarify our statute to conform with the practice.

Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

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

CLERK:

The House of Representatives is now voting by roll.

Members please report to the Chamber. The House of Representatives is now voting by roll. Members to the Chamber please.

SPEAKER BALDUCCI:

Have all the members voted? Have all the members voted and is their vote properly recorded?

If all the members have voted, the machine will be locked. The Clerk please take a tally.

Representative Mordasky.

REP. MORDASKY: (52nd)

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Could I be recorded in the affirmative, please.

SPEAKER BALDUCCI:

Representative Mordasky of the 52nd in the affirmative.

REP. MORDASKY: (52nd)

Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Gosselin of the 44th.

REP. GOSSELIN: (44th)

In the affirmative. Mr. Speaker, in the affirmative. In the affirmative, please.

SPEAKER BALDUCCI:

Representative Gosselin in the affirmative.

The Clerk please announce the tally.

CLERK:

| | | |
|----|-----------------------------|-----|
| a. | HB5695 | |
| b. | Total number voting | 147 |
| c. | Necessary for passage | 74 |
| d. | Those voting yea | 147 |
| e. | Those voting nay | 0 |
| f. | Those absent and not voting | 4 |

SPEAKER BALDUCCI:

The bill is passed.

CLERK:

Calendar 22, HB5693, AN ACT CONCERNING SECONDARY

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please. The House is voting by roll.

SPEAKER BALDUCCI:

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

Representative Brown of the 74th.

REP. BROWN: (74th)

Thank you. In the affirmative, Mr. Speaker. Thank you.

SPEAKER BALDUCCI:

Representative Brown, in the affirmative.

Clerk, please announce the tally.

CLERK:

| | |
|---|-----|
| SB870, as amended by Senate Amendment | |
| Schedule "A", in concurrence with the Senate: | |
| Total Number Voting | 146 |
| Necessary for Passage | 74 |
| Those Voting Yea | 146 |
| Those Voting Nay | 0 |
| Those absent and not Voting | 5 |

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 8, Calendar 18, Substitute HB5695. AN ACT
CONCERNING SMALL LOAN LICENSING REQUIREMENTS. (As

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amended by Senate Amendment Schedules "A", "B" and "C").

Favorable Report of the Committee on JUDICIARY.

REP. RITTER: (2nd)

Mr. Speaker?

SPEAKER BALDUCCI:

Representative Ritter of the 2nd.

REP. RITTER: (2nd)

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

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. RITTER: (2nd)

Yes, Mr. Speaker. This file copy passed this Chamber 147 to nothing, back on February 8th. It has taken a long time for it to return.

The Clerk has amendment, LCO7918, and if he may call it and I may be allowed to summarize.

SPEAKER BALDUCCI:

Clerk, please call LCO7918, previously designated Senate "A".

CLERK:

LCO7918, Senate "A", offered by Senator Casey.

REP. RITTER: (2nd)

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Mr. Speaker, this amendment increases the maximum amount of the term of small loans to \$10,000. I move its adoption, sir.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark? If not, all those in favor-- Representative O'Neill of the 98th.

REP. O'NEILL: (98th)

Thank you, Mr. Speaker. Since we don't have the amendments, and he didn't explain any of it at all--

SPEAKER BALDUCCI:

These are Senate Amendments, sir.

REP. O'NEILL: (98th)

Thank you, sir. A question to the proponent of the amendment.

SPEAKER BALDUCCI:

Please proceed, Representative O'Neill.

REP. O'NEILL: (98th)

Will you please explain the amendment? Thank you.

REP. RITTER: (2nd)

Yes. Through you, Mr. Speaker, it raises the ceiling from \$5,000 to \$10,000, the amount of loans under the small loan law.

REP. O'NEILL: (98th)

Through you, sir?

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SPEAKER BALDUCCI:

Representative O'Neill.

REP. O'NEILL: (98th)

Why?

REP. RITTER: (2nd)

Well, through you, Mr. Speaker, we found that with this, the amount has not been changed in I am not sure how many years, but many, many years. Just to keep up with inflation, we should move the ceiling up.

REP. O'NEILL: (98th)

Through you, sir, to keep up with inflation, you are raising it 100%?

REP. RITTER: (2nd)

In other words-- Through you, Mr. Speaker, it used to be a \$5,000 ceiling before we had all this added regulation, and we figured it would help out the small person if we would raise it to \$10,000, sir.

REP. O'NEILL: (98th)

Alright. Through you, sir, when was the last time it was raised? When was it raised to \$5,000?

REP. RITTER: (2nd)

Through you, Mr. Speaker, I only can tell you I have been the Chair for nine years, and it has been \$5,000 since I have been here, so it has been a long time.

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REP. O'NEILL: (98th)

Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. I don't have any problem with changing the amount of money, but I would like to ask Representative Ritter why, on lines 118 to 120, we have essentially changed the term of the loan from, now from five years to ten years for the payback. That part, I don't quite understand. Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Ritter.

REP. RITTER: (2nd)

Well, through you, Mr. Speaker, obviously it allows more loans, more people who had more time to repay the loans, and we thought it would be a good part to add to the bill.

REP. BELDEN: (113th)

Through you, Mr. Speaker, what is the equity that is involved in these loans?

REP. RITTER: (2nd)

Through you, Mr. Speaker, these are unsecured

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loans. These are unsecured.

REP. BELDEN: (113th)

That's the part that bothers me, Mr. Speaker, is that unsecured loans in the amount of \$5,000 have been that way for years. And now, we are going to up it to \$10,000, because of inflation and all those good things. But now, on an unsecured loan, we are going to let a lending institution in this state lend it for ten years. This is even more horrendous than the 40 year mortgage. At least there, you've got a piece of land and a house to go after.

I have serious concerns about that. Personally, I am going to not support this amendment.

SPEAKER BALDUCCI:

Representative Schlesinger.

REP. SCHLESINGER: (114th)

Mr. Speaker, just after the concern of the last speaker, I should point out that it is not necessary that the loan go a ten year period. This is just maximums that have been set, and the proponents felt that since we are upping the amount 100%, that the length of period of payback could be extended. Again, these are unsecured loans, and if the institutions want to go out that period and take that risk, I think that is alright. These are just maximum periods and kind of

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a guide point for those particular institutions.

I do support the amendment, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment? Will you remark? If not, we will try your minds. All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed, nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The ayes have it. The amendment is adopted. Will you remark further on the bill as amended?

REP. RITTER: (2nd)

Yes.

SPEAKER BALDUCCI:

Representative Ritter.

REP. RITTER: (2nd)

Thank you, Mr. Speaker. The Clerk has LC07917. May he call, and may I be allowed to summarize?

SPEAKER BALDUCCI:

Clerk, please call LC07917, previously designated Senate "B".

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CLERK:

LC07917, Senate "B", offered by Senator Casey et al.

REP. RITTER: (2nd)

Mr. Speaker, Senate Amendment "B"--

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Seeing none, Representative Ritter.

REP. RITTER: (2nd)

Yes. Senate Amendment "B" requires loan agreements for more than \$100,000 be in writing in order to be subject to a civil action. I would ask for adoption of this bill, even though Senate "C" will amend this to make it \$50,000, but I want to be in concurrence with the Senate.

So, I move its adoption, and then we can go to Senate "C".

SPEAKER BALDUCCI:

The question is on adoption. Will you remark? Representative Ward.

REP. WARD: (86th)

Mr. Speaker, a question, through you, to Representative Ritter. Representative Ritter, you indicated that loan agreements in the amount of \$100,000 - I guess soon to be \$50,000 - have to be in writing.

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Isn't it fact not the loan agreement, but an agreement to make a loan or a promise to make a loan that comes within this statute of frauds? Not the loan agreement itself?

REP. RITTER: (2nd)

Yes. Through you, Mr. Speaker, yes, that is correct, sir. Thank you.

REP. WARD: (86th)

Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. A question to Representative Ritter please. Representative Ritter, I am just wondering. You just noted for everyone that the dollar amount was going to be reduced to \$50,000 in Senate "C", and this is \$100,000. And I recollect in the Bank Committee, I think it was, or somewhere along the process here, that \$100,000 was what the industry thought would be more appropriate. And I am wondering why we are going to be going back to \$50,000.

Through you, Mr. Speaker.

REP. RITTER: (2nd)

Through you, Mr. Speaker, as far as I am concerned,

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there is only one reason to go back to \$50,000, and that is to be in concurrence with the Senate.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

REP. KRAWIECKI: (78th)

Through you, Mr. Speaker, that's a good reason, I understand, the day before we are going to adjourn. But is there a salient reason for wanting to do it, short of we want to concur with those guys?

REP. RITTER: (2nd)

Through you, Mr. Speaker, I do not know of any reason.

REP. KRAWIECKI: (78th)

Thank you, Representative Ritter.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, all those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed, nay. The ayes have it. The amendment is adopted. Will you remark further on the bill?

Representative Ritter.

REP. RITTER: (2nd)

Thank you, Mr. Speaker. The Clerk has LCO8342.

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May he call, and may I be allowed to summarize please?

SPEAKER BALDUCCI:

Clerk, please call LCO8342, previously designated Senate "C".

CLERK:

LCO8342, Senate "C", offered by Senator Avallone et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Ritter.

REP. RITTER: (2nd)

Yes, Mr. Speaker. This is the long-awaited amendment that does call for \$50,000, and I would imagine if you look at the co-sponsors of the amendment, you can figure out that perhaps the Chairman of the Judiciary Committee thought it would be good to be at \$50,000.

I do move for its adoption, so that we can be in concurrence with the Senate, sir.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark? If not, all those in favor, please-- Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. I am sorry, Representative

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Ritter, but I do have a question on this amendment. As I am looking at the text of it, I just want to make sure that I understand exactly what we are doing here. It indicates that we are striking Section 2 in its entirety. Now, I am assuming that Section 2 that is being stricken is the Section 2 that was listed in Senate Amendment "A", and then it indicates that we will be striking Section 4, and I am assuming that Section 4 is the new Section 2 that was listed in Senate "B" and is now being replaced by the new Section 4 in Section "C".

Through you, Mr. Speaker, do I have that right?

REP. RITTER: (2nd)

Through you, Mr. Speaker, I congratulate you. It took me a long time to figure that out, and the answer is yes.

REP. KRAWIECKI: (78th)

Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative O'Neill of the 69th.

REP. O'NEILL: (69th)

Yes. Through you, Mr. Speaker, just a question, I hope a short one, to Representative Ritter.

SPEAKER BALDUCCI:

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Please proceed, sir.

REP. O'NEILL: (69th)

What we are modifying here is known as the statute of frauds, and it is the thing that limits what you can bring suits, what has to be in writing and what doesn't have to be in writing, in order for you to sue people. And the way I am reading this, let me run one hypothetical at you, by you, and tell me if I am right or wrong.

If a bank makes a so-called verbal for a commitment for a mortgage for, say, \$45,000, if this amendment is adopted, the bank would not be sued-- You could not sue the bank for failure to issue a commitment, if it was oral. If they put it in writing, then you could. But, if the amount of the commitment was in excess of, right now \$100,000, but after the amendment \$51,000 or something like that, you would have to have it in writing, or else you could not institute suit. So that a potential borrower who was given a commitment for, say, a \$75,000 mortgage over the phone, and he then tells his real estate agent, "I've got it." And he tells his lawyer, "I've got it," and he tells the other lawyer "I've got it," and the commitment in the real estate contract expires, he cannot sue the bank if they never issue the loan.

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Is that correct?

REP. RITTER: (2nd)

Yes. Through you, Mr. Speaker, that would be correct.

REP. O'NEILL: (69th)

I take it from looking at this that this is all new language at the present time. That is any limitation on bringing action against a bank for failure to issue a loan. Is that all brand new language? Through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Ritter.

REP. RITTER: (2nd)

Through you, Mr. Speaker, yes, it is new language.

REP. O'NEILL: (69th)

So, just so I want to make sure that I understand it fully. At the present time, today, before this enactment goes on the books, through you, Mr. Speaker, a person who is given an oral commitment by a bank for a loan of any size is able to institute suit in civil court to enforce the offer, which they accepted over the telephone or in personal orally. But after this enactment is done, any such offer, if it is in excess of \$50,000, would have to be in writing.

Is that correct?

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REP. RITTER: (2nd)

Yes. Through you, Mr. Speaker, that is correct, sir.

REP. O'NEILL: (69th)

I think it's important for all the attorneys as well as for all the potential consumers to be aware of the fact that this is really going to put them at some jeopardy. They are going to let certain kinds of rights go, I would think, based on these verbal commitments.

I am not sure that this is something that is going to be very beneficial for the consumers and potential home buyers in the State of Connecticut when they are getting loans, if the loan exceeds \$50,000 that they can't go to court to enforce it, even though they have now become obligated to perform contracts, based on having let contingencies expire in real estate contracts.

Through you, Mr. Speaker, one more question. Was this aspect considered by the Banking Committee?

SPEAKER BALDUCCI:

Representative Ritter.

REP. RITTER: (2nd)

Through you, Mr. Speaker, this was added by the Judiciary Committee, in its wisdom.

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REP. O'NEILL: (69th)

All right. Maybe I could direct it to someone from the Judiciary Committee. Looking and looking, I don't see anyone, Mr. Speaker. Ah, perhaps Representative Tulisano could answer my question for me, through you, Mr. Speaker.

The language that is being added to the statute of frauds effectively makes it possible for a bank to give an oral commitment over the telephone to a potential mortgage borrower. And if that commitment, the amount of money that they are supposed to be borrowing, exceeds \$50,000, unless the commitment is in writing, they cannot bring suit against the bank if it in fact fails to produce a loan. Whereas, under current law, regardless of the amount of the loan, whether it is in writing or not, they can bring suit if they are given an oral commitment.

Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, if I understand the question correctly among all the questions-- An oral, a verbal commitment for over \$50,000 is not enforceable.

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REP. O'NEILL: (69th)

Excuse me, Mr. Speaker?

REP. TULISANO: (29th)

I thought I understood the question to be if someone made a verbal commitment over the phone to an applicant for over \$50,000, could they enforce it. Did I understand the question correctly?

REP. O'NEILL: (69th)

Yes. Through you, Mr. Speaker, that is correct.

REP. TULISANO: (29th)

Yes, and that would not be enforceable. It has to be in writing to be enforceable.

REP. O'NEILL: (69th)

Well, through you, Mr. Speaker, what was the reason for imposing this new limitation on the possibility of someone bringing suit on this type of action?

REP. TULISANO: (29th)

I don't know. Through you, Mr. Speaker. Through you, Mr. Speaker, it is a Senate Amendment, but as I understand from my discussions with individuals involved in it, that-- Through you, Mr. Speaker, may I yield to Representative Ritter, who knows all the answers?

SPEAKER BALDUCCI:

Representative Ritter, do you accept the yield?

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REP. RITTER: (2nd)

Yes, I do. At some point, you've got to figure. We figured \$50,000 would be a good figure. Apparently, this came out of several court cases where someone would meet someone at a cocktail party and say certain things, and we thought that responsible lending, that you should have all the details in writing. And \$50,000, I guess, was determined to be a good compromise of where this should end up. It's a judgement call.

REP. O'NEILL: (69th)

I am not sure. I guess, when I asked the question the first time, Mr. Speaker, that there was-- This is a Senate Amendment, and nobody really knew why we were adding a new limitation on the statute of frauds. And my initial question, or my final question really was: had anybody thought about the fact that when a borrower goes in - and this is the typical kind of transaction that most consumers are going to be engaged in, where they are going to be hitting numbers like \$50,000, 60,000, 70,000, 80,000 or 100,000.

We are now in a situation that a borrower, a potential borrower, and this happens all the time, goes to the bank, makes an application for a mortgage. He is buying a house. When he is buying the house is a

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contingency in the contract. It says that you have until a certain date to get a mortgage. If you let that date expire, the contract typically says that you are now obligated to buy the house, and you are then subject to suit by the possible seller. Certainly, you are in a position to lose whatever deposits you put down when you put down the offer to purchase the house.

Now, if the bank shows up the day of the closing with a set of requirements that exceeds anything that they have told you about they have told you about previously. You are in a position and they are going to say, "We are not going to give you the loan." And if the amount of the loan is above \$50,000, and you have never gotten anything really in writing from the bank, committing to this bank, and you have let your commitment date expire, your mortgage contingency commitment date expire, you are going to be subject to a situation where you are liable for the loan, and the bank is not liable to you.

And I get the impression that nobody, when they were putting this together, thought about this aspect of the situation. It does not appear that there is any exception here, and maybe there is someplace else that I am unaware of, that would take home loans out of it or mortgage loans out of it. Maybe this was designed

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for commercial transactions. But what I am getting at in the discussion and the questions and the answers that I have gotten in that we are about to expose potential homebuyers and mortgage borrowers to a very dangerous situation that they can find themselves in.

It is not uncommon for the commitment date to run out and for the bank to have made oral statements. Every prudent attorney likes to get everything in writing, and we try to get everything extended. But I think we are liable to get into a spot here that if this thing goes through this way, we are going to find that the potential home buyers are going to be under considerable jeopardy.

On that basis, Mr. Speaker, I would oppose, and I would hope that other people who are in this Chamber who are concerned about consumers and the possible abuse of them. We oppose this as well. I don't see and have not yet heard a really cogent reason for adding to the Statute of Frauds this particular limitation, Mr. Speaker. Thank you.

SPEAKER BALDUCCI:

Representative Schlesinger of the 114th.

REP. SCHLESINGER: (114th)

Thank you, Mr. Speaker. Maybe I can give that cogent reasoning very simply and that is the Statute of

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Frauds as it is today already takes care of that situation, has to be in writing under current law, which goes way back, which is basically that it cannot be performed - a typical mortgage cannot be performed in a twelve month period. Therefore, it falls under the Statute of Frauds. It's got to be in writing anyway.

This type of a stipulation, whether it be a 50,000 limitation or \$100,000 limitation, is only there really for basically a commercial transaction where you don't have anything really secured, and it might be a one month roll over, a three month roll over, etc.

If you're talking about a mortgage, mortgages do not run three months or six months. They run lengthy periods of time, typically 15 years, 30 years. They're already under the Statute of Frauds and this change to the statute really has no effect whatsoever for a typical mortgage. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative O'Neill.

REP. O'NEILL: (98th)

Just briefly, Mr. Speaker. I think the point that I'm looking at, and I could be wrong on this, and I will defer to the ranking member of the Banking

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Committee on this point, but the mortgage itself, yes, does run for 30 years, but the agreement to make the loan, which is between the potential borrower and the bank is not the mortgage itself and that doesn't run for 30 years. That is an agreement which typically has to be performed in a very short period of time.

○ We're not talking about a 30 years loan. We're talking about the contract, if there is one, and hopefully there is an oral contract between the borrower who walks in the door, puts in his application and the bank agrees to make an offer if he fits all the criteria they set out.

They check out his credit. They check out the property. They do a variety of other things. When they get finished with that, they then decide whether they're going to make him a loan or not, and what I'm afraid of here, and as I said, I asked at the very end whether anybody thought about the effect that this particular change in the Statute of Frauds is going to bar people who are applying for mortgages.

They let their contingencies run out on their contracts, and then find themselves without a loan, even though the bank had said over the phone, yeah, you're good for it. All we have to do is get the paperwork put together and it takes a week or ten days

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for that to happen, and then for whatever reason, they do not make the loan, and if Representative Schlesinger has indicating to me that is not going to be the effect and if the intent of this is to only cover commercial transactions and not transactions involving home mortgages, I will accept that and hope that we can rely on it in any future court cases. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay. The ayes have it.

The amendment's adopted. Will you remark further on the bill as amended? If not, staff and guests, to the Well. Members, please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members, please report to the Chamber. The House is voting by roll call. Members, to the Chamber please.

SPEAKER BALDUCCI:

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Have all the members voted and is your vote properly recorded? If so, the machine will be locked. Clerk, take a tally.

Clerk, please announce the tally.

CLERK:

Substitute for HB5695, as amended by Senate Amendment Schedules "A", "B" and "C" in concurrence with the Senate

| | |
|-----------------------------|-----|
| Total Number Voting | 147 |
| Necessary for Adoption | 74 |
| Those Voting Yea | 131 |
| Those Voting Nay | 16 |
| Those absent and not Voting | 4 |

SPEAKER BALDUCCI:

The bill, as amended, is passed.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, earlier today the Committee on the Judiciary met and acted on the bill that we had referred to it. It bore Calendar 661. It does not appear on our Calendar as yet. It will do so on our next Calendar, but in order to be able to take up this

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END SENATE AGENDA #1

SENATE AGENDA #2

1. INTRODUCTION OF SENATE JOINT RESOLUTION

SJ28 Resolution Expressing Sympathy on the Death of
John J. McKay of East Haven

INTRODUCED BY: SENATOR LARSON, REPRESENTATIVE
BALDUCCI, ET. AL.

END SENATE AGENDA #2

THE CHAIR:

Are you ready for the markings?

SENATOR O'LEARY:

Yes, Mr. President. Mr. President, the first item,
Calendar #16 is marked Go. Under Favorable Reports,
Mr. President, I move the following items to the foot
of the Calendar.

HB 5692 HB 5693 HB 5694
Calendar #20, Calendar #21, Calendar #22 and
HB 5695
Calendar #23. Those items, Mr. President, I move to
the foot of the Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR O'LEARY:

Calendar #25 is marked Go. Calendar #26, I move
that we Pass Retain that item. Calendar #27 is marked
Go. Calendar #28 is marked Passed Retaining and

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that from the foot of the Calendar?

SENATOR O'LEARY:

Calendar #, Mr. President, I'm sorry.

THE CHAIR:

Calendar #23, Page 33, HB5695, File #3 and 8, on
Page 33.

SENATOR O'LEARY:

I'm sorry. I'm missing Page 33, Mr. President.

Yes, I move that Calendar #23, Substitute HB5695 be
removed from the foot.

THE CHAIR:

Without objection, so ordered.

The Senate will stand at ease.

SENATOR O'LEARY:

Mr. President.

THE CHAIR:

Senator O'Leary, are you ready to proceed?

SENATOR O'LEARY:

Mr. President, there was another item marked Go on
Calendar Page 15, the bottom of the Page, Calendar #529
was marked Go.

THE CHAIR:

Clerk will please note.

SENATOR O'LEARY:

Mr. President, under Disagreeing Actions, the first

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SENATE AGENDA #1

1. INTRODUCTION OF SENATE RESOLUTIONS - to be referred
to committee indicated

Emergency Certification

SR31 Resolution Proposing Approval of a Collective
Bargaining Reopener Between the State of Connecticut
and the Education Professions (P-3B) Unit of the
Connecticut State Employees Association.

Introduced by: Senator Larson

REFERRED TO: APPROPRIATIONS

Emergency Certification

SR32 Resolution Proposing Approval of a Memorandum
of Agreement Between the State of Connecticut and the
New England Health Care Employees Union District 1199,
National Union of Hospital Health Care Employees,
AFL-CIO (P-1 and NP-6 Units).

Introduced by: Senator Larson

REFERRED TO: APPROPRIATIONS.

END SENATE AGENDA #1

THE CHAIR:

Mr. Clerk, you may proceed.

THE CLERK:

Senate Calendar for Wednesday, May 31st, 1989,
Calendar Page 2, Favorable Reports, Calendar 23, Files
3 and 8, Substitute HB5695, AN ACT CONCERNING SMALL

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LOAN LICENSING REQUIREMENTS. Favorable Report of the Committee on BANKS. Clerk is in possession of two amendments.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Thank you, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill. Ask the Clerk to call the first amendment.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LC07918 designated Senate Amendment Schedule "A"
offered by Senator Casey of the 31st District.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Thank you, Mr. President. I move the amendment and ask the reading be waived.

THE CHAIR:

Without objection, you may proceed.

SENATOR CASEY:

Simply, Mr. President, this changes increases the small and small loan limit from \$5,000 to \$10,000.

THE CHAIR:

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Further remarks on the amendment? All those in favor of the amendment signify by saying Aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The amendment is adopted. Call the next amendment.

THE CLERK:

LC07917 designated Senate Amendment Schedule "B"
offered by Senator Casey of the 31st District.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Thank you very much, Mr. President. I move the amendment and ask the reading be waived.

THE CHAIR:

Without objection, you may proceed.

SENATOR CASEY:

Thank you, Mr. President. This amendment would allow the statute of frauds to also include loans over \$100,000 to be reduced in writing. Right now loans such as these are not required by law to be in writing and this would change that.

THE CHAIR:

Further remarks? Senator Upson.

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SENATOR UPSON:

Yes, if I may ask a question. You are passing these amendments, I don't have copies of the them. What that has to do with small loan licensing department? If I may, through you, Mr. President.

THE CHAIR:

You may proceed. Senator Casey.

SENATOR CASEY:

Well, I think small is a relative term, Senator and I would suggest to the circus, Circle, excuse me (Applause and laughter)...I am continuing from last night, that it deals with loans and it certainly statute of frauds is a serious area to be concerned with...and by the way I do intend to refer this to the Judiciary Committee for their purview as soon as this amendment passes.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Yes. Your amendment is requiring loans over \$100,000 or under \$100,000 are not subject to the statute of fraud.

SENATOR CASEY:

Loans right now are not required to be in the...in our part of the statute of frauds. The amendment would

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say that loans over \$100,000 would be part of statute of frauds and therefore reduce...have to be reduced in writing to be legal.

SENATOR UPSON:

Mr. President, if I may ask Senator Casey, did we have a hearing on this in the Banks Committee? Through you, Mr. President.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

No, we did not, Mr. President.

SENATOR UPSON:

I suggest that we slow down here in the Senate a little and we are getting amendments passed that had no hearings on and we have had no discussion on it. So I am going to vote against this...I want a roll call.

THE CHAIR:

Further remarks on the amendment? Clerk please make an announcement for immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Will all Senators please return to the Chamber.
Immediate roll call has been ordered in the Senate.
Will all Senators please return to the Chamber.

THE CHAIR:

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Question before the Chamber is a motion to adopt Senate Amendment Schedule "B", LCO7917. The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

24 Yea

10 Nay

The amendment is adopted.

Further amendments?

THE CLERK:

No further amendments, Mr. President.

THE CHAIR:

We are now on the bill as amended by "A" and "B".
Senator Casey.

SENATOR CASEY:

Mr. President, because of the last amendment I would ask that the Circle refer this bill to the Judiciary Committee.

THE CHAIR:

Is there any objection? The bill is referred to the Judiciary Committee.

THE CLERK:

Calendar 176, File 254, Substitute SB870, AN ACT CONCERNING THE INTEREST RATE ON NEW AND USED MOTOR VEHICLES. Favorable Report of the Committee on BANKS.

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1 Nay

The bill is adopted.

Senator Casey.

SENATOR CASEY:

Mr. President, if I could call from Senate Agenda #2, Substitute HB5695, AN ACT CONCERNING SMALL LOAN LICENSING REQUIREMENTS, and then, at the proper time, ask that the rules be suspended for action?

THE CHAIR:

Well, I think this is the time.

SENATOR CASEY:

I so move.

THE CHAIR:

Any objections to suspension of the rules? Hearing none, the rules are suspended.

The Senate will stand at ease, just a second please.

Mr. Clerk.

THE CLERK:

Calling from Senate Agenda #2, Substitute HB5695. It is File #3 and File #8, AN ACT CONCERNING SMALL LOAN LICENSING REQUIREMENTS. Favorable Report of the Committee on BANKS.

THE CHAIR:

Senator Casey.

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SENATOR CASEY:

Thank you very much, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Will you remark.

SENATOR CASEY:

I believe the Clerk has Amendment "C".

THE CHAIR:

Clerk, please call the amendment.

THE CLERK:

LC08342, designated Senate Amendment Schedule "C" offered by Senator Casey of the 31st district and Senator Avallone of the 11th district.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Thank you very much, Mr. President. I move acceptance of the amendment, and ask that the reading be waived.

THE CHAIR:

Without objection, you may proceed.

SENATOR CASEY:

Thank you very much, Mr. President. This amendment lowers the amount of loans to be included in the

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statute of frauds from \$100,000 which we discussed two days ago in Amendment "B" to \$50,000 loans.

THE CHAIR:

Further remarks on the amendment. Senator Upson.

SENATOR UPSON:

If I may, Mr. President, through you, ask Senator Casey, is this prevalent in other states, or will this be Connecticut being the exception?

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Through you, Mr. President. I'm not aware of other state laws on this issue.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Also, Mr. President, through you, what is the purpose of this, if I may?

SENATOR CASEY:

Through you, Mr. President. The purpose of this is to make sure that any loans that are given are not given orally, are reduced to writing, that is loans over \$50,000.

SENATOR UPSON:

So, through you, Mr. President, there has been a

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case or something where somewhere has made an oral promise to provide a loan for someone for \$50,000 and they didn't deliver, and the idea behind this is then to have that in writing, to have it be enforceable? Through you, Mr. President.

SENATOR CASEY:

Through you, to Senator Upson. My understanding of the amendment would be that any loans made on or after October 1 would have to be reduced to writing. Any loans over \$50,000.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

And through you, Mr. President, right now the ceiling for the statute of frauds is \$100,000.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Through you, Mr. President. There is no ceiling. There is no mention of this loan, any loans in the statute of frauds. The mere mention in the statute of frauds concerns financing of purchases over \$500.

SENATOR UPSON:

Alright. The reason I asked that, Mr. President, and if I may, to have the record corrected, I believe

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Senator Casey, when you, I'm not going to vote against this part, by the way, when you brought this out, you said something about right now statute of frauds does apply to loans over \$100,000 and if I just may have that straightened out for the record, Mr. President.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Through you, Mr. President. It was my intention, Senator Upson, to state that Amendment "B" which we passed two days ago, had a limit of \$10,000, not the existing language of the statute.

SENATOR UPSON:

Through you, Mr. President. It's my understanding the amendment that was passed the other day is to allow small loans to increase their loan power from \$5,000 to \$10,000. So that really doesn't have anything to do with this amendment, which has to do with the statute of frauds. Through you, Mr. President.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Through you, Mr. President. We passed two amendments the other day, "A" and "B". "A" dealt with the item that you just mentioned, raising from \$5,000

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to \$10,000. Amendment "B" referred to the statute of frauds at \$100,000 reduced to writing.

SENATOR UPSON:

And so this amends the second amendment, makes it down to 50. Is that correct? Thank you, Mr.

President.

THE CHAIR:

Further remarks on Senate Amendment "C". All those in favor of the Amendment, signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed. The amendment is adopted.

Further amendments, Mr. President.

THE CLERK:

No further amendments. We're now on the bill as amended by Senate "C".

SENATOR CASEY:

Mr. President, if there are no objections, I ask that it be placed on the Consent Calendar.

THE CHAIR:

Is there objection?

SENATOR UPSON:

Yes, Mr. President.

THE CHAIR:

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There's objection.

You may do so.

SENATOR UPSON:

Thank you.

THE CHAIR:

You may proceed.

SENATOR UPSON:

The amendment that was passed last week, or yesterday, I guess it was. Two amendments, I don't know if anyone's paying attention, but as we walked in the room, the first amendment that was passed changes small loans and the interest rate. There's a special group of people, companies that give out the small loans. We raised that from \$5,000 to \$10,000. Is that correct, Senator Casey? Through you, Mr. President.

THE CHAIR:

Is that correct?

SENATOR CASEY:

It concerns the limit but not the rate.

SENATOR UPSON:

Well, alright.

SENATOR CASEY:

You said the limit and the rate.

SENATOR UPSON:

Alright. The second question would be then, the

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limit, through you, Mr. President, to Senator Casey, we might as well because I'd like to have that straightened out, the limit, my understanding would be, after 1991, the limit would then, there would be no limit, and there would be whatever the state of Connecticut provides for usury. Is that correct?
Through you, Mr. President.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Through you, Mr. President. Senator Upson has another bill, is confused with another bill that dealt with recreational vehicles.

SENATOR UPSON:

No, I understand.

SENATOR CASEY:

This does not sunset. Through you, Mr. President. There's no sunset provision on this legislation.

THE CHAIR:

Senator Upson, is this dialogue?

SENATOR UPSON:

Alright, so then that is the other

THE CHAIR:

Just a moment, Senator.

SENATOR UPSON:

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I think he answered the question. I believe, Mr. President, that that's another bill, yesterday, and my comments on this one, this is a different bill. Is that correct? Thank you very much. It may go on Consent. At least I was paying attention.

THE CHAIR:

We're on HB5695, as amended by Senate Amendment "A", "B" and "C". Is there any objection? Hearing none, placed on the Consent Calendar.

Clerk, please make an announcement for an immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Senator Matthews.

SENATOR MATTHEWS:

Thank you, Mr. President. I was absent from the Chamber during the HB7505, Calendar #811 on legislative business. I'd like to be recorded in the affirmative.

THE CHAIR:

Record will so note.

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Please give your attention to the Clerk who will read the items that have been referred to the 4th Consent Calendar.

THE CLERK:

First item appear on Senate Agenda #2, it's Calendar #23, Substitute HB5695. Returning to the Calendar, Calendar Page 6, Calendar #541, Substitute HB7263. Calendar Page 9, Calendar #561, Substitute HB5330. Calendar Page 12, Calendar #562, SB922. Calendar Page 20, Calendar #349, Substitute HB5108. Mr. President, that completes the 4th Consent Calendar.

THE CHAIR:

Are there any changes or omissions?

The machine is open, please record your vote.

Senator Casey. Has everyone voted?

The machine is closed.

Clerk, please tally the vote.

The result of the vote:

36 Yea

0 Nay

The 4th Consent Calendar is adopted.

SENATOR O'LEARY:

Mr. President.

THE CHAIR:

Senator O'Leary.

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National Credit Union Association, the NCUA reserve requirements, which are the Federal Reserve requirements.

REP. SCHLESINGER: They mirror the FDIC requirements. Then in all candor, how could 100% be even considered?

COMM. HOWARD BROWN: Excuse me.

REP. SCHLESINGER: How could the 100% be even considered?

COMM. HOWARD BROWN: Well, it wasn't considered.

REP. SCHLESINGER: It was asked for.

COMM. HOWARD BROWN: Yes.

REP. SCHLESINGER: I don't understand that. Okay, thank you. I don't understand that though.

SEN. CASEY: Thank you. Senator Upson.

SEN. UPSON: I was given the answer, apparently in 1979 it was increased from 50% to 60% and before that it was 50%.

SEN. CASEY: Any further questions? Thank you very much. The next speaker is Robert Focht, the Department of Banking.

ROBERT FOCHT: Senator Casey, Representative Ritter, members of the Committee, my name is Robert Focht. I am Director of the Consumer Credit Division of the State Department of Banking. I am here this afternoon to testify on behalf of Commissioner Brown on two bills.

The first is HB5693, AN ACT CONCERNING SECONDARY MORTGAGE LOANS AND AMENDING THE DEFINITION OF SALES FINANCE COMPANIES. And the second is HB5695, AN ACT CONCERNING SMALL LOAN LICENSING REQUIREMENTS.

I would like to address HB5693 first. It's divided into two sections. One concerning secondary mortgage loans and one concerning sales finance companies. First, the section concerning secondary mortgage loans.

SEN. CASEY: Any questions?

ROBERT FOCHT: The second bill upon which I wish to testify is HB5695, AN ACT CONCERNING SMALL LOAN LICENSING REQUIREMENTS. This proposal makes three changes. First it makes a change identical to the one I just described concerning exemptions for depository institutions from licensing as a small loan company. Again, the small loan statute has exempted depository institutions for many years, but the language has left some gaps, particularly in view of the fact in some types of depository institutions have been created since the statute was written. For example, federal savings banks.

This proposal, again, would clarify that all depository institutions and credit unions chartered in this or any other state or by any agency of the federal government are excluded from the licensing requirements.

Second, we have received a number of inquiries as to whether or not the small loan statute in fact applies to commercial transactions. It has been our longstanding position that it does not. However, the statute is not as clear as it should be in that regard. Consequently this proposal specifically excludes all entities making loans of a commercial nature or a non-consumer nature from the small loan licensing requirements.

Thirdly, the exemption section is also expanded by exempting entities who extend credit through an open-end credit plan pursuant to the retail sale of consumer goods and services from the licensing provisions of the act. Those are transactions which are already subject to Section 42-133C of the Connecticut General Statutes.

To construe that those would be subject to the licensing provisions of the Small Loan Act would seem to us to be unnecessarily confusing and probably contradictory. We therefore would suggest that change as well.

If there are any questions on that proposal, I would be glad to answer them. Thank you very much.

ATTY. RAPHAEL PODOLSKY: Mr. Chairman, on HB5695, which deals with exemptions from the Small Loan Act, I would ask that the Committee, what I believe to be a technical change, because I believe there is a way in which the drafting of the bill does not conform with what I understand to be the Banking Commissioner's recommendation in terms of its intent.

If you look at the language at Lines 29 through 33 of the bill, it refers to an exemption for certain entities, one being an entity that extends commercial credit and the other being an entity that extends through an open-end credit plan. As I read that the entire entity would be exempt if it extended any credit to those circumstances. That is to say if it extended a commercial loan, even though it also extends consumer loans, the entity would be exempt.

I think what it means is that if the entity makes loans solely for agricultural, industrial or commercial purposes or extends credit solely through an open-end credit plan. And I would ask you to avoid any possible misinterpretation in which you would unintentionally delicensing some small loan companies. Insert the word "solely" in both of those places.

I believe that that is technical, in the sense that I believe it matches with what is intended to be the purpose of the bill and is certainly not proposed as a substantive change. But I do think it's important because the absence of that word could lead to a different construction of the statute, in my opinion.

HB5693, which deals with secondary mortgage lending, it contains in one section, a provision for sanctions for violations of the Act. In describing the sanctions, essentially the sanctions it refers to are, what you would call, actual damages, that is return of any excess points that were charged. Also statutory minimum damages which were 10% of the loan up to a maximum of \$2500 and costs of reasonable attorneys' fees. The reasonable attorneys' fees is a part of statutory

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COMM. HOWARD BROWN: I want to make sure I give you the right person.

SEN. CASEY: Very good. Okay. Whoever is concerned with HB5695, exemptions from the Small Loan Act.

COMM. HOWARD BROWN: Just that one, Senator?

SEN. CASEY: And then HB5695 and HB5693. I wonder if we could get clarification.

COMM. HOWARD BROWN: Do you also care that we corrected these statements on Reg CC.

SEN. CASEY: If you wish. I believe you spoke on HB5695, exemptions of the Small Loan Act and I think you heard Raphie suggest the word "slowly" (Laughter) "solely" added to the phrase in two spots. I wonder if you would like to respond to that.

ROBERT FOCHT: Well, from what I understand the fear is that that exemption would allow a company that makes a few commercial loans but might be in the small loan business to say we don't need to be licensed as a small loan company because we make some commercial loans. Obviously, that is not the intent of the exemption. Obviously, we would not accept that interpretation and would take the administrative action available to us.

I have consulted with our legal division. Raphie brought this to our attention yesterday. They don't seem to believe that if we ruled as we would obviously rule that such a company would have to be licensed, that it would ever be overturned. I suppose that's a matter of opinion, but the advice I was given by our legal division last evening was it isn't necessary to make that change to preserve the integrity of what we have suggested.

The other change with respect....I'm sorry.

SEN. CASEY: Bob, would it hurt? If we clarify it, does it hurt to draft it all by having it in there?

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ROBERT FOCHT: I'm not sure..I think you could clarify it to say what he wants to do. I'm not sure the use of the word solely would be the way to go because that has a connotation in the other direction.

I think what we are looking to say is that these companies are exempt, for instance, in making commercial loans, only to the extent that they make commercial loans and anything else that they do would stand on its own in terms of whatever licensing requirements would be applicable.

SEN. CASEY: So we could work on language after today to make sure...we are on the same wavelength apparently, right?

ROBERT FOCHT: Yes, it would seem to me that language could easily be worked out.

The other suggestion concerning a reasonableness of attorneys' fees, again, it doesn't hurt the integrity of what we are saying. What it seems to say is that a judge wouldn't be competent to decide what is reasonable and by using the word reasonable that gives, it seems to me, it gives the Judicial Department the ability to award whatever is reasonable, and if that turns out to be a percentage of the amount recovered, that doesn't seem as though it necessarily should be precluded. But that's, again, a....

SEN. CASEY: Ver, good. A , other q estions? Do you HB 5977 wish to respond to the check hold time period, Bob? Bob, if you wish...excuse me, Bill.

WILLIAM NAHAS: One of the problems with Reg CC, dealing under Reg CC is that it says in the commentary to the Reg CC in the Federal Register, that if a State does not have a law effective on September 1, 1989, that a State cannot pass any law after September 1, 1989, even if it is more restrictive that governs check hold availability.

The question is whether or not the word effective means, has to be in place, it has to be, you know, regardless of a sunset provision, whether or not it has to be effective on that day. It doesn't go any