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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1991

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JOINT  
STANDING  
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HEARINGS

GENERAL LAW  
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579-908

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

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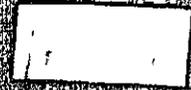
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HB 5396

PA 325

1991

HOUSE 3496, 6004-44, 9295-9309 57p.

SENATE 2796-2810, 3039, 3195, 3247-51,  
~~6225~~ 22p

GEN LAW 715-18, 723-24, 819, 838-41,  
(854) 10p.

TOTAL 85p.

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House of Representatives

Wednesday, April 24, 1991

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

I move this item be referred to the Committee on  
Legislative Management.

SPEAKER BALDUCCI:

Is there objection? Seeing none, it is so ordered.

CLERK:

Calendar 333, Substitute for House Bill 5396, AN  
ACT CONCERNING REIMBURSEMENTS FROM THE HOME IMPROVEMENT  
GUARANTEE FUND AND INCREASING RESTITUTION TO VICTIMS OF  
FRAUDULENT HOME IMPROVEMENT CONTRACTORS. Favorable  
Report of the Committee on General Law.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, I move this item be referred to the  
Committee on the Judiciary.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?  
Seeing none, it is so ordered.

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Personal Privilege?

CLERK:

Good morning, State of Connecticut, House of Representatives, Calendar Tuesday, May 21, 1991. Please turn to Page 24, Calendar 335, Substitute for House Bill 5396, AN ACT CONCERNING REIMBURSEMENTS FROM THE HOME IMPROVEMENT GUARANTY FUND AND INCREASING RESTITUTION TO VICTIMS OF FRAUDULENT HOME IMPROVEMENT CONTRACTORS.

Favorable Report of the Committee on Finance, Revenue and Bonding.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fox of the 144th.

REP. FOX: (144th)

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

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. FOX: (144th)

Yes, sir. Mr. Speaker, this is a bill which makes a number of modifications to the Home Improvement Guaranty Fund Legislation. It is intended to reduce the number of hearings that must be held before a

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homeowner can be reimbursed. It increases the types of cases after which a consumer may seek reimbursement. It increases the potential probation period for up to five years and allows the Consumer Protection Department to register a contractor who has not fully repaid the debt, but who has made arrangements to pay the Guaranty Fund.

There are a series of amendments which I would like to call. First of all, there is LCO4288. I would ask that the Clerk call that, Mr. Speaker, and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO4288, designated House Schedule "A".

CLERK:

LCO4288, House "A", offered by Representative Fox.

SPEAKER BALDUCCI:

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

REP. FOX: (144th)

Thank you, Mr. Speaker. This amendment would provide that by regulation the Department of Consumer Protection may dispense with the necessity for complying with the requirement that each change in a home improvement contract shall be in writing and

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signed by the owner and the contractor. It's intended to allow, as a matter of equity for those situations where there has been a technical failure to comply with a provision of that act.

I move adoption of that amendment.

SPEAKER BALDUCCI:

The question is on adoption of House "A". Will you remark? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

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House Amendment Schedule "A":

After line 313, insert the following:

"Sec. 3. Section 20-429 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) No home improvement contract shall be valid or enforceable against an owner unless it: (1) Is in writing, (2) is signed by the owner and the contractor, (3) contains the entire agreement between the owner and the contractor, (4) contains the date of the transaction, (5) contains the name and address of the contractor, (6) contains a notice of the owner's cancellation rights in accordance with the provisions of chapter 740, (7) contains a starting date and completion date, and (8) is entered into by a registered salesman or registered contractor. Each change in the terms and conditions of a contract shall

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be in writing and shall be signed by the owner and contractor, EXCEPT THAT THE COMMISSIONER MAY, BY REGULATION, DISPENSE WITH THE NECESSITY FOR COMPLYING WITH THE REQUIREMENT THAT EACH CHANGE IN A HOME IMPROVEMENT CONTRACT SHALL BE IN WRITING AND SIGNED BY THE OWNER AND CONTRACTOR.

(b) No home improvement contract shall be valid if it includes any provision obligating the owner to instruct the home improvement contractor, by a date determined by such contractor, that periodic home improvements are not to be performed unless it also includes a provision requiring the contractor to remind the owner of that obligation by means of a card or letter mailed to the owner and postmarked not earlier than twenty days, and not later than ten days, prior to such date.

(c) The contractor shall provide and deliver to the owner without charge, a completed copy of the home improvement contract at the time such contract is executed.

(d) The commissioner may, by regulation, require the inclusion of additional contractual provisions.

(e) Each home improvement contract entered into shall be considered a home solicitation sale pursuant to chapter 740 and shall be subject to the requirements of said chapter regardless of the location of the transaction or of the signing of the contract."

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SPEAKER BALDUCCI:

Will you remark further on the bill? Will you remark further? Representative Fox.

REP. FOX: (144th)

Yes, Mr. Speaker. Thank you, sir. There is a second amendment. It is LC06386. I would ask that that be called and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk Please call LC06386, designated House Schedule "B".

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CLERK:

LCO6386, House "B", offered by Representative  
Mintz, et al.

SPEAKER BALDUCCI:

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

REP. FOX: (144th)

Thank you, Mr. Speaker. This, Mr. Speaker, is a  
proposal to clarify a portion of the Home Improvement  
Contractor Bill so that it is clear that it applies to  
a situation in which work would be done, for example,  
in a common area involving a condominium or under a  
facility which would come under the Common Interest  
Interest Ownership Community Act.

I would move adoption of the amendment.

SPEAKER BALDUCCI:

Will you remark further on the amendment?  
Representative Farr of the 19th.

REP. FARR: (19th)

Excuse me, Mr. Speaker. We're just getting copies  
distributed on this side. Could we hold just one  
minute?

SPEAKER BALDUCCI:

Absolutely. Thank you, Representative Farr.  
Representative Ward of the 86th.

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REP. WARD: (86th)

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

SPEAKER BALDUCCI:

Proceed. Excuse me, Representative Ward. (Gavel)  
Representative Ward.

REP. WARD: (86th)

Thank you, Mr. Speaker. Mr. Speaker, through you, to Representative Fox, the original Home Improvement Contractor Law clearly did not apply for the construction of a new home and was to improvements, but to construction of a new home. Now when we're adding and changing the definition of private residence to include a condominium unit or the common or limited common elements, I guess my question is, is that intended to apply in the initial development of the condominium or only to some repair or improvement to the condominium, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, the latter.

SPEAKER BALDUCCI:

Representative Ward.

REP. WARD: (86th)

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And, through you, Mr. Speaker, if it's as to a unit, I understand that that's an individual owner that's probably made the request for the improvement. If it is to the common elements, it may well be the Homeowners' Association that requests it.

Is it intended that a contract between a contractor and a nonprofit corporation, a Home Improvement Association, I shouldn't say nonprofit, I should say nonstock, is intended to be a consumer contract now, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, it is intended that that arrangement would come under the Home Improvement Contractor Act, yes.

SPEAKER BALDUCCI:

Representative Ward.

REP. WARD: (86th)

Through you, Mr. Speaker, does that then mean that every contract such as for mowing the lawn or making those kinds of -- or plowing the driveways and that, are those intended then to come within the definition of a home improvement contract?

SPEAKER BALDUCCI:

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Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, I do not believe the existing law would so provide and I do not believe that this would be intended to cover that situation.

SPEAKER BALDUCCI:

Representative Ward.

REP. WARD: (86th)

Thank you, Mr. Speaker. I guess I will wait for further debate. I'm not really sure in reading this if we may be making what is not really a consumer transaction a consumer transaction as between an individual unit owner and a contractor, that clearly seems to me to be consumer, but when you have maybe a large management company or a large condominium association and we're now overlaying what is strict consumer protection laws to that kind of really commercial contract, I'm not sure if that's really a good idea, so I think I'll reserve judgment and wait to be convinced that it is. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Rell of the 107th.

REP. RELL: (107th)

Thank you, Mr. Speaker, a question, through you, to

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Representative Fox please. Representative Fox, what is the net effect of adding this language to the Home Improvement Contractor Statutes, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, the net effect is intended to protect organizations that are dealing with a home improvement contractor with respect to the repair, for example, of a common area within a condominium development.

It is my opinion that under the existing law that type of repair in a common area would not be subject to the protections and the remedies that are available under the Home Improvement Contractor Bill. This is intended to correct that deficiency.

REP. REL: (107th)

Through you, Mr. Speaker, is this a common practice now that we've had a lot of complaints on? I'm thinking in terms of the common interest areas in most condominium associations that I'm familiar with that could deal with storage sheds, roadway improvements, garden areas and the like.

I'm not sure exactly what type of outrageous

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complaints we might have or have had that would be brought to the attention of the consumer protection agency, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, as you know, the common area can change from one development to another. In many instances there are areas which would require repair to portions of structures on the outside of buildings that under their guidelines and bylaws would be considered common areas. It's that type of potential problem we're attempting to address and correct.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

REP. SMOKO: (91st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Smoko of the 91st.

REP. SMOKO: (91st)

Thank you. Just a brief question, through you, to the proponent of the amendment.

SPEAKER BALDUCCI:

Proceed.

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REP. SMOKO: (91st)

Representative Fox, just to make sure we're not churning up the soil too much on this, I want to make it clear that this redefinition of a private residence applies only to the confines of the Home Improvement Contractors Fund and would not be interpreted in any way to be broadening, for example, the requirements of what it provided municipally to condominium associations and the like, just to be confident that this does not do that.

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, that is correct and that is the intention.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Farr of the 19th.

REP. FARR: (19th)

Yes, through you, to Representative Fox. Regarding the last question, doesn't this definition go beyond the fund to the underlying home improvement law itself? Are we now saying that this private residence which now includes a common element is only for the fund or is that for all law applying to home improvement

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contractors, through you, Mr. Speaker, to Representative Fox?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

I'm sorry. I could not hear the last portion of your comment.

REP. FARR: (19th)

Is this definition the definition that's used for home improvement contracts and the requirements for home improvement contracts as well as the requirement for obtaining money under the fund, through you, Mr. Speaker, to Representative Fox?

REP. FOX: (144th)

If I understand your question correctly, what we are doing here is expanding the definition so that these types of situations would now come under the Home Improvement Act and also they would be eligible for reimbursement under the fund. I'm not sure that I answered your question, but as I understand it, they would be entitled to recover under the fund if this is adopted.

REP. FARR: (19th)

Through you, to Representative Fox, Mr. Speaker, to Representative Fox, common elements would in some

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situations if a condominium association had a golf course that was part of the condominium as a common element, are we saying now that if somebody does work on the golf course, the swimming pool, tennis courts, all of those things are now going to be home improvement contracts, through you, Mr. Speaker, to Representative Fox?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, we are not intending to change, nor do I feel this amendment changes the definition of what is classified as home improvement. So if that is your concern, we are not changing or intending to change the definition.

REP. FARR: (19th)

Well, I'm still having problems. I don't know that questions are going to answer it, but it seems to me that this is broader than what we might want to -- had intended here because private residence, by including any part of the common element, it seems to me would be in fact broad enough and in fact it talks about swimming pools as part of a residential property as being covered by home improvements.

I would assume that we might also be including --

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it talks about landscaping. These are all areas that are included under the home improvement contract. It seems to me we are -- I understand what Representative Fox was intending to do, but in large condominiums, we're well beyond the home improvement contract. We're into some areas that are really more commercial in nature.

It doesn't seem to me they need the protection of the act, and more importantly, I think that we are sort of accidentally backing into something here where we may invalidate a lot of contracts without really intending to do that. When we're talking about somebody -- a large condominium association operating a golf course or operating swimming pools and stuff, I don't think they need the protection of the act and I don't think that was the original intent of the act to protect those types of people because they are commercial in nature and in fact they may be a larger operation than the contractor himself.

So I guess at this point I'd have to oppose the amendment.

**SPEAKER BALDUCCI:**

Further remarks on the amendment? Representative Arthur of the 42nd.

**REP. ARTHUR:** (42nd)

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Yes, a question, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Proceed.

REP. ARTHUR: (42nd)

Representative Fox, it states in line 65, 66 and 67, common element or limited common element in the condominium as defined in Section 47-68a. What is that definition? I guess that's what the question is being asked and is not being answered really. Are those common and limited common elements clearly defined?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, first of all, let me say that, and I want to make this clear if I didn't to Representative Farr, it is not our intention nor as I read this amendment does it change or modify the type of work or the area that is included under the Home Improvement Guaranty Fund or the Home Improvement Act as defined by the statutes. That is in existence. It's in place. It is not changed by this amendment.

What this amendment does, and I think it's worded appropriately, is to change and clarify that location of a given facility that would now be included for the same type of work that is being done if it were a

private residence.

To answer your question, Representative Arthur, 47-68a is that, and I don't have it in front of me, but as I recall, it is that portion of the statutes which deals with condominiums and which defines condominiums. It's the Condominium Act. Uniform Condominium Act I believe is the name of it.

REP. ARTHUR: (42nd)

Through you, Mr. Speaker, another question.

SPEAKER BALDUCCI:

Representative Arthur.

REP. ARTHUR: (42nd)

Then common element and limited common element is in fact defined specifically in that statute?

REP. FOX: (144th)

Again, I don't have it in front of it, but having read it in the past, I believe it is, yes, sir.

REP. ARTHUR: (42nd)

Thank you.

SPEAKER BALDUCCI:

Representative Ward of the 86th for the second time.

REP. WARD: (86th)

Thank you, Mr. Speaker, and I rise for the second time because after listening to the rest of the debate

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and listening to some of the answers, I also will now have to oppose the amendment. I think if it were limited to a unit, I would have absolutely no problem with it because that would truly be a consumer transaction.

When it does go to common elements and I think if we read it with the rest of the act, you've defined a private residence to include the common elements to the community. That could be the golf course, all of the land, the driveways, the subsurface sewage disposal system and you may well have a large condominium complex with professional management, with legal counsel entering into a contract with a small contractor on the other side, and by the way, it would include landscaping, if we look to line 41 of the file which is not new language, or of the amendment, which isn't new language.

The small landscaping contractor who doesn't have all his "i's" dotted and his "t's" crossed, entering into a contract with the professional management firm isn't going to be able to collect because keep in mind, we have very harsh and strict results for violations of the consumer protection laws and that is as is appropriate because we make an assumption under consumer protection that the contractor is more

sophisticated than the average consumer, that the contractor has the advantage of counsel and the ability to comply with the law. The small consumer does not. That's fine when you truly have a consumer. When you use the definition of common element and I think it does expand because we're calling the common elements a private residence.

I think you now have bootstrapped in potentially the consumer being the large sophisticated individual, the contractor being the unsophisticated and yet still have all the harsh results that flow from a violation of the consumer protection laws. Because of its broad language I would have to oppose the amendment.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Thank you. With all due respect, I have to disagree with Representative Ward. You cannot assume that because you are dealing with a condominium association which is usually a group of laymen that run a given entity, that they are somehow or in some way at an advantage over a contractor.

Under the existing home improvement contractor law,

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an individual, if you want to call him a small contractor, can be dealing with the chief executive of AT&T so that the disparity in terms of their legal ability or legal knowledge would apply to any situation when you're dealing with a home improvement contractor doing that type of work.

In your example, if it is a swimming pool and if it is in the common area, then I would submit to you that ought to be and I think it is our intention that that be subject to the provisions of this act and if the group that owns the unit gets burned, I think that group ought to have the potential for recovering under the fund as an individual would.

We both agree on the intent of this amendment. We may disagree on the policy, but as a matter of fairness, I think it ought to apply and I would support the amendment.

SPEAKER BALDUCCI:

Further remarks on the amendment? If not, we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

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REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

There's definite doubt.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

May I have a roll call please.

SPEAKER BALDUCCI:

I was going to have one ordered myself because there was doubt in my mind. Members and guests be seated or clear the aisles. The machine will be opened.

CLERK:

The House of Representatives is voting by roll.  
Members to the Chamber please. The House of Representatives is taking its first roll call vote of the day. Members kindly report to the Chamber.

SPEAKER BALDUCCI:

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

Representative Rapoport of the 18th.

REP. RAPOPORT: (18th)

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In the affirmative.

SPEAKER BALDUCCI:

Representative Rapoport in the affirmative.

Representative Luby of the 82nd.

REP. LUBY: (82nd)

Thank you, Mr. Speaker, in the affirmative.

SPEAKER BALDUCCI:

Representative Luby in the affirmative.

Representative Markham of the 34th. Representative Markham in the affirmative.

The Clerk please announce the tally.

CLERK:

House Amendment "B" to House Bill 5396.

Total Number Voting 144

Necessary for Adoption 73

Those voting Yea 114

Those voting Nay 30

Those absent and not Voting 7

SPEAKER BALDUCCI:

The amendment is adopted and ruled technical.

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House Amendment Schedule "B":

After line 313, insert the following:

"Sec. 3. Section 20-419 of the general statutes is repealed and the following is substituted in lieu thereof:

As used in this chapter, the following terms shall have the following meanings unless the context clearly

denotes otherwise:

(1) "Certificate" means a certificate of registration issued under section 20-422.

(2) "Commissioner" means the commissioner of consumer protection or any person designated by said commissioner to administer and enforce this chapter.

(3) "Contractor" means any person who owns and operates a home improvement business or who undertakes, offers to undertake or agrees to perform any home improvement. The term "contractor" does not include a person for whom the total cash price of all of his home improvement contracts with all of his customers does not exceed one thousand dollars during any period of twelve consecutive months.

(4) "Home improvement" includes but is not limited to, the repair, replacement, remodeling, alteration, conversion, modernization, improvement, rehabilitation or sandblasting of, or addition to any land or building or that portion thereof which is used or designed to be used as a private residence of dwelling place, or the construction, replacement, installation or improvement of driveways, swimming pools, porches, garages, patios, landscaping, fences, doors and windows and water-proofing in connection with such land or building or that portion thereof which is used or designed to be used as a private residence of dwelling place, in which the total cash price for all work agreed upon between the contractor and owner exceeds two hundred dollars.

"Home improvement" does not include: (A) The construction of a new home; (B) the sale of goods by a seller who neither arranges to perform nor performs, directly or indirectly, any work or labor in connection with the installation or application of the goods or materials; (C) the sale of goods or services furnished for commercial or business use or for resale; (D) the sale of appliances, such as stoves, refrigerators, freezers, room air conditions and others which are designed for and are easily removable from the premises without material alteration thereof; (E) any work performed by the owner on his own premises.

(5) "Home improvement contract" means an agreement between a contractor and an owner for the performance of a home improvement.

(6) "Owner" means a person who owns or resides in a private residence and includes an agent thereof.

(7) "Person" means an individual, partnership or corporation.

(8) "Private residence" means a single family dwelling, [or] a multifamily dwelling consisting of not more than six units, OR A UNIT, COMMON ELEMENT OR

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LIMITED COMMON ELEMENT IN A CONDOMINIUM, AS DEFINED IN SECTION 47-68a, OR IN A COMMON INTEREST COMMUNITY, AS DEFINED IN SECTION 47-202.

(9) "Salesman" means any individual who (A) negotiates or offers to negotiate a home improvement contract with an owner or (B) solicits or otherwise endeavors to procure by any means whatsoever, directly or indirectly, a home improvement contract from an owner on behalf of a contractor."

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SPEAKER BALDUCCI:

Will you remark further on the bill as amended?

Representative Fox.

REP. FOX: (144th)

Mr. Speaker, there is an amendment, it is LC05680. I would ask that it be called and that I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LC05680, designated House "C".

CLERK:

LC05680, House "C", offered by Representative Krawiec, et al.

SPEAKER BALDUCCI:

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

REP. FOX: (144th)

Thank you, Mr. Speaker. This amendment is comparable to amendments that we have dealt with in the

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past which exempt certain individuals from having to have certain types of licenses. In this case it would exempt individuals who have an occupational license from the licensure requirements for a major subcontractor if in fact they are working within their field of expertise and in which they are licensed.

I would move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

REP. BELDEN: (113th)

Thank you, Mr. Speaker. An inquiry to the gentleman bringing out the amendment please.

SPEAKER BALDUCCI:

Proceed.

REP. BELDEN: (113th)

Representative Fox, could you tell us in layman's terms who we're dealing with in this amendment?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Thank you. Through you, Mr. Speaker, what we're dealing with are individuals who because of the size of the job might require a major subcontractor license but who because of their own license in the field of electrician -- as an electrician or a plumber or

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whatever it might be, we're saying as long as you're working within that field and that field alone, we will exempt you from the expense of incurring a major subcontractor license.

REP. BELDEN: (113th)

Thank you.

SPEAKER BALDUCCI:

Will you remark further?

REP. FUSCO: (81st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fusco of the 81st.

REP. FUSCO: (81st)

Yes, Mr. Speaker. A question to the proponent of the amendment.

SPEAKER BALDUCCI:

Proceed.

REP. FUSCO: (81st)

Why in the exemptions did you not include 393a, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker. What we are excluding would be that the requirement for the major

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subcontractor license.

SPEAKER BALDUCCI:

Representative Fusco.

REP. FUSCO: (81st)

Well, am I to interpret, through you, Mr. Speaker, am I to interpret that any individual license under Chapter 393, does that mean to include 393a all the subsections of that chapter, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, it would take me a moment to respond to the question. On Chapter 393 is applicable to electricians, plumbers, heating, piping and cooling contractors and journeymen, elevator and fire protection, sprinkler, craftsmen. That's what would be included.

REP. FUSCO: (81st)

What about sub -- excuse me, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fusco.

REP. FUSCO: (81st)

What about subsurface sewer contractors? Would that also be included? Is that your intent?

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REP. FOX: (144th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, sir, they would not be included.

REP. FUSCO: (81st)

Thank you, Mr. Speaker. I'd ask him to respond.

Representative, if you're going to include all of those classes of contractors and subcontractors, why do you exclude a certain class which is basically in the same class, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, because in that type of work one would not normally be applying for this type of license. This type of license applies to what they refer to as certain threshold building and normally you don't get one that is installing a septic system needing to apply for this type of license.

REP. FUSCO: (81st)

Again, through you, Mr. Speaker, one last question. What would they do if they found themselves in that situation, Representative Fox?

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SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, I can't imagine how they would because this is not the type of work that they do.

REP. FUSCO: (81st)

Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Fusscas of the 55th.

REP. FUSSCAS: (55th)

Thank you, Mr. Speaker. Through you, I guess a clarification from Representative Fox. My understanding, the old law required that a contractor have a certificate and that if he did not perform and you went through the steps, you could recover or you could get money out of the fund.

What had happened -- does the amended bill before us correct what I consider to be a flaw, which is when you entered into the contract with the contractor he had a certificate. Subsequently, he lost his certificate unbeknownst to the homeowner and then when they went to the fund to recover, they could not do so because the contractor was no longer certified. Did we

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correct that, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, I believe Representative Fusscas is addressing the bill and not the amendment on which we haven't voted on, but let me attempt to answer your question. We have made that situation better than it had been. We have improved it. We have set in place a provision so that as long as that person had been licensed, even two years ago, you could still go to the fund to attempt to recover, so we have corrected, maybe not made perfect, but improved what had been a bad situation.

REP. FUSSCAS: (55th)

Thank you. I apologize for not speaking on the amendment.

SPEAKER BALDUCCI:

Further remarks on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

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Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

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House Amendment Schedule "C":

After line 313, insert the following:

"Sec. 3. Section 20-341gg of the general statutes is repealed and the following is substituted in lieu thereof:

(a) On and after July 1, 1990, no person shall engage in or offer to perform the work of any general contractor or major subcontractor in this state on any structure or addition that exceeds the threshold limits contained in section 29-276b unless such person has first obtained a license as required under the provisions of chapter [393 or] 539 of from the department of consumer protection in accordance with the provisions of this section. ANY INDIVIDUAL LICENSED UNDER CHAPTER 393 SHALL BE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER REGARDING LICENSURE OF MAJOR SUBCONTRACTORS. IF A PERSON, FIRM OR CORPORATION BY WHICH AN INDIVIDUAL LICENSED UNDER CHAPTER 393 IS EMPLOYED ENGAGES IN WORK ON A STRUCTURE OR ADDITION THAT EXCEEDS THRESHOLD LIMITS CONTAINED IN SECTION

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29-276b, AND SUCH WORK REQUIRES A LICENSE UNDER CHAPTER 393, THE PERSON, FIRM OR CORPORATION BY WHICH SUCH INDIVIDUAL IS EMPLOYED SHALL BE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER REGARDING LICENSURE OF MAJOR SUBCONTRACTORS IF SUCH PERSON, FIRM OR CORPORATION EMPLOYS AN INDIVIDUAL LICENSED UNDER CHAPTER 393 TO PERFORM SUCH WORK. The department shall furnish to each qualified applicant a license certifying that the holder thereof is entitled to engage in the work for which the person has been issued a license under this subsection, and the holder of such license shall carry it on his person while engaging in such work. Such license shall be shown to any properly interested person upon request. No such license shall be transferred to or used by any person other than the person to whom the license was issued. The department shall maintain rosters of licensees updated annually and may provide copies of rosters to the public for an appropriate fee. The department may suspend or revoke any license issued by it if the holder thereof is convicted of a felony, is grossly incompetent, engages in malpractice or unethical conduct or knowingly makes false, misleading or deceptive representations regarding his work or violates any regulation established under this section. Before any license is

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suspended or revoked, such holder shall be given notice and opportunity for hearing as provided in regulations established under subsection (b) of this section.

(b) Not later than January 1, 1990, the commissioner of consumer protection shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of subsection (a) of this section. such regulations shall (1) establish the licensing requirements for general contractors, structural frame subcontractors and mechanical subcontractors, (2) specify application and license fees, and (3) establish occupational standards for the preservation of the public safety.

Sec. 4. This act shall take effect from its passage.

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SPEAKER BALDUCCI:

Will you remark further on the bill as amended by House Schedules "A", "B" and "C"? Representative Norton of the 48th.

REP. NORTON: (48th)

Thank you, Mr. Speaker. The Clerk has in his possession an amendment numbered LC05821 and would the

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Clerk please call and may I be permitted to summarize its effect.

SPEAKER BALDUCCI:

Will the Clerk please call LC05821, designated House Schedule "D".

CLERK:

LC05821, House "D", offered by Representative Norton, et al.

SPEAKER BALDUCCI:

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

REP. NORTON: (48th)

When we adopted the Home Improvement Contractor Fund, we made a mistake, I feel. It wasn't intentional, but I feel it was a mistake in designing the fund. We said that any monies collected in the fund in excess of \$750,000 should spill over into the General Fund.

This amendment would have it that all monies collected by the fund would be retained by the fund and there'd be no cap.

I move its adoption, Mr. Speaker.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

REP. NORTON: (48th)

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Thank you, Mr. Speaker. It seems to me that if there are excess monies in the fund, there should either be a reduction in the fee we collect from home improvement contractors or the fund should be designed so as to pay out more to the beneficiary, or I should say to the victims of bad contractors.

The fund was designed to collect money from a pool of professionals to account for the negligence or downright corruption on the part of some of those professionals.

We shouldn't collect more money than that tax requires. It shouldn't go into the General Fund. If there is a spillover, it means quite definitely that the fee we're charging is too high and it seems to me this amendment would rectify that bad situation and I therefore urge every member of the House to support that adoption of this amendment. Thank you, Mr. Speaker.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Thank you, Mr. Speaker. Representative Norton was kind enough to discuss this proposed amendment with me

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prior to it being called. I, unfortunately, have to rise to oppose the amendment. I understand what his concern is, but there a couple of things which I think we have to keep in perspective.

To begin with, the fund itself is relatively new. Payouts under the fund have now, over the last year or two, started to progress in earnest and consequently, the monies that were accumulated within a relatively short period of time I don't think as a practical matter will again or will often exceed that \$750,000 cap. I think the cap was put in there for a good reason, that being that we wanted in place money to pay out under the fund, but we don't want to create a government entity unto itself which is bigger than it ought to be.

I think his intentions are good, but I don't think there's a need or will be a need in the future for his concern because payouts are going to be larger and more frequent as people become more aware of the fund and use it more frequently.

Consequently, I would oppose the amendment,  
Mr. Speaker.

REP. NORTON: (48th)

Mr. Speaker.

SPEAKER BALDUCCI:

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Representative Norton.

REP. NORTON: (48th)

I would just like to counter both your points, if I may. It seems to me that if our concern is the amalgamation of, you know, great amounts of dollars and this fund grows to great size, then the way to rectify that is to not contain it to \$750,000 and let it spill into the General Fund. The way to rectify that is to realize that we're collecting more money than we need from home improvement contractors and it's the only reason we set up that fee. We didn't set up the fee for General Fund revenue purposes. We set it up for this fund.

So if this fund got to be too large, we could adjust the fee.

The second point that we probably, now that the fund has reached some maturity, the system has reached some maturity, that we won't need this cap in effect that the cap will not be reached again seems to me to argue in favor of the amendment. If the cap will never be reached, then it seems to me no harm will be done, and therefore, once again, I urge adoption of the amendment, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Caruso of

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the 134th.

REP. CARUSO: (134th)

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of this amendment. In addition to the reasons Representative Norton has stated, I think there are a number of other reasons we should consider this in our protection for those who are ripped off by contractors.

Right now in this economy we are getting, based on our testimony on the committee, we're getting fewer and fewer returns because there are fewer and fewer contractors out there.

This states that -- this exhibits the problem which we'll see which when you have tough times you have fewer revenues coming into the funds. When you have good times, you'll have more. In those good times we'll probably have monies which exceed the regular fund balance and so therefore it's important for us to have the ability to build up that fund as much as possible so that when the payouts are made in bad times, that there will be sufficient funds there.

In addition, when we do have a large number of people coming in to the system and there will be monies paid out, isn't it better to have more money in the fund so that those people will be adequately compensated.

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Therefore, Mr. Speaker, I support this amendment.

Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

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

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The amendment fails.

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House Amendment Schedule "D":

In line 58, after "fund" and before "until" insert  
" [ "  
In line 60, insert a closing bracket after "fund."

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SPEAKER BALDUCCI:

Will you remark further on the bill as amended?

Representative Farr of the 19th.

REP. FARR: (19th)

Thank you, Mr. Speaker. A brief question to Representative Fox, through you, Mr. Speaker. Representative Fox, I apologize for not asking this

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before, but Amendment "A", which you brought out and which has already been adopted has some of the strangest language I've ever seen in statute. What it says is that all contracts shall be in writing signed by the owner and the contractor and then it says, however, that the Commissioner can pass a regulation saying that it doesn't have to be in writing signed by the contractor and the owner.

For purposes of legislative intent, do we intend to have it in writing or not to have it in writing and how does Regulations Review act on a proposal by the Commissioner to abolish the requirement that it be in writing? I don't understand what our intent is here. If we didn't want it writing, why didn't we just abolish that provision for change orders? If we do want it in writing, why did we put that provision in, through you, Mr. Speaker, to Representative Fox?

SPEAKER BALDUCCI:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, there are a number of instances, Representative Farr, with respect to that particular situation and we're not talking about the basic requirements of the law. We're talking about that situation in which there has been a change in the

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contract.

In that situation there can be cases whereas a matter of equity it may be appropriate for that subcontractor to get paid even though there has been a technical or there is a technical deficiency with respect to meeting the law.

What we are saying here and what we are attempting to do is to say to the Commissioner is that is something that ought to be looked at, that that is something that ought to be considered and that regulations ought to be adopted to allow under certain circumstances for a recovery in those limited cases where equity may call for it.

REP. FARR: (19th)

Thank you, Representative Fox. I think that intent is clear, but I would point out that I think the language might have been clearer if it said that. Right now it says that it may by regulation disperse with the necessity of complying with the requirement that it be in writing and I think what Representative Fox is saying is the intent is made by regulations indicate certain circumstances in which that requirement may be dispersed with.

I'm glad he indicated that intent because I think the amendment is not very well drafted. Thank you.

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SPEAKER BALDUCCI:

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

SPEAKER BALDUCCI:

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

The Clerk please announce the tally.

CLERK:

House Bill 5396, as amended by House Amendment Schedules "A", "B" and "C".

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	136
Those voting Nay	7
Those absent and not Voting	8

SPEAKER BALDUCCI:

The bill as amended is passed.

Any announcements or Points? Representative

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DEPUTY SPEAKER POLINSKY:

Representative Bogue, for what purpose do you rise?

REP. BOGUE: (8th)

Madam Speaker, for a Point of Personal Privilege.

DEPUTY SPEAKER POLINSKY:

Please proceed.

REP. BOGUE: (8th)

In the balcony we have visiting with us today at the State Capitol and the Legislative Office Building the fourth graders and their teachers from Leberton and if the members of the Chamber will please rise in helping me give them a warm welcome and if you would also rise and be noticed.

APPLAUSE

DEPUTY SPEAKER POLINSKY:

The Clerk please return to the Call of the Calendar.

CLERK:

Calendar 333, Substitute for House Bill 5396, AN ACT CONCERNING REIMBURSEMENTS FROM THE HOME IMPROVEMENT GUARANTY FUND AND INCREASING RESTITUTION TO VICTIMS OF FRAUDULENT HOME IMPROVEMENT CONTRACTORS AND EXEMPTING CERTAIN PERSONS, FIRMS AND CORPORATIONS FROM THE LICENSURE REQUIREMENTS FOR GENERAL CONTRACTORS AND MAJOR SUBCONTRACTORS. (As amended by House Amendment

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

Favorable Report of the Committee on Finance, Revenue and Bonding.

The Senate rejected "C" on May 31.

DEPUTY SPEAKER POLINSKY:

That was a wonderful reading. Representative Fox.

REP. FOX: (144th)

Thank you, Madam Speaker. That may hold the all-time record for title, but the bill has been before us earlier in the session, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

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

REP. FOX: (144th)

Yes, thank you, Madam Speaker. When the bill was previously before us on the 21st of May this body accepted House "A" and we accepted House "B" and we accepted House "C".

The Senate has a problem with House "C". I believe the appropriate thing to do is for me to call that, Madam Speaker. That is LC05680. I would ask that that be called and I be allowed to summarize.

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DEPUTY SPEAKER POLINSKY:

The gentleman has asked the Clerk to call LC05680, which has previously been designated House Amendment "C".

CLERK:

LC05680, House "C", offered by Representative Krawiec, et al.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Without objection, please proceed, sir.

REP. FOX: (144th)

Thank you, Madam Speaker. This amendment would exempt certain individuals from the requirement that they obtain a major subcontractors' license. It would exempt those that are working on a particular project as specialists within the field in which they are licensed.

There was a cost factor assigned to this which disturbed the Senate. In order that we may move the legislation forward, I am recommending and I would ask that House "C" be rejected.

DEPUTY SPEAKER POLINSKY:

The gentleman has moved that House "C" be rejected. Will you remark further, Representative Fox? Will you remark further on the rejection of House "C"? Will you

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remark further on the rejection of House "C"? If not, let us try your minds, and just to clarify it, if you are in favor of rejection of House "C", you will be voting aye. If you are opposed to the rejection of House "C", you will be voting nay.

All in favor of rejection of House "C" please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER POLINSKY:

House "C", is rejected.

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House Amendment Schedule "C":

After line 313, insert the following:

"Sec. 3. Section 20-341gg of the general statutes is repealed and the following is substituted in lieu thereof:

(a) On and after July 1, 1990, no person shall engage in or offer to perform the work of any general contractor or major subcontractor in this state on any structure or addition that exceeds the threshold limits contained in section 29-276b unless such person has first obtained a license as required under the provisions of chapter [393 or] 539 or from the department of consumer protection in accordance with the provisions of this section. ANY INDIVIDUAL LICENSED UNDER CHAPTER 393 SHALL BE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER REGARDING LICENSURE OF MAJOR SUBCONTRACTORS. IF A PERSON, FIRM OR CORPORATION BY

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WHICH AN INDIVIDUAL LICENSED UNDER CHAPTER 393 IS EMPLOYED ENGAGES IN WORK ON A STRUCTURE OR ADDITION THAT EXCEEDS THRESHOLD LIMITS CONTAINED IN SECTION 29-276b, AND SUCH WORK REQUIRES A LICENSE UNDER CHAPTER 393, THE PERSON, FIRM OR CORPORATION BY WHICH SUCH INDIVIDUAL IS EMPLOYED SHALL BE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER REGARDING LICENSURE OF MAJOR SUBCONTRACTORS IF SUCH PERSON, FIRM OR CORPORATION EMPLOYS AN INDIVIDUAL LICENSED UNDER CHAPTER 393 TO PERFORM SUCH WORK. The department shall furnish to each qualified applicant a license certifying that the holder thereof is entitled to engage in the work for which the person has been issued a license under this subsection, and the holder of such license shall carry it on his person while engaging in such work. Such license shall be shown to any properly interested person upon request. No such license shall be transferred to or used by any person other than the person to whom the license was issued. The department shall maintain rosters of licensees updated annually and may provide copies of rosters to the public for an appropriate fee. The department may suspend or revoke any license issued by it if the holder thereof is convicted of a felony, is grossly incompetent, engages in malpractice or unethical conduct or knowingly makes false, misleading or deceptive representations regarding his work or violates any regulation established under this section. Before any license is suspended or revoked, such holder shall be given notice and opportunity for hearing as provided in regulations established under subsection (b) of this section.

(b) Not later than January 1, 1990, the commissioner of consumer protection shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of subsection (a) of this section. Such regulations shall (1) establish the licensing requirements for general contractors, structural frame subcontractors and mechanical subcontractors, (2) specify application and license fees, and (3) establish occupational standards for the preservation of the public safety.

Sec. 4. This act shall take effect from its passage."

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DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill,  
Representative Fox?

REP. FOX: (144th)

Yes, if I might, Madam Speaker. There is an amendment which was adopted upstairs. It became known as Senate "A". It is LCO No. 7239. I would ask that that be called and I be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Would the Clerk please call LCO7239, which has previously been designated Senate Amendment "A".

CLERK:

LCO7239, Senate "A", offered by Senator Allen.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Without objection, please proceed,  
Representative Fox.

REP. FOX: (144th)

Thank you, Madam Speaker. What became known as Senate "A" allowed payments from the Guaranty Fund if in fact a restitution is ordered by the Department of Consumer Protection after a restitution hearing.

In addition, it allows under certain circumstances that notice of a contractor's rights to a hearing be sent by certified mail. I'm sorry, it allows notice by

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publication and would allow publication as opposed to the absolute requirement that it be by certified mail.

It also cleans up the bill by eliminating Subsection J which has been superseded by new language in Subsection D and Subsection H.

I move adoption of the amendment, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The question is on adoption of Senate "A". Will you remark further? Will you remark further on Senate "A"? If not, all those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER POLINSKY:

The ayes have it.

The amendment is adopted.

Will you remark further on this bill as amended?

REP. FOX: (144th)

Yes, I will, Madam Speaker. There is also what became known as Senate "B". It is LC07527. I would ask that that be called and I be allowed to summarize.

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DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LC07527, which has previously been designated Senate Amendment "B".

CLERK:

LC07527, Senate "B", offered by Senator Aniskovich.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Without objection, please proceed, Representative Fox.

REP. FOX: (144th)

Thank you, Madam Speaker. This amendment establishes a task force to study the desirability of licensing, registering or otherwise regulating home inspectors and it sets up a particular makeup of that task force.

In addition, there are some technical corrections in terms of the references within Senate "B" itself, but primarily because we feel that the makeup of the task force is not what it ought to be, I am urging rejection of Senate "B".

DEPUTY SPEAKER POLINSKY:

The gentleman has moved for rejection of Senate "B". Will you remark? Will you remark further on rejection? Representative Young.

REP. YOUNG: (143rd)

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Madam Speaker, I rise to speak against the rejection of Senate "B". The home inspector situation has developed and it's been a problem in my town in a couple of instances. It's developed from the situation where a buyer and a seller used to agree during the purchase of a home, purchase or sale of the home that they would have a termite inspection and so now from the termite inspection agreed to by the buyers and sellers, we have expanded this to where we have a body of people who purport to be home inspectors. They not only inspect for termites, they inspect for pipes, they inspect for faulty foundations, they inspect for all kinds of things. We don't really know who they are, but in the process of getting a mortgage, it's now quite apparent that the banks, before giving a mortgage in many instances, are requiring the intervention of a home inspector and since this is now become an official part of the process of buying a home, I feel quite strongly that we should find out who these people are and find out what they do.

There was an instance in New Canaan where people bought a house that was given a clean bill of health by the home inspector. They went in and bought it. It cost them \$35,000 to clean up the termite mess. When they asked the home inspector why he didn't find it, he

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said, well, the seller did a pretty good idea covering it up. That was his answer. This is one of the prime home inspector firms in the state.

I think it's a situation which we should address very sincerely and very carefully and I urge approval of Senate Amendment "B".

DEPUTY SPEAKER POLINSKY:

Will you remark further on rejection of Senate -- on the motion to reject Senate Amendment "B"?

Representative Fox.

REP. FOX: (144th)

Yes, thank you, Madam Speaker. I probably should have mentioned this when I first recommended rejection, and let me clarify for Representative Young, because I know that's an issue that we have discussed before and an item that is important to him.

Assuming that this is rejected, Representative Young, I will be calling another amendment which will establish the task force with different parameters. So your concern will be addressed. It is something that will be studied, but it will be set up in a different manner. I would again urge rejection of Senate "A", Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The motion is on rejection of Senate "B". Will you

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remark further? Will you remark further? If not, all those who wish to reject Senate "B", please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

Senate "B" is rejected.

Will you remark further on this bill as amended?

REP. FOX: (144th)

Yes, if I might, Madam Speaker, thank you.

DEPUTY SPEAKER POLINSKY:

Representative Fox.

REP. FOX: (144th)

The Clerk has an amendment. It is LCO7805. I would ask that it be called and I be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO7805, which shall be designated House Amendment "D".

CLERK:

LCO7805, House "D", offered by Representative Fox.

DEPUTY SPEAKER POLINSKY:

Representative Fox. Representative Fox has asked the Chamber leave to summarize. Is there objection?

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Please proceed, Representative Fox.

REP. FOX: (144th)

Thank you, Madam Speaker. This amendment would set up a task force to study and make recommendations on all aspects of the desirability and necessity of licensing, registering or otherwise regulating home improvement inspectors. It is set up in such a manner that there would be appointed to this -- there would be various appointments made by the leadership in the House and the Senate.

In addition to that, the chairman or the commissioner of the Department of Consumer Protection or her designee would serve on it and the chairman of the General Law Committee, House and Senate, would serve as chairpersons of it.

I would move adoption of the amendment, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption of House "D". Will you remark? Representative Chase. Excuse me, Representative Young.

REP. YOUNG: (143rd)

Madam Speaker, obviously, in view of my prior remarks, I stand to recommend passage of this amendment. Thank you.

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DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Caruso.

REP. CARUSO: (134th)

Madam Speaker, thank you, Madam Speaker. Madam Speaker, I rise in support of this amendment. I think it goes a long way to clear up some of the discrepancies which arose with the composition of the task force and I think that this will be much more acceptable to the whole General Assembly.

I urge support, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Will you remark further? If not, all those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed no.

The ayes have it.

The amendment is adopted and ruled technical.

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House Amendment Schedule "D":

After line 494, insert the following and renumber the remaining section accordingly:

"Sec. 6. (a) There is established a task force to study and make recommendations on all aspects of the

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desirability and necessity of licensing, registering or otherwise regulating home inspectors. The task force shall study, but not be limited to: (1) the duties of home inspectors, and (2) the qualifications to become a home inspector.

(b) The task force shall consist of eleven members as follows: (1) The chairman and ranking members of the general law committee; (2) one home inspector to be appointed by the majority leader of the senate; (3) one member of the Connecticut Association of Realtors, Inc. to be appointed by the minority leader of the senate; (4) one member of the Home Builders Association of Connecticut, Inc. to be appointed by the majority leader of the house of representatives; (5) one member who is an employee of a bank to be appointed by the minority leader of the house of representatives; (6) the commissioner of consumer protection or her designee; (7) an architect to be appointed by the speaker of the house of representatives; and (8) an engineer to be appointed by the president pro tempore of the senate. The chairman of the general law committee or members of the task force designated by them shall serve as chairmen of the task force.

(c) The expenses of the task force will be paid for from the current operating budget of the department of consumer protection. The members of the task force shall not be compensated for their services.

(d) The task force shall submit a report of its findings and recommendations to the joint standing committee of the general assembly on general law not later than February 1, 1992."

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DEPUTY SPEAKER POLINSKY:

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

CLERK:

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

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House of Representatives

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Representatives is voting by roll. Members to the Chamber please.

DEPUTY SPEAKER POLINSKY:

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

The Clerk will read the tally.

CLERK:

House Bill 5396, as amended by House Amendment Schedules "A", "B" and "D" and Senate Amendment Schedule "A".

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not Voting	8

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

Are there any announcements or Points of Personal Privilege? Representative Kiner.

REP. KINER: (59th)

Madam Speaker, for an introduction.

DEPUTY SPEAKER POLINSKY:

Please proceed.

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amended. Are there any further remarks? If not,  
Senator Meotti.

SENATOR MEOTTI:

I would ask this be placed on the Consent Calendar.

THE CHAIR:

Is there any objection in placing Senate Calendar  
507, Substitute SB723 as amended on the Consent  
Calendar? Any objection? Hearing none, so ordered.

Mr. Clerk.

THE CLERK:

Calendar Page 9, Calendar 536, File 376 and 863,  
Substitute HB5396, AN ACT CONCERNING REIMBURSEMENTS  
FROM THE HOME IMPROVEMENT GUARANTY FUND AND INCREASING  
RESTITUTION TO VICTIMS OF FRAUDULENT HOME IMPROVEMENT  
CONTRACTORS AND EXEMPTING CERTAIN PERSONS, FIRMS AND  
CORPORATIONS FROM THE LICENSURE REQUIREMENTS FOR  
GENERAL CONTRACTORS AND MAJOR SUBCONTRACTORS. As  
amended by House Amendment Schedules "A", "B" and "C".  
Favorable Report of the Committee on FINANCE, REVENUE  
AND BONDING. Clerk is in possession of two amendments.

THE CHAIR:

Thank you Mr. Clerk. The Chair will recognize  
Senator Allen.

SENATOR ALLEN:

Madam President, if I may I would like to move

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acceptance of the Committee's Favorable Report and adoption of the bill.

THE CHAIR:

In accordance with the action of the House?

SENATOR ALLEN:

No, Madam. I would like to... if the motion is in order I would like to move to adopt House "A" and "B" but to reject House "C".

THE CHAIR:

Thank you very much. Mr. Clerk.

THE CLERK:

Motion should be to reject "C".

THE CHAIR:

Senator Allen, do you move to reject House Amendment "C"?

SENATOR ALLEN:

Madam President, I would like to move to reject House Amendment "C".

THE CHAIR:

Fine, thank you very much. Would you care to remark?

SENATOR ALLEN:

House "C" attempts to deal with the problem that..L'Ambiance problem in Hartford and attempts to do that by dealing, by tightening up on licensing

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requirements. What it in effect does is set up for some major subcontractors a dual licensing situation. The original statute in dealing with this was poorly drafted. This amendment House "C" attempts to clear that up in reaction to some pressure of some contractors. I would like to have them do this, unfortunately it has drawn a fiscal note. The fact is that there are according to the Office of Fiscal Analysis some 40 major subcontractors affected here and if we exempt them it is going to incur cost. That is to say if we tighten up this exemption in effect it is going to leave some 40 or a few more major subcontractors around the State who are currently paying license fees who would be removed from that and as much as I would like to agree to do that at this late time, it is not a good thing for us to do.

We haven't heard a great deal of testimony and how to work this out. So therefore, Madam President, I would move that we reject and urge my colleagues to agree to reject this amendment.

THE CHAIR:

There is a motion to reject House Amendment "C" on Senate Calendar 536. Would anyone care to remark on that particular motion? Are there further remarks? If not, all those in favor of the motion to reject House

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Amendment "C" please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment has been rejected. Senator Allen, would you then go back and move that you it is in accordance with House Amendment Schedules "A" and "B" and then we will deal with the Senate Amendment.

SENATOR ALLEN:

I move, Madam President.

THE CHAIR:

Thank you very much, Senator. I will call on the Clerk.

THE CLERK:

The Clerk is in possession of two amendments. LCO7239 designated Senate Amendment Schedule "A" offered by Senator Allen of the 10th District.

THE CHAIR:

Senator Allen, sir, go ahead sir.

SENATOR ALLEN:

Thank you, Madam President. This amendment...I have gotten into trouble before by describing it as being rather technical. In fact I still believe it is. But I should note that it does do something that

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someone may interpret as being substantive. As of now, under this home improvement guarantee fund, there are two statutes under which we can tap into the fund if a consumer complains that substandard work has been done and they have been harmed. Those two statutes are the Home Improvement Act, Chapter 400 in the Unfair Trade Practices Act, Chapter 400.

Roughly the way it works out that we go under the Home Improvement Statutes if they are licensed contractors, but it is an unfair trade practice and we use that statute if they are illegally practicing, that is they are not licensed. Unfortunately the way the law is written now that the home guaranty fund can only be tapped if we go under the Home Improvement Act, it doesn't say when we are dealing with a case where we received a complaint from someone who is not a licensed contractor and they are operating illegally, at this point we are almost completely unable to offer them help from the Home Guaranty Fund. The only way we can offer them relief ironically is to take this through the entire process incurring great cost to the state and great inconvenience to the consumer and have the Attorney General get an action which is very rarely done, but that action can be a reason for claimant against the Guaranty Fund.

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This amendment, in the first place, tightens up that hole and makes it clear that a legitimate claim on the part of the consumer can be recognized under both statutes. It does also two other things that are minor. It relieves the Department from the absolute requirement that they have to notify effective contractors by certified mail as opposed to some other legal prospects that are well known to them and it deletes a redundant section that in the draftsmanship of our many revisits to this Act is unnecessary in dealing with Line 210 through 220 of the file.

So I would move that we, urge that we approve this amendment as it stands. It will make the statute much more workable.

THE CHAIR:

Thank you, Senator Allen. Does anyone else care to remark on Senate Amendment Schedule "A"? Any further remarks? If not, then would you let me know your mind on LCO7239. All those in favor of the amendment please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment is adopted. Mr. Clerk, you have another amendment?

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THE CLERK:

LC07527 designated Senate Amendment Schedule "B"  
offerd by Senator Aniskovich of the 12th District et  
al.

THE CHAIR:

Senator Aniskovich.

SENATOR ANISKOVICH:

Thank you, Madam President. I move adoption of the  
amendment, ask leave to proceed.

THE CHAIR:

Please proceed sir.

SENATOR ANISKOVICH:

This amendment basically or simply establishes a  
task force to study the duties and qualifications of  
being a home inspector in the State of Connecticut. It  
arose out of a series of problems experienced in at  
least 17 or 18 towns and every county in the State of  
Connecticut. Due to the fact that any individual in  
the State of Connecticut right now can perform a home  
inspection pursuant to a closing on real property,  
which has led to individul consumers having to pay  
substantial amounts of money to repair damage to  
property that was missed by home inspectors.

We would like to move forward with a licensing bill  
for home inspectors in the State of Connecticut, but

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first we need the expertise in defining what a home inspection is and what the consumer can expect, in order to hold home inspectors to a standard in this State, and so for that reason I would urge adoption of the amendment.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on LC07527? Senator Allen.

SENATOR ALLEN:

Yes, Madam President, I also would like to urge adoption of this amendment. The problem was brought to the attention of the media rather than to the Legislature when we were having public hearings since they are much more aware of these problems than we are. Unfortunately going that route we don't have the public record or the history to be able to react to it with legislation, so in light of that I suggest what is being suggested here in terms of studying this for a task force and getting it ready for legislation in the future is a good one in light of the seriousness of entering an entirely new regulated area.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on LC07527? Any further remarks? If not, then please let me know your mind. All those in

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favor of the amendment please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The ayes have it. The amendment is adopted. You have before you the underlying bill as amended.

SENATOR ALLEN:

Yes, Madam President, the main bill gives consumers much protection especially after the amendments against fraudulent claims by contractors and it gives them this relief by standing the field of cases under which homeowners can recover from the Guaranty Fund. It does this in the main body of the bill by requiring less hearings, by allowing designees other than the Consumer Protection Commissioner to be able to reach findings and allowing consumer more immediate relief from unfavorable findings from their viewpoint made by the Commissioner.

We made several amendments between our acceptance of the House Amendments and the acceptance of the amendment that was just offered. We have made several, I think, major expansions. The effect of all of this will be that there will be more pressure on the Home Guaranty fund and the question may be raised as to

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whether that fund is sufficient or strong enough to be able to meet this new pressure. I have recently reviewed the history of this fund and indeed I believe that it is. The fund, if those of us who may know or may be familiar with this. I am sure it is on the tip of all of our tongues. The fund is capped at \$750,000, after which if it has more money the excess has to be turned over to the General Fund.

As of today, or as of earlier this year, about a month or so ago the fund, which has only seen two years of operation has already turned over \$1,514,000 to the General Fund, including \$840,000 this year. The claims against this fund are capped at \$10,000 per case. It is clear that given its history and given the strength of the fund that it can take and increase additional pressure, and I think that therefore this increased protection should be given to the consumers who are still being beset on by fraudulent work that is being done by underqualified contractors. So I suggest, Madam President, this is a good bill, it should be adopted.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark? Senator Gunther.

SENATOR GUNTHER:

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Madam President, I rise to support the bill. Unfortunately this is again a little bit nibbling on to the fund. I believe the fund should be used for the purpose of set asides. I know that over a million and a half dollars has gone into the General Fund, but we are not really getting to the problem, Madam President. The problem is what do we do about the not so good contractors and the work that is being done that is sloppy, the frauds, the scams that are being perpetrated mostly on the young and elderly people. The ones in between seem to be able to hold their own.

The \$10,000 limit, incidentally, is a spit in the ocean. Some of these projects, I know I have one in particular in my area that is almost a half a million dollars and to get a \$10,000 settlement out of that fund after the builder is into bankruptcy and there is no recourse on the builder and these people have an awful mess on their hands. All I can say is one of these days we are going to set up this thing and we are going to resolve the problem. I think the only way we are going to resolve the problem is possibly by some method of licensure because certification is still the weak link we have here where anybody can go in and get a certification, there is no way that we can establish competency in this work. My book, I think we should

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stop fooling around, let's get down to business. I am glad to hear about the home inspectors being brought aboard.

Again, my only reservation there, Madam President, is again it is another study of a situation and unfortunately too many times we go to studies and we come down and we take a nibble on this thing and then next year it is another thing and then another rather than facing up the real needs in this. I believe we should have licensure in home improvement contractors, we have been trying for years to get this done. Maryland has a very good law. We had a study on the home improvement contractors last year and the only thing they came up with was a little brochure that tells you how to hire a decent home improvement contractor. Unfortunately I don't know how they will ever get those little brochures out to the people that need them. Because it's usually after the fact which this fund is, after you get burnt, you can get \$10,000 out of the fund if you go through some process. Some of them, incidentally, going through the process are going to court is expensive in itself and I think sometimes...I know with some of these lawyers the rates they get, why they might eat up the \$10,000 that they get out of the fund.

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But anyway, I will say this is an improvement on what we have here, but I hope that we can plead with our new Chairman of the General Law Committee that maybe in addition to taking and looking at these inspectors, we take the effort during the interim of the next six months, let's take a look at home improvement contractors. Let's find out if we can get a licensing law or some way to protect the general public rather than getting ripped off and then we supply them with some money when it's done. So I hope that might be a suggestion to be picked up, Madam Chairman. Maybe we can do it this year, something that we haven't been able to do for many years.

THE CHAIR:

Thank you very much, Senator Gunther. Would anyone else wish to remark on this bill as amended, Senate Calendar 536? Any further remarks? Yes, Senator Allen.

SENATOR ALLEN:

Yes, Madam President, the previous speaker's remarks are well taken. Certainly more should be done in the area of licensure of home improvement contractors and we are only taking tentative steps here. However, it was deemed by the Committee that this would not be here to make major and new expansions

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in terms of any area and this is a critical area we agreed, but it was deemed this is not the year for us to do what was suggested. Unfortunately it is too late at this stage to reverse that decision.

I don't disagree with the comments and these matters will be studied and actively dealt with hopefully with legislation next year. Again, I urge adoption of the bill as it stands now. It is progress.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on the bill? If not, Mr. Clerk, would you make the necessary announcement for a roll call vote.

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:

Thank you very much, Mr. Clerk. The issue before the Chamber is Calendar 536, Substitute HB5396 without House Amendment Schedule "C" with two Senate amendments. The machine is open. You may record your vote. Have all Senators voted? The machine is closed.

The result of the vote.

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36 Yea

0 Nay

0 Absent

The bill passes.

On Calendar Page 24, Senate Calendar 394, Committee of Conference has been constituted. The appointments are Senator Allen, DeLuca and Herbst. Senators Allen, DeLuca and Herbst. Thank you. Mr. Clerk.

THE CLERK:

Calendar Page 9, Calendar 539, File 860, Substitute SB859, AN ACT CONCERNING THE ADOPTION OF A SINGLE AUDIT FOR RECIPIENTS OF STATE FINANCIAL ASSISTANCE.

Favorable Report of the Committee on APPROPRIATIONS.

Clerk is in possession of two amendments.

THE CHAIR:

Thank you very much. The Chair will recognize Senator Herbst.

SENATOR HERBST:

Madam President, I am going to have to ask for a PT. I am waiting for another technical amendment and it hasn't arrived yet.

THE CHAIR:

Thank you. Senator Calendar 539, Substitute SB859 will be marked PT awaiting an amendment. Mr. Clerk.

THE CLERK:

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and "E"

b) DISAGREEING ACTIONS - to be tabled for the  
Calendar

Finance, Revenue & Bonding

Substitute HB5396 An Act Concerning Reimbursements  
from the Home Improvement Guaranty Fund and  
Increasing Restitution to Victims of Fraudulent  
Home Improvement Contractors.

5/21 House Passed with House "A" "B" "C"

5/31 Senate Rejected House "C"

5/31 Senate Passed with House "A" "B" and  
Senate "A" and "B" R/S/T

6/3 House Rejected House "C" and Senate "B"  
- Passed with House "A" "B" "D" and  
Senate "A"

END SENATE AGENDA #2

THE CHAIR:

Are there any announcements or points of personal  
privilege? Are there any announcements? If not, the  
Chair will recognize Senator O'Leary and we will do the  
markings on today's Calendar.

SENATOR O'LEARY:

Thank you, Madam President. Madam President, we  
have items that are ready for action tonight. On Page

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THE CHAIR:

Is there any objection in moving Calendar 111, Substitute SB701 to the Consent Calendar? Any objection? Hearing none, so ordered.

SENATOR O'LEARY:

Page 18, 194 is Go. 400 is Go. 507 is Go. 520, Substitute SB907 I move to the Consent Calendar.

THE CHAIR:

Is there any objection in moving Calendar 520, Substitute SB907 to the Consent Calendar? Any objection? Hearing none, so ordered.

SENATOR O'LEARY:

Calendar 523 is marked Go. Page 19, Calendar 536, Substitute HB5396 I move to the Consent Calendar.

THE CHAIR:

Is there any objection in moving Calendar 536, Substitute HB5396 to the Consent Calendar? Senator DeLuca, do you object? Do you wish to re-mark that Go, Senator O'Leary.

SENATOR O'LEARY:

Yes, Ma'am.

THE CHAIR:

Senate Calendar 536 is now marked Go.

SENATOR O'LEARY:

Page 22, Calendar 293, second from the bottom, I

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SENATOR MATTHEWS:

Thank you. The change in the bill which we have already hear and voted on includes a new section which states that each director of a Headstart Program shall require that each child attending such a program be tested for lead levels in his blood. That is after consultation with the director of Headstart, with consultation with the school medical advisor and the local health department. In the event of a regional board of education then the consultation should be with each local health department. And then it will be determined if such tests are necessary.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on Senate Calendar 523? Are there any further remarks? If not, because we are acting in concurrence with the House Senator, would you like to have this placed on the Consent Calendar? I guess so. Is there any objection in placing Senate Calendar 523, Substitute SB342 on Consent? Is there any objection? Hearing none, so ordered. Mr. Clerk.k

THE CLERK:

Calendar Page 19, Calendar 536, File 376 and 863, Substitute HB5396, AN ACT CONCERNING REIMBURSEMENTS FROM THE HOUSE IMPROVEMENT GUARANTY FUND AND INCREASING

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RESTITUTION TO VICTIMS OF FRAUDULENT HOME IMPROVEMENT CONTRACTORS AND EXEMPTING CERTAIN PERSONS, FIRMS AND CORPORATIONS FROM THE LICENSURE REQUIREMENTS FOR GENERAL CONTRACTORS AND MAJOR SUBCONTRACTORS. As amended by House Amendment Schedules "A" and "B" and "D" and Senate Amendment Schedule "A" and "B". Favorable Report of the Committee on FINANCE, REVENUE AND BONDING. The House rejected Senate Amendment "B".

THE CHAIR:

The Chair would recognize Senator Allen.

SENATOR ALLEN:

Yes. Madam President, I move adoption of the Committee's Favorable Report and acceptance of the bill. I want to be in concurrence with the House so I guess I have to accept their rejection of "B" or I have to reject "B" and accept "D"?

THE CHAIR:

In concurrence with the House and that's it.

SENATOR ALLEN:

In concurrence with the House.

THE CHAIR:

Alright. Would you care to remark further?

SENATOR ALLEN:

Yes. The outstanding issue between us now has to do with the make up of the task force to study the

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license and otherwise regulated home inspectors. The House has changed the membership of this task force in a way that I think we have no reason to object to. I would suggest that the bill be adopted as is.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on Calendar 536? Any further remarks? If not, because we are acting in concurrence with the House...they did object to it. Would you mind...would you like to move to put this on Consent?

SENATOR ALLEN:

Yes, Madam President, there being no objection I would like to move this to Consent.

THE CHAIR:

Thank you very much, Senator. Is there any objection in placing Senate Calendar 536, Substitute HB5396 on the Consent Calendar? Is there any objection? Hearing none, so ordered. Would you make the necessary announcement for a roll call on the Consent Calendar. We have a motion to adopt it.

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. Will all Senators please return

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to the Chamber.

THE CHAIR:

Thank you very much. The issue before the Chamber is Consent Calendar #1. Would you give your attention to the Clerk who will read the items placed on the Consent Calendar?

THE CLERK:

Madam President, the first Consent Calendar begins on Calendar Page 6, Calendar 585, Substitute HB7358. Calendar 587, Substitute HB6852. Calendar Page 7, Calendar 592, Substitute HB6338. Calendar 594, Substitute HB7270. Calendar 595, Substitute HB7216.

Calendar Page 8, Calendar 599, Substitute HB7327. Calendar 602, HB6457. Calendar Page 10, Calendar 611, Substitute HB7300. Calendar 612, Substitute HB7351. Calendar Page 11, Calendar 616, Substitute HB5045. Calendar Page 16, Calendar 389, Substitute HB6624. Calendar Page 17, Calendar 111, Substitute SB701. Calendar Page 18, Calendar 400, Substitute SB292. Calendar 520, Substitute SB907. Calendar 523, Substitute SB342. Calendar Page 19, Calendar 536, Substitute HB5396. Madam President, that completes the first Consent Calendar.

THE CHAIR:

Thank you very much. You have heard the items that

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have been placed on the Consent Calendar #1. The machine is on. You may record your vote. Thank you very much. The machine is closed.

The result of the vote.

36 Yea

0 Nay

0 Absent

The Consent Calendar is adopted.

Senator DiBella.

SENATOR DIBELLA:

Thank you, Madam President. Calendar 591, Page 6, Calendar 591, I voted in the affirmative on that piece of legislation and I would like to move consideration.

THE CHAIR:

Are you talking about the amendment? There is a motion on the floor to reconsider LCO7248 which was an amendment to Senate Calendar 591, which you will find on Page 6. 591 is Substitute HB5427. There is a motion to reconsider that amendment, made by Senator DiBella who is on the prevailing side.

SENATOR DIBELLA:

May we have a roll call on that.

THE CHAIR:

And he has also requested a roll call vote on the motion to reconsider only. Is there anyone who would

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GENERAL LAW

March 14, 1991  
2:30 p.m.

PRESIDING CHAIRMAN: Representative Fox

COMMITTEE MEMBERS PRESENT:

SENATORS: Allen, Aniskovich

REPRESENTATIVES: Gambardella, Caruso,  
Betkoski, Caruso, Collins,  
Kiner, Krawiec, Marotta,  
Prelli, Raia, Stratton,  
Taborsak, Taylor, Tonucci,  
Varese, Zajac

REPRESENTATIVE FOX: The General Law Committee first hour is reserved to legislators and agency heads. Our first speaker is Senator Gunther. The next speaker is Joe Courtney. Good afternoon.

REPRESENTATIVE COURTNEY: Good afternoon, Representative Fox and members of the Committee. Thank you for the opportunity to appear before you today. And I want to thank the Committee for raising HB5396, AN ACT CONCERNING REIMBURSEMENTS FROM THE HOME IMPROVEMENT GUARANTEE FUND. The bill before you stems from what I think is a long-standing complaints that has existed since 1989 when the home improvement guarantee fund was created, which is that only a trickle of payments have been flowing from the fund since it was created.

With the assistance of your legislative research analyst, Mr. Duffy, we actually got some figures which demonstrate how severe the problem is. As of October, approximately 1.3 million has been transferred to the General Fund, even though the fund itself was supposed to be kept at a level of 750,000 dollars. So, I think, certainly the intent of the legislature was not to create a revenue raiser for the state of Connecticut. It was intended to compensate victims of home improvement problems or fraud and was certainly intended for the good home improvement contractors to be a mechanism to provide relief for customers as opposed to a source of revenue for the state of Connecticut.

With the help of Mr. Duffy we identified what we thought were some procedural problems with the way the fund presently operates. And based on his analysis, the legislation was drafted that's before you. Very simply, what the bill would do if it was created was a number of procedural changes to make hopefully, the system more user-friendly and to expedite the process of receiving restitution. First and foremost, it would allow the Commissioner or a designee of the Commissioner to actually handle cases involving payments out of the restitution fund. The present law limits orders to be emanating solely from the Commissioner of Consumer Protection.

We felt that allowing designees to also participate might allow the Department to schedule more hearings and quicker hearings. Secondly, it eliminates the need for a formal hearing in cases where consumer actually has a judgement, has been unsuccessful in executing on that judgement. It basically allows the Department to order a restitution by taking the paper, so to speak, of the consumer in their attempt to execute on a judgement and again there is, I think, safeguards in there that all documents would have to be notarized. So, there would be exposure to criminal penalties if a person was actually committing fraud by submitting documents that were false or inaccurate.

In addition, it allows consumers who have been victims in cases where criminal judgements have been imposed and restitution orders have been imposed where, again, restitution has not been forthcoming through the Office of Adult Probation to again, receive relief based on a showing of the documentation of their case. As opposed to having them come in for a full-blown formal hearing for before the Department. I would just note that it appears just based on the draft that there might be a couple of items that, again, in screening the Committee may just want to focus on which is that the language in Section F and Section G, upon my reading of it twice and I certainly don't pretend to having the final word here, but I think they may possibly be redundant.

And it would be my suggestion that the language in Paragraph G is adequate to take care of the cases where the Attorney General's office has collected, or has gotten, the judgement, either through the Unfair Trade Practices Act or some other proceeding. And that, again, that Section F, which I think addresses the exact same issue, is maybe unnecessary. And the final paragraph, Section O of the bill, which I think was again an attempt to sort of clarify cases which should or should not be referred to the Attorney General should probably be taken, or scrutinized one more time by screening. I mentioned it to Mr. Kehoe and his associate who are here today that the Attorney General's office may want to participate just in terms of making sure that that language is, reflects what the intentions of the Department of Consumer Protection's wishes are and the Attorney General's office are.

REP. FOX: I didn't catch the last part, on O?

REP. COURTNEY: On Section O, basically indicates ground rules for when complaints should...

REP. FOX: Referring it out?

REP. COURTNEY: That's right. And I think, again, I would just suggest that you may want to have the Attorney General's office examine that language. They had some questions in just a preliminary discussion we had out in the hallway when the time comes to screen. Hopefully, again, this will allow the fund to operate in a much more expeditious manner and I hope the Committee will see fit to make some changes, but, hopefully, support the end product.

REP. FOX: Questions? Thank you. Rich Kehoe.

RICH KEHOE: Representative Fox, members of the Committee, I'm Rich Kehoe, Special Counsel to the Attorney General. I would just follow up on HB5396 and reiterate the comments that Representative Courtney made that the Attorney General's office does support the concept behind the bill and we will be working with DCP as well as the Committee on some of the minor technical stuff.

REP. FOX: I would appreciate the benefit of your thoughts, not necessarily right now, but if you could get back to us on the comments that Joe Courtney had regarding Sub-Paragraph, or Sub-Section O and also F and G. If you could take a look at that and give us the benefit of your thoughts it would be helpful.

RICH KEHOE: Sure. We are also here to testify today and I'm sorry, with me is Assistant Attorney General Joe Rubin, who is, who heads up our criminal prosecution of home improvement contractor defraud. HB6874, which is AN ACT INCREASING RESTITUTION TO VICTIMS OF FRAUDULENT HOME IMPROVEMENT CONTRACTORS. As most of you know there are both civil as well as criminal fines for home improvement contractor fraud. Criminal fines are assessed against unregistered home improvement contractors and home improvement contractors that commit certain specified offenses listed in the statute.

We have been successful in prosecuting a number of criminal offenses under this section. If you look over the last 2 years, approximately 371,000 dollars has been paid or ordered to be paid by the court as restitution to the victims of home improvement contractor fraud when we've brought these criminal prosecutions. Basically, the way the court looks at a criminal prosecution is that they can provide for criminal fines and imprisonment, or in lieu of imprisonment, they can order a suspended sentence and probation. And it's during that probation period which we are able to obtain restitution.

Because the court will make restitution part of that order. The problem we've run into and the problem that's addressed in this particular bill before you today is that under the, with the current criminal fines, the court can only order probation for 2 years. Therefore, restitution can only be provided for 2 years. Because there is so many of these large scale frauds going on, we would like to see the law changed which would allow the courts to extend that probation period to up to 5 years. And that would be upon a court finding that

extension to five years, we think, would be very desirable. HB6879, AN ACT CONCERNING THE HOME IMPROVEMENT GUARANTEE FUND. I'm here to support this bill. As you know, I may currently, as Commissioner, order restitution to owners pursuant to the Connecticut Unfair Trade Practices Act. For such orders obtained for the benefit of the consumers by my Department, prior to the October, 1990 amendment, this bill would allow owners who meet oral existing criteria to obtain payment from the home improvement guarantee fund.

The bill also provides for periodic payments into the Home Improvement Guarantee Fund by contractors who cannot reimburse the fund in full in the form of a lump sum payment. And they also, at my so discretion, issue a new or renewed certificate, after an agreement is entered into by the contractor and myself for such periodic payments. HB5396 is AN ACT CONCERNING REIMBURSEMENTS FOR THE HOME IMPROVEMENT GUARANTEE FUND. I agree with the remarks made by Representative Courtney. The Department supports this bill generally. We have suggested a list of amendments which are really, I think, technical in nature.

But we would hope that you would consider them. Some of the proposed amendments do the following, changes to Sub-section D, we've reviewed the recommendations in the report prepared by the Office of Legislative Research, and note that the changes made to this Sub-section go beyond the changes recommended in the report. One significant change is the removal of the contractor's right to notice in hearing prior to monies being issued out of the Guarantee Fund to owners who have obtained court judgements against that contractor.

I would add, parenthetically, that I don't think it's a good idea to take that notice and prior hearing provision away because in some cases a contractor may, in fact, have paid the person who entered into the contract with him and an individual could end up being paid doubly. Having gotten the money from the contractor and then also getting money back from the Home Guarantee Improvement Fund. So, we would want to be sure that no one got paid twice. We would propose amending Line 64 and 65 to increase the time period

available to an owner for a claim for the fund from one to two years after the owner's court judgement to allow more owners access to the fund.

We proposed the deletion of Lines 91 through 108 of the present bill as the section refers to orders obtained by the Commissioner and the Attorney General and as such orders provide that the contractor pay those offices directly for later distribution to the owners. It seems unnecessarily burdensome for an owner to have to produce documentation called for to obtain payment from the Guarantee Fund. I believe Representative Courtney addressed that issue. I might note that in a little more than a year, that the Home Guarantee Fund has actually been in operation. We have already paid out over 270,000 dollars.

One of the things that I'm most interested in doing and attempt to do right along the line, is to publicize the existence of the Home Guarantee Fund. Because, I think that, many consumers are not aware of the existence of the Fund and so we really hope that people will take notice of this. And, also, take notice of the fact of the importance of the registration of home improvement guarantee contractors with the Department. So that they can ensure themselves this additional protection. Finally, in the new Sub-section H, lines 116 through 136, no provision is made for a contractor to appeal an order affecting his registration, such as revocation or suspension.

Or to appeal the Commissioner's order of restitution. Presently, a contractor may not appeal an order directing payment from the Guarantee Fund, but he can appeal the other decisions in accordance with Chapter 54 of the General Statutes. And I think the due process might be better served by preserving those existing rights of appeal. I think that does it for the Department's bills.

REP. MAROTTA: Commissioner, on the first bill that you said, SB427, is there a current provision that the appointing, the licensing board, continue to serve until they are replaced by a new administration.

COMM. GLORIA SCHAFFER: That's right.

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sr

GENERAL LAW

March 14, 1991

REP. FOX: Okay, thank you sir. Next Bill we have is HB6874, the only speaker we have listed in Mr. Miller.

DAN MILLER: Good evening.

REP. FOX: Thought we wouldn't reach you, did you?

DAN MILLER: Pardon.

REP. FOX: We thought we never reach you.

DAN MILLER: Well, no. I'll tell you it's very gratifying to find home improvements on the bottom line of the totem pole rather than up on the first top ten. It's a novelty and I appreciate the position, for a change. My name is Dan Miller, I'm Executive Director of the International Remodeling Contractors Association.

And, there are three bills actually which I've signed my name too, and I'll touch on them all at one point, just in consideration of the hour. That's Bill Number HB5396, HB6879 because these two specific bills I'll mention first because there is one common thread that runs through it.

If you look at HB6879 paragraph D, that whenever or after December 31, 1989, an owner obtains a court judgment against a contract to holding a certificate or has held a certificate under this Chapter within the past two years of the effective date of entering into the contract with the owner.

Now, I would like to preface my comment in relationship to that paragraph. Our Association has always worked on a philosophy of the protection of the consumer. As a matter of fact, we have worked in conjunction with Mary Hesslin, who's our past Commissioner of Consumer Protection, so much so over the period of years, that she awarded our Board of Directors the first twelve numbers that registration when it was issued in the State of Connecticut.

At which I'm very pleased to have number one. I've been a contractor for over forty years. I was a Founding Officer of this Association, it's first

Committee Bill 5396An Act Concerning Reimbursements from the  
Home Improvement Guaranty Fund

The Department supports this bill generally but would request that certain proposed amendments be considered. Those proposed amendments are attached to my written testimony.

I will discuss some of the proposed amendments as follows. With regard to changes to subsection (d), in lines 33-66, we have reviewed the recommendations in the report prepared by The Office of Legislative Research and note that the changes made to this subsection go beyond the changes recommended in the report. One significant change is the removal of a contractor's right to notice and hearing prior to monies being issued out of the guaranty fund to owners who have obtained court judgments against that contractor. As drafted, the bill provides no opportunity for the contractor to appear and to testify that he has already paid the owner, if such is the case.

We would propose amending lines 64 and 65 to increase the time period available to an owner for a claim to the fund from one to two years after the owner's court judgment, to allow more owners access to the fund.

We would propose the deletion of lines 91 through 108 of the present bill. As the section refers to orders obtained by the commissioner and the attorney general, and as such orders provide that the contractor pay those offices directly for later distribution to the owners, it seems unnecessarily burdensome for an owner to have to produce the documentation called for to obtain

payment from the guaranty fund. A simple provision stating that the commissioner may issue that order upon a determination that the owner hasn't been paid would seem to suffice.

Finally, in the new subsection (h), lines 116 through 136, no provision is made for a contractor to appeal an order affecting his registration, such as a revocation or suspension, or to appeal the commissioner's order of restitution. Presently, a contractor may not appeal an order directing payment from the guaranty fund, but he can appeal the other decisions in accordance with Chapter 54 of the general statutes. Due process might be better served by preserving those existing rights to appeal.

Proposed Amendment to Committee Bill No. 5396

The Department of Consumer Protection respectfully requests that Committee Bill No. 5396 be amended as follows:

In Line 50, substitute "SUBSECTION" for "SECTION"

In Lines 64-65, substitute "TWO YEARS" for "ONE YEAR"

In Lines 72-73, strike "ISSUE TO SUCH OWNER A CHECK MADE PAYABLE TO SUCH OWNER DIRECTING" and insert "ORDER"

In Lines 87-88, strike brackets around "order of restitution" to restore those words, and strike "JUDGMENT OBTAINED BY THE ATTORNEY GENERAL"

After Line 90, strike Lines 91 through 108, and insert "THE COMMISSIONER MAY ISSUE SAID ORDER UPON A DETERMINATION THAT THE OWNER HAS NOT BEEN PAID"

Strike Lines 109 and 110.

In Line 111, strike "IS RENDERED AGAINST ANY CONTRACTOR OR"

In Line 112, insert "BY THE ATTORNEY GENERAL" after the word "BROUGHT"

In Line 125, strike ": (1)" and insert "WHETHER"

In Line 126, strike "OR (2)" and insert "WHETHER TO"

In Line 129, strike "(3)" and insert "WHETHER TO"

In Line 131, strike "SUCH" and insert "A"

In Line 132, insert after "PROCEEDING" the words "TO ORDER PAYMENT OUT OF THE GUARANTY FUND"

In Line 133, strike "FORM" and insert "FROM"

In Line 134, strike "DIVISION" and insert "DECISION"

In Line 169, strike "SUBSECTIONS" and insert "SUBSECTION"

In Line 170, strike "AND (f) (i)"

pc/5396

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