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JOINT
STANDING
COMMITTEE
HEARINGS

GENERAL LAW
PART 1
1-324

1994
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P.A. 108

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(137p.)

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April 27, 1994

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Calendar Page 26, Calendar No. 252, Substitute for
Senate Bill No. 287.

Page 27, Calendar No. 280, House Bill No. 5517.
Calendar 46, Substitute for Senate Bill 112. Madam
President, I believe that completes the third Consent
Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk. You've heard the
items that have been placed on Consent --. Senator
DiBella.

SENATOR DIBELLA:

Thank you, Madam President. On Page 24, Calendar
Item No. 60, Substitute for Senate Bill No. 143, I'd
ask this be withdrawn from the Consent Calendar and
P-R'd.

THE CHAIR:

Thank you very much. There is a motion that on
Page 24, Calendar Item 60, File No. 64, Senate Bill No.
143, be withdrawn from the Consent Calendar and Pass
Retained. All other items remain on the Consent

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Calendar. You've heard the items that have been placed on the Consent Calendar with the exception of that one. The machine is on. You may cast your vote.

Senator Aniskovich. Have all Senators voted and are your votes properly recorded? Have all Senators voted and are your votes properly recorded? The machine is closed.

The result of the vote:

36 Yea

0 Nay

0 Absent

The Consent Calendar is adopted.

Mr. Clerk, do you have any business on your desk?

THE CLERK:

Madam President, the Clerk is in possession of Senate Agenda #4, for Wednesday, April 27, 1994, copies of which have been distributed.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair would recognize Senator DiBella.

SENATOR DIBELLA:

Thank you, Madam President. I move acceptance of the Senate Agenda #4, dated Wednesday, April 27, 1994.

THE CHAIR:

Thank you very much. You have before you a motion

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House of Representatives

Thursday, April 7, 1994

Committee on GAE.

SPEAKER RITTER:

Without objection, so ordered. The Clerk please continue with Calendar 203.

CLERK:

On Page 6, Calendar 203, Substitute for House Bill No. 5185, AN ACT CONCERNING THE HOME IMPROVEMENT ACT.

Favorable Report of the Committee on General Law.

SPEAKER RITTER:

Representative Luby.

REP. LUBY: (82nd)

I move that that matter be referred to the Committee on Judiciary.

SPEAKER RITTER:

Without objection, so ordered. The Clerk please call Calendar 204. I'm sorry. The Clerk please call 205. I apologize.

CLERK:

Page 6, Calendar 205, Substitute for House Bill No. 5094, AN ACT CONCERNING THE DEFINITION OF "EMPLOYER" FOR TRANSPORTATION MANAGEMENT PROGRAM PURPOSES AND THE FILING DATES FOR TRANSPORTATION MANAGEMENT PROGRAM COMPLIANCE PLANS.

Favorable Report of the Committee on Transportation.

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REP. FUSCO: (81st)

Mr. Speaker, in the affirmative please.

SPEAKER RITTER:

Representative Fusco in the affirmative. Anybody else? Representative Carter.

REP. CARTER: (7th)

Mr. Speaker, in the affirmative please.

SPEAKER RITTER:

Representative Carter in the affirmative please. Anybody else?

The Clerk please announce the tally.

CLERK:

House Bill 5789, as amended by House Amendment Schedule "A".

Total Number Voting	145
Necessary for Passage	73
Those voting Yea	142
Those voting Nay	3
Those absent and not Voting	6

SPEAKER RITTER:

The bill as amended passes.

The Clerk please continue with Calendar 203.

CLERK:

On Page 20, Calendar 203, Substitute for House Bill No. 5185, AN ACT CONCERNING THE HOME IMPROVEMENT ACT.

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Favorable Report of the Committee on
Appropriations.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER RITTER:

The Honorable Chair from Stamford, the Chair of the
General Law Committee, Representative John Wayne Fox
from the 144th, you have the floor, sir.

REP. FOX: (144th)

Thank you, sir. I move acceptance of the Joint
Committee's Favorable Report and passage of the bill.

SPEAKER RITTER:

The motion is on acceptance and passage. Please
proceed, sir.

REP. FOX: (144th)

Thank you, Mr. Speaker. Mr. Speaker, this bill
makes a number of improvements in existing legislation,
that relating to the Home Improvement Contractor Act.
It increases certain penalties. It clarifies the
potential for certain criminal violations and it also
dedicates some of the Home Improvement Guaranty Funds
excess revenue to the enforcing licensure legislation.
There are two amendments, sir, that I would like to
call, which we feel improve and clarify the bill. The
first would be LCO No. 2046. I would ask that the

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Clerk call it and I be allowed to summarize.

DEPUTY SPEAKER COLEMAN:

Would the Clerk please call LCO2046, designated House "A".

CLERK:

LCO No. 2046, designated House "A", offered by Representative Fox, et al.

DEPUTY SPEAKER COLEMAN:

Representative Fox has requested leave to summarize. Is there objection? Without objection, please proceed, Representative Fox.

REP. FOX: (144th)

Thank you, Mr. Speaker. LCO2046 makes or incorporates two recommendations that came to us from the Judiciary Committee. In particular, it makes it clear that the class of criminal violation would depend upon the amount involved. A Class B, if it was less than \$10,000 or a Class A, if it was more than \$10,000.

It also clarifies the penalty provisions to provide that it would have to be -- the violation would have to have occurred not more than three years after a prior violation.

I would move adoption of the amendment, sir.

DEPUTY SPEAKER COLEMAN:

The question is adoption of House "A". Will you

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remark further? Will you remark further on House "A"?
If not, the Chair will try your minds. All those in
favor of House "A", please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COLEMAN:

All opposed say nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER COLEMAN:

The ayes have it.

House "A" is adopted and ruled technical.

Will you remark further on the bill as amended?

REP. FOX: (144th)

Yes, sir, Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Please proceed, Representative Fox.

REP. FOX: (144th)

Mr. Speaker, there is a second amendment. It is
LCO2757. I would ask that that be called and I be
allowed to summarize.

DEPUTY SPEAKER COLEMAN:

Would the Clerk please call LCO2757, designated
House "B".

CLERK:

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LCO No. 2757, designated House "B", offered by
Representative Fox.

DEPUTY SPEAKER COLEMAN:

Permission to summarize has been requested. Is there objection? Without objection, please proceed, Representative Fox.

REP. FOX: (144th)

Thank you, Mr. Speaker. This amendment makes two basic changes. Number one, the Consumer Protection Enforcement Fund which had been a recommendation of the Thomas Commission is made a permanent structure.

In addition to that, it eliminates one basis for the commissioner revoking licenses or revoking certifications, rather. That being, it eliminates the failing within a reasonable amount of time to provide an accounting of all funds deposited with such registrants upon the request of the homeowner. It was felt that that would be somewhat onerous and unnecessary.

I move adoption of the amendment, sir.

DEPUTY SPEAKER COLEMAN:

The question is adoption of House "B". Will you remark further? Will you remark further on House "B"? If not, the Chair will test your minds. The item before the Chamber is House Amendment Schedule "B".

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All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COLEMAN:

All those opposed say nay.

The ayes have it.

House "B" is adopted and ruled technical.

Will you remark further on the bill as amended?

REP. MUNNS: (9th)

Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Representative Munns.

REP. MUNNS: (9th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO No. 917. I ask him to call it and may I be allowed to summarize.

DEPUTY SPEAKER COLEMAN:

If the Clerk has LCO917, would the Clerk please call that amendment, designated House "B".

CLERK:

LCO No. 917 --.

DEPUTY SPEAKER COLEMAN:

House "C", I'm sorry.

CLERK:

Designated House Amendment Schedule "C", offered by

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Representative Munns, et al.

DEPUTY SPEAKER COLEMAN:

Representative Munns has requested leave to summarize. Is there objection to summarization? Seeing none, please proceed, Representative Munns.

REP. MUNNS: (9th)

Thank you, Mr. Speaker. Mr. Speaker, during the public hearing process, in this bill first was included new home builders. We decided that there wasn't sufficient evidence to include them in the bill that we are voting on here. However, though, the Department of Consumer Protection really didn't compile any complaints about them because they don't have to register or anything with the State of Connecticut. So what we want to do is just have them simply file with the State of Connecticut and I move its adoption.

DEPUTY SPEAKER COLEMAN:

The question is adoption of House "C". Will you remark further on House "C"? Representative Fox.

REP. FOX: (144th)

Thank you, Mr. Speaker. Mr. Speaker, Representative Munns and I have talked about this concept. It's one that the committee has looked at. I think the thought of Representative Munns being that this would provide us with additional information,

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provide the Department of Consumer Protection with additional information so that we can determine where we go beyond this and I would support that amendment, sir.

DEPUTY SPEAKER COLEMAN:

Thank you, Representative Fox. Will you remark further on House "C"?

REP. NORTON: (48th)

Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Representative Norton.

REP. NORTON: (48th)

Thank you, Mr. Speaker. I just wanted to rather quickly say I think this is a very good idea. I think it provides a mild increase in the potential for consumer protection for people making significant purchases, in fact, the most significant purchase people ever make, the building of a House, and while this does not put them on a par with the requirements of home improvement contractors, I think it makes sense to ask for some information for people who are building a whole house since we ask for quite a bit of information from people who are building just perhaps a deck or fixing part of a house.

So I would like to support the amendment. Thank

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you, Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Thank you, Representative Norton. Will you remark further on House "C"? If not, the item before the Chamber is House Amendment Schedule "C". All those in favor please say aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COLEMAN:

All opposed say nay.

The ayes have it.

House "C" is adopted and ruled technical.

Will you remark further on the bill as amended?

Will you remark further? Representative Munns.

REP. MUNNS: (9th)

Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Representative Munns.

REP. MUNNS: (9th)

Thank you, Mr. Speaker. The Clerk has an amendment, and if you'll bear with me here, LC05670. Could he please call and I be allowed to summarize?

DEPUTY SPEAKER COLEMAN:

Will the Clerk please call LC05670, designated House "D".

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CLERK:

LCO No. 5670, designated House "D", offered by Representative Munns, et al.

DEPUTY SPEAKER COLEMAN:

Permission to summarize has been requested. Is there objection? Seeing none, please proceed, Representative Munns.

REP. MUNNS: (9th)

Thank you, Mr. Speaker. Mr. Speaker, currently we require home improvement contractors to give \$100 a year to the Guaranty Fund and this amendment simply changes that from \$100 to \$65, and I move its adoption.

DEPUTY SPEAKER COLEMAN:

The question is adoption of House "D". Will you remark further?

REP. MUNNS: (9th)

Yes, Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Representative Munns, please proceed.

REP. MUNNS: (9th)

Thank you very much. Mr. Speaker, I think the best way to describe this amendment is getting rid of an unfair tax. Mr. Speaker, the reason home improvement contractors deposit \$100 into this Guaranty Fund is to protect those who have been taken advantage. I think

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that's the best way to describe it, and if you are taken advantage of by a home improvement contractor, you can get money back from this fund.

Now we cap this fund, Mr. Speaker, at \$750,000. The spillover goes into the General Fund. Now, after the passage of -- with this bill passes and the amendments we have brought up so far, another \$150,000 will go towards enforcement and go after those home improvement contractors who are not honest.

So basically, Mr. Speaker, what we're doing, we are taxing people who are home improvement contractors. There's absolutely no reason whatsoever they should be paying \$100.

If I can read to you, Mr. Speaker, over the last few years the spillover has ranged from \$377,000 to \$921,000. For absolutely no reason, Mr. Speaker. This is a tax, a tax on the simple fact that you're a home improvement contractor. There's absolutely no reason whatsoever, Mr. Speaker, why we are doing this and I urge the members to vote in favor of this amendment.

DEPUTY SPEAKER COLEMAN:

Will you remark further on House "D"?

REP. FOX: (144th)

Mr. Speaker. Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

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Representative Fox.

REP. FOX: (144th)

Thank you, Mr. Speaker. Mr. Speaker, Representative Munns and I have also discussed this one. I would have to respectfully disagree with him. I think his intentions may be good, however, the fiscal note on this would result in a loss of revenue to the state of almost a half a million, and consequently, I think that's more than we can afford at this stage, and in light of that, although I'm happy to continue to look at it in future legislative sessions and have the committee work on it, I would have to oppose this and I would urge that the body reject it.

DEPUTY SPEAKER COLEMAN:

Will you remark further? Representative Farr.

REP. FARR: (19th)

Yes, just speaking briefly on this. You know, the State of Connecticut has a really sorry history of setting up funds to protect people. We have an old fund. We have all sorts of environmental funds and every time we have some economic problems, we immediately raid those funds, but we continue to tell the people that pay into the funds that it's not -- it's not a tax. You're simply being paid to protect the environment. You're being paid to protect the

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consumer and this is just another example of that.

We're dealing here with, generally speaking, home improvement contractors are small businessmen. Most of them are carpenters. A lot of them -- most of them are self-employed. Oftentimes, they don't employ any other employees and we're saying to them, well, times are tough, so you have to pay into this fund to protect the consumer from disreputable contractors and we don't even bother to tell them, and oh, by the way, we're raiding that fund. We're raiding that fund and then we're going to let you keep paying in to protect the consumer, but in the meantime, as you pay it in, we take it out.

This is a reasonable amendment. It simply says that to the home improvement contractors, you're supposed to be paying in money to protect the public from bad home improvement contractors and that's appropriate, but we're not going to hide a tax in that charge and that's what we're doing right now and I would urge passage of the amendment. Thank you.

DEPUTY SPEAKER COLEMAN:

Thank you, Representative Farr. Will you remark further? Will you remark further on House "D"? Representative Munns.

REP. MUNNS: (9th)

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Thank you, Mr. Speaker, for the second time. I just want my fellow members here in the House to think about your constituents in this one. Think about the people who are the carpenters and plumbers and other occupations and other occupations who have been hurting because of the poor economy in the State of Connecticut.

You know, the construction industry is not at a high right now. So not only are they out of work, but we are making them pay more than they have to for absolutely no reason. I challenge any member of the House of Representatives to stand up and tell me why, why do they have to pay \$100 a year and not \$65 a year, because \$65, and I just pulled this number out of the air, that makes this fund balance, but they pay \$100, ladies and gentlemen, so \$35 extra a year they pay to the General Fund for absolutely no reason, and I just ask any member here, give me a good reason why they should be doing that.

DEPUTY SPEAKER COLEMAN:

Will you remark further? Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, to begin with, let me say, and no disrespect to any particular industry, but the empirical data that we have gathered and we

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continue to gather suggest that in this particular field there is as much fraud and deceit as there is in any other area in which the Department of Consumer Protection maintains statistics. The reason they pay that is the cost of doing business. The reason they pay that is to provide monies to reimburse those people that have been defrauded. And unfortunately, that number seems to have grown over the last several years.

Since 1989 there has been \$2.5 million paid out of that fund. In one year alone, in 1992, there was paid almost a million dollars out of that fund. So they pay that because there is a continuing ongoing problem.

I admit we have been fortunate to have a spillover over a period of time, but that the number of people that will be dipping into it, in my opinion, if the statistics continue to grow in the way they have, will be larger and large. We have also by this bill, if this is adopted, set aside \$150,000 of that for the Occupation Enforcement Fund, which has worked very well, which is an efficient way to do business and which will alleviate some of the problems that exist in that area.

It's a very difficult field as far as the consumer is concerned. This money and more and more of it over the years is going to protect those people. This would

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cost us a half a million dollars. For that reason alone, I would suggest we must reject it.

DEPUTY SPEAKER COLEMAN:

Anyone else care to remark concerning this amendment? Representative Farr.

REP. FARR: (19th)

Yes, keep in mind what we have in this case is the good guys are paying for the problems with the bad guys, as is true in almost any of these industries. What happens is if somebody is going to defraud the consumer, there's a likelihood that he's also going to -- or she is going to defraud the state as well, people that may not even be registered and are doing these services are paying nothing in and then the legitimate contractors are the ones who have to make up for that through their payments.

But I can't emphasize enough, we're not talking about, the \$35 reduction is not money going into enforcement, it is not money going into making consumers whole. All that \$35 is, is money going in to the General Fund so that we can do as we see fit with it and I think that, in itself, is a fraud, and when we talk about a process of trying to protect the consumers from fraud and we try to protect them by setting up a fund and then fraudulently tell people we're paying

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into the fund, that the money is going to protect the consumers when really it's a hidden tax, I think that's unfortunate.

I would urge adoption of the amendment.

DEPUTY SPEAKER COLEMAN:

Thank you, Representative Farr. Are there any other members who care to remark on this amendment? Representative Kyle.

REP. KYLE: (36th)

Thank you, Mr. Speaker. With all due respect to my distinguished colleague, Representative Fox, he mentions that we would lose a half a million dollars on this thing if we rebate \$35 per year to a lot of good hardworking folks out there. Are there 14,000 home improvement contractors in the state? That's what it would take to make up \$500,000 out of -- at \$35 a whack.

I think when we also base this on the assumption that somebody is going to fraud and deceive the general public, we're making a very dangerous assumption. Let's wait and see if it does in fact happen and then we can up the fund, but I very, very strongly support this particular amendment. I can't believe there's 14,000 people out there, that \$35 a whack is going to bankrupt this state.

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I urge a vote in favor of this. Thank you,
Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Thank you, Representative Kyle. Representative
Nystrom.

REP. NYSTROM: (46th)

Thank you. May I ask several questions to the
proponent of the bill please, through you.

DEPUTY SPEAKER COLEMAN:

Please frame your question.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. Representative Fox, this
requirement, the \$100 payment, is that required of all
licensed carpenters, plumbers, you name it,
electricians, through you, Mr. Speaker?

REP. FOX: (144th)

Through you, Mr. Speaker, no.

DEPUTY SPEAKER COLEMAN:

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you. Through you, Mr. Speaker, what is the
distinction. Is it that if they register as a home
improvement contractor itself, then they become
required to make the payment, through you,
Mr. Speaker?

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DEPUTY SPEAKER COLEMAN:

Representative Fox.

REP. FOX: (144th)

Through you, Mr. Speaker, correct. Those individuals that you've listed are licensed -- hold a different license.

DEPUTY SPEAKER COLEMAN:

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you.

DEPUTY SPEAKER COLEMAN:

Any further remarks? If not, the Chair will try the mind of the members. The item before the House is House Amendment Schedule "D". All those in favor say aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COLEMAN:

All those opposed say nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER COLEMAN:

In the opinion of the Chair, the nays have it.

House "D" is rejected.

Will you remark further on the bill as amended?

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

CLERK:

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

DEPUTY SPEAKER COLEMAN:

Have all the members voted? Please check the roll call board to determine that your vote is properly recorded. If all members have voted, the machine will be locked. Will the Clerk please take a tally.

Would the Clerk please announce the tally.

CLERK:

House Bill 5185, as amended by House Amendment Schedules "A", "B", and "C".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not Voting	5

DEPUTY SPEAKER COLEMAN:

The bill as amended is passed.

Are there any announcements or Points of Personal Privilege? Are there any announcements or Points of

3:12, whoever isn't finished will get to speak when we get to them in the normal course of events on that bill.

Once we get to that second hour, I'm going to move to the general public in accordance with the bill that we are dealing with in accordance with the list that they sign.

I'm going to deal with the bills as they appear on the agenda. The first bill being HB5185. Let me also point out, in terms of your presentation, I realize that we sometimes extend it because we sometimes get questions and we extend the time for making the presentation. I would appreciate it if those making the presentation could limit it to 3 or 4 minutes and no more than that. If I cut you off, I'm not being rude, I'm just trying to be fair to everyone else in the room.

The first bill on our agenda is HB5185; the licensing of home improvement contractors and our annual get together, I'm happy to hear Senator Gunther.

SEN. GUNTHER: I'm Senator Gunther, 21st Senatorial District and in favor of HB5185.

As you say, this has almost been a perennial pilgrimage by me and hope that this is the last time I have to do it. I think this is a well constructed bill. I do think that there are some additions that could be made to it which I will try to give to you briefly.

I think this is the biggest scam in the State of Connecticut - as our home. Especially the so-called skilled improvement contractors. But to a lesser degree our building contractors and I think it's about time that we face up to it and get a bill through here because a licensure so we know these people are at least competent in what they doing and limited to the fields that they have proven their competency.

I know that over the years, I've noticed some of the tractors are getting a little mellow. I think

that some of them realize that without this licensure and that to get the incompetence out of there, is a disadvantage to them.

I have a couple of questions on the bill itself. I think in the identification of the speciality skills, there might be some language added that there might be added categories that might develop rather than us waiting for another session to come up and that type of thing and if you can identify that, you'd allow the latitude to open that up into another category and be tested.

On the fee, I was wondering why the home improvement building contractors \$60+ exam fee; speciality skill contractors only \$40 exam fee and than the salesman is \$60 but no exam fee. I find it, I think, I wouldn't hurt to give that an adjustment there because I don't think that's a hell off a lot of money when we are dealing with hundreds of thousands, even millions of dollars worth of construction in this state and I think that that could be adjusted and salesman should be a little bit less and maybe the others a little bit more.

In Section 10, why the licenses only on the request of somebody that they have to display it except in their advertising and you're quite specific about that. I think that you'll find out any professional in the State of Connecticut has to have his license hanging in his area of operation or at least there has to be identification. At least even on their bills if they identify it, but mandated that they are licensed and a license number and that type of think.

And violations ... you have the violations on the first violations no more than \$500, second violation no more than \$750, third violation and thereafter, \$1,500. There should be no thereafter. I think if anybody has two bites at the apple, if they come back in there and they go back in there again, dammit, prohibit them from taking and participating in their particular area in the State itself. In fact, I think there ought to be a criminal penalty somewhere around the line. Your talking administrative penalties.

I think some of these some of these scam artists who go out there and rip people off for their entire savings and all, there ought to be some criminal charge because many of these guys will go through a process and end up that they get off with going into bankruptcy or doing almost anything and they are out there walking around; going back into another business.

Somewhere it ought to be criminal to do what some of these people do to these ... our people in the state.

I also disagree when the fund gets to be \$750,000 in the guarantee fund -- I think instead of dumping that into the state coffers that then makes it a tax if you want to get technical. I'd rather see them keep retaining the money but let's have a toll free number for all the towns or anybody in the state to identify and verify the licensure of anybody so the towns don't have to pay it. Or, give the money to the Consumer Protection Department for more investigators and let them go out and enforce the law. It isn't going to be worth a damn if we don't have enforcement.

I also think that somewhere along the line, when the building permits are taken out of the towns, and I don't want to see us mandate the local Government any more than we already do, but somewhere along the line, your building inspector ought to take and say, if you are licensed in this state, let me check it and find out if your license is in order. Simple phone call to the Department and picking up that type of communication.

I have an instance right now where a man hasn't been licensed for three years and he is out there doing his specialty work. He is collecting sales tax and not paying the sales tax. Okay. I wonder, and there is no way for me to check, I don't even know if he's paying his income tax. And if it happens to be that itinerate group that works down south in the winter and up here in the summer, I question whether those guys are paying their taxes either in sales or in the income tax for the state.

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So, there is a lot of ways we can get a handle on this thing. At least make them take and face up to it. I hope this is the year ...

REP. FOX: Five minutes.

SEN. GUNTHER: Yes.

I'm going to wrap it up.

I hope this is the year Mr. Chairman.

REP. FOX: We always try Senator.

SEN. COLAPIETRO: I have a question.

REP. FOX: Question over there.

SEN. COLAPIETRO: First of all, let me apologize for not being on time.

SEN. GUNTHER: We didn't even miss you.

SEN. COLAPIETRO: For those who might have, there is another Committee meeting going on at the same time simultaneously. As a matter of fact, there is two at this time, but I did want to ask you if you say ... about two or three weeks ago on 20/20 when they had the Florida scam going on and the same thing ... is that the same thing? Did you see that?

SEN. GUNTHER: I'm sorry. No I didn't see that program but if they were exposing it ...

From one end of the country to the other.

SEN. COLAPIETRO: Yeah. I was just wondering if you did see if that was the same thing that is going on. They had people ... these people were taking their insurance money on these homes that were devastated in the flood and they were just taking off.

SEN. GUNTHER: I really can't react to that thing. All I can tell you is that we have enough right here in this state Senator. We don't have to go look to some other state. As long as I've been up here .. the great number of complaints I've had and any of the scams ... I think if you look into the

Consumers Protection Department, you'll find it so holes. The most money that's cost the people of this State comes into this area, even exceeding charitable solicitations which I hope there is a bright light in the east and that comes out this year.

REP. FOX: One other Senator Upson.

SEN. UPSON: Yes, just one quickly. Gloria Schaffer who will testify to the State ... her Department wants to have three levels of licensing. One in unlimited home building contractors and then an unlimited home improvement contractor; especially contractor.

Are you aware of that and do you agree with an unlimited home building contractor license building homes?

SEN. GUNTHER: I have no problem.

SEN. UPSON: But you really ...

SEN. GUNTHER: As long as they have to prove their competency in order to do that, in this state, you can run over there right now and for \$150 (I forget how much we're charging now), but all you need is \$150; you plop it on the table. You're not certified; whatever you want to call yourself.

SEN. UPSON: And Doc, after two strikes, you want life imprisonment? Is that right?

SEN. GUNTHER: That's right. Let's give them the chair if we have to. Some of them deserve it, by the way. Okay.

Thank you for your courtesy.

REP. FOX: Ms. Schaffer. Speaking on HB5185.

COMMISSIONER GLORIA SCHAFFER: Mr. Chairman, isn't always that Senator and Gunther and I see completely eye to eye but I know he has been a fighter for the subject matter of HB5185.

In 1993, the Department of Consumer Protection received over 1,600 home improvement complaints. It was the number one in terms of complaints that the Department handled. I am sure that all of the members of the Committee can attest to the fact that it probably is the number one kind of complaint that you receive from your constituents because we get a lot of business from you in terms of referrals.

Now the Department in this Legislative proposal is attempting to do two things: one, we are attempting to raise the level of competency by requiring that home improvement contractors and new home builders be licensed and tested for minimum competency. Right now, all that is required is registration, which means that somebody comes in, puts down money and the registration in fact is nothing more than precisely that. It is no guarantee of competency at all.

So that what we want is three levels of licensing, we want it in unlimited home improvement contractors license, we want a new home contractor license and we want a specialty contractor license.

Now the Department is proposing that examinations be required for each of these levels. The testing would consist of a written exam. This exam is now given in a number of states; I believe there are 10 states that do not have these levels of competencies that are established and this would be an important guarantee, both to the industry and to the public. Much more so than the current registration which is now performed.

The second thing and real key to the success of this program in this legislation is that we need better enforcement and I couldn't sympathize more with all the people who complain about the kind of enforcement that has existed.

Right now there are about 14,000 registered home improvement contractors in the State and I would hazard a guess that there may be as many who are out there working who are unregistered. Now, the Department has always had tremendous difficulty in enforcing the law because the penalties right now are strictly criminal and arresting unregistered

contractors is not the primary concern of local law enforcement authorities. And, I must say that I understand their point of view, so that what we propose to do is, in addition to the existing criminal sanctions, we want to add civil penalties.

These civil penalties would go into the enforcement fund and would be used to beef up enforcement. The Thomas Commission (inaudible) which helped us to establish its enforcement fund in the occupational trades would be the same standard and the same fund to be used in the home improvement field.

Now, so what we are approaching is this two-pronged attached to addressing the problems in the home improvement industry.

Now, I can't tell you that this Legislation is going to eliminate all of the problems that exist in the industry, but I think it is the most important step that you can take and that the Department can take in protecting consumers and the industry against unqualified and against unregistered home improvement contractors.

If we don't do this, we will continue to have the situation which exists now. Namely that of lack of enforcement, no standards of competency and inadequate protection for the public.

REP. FOX: Thank you Commissioner.

Question? Yes.

REP. MILLERICK: Thank you for coming by, Commissioner. The question I have, Senator Gunther suggested that we raise the rates for licensing. How do you feel about doing that in the process of getting more enforcement, more money to enforce with?

COMM. GLORIA SCHAFFER: If I understood what Senator Gunther said, I believe what he was talking about was raising the penalties for being unlicensed, or, in the present situation, of being unregistered. The department does not propose to raise the fees, even though we would be changing from a registration system to a licensure system. We

don't propose that kind of an increase, because we feel that the industry is paying its fair share of the freight right now.

But as far as his feelings about increasing the penalties, I'd say for people who are working out there, who are unregistered now, hopefully will be unlicensed in the future, that an increase in penalties would be supported by the department.

REP. MILLERICK: Thank you.

REP. MUNNS: Thank you, Mr. Chairman. Commissioner, if this bill were to pass, how much would it cost the state of Connecticut as far as employees and staff, for your department?

COMM. GLORIA SCHAFFER: There would be no cost to the state of Connecticut for this stepped up program. The fines that would come to the department would be utilized in the same way that the fines that now go into our 11-78 fund in the occupational trades would be used to hire additional investigators and any other staff that would be necessary to enforce the program.

As far as the change from registration to licensure, we would not be giving the exams. Those exams would be given by a professional company so it wouldn't require any additional staff at all. As a matter of fact, I should have said that this bill, perhaps, presents an opportunity for a real bargain.

REP. MUNNS: Any idea what number of new employees that would be? I know how you're proposing to pay for it is through the fees and the fines, but what is the number?

COMM. GLORIA SCHAFFER: Well, the number of new employees, that would depend on the numbers of fines that we would rake in and based on the fact that there are perhaps at least 10,000 unregistered people out there right now, I would say that we would be raking in a lot of money. We get a lot of enforcement.

REP. MUNNS: I guess I would just ask, through you, Mr. Chairman, through the course of this session, before you vote on this bill, if he can try to get some idea of what the number of that would be, if you compare to other states who do have licensing and penalties, to give us some kind of number.

COMM. GLORIA SCHAFFER: I can only tell you that in the occupational area, where we have had about a little better than a year's experience now, under a program which is similar to what we're proposing here, that we have been able to hire two additional inspectors. We have a part time attorney who's processing the cases and we anticipate the hiring of another inspector. We now have a balance of \$96,000 in that fund, so that shows you that we are generating fines. This is money that was never seen before. It's resulted in better enforcement and as we are continually doing this, the enforcement steps up and therefore the amount of money we take in steps up.

REP. MUNNS: And that's occupational licensing?

COMM. GLORIA SCHAFFER: That's right.

REP. MUNNS: Thank you.

REP. CARUSO: Thank you, Mr. Chairman. Commissioner, I hate to keep going back to everything Doc said. We're not trying to set a trend here, but he mentioned the \$700,000 cap in the fund. How do you feel if we were to eliminate that? In other words, I share the same concern that he has, that if we limit it to \$700,000 and allow everything else to drop into the general fund, it would be, eventually end up in being more of a tax than a licensing fee.

Do you believe your department could more effectively utilize those funds and would you have any problem in having them not go to the general fund, but be retained for the benefit of those who are defrauded?

COMM. GLORIA SCHAFFER: I think there's a little bit of confusion. The home improvement guarantee fund is a fund which is funded by those home improvement contractors and sales people now who pay a fee into that fund.

Now, that's not fines and that's not a fund that's used for enforcement. That is the fund that is used to repay people who have suffered losses in home improvements provided that they use a registered home improvement contractor.

What we're talking about in terms of civil penalties is an enforcement fund. That's different. One is a fund which pays consumers back for losses up to \$10,000. The cap on that fund which was set by the Legislature is set at \$750,000. There would be no cap on the enforcement fund, and so any monies that came into the enforcement fund would be turned back into more inspectors, more help to go out into the field, more legal talent to pursue claims.

REP. CARUSO: Would you have any problem with dumping the excess from the enforcement fund, at the end of the year, into the other fund?

COMM. GLORIA SCHAFFER: Well, it wouldn't be my problem. It might be Bill Cibes' problem.

REP. CARUSO: That's all I have.

SEN. COLAPIETRO: Commissioner, I'm just wondering if you have any tests that are already in place from other states that would do the test?

COMM. GLORIA SCHAFFER: Yes, there are at least ten states that now offer professional exams, administered by professional testing services, so that there's no problem at all.

SEN. UPSON: Very quickly. I believe you were before I was.

REP. METZ: Commissioner, I simply wanted to ask, with respect to the salesmen, home building contract salesmen. Do you envision requiring a separate license and license fee of real estate broker or agent who has a license to sell?

COMM. GLORIA SCHAFFER: That's the way the registration works now. There are two levels, the contractor, who's at one level and the sales person is at another. This would be a continuation of exactly the same thing.

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REP. METZ: But you're not just talking about employees of the contractor. You're also talking about a licensed real estate broker who already has a license to sell real estate?

COMM. GLORIA SCHAFFER: No, no, no. We're talking about home improvement contractors.

REP. METZ: How about building contractors? That's included in here.

COMM. GLORIA SCHAFFER: Yes. The new home builders right now are not required to register. This would put a new category.

REP. METZ: A real estate broker or agent, who is selling new homes on behalf of a building contractor?

COMM. GLORIA SCHAFFER: No, they would not fall into this. They are separately licensed.

REP. METZ: Right. But I don't see any exemption here in this language for a separately licensed real estate broker or agent.

COMM. GLORIA SCHAFFER: I don't believe that they would fall into this category at all. We're talking about the people who are actually doing the work.

REP. METZ: I don't think the language of the bill is clear on that.

COMM. GLORIA SCHAFFER: We'd be happy to clarify it.

REP. FOX: I'll check. I think there's another exemption under another section of the statutes to deal with that problem, but I'll have it checked out for you.

SEN. UPSON: Is this a department bill, by the way?

REP. FOX: I guess it is.

SEN. UPSON: So this also includes new building contractors?

COMM. GLORIA SCHAFFER: That's right.

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SEN. UPSON: My question on the home improvement, the fund, the \$750,000 fund. Isn't a person limited to, you can only collect \$10,000?

COMM. GLORIA SCHAFFER: That's right.

SEN. UPSON: So it's not an unlimited fund in the sense that strike it rich. You're limited in how much you can collect anyway.

COMM. GLORIA SCHAFFER: Per contract.

SEN. UPSON: So if you have an expensive aluminum siding for \$20,000, the other ten you have to go out and sue on your own. Correct?

COMM. GLORIA SCHAFFER: That's right.

SEN. UPSON: So is that the reasoning why anything will spill over after 750, is that why it goes to the general funds?

COMM. GLORIA SCHAFFER: Well, I think that the cap was set for, I don't know, my institutional memory doesn't go back that far.

SEN. UPSON: Yes, it does.

COMM. GLORIA SCHAFFER: I think I was gone from the scene during those years. For whatever reason the cap was put there. The ceiling, the Legislature raised the ceiling on the amount of money that could be collected some few years ago from \$5,000 to \$10,000 in recognition of increased building costs.

Obviously a person who is involved in a new home construction job, should the whole job go bad, would obviously not receive a lot of coverage. However, under individual contracts, having to do with a new home, you say a kitchen installer did a poor job on the new, it would offer.

SEN. UPSON: There's a good point. So the fines now for home improvement contractors, not fines, the most a person can get who's been, not defrauded, but I guess the work improperly done, whatever, the most they can get is \$10,000 out of this fund.

COMM. GLORIA SCHAFFER: That's right.

SEN. UPSON: Now you now want to include, not just home improvement contractors, but new building contractors. Not commercial, but residential, right?

COMM. GLORIA SCHAFFER: I have personally really seen cases of real hardship.

SEN. UPSON: When I was chairman here, I think I tried to do something in 1986, if you go back in the history books. But, anyway, I guess my question is, would that same fund of \$750,000, would that be what someone would be limited in collecting also, for new building contractors who have not lived up to standards?

COMM. GLORIA SCHAFFER: Well, we're not proposing a change in the \$10,000 limit.

SEN. UPSON: So that would be for new. So you want to include these two new classes: specialty and new building, and use the antiquated fund of \$750,000 to take care of all these new responsibilities.

COMM. GLORIA SCHAFFER: I don't anticipate that the \$750,000 limit would be a problem, because first of all, you would be getting additional registrars. Hopefully, under the new enforcement powers, we would see so many more home improvement contractors actually operating legitimately and paying into the fund, so that we might even come back and say to you next year, let's increase the limits. Let somebody collect up to \$15,000 or \$20,000.

SEN. UPSON: If you're seriously wanting to include new contractors, and I doubt if that will happen here, if you're seriously doing that, \$10,000 is not even a drop in the bucket. That's probably the hall closet.

COMM. GLORIA SCHAFFER: It does not offer maximum coverage. You're absolutely right. But it does offer some protection to consumers.

SEN. UPSON: Not when you have, not the kind of things that could happen. Anyway, I appreciate it. Thank you.

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COMM. GLORIA SCHAFFER: I might also add that the law now requires, under the registration statute, that all home improvement contractors use their registration number on every form of advertising, including their stationery, their trucks, on everything. And this is the sort of thing that we need to enforce better and the kind of thing that we could enforce much better, if we were given the authority to pursue these people civilly.

SEN. UPSON: You think that helps the public then?

COMM. GLORIA SCHAFFER: Absolutely.

SEN. UPSON: How am I going to know? How do I know as a consumer that my person's registered?

COMM. GLORIA SCHAFFER: Well, number one, if a person displays a registration number and shows the registration card and then you check with the Department of Consumer . . .

SEN. UPSON: But the average person doesn't do that.

COMM. GLORIA SCHAFFER: No, well, but that's all part of the education campaign that needs to be waged and as people become accustomed to seeing registration numbers attached, they will begin to recognize the difference between the legitimate person and the person who's operating outside the law.

SEN. UPSON: But nowhere do we go now do we ask for someone's registration numbers. The lawyer, the doctor, the plumber.

COMM. GLORIA SCHAFFER: Well, we look for a diploma sometimes.

SEN. UPSON: I haven't seen yours yet, Commissioner.

REP. FOX: Thank you, Commissioner. Thank you very much. Next speaker is Andy Norton.

REP. NORTON: Chairman Colapietro, Chairman Fox, thank you for - good afternoon, and thank you for letting me testify before the committee, and thanks to the

committee for raising a bill which deals with the problem of home builders and enacting some sort of registration, licensure, certification for them.

I represent Colchester, Salem and East Haddam. Colchester and Salem in the 1980's were the two fastest growing towns in the state. I want to say first that the vast majority of people who build homes are quite professional and quite honest, and the vast majority of people in the business don't need any regulation.

But the number who do need some regulation and their ability to inflict financial and emotional damage on people's lives is great enough that I think a bill like this should go forward.

I did want to make a couple specific comments. I do recognize Senator Upson's concern that home buyers and other people involved may not check registration. If you incorporated, to some extent, Senator Gunther's notion of insisting upon the display of your certificate or license, you may create what the Commissioner referred to as a growing awareness of licensure and the need to demand it.

I would say that someone who's about to build a house and spend probably all the money they have on God's green earth, is probably the most likely candidate to call up a state agency and look into a person's past, find out whether there have been questions, find out whether or not there have been complaints or claims against that person's work.

I did just want to reiterate the logic of Senator Gunther's concern that, in lines 450, the spillover fund. Now that you're going to increase the revenue to the home improvement guarantee fund dramatically, it seems to me increasingly likely that there will be excesses of \$750,000 in the fund, especially in those years before people become aware of its possibility, and it seems to me that since we're going to be asking home builders now, especially contractors to put this money up, I think it leaves people with a much better feeling about government when they're asked to put money forward for a certain purpose, that it goes to that certain purpose.

I'd like to see the fund remain untapped. If the fund ever acquired so much money that you didn't know what to do with it, you could always abate the fee for a year or two. But certainly, if we're going to ask home builders and others to give \$100 a year to the cause, it ought to go to the cause.

Just a picayune mention, on line 440, I think you ought to change the name to the home construction and improvement guarantee fund. I think the home improvement guarantee fund doesn't say all it should say nowadays, so I think you ought to say home construction and improvement guarantee fund, or something like it.

I'll end by saying I commend the committee for putting forward such legislation and I will in future commend the committee when it acts favorably on this legislation. I think it will help out a lot of people, at a very important - well, the most important time of their lives, when it comes to making a purchase.

REP. FOX: Thank you, Andrew. A question, Andrew. Wait a second.

REP. MUNNS: Andrew, I apologize. I couldn't hear the last point you just made. I couldn't even hear what line you were talking to.

REP. NORTON: I'm sorry. On line 440, and I'm afraid it may not be the only place, reference is made to the existing home improvement guarantee fund. I would just make the recommendation that the title of this fund be changed to the home construction and improvement guarantee fund to incorporate its expanded nature.

REP. FOX: Andrew, thank you.

REP. NORTON: Thank you, Mr. Chairman.

REP. FOX: We look forward to seeing you when we get to pool halls. Next item is SB38. Gerry Langlois.

GERALD LANGLOIS: Good afternoon, Senator Colapietro, Representative Fox, members of the general law

REP. MUNNS: I'm a little disappointed we didn't all get a nice thing of jam from some farm in Granby with its public hearing.

REP. FOX: Thank you, Rich. That concludes that portion of the public hearing restricted for legislators and agency heads. I would now move back to hear from the general public. The first bill on which we're going to hear is HB5185, licensing home improvement contractors. Let me suggest, we have on the general public, we have some 14 people that wish to speak. As I indicated when we started the section relating to legislators, if you can restrict your presentation to something in the area of three minutes, I would also add that if there are ten of you that are going to come up and say the same thing, that I might suggest you try to limit it to one or two of you, rather than repeating it.

First speaker on that list is Don Kulowski.

DONALD KULOWSKI: Good afternoon, ladies and gentlemen.

REP. FOX: Good afternoon.

DONALD KULOWSKI: My name is Donald Kulowski, Sr. I'm the President of Century Pool Corporation. I've been incorporated for 32 years. I'm also speaking for CONSPA which is the Connecticut Chapter of the National Swimming Pool Institute. Many of my questions have already been answered, so I would just like to add a few things.

We are for this bill and have been for a number of years, with reservations. We didn't see very much in the way of testing in here. We don't really understand the competency, what type of competency tests that the state is going to give. Is it going to be for business acumen or is it going to be in our trade in itself?

We would suggest that we certainly couldn't take a test that would be designed for a sidewalk contractor or whatever if we are swimming pool people. We do have in house, with the National Swimming Pool Institute, tests for technician I,

technician II and certified. We would like to see some interaction between our group and the state to come up with a test that would be fair.

We also would like to mention that we would like to see verbal testing as well because there are a lot of people who are in our industry who can tell you how to do something but they can't put it down in writing. They don't perform well in written tests.

The third thing I'd like to bring up is we see nothing as far as grandfathering in of businesses that have a long record of being in business for a lengthy period of time with no complaints against them and so forth. We have a problem with, in a section here it says if you do \$1,000 or less in the calendar year, it's not necessary to be licensed.

We have a problem with that. It's too hard. We feel that it's too hard to police. If you're going to do \$1,000 or \$100,000, if you're going to do any kind of work, then you should be licensed. That doesn't make any difference who they are. It would make it a lot easier to police.

Number four, commercial work is being excluded from this, and we feel that that should be included, that people just because they do commercial work, should not be excluded from being licensed. If I decided that I was just going to do commercial work, it wouldn't be necessary for me to be licensed. I don't think that that is a correct way to approach this.

Again, we are in favor of this. We also feel that any monies that come in on this, any extra monies that come in on this, should be earmarked for policing, education and safety, as opposed to being transferred over to the general fund, and/or, as someone said before, a reduction in the rate if there becomes that much money.

That's all I have.

REP. FOX: A question, Paul?

REP. MUNNS: I guess it's not a question, Mr. Chairman, but I know Gordon's in the room. I guess I would like to see at some point some statistics about the difference between commercial and home builders, the number of complaints on commercial buildings compared to home buildings, if we could research that.

REP. FOX: Okay. Thank you, sir.

DONALD KULOWSKI: Thank you.

REP. FOX: Next speaker, I'm hoping I'm pronouncing this correctly, is an Astrid Sundwall. Good afternoon.

ASTRID SUNDWALL: Good afternoon. I'm coming here as a homeowner to speak in support of the bill. We have, for the past two years, been involved in a very bad situation. We had gone out to bid for a house and had been to homes a real estate agent told us had been built by a particular individual. After contracting with him, too late we learned that he was not at all the builder, and there was no way of knowing this, because there was no licensure. We had to rely on this representation, and we've been very badly burned by the episode, in fact, still in court over it.

During this process, this period, we have had a chance to meet many, many good people in the profession, and one person in particular who did our trim work, because I ended up contracting out the work after he left. He told me that he had been licensed in California, and he said he was flabbergasted to come to Connecticut and find that there was nothing, nothing. No testing, nothing for building contractors.

He said in California there, in fact were a series of tests they must go through. That's reasonable, because when you're contracting with a contractor, he's responsible for every facet of that construction. If he's not tested, he doesn't know what he's doing, as in this particular case, the expense we had, how is he possibly going to do your job or do it properly.

So the bill certainly would insure the kind of protections that are needed. I know that are people, just reading the list of people that have signed in here, there are a number of people here from the building trade that probably would oppose it. I'd ask you to think, think of all the statutes, statutes and so on, how many times have you implemented statutes without balancing everybody's needs?

I think the building trade in particular, the mechanics and so on is a good example of the problem that too much attention, too much protection for the builder and nothing or very little for the public. I think there's got to be a better balance. I'm not saying that they don't have needs. There just could be a better balancing of those needs.

The other thing that's in the bill that I wholly support is the requirement that they give an accounting of the use of funds. Now this man was given money to buy materials. Unbeknownst to us, he charged materials at General Building Supply, ran up a bill of over \$30,000, because he was also doing something at his house, and God knows, probably covering something else he'd been doing, and we now have a mechanic's lien. We've been two years struggling to get out from underneath that mechanic's lien, to the extent of foreclosure actions and bogus appraisals, trying to get strict foreclosures - all of this is permissible by a statute.

At the time, in fact, these actions were initiated, we spent \$15,000. I have a \$115,000 market. There's plenty of money to pay these people. We're two years into getting an accounting and copies of delivery slips and we still do not have them. Two years.

There was a question here about what is it going to cost the state. Well, I gave you all of the copyable questions that I wrote to Commissioner Schaffer at consumer protection about this matter, and in particular, one or two issues. That's about the fourth letter in this sequence. It's involved the Attorney General's Office and numerous other people. How much is being spent on these people

that are not licensed? It's preposterous. You're spending a tremendous amount of money on people that have never contributed one cent to ensure that they are properly licensed or not for but because of.

So, the question of the economy's has got to be carefully rethought. I think that she made a very good position here.

The last thing is that there is still a lot of ambiguities in the statute. The letter that I have hear mentions garages and porches. They claimed originally they did cover it, then they didn't cover it, then they're trying to tell us that there was a ruling and then were back. Maybe it is covered. Make the statute clearer. We'd like to be able to go in there and not spend all of our time arguing and debating about whether or not it's covered.

There are a number of issues that I probably should address to her directly in a letter where I think the statute probably is not clear. For example, the fireplaces. There are a lot of people that are selling these pellet stoves, slips right through, the way the statute is worded. Same thing with concrete. You mention concrete. Well, what about the guy that's doing the framing and the pouring of the concrete, doing the actual construction of the walls and the floors? That's not mentioned. It sounds as if you're going after the concrete supplier.

So there are a number of ambiguities that really should be straightened out to make it a truly, really good coverage.

Finally, mechanic's lien statute, I know this is not the primary subject of this, but you do mention in the statute, and I would suggest again, how can the state allow people to come in and put liens on property, just on the say so that they contributed materials. Anybody from out of state can do it. They're talking about requiring somebody to show their license in order for some official to take action. Why not change that statute so the person has to show a license before they can go in and put a lien on your property?

REP. FOX: Thanks. Questions? Thank you. We're all set. Thank you very much. Richard Derr.

REP. MUNNS: Mr. Chairman, if I could just make a comment for the people from the public, many of us have two or three meetings going at the same time, so that's a good reason why you see a lot of us get up and leave and come back and forth. Just to let you know.

RICHARD DERR: Mr. Chairman, members of the committee, thank you for this opportunity to speak on HB5185, AN ACT CONCERNING THE LICENSING OF HOME BUILDING CONTRACTORS, HOME IMPROVEMENT CONTRACTORS AND SPECIALTY CONTRACTORS.

I'm Richard Derr, a remodeler residing in Simsbury, and first place president of the Remodeling Contractors Association. We are an organization founded in Connecticut in 1965 and represent over 700 remodeling companies statewide.

I'm here on behalf of my membership to speak in strong opposition to the bill before you. Our first and biggest problem with HB5185 is enforcement. Consumers and contractors alike have experienced inadequate enforcement of the existing registration program, leading us to strongly question the future enforcement and effectiveness of a new licensing program as a means of protecting the consumer.

Most everyone involved, directly and indirectly in the home improvement industry agrees that there are literally thousands of so-called contractors performing home improvements without being properly registered and insured. Many of them are so bold as to advertise in newspapers, drive work vehicles with signs on them, place job signs at their job sites and take out building permits, yet they go unchallenged by local or state officials, causing the greatest threat to consumers.

We are in agreement with only one aspect of this bill, that which gives the Commissioner of the department of consumer protection the ability to impose civil penalties. Such fines should be kept in a separate enforcement fund. This money should not go into the general fund ever.

However, we cannot expect such civil penalties to fully fund the enforcement needed to protect the public and our industry. If you pass a bill that tests and further regulates without effective enforcement and the funding to do so, all you will do is widen the gap between the law abiding contractor and the unregistered, uninsured contractor.

Registered, ethical, competent contractors are going out of business left and right as they are underbid in these recessionary times by unregistered and uninsured contractors. Lack of enforcement of the current registration law is contributing to loss of jobs in our state. If you want the support of those you intend to regulate, you can start with redirecting the millions of dollars that you now collect from us each year and use it to enforce what you mandate.

The missing link in the chain to reduce home improvement consumer complaints is that building inspectors are not required by law to ask for proof of current registration. We propose that it be mandated that the local building official check for proper credentials as part of the permitting process. More importantly, mandate that the building official check for proper credentials in the job site, and then provide the funding for him or her to do so.

The data provided to the General Law Committee by the DCP as to the number and nature of the consumer complaints, covers three years of tracking. In 1993, there were 1,841 alleged complaints, but less than half of that number in the preceding two years. The data does not tell us how many of the complaints were valid. Of the 923 complaints in 1993 against general contractor type remodelers that we analyzed, 234 were about the contractor not being registered. This speaks to our earlier point about lack of enforcement. This bill does very little indeed to answer that problem.

Another 244 complaints are related to work not being started or allegedly not being finished. There were 168 workmanship complaints. By what objective standard were these complaints measured? They weren't, they were duly noted.

We are not convinced that the DCP knows or completely understands the true nature of the problem. To build a licensing program on a registration program which seems to do a good job handling fraud matters but is understandably overwhelmed and not staffed to handle workmanship matters doesn't make sense. DCP's response to workmanship complaints in this bill is to test contractors. We believe that workmanship complaints have a lot more to do with the economy and business management skills than a remodeler's ability to build a deck or frame an addition.

We also have some real concerns about the testing itself. The study guides used in Maryland and Nevada lead us to believe the subject matter is fairly irrelevant to public protection. The OSHA provision, the detailed knowledge of the Critical Path Method, case and tax law references, and specific scientific information seem relevant only for those who specialize in certain areas. In Minnesota, you will find that the home improvement industry helped create a test for the industry.

This is clearly a hastily drawn bill which has had no public or industry input until today. We should slow down and see if industry and government can find a way to really protect consumers. We offer our time, experience and resources to this committee, as well as the DCP, to be a part of any future regulation or licensing programs that would affect our membership and their families.

We need not create new laws to solve problems created by lack of enforcement of existing law. In closing, we see no benefit from HB5185 to the consumer or the contractor. We see this licensing bill as misleading, and I repeat, as misleading to the consumer and as a new tax burden to the already burdened contractor. Thank you for listening.

REP. FOX: Thank you, sir. Questions?

REP. MUNNS: Thank you, Mr. Chairman. Would you support the bill if the only requirement was just to have the home builders be registered with the state of Connecticut? Because what if somebody has a number of complaints about them, and there is somebody who is going to spend a lot of money out

there, the biggest purchase of their lives, and want to find out if there's been any complaints about a particular home builder, and right now has nowhere to go to find that out. Would you support something like that?

RICHARD DERR: It's difficult to say that we would support the bill if, because there are so many if's that come along, once this bill is heard today in public hearing and what happens between now and when it hits the Floor in Connecticut. That particular question about home building. I think that as it was explained to me, years ago at the General Law Committee, the home builders don't need to be regulated because they're required by law to guarantee their work for one full year, where home remodeling contractors do need to be regulated, because they do not have to guarantee their work at all, as far as the statutes are written now.

That's an example of a catch-22 where it's really not clear. There are people that are home builders that do nothing but home builders. There are people that do home remodeling and there are people that do specialty and do all of them. So it's hard for us to say as representing 700 companies if we could support that based on that one aspect.

I think that the home builders, they'll be speaking later today, I think they can better speak for them.

REP. MUNNS: Thank you.

REP. FOX: Go ahead, Mike.

REP. JARJURA: You represent who again?

RICHARD DERR: The Remodeling Contractors Association.

REP. JARJURA: Did your organization get together and vote on this issue?

RICHARD DERR: Absolutely. We had a special board meeting just to discuss this particular bill, HB5185. When it was in rough draft, it was called HB5477, which kind of scares us even more than HB5185, but we did discuss it and we did vote on it.

REP. JARJURA: Was the vote unanimous?

RICHARD DERR: Unanimous by the board of directors to oppose this bill and only support one aspect which would be the civil penalties which Gloria Schaffer had spoken about.

REP. JARJURA: The only reason I'm bringing that up is because I have several testimonies in front of me. We seem to be getting conflicting messages.

RICHARD DERR: I don't think you'll get any conflicting messages from the remodeling contractors association. You may get the swimming pool association, the home builders association and other associations, and of course other contractors. They have their own individual opinions, and of course they're entitled to them.

REP. JARJURA: Okay. Thank you very much. Thank you, Mr. Chairman.

SEN. COLAPIETRO: Any further questions? Thank you very much for your testimony. Bob Hanbury. Did I say that right? From the Home Builders Association.

ROBERT HANBURY: Good afternoon. My name is Bob Hanbury. I'm President of the Home Builders Association of Hartford County, as well as treasurer of the Home Builders Association of Connecticut. I'm also a registered home improvement contractor, have been since the inception of the law, so I have a lot of hard feelings about how that registration act has come about.

But here, today, we're here to speak on our opposition to HB5185 which proposes licensing for both home builders and home improvement contractors. Clearly the impetus for licensing is based on complaints. The real question is, if there are complaints about home builders in this state, how are they handled and where does the information flow for us to understand the problem?

In order to react to a problem, there needs to be some sort of statistical information or a data base or a collection of problems. Within our association, we're not aware of the problems. I heard the earlier person's problem, and frankly I couldn't hear enough or understand enough of her problem to understand what the solution would be. So, it indicates that the problem is fairly complex, if I couldn't figure out what was going to happen to her and how it happened to her or maybe I just didn't hear the whole story and I'll talk to her later.

But clearly if we're going to make a change, and right now home improvement contractors are registered, but home builders are not registered, we're talking about a big step from an industry which has been going along fairly effectively over the years to one now which by this bill would suddenly become a licensed entity. We question the need for licensing. We don't see the problem, we haven't been informed of the problem, and because of that and that aspect, we have a hard time supporting a bill that would license us for needless purposes.

One of the biggest problems with a potential for licensing, if we were to come to an agreement that licensing was necessary, is how do you classify a home builder for licensing purposes? If, in fact you're trying to reduce complaints and make sure that workmanship was good, in most cases the builder does not perform the work. Occasionally that may happen, but in the majority of cases, you hire sub-contractors, you hire electricians, you hire plumbers who are already licensed and have their controls over, but more importantly, the builder may not do any stitch of work at all. He may be an organizer, he may be an overseer. He's the manager of the project.

Is it necessary for the home builder, if he's the manager of the project, to be technically competent in the work that others perform? I'm not sure that's necessary. I'm not sure that that's a right avenue to take. I think the individuals who perform work that have health and safety issues, such as electricians, plumbers, HVAC's, sprinklers, those kind of trades that really have a safety

impact are licensed already and they do their work according to their licenses and their codes. But we're not sure why a builder needs to be licensed. It could be his superintendent, it could be his project manager. Should the developer be licensed?

I guess our question is, who's the real person that needs to be looked at, and we're not even sure where the problem is yet, so I can't even make a recommendation on who to attack. Who is the problem? Is it the developer? Is it the builder? Is it the project manager? Is it the carpenter who can't put a nail in straight? We don't know that problem yet, so it's hard to move forward with suggestions for a solution.

One of the things you can tell us though is that across the country, when home building laws are implemented, complaints go up. They don't go down. They don't go down. They go up. I thought our goal here was to reduce complaints and improve workmanship and in fact, as complaints go up, it's because homeowners begin to use the vindictive tactic of well, I think I'll pull that guy's license. I'm really disadvantaged here and I'm going to use that as a clout. That happens a lot.

I think in Connecticut you had many complaints, or inquiries, and that's all they are to DCP, is because people have been relatively informed about the home improvement lottery, or the guarantee fund, as we know it in the industry. If you know there's a chance of making \$10,000, if a problem happens, the builder, when you go to build, someone would assume that maybe there's a home improvement fund for builders, too. So I suspect a lot of inquiries might have been related to just the guarantee fund, if there was one available for builders.

Or warranty information. There's a dozen reasons why someone might have called up DCP and had a question about home builders, all of which could have been legitimate, all of which could have been for investigatory type of process, before you select a home builder. And that's good. Most home builder purchases involve a lawyer. If it's a

competent lawyer, he does try to investigate the builder or you hope he does. Maybe it doesn't happen. I assume it does.

There's some sort of investigation going on by a competent legal staff, and if it isn't then maybe one of our educational programs should be that home buyers making that large potential purchase should have benefit of counsel, and counsel would be fairly aware of how to deal with escrow accounts, how to deal with liens, how to deal with deposits. I think the home buyer in many cases is well protected by attorneys, and if they aren't, they should be.

One of the interesting points is after the Commissioner spoke, rarely were complaints about home builders mentioned. The focus of her conversation was truly on home improvement contractors. Rarely did we bring up the issue of complaints about home builders, so once again, it doesn't seem like there is an issue from home builders that can't be solved in other methods without going to licensing.

We would support the imposition of civil penalties under the existing registration law. I'm not a lawyer. I can't say if that's possible or not, but we also believe that no law's effective, whether it's licensing or registration, unless there's enough enforcement activities to make it valid. If the department is unable to enforce the current laws or enforce the proposed licensing, then we have a shell of a legal system that we can't support.

Consequently, under the existing registration law, civil penalties which would create fund for more enforcement, that's wonderful. That's really what we need. That's what we've been lacking for 12 years or 14 years that this registration law's been in effect. We wouldn't be here talking about licensing if the enforcement activities, the education activities had been performed and been performed on a high level, so that the consumer and the contractor was knowledgeable and I really believe we have an existing shell of a law, the registration law which, with enough money for

enforcement, would be effective and with the addition of civil penalties to help fund it, and I'm not in favor of not - let me clear up.

The excess funds, we were talking about the guarantee fund, the guarantee fund just has to keep \$750,000 in it at any one given time. We only gave out \$750,000 all of last year, not in one month, it took us 12 months to give away \$750,000. So clearly, every month that these new revenues come in there's a lot of money going in to the general fund black hole. If we're looking for money, we don't necessarily even have to look into the civil penalty access. We have money that's going into the general fund presently, and enforcement would encourage and present more opportunities to raise money.

If half the contractors aren't registered, then clearly there's only half the revenue coming in to the state of Connecticut. A little bit of money spent on enforcement would be fruitful.

The issue of home improvement contractor I'm going to defer to other members of the home builders association who have their points that they would like to speak of, because it does appear that home building interest and position is a slightly different issue than the home improvement contractor issue, but I'd be happy to take any questions regarding licensing of home builders now.

REP. FOX: Senator Upson.

SEN. UPSON: Yes, I'm not necessarily saying I'm against your position, but I don't agree with any of your arguments.

ROBERT HANBURY: Okay.

SEN. UPSON: I'm not stupid to know the power of your association up here either. But first of all, to assume that a lawyer is responsible for looking into the qualifications of the builder on behalf of the client, I've never heard of such a thing. How would I do that? Tell me, as a lawyer.

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ROBERT HANBURY: You wouldn't investigate to see if there's liens against them, if there's suits against them?

SEN. UPSON: How do I investigate that? Tell me.

ROBERT HANBURY: You can't check court records? We have the commercial record. It talks about . . .

SEN. UPSON: How would I know what he's working on or she?

ROBERT HANBURY: I'm not a lawyer.

SEN. UPSON: You're comment there is way out of line. No, there's no way I could check. Why would I go and check a builder? That's not my responsibility. I'm not saying I'm disagreeing, but these arguments, as far as I'm concerned, carry no weight.

ROBERT HANBURY: Being naive about the legal system, I would assume that that information's available.

SEN. UPSON: It is not. There's no way that I can tell if a lawsuit's going on. How would I know where the person's working? There's no way to do that.

ROBERT HANBURY: If someone is filing suit against a builder, people don't file attachments against his property? That isn't on the land records?

SEN. UPSON: How would I know about it?

ROBERT HANBURY: I look up the commercial record and I see attachments all the time.

SEN. UPSON: Where does the commercial record go?

ROBERT HANBURY: To anyone who subscribes to it.

SEN. UPSON: Do you think an average lawyer subscribes to the commercial record?

ROBERT HANBURY: If he's in commercial transactions.

SEN. UPSON: If it's in the library, there are people here who may want me to change my vote the other way. That's just not realistic. That's the first thing. The second thing is, and that carries no weight, you're calling this home improvement lottery. Why do you call it a lottery?

ROBERT HANBURY: It was in reference to why they might call up to find out if home builders would have the same fund.

SEN. UPSON: Why are you calling it a lottery?

ROBERT HANBURY: Well, I think at one point, when the law first came out, and there were many court cases that said if you didn't comply with the letter of the law completely, there were many instances where contractors were not paid for work performed, just through legal technicalities.

SEN. UPSON: You know what bill I put in last year to change that?

ROBERT HANBURY: I was here.

SEN. UPSON: That's right and it got watered down, unfortunately. I realize that. But, it was a lottery in that respect, yes, but when there are people that go out of business . . .

ROBERT HANBURY: No, that's a different situation. That's one of the big problems with licensing. Licensing doesn't prevent business failures, it doesn't insure . . .

SEN. UPSON: Licensing doesn't, none of these things, some help, though. I guess the other comment is, and this is what I don't understand, is you say, who do you license? Well, under the current system, I can go and become a contractor.

ROBERT HANBURY: Home builder contractor.

SEN. UPSON: I don't care what it is. Yes, home builder contractor. Now what expertise do I have? Don't answer that impolitely. I can go out and become a building contractor.

ROBERT HANBURY: I wouldn't demise or denigrate the capabilities of home builders, but frankly you're a manager of people. If you can judge and choose talented people and investigate them and supervise them, the process is relatively simple.

SEN. UPSON: I agree with you that there probably are as many criticisms as there are - mainly the public, I don't think knows how to do it anyway. But the worst kind of contract is with a new builder. If something goes wrong, and usually there's no remedy, no quick remedy but I do think that to let anyone here in this room be a contractor, and they can, there's nothing to prohibit anyone in this room from becoming a contractor. Do you agree with me on that?

ROBERT HANBURY: No impediment, no.

SEN. UPSON: That's one of my concerns. Again, I'm not saying that I'm in favor of the bill. I'm just suggesting that first of all, in my experience since 1969, lawyers do not know or do not look into the qualifications of a building contractor unless they know them personally, and two, it was not necessarily a lottery for home improvement contractors, but it was when the Supreme Court came up with that ridiculous decision, stating there was no (inaudible) for what you did. That's unfair to you.

Anyway, I just wanted to set the record straight. My record, I guess.

REP. MUNNS: Thank you, Mr. Chairman. Bob, you heard me ask the previous speaker questions about just registering, which you don't have to do at all, to have some kind of record that somebody wanted to call DCP to see if there is a number of complaints against somebody. Do you have any thoughts on that idea?

ROBERT HANBURY: I think there's always a feeling of letting the fox into the chicken coop kind of an argument that might say the next step will be they'll want to license and raise the fees until we can correlate a benefit between the licensure and

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the benefits that we'll receive, and the consumer will receive too, both. Both sides of the coin should win here.

It's hard to recognize the importance of that. I guess my guess is that if you were to hire someone to build a house and the cheapest house you can build is probably \$125,000, my guess is most people would have investigated and spent the time to get a contract that talks about payment schedules, talks about liens, talks about escrow payments, does all the things that protects the biggest investment of your life. Hopefully. Maybe I'm naive. Everybody I know does that. There's some people that don't and then there's a potential for a problem.

Whether we have an information bank. I mean right now, the home builders association, we get calls all the time. Is this guy a member? Has he ever been mediated against? Have you had problems with him? So there is a data base essentially for local associations. But we don't represent all the home builders, so we don't have that resource to do the whole state.

REP. MUNNS: Is that a yes, no or undecided?

ROBERT HANBURY: I can't speak for everyone else. I know the position is that until you show me a real good reason it can't be solved without government interference, then it is hard to support it.

SEN. COLAPIETRO: Thanks. I have a couple of questions. Maybe a couple of clarifications at the same time. You stated that we had some inquiries of DCP. According to her, it was like 1,600 complaints. Not inquiries.

ROBERT HANBURY: That's a home improvement contractor complaint because there is a system in theory to take care of those complaints. The other side of the coin is home builders. They are not in that system of that 1,600 complaints.

SEN. COLAPIETRO: Did you happen to see that 20/20 version of the ---

ROBERT HANBURY: No, I heard you talk about it.

SEN. COLAPIETRO: I just wished someone else would have seen it. Have you seen it? You know, one of the things that was stressed down there was that they set up a sting and they actually caught a bunch of these contracts and homebuilders that were doing things without registering or anything. Because the law says they are supposed to be registered or licensed that was a violation alone even though they skirted all these other problems that they did, they were still able to catch them doing something wrong.

ROBERT HANBURY: We would support anything that would help the enforcement effort. That is clear. That's the problem with the law now is that it isn't being enforced and any method that gets us to that point where we have better compliance and better enforcement than we have now, is a win-win for everybody.

SEN. COLAPIETRO: But I think the Senator said it well. How do you know who they are if you don't have them registered? The other thing was the Better Business Bureau -- I just happened to read through this a little bit. I know. I use them myself when I am concerned about a home builder or a shoe shine boy or whatever. Whatever you want to call it. I will call them up and ask them if they are credible. If they are not registered, they are not even involved, they are just fly-by-night people who are looking for some side work themselves, how do we check it and see if they have a good record? How would you suggest we verify? I as a consumer, who do I go see as a consumer to find out if the guy is legitimate?

ROBERT HANBURY: I don't think there's anybody you can see, but you can ask the right questions. We have checklists for hiring contractors and remodelers that list a series of questions, that if you ask, you've narrowed down your chances of a problem.

SEN. COLAPIETRO: I would have to give a test.

ROBERT HANBURY: No, no. It's not a test. It's an interview process, for lack of a better word. No different than your going to pick a doctor, pick a lawyer. You'd have a series of questions you'd ask

to check on competency, experience, having certificates of insurance, give me the names of the last four jobs you've worked on, check references.

We have a ten step process that if you follow it, sure, something could still go wrong, but I don't think people have a problem if they follow all the steps. It's a lot of effort, but it's a lot of investment. We can't protect people that aren't willing to make a little effort to protect themselves. I'm sympathetic to their problem, but I also wish they would take a little bit of effort to check prices, to check qualifications, check their bank records.

Today, most people, I think, that create problems have a financial problem, and while Senator Upson said it's difficult to find that, I don't know if it's that difficult to find, because you can tell what contractors have problems because there's liens and the government's filing liens on them and that information's available. Maybe because I'm in the trade, I'm more sensitive to it, but the information's out there for those who want to know.

SEN. COLAPIETRO: Not to belabor the issue, but there was hundreds of thousands of dollars bilked out of the people in the hurricane in Florida, and they were all supposed to be legitimate. The only way they caught them was because they were supposed to be registered.

But there was one case in particular that really bothered me. A guy was supposed to have been a good guy, everybody recommended him. He put a frame up on a house, took \$100,000 of the insurance company and that was the last he did. He didn't do any more. They had him in custody, took him away.

ROBERT HANBURY: Was it a business failure or he just flew the coop?

SEN. COLAPIETRO: It's just that he took two or three like that. It's a quick buck. If I want to get a hundred thousand dollars, take off with eighty thousand, throw the rest and leave a couple of guys working on a roof or something, I'm gone. I'm out of there. And that happens to anybody that doesn't want to register or anything else.

If they had a way of saying are you registered, you got a card that says you're registered, at least I as a consumer wouldn't have to go through what you just got through saying. No average lawyer would do that. I don't believe a lawyer would go through that kind of a process, to hire a home builder or new home built. I just don't believe that's reasonable. I have to agree with Senator Upson. That's not too often, but I have to agree with him on this one here.

SEN. COLAPIETRO: Any further questions?

REP. JARJURA: As I'm sitting here listening to all this, it really comes down to a philosophy of how much government is going to get involved here. To the degree where, are we going to protect the individual from cradle to tomb? We're used to licensing medical industries because that was, obviously we needed a certain minimum of competency if a doctor's going to operate or a nurse is going to put an I.V. in you.

The question becomes, how much responsibility is there on the consumer to, you're making the purchase of your life, or the remodelization of your life. Like you say, where the lawyer comes in, and where I may disagree with Senator Upson, is, in the contract. You don't give the money. You either escrow the money, you have a payment schedule upon performance and you get those lien waivers signed before you give any money over.

So I think that's what we're wrestling with here. I've got the constituents, too, that call and I've heard the horror stories. I think we're all wrestling with that.

ROBERT HANBURY: If there was 8800 new homes built and 48 inquiries, that's, I don't want to say it's perfect, but it's not a bad record. The same kind of issue comes up when you talk about the home improvement contractor. If there's 14,000 of them and they average at least 4 or 5 projects a week, you multiply that out, there's over a million projects performed in the state of Connecticut that are liable to be under the Home Improvement Act.

And we had 1600 inquiries, I'll call them that, because at this point there's just a potential complaint. They investigated about 600 of them and they prosecuted 200 of them. So, if there's 200 real bad guys out there out of a million transactions, I don't know how much closer we can get to cutting the needle down the middle in solving the problem. It seems like the problem's not as big.

It's painful for those involved, I can't deny that, but how much can you regulate to get it down to that last little grain of sand that's protected?

SEN. COLAPIETRO: Any further questions? Thank you.

ROBERT HANBURY: Thank you.

SEN. COLAPIETRO: Just before we go on any further, there's several of the home builder's associations and there's others that have four or five or six testifying on the same subject. If you could, if you could skirt what we've already gone through and try to save some time. I have another public hearing starting at 6 o'clock, so I'll be here the rest of the night anyway.

But if you could, try to limit your testimony to what's not already been heard, I'd appreciate it. Dan Gagnon.

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DAN GAGNON: Mr. Chairman, members of the committee, my name is Dan Gagnon. I'm a homebuilder and remodeler from Wethersfield. I'm incorporated, Gagnon Homes. I'm one of the lucky ones who got to pay the registration twice, and if you want to make it brief. I'm a builder. I'm against the bill. There you go. Any questions?

SEN. COLAPIETRO: Thank you very much for --.

DAN GAGNON: I should be here thanking you. I should be here thanking you. You're going to get rid of all you people here as my competition, even though it should be open to you if you want to make a career change.

SEN. COLAPIETRO: No, thanks.

DAN GAGNON: But you know, I should be here thank you very much. You're going to close my industry. You're going to get rid of my competition. You're going to make people that can't pass tests have to work for me. This is going to be great. What I should be doing is thanking you. Now the benefit to the people that you want to help is going to be basically they're going to pay higher prices. They're going to have less people to choose to get that work or whatever. Is it going to benefit them as far as preventing someone going bankrupt from them while they're doing their house or remodeling job or whatever? I don't think so.

And as far as the attorneys when we've built a house, they've pretty much put me through a ringer. I don't know, maybe that's the attorney that they choose, whatever, but they ask for the monies, they ask for the lien waivers. They don't let the things go. They're looking out for their client. They're trying to -- they put me up -- they go up and down one side or the other of me, just trying to investigate what have you done and everything and I think that's probably the way it should be.

And then as I'm building the house, I've got the building inspector out there checking what I'm doing as a homebuilder. He's out there to ensure that the job gets done properly. Now whether there's a philosophical difference between the person, the consumer or myself or whatever, the building inspector doesn't get involved in that, but I didn't hear anybody here saying that they called their building inspector to ask about a builder in that area and that's one of the places where you can call to find out.

I think in the bill, the one thing that it doesn't address is educating the consumer. We have the General Fund and everybody has talked about it. You've got the 14,000 registered contractor -- everybody pays \$100, I pay it twice, and it goes right into the General Fund. After the \$750,000, the rest, the \$650,000 just goes right past it. Why is that? The money is collected in the name of the consumer. Why don't you just leave it there and give it to the people that have problems? This

is part of the problem. Use it to educate the consumer, put it out there and everybody remembers Louis Nye, you know, and we'll have the driveway sealed before you husband gets home, that type of commercial. We need those things to help protect the consumers, to know where they should go if they need help. I think that's about the number one problem that we have in the consumer, people go out there and everybody is out to save a dollar. HB.5185

We've had it happen. We've had people call us back and say, well, you know, I'm spending \$185,000 and you said \$190,000, you son of a gun, whatever, and how could you be such a crook, but they weren't looking at it, that it's only two percent of the amount of money that they were spending and they were risking 98 percent because someone was saying you've got to give them a deal. You have a lot of people that walk into their own problems because they're looking to save a buck. Sometimes it's a lot more money. When it's \$5,000 or \$10,000, after you get into the house, it's a new car.

So you have to watch. People have to be concerned and they have to know where to go.

The other thing is, why are there 10,000 contractors that aren't registered? I mean that's absurd. I mean why are all the ones that are registered paying the money if the other 10,000, nothing happens to them. There's no enforcement.

You're looking at another 10,000, that's another million dollars that could be added to the Guaranty Fund, another \$6,000 that could be added to the Department of Consumer Protection, and the numbers, everyone has it, you're looking at a problem that when you look at the scale of \$2 billion spent, probably even if it's \$2 million that's taken, the percentages are lower. Collect the money, enforce the current law, have everyone register and when that doesn't work, go to another bill.

SEN. COLAPIETRO: Thank you very much. Wait a minute. We have a couple of questions here. Thank you for your -- did he support or this or --?

: No, but he left his shovel here.

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SEN. COLAPIETRO: Representative Scipio.

REP. SCIPIO: My question is, your ideas sound nice and you mentioned something about educating the public as opposed to (inaudible, mic not on). Would you or have you, your organization done anything to (inaudible)?

DAN GAGNON: Oh, I'm glad you asked. We have, every year, and I don't want to take anybody else's thunder, but we have our Home Show, which is coming up in March, by the way, but we have our Home Show coming up and at the Home Show we give seminars on how to choose a builder, how to choose a remodeler that's on the level, they're well attended. We have to make our own copies of the DCP's literature because they don't have the money to copy it themselves, so we make the copies, distribute a couple of copies of people coming at our remodeler's booth and builder's booth, ask the expert's booth.

As Bob talked about earlier, we have a program that has points on how to choose a remodeler, on how to choose a builder. These are steps that in itself aren't going to guarantee that nothing will happen to you, but it's sure going to take out a lot of guess work on whether you have a good contractor or a good builder.

REP. SCIPIO: (inaudible, mic not on) when a prospective home, a person that's going to have a home built as opposed to a Home Show. All people at that Home Show aren't necessary concerned about buying a house.

DAN GAGNON: Well, hopefully they are. I mean the people that are interested in remodeling usually go to the shows, but you're right. I think when you go out to someone's house, you hand out the literature, you know, ten questions to ask, and if you give it, it makes you look a little better than your competition, so we give that out.

REP. SCIPIO: Should this be a rather mandatory thing, some sort of a -- similar to an application before buying?

DAN GAGNON: Sure, if the DCP would like put together a brochure or something that builders and remodelers can hand out to consumers to make them aware about how to make a proper choice, I'm all for it.

REP. SCIPIO: Nothing less or nothing smaller, even duplication of one of these sheets that gives an example of what you've done or did, whatever (inaudible), who at the moment, (inaudible, mic not on). Well, apparently, he's all right because (inaudible).

DAN GAGNON: Right. We asked people, you know, you can call the Better Business Bureau, which isn't 100 percent foolproof, whatever, the Department of Consumer Protection on our remodeling end, you know, to check us out whatever, and the other thing is, like I said, call the building inspector. If you were doing business in the town and the building inspector says, oh, I know him. You know, he's not going to come out and say you're going to have problems, but he can make three recommendations of competent people in the area without, you know, recommending one particular person.

REP. SCIPIO: Are you for the bill or against the bill?

DAN GAGNON: I'm against the bill, but I should be for it, right?

REP. SCIPIO: (inaudible).

DAN GAGNON: I'm against the bill because I don't think it's going to help your constituency at all. I think that it's just going to be more government, as we said before, and it's going to be, you know, more money that it's going to cost the state and if you can't enforce the one that you have, I don't see how it's going to be able to enforce this one.

SEN. COLAPIETRO: Senator Kissel.

SEN. KISSEL: I'm just going to keep this brief and I'll ask you a couple of very brief questions if you could respond to the same. A couple of guiding principles that I always think is important for us to fall back on and one is caveat emptor, buyer beware. I agree with Representative Jarjura.

If we're starting to get to cradle to grave government, then we're misguided and I think it's a mistake for us to try to take away from individual responsibility. The consumer has a responsibility to educate themselves. To the extent that we, as a government, try to pull that responsibility away from consumers, we're doing our society a disservice.

Just for the record, what is a punch list?

DAN GAGNON: A punch list is basically near the end of the building process. When you have pretty much completed the home, you're going to have closing probably within ten days, you go through with the customer through the house and overview everything in the house to see that they are satisfied with everything that's there. Now at that point they look over everything and if they see flaws in the woodwork or in the siding or the roofing or whatever, they'll note it and you go through the list and point out the things that they feel are not up to their specifications.

Now that is creating the punch list, things that the consumer feels should be taken care of before the closing. Now most of the time -- 99 percent of the time it would be small items that are, like I say, their own philosophy than anything else because the manner in which the building was built is correct, it's just some of the cosmetic things and there you create the punch list. You take that and you remedy anything before the closing. Some things may have to be kept in escrow and remedied after like if the -- if it's this time of year and you don't have your lawn in or your driveway, those things would be kept in escrow.

SEN. KISSEL: And just very briefly, going through escrowing funds, coming up with the punch list, addressing all those problems perhaps prior to the time of closing or a final disbursement of the funds, these are all standard practices with building construction and transfers today in Connecticut. Is that true?

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DAN GAGNON: From my experience, yes. I mean if you have -- it would be buyer beware if they were to buy a home without representation of an attorney to help them through the legal process, for one, but also to make sure that those things occur, that you know, monies are in escrow for unfinished items because of weather or whatever. That's standard.

SEN. KISSEL: Thank you very much.

SEN. UPSON: Are you from from Massachusetts?

DAN GAGNON: No.

SEN. UPSON: I might as well tell you of two examples I have. First of all, I live in a condominium and I've had water in the basement ever since I bought it, brand new, in 1986, and of course we did have a lawsuit and it hasn't been settled yet. It was settled, but we have the water problem.

But I also had a client who the contractor ended up the same day being in armed robbery up in Torrington. I couldn't believe it. And of course, we had Mechanic's Lien problems and the whole, you know. The problem is I don't know what helps, registering and certifying licensing. So I'm not here to make fun of you. That's not my point. And there are a lot of good, obviously, people out there, but just in any profession, you've got people -- anyone can be a contractor. That's the problem. I'm not saying I'm going to vote for the bill. I didn't say that. I'm just talking about the problems that face the average homeowner. The problem is that most times a first time buyer usually -- I won't say females like to buy homes quicker, but they like -- some people make decisions based on -- they fall in love with the house or whatever, or want a new house and it's a emotional thing and they don't rule with their heads and a lot of times they end up paying a lot more or they get taken to the cleaners and they don't do anything about it.

So they're not as well informed as you think they are. The duty of a lawyer is to represent them at a closing and to look at the contract before they buy, but it's not my duty to go out and check a

builder to see if he's licensed or if he's registered or if he or she is competent, that's not my duty, if I knew about, know about it, of course.

DAN GAGNON: I wish you'd tell that to the lawyers I've dealt with.

SEN. UPSON: Well, what do you -- you think the lawyers do do that?

DAN GAGNON: My experience, as I started out probably before you entered, that yes, they've made their clients check me out. They try to weigh the skills more in their client's favor as far as deposits and things like that.

SEN. UPSON: Usually, and unlike Massachusetts, by the time we get involved in something, they've already signed a contract in the State of Connecticut. I'm looking for Wayne Fox's approval here. We're usually after the fact. The (inaudible) my bill is to. As he did to my bill helping you guys last year, but anyway, no, normally we're after the fact. They've already signed the contract. They come to us after to look it over after they've signed. Would you agree with me on that, Chairman Fox?

Also, on the -- do you think it's lawyer's duty to check whether or not a contractor is legitimate or not?

REP. FOX: Right now I think it's a lawyer's duty to move this legislation forward.

DAN GAGNON: Well, one quick answer to that --.

SEN. UPSON: He said to move this legislation forward.

DAN GAGNON: One quick answer is that if you said anybody can be a builder and you're a consumer and you ask them how many houses have you built and he says zero, I think you ought to check a little further. And the other part is the legislation is not going to help anybody from flipping out and becoming Billy the Kid.

SEN. UPSON: Oh, I agree, a white house doesn't stop a fog.

REP. FOX: Thank you. Mr. Thomas Smith.

THOMAS SMITH: Members of the General Law Committee, I'd like to thank you for this opportunity to speak. My name is Thomas Smith and I'm the President of the Connecticut Council of Painting and Decorating Contractors. We're a Connecticut-based trader association operating under a charter from the painting and decorating contractors of America and we represent the painting and decorating contractors in Connecticut.

I'll preface my remarks by saying that we, as a Connecticut trade association, are not opposed to the concept of licensing. In fact, we welcome it. We feel strongly that it will not raise the standards of our industry, one of the goals of our organization, but also provide needed protection for the consumer.

As this proposal is drafted, however, we have two major areas of concern. These areas are enforcement and homeowner responsibility. And as many people have stated already, without proper enforcement, this legislation just becomes just another burden on the professional business person in our industry. Without adequate enforcement or a less professional competitor who does not secure license, does not incur the cost or expense involved and as a result has an additional competitive edge over the contractor who does conform to the requirements of the law, our industry is one in which there is a well recognized and major underground economy. For instance, teachers in the summer and off-duty law enforcement personnel, off-shift firemen, etc. That does not now conform to the present contractor registration requirements mandated by the Department of Consumer Protection.

In this regard, not only is a legitimate contractor at a distinct disadvantage, the State of Connecticut loses much revenue in uncollected sales and income taxes as well as uncollected registration or licensing fees.

Add to this the huge number of consumers who are defrauded by fly by night contractors and the failure to enforce this legislation would clearly add to the state's problems in policing this segment of our industry rather than resolving them.

In this regard, we would strongly recommend that a portion of the fees collected under the provision of this proposal be dedicated to funding for adequate enforcement of the law. If provisions are not made for enforcement, our industry is no better off than we are under the provisions of the current contractor registration law.

Without enforcement provisions, there is no incentive for contractors, other than professional reputable ones, to continue to conform to the law. Ironically, their adherence to the law results in them being less competitive than their non-conforming counterparts.

Our second concern is the responsibility of the homeowner. Provisions of this proposal make it mandatory for contractors seeking to perform certain types of work to secure licensure to do this type of work. Would it not make a great deal of sense to make it equally as illegal for an owner to contract for work to be performed by an unlicensed contractor? In this regard, we feel that the responsibility for the enforcement of legislation of this nature should be mutual. The contractor is to be required by law to be licensed and we support such licensing. Should it not also be illegal for an owner to contract with a contractor that isn't properly licensed by the State of Connecticut to perform such work?

We feel strongly that this is a dual responsibility that should be addressed in this legislation as small business struggles to recover from what has been a very difficult time in Connecticut's economy. We feel only fair that these concerns be given proper consideration before this legislation is enacted.

We do, however, feel with the proper enforcement and a shared responsibility, this legislation will

go a long way to rectifying the majority of abuses which occur in our industry. Thank you again for the opportunity.

REP. FOX: Our next speaker is Alan Hanbury, Jr.

ALAN HANBURY: Good afternoon, Honorable Chairman and members of the committee. My name is Alan Hanbury, Jr. I'm a certified graduate remodeler. I'm also the present chairman of the Remodeler's Council of the Homebuilder's Association of Hartford County. Obviously I'm also a contractor.

I want to respond to a couple of concerns that were asked of other speakers, one of whom I believe is by Representative Scipio. I hope I've pronounced your name right, that you asked about finding ways for homeowners to get packets of information to find out if they don't go to the Connecticut Home Show.

We are developing a packet right that would go out to Building Departments and be set on their countertop that would have literature on how to choose a remodeler who is on the level and a checklist of things they should look for. Unfortunately, most towns don't want us to do this. That's pretty unbelievable, but it's true. I find that to be almost, you know, it's very hard to believe.

We also, as is going to be mentioned later on, do have educational seminars for our consumers and an equal number for our own members and for those that are able to come to our meetings. If anyone is looking to clean up the industry, no one sits before you more than I that has that hope.

As Dan Gagnon alluded to, there's a lot of guys out there that are lot cheaper than we are and we are footing the bill for all the people that do not obey the laws and the stack between who does and who doesn't is just being made deeper by this licensing law.

We obviously, you can tell, are opposed to this law, and just to give you some facts and some math, there were probably a 1,000,002 projects undertaken by those that are DCP controlled people, that would be pavers, painters, that whole garden list of

seven or eight categories and 1,840 some complaints works out to every 651 jobs. For an average contractor doing 80 jobs a year, that's once every eight years he gets that complaint, not a problem if he solves it, just like with the Better Business Bureau, but complaints are not wiped off with the DCP. You get a complaint, it's never wiped off the list. It's never frivolous and I don't mean to say that between our people that got ripped off at \$10,000 or more had frivolous complaints, but for all intents and purposes, it is a hammer to try to hit a contractor over the head with that I'm going to complaint to DCP if you don't come back and fix the sheetrock. You have in your contract it says we do not replace sheetrock (inaudible) because wood shrinks.

We are also in the process and I kind of wish that Ms. Schaffer had stayed here, and if anyone wants to look at this, I'll be more than glad to share it with. We are meeting with them in the next three to six weeks to suggest some changes to the complaint form and on that complaint form we have a whole garden list, the paper clip is free, of questions we'd like them to ask so that they can use the new computer system to figure out where the problem is at. Right now we have no idea where the problem is. We've got a licensing bill here in front of us today that supposed to solve a problem we don't even know where it's at. Are going to go into the woods and take guns and shoot around until a deer falls? I mean that's the kind of analogy I think we've got here.

The problem is minuscule. Bankruptcies cannot be regulated by law. If I have a driver's license, does that mean I'm going to drive out of this parking and obey the law? Absolutely not. Lawyers are regulated. Do they ever take escrow monies and skip with them? They certainly do. Doctors perform malpractice. They bill Medicaid ten times. The list goes on and on. When Ms. Schaffer said that she thought this bill would be a nonfunding item, it's going to break even, I dispute that entirely.

First of all, she says, well, we're going to have all these people that we're going to catch and there's going to be all this money coming in. What happens when everyone starts obeying the law? Are you going to lay these people off? Does the state lay people off? If forgot if they did or not, but if they do, they're going to buy their contracts. Do you know what I'm saying, we're having a lot of other expenses that even if the thing clears up in two weeks after this licensure bill comes on and we still have an ongoing overstaffing, I believe, of what's here. I have some written testimony and I hope people will actually pay some attention to it and read it because you wanted me to be relatively brief here. I find that problem.

We want to tell you that licensing will not assure the quality of workmanship and if one quarter of the complaints are against workmanship, Building Departments cannot declare themselves against workmanship problems. They can only do in code minimums.

The Remodeler's Council has a book called Equality Standards for the Remodeling Industry that lists all sorts of minimum standards for which building should attain to. That would be how far off a wall is constructed, how far off a floor is constructed, what to do if concrete cracks, what to do if there's a crack in the grout. All these things can be addressed using this particular book. It costs \$18. The state could buy several of them and pass them out to people that complain and have them give it back like a library.

And if the Office of Legislative Research gives the only good reason to have this law as a reason, as a way to cut down the complaints on workmanship, passing a test on one Saturday is absolutely not going to stop poor workmanship. It's not going to stop fraud. It's not going to stop going bankrupt and if you think that the state's idea of telling everyone they should take the lowest, take three bidders and take the lowest one, or you know, the most commercial jobs have to go to the lowest bidder. In residential work, that is an absolute nonsensical thing to do because the lowest bidder is always the cretin. It's the "bubba" as we call them in our industry.

We are telling people to take the "bubba" and then we're not making them pay the price for being stupid enough to take them because even unregistered contractors, if their registration is even done for a whole year, you've still got to collect.

So the consumer has absolutely no risk, up to \$10,000 and the people that pay for it are the legitimate contractors.

REP. FOX: If you could sum up, Mr. Hanbury, if you could sum up your presentation.

ALAN HANBURY: I'm sorry. Our feeling is that the licensing will imply a certain amount of expertise to these people that is absolutely unwarranted, okay, just passing a test, and after three or four tests, who is to say that there's not going to be Monarch Notes on the Connecticut state test and than any "bubba" could go in there and pass such a test.

Legitimate contractors, again, are going to be forced to pay for all the rest of the stuff, and we feel that until this complaint form can identify the problem, we shouldn't go shooting guns into the forest to try to shoot the deer. I thank you for your attention.

REP. FOX: Thank you, sir. A question. Senator.

SEN. PETERS: Thank you, Mr. Chairman. I'll try to say this as tactfully as I can. You identified early on in your comments that you have a list of issues or items that should be targeted wherever there may be some problems and I think that's commendable. My question to you is that what's been evolving because you, as an industry, understand that there are some problems or is it a knee jerk response to proposed legislation?

ALAN HANBURY: We met in August with the DCP. Tim West from Frauds and Mary Ellen Ollie, is that here name? I'm sorry if I might have -- and Gloria Schaffer with four members of our Executive Committee and it was way before this legislation was ever even considered. We are -- and we hope to be proactive and we are actually in a position that

we want to help. Really, it's to everyone's advantage. If the playing field can be leveled, we don't have to spend half our time badmouthing the lowest bidder and we can get on to being good, quality businessmen.

REP. FOX: Do you have a question.

REP. SCIPIO: Yes, I understand what you're saying and I'm not saying there's pro and con (inaudible, mic not on). We, in the legislature have got to find a way of finding some of the reasons (inaudible) the less fortunate, the public and that's one of the things we're (inaudible). So if the idea of a license would be frivolous with the Commissioner's (inaudible), it's only because we're trying to find a way also and if you don't prefer to pay charges for the licensing or complete money put up of maybe (inaudible), then perhaps you should use more of the advertising methods that perhaps (inaudible) you constantly saturate the public that you know (inaudible). And to that, when all these things happen, consequently (inaudible).

ALAN HANBURY: I think that, if I can answer that with another dent is that if you were to go and purchase a house or a remodeling job and you did not any effort to see another project that that person completed or at least drove by the job site to see if there was nails and boards everywhere, then to me, I hate to say this, but you deserve what you've got.

If you can't spend that much time to do a 25,000 or 150,000 hour job, you deserve what you get. I hate to say that, but you do. You haven't done anything at all. You've just laid all the risk on government to protect us.

REP. SCIPIO: I understand, but you can get nailed, as the good Senator said before, and I saw some of the TV shows that he saw where there's a complete 1,500 houses that were built and totally fell about and these were all done under the auspices of our own federal government.

So now where does a person like that fit in -- and he couldn't get his money back either.

ALAN HANBURY: It seems to me the building inspects in that case would be somewhat at a loss.

REP. SCIPIO: All this was brought into play, but it didn't help the people out who were hired.

ALAN HANBURY: No, but why would licensing solve that problem? Just because I can pass a license doesn't mean I can't turn around and be a --.

REP. SCIPIO: What methods would you use to circumvent the licensing?

ALAN HANBURY: I think we have a registration bill in place that can be tweaked, force the monies that are in excess, give some civil penalties. Believe me, we are for civil penalties. We want them to have as many inspectors as possible out there. IN fact, to show you easy it is to find unregistered contractors, all you have to do is look at the Yellow Pages. Half of them aren't registered. Half of them say licensed and insured. It's an outright lie. They should fine them a \$100 for writing licensed and insured in the Yellow Pages. You could make enough money to rebuild this building in my backyard.

I mean it's unbelievable. You can drive down any street and find 50 to 100 jobs going on and I would guarantee you that as a person from DCP I could generate more money in one day than you will appropriate to this bill in a year. I'm telling you, it's not hard. I can't understand for the life of me why they cannot use the law they have now to get the money to have public service announcements on TV.

There was a TV station here, Channel 3 -- Channel 8, they don't have public service announcements that would say, you know, or have one of the consumer awareness people do a nice series on this. They could do it every three months. I mean that's about how often people's mind needs to be tweaked, but there's all this kind of money that could be brought in very, very easily and used not only to educate the consumers, but also to help contractors realize, gee, I have to get registered to do that. Right now no one even knows.

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A lot of times when you say you've got to be registered, they say, I do. I mean it's unbelievable. It's a travesty. I hate to say it, but it's a travesty as it stands right now and it could be fixed.

REP. FOX: Representative Caruso.

REP. CARUSO: Thank you, Mr. Chairman. I have a few brief questions. Number one, how do most people find you and your professional services?

ALAN HANBURY: Personally? About 80 percent of them are referrals and the other 20 percent are garnered from job signs and Yellow Pages advertising, which has our registration number in it.

REP. CARUSO: Now with regard to those people, how many of them use lawyers -- I assume you use a contract.

ALAN HANBURY: Yes.

REP. CARUSO: And how many have their lawyers review?

ALAN HANBURY: Very few. Our contract is probably twice as long to three times as long as an average one. I think sometimes when people see enough detail and spec and some of the necessary legal papers are either recisions and stuff that their fears are somewhat allayed and they probably don't waste \$75 to \$150 to try to get a lawyer involved.

REP. CARUSO: Now if they do use a lawyer and you are required to produce Mechanic's Lien waivers, receipts, before you get paid or in installments as word progresses, you're required to produce your bills?

ALAN HANBURY: Not necessarily. We just have to get a signoff from that particular supplier or subcontractor.

REP. CARUSO: Right, but if the --.

ALAN HANBURY: I never show receipts. It's not a trade secret, but --.

REP. CARUSO: You never show receipts?

ALAN HANBURY: No, that's not their business. They're buying a completed product and as long as that portion of it is completed --.

REP. CARUSO: (inaudible, mic not on).

ALAN HANBURY: Lien waiver.

REP. CARUSO: I'm talking with regard to the lien waiver they're asked -- and you never have -- if somebody wanted to say you've completed "x" percent of the house or "x" percent of the job. I'd like to see the bills that have been paid so far, so I know that they're paid or at least that the Mechanic's Lien Waiver has been signed. Do you ever have a problem providing that?

ALAN HANBURY: As I've said, I would never show a customer receipt. I don't work by time and material. That may be circumventing your question, but I certainly could call the supplier and say is he current on his bill, including any shipments made to 131 South Road and then -- yes, fine.

REP. CARUSO: I want to see the Mechanic's Lien Waiver for "x" number of things before I produce -- in other words, I know that the linoleum hasn't been put down, but I want to see everything except for that. You don't have any problems with producing that.

ALAN HANBURY: No problem with that.

REP. CARUSO: And if somebody requests that and demands that you produce it?

ALAN HANBURY: Actually if someone tells me upfront, we actually add a little cost in there to do that because we have to do a lot of running around to get all those signatures because it's a cost of doing business that not everyone asks for. On smaller jobs, no one will ask for lien waivers. On larger projects, typically if there's draws and stuff, they all do, but I don't want someone springing it on me on the very end and then expecting me to run around and go to 15 or 18 difference places for free because that's --.

REP. CARUSO: So if I told you at the end of this thing, I want lien waivers or you're not getting paid, what would you --?

ALAN HANBURY: Then I would say I'll go pick up the lien waivers and you're going to pay \$30 an hour for me to go do it, typically. I know that sounds kind of crude, but if they don't tell me upfront, like in the contract, I certainly would expect that they would want to have me pay for -- or it wouldn't come very timely, let's put it that way. It would have to go through the mails back and forth, it would take weeks.

REP. CARUSO: Thank you.

REP. FOX: Thank you, sir. The next speaker is Donald Leavitt.

DONALD LEAVITT: Good afternoon.

REP. FOX: Good afternoon.

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DONALD LEAVITT: I have here a prepared statement that you have a copy of, so for the sake of brevity, I'd like to just touch on some issues that have been brought up here this afternoon.

I'm a remodeling contractor. I've been a remodeling contractor for 23 years. I'm co-chairman of the Remodeler's Council for the Home Builders Association of Greater Hartford. I have been around long enough to remember when the registration bill was up and all of the major improvements that were going to take place in our industry and we were going to catch all the bad guys and we were going to protect the consumer and we were going to have no more problems in this industry if we could pass this registration bill.

The registration bill got passed, as we all know. And to my amazement, almost 12 years later, we still have approximately 50 percent of our industry unregistered, competing against me, taking jobs away from me because the Consumer Protection Department does not have the funds they claim to go out and catch these guys. It just amazes me and it amazes more to think that licensing is going to solve anything else. It's going to cost more money

to license. It's going to cost more money to administrate and it's not going to solve the problem because if they couldn't solve the problem with registering them, how are they going to solve the problem with licensing them? How are they going to go find them to bring them to the license centers to get them licensed?

They're still going to be out there, they're still going to be competing against and they're still going to be the blue suede shoe boys that they always were and they were always known as and the situation is going to go on and on and on and on.

I'd like to see the money that was originally collected for the registration of approximately three-quarters of that money goes into the General Fund right now. I'd like to see that money put back into the Department of Consumer Protection so that they can do their job. I want these people caught. I want them registered. I want them to be on the same level playing ground that I have to compete on as a legitimate contractor and I don't think that's too much to ask as a citizen of this state and as a taxpayer of this state.

I certainly have the same rights as another consumer. Someone asked the question before what have we done as an industry to help. We worked with the Department of Consumer Protection to come up with a pamphlet on how to choose a remodeler and help them and put together ideas. We work at the Home Show volunteering our efforts for no pay every year away from our families for hours at a time to pass out these leaflets because the Department of Consumer Protection can't afford to have somebody there in a booth passing out leaflets to inform consumers in the State of Connecticut, so we do it as a voluntary effort.

We're not here today because all of a sudden we heard about this bill and we're coming out en masse to try and get the bill cancelled. We're here today because we want the problem corrected, but we don't see this as the way to correct the problem. Put some teeth into the registration bill. Require Building Departments to ask for registration numbers and you'll see a change.

I can tell you that I can honestly go into Building Departments all over the State of Connecticut and approximately 50 percent or less will ask me for a registration number before they'll issue me that building permit, which shows me that all they're there for is to collect the money and collect the fees on that particular project and then all of a sudden when something goes wrong, everybody is running around to look and see was he registered, is this that, is this this.

When the registration -- with the current registration bill, it was even proposed that the Guaranty Fund be opened to unregistered contractors so that the consumer could be protected, be doing business with an unregistered contract. It was absolutely incredible to even think that someone would propose such a measure, where someone who now is going to find the cheapest guy he can find for the cheapest price he can find, figures, hey, if the guy really screws up, pardon my French, I can go back to the state and collect the \$10,000 that I blew on the first job maybe to get it done right the second time. These are some of the issues that we see.

REP. FOX: Questions.

SEN. MUNN: Thank you. If you could, sir, briefly explain to me the whole process there. You said about half of the people don't -- or building inspectors in towns don't --.

DONALD LEAVITT: If I would go into a --.

SEN. MUNN: If I could finish. Don't require you to give a registration number. Tell me the whole process there. I mean is there any kind of paperwork you have to fill out with the town when you're doing --.

DONALD LEAVITT: Absolutely. If you're going to go into a -- as an example, if you're going to go in as a remodeling contractor and you're going to propose to build something, number one, you have to have all your paperwork to show that you're qualified in the zoning to be able to build it,

number one, that your plans meet your current codes to be able to build it. It goes through a plan review process.

Part of the initial paperwork that's involved, as you submit for your permit, requires that you fill out a permit application. As part of the permit application, you have to detail what you're going to be doing as part of that project.

SEN. MUNN: Are these different in each town?

DONALD LEAVITT: Pardon?

SEN. MUNN: Are these different in each town, these forms?

DONALD LEAVITT: Yes, they are. They vary from town to town and they vary from region to region and what they do at that point is they require most forms, most Building Departments don't even have a place on their permit application for a registration number. In many instances I will ink in the registration number because I'm so used to using it, but in most cases, in many cases, they don't even require it. There's not even a place on the permit for the registration number.

To go back to the confusion over registration and licensing and why some people think they're licensed as opposed to insured, when the original legislation was passed back in 1981 or 1982, we were told that we couldn't use a registration number in advertising, that we couldn't use the registration number because it might give credibility to the contractor and he might be considered to be better than someone who wasn't registered at that period in time.

So I think that confusion is still out there with a lot of the members of the organizations that have been in business for 20 or more years who aren't aware that now they need to publish their registration number. The state has not done its job in terms of educating the public and getting the word out as to what they should be looking for, but we, as an organization, have attempted to do that. We do it through the Home Show. We do it through passouts. We even do it when we go in to

pitch the jobs ourselves. We ask the people to ask for a registered contractor to make sure that they're licensed and insured. We offer educational seminars where we give courses on codes and standards, on contract law, on anything regarding our industry and we send out through mailings and billings through all of the suppliers that do business with builders and contractors so that the industry is aware of the options and the opportunities that are out there and we do that at our own expense.

SEN. MUNN: Thank you.

REP. FOX: Representative Millerick.

REP. MILLERICK: The previous speaker responded to a question about when you people met and so on and so forth and supposedly like you met last September. I don't know if you were at that meeting. Were you?

DONALD LEAVITT: No, I wasn't at that particular, no.

REP. MILLERICK: There was a meeting, I think it was you said last September with the department. My question is at that time were these suggestions that you're making today, were they given to the department? If they were, why do you think we didn't --.

DONALD LEAVITT: I think the response from the department is that they feel -- they certainly feel that what we're asking for is certainly fair and reasonable. Their problem is -- it's always been to us it's funding, that they don't have the funds available to be able to access the resources that they need in order to be able to educate the public or to find these unregistered contractors. And the --.

REP. MILLERICK: The previous speaker said that if it was mandatory to have a license, that you could get a tremendous amount of money by requiring people to have licenses and there would be plenty of money for enforcement. Do you agree or disagree?

DONALD LEAVITT: You're getting money right now from the registration fee and out of the money from the registration fee, approximately \$750,000, well, \$750,000 exact is the Guaranty Fund. You're collecting well over probably close to \$2 million. So that means that there's approximately \$1.2 million that goes into the General Fund.

What we've been saying since 1983 is that why isn't the \$1.2 million given to the Consumer Protection Department so that they can do their job, so that they can find the unregistered contractors, so that they can do what they were initially legislated to do. That's all we're asking. I have no problem with enforcement. I have no problem with the registration bill, with registering contractors, but the problem that I do have, because of the fact that I've been around for this 12 year period of time and I've been in the business for 23 years, is that it didn't work in registration and I'm very, very skeptical that it's going to work in licensing.

I just don't see what licensing is going to do that registration couldn't do if it had the teeth that it was supposed to have right from day one. We had proposed, as part of the original committee --.

REP. MILLERICK: You think if it had the teeth it would work?

DONALD LEAVITT: I know it would work. I absolutely know it would work. I know that if you walked into a Building Department and you couldn't get a permit unless you were registered, that you're damn right it would work. They'd be down there paying their \$50 in a heartbeat to be able to get that registration, to be able to go back and pull that permit and then the Building Department would have access to that job, would have to go out and do all of the different inspections and you wouldn't have the complaints that you're having.

If an unregistered contractors doesn't pull a permit because he doesn't have a registration, he can go out and do whatever he wants and nobody even inspects the work.

REP. FOX: I think Michael and then --.

REP. JARJURA: Yes, just to follow up on that for a moment on the inspectors, the Building Inspector's office because I've heard that just about with every speaker. What you're suggesting is that the inspector should ask for the registration numbers?

DONALD LEAVITT: That's correct.

REP. JARJURA: I think the loophole I see in that, and you can correct me if I'm wrong, is that the homeowner has the right, and I don't think there's anything that changes this, to go down and get the permit.

DONALD LEAVITT: Correct.

REP. JARJURA: Regardless of whether he's doing the job or somebody else is doing the job.

DONALD LEAVITT: So I think under the circumstances it could be written into the law in that particular situation, that if that is in fact the case, that the homeowner did that and he did it for a reason because he probably knew that the contractor wasn't insured or wasn't registered or whatever the case might be, he should automatically be ineligible for the Guaranty Fund and if there's a problem, then the problem should be his to bear.

REP. JARJURA: Now with regard to the registration and putting teeth, I'll take it from your testimony that you're not opposed to us putting, if we just use the --.

(Gap in cassette switching 2a to 2b)

DONALD LEAVITT: I'd welcome it.

REP. JARJURA: Thank you.

REP. SCIPIO: Yes, a simple question going along in the same vein. I don't know how (inaudible). When this -- the consumer or the builders went into the Building Inspector's office, he (inaudible), would it be fair to assume that job wouldn't have to be paid for until the homeowner reported back to that same --?

DONALD LEAVITT: I think that it's fair to say that it wouldn't be a problem and I think it is the case with most reputable remodeling contractors is that a certain amount of money is held in escrow as part of the last payment on the contract until the CO is issued or until the final completion is done on the project and I don't have a problem with that and I don't think there's a remodeler or a builder in this room that would have a problem with that, if they're required to meet those circumstances in order to get payment.

We've been trying to educate the public for years on the fact that they shouldn't be taking -- they shouldn't be given 75 percent of a contract or 80 percent of a contract to someone at the start of a job, I mean it's ludicrous, yet we hear these stories on a continual basis.

We worked with Consumer Protection to try to work out a contract so that a contract would be written so that the people wouldn't be entrapped into giving out this money upfront, so that there would be some protection on their part in terms of dollars.

REP. FOX: Mr. Leavitt, thank you, sir.

DONALD LEAVITT: You're welcome. Susan Connors. How about Edward Santo?

EDUARDO SANTOS: Good afternoon. My name is Eduardo Santos. I live in Easton. I'd just like to share some tragedy that has occurred with me and my family and see if something of good will be done with this. On December 16, 1990 I had a major fire in my home and I ended up in a hotel with my wife that was pregnant and two small dogs. I have never been involved in any kind of construction. I have a home, the past 14 years and I turned to my attorney and he suggested that he used someone that I knew who was supposedly a contractor.

In talking with this fellow, he seemed to be nice enough. He seemed to be pretty reasonable and so I gave him the job for my home.

I was told by my attorney that this fellow was a small-time contractor and that because of that he needed to get paid upfront as the job went along. And so the first payment was of \$50,000 and then to buy materials and then after a couple of weeks I was told it would take approximately six to eight weeks for the windows to come, that he needed \$20,000. I gave him another check for \$20,000 and then the roof and wiring, whatever else needed to be ordered a number of weeks later and there goes another \$20,000, and before I knew it, and very quickly, there was one man on the job for weeks at a time. I have a very high mortgage. After three months, the insurance company felt that the job should have been completed. The insurance company stopped paying rental and a lot of other expenses and now I'm finding myself in an apartment, paying \$900 a month plus my mortgage.

Needless to say, after a little time, I ended up having just an empty house, no workers. The job was practically paid for and this contractor walked away on the job.

I contacted the Consumer Protection Agency and that has been a total failure. I think that there's major changes to be done in the Consumer Protection Agency. It certainly hasn't worked for me. As far as I'm concerned, it was only a statement taken from me and nothing else thereafter.

So far it has cost me twenty -- excuse me -- it has cost me \$10,000 to start a lawsuit against this individual. It is estimated by my attorney that it will cost me \$25,000 by the time that this is all finished.

This here is the month of checks that I had given one individual. This here and these bills here represent over \$100,000 that it has cost me.

REP. FOX: Mr. Santos, let me ask you a question if I could. Can I ask you one question, sir?

EDUARDO SANTOS: Yes.

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REP. FOX: First of all, how did you happen to come here today? Did you hear about this in the newspaper or how did you know we were having a public hearing on this?

EDUARDO SANTOS: I had contacted Senator Gunther on the statement that I had read in the newspaper and I had given some suggestions which I am here to give them to you today.

REP. FOX: Okay. Let me ask you another question. You, as I understand it, as I summarize what you have told us, you've paid out, forgetting the attorneys' fees for moment, you've paid out somewhere in the area of \$100,000?

EDUARDO SANTOS: To finish the house.

REP. FOX: To repair the house?

EDUARDO SANTOS: No, no, to finish the house after the contractor was paid in full.

REP. FOX: Okay, the original contract price to do the repair work?

EDUARDO SANTOS: Yes.

REP. FOX: How much would that have been had it been done in a timely and orderly manner, to fix the damage required?

EDUARDO SANTOS: I believe it was \$170,000.

REP. FOX: That was about \$170,000?

EDUARDO SANTOS: Yes.

REP. FOX: And you paid that individual who then took off roughly \$100,000?

EDUARDO SANTOS: No, the individual that took off was \$170,000.

REP. FOX: You paid him \$170,000?

EDUARDO SANTOS: Yes, but the work that he had done, a lot of the work that he had done was not proper and had to be taken down and redone over again.

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REP. FOX: So you paid him about \$170,000 and now to get it down properly, it's another \$100,000?

EDUARDO SANTOS: No, no, not just to redo some of the work that he had done, but work that he didn't do.

REP. FOX: Okay.

EDUARDO SANTOS: He walked away with not one, single thing in the house be finished.

REP. FOX: Okay.

EDUARDO SANTOS: For instance, the roof had started. Only half of the roof was done.

REP. FOX: Okay.

EDUARDO SANTOS: The electrical was started. The electric wasn't finished. The plumbing was started, the plumbing wasn't finished.

REP. FOX: Okay. So the combination of the first contractor and the second contractor, you're somewhere in the area of \$270,000?

EDUARDO SANTOS: Yes.

REP. FOX: To do what should have been approximately \$170,000?

EDUARDO SANTOS: Yes.

REP. FOX: Okay. Have you started a lawsuit against the first contractor?

EDUARDO SANTOS: Of course, of course.

REP. FOX: Okay. Have you attached his property or liened his property in any way, do you know?

EDUARDO SANTOS: His property has been in his wife's name for many years.

REP. FOX: Okay.

EDUARDO SANTOS: And so therefore, it's a typical thing with contractors is to put their properties and their belongings in their wife's name. If you'll check, you'll see even their checking accounts are in their wife's names, so that way, a consumer like myself cannot go and touch them, but I have some suggestions, you see.

REP. FOX: Well, why don't you tell us what your suggestions are?

EDUARDO SANTOS: I have a little over \$200,000 equity in my house and I cannot borrow on penny.

REP. FOX: You couldn't?

EDUARDO SANTOS: That's right.

REP. FOX: I cannot borrow one penny, and I'll tell you why. First of all, you know, today I should have had \$50,000 to \$60,000 in savings in my account and that went to my house for something that a contractor didn't do and then I had to borrow \$50,000, okay, in order to finish the house. So that brings me to over \$100,000 that I otherwise should not have paid out.

In any event, so far I'm two months in arrears on my mortgage. For the 25 years in Connecticut, I have never been behind on any kind of payments to anybody and I don't know how long I'm going to be able to continue on paying my mortgage. I believe that down the road somewhere bankruptcy will be the way out for me.

But there's a fellow here that had stated that at the time of a contractor or a builder going to a town hall to apply for a permit, that he shouldn't be given a permit if there is no registration number. I think that should be correct.

In addition, at the town hall, it should be asked if the contractor or the builder have insurance and to be given a copy of the insurance and at the moment, that's not required. I don't know, myself if the guy that did the job in my house has insurance. As I said, I have never been aware of any kind of building. I mean there was some talk over here before that, you know, people should be

smart and they should know that to ask these kinds of questions, but you know, if you've never been in the building industry, you know, you're totally blind.

You know, you're talking as someone that is there, that you know what's happening. I didn't know what's happening. I got here. What do I know about building. I trusted someone that seemed to be honest and so there has to be licensing. There has to be registration and there should also be one other thing that is also very puzzling to me and is the fact that -- do you know a bank can be robbed by a robber for \$100 and the local Police Department will be there in seconds and the FBI will be there within hours, okay, and eventually they catch the person and bring them to jail. Why shouldn't a contractor that robbed a homeowner of over \$100,000, why shouldn't he be put in jail? He should be put in jail.

When you talk about government policing, well, let me tell you, that is why you people out there, it's to protect all of us that are innocent, that don't know what's happening, that trust people. Somebody has got to do the work and so that's my story to you.

REP. FOX: Okay, questions?

REP. MUNNS: Mr. Santos, this first contractor, do you know if he was registered with the state?

EDUARDO SANTOS: He was registered, but one and a half months after the job started his registration lapsed and he never reregistered again. However, let me tell you that I have seen this individual a number of times since then and he's still in business. I see him at Home Depot all the picking up materials and putting them in the back of his truck. I've seen him. Not once, not twice, many times. Okay. He's still out there ripping off people and I've stated this to the state, to the Consumer Protection Agency. I have stated that to them and their hands are tied. There's just so much they can do, I guess.

REP. MUNNS: Okay, I think Mike and then the Senator and then Howard.

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REP. JARJURA: Mr. Santos, of course, we can all sympathize with your situation and your peril. Let me ask you this, is the attorney who was representing you in the action against a contractor the same attorney who advised you to go with this contractor?

EDUARDO SANTOS: No, he's not.

REP. JARJURA: I'm not being facetious here. Did you institute an action against the attorney who advised you -- did you have a contract with him? Was he advising you with this repair effort?

EDUARDO SANTOS: I wish that he had billed me for his time. However, he didn't and come to find out, from some of the workers that the work in my house is that my former attorney might have been connected with this individual, this contractor, and so therefore, because he didn't bill me, I cannot sue him because I don't have no proof that he wasn't actually involved in this.

REP. JARJURA: Well, I don't do malpractice work, but I think there may be some conflict of interest. Of course, we're going back to 1990 and the Statute of Limitations may have run, but I think -- but it's something to look into.

REP. FOX: Senator.

SEN. PENN: Yes, thank you again. We all sympathize with your situation, but he's talking about a lot of money here, \$100,000 which you spent. Didn't you question anything when the work wasn't being completed before you started issuing checks? Didn't with the accumulation of you and the insurance company also sending checks and the amount of things, the work that was required to be done, didn't you question anything at any time of this guy? I assume it was a guy.

EDUARDO SANTOS: Well, it was a guy. Well, work was being done, but you've got to remember, you know, every time I paid him a check was because he has to order these materials and I've known this attorney for 18 years and I trusted him like my father. I had never thought that he would advise me wrong.

And so when this guy he needs me he needs \$20,000 to order windows because it's going to take between six to eight weeks, I gave him a check for \$20,000.

When he tells me that he needs \$10,000 or \$15,000 or whatever it was for roofing and wiring and whatever else, I give him the money. You also have to remember that at the same time I was going through major trauma where my home, all my belongings were just burned and I'm living with a pregnant wife and two dogs in one room, one hotel room and I have -- I mean I woke up in a hotel without a toothbrush and so there's a lot of things in happening in trying to build a house and trying to buy clothing and move on with life, that it transpired to all of this happening to me.

It's very easy to say that when you have all the time in the world that you're going to be remodeling a kitchen and see your whole house burned, you see.

SEN. PENN: If I can understand it, I'll finish up, Mr. Chairman. I can some of that, particularly in small contractors and minority businesses that certain things have to be paid upfront because of the size of the construction. Did you have any discussion with the contractor? You said you saw him a couple of times at Builders Square, whatever, Home Depot.

Have you talked to him directly or your attorney talking to him directly about finishing repairs? Obviously there's litigation now taking place.

EDUARDO SANTOS: Yes.

SEN. PENN: Did you talk to him prior to this about any work? Did he have any reasons, any excuses or what -- I just can't --.

EDUARDO SANTOS: First of all, let me tell you, he's not a minority contractor.

SEN. PENN: No, I said small businesses, minority contractors. I understand they have problems with upfront money. I understand that.

EDUARDO SANTOS: He had claimed that he underbid on my job. He had claimed that he was going to do other jobs in order to be able to finish my job, but on the other hand, he's got the material sitting in my driveway, in the garage, inside the house, in the basement, in the attic, everywhere in the house and he just wouldn't bring the workers there.

SEN. PENN: So the materials did come, that he gave the money for the order?

EDUARDO SANTOS: A lot of the material was there.

SEN. PENN: That did come. So he just didn't finish the work. This was a one-man operation?

EDUARDO SANTOS: Exactly.

SEN. PENN: So it wasn't lost monies on materials that you never saw. The materials actually came.

EDUARDO SANTOS: Well, let me point this out to you. I had a kitchen that three different people came to look at that wasn't finished that both three different cabinet people had stated that would be -- would cost me less money to remove the whole entire cabinets than to having to fix and to finish what was already there. And so I have the cabinets that he put in my kitchen in my garage and so I had to put a whole new entire kitchen in. Okay.

SEN. PENN: One final question, Mr. Chairman. How do you feel licensing, if again, you're being a notice and understanding the situation and you didn't ask the questions in the first place, how do you think the licensings would have protected you in the first place? If your attorney already advised you and you had an attorney who you said you'd trust this man with your life, how would licensing would have changed the circumstances, as far as you're concerned if you didn't check in the first place.

EDUARDO SANTOS: Well, license all by itself, I don't believe that would do very much for me because I still would have to spend -- if this contractor had licensed and he took off the same way that he did, and I would end up having to sue him, I would still have to spend the \$25,000 to sue him, and not

only that, but at the same time, no recourse to collect and so all I am saying is that if you must license someone, you should also require that they be insured and that's --.

SEN. PENN: You're talking about the insurance because in that case -- in this hearing, licensing or not, it's irrelevant to you because you wouldn't have to check to see if this individual was licensed or not.

EDUARDO SANTOS: Exactly, but see, but in going to the town hall to get him that permit, the inspector should check whether or not the person has insurance and make it mandatory that a copy of the insurance should be given to the homeowner in case this person bills out and the homeowner then be protected because, listen to this for one second please. These homebuilders that are up here today complaining, they have one major power over me. Do you know what that is? They have my home that if I don't pay them, then can put a lien on my property. Tell me what do I have. They have their homes in their wife's names. They have the savings accounts in their children's and their wife's names. What do I have? The building is going to bankrupt three or four or five years from now when the case is finally heard.

There's something else I'd like to tell you. This same individual got an older fellow that there's an electrician to give him the license and he got his workers to do the electrical. In addition, he paid the plumber that is also another guy, \$500 to use his license in order to get the permits. So that's something else that you should know that is happening out there. And you know what, I'm told that that's very common today.

SEN. PENN: Thank you, Mr. Chairman.

REP. FOX: Howard, do you have a question?

REP. SCIPIO: (inaudible, mic not on).

EDUARDO SANTOS: I've been in contact with the Consumer Protection Agency probably about ten times and my findings is that the right hand doesn't know what the left hand is doing and vice versa. That is my

findings. You know, one moment they tell me one thing the next thing they tell me another. I have instance where they told me that they were going to check on this and that. "Mr. Santos, please give me a call next week at this time." I call him at exactly that time and they don't know what they're talking about. They don't know what I'm talking about. But excuse me, I didn't make a mistake. You told me to call you today, a week afterwards, and you told me to -- you see, and nobody knows.

So my reports, which I have the copies over here, is, as far as I'm concerned, garbage.

REP. FOX: Mr. Santos, thank you for your testimony, sir. I'm sorry, a question over here.

REP. METZ: Mr. Santos, as the rest of the members of the committee have expressed, I express my regrets for your situation, but there's one other thing I wanted to ask you too, did you either before you hired this contractor or after the work was done, get other estimates on doing the job from the beginning. Do you have any idea whether the \$170,000 that you were to pay to have the work done, was that a fair estimate for the work that was to be done?

EDUARDO SANTOS: I didn't have other jobs. I did not get other estimates for the same job from different contractors. I had an adjuster that I had hired to work with the insurance company, and based on the amount of money that the insurance company paid me, I assumed that he was in the ballpark.

REP. METZ: Basically, based on what the adjuster told you, you think the \$170,000 probably was close to a fair price and that another contractor probably would have come in at the same level.

EDUARDO SANTOS: Yes, there was a few minor things that they had to do, but you know, \$1,000 more or \$1,000 less, you know, wouldn't have made much of a difference.

REP. METZ: And do you have any idea that this same contractor has abused other consumers in the same way that he has abused (inaudible)?

EDUARDO SANTOS: I know for a fact. I know for a fact.

REP. METZ: And yet you tell us that obviously --
presumably you made a complaint to the police and
the police have not done anything about it?

EDUARDO SANTOS: No, I did not make a complaint to the HB5185
police. I made a complaint to the Consumer
Protection Agency and they informed me that there
was absolutely nothing that the Consumer Protection
Agency would be able to do as far as having him
arrested because at the time that I gave him the
money or at the time that he started the job, he
was registered or licensed or what have you.

It was only after a month a half or so that he was
on the job that he did not renew his license or
registration or what have you.

REP. METZ: I guess I think that a single individual, a
single contractor getting into a \$170,000 repair
job on a house might be in over his head, there
might be some other reason why he wasn't able to
complete it, but if he has a pattern of making
estimates, taking all the money upfront and not
doing the work, it may be more than a civil suit or
more than the Consumer Protection Agency would be
involved in anyway.

The last comment I would make is, you know, I don't
believe that you could talk about insurance to
cover this situation. It might be saying that we
should require every contractor to post a bond for
jobs, but I would say that if contractors,
legitimate or not were asked to do that, but the
cost of the jobs would go up by a considerable
amount, probably at least ten percent.

EDUARDO SANTOS: Well, I know that a number of years
ago I built a building in Greenwich and my partner
built a building in Greenwich and the total
insurance for the job was \$3,000. And so if a
contractor has a bill for \$3,000, in order for me
to be safe, if I was the consumer, I wouldn't mind
paying the \$3,000.

REP. METZ: But did that cover his liability if he set fire to the rest of the building or if he injured someone on the job or did it cover in the event he defaulted on the job?

EDUARDO SANTOS: No, I'm just saying that I, as a consumer, wouldn't mind paying my fair share of his expense to carry the insurance, and you know, but besides, you know, all of us that are in business have our expenses. You know, I, for myself, I have rent that I have to pay and the builder or the contractor don't. So his insurance should be his overhead, part of his overhead.

REP. FOX: Thank you. The next speaker is Mitchell Peerless. For the information of the committee, I would advise you that approximately 25 people have yet -- want to speak with the last speaker (inaudible, mic not on).

MITCHELL PEERLESS: Good afternoon.

REP. FOX: Good afternoon.

MITCHELL PEERLESS: My name is Mitchell Peerless. I'm a remodeling contractor, a member of the Home Builders Association. That was very moving testimony that we just heard. I wonder if this bill were in existence whether that would have any effect, and I doubt it.

I assume this lawyer is still practicing law and there is practicing for lawyers. It doesn't seem to me that the contract, I would love to come up against a contract like that or a lawyer like that in writing one my contracts. I've never had that type of favoritism.

But the other thing is Mr. Santos says that when he contacted the Department of Consumer Protection that he felt that they didn't know -- the right hand didn't know what the left hand was doing. If we move into a licensing bill, I question whether that would only compound the problem.

As of now, all of this is kind of precipitated because there have been 1,800, 1,600, 1,800 complaints that I don't take lightly, but we don't really know the nature of the complaints. There

really hasn't been the tracking of these complaints to really know where they reside. How many of them are from the same contractor? How many of them are from a licensed contractor? I venture to say that at least 50 percent of them are from an unlicensed contractor or unregistered contractors.

If you had a licensing bill, would that change? It may even drive more contractors to doing things underground. It may not. The point is, if you don't know what the problem is, how can you recommend a solution. We really need to focus in on what type of complaints are being registered and make some assessments from that data.

One thing that I -- the issue of insurance was brought up consistently in the last testimony. When a contractor registers, he has to produce insurance. So that's already in the current registration bill. There's a lot that's in the registration bill that if implemented could correct a lot of problems.

REP. FOX: That insurance isn't against faulty work, though? That's insurance that --.

MITCHELL PEERLESS: I doubt that there is insurance against faulty work.

REP. FOX: I doubt that also. Okay, questions? If not, Mr. Peerless, we thank you. How about Jamie Wolf. How about Richard Goodman.

ATTY. RICHARD GOODMAN: Representative Fox, Senator Colapietro, members of the committee, I am Attorney Richard Goodman and I'm here representing the Connecticut Swimming Pool Association, which would be specialty contractors under this bill. Probably -- well, you've heard a representative already.

Our industry supports some form of licensing. It makes sense. You've got tremendous problems. I have come to you, however, with a possible suggestion because I've -- four years ago we worked with Consumer Protection, a group of associations to try and put together a bill like this and it was quite clear to all of us then that the problems were varied and the complaints were varied and nobody knew whether or not that the solutions that

were being proposed were going to solve them. Particularly, nobody knew what the cost of this proposal was going to be and whether or not it was worth the bureaucracy we're going to have to create.

We suggested at that time, and I come to you today with a suggestion that -- this died for three years and now it's back again, the whole thing, to do the whole thing. I think you should go ahead and do the civil penalty for unregistered contractors. I think that's a must and in fact the second and third time around I can say, of course, and may not know the law the first time, but the second and third time around, there should be stiffer penalties.

I would ask the Consumer Protection Department rather than giving them authority to all at once, to try and test every group out there and put in this big bureaucracy is to take one or two or three industries and my industry, the swimming pool industry, they're on your list, they haven't had many complaints, but there are some complaints, try it for a couple of years. Work with the trade associations, do tests, go out there and see after two or three years whether or not the complaints have gone down in that industry.

Does it make sense? What are the costs? What are the best ways to do it? We suggested this three years ago, talked to the Commissioner about it and we never heard back. I'm raising it to you because I have feeling this is a mammoth bill and my guess is it will die because everyone is going to see tremendous dollar signs and inability of the bureaucracy to be able to handle something like this today. We have enough evidence that the department is having problems handling what it has already and I just think if you do give the civil penalties, and I would, as I say, make them stiffer the second and third time, and have the department go out and on a trial basis try two or three trades. See if it works. If it works, then you've got the evidence that the problems are real and that licensing and testing will work. You've got tremendous problems out there with testing trades, with masons. I've dealt with them. Some of them can't even speak English.

How you're going to do this and I mean it's -- you've got tremendous problems in trying to test this diverse group of people and my suggestion is try it. Our industry really is in favor. They've got enough problems with unregistered and unlicensed -- unregistered people doing bad work. It creates problems for everyone. Most good trade associations like to see that kind of registration.

So my suggestion is pass part of it and take a small step, see if it works. Come back in a couple of years if it does work. Thank you.

REP. FOX: Thank you. Richard Davis.

: He had to unexpectedly leave.

REP. FOX: Okay, how about Jim Lohr.

JIM LOHR: Thank you, Mr. Chairman and members of the committee. My name is Jim Lohr and I'm the Executive Director of the Carpentry Industry Partnership, which is a labor management coalition representing approximately 300 contractors and several thousand members of one of the carpenters locals in Western Connecticut.

Al Cursting from the Better Business Bureau could not be here today, so I just had his testimony submitted along with mine. Basically, our group comes down, our contractors come down on the side of supporting this proposal as sort of a first step. We basically agree -- I made about 20, 25 phone calls to residential contractors who are both home builders and home improvement contractors just to get their sense of where they are with this proposal and my surprise was they unanimously supported the civil fines as do the other associations. That didn't really surprise me as long as the money is plowed back into enforcement and one of the suggestions I make here is that you make permanent the extension of the enforcement fund that you put together last year.

But I was surprised at the level of support for testing because I knew there was a lot of concern amongst some people that I heard that you might be

concerned that they might fail the test and therefore wouldn't be able to continue their occupation.

I was surprised at the level of support that my guys expressed for the testing, aspect testing component. So anyway, I just express support for both those facets because those sort of seem to be the two key components of the bill. I just also commend the committee and also the administration for pushing this issue further.

I just made a couple of recommendations permanently extending the enforcement fund, imposing the civil fines on the contractors who break the law, the excess money that others have talked about. I think Representative Jarjura made a very excellent point and this is one that a lot of my residential contractors made was in terms of the homeowner permit and that is a loophole for many people to hire unregistered or unlicensed, if that's the case that you guys decide, contractors.

So I think somehow something needs to be done to not eliminate homeowners permits, but maybe there's a way to require that people who pull out homeowners permits list who the subs are that are going to be working on their jobs so at least there's some way to find out that the people who are working on the job are in fact registered or licensed.

And then also too, another suggestion that was made was to require that in order to get the permit they provide insurance and proof of Workers' Comp and liability insurance as well. So I appreciate the time and I appreciate the committee's interest and most of my other comments are along the lines of the other industry representatives. Thank you.

REP. FOX: Robert Huppelsberg.

ROBERT HUPPELSBERG: Mr. Chairman, members of the committee, I'm Bob Huppelsberg, Executive Director of the Connecticut Association of Plumbing, Heating and Cooling Contractors.

We had some concerns with the legislation and our concerns relate to the fact that we -- our HB 5185 association consists of occupationally licensed contractors. We've been trying for the three years that I've been working for them to get enforcement of that law and we have not been successful to date. We are, and I think some of you know, are working on it.

The major problem is enforcement, and you know, to create more laws without enforcement is to create injustices. The injustice that exists now in terms of the members of our organization are extensive because they compete with how many people without licenses, it's unbelievable.

Many of these I have reported directly to the Department of Consumer Protection. I've lived on a farm with them and their inspectors trying to get some enforcement and they cooperate. They say they're doing it. They are very good and nice and pleasant. Nothing happens. Okay. There is no enforcement. We have 70 complaints down there now over the past year and I have those all documented.

The problem is enforcement and you just cannot keep creating laws without the act, the procedure for enforcing the laws because if people know that there is no enforcement, they're not going to obey the laws. It's tragic, tragic that that has to be the case, but it is the case and I think before anything -- we support strongly, and I've heard many times today is enforce the registration for these people. That in itself can solve a major part of the problem that's going on. The enforcement will scare 90 percent of those people out of this state into another state, but I think that's the immediate solution, not to create -- the cost of adding 17,000 more names to the Department of Consumer Protection, to say that that's not going to add any cost to the department is outrageous, outrageous. It's going to add a tremendous amount of cost, unless they intend to do nothing about it.

If they do nothing about it, like they've done with occupational licensing, yes, it won't cost them anything, but that is really not fair to the citizens that are responsible. The people that

conform to the law take out their licenses, follow the edicts of the law, get the education that's required, it's not fair to these people to do this.

So our position is against any more laws because we can't enforce any occupational area because we're not enforcing them now.

The other thing for us is the confusion in the consumer's mind. Now we have an occupational license which takes six years to obtain. And then you have a home improvement license. Now how does a -- you know, there's a big process to help the consumer understand that this home improvement guy, if he's not legitimate, is going to say, yes, I have a license to do anything. In fact, the ones that have a registration actually advertise a license number, not a registration number. They're breaking the law.

But what we have to do is really enforce the law. That's really what has to be done and that's our primary objective and we try to work with this committee and we try to work with the Department of Consumer Protection to try to bring that about because I think that solves, 80, 90 percent of the problem. I don't want to take any more time with this thing that except one thing I would like to say, if it should ever become a law, I would like -- among the exclusions that now appear in it, that it would exclude them from doing anything that is now required by occupational licensing, such as plumbing, heating, cooling and electrical work. That's not in there as among the exclusions, but if you do go ahead with the bill, I would certainly like to see that in there because to dissuade them from trying to use that license to represent not the responsible people, but the irresponsible people will get the license and misrepresent it to the public.

And my final note is education. Enough was said about it and I won't take up any more time. There needs to be tremendous education. Our people, we have limited resources. I would love nothing more than to put together an educational program and go to the public with it and tell them how to find out which of our people are good and which are bad. That's it for me.

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GENERAL LAW

February 22, 1994

REP. FOX: Thank you, sir.

ROBERT HUPPELSBERG: Thank you.

REP. FOX: Getting on to the issue of alcohol beverages. We have Alan Wilensky.

ALAN WILENSKY: Good afternoon. Senator Colapietro, Representative Fox, good to see you again this year. Members of the committee, my name is Alan Wilensky. I'm representing the Connecticut Package Store Association as its legislative chair and I'm also a package store owner in the state. I'm here to speak in favor of the server training proposal drafted by the Department of Liquor Control as an addition to the penalty phase of the serving to minors facet of the law. That's basically all I have to say on that and in order for moving this hearing on a little bit, if I may make a very brief statement on the next bill, SB39, the Connecticut Package Store Association opposes SB39. Thank you.

REP. FOX: Thank you, Mr. Wilensky. How about Michael White. I'm sorry. A question over here. Go ahead.

REP. MATTIELLO: Why?

ALAN WILENSKY: Why in opposition to SB39? We feel that it's unnecessary as it is duplicative. There is already adequate provisions in the statutes at this time.

REP. FOX: I'm sorry, one other questions.

REP. MUNNS: Yes, thanks, Mr. Chairman. I might have a question on SB38 here. You're in favor of this, correct?

ALAN WILENSKY: Yes.

REP. MUNNS: Are there package store owners who take advantage of the current voluntary program?

ALAN WILENSKY: Yes, as far as I know. I was in contact with Elizabeth Museau from Connecticut Tips earlier in the year when the State of Connecticut held their conference of state liquor administrators. I had an opportunity to speak to

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HOUSE OF HANBURY BUILDERS INC.

THREE GENERATIONS OF PROFESSIONAL BUILDING

Additions, Remodeling & Design

Honorable Thomas Colapietro, Co-Chairmen
 Honorable John Wayne Fox, Co-Chairmen
 Members of the General Law Committee

Re: HB-5185 An Act licensing Home Builders and Home Improvement Contractors.

Public Hearing Statement

Good afternoon. My name is Robert Hanbury, I'm the President of The Home Builders Association of Hartford County and Treasurer of the Home Builders Association of Connecticut (HBA of CT). I am also a registered Home Improvement Contractor in Connecticut since the inception of the registration law. The HBA of CT OPPOSES HB 7815 which proposes licensing for Home Builders (H.B.) and Home Improvement Contractors (H.I.C.). The stated reason for licensing is to reduce complaints against H.B. and H.I.C. in Connecticut and improve workmanship.

Clearly the complaint issue with H.B. just doesn't add up. The DCP has noted they received 48 inquiries related to H.B.. DCP has complained that they have no jurisdiction or responsibility for H.B. so can't follow up on these inquiries. Considering over 8,880 new homes were constructed in 1993, the number of inquiries doesn't surprise me at all. Since there is no complaint system in place for H.B. type inquiries, there is no basis for understanding the problem or scope of the potential areas of disagreement. How can licensing be a solution for H.B. when the nature and scope of the problem requiring licensing has never been studied or documented. I would speculate that many of the calls or inquiries would be to see if there was a Home Builders Guarantee Fund or the nature of warrantee laws in CT. or if there were any registration or licensing laws for H.B. in Ct. or to check if the H.B. was registered as a H.I.C. and if any complaints were outstanding. The home buyer or his attorney is just doing the prudent thing and checking out the H.B. before they buy. Certainly not good enough reasons to license anybody. Let's not speculate about what the inquiries were about though. That is the job of DCP to determine the nature of and severity of any problem. When the facts are on the table, the HBA would like to review and analyze the statistical data and make recommendations if warranted to solve real problems.

If the need for licensing H.B. could be somehow proved, the first obstacle would be the definition of Home Builder and in fact is this the individual who should be licensed? Should the project superintendent or the project manager or the home builder or the developer be licensed. Depending on the real problem to be solved, different individuals could or might be licensed. As you can see, this issue is too complicated to move forward on when the reason(s) for and the problem(s) to be solved by licensing of H.B. is not even clear. Licensing of H.B.

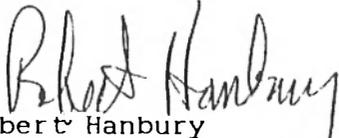


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across the country is limited. Where licensing is in place, those licensed think the law is terrible and doesn't work. In those state w/o licensing, many individuals think licensing will be the panacea for their concerns. In reality, there would be few H.B. licensing laws to model after that would not result in problems for CT. In states where licensing was adopted, the number of complaints went up rather than down. The number of legitimate H.B. dropped as the test was not passed which made for less competition and eventual market price increases to the consumer. Loss of employers and business is not good for CT. Lastly and most importantly from the contractors perspective, after studying for the test and learning about how the business should be run and how to make a true profit, those who pass the test will charge enough to make a profit and raise the level of pricing in the industry so all who pass the test will make money. What a great world that would be. In any case you can be sure that licensing will raise the costs to consumers who buy homes after licensing is enacted. Great for contractors! How about the home buyers?

Our position regarding licensing of H.I.C. is also opposition, but for many different reasons specifically because of the existing Registration Laws and the Guarantee Fund. To address specifically licensing of H.I.C., I will defer to my fellow HBA Remodelors Council members who will speak later. They will present written statements and testimony regarding our opposition to licensing of H.I.C.

Thank you for your attention. I welcome any questions you may have regarding our position on Home Builder licensing or Home Improvement licensing after other HBA Remodelors have presented their statements.



Robert Hanbury
President of Home Builders Association of Hartford County
Treasurer of Home Builders Association of Ct.
Vice Chairman of National Association of Home Builders
Remodelors Council

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STATEMENT IN SUPPORT OF HOUSE BILL NO. 5185 - AN ACT CONCERNING THE
LICENSING OF HOME BUILDING CONTRACTORS, AND HOME IMPROVEMENT CONTRACTORS
AND SPECIALTY CONTRACTORS

PRESENTED BEFORE THE GENERAL LAW COMMITTEE

TUESDAY, FEBRUARY 22, 1994

Members of the General Law Committee, thank you for the opportunity to speak to you today.

My name is Thomas Smith and I am the President of the Connecticut Council, Inc. We are a Connecticut based trade association operating under a charter from the Painting and Decorating Contractors of America. We represent the professional painting and decorating contractors in Connecticut.

I will preface my remarks by saying that we, as a Connecticut trade association, are not opposed to the concept of licensure. In fact, we would welcome it! We feel strongly that it will not only raise the standards of our industry - one of the goals of our organization - but also provide needed protection for the consumer.

As this proposal is drafted, we have two major areas of concern. These areas are enforcement and homeowner responsibility. Without proper enforcement, this legislation becomes another burden for the professional business person in our industry. Without adequate enforcement, our less professional competitor who does not secure licensure, does not incur the cost or expense involved, and as a result, has an additional competitive edge over the contractor who does conform to the requirements of the law. Our industry is one in which there is a well recognized major "underground economy"

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(teachers in the summer, off-duty law enforcement personnel, off-shift firemen, etc.) that does not now conform to the present contractor registration requirements mandated by the Department of Consumer Protection. In this regard, not only is the legitimate contractor at a distinct disadvantage, the State of Connecticut loses much revenue in uncollected sales and income taxes as well as uncollected registration and/or licensure fees. Add to this the huge number of consumers who are defrauded by "fly-by-night" contractors, and the failure to enforce this legislation will clearly add to the State's problems in policing this segment of our industry, rather than resolving them.

In this regard we would strongly recommend that a portion of the fees collected under the provisions of this proposal be dedicated to funding for adequate enforcement of the law. If provisions are not made for enforcement, our industry is no better off than we are under the provisions of the current contractor registration law. Without enforcement provisions, there is no incentive for contractors - other than professional, reputable ones, to continue to conform to the law. Ironically, their adherence to the law results in them being less competitive than their "non-conforming" counterparts.

Our second concern is the responsibility of the homeowner. The provisions of this proposal make it mandatory for contractors seeking to perform certain types of work to secure licensure to do this type of work. Would it not make a great deal of sense to make it equally as "illegal" for an owner to contract for work to be

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performed by an unlicensed contractor? In this regard, we feel that the responsibility for the enforcement of legislation of this nature should be mutual. If the contractor is to be required by the law to be licensed - and we support such licensure requirement - should it not also be illegal for an owner to contract with a contractor not properly licensed by the State of Connecticut to perform such work. We feel strongly that this is a dual responsibility that should be addressed in this legislation.

As small business struggles to recover from what has been a very difficult time in Connecticut's economy, we feel it only fair that these concerns be given proper consideration before this legislation is enacted. We do, however, feel that with the proper enforcement, and a shared responsibility, this legislation will go a long way toward rectifying the vast majority of abuses which occur in our industry. Thank you again for this opportunity to address our concerns.

For Additional Information Please Contact:

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Honorable Thomas Colapietro, Co-Chairmen
 Honorable John Wayne Fox, Co-Chairmen
 Members of the General Law Committee

Re: HB-5185 An Act licensing Home Builders and Home Improvement Contractors.
 Public Hearing Statement

I am writing today to express my feelings as a contractor and as the chairman of the Remodelers Council of the HBA of Hartford Cty. At the HBA, we are officially opposed to licensing Home Improvement Contractors and Home Builders. There is no "successful" precedents in other states to justify this change. Even Minnesota finds it must go back and "remodel" its 1993 contractor licensing law which seems very similar to this proposal. There were only 48 *inquiries* at DCP for Home Builders (none were reported as complaints) and 1843 complaints, out of an estimated 1.2 million jobs completed, against Home Improvement Contractors. To punish the survivors with more regulation aimed at the casualties and to create a costly bureaucracy, all based on a suspect need, appears a wanton waste of everyone's time, effort and monies.

We are officially OPPOSED to experimenting with licensing when the existing registration laws:

- * are so laxly enforced, (staff and inspectors were cut back)
- * are poorly communicated to the intended audiences both contractors and consumers. Our organization had to make our own copies (nearly 2000 copies annually) of DCP consumer protection literature to give out at the CT Home Show because their printing budget was inadequate in 1991, 1992, 1993.
- * are not generating a high percentage or great number of complaints when the number of potential complaints is considered. Though facts and figures are spotty, those available point to a 99.85% success rate for home improvement projects.
- * are generating monies far in excess of their need to pay aggrieved consumers, and are thus nothing more than a tax with no other benefits to consumers or our industry.
- * have been on the books for 10 years or more? Yet, only an estimated 60% of those in the industry are aware of or are afraid enough of the potential consequences to bother to register?

Licensing will not:

- * assure or improve quality of workmanship thus reducing

- complaints. This is the number one reason given by the Office of Legislative Research why licensing is needed.
- * stop companies from going bankrupt. Customers could still lose their deposits and have unfinished work. But, the existing Guarantee Fund already covers this with out need for a licensing law.
 - * not stop fraudulent activities. You cannot legislate morality or honesty only catch those who do and punish them appropriately under existing or tougher registration laws.
 - * stop people from dealing with cheaper unlicensed or unregistered tradespeople, which generate approx 50% of the existing complaint pool.

In my own opinion, shared by many others, I feel that Licensing will:

- * imply to consumers that they may drop their guard when dealing with a "licensed" contractor when in fact it only means they were "grandfathered" or passed a test not related to workmanship.
- * mean that the number of legitimate contractors will become smaller and thus allow prices to rise for consumers for these services due to less competition.
- * make it more difficult and expensive to develop new businesses and jobs in Connecticut. Construction dollars spent in our industry create jobs faster and in greater numbers than other industries.
- * create the need for more Connecticut State workers to merely administer a program of licensing without necessarily increasing the number of inspectors or enforcement activities which is the real crux of the problem.

We at the HBA can not support any new legislation that fines or jails contractors, given the current levels of support and information dissemination coming from DCP and the State. You cannot expect people to obey laws that they have never heard of or are rarely enforced such as working without a registration number or putting your registration number in your advertising and on truck signs.

What is needed to today is: inspectors and investigators to enforce the existing registration laws, educators to inform the public and contractors of the laws and, development of a complaint system that pinpoints the profile of the home improvement contractor gone bad or one who has typically created complaints.

Where should the money come from to hire these people or develop a system? That is not our job here but clearly the industry already "contributes" enough money to solve these issues. Because the money is not earmarked for industry needs, underfunding of DCP has occurred and will continue to occur.

The Proposed bill HB-5185 asks for Civil Penalties to create funds for further enforcement activities. "Getting tough on crime" always plays good to the masses, but one must make sure that these efforts are focused on the true bad guys and potential creators of complaints. We stand ready to help develop

an improved DCP complaint form (underway and ready to present to Gloria Schaffer) and system for the Home Improvement Contractors which will help create a statistical profile of the bad guy and his method of operations so that consumers may be forewarned and help avoid situations that turn into complaints. A "shoebox of index cards" system to monitor 1800 plus complaints is no way to go given the age of computers and data base technology which is now available. Hopefully, this new electronic system available to DCP can be tapped to interpret and not just log information.

Thank you for your attention and consideration of our views.

Alan E. Hanbury Jr. CGR
Treas. House of Hanbury Bldrs Inc
Chairman Remodelers Council
HBA of Hartford County, Inc.

RICHARD BLUMENTHAL
ATTORNEY GENERAL



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Office of The Attorney General
State of Connecticut

TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE GENERAL LAW COMMITTEE
FEBRUARY 22, 1994

I appreciate the opportunity to support of House Bill 5185, An Act Concerning the Licensing of Home Building Contractors, and Home Improvement Contractors and Specialty Contractors.

Home improvement contractor fraud has been a continuing problem for law enforcement agencies such as my office and the Department of Consumer Protection (DCP). Despite a concerted effort to bring civil actions against registered home improvement contractors and criminal actions against unregistered home improvement contractors, the fraud continues; the number of consumer complaints rise.

During the past two years, civil enforcement has been conducted through the administrative process and the guaranty fund by the Commissioner of Consumer Protection. My office has brought numerous criminal cases against unregistered home improvement contractors, resulting in more than \$200,000 in consumer restitution over the past three years and even prison terms for some contractors.

Yet, the fight continues. My office joins DCP in seeking additional enforcement tools, including licensing of home improvement contractors and the extension of the consumer protection benefits of our home improvement contractor act to new home builders.

HR 5185 would assure consumers that contractors which they hire have demonstrated competence in areas such as building and fire safety codes. Requiring such skills should eliminate some of the fly-by-night contractors, especially those who take money to do projects they never intend to complete.

This measure, however, will not provide protection against unlicensed contractors -- those who simply avoid or defy this requirement. I urge this committee to strengthen the criminal penalties for those contractors who operate without a license. I strongly support doubling the potential criminal penalties to a class A misdemeanor.

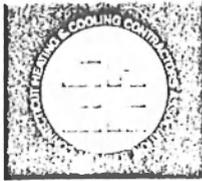
Finally, I support extending licensing requirements to new home builders. For too many Connecticut families, dream homes have become nightmares because of unscrupulous or insolvent builders. We need the ability to take criminal or civil action to obtain penalties and restitution from such contractors in this industry.

I stand ready to assist the committee in working for passage of this legislation. My staff is available to address any specific questions and concerns which the committee may have.

Thank you.

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Established 1972



Connecticut Heating & Cooling Contractors Association

10 Little Brook Road, Box 302, New Hartford, Connecticut 06057 • Phone & Fax (203) 379-5747

MEMBERS OF: BOCA - NFPA - CCC - CAPHI - CBIA

Bill 5185

1994

February 22, 1994

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TO: ALL MEMBERS OF THE GENERAL LAW COMMITTEE

SUBJECT: Raised Bill 5185: Concerning the licensing of home building contractors, home improvement contractors and specialty contractors.

The Connecticut Heating & Cooling Contractors Association, consisting of 200 contracting firms holding occupational licenses for piping, heating, air conditioning and refrigeration, have the following comments with reference to the above Raised Bill;

Although it may well be understood, it is suggested that Section 20-419 (3) be further amended to state: "Also, the term 'Home Improvement Contractor' does not include a person currently holding an occupational contractors license, the unlicensed sales persons employed by that firm, and all other individuals employed by that firm who hold a valid current occupational licenses.

It is further recommended that the annual budget of the Department of Consumer Protection be substantially increased to provide for the adequate administration and enforcement of the some 12,500 home improvement contractors who would become subject to licensure.

Some consideration must also be given to the building officials employed by the municipalities who would also be expected to monitor the program in the field.

Respectfully submitted

H. L. Kimball
Executive Director

BETTER BUSINESS BUREAU
OF WESTERN CONNECTICUT, INC.



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February 18, 1994

Representative Wayne Fox
House Chairman of the General Law Committee
Hartford, CT., 06115

Dear Representative Fox:

Our business/professional membership organization represents more than 1000 member firms, many of whom are engaged in providing some type of home improvement service. Better Business Bureaus nationally and locally, are considered to be the primary contact by the public for guidance and information when it comes to making pre-purchase decisions.

Our Bureau alone, served more than 50,000 Connecticut consumers during 1993, with some 1,975 of them bringing to our attention complaint actions against a wide variety of firms in the home improvement business. Many of these complaints were resolved as a result of our intervention, but unfortunately many were unresolved since we were dealing with unregistered, and often times, transient, out-of-state, firms!

I feel that between both our Bureau and the Wallingford based BBB, we both respond to approximately the same numbers annually, numbers, I regret to say, never appear to be solicited when legislation is being proposed, such as the new licensing and testing law currently being proposed! Better Business Bureaus are indeed a source for much valuable information, and we are normally in a position of providing same, at local, state and federal level. This is something that our organization, nationally, has been doing for more than 80 years! I am volunteering this data to you now, with the plea that what is now being proposed, be accomplished, with haste! For all of the years when there has been no licensing, or real enforcement of existing registration, Connecticut homeowners and legitimate home improvement contractors, have lost countless millions of dollars to the frauds and cheats that are out there doing ever so much damage, and getting away with it! In addition, since the imposition of sales tax on home improvement projects, Connecticut itself has lost untold millions in tax dollars since the unregistered, unregulated firms, do not collect or pay taxes. The bottom line is in the multi-millions of dollars! It should not be allowed to continue.

The proposed legislation has much merit and should be created effective in 1994, and not in 1995, as proposed. An additional year will allow thousands of Connecticut residents and business people to be defrauded and badly hurt. I also urge that there be an amendment to allow the Department of Consumer Protection to utilize excess funds collected in the existing Guaranty Funds, be utilized to hire added fraud investigators (who would be armed with arrest powers), and the funds would also be used to obtain licensing and/or registration of firms who have not done so. Fine process would provide even more needed funds for DCP useage. Also, with any passed legislation, there must be aggressive enforcement if everything is to work as it should. Consider using existing licensing and testing procedures currently being

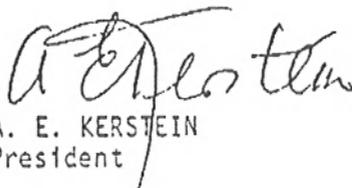
Page -2- February 18, 1994

used effectively and efficiently in other States! Let us not have to "reinvent the wheel"!

I feel that it is essential for elected officials to pay extraordinary attention to the needs and best interests of that "special interest group," best identified as their constituents! They vote people into office for the express purpose of doing the very best for all! I know that you will not fail us!

I urge you to support this urgently needed legislation.

Respectfully,



A. E. KERSTEIN
President

AEK:rm

Legal Assistance Resource Center
◆ of Connecticut, Inc. ◆

80 Jefferson Street ◆ Hartford, Connecticut 06106
(203) 278-5688 ◆ FAX (203) 278-2957

H.B. 5185 -- Licensure of home improvement contractors
General Law Committee public hearing
February 22, 1994

Recommended Committee action: MODIFICATION OF THE BILL

This bill proposes to license home improvement, home building, and specialty contractors. If such a proposal is adopted, it is important that it not result in a narrowing of the contractors that are covered by the existing Home Improvement Act. This bill limits the definition of "home improvement" by deleting persons who construct, replace, install, or improve (1) driveways, (2) swimming pools, (3) porches, (4) garages, (5) roofs, (6) siding, (7) insulation, (8) solar energy systems, (9) flooring, (10) patios, (11), landscaping, (12) fences, doors, and windows, and (13) water-proofing (l. 47-54).

It appears to be the intention of the bill to reclassify people who perform such work as "specialty contractors"; but it is not clear to me that some contractors are not lost in the process. For example, landscaping does not seem to fall into the new definition of "specialty skill," and it is not clear which "general installation specialties" (l. 73-77) are covered other than the ones specifically listed. The Committee should make certain that the bill does not result in any loss of coverage.

The bill also calls attention to the need to make a related amendment to C.G.S. §20-426, which is amended by §8 of the bill. The list of grounds for revocation, suspension, or non-renewal of a home improvement registration fails to include "performing negligent or incompetent work," which is a common complaint about home improvement contractors. In contrast, H.B. 5445, also raised by the General Law Committee this year, includes such a standard in its amendments to C.G.S. §14-331 and §43-9. The same language should be added in l. 239 of this bill.

-- Prepared by Raphael L. Podolsky

Carpentry Industry Partnership

P.O. Box 2245 • 5 Muller Street • Norwalk, CT 06852 • (203) 847-1116

*LABOR AND
MANAGEMENT
TRUSTEES:*

Ed Baldwick
John Brunalli
Matt Capece
John Cunningham
Stephen Flynn
James Gleason
Michael D. Hobbs
Anthony J. Minervini
Brian C. Nickerson
Greg Oneglia
Richard Warga
Kelly Wright

EXECUTIVE DIRECTOR:

Jim Lohr

ASSISTANT DIRECTOR:

Emmett Riley

Members of the Committee. My name is Jim Lohr, and I am the Executive Director of the Carpentry Industry Partnership, the largest labor-management coalition in the western Connecticut industry. In addition to my testimony, I would like to submit the testimony of Al Kerstein, the President of the Better Business Bureau of western Connecticut.

I am here to testify in support of Raised Bill 5185, An Act Concerning the Licensing of Home Building Contractors, Home Improvement Contractors and Specialty Contractors.

Over the past few years, our residential contractors have expressed support for the need to license home improvement and homebuilding contractors. I would like to commend the General Law Committee for having a task force look into the issue, and I would also like to thank the Weicker Administration for taking a lead on this important consumer issue. This proposal is a good starting point. It is not a perfect proposal, but I believe that there is a tremendous opportunity for representatives of industry, the Department of Consumer Protection, the Better Business Bureau and the legislature to develop a strong initiative that could be passed **this year.**

As we all know, there are more consumer complaints about home improvement contractors than any other consumer issue in Connecticut. Unfortunately, for the construction industry we are number one. Last year, there were more than 1,841 complaints filed by consumers angry over the poor work of contractors.

The current system of registration is a farce. No matter what your background or qualifications, you can register as a home improvement contractor today. One case I am familiar with involves an elderly lady from Stamford who hired a contractor earlier this year to make her house accessible for her brother who is an amputee. The contractor was unfamiliar with many of



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the building codes and the job is still incomplete more than three months after the scheduled date of completion. On the advise of her attorney, the consumer did not come to testify today. But this senior citizen has gone through an enormous amount of anguish because of this contractor's ignorance. A system of testing would help address this problem.

As I said before, the proposal is a good start. Where it needs improvement is in the area of enforcement or compliance. This industry simply needs more consumer cops on the beat. It is my understanding that there are only two investigators in the Department of Consumer Protection. This has to be changed for licensing to be effective. Laws without enforcement are like computers without software. They just don't work.

Consequently, we would suggest that:

- permanently extend the "consumer protection enforcement fund," which is scheduled to end on June 30, 1995;
- impose civil fines on contractors who break the law, such as those in Bill 5815, and earmark the monies for the enforcement fund to hire additional inspectors;
- deposit any excess money from the home improvement guaranty fund to hire additional inspectors;
- address the issue of homeowner permits. One of the biggest loopholes in these laws is the homeowner permit. Consider requiring homeowners to list subcontractors who will be working on their project;
- require contractors to not only give their license numbers to the local building departments before getting a permit, but also require them to show proof of workers' compensation and liability insurance;

We think that the General Law Committee and the Weicker Administration have made a good start. It isn't a perfect proposal, but it is a start. None of our suggestions will necessarily solve all of the problems. We believe they could help improve the current situation which is unacceptable.



Connecticut Electrical Contractors Association, Inc.
912 Silas Deane Highway, Wethersfield, CT 06109



TO: The Honorable Senator Colapietro and Representative Fox,
General Law Committee

FROM: Wayne Schremmer, Chairman, Government Relations

DATE: February 22, 1994

RE: HE 5185 AN ACT CONCERNING THE LICENSING OF HOME BUILDING
CONTRACTORS, AND HOME IMPROVEMENT CONTRACTORS AND
SPECIALTY CONTRACTORS

As licensed contractors, we fully understand the reasoning for licensing or business registration, and we appreciate its value to those registered businesses and licensed persons and the intended protection for the consumer.

However, unless licensing and registration laws are enforced, they are of little value to anyone. In fact, without effective enforcement, licensing and registration becomes a detriment to those licensed persons and registered businesses that try to abide by the law. Today there is a growing amount of work being unlawfully performed by unlicensed contractors and persons. Considering the costs of training and the wages of licensed persons, it is difficult for a properly-licensed contractor with properly-licensed personnel to compete against those unlicensed businesses or persons.

Although the Department of Consumer Protection is doing the best enforcement job possible given the limited amount of personnel available, the problem of occupational licensing law violations is rapidly growing. Until the Department has the financial capability to fill its unfilled enforcement positions, the problem will continue to grow.

As additional unfunded mandates are imposed on the Department of Consumer Protection, there will be a decreasing financial capability for the Department to perform the duties it is presently charged with.

Therefore, notwithstanding the need of other businesses, we sincerely hope that you will approve new license and registration categories for the Department of Consumer Protection ONLY if the Department is provided with the additional funding necessary to properly implement these new categories.

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International Remodeling Contractors Association, Inc.
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HB 5185

AAC THE LICENSING OF HOME BUILDING CONTRACTORS, AND HOME IMPROVEMENT CONTRACTORS AND SPECIALTY CONTRACTORS

ASSOCIATION POSITION: OPPOSE

TO: General Law Committee, 2/22/94
 FROM: Richard Davis, Executive Director

SUMMARY OF CONCERNS

1. The Lack Of Input In The Drafting Of This Bill By Our Industry.
2. The Lack Of Enforcement Potential Over An Estimated 15,000 Unregistered (Unlicensed) Contractors.
3. The Complaint Data Does Not Support The Response Generated By The Bill. Of All The Alleged Complaints Against General Remodelers Last Year, Over 25% Are Against Unregistered Contractors. Another 25% Relate To Work Not Being Started Or Finished. In Other Words This Bill Will Not Respond To Half Of All Complaints Against Remodelers.
4. The Lack Of Deterrent Initiatives Aimed At Preventing Complaints Through Consumer Education Prior To The Point Of Sale.
5. Salesmen Who Most Often Deal With The Public Are Not Required To Be Tested Under This Bill.
6. Contractors Tested Under This Bill May, By Regulation, Be Forced To Pass A Test Which Covers Specialties That Have No Bearing On Their Business And The Public.
7. The Funds Collected Through Civil Penalties Are Supposed To Be Used To Hire Enforcement Officials. The Bill Says The Money Will Go To The Guaranty Fund. Even If This Is Corrected How Many Inspectors Will Be Hired To Regulate An Industry With Nearly 30,000 Contractors? Local Building Officials Would Make Better Inspectors Than State Dcp Personnel When Workmanship And Enforcement Are At Issue.
8. Improper Testing Could Cause Legitimate Contractors Their Jobs. The Bill Is Silent As To The Nature Of The Test But Indications Are That It Is Going To Be Too Detailed And Irrelevant To Protect The Livelihood Of The Contractor Or The Public. Without Knowing The Nature Of The Proposed Test We Will Not Be Able To Respond To The Regulatory Phase Of This Bill.
9. Thirty Three States Do Not License Contractors And There Is No Indication That Those Who Do Have Reduced The Number Of Complaints Or Effectively Responded To Workmanship And Most Other Categories Of Complaints.
10. The Current Registration Program Is Full Of Defects Yet It Is The Basis For Licensing. It Does Little To Respond To Workmanship Complaints And The Guaranty Fund Is Difficult To Access.
11. The Bill Allows Consumer Protection To Revoke A License If A Contractor Fails To Give " An Accounting" Of Deposits If A Homeowner Requests It. What Comprises " An Accounting"? Is There Any Limit To The Number A Homeowner Can Request?

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HB 5185

**AAC THE LICENSING OF HOME BUILDING
CONTRACTORS, AND HOME IMPROVEMENT
CONTRACTORS AND SPECIALTY CONTRACTORS**

**ASSOCIATION POSITION:
OPPOSE**

TO: General Law Committee

FROM: Richard Davis, Executive Director *RD*

Re: Public Hearing; Tuesday, February 22, 1994
Room 1 C, LOB,

Chairmen Fox and Colapietro, members of the Committee:

On behalf of our 700 plus remodeling contractor members in Connecticut we ask you to oppose HB 5185, An Act Concerning THE LICENSING OF HOME BUILDING CONTRACTORS, AND HOME IMPROVEMENT CONTRACTORS AND SPECIALTY CONTRACTORS.

We oppose most of the remodeling elements of this proposal and take no position on home building licensure. Our specific concerns relate to:

RE: HB 5185**1. THE LACK OF INPUT IN THE DRAFTING OF THIS BILL BY OUR INDUSTRY OR**

THE PUBLIC. In our view this bill was hastily drafted with input primarily from the Dept. of Consumer Protection. It simply converts the registration program to licensure. In terms of rendering any kind of a meaningful service to the industry which pays the tab, the registration program has done little more than tax an industry in its sixth year of a prolonged recession. Many of our former members, now out of business, call it a depression. It is otherwise modeled on a Minnesota law which was passed just over two years ago. Minnesota construction groups are not sure if the law is helping the consumer or the contractor. Please note that 33 states do not license home improvement contractors.

2. THE LACK OF ENFORCEMENT POTENTIAL IN THE BILL.

In Suffolk County Long Island, (where registration fees are used exclusively by the Dept. of Consumer Protection and not turned over to the general fund) there is a population of approximately 1.6 million. Suffolk County has approximately 18,000 registered home improvement contractors. In Connecticut with twice that population we have some 15,000 registered. Consider that as many as another 15,000 contractors may be unregistered in our State. The licensing bill before you, as with registration, will do very little about unregistered contractors. It will continue to tax the registered contractor and subject him to more red tape, including testing. Meanwhile the competitive gap widens as the unregistered, and under this bill, the unlicensed, will continue to not carry insurance, pay workers comp., pay application fees, pay exam fees, pay renewal fees, pay for sales personnel in a like amount, pay for

RE, HB 5185

the time to prepare and take an exam, or otherwise play by the rules. In theory the civil penalty provision of this bill makes sense. But make no mistake- it falls pathetically short of the funding needed to begin to do more than pay lip service to consumer protection or a modicum of fairness to an industry which is predicted to soon outpace the dollar volume created by new home building. At civil penalty increments of \$500 to \$1500 DCP will never be able to send an effective team of State enforcement officials to the 169 towns where the unregistered and unscrupulous do their damage. One or two DCP officials getting in their cars at 9 a.m. and traveling to Stamford, for example, to locate jobs with unlicensed people and catch them in the act just does not get the job done. Redirecting the more than one million dollars we generate above and beyond the \$ 750,000 we contribute to the Guaranty Fund, to local building officials to do the same job might make a little more sense. If the fees contributed by licensed electricians, plumbers, and heating and cooling contractors were concentrated in a similar fashion you would be starting to get the word out to the fly by night operators that they should think twice. If building permits required license verification as part of this package we would support it. If DCP mandated proof of liability insurance as a requirement to renewal we would support it. These are some of the examples of measures we can bring to a thorough and representative study of the problem. We realize it will be tough, if not impossible to get your fellow legislators to free up one or two million to attack the problem, but in all honesty you get what you pay for. If they will not pay, please don't pass a "feel good "political measure which does little for those who are forced to pay the tab and little for the public as well.

3. THE COMPLAINT DATA DOES NOT SUPPORT THE RESPONSE GENERATED BY DCP IN HB 5185.

The data provided to the General Law Committee by DCP as to the number and nature of consumer complaints covers three years of tracking. In 1993 there were 1841 alleged complaints but less than half that number in the two preceding years. The data does not tell how many complaints were valid or not. Of the 923 complaints against remodelers in 1993, 234 (or better than 25%) were about the contractor being unregistered which speaks to our earlier point on lack of enforcement and this bill does very little indeed to answer that problem. Another 244 are related to work not being started or allegedly not being finished. Do we know how many of the incompletes also involved lack of payment to the contractor? Do we know how many "failure to start" complaints were related to contractors going out of business? Will civil penalties or testing of workmanship respond to that condition? There were 168 complaints of workmanship. By what objective standard were these complaints measured? They weren't, they were duly noted. Who was technically qualified to verify that it was a contractor responsibility? Did DCP staff visit the homesites? How do you judge these complaints from offices on Capitol Avenue?

To build a licensing program on a registration program which seems to do a good job of handling fraud matters but is understandably overwhelmed and not staffed to handle workmanship matters doesn't make sense to our members. DCP's response to workmanship complaints in this bill is to test contractors. We believe that workmanship may have a lot more to do with the economy and business management skills than testing someone on how to build a deck. What happens after a

RE HB 5185

test is very important. Currently DCP sends out a letter to the contractor simply acknowledging the complaint. It is up to the homeowner to go to court and get a judge to agree with him and then the contractor must be found to be judgment proof before the Guaranty Fund kicks in. If the amount of money involved is more than small claims but less than \$10,000 it may not be cost effective to hire an attorney. The point is that the current registration law takes the public through an arduous and possibly expensive process but we are not looking at this in a bill drafted by DCP. In the DCP bill civil penalties do not respond to workmanship complaints. If you combine the unregistered and workmanship complaints you have 43% of the total and this bill does virtually nothing to respond other than to test but not because DCP has established that lack of knowledge is the cause of the problem.

4. Testing

We have been told that the test will be a modest test of competency. If it is modest, what value does it add? A better criteria may be the questions on a test and do they reflect what actually happens in a specialty or in a general contracting business. The fact is we do not know what we will be tested on but the outcome may affect our livelihood as well as the public. But we do know from a reading of an earlier draft of the bill that by amendment or regulation a contractor who does work in any of two specialties he will be tested in eight specialties, each of which has multiple sub categories. For example a mason and excavation business will call a proprietor to be tested on roofing, drywall, interior and exterior finishing and any multiple combinations thereof. **Is this what the public needs to protect itself?** Or does this simply lead to skilled people who may not be that great at wading through two inch thick study guides being put out of work

without a single complaint registered against them.? We have seen study guides from Maryland and Nevada which cover " PROJECT MANAGEMENT" in more than a modest fashion and in a way unrelated to remodeling. Testing on the Critical Path Method, which is a college level course, testing on case laws related to accounting and taxation, testing on federal OSHA laws, including knowledge of asbestos exposure levels measures("PELs " per cubic centimeter).....

ARE THESE THE KINDS OF FACTS REMODELERS NEED TO KNOW TO RESPOND TO CONSUMER COMPLAINTS? Do we know that safety is an issue? WE have not seen that in DCPs report. If indeed a test of workmanship and safety knowledge is warranted, lets take a chapter out of Minnesota and let the remodeling industry help the State, the public, and, yes itself, by helping to create a fair and relevant set of questions or a least review what a national testing service offers.

5. CONSUMER EDUCATION. We have developed simple but essential facts at low cost which we put in a brochure that can be placed in your pocket or lumber yards or banks or building departments, or even in the mail by DCP... that help educate the public at, or near, the point of hiring a contractor. A few years ago we helped DCP produce a fancy and somewhat costly booklet of a similar nature but we don't see them on "the street". We are not sure if they are still available. We need to explore PSAs and other wide spread communication measures focused at informing the public in a timely fashion. Even when forewarned, the public will continue to accept the lowest bid which can lead to complaints and problems. We will not eradicate the

RE HB 5185

problem, but deterrence through education and enforcement should be central. Licensing may play a role but is not a substitute.

There are other considerations as well, including grandfathering . There should be a forum where all responses can be laid out and a cost effective judgment can be made about how best to protect the public with limited resources. We would like to work with you, DCP, and any interested parties to see if any state has a meaningful response or if we can create one.

The start of noncritical Activity KK could be delayed by as many as 23 days without affecting the scheduled completion date of the project. If a

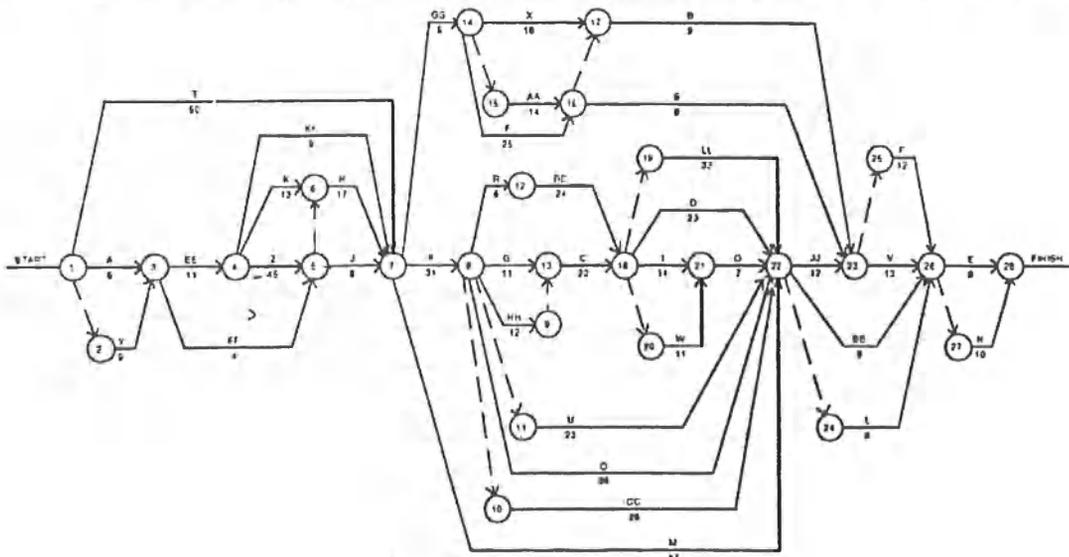
critical path activity was delayed even 1 day, completion of the entire project would then also be delayed.

*From Nevada
1993*

*Contractor's Reference
Manual - Study Guide for Remodeler's Test*

Sample CPM Diagram

ACTIVITY	NETWORK SYMBOL	ACTIVITY	NETWORK SYMBOL	ACTIVITY	NETWORK SYMBOL
AWARD OF CONTRACT PROCEDURES	A	FINAL INSPECTION	N	PILE DRIVING	Z
ASPHALTIC CONCRETE SURFACE	B	FINISH FLOORING & MOLDING	O	PLASTER CONSTRUCTION	AA
BLOCK MASONRY	C	HARDWARE & FIXTURES	P	PLUMBING - FINISH	BB
CEILING INSTALLATION	D	HEATING, VENTILATING, & AIR CONDITIONING INSTALLATION	Q	PLUMBING - ROUGH-IN	CC
CLEAN-UP	E	INSULATION	R	ROOFING	DD
CONCRETE - CURBS & WALKS	F	LANDSCAPING	S	SITE CLEARING & GRUBBING	EE
CONCRETE - FLOOR SLABS	G	MATERIALS - ORDERED & DELIVERED	T	SITE SURVEY - BUILDING LAYOUT	FF
CONCRETE - FOUNDATION SYSTEM, ELEV. PITS	H	MECHANICAL - ELEVATOR	U	SITE SURVEY - EXTERIOR IMPROVEMENTS	GG
CONCRETE - PRECAST PANEL INSTALLATION	I	PAINTING	V	STAIRWAY INSTALLATION	HH
EARTHWORK - BACKFILL	J	PARTITION & DRYWALL INSTALLATION	W	STRUCTURAL STEEL & STEEL BAR JOISTS	II
EARTHWORK - EXCAVATION	K	PAVING - SUBGRADE, & BASE COURSE	X	TRIM	JJ
ELECTRICAL - FINISH	L	PERMIT (APPLICATION TIME)	Y	UTILITIES (SITE)	KK
ELECTRICAL - ROUGH-IN	M			WINDOWS & DOORS	LL



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Page 6
Line 19
TAPE 1 SIDE B



AAC THE LICENSING OF HOME BUILDING CONTRACTORS
HOME IMPROVEMENT CONTRACTORS

(LCO # 5185)

TESTIMONY OF

RICHARD DERR

LEGISLATIVE CHAIRMAN

and

FIRST VICE PRESIDENT

REMODELING CONTRACTORS ASSOCIATION

TO: GENERAL LAW COMMITTEE

Public Hearing, Feb. 22, 1994

Chairmen Fox and Colapietro, members of the Committee,

Thank you for the opportunity to speak on proposed bill 5185, An Act Concerning the Licensing of Home Building Contractors, Home Improvement Contractors and Specialty Contractors.

I am Richard Derr, a remodeler residing in Simsbury and first Vice President of the Remodeling Contractors Association. We are an organization founded in Connecticut in 1965 and represent over 700 remodeling companies statewide.

I am here on behalf of my membership to speak in STRONG OPPOSITION TO THE BILL before you. Our first and biggest problem with Bill 5185 is ENFORCEMENT. Consumers and Contractors have experienced inadequate enforcement of the existing registration program, leading us to strongly question the future enforcement and effectiveness of a new licensing program as a means of protecting the consumer.

Most everyone involved, directly or indirectly, in the Home Improvement industry agrees that THERE ARE LITERALLY THOUSANDS OF SO-CALLED 'CONTRACTORS' PERFORMING HOME IMPROVEMENTS WITHOUT BEING PROPERLY REGISTERED AND INSURED. Many of them are so bold as to advertise in newspapers, drive work vehicles with signs on them, place job signs at their jobsites and take out Building Permits - YET they go unchallenged by Local or State officials, causing the greatest threat to consumers.

We are in agreement with only one aspect of this bill, that which gives the Commissioner of the Dept. of Consumer Protection the ability to impose civil penalties. Such fines should be kept in a separate Enforcement Fund. This money should not go into the general fund ever.

However, we can not expect such civil penalties to fully fund the enforcement needed to protect the public and our industry. If you pass a bill that tests and further regulates, without effective enforcement and the funding to do so, all you will do is widen the competitive gap between the law-abiding contractor and the unregistered, uninsured contractor. REGISTERED, ETHICAL, COMPETENT CONTRACTORS ARE GOING OUT OF BUSINESS LEFT AND RIGHT, AS THEY ARE UNDERBID IN THESE RECESSIONARY TIMES BY UNREGISTERED AND UNINSURED CONTRACTORS. LACK OF ENFORCEMENT OF THE CURRENT REGISTRATION LAW IS CONTRIBUTING TO LOSS OF JOBS IN OUR STATE. If you want the support of those you intend to regulate, you can start with redirecting the millions of dollars you now collect from us each year and using it to enforce what you mandate.

A missing link in the chain to reduce home improvement consumer complaints is that building inspectors are not required by law to ask for proof of current registration. WE PROPOSE THAT IT BE MANDATED THAT THE LOCAL BUILDING OFFICIAL CHECK FOR PROPER CREDENTIALS AS PART OF THE PERMITTING PROCESS. More importantly, mandate that the building official check for proper credentials on the job site, and then provide the funding for him or her to do so.

The data provided to the General Law Committee by the DCP as to the number and nature of consumer complaints covers three years of tracking. In 1993 there were 1,841 alleged complaints; but less than half that number in the preceding two years. The data does not tell us how many complaints were valid. Of the 923 complaints in 1993 against general contractor type remodelers that we analyzed, 234 (OR BETTER THAN 25%) WERE ABOUT THE CONTRACTOR BEING UNREGISTERED. THIS SPEAKS TO OUR EARLIER POINT ON LACK OF ENFORCEMENT, and this bill does very little indeed to answer that problem. Another 244 complaints are related to work not being started or allegedly not being finished. There were 168 workmanship complaints. By what objective standard were these complaints measured? They weren't, they were duly noted.

We are not convinced that the DCP knows or completely understands the true nature of the problem. TO BUILD A LICENSING PROGRAM ON A REGISTRATION PROGRAM WHICH SEEMS TO DO A GOOD JOB HANDLING FRAUD MATTERS BUT IS UNDERSTANDABLY OVERWHELMED AND NOT STAFFED TO HANDLE WORKMANSHIP MATTERS DOESN'T MAKE SENSE. DCP's response to workmanship complaints in this bill is to test contractors. We believe that workmanship complaints have a lot more to do with the economy and business management skills than a remodeler's ability to build a deck or frame an addition.

We also have real concerns about the test itself. The study guides used in Maryland and Nevada lead us to believe the subject matter is fairly irrelevant to public protection. The OSHA provision, the detailed knowledge of the Critical Path Method, case and tax law references, and specific scientific information seem relevant only for those who specialize in certain areas. IN MINNESOTA, YOU WILL FIND THAT THE HOME IMPROVEMENT INDUSTRY HELPED CREATE A TEST FOR THE INDUSTRY.

THIS IS CLEARLY A HASTILY DRAWN BILL WHICH HAS HAD NO PUBLIC OR INDUSTRY INPUT UNTIL TODAY. We should slow down and see if industry and government can find a way to really protect consumers. We offer our time, experience and resources to this committee, as well as the DCF, to be a part of any future regulation or licensing programs that would affect our membership and their families.

We need not create new laws to solve problems created by lack of enforcement of existing law. In closing, we see no benefit from Bill # 5185 to the consumer or the contractor. WE SEE THIS LICENSING BILL AS MISLEADING TO THE CONSUMER AND AS A NEW TAX BURDEN TO AN ALREADY BURDENED CONTRACTOR.

Your comments and questions are welcome. Thank you for listening.

*International Remodeling Contractors Association, Inc.**One Regency Drive • 2nd Floor**Bloomfield, CT 06002**Telephone: (203) 242-6823 • 1-800-937-4722**Fax: (203) 242-7649*

Suffolk County (Long Island) with a population of 1.6 million residents has approximately 18,000 registered/licensed Home Improvement Contractors. The State of Connecticut with approximately twice the population of Suffolk County has only approximately 15,000 registered Home Improvement Contractors. In simple terms, there are probably 10,000 to 15,000 unregistered, uninsured 'contractors' performing home improvements in our State every day.

Taking from this a conservative number of 7,500 unregistered contractors in Connecticut not only represents a loss of revenue to the State of ONE MILLION TWO HUNDRED THOUSAND DOLLARS (at 7,500 x \$160. each), but is a kick in the knees to every good, honest, hard working and law abiding Contractor who struggles every day to support his or her family and who has been paying his or her registration fee every year with little or nothing to show for it.

H25185

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Line 16
TAPE 1
SIDE B

September 21, 1993

Gloria Schaffer,
Commissioner
Department of Consumer Protection
165 Capitol Avenue
Hartford, Ct. 06106

Dear Mrs. Schaffer:

I wrote you in June asking about a complaint that I had filed against John Senese and John Drisdelle who had been hired by me to erect a porch and detached garage on a piece of property I own. The matter was referred to your Department by Better Business Bureau as well.

According to the information I initially received from your Department, the construction of the detached garage and porch should be done by a licensed and registered home improvement contractor regardless of whether or not the home had been completed. Not hearing anything further, I wrote you and asked if these individuals are properly licensed and if not what your Department was going to do to follow up since they would obviously be violating the law if they were not licensed. I then received the answer that your Department could not do anything about the matter because I had not yet received a certificate of occupancy.

I raised a question about your Departments refusal to handle my complaint because a CO had not been issued since the statute mentions nothing about a CO. The answer I received was that a Superior Court Judge had made such a ruling. However upon looking at the case I found out that the Court had made no such ruling. Therefore there is no standing ruling by a state judge that the mere issuance of a CO is the deciding factor in whether your Department has jurisdiction or not. Consequently your department is substantially in error in refusing to handle any complaint on the basis a CO has not been issued.

Also, the plain language of the statute is that home improvements include repair, replacement, remodeling, alteration, conversion, modernization, improvement, rehabilitation ... of any building or that portion thereof which isdesigned to be used as a private residence or dwelling place. It is very important to realize that the statute then goes on to distinguish and separately cover other items such as garages, porches, etc. The reason should be obvious in that these items would not be covered otherwise under the plain language of the statute since they are obviously not a residence or dwelling building.

This distinction that is contained in the statute between buildings intended to be residences and those that are not is important because your Department also seems to be extending the exclusion for NEW HOMES to the construction of detached garages and porches and landscaping although these entities are not homes or intended to be a residence.

In conclusion, the word "home" is defined by the statute to mean residence. The dictionary also defines the word as meaning residence, house, dwelling, habitat, etc. Inasmuch as the construction of a detached garage and porch are specifically covered as additional items in the statute, are not intended as residences, and cost us more than \$200. to construct, it should be clear that the first information I received from your Department which was it did not matter that the home was not yet occupied because the detached garage and porch are covered by the statute was after all the correct information.

In view of this new information that has been presented to you, I trust that you will instruct your staff to handle our complaint against Senese and Drisdelle.

Also, my daughter, Desiree Hennessey, filed a complaint several months ago with the Real Estate Division that someone had come onto the property and performed an "appraisal" without following required procedures which include notifying the owners ahead of time. The "appraisal" was clearly bogus and would have enriched the other party fraudulently by more than \$100,000. When she talked with the Real Estate Division she was told to file a complaint as that kind of misconduct is very serious. To date she has not received any reply. I am naturally beginning to be concerned that there is political intrusion in this matter because the other party is reported to have highly placed friends in the legislature. Will you also have someone look into that complaint too and see why we have not received satisfaction.

Yours truly,


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cc: Asst. Attorney General Neil Fishman

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TAPE 1
SIDE A



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GENERAL LAW COMMITTEE
PUBLIC HEARING ON H.B. 5185
FEBRUARY 22, 1994

Senator Colapietro, Representative Fox, members of the General Law Committee, it is my pleasure to appear before you today to speak in favor of House Bill 5185, An Act Concerning the Licensing of Home Building Contractors, Home Improvement Contractors and Specialty Contractors.

In 1993, the Department received over 1,600 home improvement complaints. Home improvement is an area which is consistently in our annual list of the top ten categories of consumer complaints. While new home building does not generate a consumer complaint volume similar to that of home improvement, it is an area which is virtually unregulated in terms of contractual disputes between builders and new home buyers.

The Department, through this legislative proposal, is recommending that for the first time home improvement contractors and new home builders are licensed and tested for minimum competency. Currently, home improvement contractors are required to be registered and new home builders are regulated only in terms of compliance with local and state building codes.

The Department has proposed three levels of licensing for home

remodeling contractors and new home builders:

1. An unlimited Home Building Contractor who can build a new home and perform an unlimited variety of remodeling services.
2. An unlimited Home Improvement Contractor who can perform unlimited home remodeling services but who cannot build a new home.
3. A Specialty Contractor who can offer and perform a limited remodeling service, specifically a service for which that contractor has been examined.

The Department is proposing that examinations be required for each level of licensure. The testing would consist of a written exam which would test for basic knowledge of business practices, Connecticut law and minimum proficiency in the practice of the trade. The examinations would be administered by a professional testing service with experience throughout the country.

One of the keys to the success of the legislation is enforcement. Right now, there are approximately 14,000 registered contractors in the state and there may be as many unregistered contractors. The Department has had difficulty enforcing the law vis a vis unregistered contractors because currently the penalties are strictly criminal and arresting unregistered contractors is, not surprisingly, a low priority among most law enforcement officials. Therefore, in addition to existing criminal sanctions, we are proposing to add civil penalties to the home improvement statute similar to those which already exist for other occupational trades. (i.e. plumbing, heating and cooling, electrical, elevator,

fire protection, etc.) It was our intention that home improvement civil penalties, like all other civil penalties collected by the agency, be deposited into the Department's enforcement fund. However, the Bill as drafted does not accomplish this and therefore Department staff have substitute language regarding the Civil penalties section which I would ask you to adopt when you take final action on this.

The Department's general approach to this legislative proposal was to take our existing home improvement registration law and conform it, in many respects, to our existing occupational licensure laws.

Like existing occupational licensure laws, the proposal requires minimum competency testing and civil penalties for failure to be properly licensed.

This legislation is a two-pronged approach to addressing problems in the home improvement industry on behalf of consumers. First, testing will provide some assurance to the public that the licensed contractor has a minimum level of knowledge of the business and the law and a minimum level of competency in the profession. Secondly, civil penalties will bring better enforcement to the industry by allowing us to move effectively against unlicensed contractors, short of making an arrest.

This legislation will not eliminate all the problems in the home improvement industry, but it is an important step in protecting consumers against unqualified and unregulated home improvement contractors.

As regards the proposed licensing of new home builders, as I

mentioned at the outset of my testimony, this is not an area which generates a volume of complaints like that which we receive regarding home improvement contractors. Nonetheless, it is an area where historically the consumer complaints are constant and predictable. They typically involve a "punch list" of uncompleted or disputed items regarding which the new home owner is unable to obtain a response from the builder. Unfortunately, the new home owner's recourse, as it currently exists is litigation. As you may well imagine litigation is usually not a realistic alternative. I know that this scenario is very familiar to many members of the committee based on the frequent constituent referrals that my office receives. I hope that the committee will agree with me that new home buyers deserve more of a response in this area than to be referred to legal counsel as is currently the situation.