

# Legislative History for Connecticut Act

**Act Number:** 115 2005  
**Bill Number:** 1254  
**Senate Pages:** Senate: 1823, 1925-1927, 2732-2733, 2919-2920 **8**  
**House Pages:** House: 4206-4211 **6**  
**Committee:** Insurance: 1857-1860, 2042, 2153, 2155-2156 **8**

**Page Total:**

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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S-509

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2005

VOL 48  
PART 6  
1617-1959

kmn  
Senate

001823  
51  
May 4, 2005

SEN. LOONEY:

Calendar 209, marked Passed, retaining its place  
on the Calendar.

Moving to Calendar Page 27, Calendar 213, PR.

Calendar 216, PR.

Calendar 217, S.B. 1172, Mr. President, would  
move refer this item to the Committee on Finance,  
Revenue and Bonding.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 219, PR.

Calendar 223, S.B. 1254, Mr. President, would  
move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 224, marked PR.

Moving to Calendar Page 28, Calendar 228, PR.

Calendar 233, S.B. 400, Mr. President, would move  
to refer this item to the Judiciary Committee.

THE CHAIR:

Without objection, so ordered.

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Senate

001925  
153  
May 4, 2005

Calendar Page 8, Calendar 359, Substitute for  
S.B. 1189.

Calendar 371, H.B. 6730.

Calendar Page 9, Calendar 381, Substitute for  
H.B. 6820.

Calendar Page 10, Calendar 383, S.B. 1008.

Calendar Page 11, Calendar 393, S.B. 1223.

Calendar 394, S.B. 1280.

Calendar Page 13, Calendar 401, S.B. 1135.

Calendar 403, Substitute for S.B. 111.

Calendar Page 14, Calendar 409, Substitute for  
S.B. 898.

Calendar Page 16, Calendar 428, Substitute for  
H.B. 6228.

Calendar 429, H.B. 6751.

Calendar Page 17, Calendar 432, H.B. 6712.

Calendar Page 22, Calendar 87, Substitute for  
S.B. 945.

Calendar Page 26, Calendar 190, Substitute for  
S.B. 30.

Calendar 223, Substitute for S.B. 1254.

Calendar Page 32, Calendar 300, H.B. 6788.

And Calendar Page 36, Calendar 435, H.J. 40.

kmn  
Senate

001926  
154  
May 4, 2005

Mr. President, that completes those items  
previously placed on Consent Calendar No. 1.

THE CHAIR:

Senate will stand at east for just a moment.

[SENATE AT EASE]

THE CHAIR:

The Senate will come back to order. We will ask  
that the Clerk please announce the pendency of a roll  
call vote on the Consent Calendar. The machine will  
be open.

THE CLERK:

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber.

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber.

THE CHAIR:

Have all Members voted? Senator Finch. Have all  
Members have voted on the Consent Calendar? Senator  
Finch. Please announce once more that the Senate is  
voting on the Consent Calendar.

THE CLERK:

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Senate

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The Senate is voting on the Consent Calendar.  
Will all Senators please return to the Chamber.

The Senate is voting on the Consent Calendar.  
Will all Senators please return to the Chamber.

THE CHAIR:

Have all Members voted? If so, the machine will  
be closed. The Clerk will please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.  
Total number voting, 34; necessary for adoption,  
18. Those voting "yea", 34; those voting "nay", 0.  
Those absent and not voting, 2.

THE CHAIR:

The Consent Calendar is passed. Mr. Majority  
Leader.

SEN. LOONEY:

Yes, thank you, Mr. President. That concludes  
our action on items for today. Would like to indicate  
that we had, Senator Hartley was absent today and  
missed votes due to a family illness. Would like to  
have that notation for the record.

THE CHAIR:

Record will so indicate.

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2005

VOL. 48  
PART 9  
2627-2914

jlm  
Senate

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May 25, 2005

SEN. LOONEY:

Thank you, Mr. President. Calendar 481, PR.

Calendar 493, PR.

Moving to Calendar Page 26, Calendar 510, PR.

Calendar 518, PR.

Calendar 519, PR.

Calendar 538, H.B. 6783, Mr. President, would  
move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 543, PR.

Moving to Calendar Page 27, Calendar 551, PR.

Calendar 555, PR.

Under Disagreeing Actions on Calendar Page 27,  
Calendar 121, S.B. 617, Mr. President, I would move to  
place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 223, S.B.  
1254, Mr. President, I would move to place this item  
on the Consent Calendar.

jlm  
Senate

35  
May 25, 2005

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Next, on Calendar Page 28, Calendar 266, S.B. 1309, Mr. President, I would mark this item Go and as our second Order of the Day.

Under Favorable Reports and Resolutions on Calendar Page 28, Calendar 434, PR.

Calendar 514, PR.

Calendar 516, PR.

Calendar 559, PR.

Under Bills Vetoed by the Governor, Calendar Page 29, Calendar 110, PR.

Also, Mr. President, there are several items on the Foot of the Calendar that I will make a motion to remove from the Foot and then to mark as PR.

The first of those, Mr. President, is on Calendar Page 30, Calendar 129, S.B. 122, would move to remove this item from the Foot of the Calendar and to mark it Passed, retaining its place on the Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

S-513

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2005

VOL. 48  
PART 10  
2915-3254

jlm  
Senate

May 25, 2005

Calendar Page 24, Calendar 446, S.B. 1184.

Calendar Page 26, Calendar 538, Substitute for  
H.B. 6783.

Calendar Page 27, Calendar 121, S.B. 617.

Calendar 223, S.B. 1254.

Mr. President, that completes those items placed  
on the first Consent Calendar.

THE CHAIR:

Will the Clerk please announce a vote on the  
first Consent Calendar.

THE CLERK:

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

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

THE CHAIR:

The Chair would invite the Senators to cast their  
vote.

Have all Members voted, and is your vote properly  
recorded? If all Members have voted, the machine will  
be locked. Would the Clerk please announce the tally.

jlm  
Senate

May 25, 2005

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total number voting, 36; necessary for adoption, 19. Those voting yea, 36; those voting nay, 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is passed.

THE CLERK:

Returning to the Calendar, Calendar Page 20, Calendar 376, File 335, H.B. 6780, An Act Concerning Low Income Energy Assistance Programs, Favorable Report of the Committees on Energy and Technology, Human Services, and Appropriations.

THE CHAIR:

The Chair recognizes the distinguished gentleman from the 1<sup>st</sup> District, and the City of Hartford, Senator Fonfara.

SEN. FONFARA:

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

THE CHAIR:

H-940

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2005

VOL. 48  
PART 14  
4002-4330

On Page 11, Calendar Number 511, Substitute for  
Senate Bill Number 1254, AN ACT CONCERNING THE  
OWNERSHIP OF REAL ESTATE BROKERAGE COMPANIES,  
Favorable Report of the Committee on General Law.

SPEAKER AMANN:

Representative O'Connor.

REP. O'CONNOR: (35<sup>th</sup>)

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

SPEAKER AMANN:

The question is on the Joint Committee's  
Favorable Report and passage of the Bill. You may  
proceed, Sir. You have the floor.

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Mr. Speaker. The Clerk is in  
possession of LCO Number 6351. I ask that he call it  
and ask to be able to summarize.

SPEAKER AMANN:

Will the Clerk please call LCO Number 6351, which  
will be designated House Amendment Schedule "A".

CLERK:

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House of Representatives

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LCO Number 6351, House "A", offered by  
Representatives O'Connor and Frey.

SPEAKER AMANN:

The Representative seeks leave of the Chamber to summarize the Amendment. Is there objection on summarization? Hearing none, Representative O'Connor, you have the floor, Sir. You may proceed with summarization.

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Mr. Speaker. This Amendment, along with the underlying Bill, eliminates a requirement that every member or officer of a corporation or partnership that holds a broker license be licensed as a real estate broker.

It permits real estate salespersons to be owners, members, partners, and officers of real estate brokerages. And it also allows LLC's to be granted a real estate broker's license.

Currently, partnerships, associations, LLC's or corporations may not be granted a real estate broker's license unless one officer who actively participates in its brokerage business is licensed as a real estate broker.

And, two, every employee who acts as a salesperson and every salesperson who's affiliated as an independent contractor is a licensed real estate salesperson.

In crafting this Amendment, we were very cognizant of the fact of trying to maintain the integrity of the brokerage license. So if you are going to be an LLC or a corporation, you will still have to maintain 51% of the ownership or have to be someone with a brokerage license.

And this is something that I think is trying to incorporate the current business climate and environment. And I move adoption.

SPEAKER AMANN:

The question is on adoption. Will you remark further? The question is on adoption. Representative Frey.

REP. FREY: (111<sup>th</sup>)

Thank you, Mr. Speaker. I'd like to thank the Co-Chairs for their indulgence to allow me to, I guess, put my fingerprints on this a little bit. The current law, as explained by the Chairman, individuals

ngw  
House of Representatives

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with broker's licenses or no license to have an ownership interest in a real estate company.

This Bill would allow salespersons to also own an ownership interest while at the same time, affixing current law, maintaining that 51% of the ownership interest must be owned by those who have broker's licenses.

It makes sense. It cleans it up. It makes it conform to other licenses in the professional division, the Department of Consumer Protection. I urge adoption. Thank you.

SPEAKER AMANN:

Thank you, Sir. Any other questions on House Amendment "A", Schedule Amendment "A"? Any other, will you remark further?

Will you remark further on the Amendment before us? If not, I'll try your minds. All in favor, please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

All opposed, Nay. Ayes have it. The Amendment passes. Will you remark further? Representative.

ngw  
House of Representatives

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May 17, 2005

Will you remark further? Will you remark further on  
the Bill as amended?

If not, will staff and guests please come to the  
Well of the House? Members, please take your seats.  
And the machine will be 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.

SPEAKER AMANN:

Have all Members voted? Please check the board.  
Have all Members voted? Have all Members voted? Have  
all Members voted? Have all Members voted? Have all  
Members voted?

It better be good ice cream. That's all I got,  
it better be good. Have all Members voted? I want a  
bite. I want a bite. Didn't you read in the paper  
today? I love crème brûlée.

Have all the Members voted? Have all Members  
voted? If all the Members have voted, please check  
the board, make sure that your vote has been properly  
cast.

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House of Representatives

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May 17, 2005

If all the Members have voted, the machine will be locked and the Clerk will take a tally. Do not announce the tally yet. Do not announce. Ladies and gentlemen, I have not announced. Last chance. Will the Clerk please announce the tally.

CLERK:

Senate Bill Number 1254, as amended by House  
Amendment Schedule "A".

Total Number Voting	134
Necessary for Passage	68
Those voting Yea	134
Those voting Nay	0
Those absent and not voting	17

SPEAKER AMANN:

The Bill passes in concurrence with the Senate.

Will the Clerk please call Calendar Number 176.

CLERK:

On Page 17, Calendar Number 176, Substitute for  
House Bill Number 6499, AN ACT CONCERNING CERTAIN  
PUBLIC INVESTMENT COMMUNITIES, Favorable Report of the  
Committee on Finance, Revenue, and Bonding.

SPEAKER AMANN:

Representative Berger.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**INSURANCE AND  
REAL ESTATE  
PART 6**

**1623-1967**

**2005**

marshal certificate? Well, these venues are regularly inspected.

It's a redundant thing and frankly, I can't speak for the Real Estate Commission other than to say that their regulation has been the problem and their interpretation of the regulation.

REP. ALTOBELLO: Have you asked the Commission to repeal the regulation?

TIM CALNEN: Our experience in asking for regulatory changes has been less helpful than our experience through the Legislature on statutory changes.

REP. ALTOBELLO: Thank you, Sir. Thank you, Mr. Chairman.

REP. O'CONNOR: Thank you very much. Moving on to Senate Bill 1254. Rupi Rupwani.

TIM CALNEN: As to the ownership of real estate companies, Mr. Rupwani had to leave, so if you don't mind.

REP. O'CONNOR: You were first on the list. How about deferring to him? Go ahead.

TIM CALNEN: Thank you, Chairman. This bill would, in effect, allow real estate salespersons to be officers of a real estate company. The present law has required real estate, any officer of the company that's actively engaged in the real estate business to be a real estate broker.

And we've tried to borrow from the Department of Consumer Protection statutes for other licensed areas like architects and land surveyors, to reconfigure, if you will, the statutes so that the salesperson can be an officer of the company, and this is in tune with the architects and the land surveyor's portion of the occupational licensing statutes.

The only difference is at the end of the bill, the very final part of the bill, entities like corporations and limited partnerships have to have a license to be engaged in the real estate business separate from the individual.

And sometimes an individual real estate broker who wants to form a limited liability company or a corporation, goes to his accountant or an attorney for advice on forming the corporation or this entity, and is given all the right advice with the exception of, you need to get a separate license now for the corporation.

Our experience has been that the Real Estate Commission has been rather heavy handed on the fines for that misdeed. The fines can be as high as \$2,000. We originally asked that the fine not exceed \$500 if it's been not intentional that the broker didn't get the corporation license.

We know the Real Estate Commission felt uncomfortable with lowering their fining authority from \$2,000 to \$500, so we've suggested a change that's in my written testimony at the very end, some substitute wording so that we think this would be more

acceptable to the Department of Consumer Protection.

We have shared it with Deputy Commissioner Farrell and Commissioner Rodriguez and my understanding is, they're just not going to take a position on this bill.

But I'm quite sure this language is less objectionable than the first because it basically doesn't change their fining authority other than it requires them to consider as an affirmative defense for a broker who didn't get the corporation license, the fact that he may have been given inadequate advice by his accountant, and it was an innocent omission, and that they could, maybe they would fine him less than the maximum of \$2,000.

So it allows a little bit of relief and a little less heavy handedness in the administration of those fines. So, essentially the rest of the statute modernizes the licensing of entities like limited partnerships and corporations, makes them similar to what's being done in other professions.

And we urge your support of the bill with this substitute language at the end of our written testimony.

REP. O'CONNOR: Very good, Tim. Just to bring to your attention. You might not have had a chance to see it yet, but the Department of Consumer Protection has issued some testimony on this particular bill.

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pat

INSURANCE AND REAL ESTATE

March 10, 2005

They do support it in effect of clarifying the existing statute, but at the same time they would like to keep the threshold. They actually have asked for a \$2,500 maximum on the fine. Just to bring that to your attention.

TIM CALNEN: Is that in your Committee, because I know in General Law they had another bill to--

REP. O'CONNOR: Yeah.

TIM CALNEN: --that actually raises the fining authority, then.

REP. O'CONNOR: Yeah. This has been submitted.

TIM CALNEN: This is the first I've heard of that. Thank you, Sir.

REP. O'CONNOR: No problem. Any questions? Thank you very much, Tim. The next bill, House Bill 6869 AN ACT CONCERNING MOTOR VEHICLE REPAIRS.  
Tom Zukowski.

TOM ZUKOWSKI: Good morning, Representative O'Connor and Members of the Committee. My name is Tom Zukowski. I'm the Regional Manager for QRP of Southern New England. I also have with me today, Jim Advedis who is President of Tom's Foreign Auto Parts who is known as one of the premier auto recyclers in New England.

We are both involved in the sale of automotive recycled parts, both to the retail general public, the insurance and body shop industries, and we wanted to talk with you a little bit further about some concerns regarding House

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**INSURANCE AND  
REAL ESTATE  
PART 7  
1968-2317**

**2005**

REP. JOHNSTON: Thank you, Mr. Chairman. Tim, I apologize. I walked in in the middle of your testimony. I'm not sure it's appropriate. I had a question on Senate Bill 1254. And I'm not sure if that was, isn't this the one you were specifically--

REP. O'CONNOR: [Inaudible]

REP. JOHNSTON: I had a situation where it appears in the second page of your testimony, you're talking about the case where a real estate broker forms a different, organizes as a different entity, and I'm assuming in most cases they're going from, they're going to some type of an LLC as opposed to being a corporation.

TIM CALNEN: A corporation.

REP. JOHNSTON: Or a corporation. I had a situation where the person hired an attorney, hired an accountant to do the paperwork, said this is what I've got to do. They did it all. Years later it was discovered by Consumer Protection that when they made that changeover, they never also changed their license with the Department of Consumer Protection. So they were organized as one entity but operating as another.

And in this case, it ended up being a \$5,000 cost to that broker. Does this, the language that you're talking about with your substitute wording, you're comfortable then, that that takes care of that problem, that if someone inadvertently makes that mistake that they're



# STATE OF CONNECTICUT

## DEPARTMENT OF CONSUMER PROTECTION

002153

### TESTIMONY OF

DEPARTMENT OF CONSUMER PROTECTION COMMISSIONER

EDWIN R. RODRIGUEZ

PRESENTED TO THE INSURANCE AND REAL ESTATE COMMITTEE

March 10, 2005

Good morning, Senator Crisco, Representative O'Connor, and esteemed members of the Committee. I am Edwin R. Rodriguez, Commissioner of the Department of Consumer Protection. The Department appreciates the opportunity to present testimony before you concerning Raised Senate Bill 1253 and Raised Senate Bill 1254. These two Bills are of concern to our Department and the consumers of Connecticut. We support the passage of both of these Bills.

#### Raised Senate Bill 1253

#### AN ACT CONCERNING LOCATIONS WHERE REAL ESTATE COURSES ARE OFFERED

The Department of Consumer Protection supports continuing education as a matter of public policy. When we issue a license, we are sending a message to the citizens of Connecticut that a person holds a certain level of competency in their occupation. This Bill removes the requirement that a separate approval from the local fire marshal be obtained for the location of a real estate course. We support this Bill, as it gives more flexibility to our licensees in their ability to meet their educational requirements.

#### Raised Senate Bill 1254

#### AN ACT CONCERNING THE OWNERSHIP OF REAL ESTATE BROKERAGE COMPANIES

The stated purpose of this Bill is "To provide for the issuance of real estate brokers licenses to corporations, limited liability companies and partnerships." We support this Bill because it clarifies the existing interpretation of the statute used by our Department. One modification that would aid in our enforcement of this statute would be to increase the penalty for working without a license from \$500.00 to \$2,500.00. For many violators, a fee of \$500.00 is merely added to the cost of doing business in Connecticut. A larger fee would act as a deterrent, so we ask for this change.

#### Conclusion

We urge the passage of Raised Senate Bill 1253 and ask for the increased fine before passage of Raised Senate Bill 1254. I thank you for the opportunity to address the Committee. If the members of the Committee have additional questions, they may contact my office or our Legislative Liaison, Attorney Jerry P. Padula.

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STATEMENT ON  
S.B. 1253: AN ACT CONCERNING LOCATIONS WHERE REAL  
ESTATE COURSES ARE OFFERED

Submitted to the Insurance and Real Estate Committee  
March 10, 2005

by

Tim Calnen  
Vice President, Government Affairs

Good morning. My name is Tim Calnen and I'm Vice President of Governmnet Affairs for the Connecticut Association of REALTORS.

Our Association supports this bill in order to simplify the process used by the State to approve real estate courses offered to the public. As you may know, a variety of providers offer classes in prelicensing and continuing education topics, ranging from the University of Connecticut to the Fair Housing Association of Connecticut and to local REALTOR Associations.

Under the current regulations used by the Real Estate Commission, providers of such classes have been compelled to obtain , and present to the Commission, a fire marshall's certificate before a course can be approved – even when the building is routinely inspected for fire safety.

– Bill 1253 establishes a practical standard so that, for locations that are commonly used as places of public assembly – hotels, restaurants, or public buidings – the applicant is not forced into an unnecessary and redundant exercise. State law already requires buildings like a Marriot Hotel, for example, to be inspected by a fire marshall.

This bill would not stop the Commission from demanding fire marshall certificates for sites outside those mentioned in the bill. We appreciate the Committee's action in raising this bill for a public hearing and urge your continued support of the measure.

Thank you.



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**STATEMENT ON  
 S.B. 1254: AN ACT CONCERNING THE OWNERSHIP OF REAL ESTATE  
 BROKERAGE COMPANIES**

Submitted to the Insurance and Real Estate Committee  
 March 10, 2005

By  
 Timothy Calnen Government Affairs Director

Good morning Chairman Crisco and Chairman O'Connor and members of the Committee. My name is Tim Calnen, and I'm Vice-President of Government Affairs for the Connecticut Association of Realtors®, and I am here to speak in favor of SB 1254 "An Act Concerning the Ownership of Real Estate Brokerage Companies."

Connecticut statutes currently authorize real estate brokerage companies to organize themselves as corporations, partnerships and LLC's. However, the language of the current statute is confusing because it requires everyone who "actively participates in its real estate brokerage business" to be licensed as a real estate broker. The Real Estate Commission has interpreted this language to mean that any corporate officer, partner or member of an LLC conducting a real estate brokerage business who is "engaging in the real estate business", a phrase defined in the statutes, must be licensed as a real estate broker. This interpretation leads to the odd result that a person who has no real estate license of any kind may be a corporate officer, partner or member of an LLC conducting a real estate brokerage business, but the minute this person obtains a salesperson's license, they can no longer be a corporate officer partner or member of an LLC conducting a real estate brokerage business. In addition, the language pertaining to real estate brokerage is more restrictive than the language for other occupations regulated by the Department of Consumer Protection such as architects and land surveyors.

The proposed bill is taken directly from the Department of Consumer Protection statutes concerning architects and surveyors with the exception of (d) which I

(OVER)



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will address shortly. The Bill would continue to permit an entity such as a corporation, LLC or partnership to operate a real estate brokerage business provided the corporation, LLC or partnership obtains a license from the Real Estate Commission. None of this is a change from current law. The bill would require that anyone who is "engaging in the real estate business" have the appropriate license from the Real Estate Commission but would not restrict real estate salespersons licensed as such from becoming corporate officers, partners or members of an LLC. The bill would impose a new requirement on entities operating real estate brokerage businesses to file and maintain the name of one or more individuals holding real estate broker's licenses who would be responsible for the conduct of the real estate brokerage business with the Real Estate Commission.

The last paragraph of the bill was intended to address a re-occurring situation where a real estate broker receives legal or accounting advice to organize as an entity but the attorney or accountant rendering the advice fails to tell the real estate broker to obtain a license for the entity. The Real Estate Commission has been aggressive in fining entities who do not have an entity license even though everyone connected with the entity has the appropriate license and there is no allegation of any wrongdoing on the part of the entity other than not having obtained the separate license.

The Department of Consumer Protection is uncomfortable with this last piece of the bill, believing that the solution may be used as an escape hatch for wrongdoers. The Association also does not want to create an escape hatch for wrongdoers, so we recommend substitute language stating that a broker's reliance on legal or accounting advice in setting up an entity to conduct real estate brokerage would be a defense to a charge of maintaining an unlicensed entity. This should allow the Real Estate Commission to distinguish between those unlicensed entities that are the victims of incomplete advice from those that are purposefully engaged in wrongdoing.

The substitute wording is as follows:

(d) It shall be an affirmative defense to a charge of a violation of this Public Act that the corporation, limited liability company or partnership was formed upon or as a result of the advice of an attorney authorized to practice in this state or a certified public accountant licensed to practice in this state.

I will be happy to answer any questions you may have. Thank you.