

PA10-149

SB188

General Law	445-463, 572-574	22
House	5271-5274	4
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2010**

**VOL.53
PART 16
4949 – 5314**

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Will the Clerk please call Calendar 483.

THE CLERK:

On page 24, Calendar 483, Substitute for Senate
Bill Number 188, AN ACT ESTABLISHING UNIFORM
PROCEDURES REGARDING THE NEW HOME CONSTRUCTION
CONTRACTOR AND HOME IMPROVEMENT CONTRACTOR AND
SALESMEN-RELATED COMPLAINTS, favorable report by the
Committee on Government Administration and Elections.

DEPUTY SPEAKER ALTOBELLO:

Representative Shapiro of the 144th, you have the
floor, sir.

REP. SHAPIRO (144th):

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Thank you, Mr. Speaker.

Mr. Speaker, I move acceptance of the joint
committee's favorable report and passage of the bill
in concurrence with the Senate.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is acceptance of
the joint committee's report and passage of the bill
in concurrence with the Senate.

Please proceed, sir.

REP. SHAPIRO (144th):

Thank you, Mr. Speaker.

Mr. Speaker, this is a good bill for which I

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would like to thank Representative Aman for his hard work on it. The bill requires the DCP to provide a study that will tell us how they can improve their complaint process with respect to home improvement contractors.

Right now there is a slew of information that is not particularly useful to consumers in making their decisions on whom they're going to hire and what sorts of violations have been carried out and what has gone through the process -- been investigated and ultimately been concluded. So there could be claims that are actually fine. And there could be instances where there is a sincere problem with the vendor.

This would correct that problem and correct that hodgepodge, providing useful information to the consumers. They will deliver the report by the year's end so that we can act upon it in time for next session.

And I move passage of the bill, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is passage of this bill.

Representative Aman of the 14th, do care to comment, sir?

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REP. AMAN (14th):

Yes. Thank you, Mr. Speaker.

I agree with the chairman and I will thank him for bringing the bill forward for the public hearing and also for getting it through the system so it is in front of us tonight.

As the chairman said, it does work with the Department of Consumer Protection who had a tremendous amount of influence as to how this bill was actually written to determine which information, how it was going to be put online; that it would be both friendly to the consumer and give the contractor the ability to compete fairly in the marketplace. So I urge my colleagues to support the bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Aman.

Further in this bill? Further in this bill? If not, staff and guests please retire to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is taking a

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roll call vote. Members to the chamber, please.

DEPUTY SPEAKER ALTOBELLO:

All members have voted. All members have voted.
The machine will be locked. Would the Clerk please
announce the tally.

THE CLERK:

Substitute for Senate Bill 188.

Total Number voting	151
Necessary for adoption	76
Those voting Yea	151
Those voting Nay	0
Those absent and not voting	0

DEPUTY SPEAKER ALTOBELLO:

This bill passes in concurrence with the Senate.

Will the Clerk please call Calendar 211.

THE CLERK:

On page 9, Calendar 211, House Bill Number 5511,

AN ACT CONCERNING CORPORATIONS AND ORGANIZATIONS'
FINANCIAL INFLUENCE ON ELECTIONS, favorable report by
the Committee on Government Administration and
Elections.

DEPUTY SPEAKER ALTOBELLO:

Representative Spallone of the 36th District, you
have the floor, sir.

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THE CLERK:

Calendar page 26. Calendar Number 141, File
Number 193, substitute for Senate Bill 188, AN ACT
ESTABLISHING UNIFORM PROCEDURES REGARDING NEW HOME
CONSTRUCTION CONTRACTOR AND HOME IMPROVEMENT
CONTRACTOR AND SALESMAN RELATED COMPLAINTS, Favorably
Reported, Committees on General Law and Government
Administration and Elections.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Mr. President, this is
another relatively small bill. There is a system in
place now with the Department of Consumer Protection
that if someone -- a consumer has a complaint with a
construction contractor, a home improvement contractor
or a subcontractor that they could go through the
website -- did I move it yet? I thought I did.

THE CHAIR:

If you'd move the bill, sir.

SENATOR COLAPIETRO:

I move adoption.

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The question is on acceptance and adoption. Will you remark, sir -- and passage, I'm sorry. Will you remark, sir?

SENATOR COLAPIETRO:

Like I said this is a the DCP does have a website already where you can go to for complaints. However, when you go to complain -- and I think the one thing that stuck in my mind and the rest of the committees' mind was when one of the fellows came up and testified that he was a home improvement contractor and he parked in the wrong place and he got a parking ticket. And it went on the website. They don't identify what the complaint is and it doesn't come off. So when some consumer will look at the website, they might say, "Well, this guy's got one complaint, so therefore, I'm going to go to somebody else." So it was unfair to the consumer as well as unfair to the contractor. So, Mr. President, this corrects that problem by simply giving the DCP permission to come back to the General Law Committee with a report on how to improve their system.

THE CHAIR:

Will you remark further?

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Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I do have a couple of questions in regards to this bill. And through you, Mr. President, I'd like to ask a few to the proponent.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

In the analysis, it talks about a closed complaint. Through you, Mr. President, to the proponent, what is a closed complaint?

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

I believe it's the complaint we're talking about where someone can't know the kind of complaint it is. Through you, Mr. President.

THE CHAIR:

Senator Kane.

KANE:

And by that, you know, can there be open complaints? Through you, Mr. President.

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Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, no.

THE CHAIR:

Senator Kane.

KANE:

Okay, so. Thank you, Mr. President. So if there is -- if I have a contractor who is doing plumbing work for me and I'm redoing my bathroom and I have major problems and I make a complaint, that complaint to the Department of Consumer Protection is closed for other individuals so no one else knows? I mean, is it just the only way people else would know about what the contractor did to my bathroom is through word of mouth because I can't say that openly, is that what it is? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, maybe I didn't explain it clear enough. But that's the problem today is the complaints that do get put on there are not specified what they are.

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Therefore, no one would really know what kind of a complaint you had, if you did have one.

What~~is~~ this does is corrects that.

THE CHAIR:

Senator Kane.

KANE:

Oh, okay. Okay. So that's what I -- I guess I failed to understand, thank you, Mr. President. So these particular complaints, going back to my example of the remodeling of the bathroom, would be put up on the website. So it would say "complainant had an issue with plumber A." And how detailed would that complaint be? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

That depends on the complaint, I suppose. Somebody calls and says that the toilet -- forgot to put the ring on the bottom, then that would be on the website as well. If you have one complaint against this contractor that put your plumbing in. Through you, Mr. President.

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Senator Kane.

KANE:

Thank you, Mr. President. So is it -- would it be me, myself as the consumer who would write up the complaint or is it the Department that would take that complaint through a hearing or through email or what have you and put that up on the Internet. I'm just curious in the detail, who gets to decide what goes up there? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, what this does is that it doesn't mandate that the DCP do this. It mandates that the DCP comes up with a better system than they have today. And the system that they have today is that you could possibly park your car in front of the house, have somebody give you a ticket and that would be a complaint on there. And no consumer who would start the complaint would put it on there and the next consumer looking for -- at the person's record would see that as a complaint. And it may not necessarily be a complaint.

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THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess maybe I still am struggling with this. And by that I mean we are talking about the Department of Consumer Protection's website. And myself, as a consumer, am I able to lodge these complaints on the Internet myself or does it have to go through a complaint process? And that's what I'm trying to understand, if this website is user friendly to consumers or is it just something that's gone through a process? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I would get another plumber, but no, honestly, if I were a consumer, I would be complaining to the Department of Consumer Protection who would put it on their website and improve the system better than what you have today. Through you, Mr. President.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

Thank you, Mr. President. You know, I could pick up this microphone if that helps move this along better.

I guess the reason I ask that question is because I'm just curious through the whole process. If I was -- you know -- I just want to make sure that people can't just go on the Internet -- I guess you could do it anyway, you could create a blog, you could go on Facebook, you can go on Twitter. And I can write, "Hey, Joe the Plumber screwed up my bathroom." Or I could possibly go on the plumbers website -- I mean, everybody has a website now, I would think, but I'm just worried that if the consumer got on the Internet and was able to lodge these types of things on the website -- because that can become very dangerous. You mentioned a parking ticket before. You know, I could say, "Well, plumber A got this this or this." And so that's why -- I just want to make sure that the Department is the one in control over the website and the complaint. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

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SENATOR COLAPIETRO:

Senator Kane, you're absolutely correct. The Department is responsible for what they do with these complaints, but this was initiated by, actually, the Home Builder's Association who has been having this kind of trouble for years. And this hopefully corrects that problem. Through you, Mr. President.

THE CHAIR:

Thank you, Senator Colapietro. Senator Kane.

SENATOR KANE:

Thank you, Mr. President. That's the clarification I was looking for because -- you know -- I just couldn't wrap my arms around the website and how it is able to be used.

Then in another part of the bill talks about determining how long complaints remain posted on the website. So, let's say, going back to my previous example, I have a problem with the plumber, I make a complaint to the Department of Consumer Protection, the Department of Consumer Protection gets involved. Now, the plumber comes back and says, "You know what, Rob, we screwed up your bathroom, I want to fix it." So I then say, "Oh, geez, that was wonderful for you

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to come back and fix my bathroom." I'm happy, my wife's happy now, everybody's happy that the bathroom was fixed. Now I no longer have a complaint with that individual. So would that complaint then get taken down off the website, because now I think the contractor did an honorable thing. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I would hope and assume that when the DCP would come back with a study that it would correct that type of a problem. As it is now, the complaint could go on unforeseen, cloaked, if you prefer. And therefore, nobody would know what that complaint was and it never comes off. And so hopefully, maybe they'll come back with a recommendation of 60 days or 6 months or a year it comes off, and then the slate is clean again. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

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Thank you, Mr. President. So this isn't really a study that will take place by the Department of Consumer Protection? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, if I may read this. It says, "This bill simply requires a study to be done by the Department of Consumer Protection and report back to the General Law Committee by the end of this year. The study will look at how the agency handles consumer complaints that come in about residential construction contractors." Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

That's interesting because do we need a study to say, you know, how a complaint gets made to the Department of Consumer Protection? I mean, I know that the Department of Consumer Protection and Commissioner Jerry Farrell, they tackle thousands and thousands and thousands of complaints and they do a

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very good job, actually. I know they have a great staff over there. So do we need a study to decide about web -- about complaints that go up on a website? Cant they just implement this policy? Do we really need legislation for them to put this into place? I mean, again, I know that they're doing a great job over there. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. The first complaint -- I mean, the first question was do we need this study. Well, apparently so or I wouldn't be here doing this legislation for people that have problems with the website as is. Hopefully, this corrects it and makes it better. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. No, that was my point. I don't think we need a study to -- again -- I don't know -- I mean -- I wish I had the department's website up, speaking of websites. Because then I

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could look at how many complaints they actually do on a annual basis. And I know it's like in the thousands and they do an incredible amount of work there. So you know, why do we need a study for something like this? That's my point. And I don't know that I necessarily agree with that because I think they're already doing this, they're putting in this effort, they're tackling these complaints, why can't they just implement the policy? Through you, Mr. President.

(Senator Duff in the Chair.)

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I believe this study is needed and that's why complaints have been coming in to the committee as well. And it hasn't been coming into the department. The department is not mandated now to fix the problem. The problem is, as I've said before, that there's no way of knowing what kind of complaint you have on there. And yes, we do need a study, because that's what people are asking

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for. And it doesn't cost anybody anything and I think the DCP would do a fantastic job with a better system, as well. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I'm looking at the fiscal note and it says there is no fiscal note. So how are they able to do the study without any cost? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Well, I can only assume, I can't tell you how they do their studies because some people pay for studies and some people just sit down and say let's make this system a little bit better and they may call that a study as well. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

See, I think -- thank you, Mr. President. I think you just made my point that a study may not even

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be necessary. They could just implement the process. But I thank Senator Colapietro for his answers. I will look at the bill a little bit further. I do believe that the Department of Consumer Protection does a wonderful job in its efforts. They tackle thousands of complaints every year. I'm curious in how these complaints will be posted on the Internet and how they can actually be taken off the Internet once a contractor makes good on their work. I don't know if we need a study to show that. I think they can figure that out on their own, but -- thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President, good evening.

THE CHAIR:

Good evening.

SENATOR RORABACK:

I wanted Senator Colapietro to exercise his neck a little bit to the left. He's -- we don't share a

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microphone as he did with Senator Kane, but. I was curious to learn in the colloquy between Senator Colapietro and Senator Kane that there are some perceived shortcomings in the process by which consumer complaints are handled by the Department of Consumer Protection. And through you, Mr. President, to Senator Colapietro, if I buy a new house and I find out there's a problem with it, through you, Mr. President, to Senator Colapietro, what can the Department of Consumer Protection do to help me right the wrong? Through you, Mr. President, to Senator Colapietro.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, Senator Roraback, the answer to that is very simple. If you have a problem as a consumer with a house that's been built, let's say the roof is leaking or something like that, you have access to the home improvement contractor's fund, at that point. The DCP handles that and they do a fantastic job because I personally have some constituents that had

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problems like that.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Through you, Mr. President, to Senator Colapietro, so the complaints that Senator Colapietro have not been about the adequacy of the fund or the process by which people can access the fund. Through you, Mr. President, to Senator Colapietro, I was curious to understand what the nature of the complaints are that the General Law committee has been receiving or Senator Colapietro or the Department has been receiving? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President. The only thing I can assume is when I listened to the public hearings and people come into testify. I don't build a house and I don't run the DCP, but the contractors that come in and complain that sometimes, as I used for an example, that one

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person parked illegally, got a ticket, went on the website, somehow it got on the website and it doesn't come off. It's cloaked and so there's a complaint against that contractor and the consumer could take a look at that and say, I'm not going to this guy. I'm going to see Toni over there, she's better than you are, because you got a complaint on your record. Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. So the complaints that were brought out at the public hearing were from contractors who felt that they had unfairly been identified by the Department of Consumer Protection as being bad or having a stain on their record, which they didn't think was justified? Through you, Mr. President, to Senator Colapietro. Is that -- am I understanding, kind of the universe of complaints that gave rise to this bill? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

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Through you, Mr. President. I would assume that's exactly the same and the only difference I would say is that the consumer would have the same benefit by being better off to look at a record that shows whether he really did something wrong or not.

Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. I certainly, as a consumer, I would want to make sure there was accurate information on the department's website because if it's a good contractor and I look at it and they -- with all due respect, if my contractor gets a parking ticket, that doesn't make him a bad contractor. So I wouldn't want to look at the website and see someone and not go to them because they had a parking ticket. Because I would think if they're on the Department of Consumer Protection's website, it's because they built a bad house or they didn't -- you know, they didn't do something responsibly. So through you, Mr. President, to Senator Colapietro, I was wondering if the people at the public hearing had made efforts to contact the

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commissioner and say there's a problem here. And, through you, Mr. President, did the commissioner respond, if Senator Colapietro knows the answer to that question.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I haven't heard from the Department of Consumer Protection. I do know that they have had complaints on there and the Department had recommended as well that this would be a good thing, that they had to come back and prove their system is all they're having to do.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Through you to Senator Colapietro, does he know, if I make a complaint. If I just call up and -- Department of Consumer Protection and say I want to make a complaint against Senator Colapietro, will they put that on the website without doing any investigation? Through you, Mr. President, to Senator Colapietro.

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THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. That's a good question, but I don't know how they have their procedures or how they operate. But that's -- that was never brought up at the public hearing or -- so I couldn't answer that, honestly. Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I ask the question because it wouldn't be -- I don't think it would be very good public policy for the -- an agency to be putting a black mark on somebody's record without doing some investigation of the complaint. Through you, Mr. President, to Senator Colapietro, what I'm trying to understand is whether like the individual with the parking ticket, did that get there because someone filed a complaint, Mr. President, through you, or is there some way that the Department looks for -- you know, tries to match people that have been in

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court with the names of people they have licensed?

Through you, Mr. President, to Senator Colapietro, if he knows how the mechanics of that program work.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. No, I don't know how the mechanics work. I know there were complaints and the complaints mainly came from the contractors and home builders. Because they were looking at it as though it was a black mark on their record and it shouldn't have been.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And I appreciate Senator Colapietro's answer and I -- you know, I certainly have a great deal of sensitivity towards contractors who may unfairly had their reputations tarnished by being identified on the Department of Consumer protections website as being deficient in some way when the facts might prove otherwise. So I intend to support the bill. I appreciate Senator

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Colapietro's responsiveness to what I think -- if I were at the public hearing, my guess is that I would have felt sympathy for these people and wanted to do something to help them and I'm guessing that Senator Colapietro, with the passage of this bill is hoping the Department is going to come up with better ways to protect people from being unfairly tarnished. So I appreciate Senator Colapietro's answers and look forward to supporting the bill. Thank you, Senator Colapietro and thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, I'll give Senator Colapietro a rest for a couple seconds. I'll make some comments on this bill before I have some questions.

Mr. President, this is actually something that I think most people out there can really relate to is -- you know, in my own experience, I've dealt with contractors on my own home, who I wish there were some

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reliable database that you can go to to actually determine who has had complaints against them, who is actually the type of contractors you want to actually do your extra due diligence on. Everybody obviously should ask for references, but I've had experiences with home contractors where even though some people said, "oh, yeah they did a great job," they've either taken too long, well beyond what they said they were going to, add in all the change orders that add up to 2X what they originally made the estimate to, all the things that you would say, "Geez, that's not necessarily illegal, but it certainly seems unethical." And you would wish that there be a reliable place where you could actually go to find that.

Right now on the web there are places that rate contractors, but believe it or not, the contractors themselves go to these websites and all rate themselves, "Oh, yes, check plus plus." They're the most excellent contractors in the world. So I actually thing that the spirit of this bill is in exactly the right place.

My questions, through you, Mr. President, to

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Senator Colapietro, actually have to do with the details of why we're studying this. Because I think Senator Kane hit on something that -- to me this doesn't seem like necessary legislation for the commissioner to actually just go do this rather than study it.

And so, through you, Mr. President, a few questions to the proponent of the bill.

THE CHAIR:

Senator Colapietro.

SENATOR DEBICELLA:

Mr. President, first off, starting in section -- subsection B, looking at lines 9 through 12, this bill seems to say that a person can make a written complaint with the department if they're either registered as a home construction contractor, a home improvement contractor or -- and this is my question, lines 9 through 12, "who is not registered pursuant to said chapters but has performed work or acted in a manner." So what that highlighted to me was don't you need to be registered with the state in order to actually go and be a home contractor or a home improvement contractor? Isn't it illegal to do work

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without registering? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, the bill that we just got through passing deals with exactly that. Some people do build houses without any kind of registering or licensing. This bill here just corrects the matter of documentation of bad contractors for the consumer. So it actually benefits the consumer and it also benefits the contractors so you now can see without closure -- without whatever you want to call it where you can't see what the complaint could be, which is what it was before.

This bill only tells the Department of Consumer Protection, if you want to call it a study, if you want to sit down and call it whatever you want, but come back with a better system than you have today. And that's all we heard at the public hearing was people saying that it was not a good system. Through you, Mr. President.

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Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And it seems to me that we would actually want to make sure that anybody who is performing this type of work without registering with the state is definitely getting reported to the state, right? If somebody is performing work on my house, whatever it is, putting in the new cabinets, who knows what it is and they're not registered and make a claim that they are, I don't want to just put them on this website. I want to make sure that they are reported for investigation for legal action by the department, not just put them on a website. But I understand, Senator Colapietro's intent behind this bill. I thank him for that answer.

And then looking at the next section, subsection C, my question was about we have set up -- you know, I always worry about the study bills that we set up specific areas for them to study and, you know, they're going to produce a lot of paper on this stuff. And I'm not sure if we need to study all these areas. You know, if I look at subsection 1 under section c, line 16, we've given them six areas, discretely to

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study. And the first is creating subsets of closed complaints related to serious violations of the law. And so my question is, through you, Mr. President, don't -- and I'm shocked if we don't know this -- don't we already know what types of complaints should be referred over to the Attorney General or the State's Attorneys Office for serious investigation versus kind of that not necessarily illegal, but ethical gray zone that you would want reported? I'm surprised we don't have standards for that already. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. Through my experience -- I got a little bit of experience at being a subcontractor because I was one. About 25 years ago, I used to be a subcontractor so I'm a little aware of the subcontracting problem. What you're talking about is absolutely right, but we don't know what kind of complaints are going to go on there and it's supposed be because you got a bad plumber or a bad roofer or a bad electrician or a bad something

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that would go on there and give a black mark on a construction -- either a salesman sold you a bill of goods that didn't work or something like that. That was supposed to go and you'll know what the complaint is when the Department of Consumer Protection comes back and, like I said, if you want to call it a study, it's not very expensive to study, you could sit down with two people probably and say, "Well, maybe we better change this." They'd report back to us and make sure that we have a correct system in place. Through you, Mr. President.

THE CHAIR:

Senator DeBicella:

SENATOR DEBICELLA:

Thank you, Mr. President. And I'm glad to hear the Senator say that in two respects and it's important for legislative intent is one, I think he's absolutely right that these standards already exist for what's a serious violation of the law you can close and just send it to the Attorney General for investigation versus, as the good senator said, something that is a shoddy workmanship or something that is a change in the terms of the contract that,

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you know, kind of done on the last minute on the sly. That's the stuff that we want out in the open because it's not necessarily criminal or rising to that level of prosecution. But you want to make sure folks know about it. And I appreciate that.

My next question would be on section number 20 -- excuse me -- line number 22, where it actually says, "creating improved notices or disclosures to the public on how to search for contractors and interpret complaints posted on the Department's Internet website." To me this seems like a pretty straightforward area that we have so many search engines, not only within state government, but just out there in general, the Googles of the world and the search technologies that we have. Is this really something that we need to make sure that the Department has, you know, fully, you know, vetted and studied every which way? It seems like something we should just do. And through you, Mr. President, again, just for legislative intent, you know, why did the good Senator think that the lines 22 through 24 were necessary?

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Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I believe we went through this last year or two years ago with another senator. The reason we have this bill is because somebody complained, period. And whether you like parts of it or not doesn't mean that somebody, when they did complain, didn't like what they saw in here. The main thing was is to correct a problem that we have out there -- disregarding whether I liked it or not, so that's the way it is and I don't know what you can do about saying something on line 22, I don't like. Well, I can't help you.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And the question I would have then -- you know, the sense that I'm getting from Senator Colapietro is exactly what I wanted to hear for legislative intent, which is that -- and he said this several times, this is not a study. We just need a couple guys to sit down and figure this out and do it. And I fully agree with that with him,

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is that this is something that seems very common
sensical, seems like something we want to have.

And my question through him is then, line 30, we
set up December 31st, 2010 as the end date to submit a
report on the Department's findings, you know, it
reads like a study bill, like "give me a big 30-page
report on this." I would much rather us say in this
bill, "By December 31st, do it, have it up and
running." Right? Not submit a report and then we can
all talk about next year. Let's just tell the
commissioner to do it, because I actually think most
of the things in this bill are exactly what the good
senator said. Two guys can just sit down and just
figure this out in the department. So, through you,
Mr. President, in line 30, is there a logic to us
asking them to report findings versus just get it done
by the end of the year? Through you, Mr. President.

THE CHAIR:

Senator Colapietro..

SENATOR COLAPIETRO:

Through you, Mr. President. Yes, there's logic
to it because someone complained about it. You don't
like it, that's your problem. They like it with the

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bill, they accepted it, they told us what their problems were, what they thought would correct them. We decided instead of mandating the Department of Consumer Protection, come back and do this, this and this, we asked them to come back and report to us a better system than they have today, that's all. And as far as the legal and nonlegal advice, under a normal DCP complaint, like a leaky roof or something - - and I can tell you this because I went through it -- somebody would come and complain to the DCP and they would not go to the Attorney General. They would take care of the problem themselves, which they do, if it got to be criminal, then they would go to the Attorney General and have him investigate it and do whatever they have to do after that. So this bill is only a bill, only a study, doesn't cost anybody anything. The Department itself doesn't disagree with it, the contractors don't disagree with it and nobody testified against it at public hearing so we did the bill, simple as that. Through you, Mr. President.

THE CHAIR:

Senator DeBicella.

SENATOR DEBICELLA:

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Thank you, Mr. President. And I -- actually -- so Senator Colapietro just said something that I actually disagree with -- that I think contradicts what we were talking about before is this bill does read like a study bill, but I don't think that's what we want. I don't think we want to just study this and, you know, it's not an item that needs a work group of 20 people to sit around the table and come up with a 40-page report. I actually think that what he said before was correct. Is that this is something that you can get two guys in the department to sit down, say this is what we want the website to look like, these are the closed ones that we're not going to reveal, they're going to the Attorney General, like he just said, these are the ones we want on the website, let's put them up and then do it. It takes like a month to build a website. And my worry about this bill, Mr. President, it's not the spirit of the bill. I actually think Senator Colapietro is absolutely right on the need for the bill and the unanimity around it. My worry is that we just study these things and say give us a report and then we'll look at this in 2011. This is something that we want

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government to move on. And so, Mr. President, my worry about this bill is that we've set this up like a traditional study bill and Senator Colapietro's right; it doesn't cost anything. I'm going to be voting for this. I think it's a good idea. My worry about it is that the way it's written is going to result in another report that I get in my office instead of actual results for the people of Connecticut.

So I thank you, Mr. President, and I thank Senator Colapietro for answering my questions.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President. It is great to see you there at 6:35 and my guess is there's probably some horses running the track as we speak.

I want to commend Senator Colapietro, who I had the great pleasure to serve with over the last two years, for bringing this bill forward. It's certainly an area that I agree with Senator DeBicella that demands our full attention.

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I remember when I was engaged in the practice of law in a small private practice over ten years ago, the firm's name was Blaney, Fallon, Cameron and Barberry at that time, and I had some constituents, actually some clients at that time and we filed suit against a company, I believe it's name was Sunwarmers. And what they had done was they had built this addition to a home that was all enclosed in glass. The idea was they would build these additions and the sunlight would pour through and warm up that area and it could either be turned into a dining area or a recreation area or something like that. And unfortunately in this particular matter that I brought suit on, the construction was lacking in so many ways.

And I know the Senator Colapietro has a vast wealth of knowledge regarding construction and the like and so these folks went through, they created what's called a punch list, they went to the contractor, the company, they went through the punch list. And it turned out that some common sensical -- and I believe, standard in the industry things had been not done properly.

For example, flashing. Whenever you build

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something that's going to be adjacent to a standing structure, you need to have flashing which is -- if it's in the case of a chimney and a roof, it's typically out lead but it could be some other kind substance, typically a metal substance that folds in on one side and comes out on another like an L. and what you do is if you have enough flashing around the entire area that's connect, that actually will act as a barrier, both for air and for, most importantly, rain and snow and other things that could leak into the inside. And there was no adequate flashing between this glass enclosed area and the rest of the house.

Other areas were, indeed, with the glass enclosed area, the craftsmanship in those individual pane areas were not appropriate for what was being constructed, and indeed, some of the glass panes weren't appropriate for the building. And there were dozens and dozens of other issues. And the problem is when you get either an addition to a house or new construction of a house, these are individuals that when you go down the road and you go to work and you come home, that is your castle. That is your area to

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have peace of mind and comfort and if you go and you struggle at your job for eight, nine, ten hours, when you go home, you do not want to be confronted with problems.

And let's say your spouse -- either might be home -- and it doesn't matter, man or woman -- or if they're out working that day as well, when you come home, it's terrible to find yourself facing a lot of those difficulties and feeling so constrained in your ability to enjoy your castle, your home, something that you poured probably the vast amount of your individual wealth into and it's most individuals in the state of Connecticut largest single asset, it's very disconcerting to have a problem with a contractor.

And then on the other hand, let's be fair and honest regarding a lot of these contractors, there is a learning curve. A lot of them might be very good out in the field as individuals, either working as carpenters or in any number of fields and maybe they have a good appreciation for what it's like to have a lot of skill sets, but when they take that giant leap to create their own business, whether it's a

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corporation or an LLC, at that time there's a lot of other additional responsibilities that come with holding yourself out to the public to do these kinds of projects.

You have to make sure that going forward you have priced it appropriately. You have a margin for error. You also have a margin for profit. And quite often, you may not have the total amount of skill sets to be able to do the job yourself.

And, for example, in the Sunwarmers case, there was problems necessitating that if you have multiple projects going on at the same time, you know, sometimes things slow you down, such as inclement weather. You certainly can't have the side of a house opened up, even if it's covered with plastic sheeting, if there's a terrible snow storm or rain storm or wind gusts.

And so a lot of this is timing. A lot of this is getting a certain amount of money up front from the customers. And that is what really, that is what really gets under people's skin. Because quite often these projects, whether it's -- we're not even talking about a new build, I'll get to that later on, but

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talking about an addition to a home, what you're talking about is a substantial deposit of funds by the home owner to the contractor at the outset, probably in the range of \$5,000 if it's a modest renovation to a kitchen all the way up to 15, 20, 25,000 dollars. These are no insignificant investments by homeowners by any stretch. And that I am using as the paradigm or the point of reference, North Central Connecticut, which I'm most familiar with. I'm certainly not taking into consideration the much higher costs that construction and renovation may engender down in Fairfield County and other more wealthy areas of the state of Connecticut.

So when you are a couple or an individual, a homeowner, you've thought about this for a long period of time, you go out there, you negotiate, you sign a contract with a building renovator, you do this in good faith and you tender a check, typically, a bank money order or a bank check, could be a personal check and then they will wait to let it clear, that's a significant act of good faith. And usually a substantial amount of money. Quite often in the field, if it's a \$20,000 project, it might be half

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down, half upon completion.

Then what happens is this. The first thing that might typically befall a homeowner that's proceeding along this path is that there will be delays. And typically, the delays start off somewhat innocuously. There will be a projected time frame for the renovation of the home and that's all done in good faith. And we actually have statutes that sort of delineate exactly what has to be in that consumer contract. We've been -- we've done very good work as a legislature. And if you look in the statutes, we actually, I believe, have model forms as to what these home improvement contractors have to have. And we actually are so particularized in our legislation that we've even, I believe, placed in statute, the size point type that certain parts of those contracts have to be in.

And so those end up being turned into rather standardized forms. It will be built in there exactly what's going to be done to the home and so we've done a great job as far as doing that.

But basically what that is only done, though, is afford the land owners, the homeowners a good contract

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within the four squares of those pieces of paper to be able to bring suit in a court of law.

And now this is where the problem arises. Again, the small delays. It's supposed to be a month or two months and all of a sudden, the contractor calls and they say, "I'm sorry. We got jammed up on another job so it's going to take us an additional week to come out to your site." Now, if the job hasn't even started yet, two things occur to the homeowner in their head. I hope they eventually get here but the red flags haven't completely gone up yet because there's been no damage done.

The real nightmare -- and I believe there was a Shelly Long movie from about 15 years ago called The Money Pit, which really -- and I don't even know, maybe she was married to Tom Hanks -- but it really spun out of control. I always try to work in a movie reference if I can so that people watching on the CTN network say, "Oh yeah, I've seen that movie," but -- I mean, the real nightmare, actually is if there's something done to your home, such that your ability to enjoy life's simple pleasures have come to a grinding halt, and then you get that phone call. You get that

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phone call and the reason is something that can almost be noncontrovertible. "I'm sorry. We got jammed up on another home site, we need a couple of days."

Well, what is the homeowner to do if half of their house is open to the elements? And yeah, there may be a tarpaulin hanging over their roof and flapping in the winds, but what is the homeowner to do? That's a really bad situation.

At that point in time, if everything has been going well, what any homeowner would actually want to avail themselves of is you're going to give that contractor the benefit of the doubt because you are now not in a good bargaining position. And nobody can really help you at this point in time. You have to see the project through, one way or another.

And believe me, again, when I was engaged in the practice of law at a modestly sized law firm in Enfield, there were many people who came in and talked to us and said, "We have that kind of problem." And at that point in time, as much as they may say, "I want to sue these folks," you have to get those folks to take a step back and again logically look at the problem. And you have to say, "Well, where along in

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this process are you?" And if they're in the point in the process where half of their house has been carved out and opened up because there's supposed to be an addition or something like that, the first, in my view, advice to give to the homeowner is you've got to work with that contractor if at all possible to conclude that build and then we'll talk about the remedies that you might have. Or if -- very unfortunately -- the communication level has completely broken down and there's animosity between the parties, then you have -- again, not necessarily legal advice, but I believe the sagest kind of practical advice is now you have to cut your losses. You look at the four squares of the contract and say, "Okay, we know what your rights and responsibilities are here under the contract." And then my guess is what will happen at that time is you will find out what the contract demands as far as notification to the builder as far as terminating that contract for good cause. And that good cause can be a recitation as to the amount of delay, the substandard quality of the work, substandard materials and things like that.

And so what's the best takeaway so far from what

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we're talking about here in the circle, a very important issue to many homeowners through the state of Connecticut? Well, this would be--- if I was at home watching, this is the first takeaway I would suggest to people . It's not legal advice. It's practical advice. Maybe they even talk about things like this on This Old House, I'm not sure. But as with so many other areas of our lives, it's almost caveat emptor, buyer beware, or at least, buyer, build up your own case. Be your own best advocate. And so how do you do that?

Well, what I would suggest is -- and in our household, I'm lucky enough my wife is the keeper of all the financial documents. I'm not really a money kind of guy at all when it comes to my own household finances. Certainly, I'm a money guy here in the circle when we talk about budgetary issues and sort of broad brush kinds of public policy initiatives, but along with the very simple, sage advice of keeping all those documents, you know, copies of canceled checks, copies of work order forms, copies of punch lists, copies of the contract in a nice manila folder like I'm holding up right here, the other thing that I

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would suggest for anybody that goes along this path, if you are spending any kind of funds at all is to keep a journal. --

And by that I mean, you just go into a CVS or a Walgreen's or your local corner drug, and you get yourself a spiral bound notebook for about 2.59 or 3.59, and you begin at the very beginning. And that may be even before you enter into a contract with that particular home improvement contractor. You might even want to begin in there, you know, "We are now about to engage in this," and start listing who you've talked to as far as possibly contracting out so that already, at the very front page, you've got three or four home improvement contractors that you've looked into, names, addresses, phone numbers. Put in there if you've had contact with them and if you decide not to go down that path, it's always helpful to have a reason why. And it may not be necessarily something bad such that you would not recommend them to your friends or neighbors or loved ones, but it might simply come down to something that contractor one, two and three all seemed eminently qualified, and based upon the price quotes given to me, I'm going to go

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with contractor number three.

And I'm going to tell you in a little bit why that's probably an important first notation on the first page of the journal.

Then as you proceed through the home improvement process, probably what you'll want to do is do it just like a diary. So you start off as soon as you have initial discussions with the contractor, the home improvement contractor that you want to move forward with. Put down all the elements of that discussion, whether that could eventually be used in a court of law or not is up to speculation. Typically hearsay is not, but we're not going to get into a long, rambling discussion as to the rules of evidence at this point in time. We'll leave that for a Judiciary bill at some other date. But what you want to put in there is that verbal discussion, what were the key elements, maybe some disagreements. And then you're going to want to put in there the date that you both entered into the signed home improvement contract.

The next important set of dates is when work is supposed to begin. You shouldn't have to expect anything, it's not really up to you to be the general

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contractor in that kind of situation, so it's not up to you to order the materials and things like that, but certainly within the four corners of your contract with that contractor, there will be a paragraph that states when work is about to commence.

And there should be -- if it's any kind of large home improvement enterprise, some benchmarks along the way. So that the date the work is supposed to commence should be in there and there may be some other dates, some other benchmarks where certain major elements of the home improvement renovation is supposed to go forward. For example, work is supposed to commence, May 1st, Sunday, May 1, that would be the first date.

The next thing that might have to take place is all shingles, windows and things and the wall facing the north shall be removed by June 1st. Well, there's your first benchmark. And so in your journal that you're keeping on your home improvement, what you can put is did the contractor commence work as per the terms of the home improvement contract, may 1st. And there's sort of your first indicia as to how this is going to go.

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But you're going to want to have that evidence because memories get stale, it's hard to remember what you had for breakfast yesterday. Certainly it's difficult to remember a conversation that took place a week ago. And if somebody said, "Well, exactly what happened on April 1st when it came down to your home build?" you may not have the foggiest idea. It's just going to be lost out there in the clouds somewhere, and you'll have a very difficult time reconstructing the exact things.

What you're going to want, whether this ends up in a lawsuit or in a complaint before the Department of Consumer Protection is you're going to want to have a handy reference at your fingertips as to every element of this home improvement build.

And so what you do is on that date that the first thing is supposed to take place, the beginning of the project, you just take, it's very easy, you take about ten, fifteen minutes, and after the workers have concluded whatever they were supposed to do, in the comfort of your own home, you sit at the kitchen table and you just write it down. There it is in black and ink -- black and white, on the paper, written down, an

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easy reference and you never have to worry about, "Oh gee, what happened on that day?"

And get into the habit, the habit of creating that journal, that diary of the project, because at some point in time when the contract, if -- God forbid -- the contractor reach an impasse and there's a disagreement, now, as I had referenced much earlier, a couple of things can take place.

You could try to work it out with the contract as per the terms of the contract. But as I had indicated, sometimes these things disintegrate so quickly or there's an impasse that engenders ill will between the parties, that all of a sudden you realize, "I can't even go forward with this home improvement with this particular contractor." You understand that that's just not going to take place.

And how can that possibly have occurred when everybody started out with such high hopes and optimism and high expectations? Well, this is how that can occur. Because things are supposed to happen and your life is now being built around their schedule. And at the beginning when you hammered out the terms of that original agreement, you might say,

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"You know what, my daughter's sweet sixteen birthday party is on a Saturday in June and we're going to have her friends over and we're going to have family members over and that's a really big deal in our family and after we do something everybody's coming over to the house. We really cannot have any kind of construction going on on that weekend and above and beyond that, we don't want to have things a total mess because, a), we're going to have a lot people in the house."

Well, what happens in some of these instances is that those kinds of deadlines, those kind of benchmarks get blown away and all of a sudden if you've got a lot of dust from sheet rock and stuff like that, and you've got people coming over to your house and they end up -- it gets on people's shoes, it gets all over, maybe, your rugs and stuff like that, all of a sudden, some little glitch in this home improvement endeavor that you've gone through and that you have thousands and thousand of dollars tied up turns into a nightmare.

And so tempers flare. And you're not happy. And so you call up that contractor the following Monday

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and you say, "Hey, we even put in the contract you couldn't do anything on that weekend and you were supposed to leave it in broom clean condition so that when we had our guests come over, the house would be able to be lived in, we could be able to have this once-in-a-lifetime sweet sixteen party for our daughter. And it turned into a little bit of a disaster."

And above and beyond that, you know, the couple, the husband and the wife were left with this big problem on their hands. So something that otherwise should have been a Kodak moment in their life's history turned in to a Kodak nightmare.

And so that has to go into the journal, but it's those kinds of things that end up turning into a problem such that individuals are unable to work with one another going forward.

Now, what happens at that point in time? Remember when I spoke about going to Walgreen's or CVS or another corner store to get that spiral bound notebook, and when you were making your initial set of determinations as to where you wanted to go and hire for this home improvement build, you had written down

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the different folks that you had endeavored to inquire about, spoken to, done research on, and maybe you made your decision based upon a simple financial determination that this contractor will do the job cheaper. And now all of a sudden you're like a month or two or three months into this home improvement build and you scratch your head and you go, "Now I know why they're cheaper. They're messy and they don't really care about us because we're just another project for them." Or it could be something like, "You know, they're really good on the big builds and they're not really-taking care on the small builds." Maybe they do some sort of industrial kind of builds, but they're not as nuanced or fine tuned into the ramifications of what is required when you're doing a home improvement as opposed to an industrial kind of improvement.

Whatever the reason, having that journal at your fingertips will then allow you, without a lot of hassle to go out there, and after you've perhaps spoken to an attorney or someone who has kind of experience in this business field that can give you some sage advice, what you have to do is you have to

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then terminate your agreement under the proper protocols and terms of that home improvement contract with that original contractor. And then go about the business of trying to hire someone else. Now, at this point in time, it's appropriate to point out -- a lot of folks that may be watching this on the CTN network would be very understanding of this. As difficult as it is sometimes to be able to go out there and find a really good home improvement contractor that you feel good about at the beginning of a project, it is that much more difficult, it is much more difficult exponentially to hire a contractor to come in and fix a project that has gone off on the wrong foot.

And let me give you a couple of reasons why that's the case. First of all, there may have been something done on the project that have necessitated other things that are going to be costly. There may have been some shutting off of plumbing in this area of the house that's going to require bringing in a master plumber to fix that. There may have been some electrical wiring that was done substandard, such that you have the unfortunate burden as the new contractor to go to the homeowner and say, "I understand that you

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paid \$2000 to have this wiring done. It's already in there, but I've got to be honest. I got to pull out the sheet rock and I'm going to have to redo it because it's all below grade." And so when you're put into that position -- and a lot of the really good home improvement contractors will be able to pull this out immediately, just with their eyes and be able to evaluate these things. They will know immediately what is substandard, what's going to be hassle. And so it's not as simple as, "We've built up to a certain level and now we just have to hire someone else to finish it off." Quite often what they're going to have to do, since at the end of the project, they are going to have to sign off as to the safety, security and all the legal ramifications of that final build, perhaps with the home inspector that comes out from the town or someone else, could even be someone from an insurance company who's going to have to then rewrite the policy on the house with the addition or anything else like that, the last contractor on the project is going to be the one that's going to be the first one on the hook if anything is wrong. And so when they come out, they're going to have that

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additional responsibility. So that's why it's very important to have that notebook, that journal to keep track of all of these things.

Now when we get down to the part of the legislation before us, and again, I commend my friend and colleague, Senator Colapietro for bringing this forward, it says it allows anyone to file a written complaint with the Department of Consumer Protection concerning work practices on new home construction contracts, home improvement contractor or salesman or one who is not registered or licensed, but has performed similar work. And I guess, when I have an opportunity to move forward and ask some questions on this bill, one of the first questions will be is what is the policy of the state of Connecticut right now, and I'm not exactly sure whether -- why someone couldn't file a written complaint at this time. So if I may, I think I've spoken for about 25 minutes as a lead up to my first question. But if Senator Colapietro is available, I'd love to ask him a few questions.

THE CHAIR:

That was just a little introductory.

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Senator Colapietro.

Senator.

SENATOR KISSEL:

Thank you, through you, Mr. President --

THE CHAIR:

Thank you, sir.

SENATOR KISSEL:

My reading of the bill says it allows anyone to file a written complaint with the Department of Consumer Protection concerning work practices of new home construction contractors, home improvement contractors, salesmen who is not registered or licensed but is permitted to perform said work.

And I'm just wondering is there any prohibition from anyone making a written complaint to Consumer Protection at this time already?

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I was going to ask you to repeat that question before, but I don't know if have enough time.

I'm just kidding, I'm just kidding.

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SENATOR KISSEL:

I'd be happy to repeat the question.

SENATOR COLAPIETRO:

I know you would.

THE CHAIR:

Through the chairs, please.

SENATOR COLAPIETRO:

Through you, Mr. President, I am not aware of the way they do their system over there in all honesty.

But I can tell you one thing, I will say when Senator Kissel and I were on the General Law committee together that the industry is a whole lot better off today than it was the, before that. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And I appreciate those kind words by Senator Colapietro. I think we've done an awful lot of good work over the years on the General Law committee.

Back when I was honored enough to serve as co-chair of the committee during that brief two-year

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window in the mid 1990s and over the years, Senator Colapietro, especially, Senator Colapietro, in the area of subcontractors, contractors, mechanic's liens -- you have a wealth of experience in that particular area.

It also says regarding the Department of Consumer Protection study of complaint process for improvements. I guess, first of all, do we know how many people in the Department of Consumer Protection work in this area regarding complaints for home improvement builds? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I wish I had the number of complaints that there were, but yes, there are complaints, but the complaints weren't about complaints. The complaints were about the system itself whereas, someone, as I said, would get a parking ticket, it would go as a black mark on your record as a home improvement contractor or a home builder. And they felt that that was unfair to both the consumer and the contractor or subcontractor or

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salesman because they couldn't tell what it meant or what it was. So this just simply says come back and tell us the new system that you've decided is better than the one you have.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President. And thank you to the co-chair of the General Law committee.

So let me try to rephrase this and recapitulate it so that I believe I understand what you're saying.

We're not necessarily solely concerned about complaints that consumers make about their home remodeling, their new home construction, their home renovations, but we're also -- as much as we're concerned about that aspect -- we're also concerned that if a homeowner makes a complaint to the Department of Consumer Protection regarding a home improvement build, let's say, and the Department of Consumer Protection then conducts an internal investigation, they may end up doing something to disparage the reputation of the home improvement contractor, and the home improvement contractor has no

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way of finding out, well, why did you come to that result, you never really investigated the case and now you have a black mark against our name and that's driving away business. Is that sort of part of what we're trying to get at also? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. That's correct, Senator Kissel.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And so I heard talk about getting -- God bless you -- I heard talk about going on a website, but where are these black marks against good home improvement contractors now? Is there -- do you have to go over across the street to the Department of Consumer Protection building and go and ask somebody or is there some sort of journal where this is all notated or are they up and running with some kind of website now, but the website doesn't have

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any kind of detail, it just has good marks or bad marks or no marks? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, to Senator Kissel. I'm not aware of how they do their system. I know that they do have a website, is all I know. And how they got on there before, I don't know either, but the complaint was that you couldn't tell what kind of a complaint was on there against a person. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. Well, I have no further questions for my friend and colleague, Senator Colapietro. Again, I applaud his efforts here.

I think it's great that we're taking a balanced approach to this issues. As I had indicated in my earlier colloquy on the issue, certainly the home owners themselves have an awful lot at stake.

But also, in this very difficult economy, a

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individual home improvement contractor who is out there, trying to make ends meet and doing the best that he or she can and assuming that they are doing a good job, the last thing in the world that they need is to have a black mark against their good business record.

And indeed, I can actually envision a case where some home owners, trying to maybe reduce the amount of money that they might have to pay at the end of a build, could say to a really good home improvement contractor, "You know what, we gave you a \$10,000 deposit, you did a beautiful job, we've got a few problems, but if you knock five grand off the last ten thousand that we owe you, we'll just let it be." At which point in time the home improvement contractor might say, "I'll fix those problems. I can do those problems from within the amount, I don't want to reduce the ten thousand dollars that you owe me, you owe me that." And the last thing we need in the world in the state of Connecticut is a system that would allow the home owner at that point in time -- now, the shoe's on the other foot -- the home contractor has done a great job, difficult to do a perfect job, but

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there's always going to be a few things and that's why punch lists are standard in the field. But a punch list is created so that the contractor can just go back and fix those little things.

I agree with Senator Colapietro, we don't want a system that would give undue leverage at that point in time to some homeowners that are, perhaps, rather unscrupulous or certainly very aggressive to say, "You know what, if you don't cut that money off of what we owe you, we can always file a complaint with Consumer Protection." Because now, if there are no guidelines, if there is no, essentially, due process, if there's no, essentially, equality in the system, then I, as that struggling, home improvement contractor -- and a lot of times, it could be a husband and wife working as a team, you know, one of them is really good in the field, one of them is doing the books, they've got a couple other people, they've invested their lives in this, maybe for ten, 20, 30 years, that individual has worked on, gotten their skills together, and now they're trying to go out there and do it on their own. They're going to huddle back in that office and go, "Oh my God. This is only our second contract and if

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these people do that to us, we're dead in the water."

Because then no one's going to come to us and how
unfair, because we did a good job.

So I think that equality goes both ways. Thus
the term equality. Due process, fundamental fairness.
And you are exactly correct, my colleagues, that we
need a fair and balanced system, and, heretofore, I
agree. It doesn't appear that anybody really knows
what takes place once these complaints are field with
Consumer Protection. The system could be tilted too
far towards the contractors, I don't know. Or the
system could be tilted too far in the other direction
so that when DCP calls up a contractor and says we've
gotten this complaint, do you just want to sign a
consent order and we'll waive the penalty, but it's
going to have to go on your record here.

Let's say they need every nickel and dime they
have just to make ends meet, they may go ahead with
that consent order, not knowing that that is a black
mark against their record for the rest of that
business' life.

So at the conclusion of the discussion, I think
asking them to do a study is a good way to go, but I

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agree very much with what Senator DeBicella said is, that I have some concerns about studies gathering dust on shelves.

My guess would be whomever -- God willing -- is here next year, wins reelection if they're seeking reelection, if there's open seats, new people serving in the Senate and the House and then get appointed to serve on the General Law Committee, and I'm guessing that the study must be provided to the General Law Committee -- actually, that's a good question.

Through you, Mr. President, to the co-chair of the General Law Committee, when Consumer Protection does create this study by the end of the year, does it have to be provided to the co-chairs and ranking members of the General Law committee? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. Through you, Mr. President, to Senator Kissel. It doesn't specify who's going to be there because I don't think I even know that, but it does specify that it will report

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back to the General Law Committee assuming it's all of us. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Great, okay, that's very reassuring. No further questions of Senator Colapietro.

I think that's exactly the way to go. As I serve on the ranking -- as the ranking Senator on the Judiciary committee, I can't tell you how many things we have out there where Department of Corrections has to report back to the Judiciary committee, other branches of government have to report to us. Of course, it does -- never delineates who the Senators or House members are, but I think it's always good policy for the legislative branch -- good public policy to have the chairs, ranking members, both get copies of those reports so that everybody can huddle and figure out what's the next best direction to go in.

And so the last sort of nuanced thing that I would state is that asking the Department of Consumer Protection to study itself, I know that they're out

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there and that they will do the very best job they can, but my concern is that they, perhaps, might not be as critical of themselves as they might -- as we might wish them to be. And again, it's not a disparaging statement to any of those good folks over there, but if your asked to do a self evaluation, that's a hard thing to do and to really be super critical of yourself. And so, they may feel, right now, that they are doing a fair and balanced job as long as there's enough information in there so that we can figure out what the process is, that would be a good thing. And so I would encourage all of us that should this legislation be forwarded, move forward and be signed in to law, I think that we should actually inquire as to what their intention is over in Consumer Protection. I think that just a phone call or a letter as to how they -- and in fact, the co-chairs and the ranking members, which I am not, of General Law might want to just send a letter out there and say what is sort of the outline that you're going to pursue. Because I would hate to see, in December 31st, something that says "received 3,892 complaints, 2442 were resolved, consent orders were entered into,

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dah, dah, dah, dah, dah," and that really doesn't give me any information.

What we need to do is find out what is the process. And what I'm hoping that we'll find out is sort of a story that when we receive complaints from the public they are assigned to so-and-so. So-and-so will then proceed in this way: phone calls, asking for information, creating of a file. After the file has been created, do they afford both sides to come in and talk? At that point in time, do they come up with, perhaps, a preliminary report? Do they provide the preliminary report to the contractor and the home owner for their review and additional comment? And, if, at that time, after a preliminary report is created, do they then issue a final report and afford people some kind of mechanism to appeal therefrom if they feel in some way that they've been aggrieved? And if that is the process, then how is that process resolved?

Because clearly what is at issue here are individual's livelihoods on one hand, and on the other hand, individual's piece of mind in the comfort of their castle, their home.

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And so I applaud your efforts. I applaud the efforts of everybody on the General Law Committee who worked so hard on this legislation. And with that, Mr. President, I am happy to support the bill. Thank you, sir.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Good evening, Mr. President. Very nice to spend a Saturday evening with you.

THE CHAIR:

Thank you.

SENATOR BOUCHER:

And hope that your family is well. I know waiting very anxiously to see you this evening.

I was very, very pleased to hear the comments of my colleague, Senator Kissel, who brought up a topic that is very much a part of what we do as legislators, that the public isn't often aware of. And that is constituent services. And when we are engaged in a good portion of that part of our job, many think it's just about making laws here in this circle, but

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there's a good aspect, a large portion of the aspect of our jobs is constituent services.

And for those that have been here quite a long time, they recognize very rapidly that a good portion of the phone calls they get is often complaints and consumer protection complaints where we have to work very closely with the Department of Consumer Protection.

And very often, a lot of those complaints have to do with contractors, with painters and others in our district. They may have had some experience that grows to the level of either filing a complaint or oftentimes just finding out more about someone that they are trying to hire.

And I think that it is important -- and given that we often do refer complaints or work with the Department of Consumer Protection, I wonder, through you, Mr. President, if I may ask a question of our good Senator Colapietro with regards to the process at Consumer Protection. We know that we can access the possibility of checking out a contractor. We often do have them keep a list of those contractors where there is a complaint. Beyond that, Mr. President, might I

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ask that body of information, record keeping? Would it be open to anyone that would wish access to that?

Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you -- excuse me -- through you, Mr. President, I was going to answer Senator Kissel's question and I'll answer it pretty much the same way is that hopefully the General Law Committee when it does come back -- and we're not picking on the DCP or anyone else, we're picking on the system itself.

We all seem to agree, including the Department of Consumer Protection consumers, home builders, all seem to agree that the system is not a good one. And therefore, their recommendation will come back to the General Law Committee. Hopefully the General Law Committee will sit down and say, "That's all good" or "we'd like to tweak this or that." There is -- the system they have today -- like I said before, I couldn't tell you how you file a complaint formally, but pick up the phone and call DCP and ask them, I guess. Through you, Mr. President.

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THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. I appreciate the answer very much. I think that a lot of our departments have worked hard to create on their websites, actually, a clicking mechanism to get a form online, to file a complaint. But the question arises, once that is filed, where does it go and who has access to that? And I believe, if I'm hearing you correctly, through you, Mr. President, that your point of this legislation is to actually ascertain that and to see if that process is working well and should it work better. Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President, thank you for the question. I think it specifies right in the bill, it is a class B misdemeanor, it's punishable by six months imprisonment, a fine up to a thousand dollars or both. And it also says that before anyone can be maybe prosecuted or licensed by the Consumer

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Protection commission must review the activity in question, and, two, make a written determination that the activity requires a license and is not the subject of a bona fide dispute between members of the trade or craft regardless of whether they are licensed.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. I guess that answer begs another question and that is I was just hearing a penalty for. Is that for the false reporting of a complaint or is that for the actual commission of illegal activity through the contractor? Through you, Mr. President.

THE CHAIR:

Senator Colapietro.

SENATOR COLAPIETRO:

Through you, Mr. President. I believe that would be depending on the finding itself.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. Well, it's obvious

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that this issue does require a bit of study although, like my good colleague, Senator DeBicella, it would be nice to proceed if there's a perceived problem, expeditiously, to get to a resolution.

However, I do think that this issue does raise some concerns. The concerns would be if, in fact, this system could be gamed from an unscrupulous business that would want to maybe put their competitor at a disadvantage and therefore file a number of complaints that were not true, did not have basis and as a result of that, would create a very negative situation and it would involve probably litigation and some lawsuits that would be brought about.

I guess some of my concern would be if the state became and got into the business of filtering the good versus bad in a ratings system that it might open us to some litigation, but again, that could be something that the committee could study and bring to us as far as what they're recommendations might be.

It's also interesting to note that there are some both free websites and some paid websites that do exactly what we are talking about today in this bill. One of the most famous -- and I know that there are

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others that I'm sure some of my colleagues might know about, might even help us with the explanation of what they do. But one that I'm somewhat familiar with, and many are out there in our viewing public is Angie's List. Angie's List is one of many companies which aggregate consumer reviews of local service companies primarily in the construction business that have been described by the New York Times as a way to capture word-of-mouth wisdom, for example, in the area.

But Angie's List is kind of unique. And I think it makes a very good case study for us when we're discussing something as important as this. Because you see that it actually charges consumers to see it's reviews rather than take paid advertising on the part of contractors or those in the construction trade.

So it sort of reflects their believe that charging customers adds credibility to the information. In other words, they're paying to get good data, good information who they should using and who maybe they should be steered away from.

It's really -- this is a company that was based in Indianapolis originally, and was started some years ago by actually a young intern by the name of Angie,

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who, in fact, did go door to door to try to sign up individuals that would want this information. And they would then create this rating on local contractors. And a little further after that period of time in 1996 it was purchased by United -- or Unified Neighbors and it was relocated as of -- actually, January of 2007. The company now serves 124 US cities. So it really has a very strong following and it provides reviews of companies in so many different categories, not just construction, not contractors or home builders or plumbers and electricians, but it also now works in the medical industry including doctors, dentists, hospitals and insurers. And it gives them grades. It lists them as you get an A grade if you're extremely good all the way down to an F using these consumer reviews, which is really an excellent way to go about it.

And again, as I said, it comes from paid memberships. Because I often wonder if we're going to engage in a process like this, it does cost a lot of money and it would involve a lot more specialized staff that would have expertise that we probably --

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Excuse me, Senator Boucher.

SENATOR BOUCHER:

Yes, sir.

THE CHAIR:

Senator Meyer, could you -- Senator Meyer.

Senator Meyer.

Senator Meyer, please take your conversation
outside the chamber.

SENATOR BOUCHER: Oh, excellent.

THE CHAIR:

Thank you, Senator Meyer.

SENATOR MEYER:

(Inaudible.)

THE CHAIR:

There's no conversation -- that would be great.
Thank you.

Senator Col -- Senator Meyer, you're out of
order.

SENATOR MEYER:

I'd love to be out of order (inaudible).

THE CHAIR:

Thank you.

SENATOR BOUCHER:

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So in conclusion and in trying to wrap up this very helpful conversation with regards to a consumer protection issue that is on the top of mind of many individuals, I would refer to the fact that even Angie's List ran into trouble with a law suit that they themselves found themselves were liable by contractors for millions of dollars in damages when one of their members was sued by making a -- what they claimed was a false negative -- negative comment about their services.

So we have to be very cautious as we move forward with an issue like this. There are some risks associated that could put the state in a position where they would have to defend themselves in court if we didn't do it properly.

So let's use some examples that are out there, Mr. President, and proceed with this very good bill in moving it forward. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Will you remark further?

Senator Colapietro.

SENATOR COLAPIETRO:

Thank you, Mr. President. I have to apologize to

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Senator Boucher. There is no penalties -- I took the wrong paper and I was reading the wrong ones. There are no penalties and this was simply a study to come back and tell us how to make this system better.

Through you, Mr. President.

THE CHAIR:

Thank you, Senator --

SENATOR BOUCHER:

Thank you very much --

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

- for his answers, Mr. President. Have a very good evening.

THE CHAIR:

Thank you, Senator Boucher.

Will you remark further? Will you remark further?

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, if there is no further objection or just one comment on the bill, we move to place it on the consent calendar.

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THE CHAIR:

Is there any objection to placing this on the
consent calendar?

Any objection? Seeing none, this item will be
placed on the consent calendar.

Mr. Clerk, Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, thank you. I believe the clerk is now in possession of Senate Agenda number 4. I don't -- if I may inquire of the clerk if we had already adopted Agenda Number 3, but we're also now in possession of Senate Agenda Number 4.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, the clerk is in possession of Senate Agenda Number 4, dated May 1, 2010, copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President. Mr. President, I move all items on Senate Agenda Number 4, dated May

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for Senate Bill 176.

Calendar page 5, Calendar Number 242,

Substitute for Senate Bill 403.

Calendar page 14, Calendar Number 472,

Substitute for House Bill 5539.

Calendar page 23, Calendar Number 63, Senate
Bill 185.

Calendar 68, Substitute for Senate Bill 221.

Calendar page 24, Calendar 104, Substitute
for Senate Bill 45.

Calendar page 25, Calendar 125, Substitute
for Senate Bill 316.

Calendar 128, Substitute for Senate Bill
330.

Calendar page 26, Calendar 141, Substitute
for Senate Bill 188.

Calendar page 29, Calendar 194, Substitute
for Senate Bill 412.

Calendar page 30, Calendar Number 212,
Substitute for Senate Bill 13.

Calendar page 31, Calendar 213, Substitute
for Senate Bill 93.

Calendar 214, Substitute for Senate Bill

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192.

Calendar 219, Substitute for Senate Bill

402.

Calendar 220, Substitute for Senate Bill

325.

Calendar page 32, Calendar 234, Substitute
for Senate Bill 167.

Calendar page 35, Calendar Number 278,
Senate Bill Number 400.

Mr. President; that completes the items
placed on consent calendar number 2.

THE CHAIR:

Thank you, Mr. Clerk, the machine will be
open.

THE CLERK:

Mr. President, there's one correction.
Calendar page 2, Calendar 118 was not placed on
consent, that was referred to Finance, Revenue
and Bonding.

THE CHAIR:

Thank you, Mr. Clerk.

Senator Fasano.

Have all members voted? Have all members

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voted?

Please check the board to make sure your votes are properly recorded? Have all members voted?

The clerk will announce the tally.

THE CLERK:

The motion is on adoption of the consent calendar number 2.

Total number Voting	32
Those voting Yea	32
Those voting Nay	0
Those absent and not voting	4

THE CHAIR:

The consent calendar passes

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I believe the clerk is now in possession of Senate Agenda Number 5 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, Clerk is in possession of

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW
PART 2
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2010

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February 25, 2010
10:30 A.M.

BRUCE ANGELOSZEK: Thank you.

SENATOR COLAPIETRO: Don Leavitt followed by George LaCava and Bob Weideman.

DONALD G. LEAVITT, JR.: Senator Colapietro and members of the committee, I'd like to speak on behalf of raised bill number 188. And this has to do with the consumer protection commission complaint process. And what I'd like to do is share with you a personal story so that you can understand how this process is not working.

I am the president of a home improvement company, Magee Construction Corporation. We're located in West Hartford, Connecticut. We're a 38 year old company continuously operating in the state of Connecticut. We currently were made aware of a complaint that was registered against our company. The complaint was not -- didn't come to us from the Consumer Protection department, it came to us through my general manager discussing with a consumer who was interested in doing business with us a complaint that was on file.

When we went online to try to get this complaint all we saw online was a -- our registration number, our company and it said that "case not attached to credential." There was no way for us to get to it online. There was no way for us to download it, no way for us to know exactly what it was.

We contacted the Consumer Division and we were told that the complaint was an irrelevant complaint and they had made a decision not to notify us. And because it was an irrelevant complaint, it was just posted online. My question at that point was -- I requested a copy of it, a copy of it was sent to us.

What it was was a parking complaint from someone in a complex that we were working on that didn't like the fact of where our vehicles were parked during the process. And they had wrote a complaint to the Consumer Protection department. This is still posted online so that every time a consumer goes to check on my company they see that we have a complaint filed.

I feel the system is extremely unfair because the consumer cannot go and find it, they can't download it, they have no indication of what this complaint is about. All they can do is request it in writing if they know how to do that. Otherwise it remains there.

When I questioned the department as to how long it remains there I was told it's a matter of public record, indefinitely. So there's something very wrong with this system and I understand that the department is there to protect the consumer, but as I said, we're a 38 year old company operating in the state of Connecticut, trying to do everything right. And we feel that this is an absolute injustice to anybody that's trying to take care of business and do business the correct way in the state of Connecticut.

SENATOR COLAPIETRO: Before I open it up for questions I have one. Nobody got back to you, there's no way that you know that you can correct it or rebut it or say that that's what happened?

DONALD G. LEAVITT, JR.: This was a parking thing.

SENATOR COLAPIETRO: I get more than three minutes.

DONALD G. LEAVITT, JR.: The issue was, Senator, that because it was a parking complaint the

department took it upon themselves to consider it an irrelevant complaint. So they never notified me to tell me about it. So the issue that I have is that every time a consumer goes to look us up on the department website what they see is that we have a complaint. Yet in talking with the department and in talking with the commissioner, who I will say is aware of this and has been very cooperative throughout, the issue becomes that the average consumer can't find it and doesn't know what it's about. And the only time it appears online is when it's closed. So all of the open complaints that might be very relevant against contractors are not posted. And they're not posted until they're closed. So someone assumes when they look at the site that if there's nothing under the contractor's name that he's good, squeaky clean when that might be the exact opposite of that particular contractor. So the way things are being posted and the way things are being put online is very misleading to the consumer.

SENATOR COLAPIETRO: So I guess this kind of -- you wish they had the valid ones posted longer and -- or if they delete it -- you could have a valid complaint deleted and nobody can find it. So you want somebody to -

DONALD G. LEAVITT, JR.: My feeling is that if there's a valid complaint then that's certainly legitimate, it should be posted. But the consumer should also be able to know what that complaint is and be able to download it. And be able to see what the complaint is to see if there was a response from the contractor, to see the give and take that went on and to see how it was resolved. If there's no way of them knowing what the resolution was, or what the complaint involves, then they're making a buying decision based on the fact that, "I'm calling three contractors, two of them don't

have complaints, but one of them shows a complaint, well, I guess I'm going to rule him out because the other two don't have complaints." But in reality, the other two might have a lot of complaints that just haven't been closed out yet so they're not posted. So they're trying to post this when they're closed out. Mine was immediately closed out because it had nothing to do with regulations, it had nothing to do with any violations. It was -- someone was talking about parking.

SENATOR COLAPIETRO: So I understand, I think the thing about it the most is you could have a bad record, but because it's closed out it's not posted and somebody could get stiffed buying your product or -

DONALD G. LEAVITT, JR.: Absolutely. And the fact of the matter is that they're not posted until they're closed out. So you could -- if you don't ask -- when the consumer calls in, if they don't ask if there's any -- if they don't take the time to ask, if they just go online, they're going to assume there's no complaints when there could be many. So if they're not calling in and legitimately asking the question, "Are there any complaints on this contractor" they're not getting information. They're not getting pertinent information.

SENATOR COLAPIETRO: I understand. I think Representative Altobello has a question.

REP. ALTOBELLO: Thank you. If I go to the website now and look and look at your company, it will be a listing there and what did you say it said? It sounded like some very torturous language.

DONALD G. LEAVITT, JR.: Yeah. It's kind of

encrypted. You know, this is the whole issue with it. What it's going to say is it's going to give a case number, it's going to give the data that it was created, in this instance it was 2005, and we're now in 2010 -

REP. ALTOBELLO: And when was it posted online?

DONALD G. LEAVITT, JR.: It was posted on -- it was created on 8/18/2005. And so my other issue is that none of this is getting sunsetted so it's on there indefinitely. And so we've spent the last 38 years building our company, trying to work with our consumers to build a reputation and now we have something against us, a parking violation, that's posted on a consumer protection website.

REP. ALTOBELLO: The language was -

DONALD G. LEAVITT, JR.: And then the registration says that "case not attached to credential." So it doesn't say -

REP. ALTOBELLO: I have no idea what that would mean.

DONALD G. LEAVITT, JR.: Neither do we.

REP. ALTOBELLO: It doesn't sound good, though, sir. I wouldn't call you.

DONALD G. LEAVITT, JR.: No, it doesn't sound good so -- and when we call, you know, naturally when you call you're talking now to individuals and now the individual is telling -- you know, they're trying to tell us that it's closed out. In reality -

REP. ALTOBELLO: Why couldn't they post that? At least.

DONALD G. LEAVITT, JR.: Well, that's some of the conversations that we're having.

REP. ALTOBELLO: Thank you very much, sir. Thank you Mr. Chairman.

SENATOR COLAPIETRO: Thank you. Any members? Representative Aman.

REP. AMAN: Thank you, John for coming in. I know that this has been very frustrating to you over the years that you haven't been able to get anything on it. One of the questions I'll have for you is you said that a complaint that is still open is not posted. Take an extreme example of a consumer that has complained about a remodeler, the consumer protection has investigated and said, "This is serious enough, we're turning it over to the attorney general." The attorney general says, "This is serious enough, we're going to court against this person." Where is that posted on the website?

DONALD G. LEAVITT, JR.: It's not. It's not. It's in their files. And it doesn't get posted on the website until it's closed. So that's my point, the consumer who is trying to make an intelligent decision can't make an intelligent decision by visiting the website.

REP. AMAN: And I was pretty sure that was what his response was going to be. If you think about it, it's pretty incredible that our consumer protection department says the wording that none of us could really understand on a parking ticket. The attorney general could be trying to have very serious charges, maybe even criminal charges against a subcontractor, but that doesn't make the site so you as the consumer could find out that your remodeler is going to jail and this is the reason he's not finishing the job. And I think that's the main

reason this bill has got to be developed with consumer protection and go forward.

DONALD G. LEAVITT, JR.: The other issue is also the fact that the contractor that isn't registered and is then discovered. There's no record of that either. So no one knows that a contractor was at some point operating without a license and then was caught or fined or slapped on the hand or whatever might have happened to him. That's not part of the record either. So there's a lot of issues with how the complaints are filed and how the consumer should be able to legitimately be able to go into some type of a registry and discover who's good, who's bad and who's not.

REP. AMAN: so you think this could be done on a -- basically a simple spreadsheet that the consumer could see online?

DONALD G. LEAVITT, JR.: I think that the system could probably work so that it's much easier and more friendly for the consumer to be able to operate. Because if any one of you goes to the site and tries to maneuver the site and even tries to find a contractor, you're going to find that it's not the easiest process in the world. And then when all of a sudden this encrypted information pops up, it really doesn't give you the information that you're looking for.

REP. AMAN: Thank you very much.

SENATOR COLAPIETRO: And Representative Aman, you got me thinking now. I'm wondering -

REP. AMAN: That's my job.

SENATOR COLAPIETRO: Anyway, what I was thinking about was that you brought up the fact that

somebody might have a serious, serious problem, they've got to go to court and you can't find that until it's closed. But in the meantime, somebody could say there's nothing on here so it must be okay, but this guy might be a crook.

REP. AMAN: Absolutely, that's the problem.

SENATOR COLAPIETRO: You're right. We have to rectify what's wrong here, what's going on.

DONALD G. LEAVITT, JR.: Mr. Chairman, the other problem with the site is that you file a complaint against a remodeler. There -- even you may think that the complaint is legitimate. If the contractor, for instance, says, "Yeah, but that wasn't -- you think I shouldn't have done that, but it wasn't part of the contract." Well, that's a legitimate dispute between a contractor and a homeowner. And I think someone looking at the complaint -- yes, that's a valid complaint -- but both sides of the issue should be there. The contractor did not do this and the contractor's response of "But it wasn't part of my contract to do it." And then the third column would be consumer protection either investigating, closing it, you know, it's an open investigation or some statement from them of what, if anything, they're doing about it.

SENATOR COLAPIETRO: I understand. So in other words, if you forgot the driveway, you're punished for that, but if you got a parking ticket or vice versa -- I guess if it's the driveway you're okay, but you get a parking ticket -

DONALD G. LEAVITT, JR.: It wasn't even a parking ticket. It was somebody complaining about where we parked. So it had nothing to do with a ticket. There was no regulations violated.

It was strictly someone complaining about where we parked the vehicle. So that leads me to believe that a competitor, anybody could register some type of a complaint and it goes in and the department will look at it and say, "Okay, that's not a valid complaint. But because we received it in writing and because the law says we have to post it," now they're going to post it as a complaint. So I think that if it's an invalid complaint then it should not be posted. It should be just -- it should go away.

SENATOR COLAPIETRO: How about -- I'm just thinking if somewhere along the line when they do post it on the net, to cover if it's not valid, it somewhere says -

DONALD G. LEAVITT, JR.: Invalid.

SENATOR COLAPIETRO: -- it's just a parking ticket, not a home -

DONALD G. LEAVITT, JR.: Or even if it's posted it should say -- if they're going to post it, then it should say "invalid complaint" or "valid complaint." So that at least the consumer, if it says "invalid complaint" if they want to investigate what that was, then they can do that. But right now the way it's encrypted, they have no way of knowing what it is.

SENATOR COLAPIETRO: We'll probably have to look at that language and see if we can straighten that out. We'll do that.

REP. ESPOSITO: Yeah, just a comment. According to the bill as it's written though, the new language would do exactly what you're looking for it to do under subsection B.

DONALD G. LEAVITT, JR.: Correct.

REP ESPOSITO: If the department investigates and finds out that it's not a valid complaint, they will not post it and it will be stricken from the record.

DONALD G. LEAVITT, JR.: That's correct.

REP. ESPOSITO: So that's going to be addressed. And if I could read into what you're asking, you're in full favor of what the bill is doing. There's no problem -- I mean, I'm going through it quickly and everything that you seem to be having a problem with now is being addressed so that the department will have to address the complaints -- list the complaints on the database as they receive them and then list the disposition -

DONALD G. LEAVITT, JR.: Right.

REP. ESPOSITO: -- as they go along.

DONALD G. LEAVITT, JR.: And if it is an invalid complaint, then it should sunset at some point. I mean, it shouldn't be on there indefinitely.

REP. ESPOSITO: If it's an invalid -

DONALD G. LEAVITT, JR.: Invalid complaint.

REP. ESPOSITO: -- it won't even be listed.

DONALD G. LEAVITT, JR.: It shouldn't even be listed, that's correct.

REP. ESPOSITO: And I think that should be something we might want to talk to our LCO about. There should be some sunset provision, I mean, if a guy has made a mistake and has three of four years, he's had a flawless record, then I think that should be taken off.

DONALD G. LEAVITT, JR.: I would agree. I would agree.

SENATOR COLAPIETRO: Thank you, Representative Esposito. Thank you for your testimony. If there's no further questions.

DONALD G. LEAVITT, JR.: Thank you very much.

SENATOR COLAPIETRO: Okay, I don't have to call your names off of here. It says George LaCava, Bob Weideman and Bill Ethier, right? Go ahead.

GEORGE LACAVA: Senator Colapietro and members of the committee, thank you for the opportunity to address you today.

SB.188

My name is George LaCava. I am a builder and developer and president of Trilacon Development Corporation out of Cromwell. Today with me I have Bob Weidenmann, a builder/remodeler out of Wallingford and Bill Ethier, CEO of the Homebuilder Association of Connecticut, of which I am also president.

Our organization is a professional trade association with approximately 1,100 members from firms statewide, employing tens of thousands of citizens throughout the state. I won't take much of your time because I think Don's testimony pretty much hit the nail on the head. I think the bill before you addresses a lot of the problems that exist with the current procedures and I think it would be beneficial both to consumers and also to contractors. One thing also I want to point out that really kind of -- even heightened the situation that we have at hand is that we are under the law in the Connecticut that either new home construction contractors or home improvement contractors have to be registered with the

state. And the way complaints are posted online is that it's tied to your registration number. So we actually have a situation here in the state where if you are not following the law and you are not registered, and you have a complaint brought against you, your complaint even if it's closed and found that it's a proper complaint doesn't reach the website because you're not registered. So not only are you benefiting people who are breaking the law, you know, it is a disservice to the consumers because they can't get at that information and legitimate contractors.

SENATOR COLAPIETRO: Right. I guess I would probably ask, "Why aren't you registered and what are you doing in my house that you're not registered." That's the way I feel about that.

GEORGE LACAVA: Exactly.

SENATOR COLAPIETRO: Thank you for your testimony. Any questions from the committee? We have one from Senator Witkos.

SENATOR WITKOS: Thank you, sir. So are you saying you'd rather have the registration by the contractor's name than by the registration number on the website?

GEORGE LACAVA: No, no. I'm not saying that and I think that's really an administrative procedure. Bill Ethier here might be able to address that a little bit better because he's been working with the -- he's had more contact with the commission. But I'm saying that the way that the situation exists today that if you have a legitimate business that is following the law and registering and you get a complaint like Don Leavitt got against his company that was a -- you know, a complaint that shouldn't be online, you have a -- you could have a

builder or remodeler who is not registered and is breaking the law have a complaint lodged against them which is a legitimate complaint and it will never show up on the DCP website.

SENATOR WITKOS: I understand that. That's why I felt that you could just address that.

WILLIAM ETHIER: There's a whole host of issues. One of them is that just the website itself. If you go to the DCP homepage, you won't find a link to say check on contractors to see if they have links or anything like that. You'll find a link to file a complaint, which doesn't make sense if you're thinking of hiring a guy you're not going to click that link because you just want to check up on the guy. You're not going to file a complaint. The only other link is a -- there are two links on the home page, one on the left, one on the right hand column for checking a license.

Well, that might make sense, but if you go to that page, you click on that, you get into this e-licensing system of DCP, which is a sort of an online system for everything, for every business that they regulate, every profession. And then it's very cryptic to find someone, here operating as a DBA and doing business as or something, you have to get the name of the company exact or the computer spits back, "nothing found."

So in the first instance, it's very difficult. It's not user friendly, I'm pretty computer savvy. I have difficulty finding my own members who I know are registered, finding them online on the DCP page.

You've got the issue that has been mentioned about unregistered people, people violating the law, they should be registered. You will not

find them online because the online system only tracks registered people. So you could have some real bad actors out there you'll never find. And if you don't think to call -- if you're a consumer -- it depends what page you land on, there could be some warnings if you don't find a complaint against somebody or you don't find the contractor, call the agency to see, they may have some more information. You'll only find that on one page and it's pretty hidden.

Those are the sorts of technical things, improvements that could be done with their own website that we strongly encourage. This has been an ongoing issue for many years. I would daresay decades. We have met countless times with every commissioner as far back as -- I've been representing this group since the early 90s and it's been a constant ongoing battle. It's finally come to a head with a number of examples like Don. Don serves on our board of directors. His example, we have other examples where we have a member who had a competitor, not a consumer, a competitor filed a written complaint against them. And the commissioner at that time -- this is going back four or five years -- recognized it as an illegitimate complaint, closed it out, but just as in Don's case, it gets posted online as a cryptic complaint filed against him and it's there forever. It's just not fair. And it doesn't service the consumers. Consumers are not served well by the current system.

And the other issue is there seems to be two different databases. There's the online database that you only will find with closed complaints. They've taken an action, whether it's either illegitimate, they close it out or it's a bad issue, they completely investigate it, they may fine the contractor, done

something to pursue claims against the guarantee fund, they close it out. It's a done deal. Those get posted online. The active complaints that are against -- that are current, they have an in-house database that they occasionally will share with us because we want to find out what's generating complaints and we'll restructure our education programs to try to teach contractors. That's cryptic as well.

So even if you call the agency, we're not sure -- you get cryptic information about a contractor, about the complaint, whether there was a response. We outline in the bill -- I think it's section E starting at line 25 the various types of issues that should go into a spreadsheet. And George is right. I have been having a lot of conversations over the past week or two with Commissioner Jerry Farrell, with Rich Maloney, chief of enforcement, and we understand they have a fiscal note that they want to attach to the bill of \$100,000. And it's my understanding that there's only one provision really that's generating that fiscal note. They're committed and we're committed to work with each other to get the language right so they're comfortable with it, remove the fiscal note. I think the fiscal note is generated at line 44 where it says the commissioner shall investigate each complaint that comes in. They're saying that they'll have to hire one or two investigators to do that.

I understand that and in a perfect world we'd love to see every complaint get investigated, but budget being what it is, that's not going to happen. So that raises the point though, if complaints are not going to be investigated, all the more reason to have a uniform accessible complaint system, a spreadsheet, if

you will, for every contractor that's out there, that consumers can make better value judgments about contractors.

SENATOR WITKOS: Are you aware that -- is there a mechanism that if a company closes and opens up under a different name that the complaint of the principle of the previous business stays with it, if they register a new company, but it's the same principle?

WILLIAM ETHIER: The complaint does not stay with the new company, but last year you'll recall you passed into law, it got adopted and was enacted into law, that consumers now or contractors now, when they -- they have disclosure requirements under the law. They now have to disclose any other business, home improvement business, home building business that they've had in the past five years. So they not only have to disclose to the consumer their registration number for the new business, but all prior businesses for the past five years. That is now law. That went into effect, I think it was October 1, '09. I'm not sure of the exact date, but you passed that last year.

SENATOR WITKOS: Right. I guess -

WILLIAM ETHIER: But the complaint doesn't carry over.

SENATOR WITKOS: The complaint doesn't carry over and I guess, my concern would be it's very easy -- we hear about folks transferring titles and things to a spouse. Everything remains the same, same employees, just change the name and it is a change of ownership, but that would fall through a loophole I guess if that were the case.

WILLIAM ETHIER: It may although if you're following the law you're disclosing all prior companies and the consumer then has the information and they can check on the complaints, assuming you fix the complaint process on those prior companies. There are legitimate reasons to have different companies. A lot of builders will set up new LLCs for each subdivision they work on legitimately for liability reasons and other reasons.

SENATOR COLAPIETRO: Thank you, Senator. Thank you, gentlemen. Oh, Mr. Aman.

REP. AMAN: On the paragraph that drives the cost and I would presume that if the committee goes forward, we're going to probably stick in something about within available appropriations or other language because I don't think this is the year that we're going to be able to find additional people to add to anything. Do any of you know how many complaints are investigated versus how many complaints are not investigated? Or have any of you had an experience about complaints being filed and how long it takes if they are going to investigate it until they get around to it? I realize how long the investigation takes is a very difficult number to give, but how long before they actually start to investigate after a consumer has complained?

WILLIAM ETHIER: We really don't have good information on that. A prior administration some years ago, prior commissioner admitted to us that they investigate less than ten percent of the complaints that come into the office. And that was dealing with just home improvement contractors.

Now, I don't know that that's improved. I know in the mid 90s, late 90s we were the group that

lobbied for increased enforcement funds even against the administration at the time because it wasn't in their budget. I think it was late 90s we added an additional \$300,000 in the state budget to DCP's enforcement fund and it was supposed to be dedicated to home improvement. We were the group that lobbied for that and obtained that.

Now, at some point, they had three or four investigators that were dedicated to home improvement. I don't know if that's still the case, but there are right now 19,000 registered home improvement contractors in the state. At the peak of the economy, just a few years ago, there were 28,000 home improvement contractors. And they only had three or four investigators. So I can't tell you how long it takes the agency to investigate complaints. It's a small number, though, you know, just based on logic.

REP. AMAN: If a consumer files a complaint against a contractor then resolves the problem with the contractor satisfactorily to the consumer, they notify consumer protection, problem's gone away, what happens to the database?

WILLIAM ETHIER: The database -- the agency will close the complaint and it gets posted on their cryptic website as a complaint filed against a contractor.

REP. AMAN: Even though --

WILLIAM ETHIER: It's closed, but it -- you know, even though the consumer's happy and the contractor's happy they resolved it.

REP. AMAN: And so the next buyer there cannot -- I mean, to me that would be very good data if I'm a consumer, to see that someone filed a complaint and it was satisfactorily resolved,

that to me would be a reason to hire a contractor. And the way it's currently set up, there's no real incentive for a contractor in this part of it to go ahead and do and take care of the problem.

WILLIAM ETHIER: You're absolutely right. I would only offer a couple of suggested changes. Obviously, we need to fix what's driving the fiscal note, but there are a couple of technical changes that maybe I can talk with you, Mr. Chairman, later, and LCO about that. But I noted only one of them in my testimony at line 32, the reference to subsection B should be subsection C. Also at line 35, subsection D should be subsection G, just for the correct paragraphs. So I'd be happy to work with you on that. So hopefully the bill will move forward. You recognize the problem. And again, just as of yesterday I had a conversation with the commissioner. They're committed to meet with us to try to resolve the fiscal note issues and work on the language.

SENATOR COLAPIETRO: Very good. Hopefully, we will take care of this problem. I think we all can agree that there is a problem there. Thank you for your testimony. If there's no further questions I'll call on Don Vaccaro followed by Vicki Graham.

DON VACCARO: Good afternoon, cochairman Colapietro and Shapiro, vice chairman Maynard and Taborsak, ranking members Witkos and Bacchiochi.

I'm sorry, that's the best I could do, I apologize.

So anyway, I'm here to talk about House Bill 5228, AN ACT CONCERNING THE SALE OF EVENT TICKETS ON the SECONDARY MARKET. TicketNetwork

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW
PART 3
518 – 778**

2010

**FREEDOM OF INFORMATION COMMISSION STATEMENT ON SB 188,
AN ACT ESTABLISHING UNIFORM PROCEDURES REGARDING
NEW HOME CONSTRUCTION CONTRACTOR AND
HOME IMPROVEMENT CONTRACTOR AND SALESMAN
RELATED COMPLAINTS.**

The Freedom of Information Commission (FOIC) does not take a position on the merits of this proposal to establish uniform Department of Consumer Protection (DCP) new home construction contractor and home improvement contractor and salesman related complaint procedures. The FOIC, however, is concerned that the language of the bill is unclear and may have negative implications on the right to access public records, insofar as the bill references removing complaints from the database under certain circumstances and points in time. It is unclear whether removal from the database would mean that such information can no longer be accessed by members of the public. If that is the intention, it ought to be clearly stated and thought ought to be given as to what would be an appropriate time period for such removal to occur, while taking into account the public's right to know.

The Commission particularly recommends eliminating certain language relating to complaints that will not be posted on the DCP's web site. That provision says such complaints will not "otherwise [be] made available to the public, except as required pursuant to chapter 14 of the general statutes" found in Section 1(d). Chapter 14, which is the Freedom of Information Act, governs access to public records. The quoted language is unnecessary, counterintuitive and confusing.

Contact: Colleen M. Murphy, Executive Director and General Counsel or Eric V. Turner, Managing Director and Associate General Counsel at (860) 566-5682.



HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.
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Ag 8, Line 21
 Your Home
 Is Our
 Business

February 25, 2010

To: Senator Tom Colapietro and Representative Jim Shapiro, Co-Chairs, and members of the General Law Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: RB 188, An Act Establishing Uniform Procedures Regarding New Home Construction Contractor and Home Improvement Contractor and Salesman Related Complaints

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. We estimate that our members build 70% to 80% of all new homes and apartments in the state.

We strongly support RB 188 as a long overdue fix to the consumer complaint handling process at DCP for home improvement contractors (HIC) and new home construction contractors (NHCC).

The process created by the bill will: 1. Provide consumers with much better and more reliable information about contractors they are thinking of hiring; 2. Provide assurance to both consumers and contractors that an effective and reasonable process is in place to resolve any complaints that are filed; and 3. Create a more fair complaint handling system for good, legitimate contractors so they do not suffer a competitive disadvantage due solely to illegitimate, false or misleading logging of consumer complaints within the agency.

DCP receives written complaints against NHCC and HIC, which can come from consumers or competitors. These are logged into the agency's internal complaint database. They are posted online in the state's e-licensing system when the complaint is closed. The e-licensing system is used by consumers to look up licensed or registered businesses. However, the e-license system is not user-friendly or always at first accurate in finding registered contractors. Moreover, consumers may easily miss the notation on the DCP Consumer Complaints page regarding calling the agency if they fail to find a contractor using the e-licensing system if they go directly to the e-licensing page.

The DCP complaint system needs to be fixed for a variety of reasons to better serve both consumers and contractors. First, more detailed complaint information should be provided to consumers so they can better judge the importance and relevance of closed complaints they see posted online. For example, currently if a contractor has a closed complaint noted against it, assuming you can find the contractor in the e-licensing system, the notation of the complaint may be very cryptic noting only the following information:

Testimony, Home Builders Association of Connecticut, Inc.
RB 188, An Act Establishing Uniform Procedures Regarding New Home Construction Contractor and
 Home Improvement Contractor and Salesman Related Complaints
 February 25, 2010, page 2

From an actual online notation on a specific contractor (#s changed to protect identity):

Complaints

Case Number	Date Created	Registration
2005-1234	08/22/2005	Case not attached to credential

This information tells a consumer nothing relevant but the very existence of it may lead a consumer to avoid this contractor. Neither consumers nor contractors are served well.

Second, the agency should more quickly dismiss complaints that are not credible, not verified, or for a variety of reasons should not be logged against a contractor. Logging such complaints does a disservice to falsely or wrongly accused contractors and to consumers who may see online or be told by DCP staff that a contractor has complaints filed against it, but with little other detail for consumers to use to make any value judgment. Given the tremendous competition that exists in the industry, particularly with home improvement, most consumers will simply move on to another contractor.

Third, it is our understanding that only a small percentage of complaints actually get investigated by the agency. This is very likely a resource issue, but the failure to investigate all complaints heightens the necessity of having a complaint database with more credible and complete information so consumers can make better value judgments.

Fourth, a real gut kick to good, legitimate (i.e., registered) contractors is that the online complaints are tied into the e-licensing system. So, if a consumer files a complaint against an unregistered contractor, the next consumer cannot find that complaint online. They may not find the contractor at all if they are unregistered but, then, may not call the agency to try to get additional information and just go ahead and hire them to do work on their home.

RB 188 outlines a better complaint system so that when consumers go online or call DCP, a consistent, uniform set of information is available to consumers. It should be easy for the agency to create such a system, using common software, such as MS Excel or Access, and migrating it, if necessary, to the web. We applaud the Commissioner and DCP staff for meeting with us and listening to our concerns and are very willing to continue to work with them to resolve these issues. RB 188 is a great place to start.

We note a correction to the bill. At line 32, the reference to "subsection (b)" should be "subsection (c)" to properly reference the subsection dealing with a contractor's response to complaints.

We urge you to pass RB 188 with our suggested change, and thank you for the opportunity to comment on this legislation.